

# Migrants with Irregular Status in Europe: Guidance for Municipalities

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on behalf of the  
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## How to use this guidance

The first part of this guidance is introductory and addresses the issues for municipalities raised by the presence of migrants with irregular status. The second part is dedicated to general guidance on governance, coordination and consultation. The third part presents general principles on providing access to services for migrants with irregular status. The fourth part looks at specific areas of service provision including: immigration counselling and support for voluntary returns (section 4.1); accommodation support (section 4.2); access to justice and protection for victims of crime (section 4.3); healthcare (section 4.4); educational services (section 4.5). The fifth part is dedicated to local practices that aim to reduce the barriers migrants commonly encounter when accessing services.

Each section of the guidance stands alone. The reader can use the Contents page to find the information he or she needs. Where further information is provided in another section this is indicated in the text.

Links to source texts are cited in many cases, apart from information provided directly by city officials who are members of C-MISE. Where not cited, details of many of the practices and source materials can be found online in the background report for the C-MISE project: Delvino, N. (2017). *European Cities and Migrants with Irregular Status: Municipal initiatives for the inclusion of irregular migrants in the provision of services*.<sup>4</sup>

The guidance is accompanied by a short video documentary that highlights the approach taken in a number of European cities, with commentary by city officials and Deputy Mayors. It can be accessed here: [https://youtu.be/v9K\\_SO1J2tw](https://youtu.be/v9K_SO1J2tw)

The guidance is also accompanied by an Executive Summary which can be accessed here: <https://www.compas.ox.ac.uk/project/city-initiative-on-irregular-migrants-in-europe-c-mise>

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## Part 1 Aims and context of the guidance

### 1.1 Introduction

The purpose of this guidance is to assist municipal authorities in Europe in providing appropriate access to services for migrants with irregular status. It provides information on municipal policies and practices across a range of service areas, and on governance and administration, as an evidence base upon which municipalities may develop their own approach. The guidance is primarily intended for municipal authorities, whether cities or smaller municipalities, but is also aimed at the public bodies which work with them including police forces, healthcare providers, and housing and education providers. Working arrangements between public bodies and non-governmental service providers is one of the topics covered.

Between and within each European country the law regarding access to services can differ for different categories of irregular migrants. This guidance does not provide municipalities with details of the legal provisions within each country. Rather, it provides general guidance which municipalities can consider within the context of relevant national and regional legal frameworks.

While immigration control is primarily a matter for national governments, responsibility for public services is a shared competence. Municipalities across Europe differ in the specific range of services for which they are responsible. Nevertheless, they all bear responsibility for the general welfare of residents in their area. Municipalities provide services such as healthcare, policing, housing, social services and education to a wide range of people with differing needs, while bearing a broader responsibility for maintaining social cohesion and public safety, including combatting racism. Their role in promoting sustainable development and tackling poverty is also increasingly recognised at the national and international level.

Among those living in local communities are people whose immigration status is irregular, limiting their entitlement to work and to public services. National legal frameworks are largely restrictive (see Section 1.2), providing minimal or no access for irregular migrants to most services. This can lead to social problems at the local level, including homelessness and destitution, which municipalities find they need to address. While Europe's municipalities have benefitted from a range of guidance materials on approaches they can take in relation to migrants who are authorised to reside, guidance on how to address the challenges raised by the presence of irregular migrants has not been readily available. One of the aims of this guidance is to raise awareness of the particular challenges municipalities face in relation to this group of residents. It is hoped that this will facilitate dialogue within and between authorities at all levels of governance on effective approaches they can take.

## *Who are migrants with Irregular status?*

In this guidance, ‘migrants with irregular status’ refers to ‘third country nationals’ – individuals from outside of the European Union (EU) and the European Economic Area (EEA) – who either have entered a European country without authorisation (‘irregular entrants’), or who entered with a valid entry permit, but whose rights to stay have lapsed (‘overstayers’). The latter include individuals who have not complied with the conditions of their visa or temporary residence permit, including: unaccompanied children who have reached 18 years of age; asylum seekers whose application has been refused; labour migrants following the loss of official employment; and family migrants following the end of a spousal relationship. Children may be ‘born with an irregular immigration status’ if they inherit the immigration status of their parents. Among irregular migrants, immigration status may vary considerably, and migrants may have differing entitlements to services. The term ‘irregular migrant’ here is used only to refer to third country nationals, not to ‘mobile EU citizens’ who are in situations of irregularity vis-à-vis the conditions for free movement within the EU. This guidance tends to use the term ‘irregular’ in preference to ‘undocumented’ (as some of those whose immigration status is irregular have documentation, such as a passport), but where used in this guidance, the term ‘undocumented’ is meant as a synonym of ‘irregular’. This guidance, however, does not use the term ‘illegal migrants’ to avoid unwanted connotations stigmatising migrants as criminals (irregular entry and/or stay per se are not criminal offences in many countries); to ensure legal accuracy (where the act of entering and staying without authorisation is illegal, and not the perpetrators themselves); and to conform to the terminology favoured by many international institutions.<sup>5</sup>

There is very limited data on the number of migrants with irregular status in Europe. The most recent officially-accepted estimate for EU countries dates to 2008: at that time, there were an estimated 1.9 to 3.8 million irregular migrants living in the EU, less than 1 percent of the population of the then EU27.<sup>6</sup> Most migrants reside in cities and other urban areas, and those with irregular status follow this trend. The European Commission estimates that more than one million of those who entered Europe in 2015-2017 will be refused refugee status.<sup>7</sup> As the average return rate from EU Member States of detected irregular migrants is around 36%,<sup>8</sup> many of them will remain living within the EU. There is a need for more data on this population at country and municipal level.

The population of irregular migrants is diverse in terms of country of origin, faith, gender, age and education. People with irregular status may in practice be employed, living with family or friends, and have few needs for municipal service provision. Others are, or become, destitute. Some irregular migrants are known to immigration authorities but are in practice ‘non-removable’ for reasons that include lack of travel documents, the security situation in their country of origin, or need for medical treatment.<sup>9</sup>

## **1.2 National legal frameworks**

National legal and policy frameworks provide for limited but varying access to public services for irregular migrants across Europe. Greater access is sometimes permitted for children. In 2011, an

EU Fundamental Rights Agency (FRA) study reported entitlements to a range of services, including shelter and social assistance.<sup>10</sup> A later mapping of entitlements to healthcare and education across the EU28 (2015) showed that all EU governments allow access to emergency health care; that ten countries provide some access to primary and secondary care; and that eight countries permit healthcare for children to the same level as for nationals. As regards education for children of school age, a small minority of states grant no entitlement. In ten countries the entitlement is explicit in law, and in thirteen it is implicit in a universal entitlement from which these children are not excluded.<sup>11</sup> There are instances of national rules being reformed to allow greater access (as in relation to healthcare and education in Sweden in 2013), but also instances of tighter restrictions (as in relation to rented accommodation in the UK in 2014).

The provision in national laws for a level of access to services acknowledges that people with irregular status should not be excluded from all welfare provision. Access has been provided in part because exclusion can conflict with national policy priorities such as protection of public health (as in provision of access to treatment for HIV AIDS, permitted in 10 countries) and in measures to enable victims of domestic violence to approach the police without fear of deportation.<sup>12</sup>

National legal frameworks are nevertheless largely restrictive. Migrants with irregular status are not entitled to access most public services. They are also not permitted to work or access welfare benefits. The social consequences of this exclusion are felt at the local level. Municipalities respect the role of national governments in managing migration. They find, however, that the exclusion of this section of the population impacts not only the migrants themselves, but also other residents in their area. It can impact negatively on municipalities' capacity to fulfil statutory responsibilities such as addressing homelessness and crime prevention, and protecting public health. If municipalities fail to address the challenge that this poses, there can be negative consequences for the whole community. Yet they need to respond to these challenges in ways that do not encroach on the responsibilities of national governments in relation to immigration control. This guidance provides practical solutions that enable municipalities to do so.

### **1.3 Why municipalities facilitate access to some services**

Municipalities give the following reasons for facilitating access to some services for people with irregular status.

#### ***A. To comply with legal duties***

Municipalities are required to provide some services to people with irregular status as a matter of national law. An example in most EU Member States is education for children of school age. Municipalities also have a range of statutory responsibilities which require them to address the needs of all residents in their area, regardless of status. An example is the Dutch municipal 'duty of care.'<sup>13</sup> Municipalities may also have duties relating to a particular section of the population, such as children. An example is the UK municipal duty to protect a child 'in need,' regardless of immigration status, under s17 of the Children Act 1989. These duties may conflict with others, for

example a requirement on the part of municipalities to pass on details of individuals with irregular status to police or immigration authorities. Municipalities have to find a way to fulfil one statutory duty without breaching another.

Municipalities, as state authorities, are also expected to respect the state's obligations under European human rights standards, including the European Convention on Human Rights (ECHR) and the Council of Europe's European Social Charter.<sup>14</sup> In addition, the EU Return Directive<sup>15</sup> includes an obligation to provide basic shelter and care to vulnerable individuals who are in the process of returning but have not yet left the country.

### **Service provision for migrants under the UN Global Compact for Migration**

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In December 2018, 163 countries were signatories to the United Nations Global Compact for Safe, Orderly and Regular Migration (the UN Global Compact for Migration), following 18 months of consultation and negotiation. Although non-binding under international law, the Compact is a comprehensive political commitment to which European countries, with few exceptions, are signatories. Objective 15, to provide access to basic services, states: *'We commit to ensure that all migrants, regardless of their migration status, can exercise their human rights through safe access to basic services. We further commit to strengthen migrant inclusive service delivery systems, notwithstanding that nationals and regular migrants may be entitled to more comprehensive service provision, while ensuring that any differential treatment must be based on law, proportionate, pursue a legitimate aim, in accordance with international human rights law'*. The Compact commits signatory states to work with local authorities, among other stakeholders, in its implementation (para 44).<sup>16</sup>

## **B. To reduce irregularity**

Irregularity is a problem for municipalities. They want to reduce the number of people with irregular status and to prevent a lapse from regular status into irregularity (for instance, when an unaccompanied minor reaches the age of 18). Provision of a service such as shelter or a day centre can provide a means of contact between the municipality and the individual and an opportunity to build trust, whether through direct contact or through a non-governmental organisation (NGO) funded to provide the service. Through associated provision of information and legal advice, the individual may then be assisted in their application to the immigration authorities to resolve their status, or helped to return to their country of origin (see section 4.1).

## **C. To achieve municipal social policy objectives**

Municipal social policy objectives differ according to the remit of the authority and the particular challenges it faces, but may include:

## **Community safety – crime prevention and detection**

- Municipalities are concerned that all residents, irrespective of their immigration status, should feel able to come forward to the authorities if they have been the victim of or witness to a crime. This is both for their own protection, and for that of other residents. They do not want anyone to be afraid of reporting crime to police. The community has greater protection from crime and security threats if police have access to information from irregular migrants. Municipalities also do not want victims of violence to be forced to remain in violent homes because of a lack of alternative accommodation. For this reason, some municipalities provide places in shelters regardless of immigration status.

## **Avoiding street sleeping and squatting in abandoned buildings**

- A frequent reason for intervention is to avoid visible street homelessness, whether squatting in public places or in abandoned buildings. To be effective, measures to address homelessness cannot exclude a section of the homeless population. Provision of some form of shelter is also necessary to address the consequences of homelessness such as poor health, substance abuse, physical danger associated with sleeping in the street and a negative impact on tourism.

## **Child protection and welfare**

- Protecting children from harm is a legal and/or ethical duty of municipal authorities, and it is felt that children should receive no less protection because of their immigration status or that of their parents. Provision of services can also protect a child's welfare, ensure that decisions are taken in his or her best interests and prevent a 'cliff-edge' wherein a right to receive a service ends when the child reaches 18 years of age but is ineligible to take up an apprenticeship, further education, or employment.

## **Public health**

- Municipalities stress the importance, if faced with a public health emergency, of being able to contact all residents or reach those who have been in contact with someone with a communicable disease. They also need all children to be offered vaccinations as an effective vaccination programme is dependent upon a high proportion of the population being covered. Municipalities are concerned that anyone who has HIV/AIDS, tuberculosis or hepatitis should feel able to enter a treatment programme, as this is the most effective way to avoid the spread of these conditions.

## **Community cohesion and avoiding segregation**

- Cohesion is threatened if a section of the *de facto* population is visibly excluded, cannot speak the language, and does not use the same services and public spaces as other residents. Municipalities are concerned to avoid any section of the population living separately from the rest of the community as this can lead to fear and mistrust.

## **Addressing exploitation in housing and employment**

- For some municipalities, addressing exploitation of tenants by landlords is part of their remit. Irregular status makes individuals vulnerable to exploitation by those able to provide shelter. Women in need of accommodation to avoid sleeping on the street may be particularly at risk. There is also a concern to avoid exploitation by employers of workers who do not want their immigration status to become known. Municipalities also want to limit the informal economy in their area so as to ensure that businesses comply with health and safety standards and employment regulations, and pay local taxes.

### ***D. To ensure the efficient administration of public services***

Municipalities may find that exclusion of one group of residents undermines their ability to run public services efficiently. Provision of birth certificates, and registration of all residents on a municipal register (as in Spain), provides data on population numbers that is used for planning services such as school places and vaccination programmes. Provision of healthcare reduces pressure on emergency health services and on hospitals that prolong 'emergency' treatment because of a lack of entitlement to post-emergency care. Reputational risk is also cited as a reason for protecting vulnerable people regardless of immigration status.

### ***E. To respect professional ethics***

Professional staff employed by the municipality, such as doctors, nurses, teachers and social workers, are required to meet the standards of their profession. This may include provision of a service on the basis of need or because it is in the best interests of a child, precluding the withholding of services on grounds of immigration status. Staff need to feel supported by their employer in making a decision that is compatible with the ethics of their profession.

### ***F. To reassure public opinion***

Public attitudes can be very negative towards people with irregular status. They can also, however, reflect concern for people who are seen to be vulnerable, such as children and victims of domestic violence. There can be a negative public reaction to the visibility of irregular migrants on the streets or temporary encampments, leading to polarisation of public opinion. Municipalities may feel the need to avoid the most visible manifestations of irregularity, and to protect the vulnerable, so as to avoid negative reactions from across the spectrum of public opinion.

### ***G. To safeguard the public image of the city***

Municipalities may want to project an image of the city or town as an open, diverse or human rights city, or as an attractive destination for tourism and investment. Visible signs of exclusion such as encampments can conflict with that goal.

## Part 2 Guidance on Governance

### 2.1 Governance, Coordination and Consultation

Governance in relation to this group of residents raises a number of particular challenges. The municipality may have little data or evidence on the population with irregular status, nor any history of internal or external discussion of the issues it raises. There can be uncertainty regarding the legal responsibilities of service providers and the entitlements of irregular migrants to different services, and few local experts from whom advice can be sought. For those reasons, some municipalities start by conducting or commissioning a local study to provide the information they need (see Box 1).

#### Box 1: Research can identify need for action and inform next steps

The need for action may first be brought to the attention of the municipality by one of its front line services, or by an NGO. Some municipalities have undertaken or commissioned research to clarify the situation. The City of *Zurich* Integration Delegation set up an interdepartmental working group under the Department of the Mayor to assess the situation of irregular migrants, in the course of which it commissioned a legal opinion from Zurich University on one of the issues it had identified as a problem, the access of ‘sans-papiers’ to justice. On that issue it wanted to know what scope it had for action given the constraints in the national legal framework. The Working Group report identified a range of problems relating to civil status regulations, health care, social insurance and pensions, education, the labour market, questions of everyday administration, social integration, and access to justice and the courts. It found that while hunger and homelessness were not common because of pragmatic interventions by the administration and high level civil society involvement, there was exploitation of many irregular migrants and regular violation of their dignity and integrity. Lack of information, precarious work and fear of ID controls meant that irregular migrants do not make use of the opportunities open to them. The Working Group report made a series of recommendations, some relating to the need for further information and evaluation of access to services, and was influential in a Position Paper approved by the city council in 2018 (see below). The summary of the preliminary report is available on the website of the City of Zurich.<sup>17</sup>

National reports can also be a driver for change. A report from the Scottish Parliament in 2017, *Hidden Lives - New Beginnings: Destitution, asylum and insecure immigration status in Scotland*<sup>18</sup> led the umbrella body of Scottish Local Authorities, *COSLA*, to commission and update its practice guidance to local authorities on migrants’ entitlements to local authority support, covering social care, children’s services, social security, housing and sign-posting to legal services. It was launched in February 2019 and will be available on <http://www.migrationscotland.org.uk>. The committee also recommended that the Scottish

Government publish a national strategy to prevent and alleviate destitution amongst migrants and asylum seekers. Work is currently underway to develop this in partnership with COSLA and with the support of third sector partners.

The City of Munich commissioned a study of the social problems faced by irregular migrants in 2001. The study involved 84 interviews with irregular migrants, public officials, service providers, trade unions and NGOs to establish issues relating to work and its economic context in the city, accommodation, healthcare and education; the particular vulnerability of women, sources of help and support available, and the potential role of the local authority, within legislative constraints. After discussion among city departments including the Departments of Health and of Social Affairs, the report, with recommendations for action, was published in 2003. Recommendations related to access to essential services and pathways out of irregular status.<sup>19</sup> The study was significant in guiding the action that followed, including the decision that the city health department should make provision for healthcare for people without health insurance, including irregular migrants - a service which combines medical treatment with social and legal counselling (see Section 4.1).

This section provides information on the arrangements municipalities have made to consult, plan, coordinate and administer their work in this area. The practices referred to have been implemented by European municipalities and may serve as practical examples for municipalities with similar needs in relation to migrants with irregular status.

Liaison can also be necessary with regional and national government departments, where responsibilities overlap, and with civil society organisations. Municipalities have developed a number of approaches to this internal and external dialogue and cooperation, from ad hoc arrangements to formal governance structures. Other cities include irregular migrants within the agenda of meetings addressing broader issues.

In some municipalities there is an administrative arrangement facilitating coordination across departments and related agencies, and/or coordination with NGOs. Municipalities may also discuss with regional, national or federal tiers of government the arrangements they are making, and may secure financial support for those arrangements. In some cases, this has led to changes in policy at national level, which have facilitated the approaches that municipalities wanted to take. This was the case in relation to access to internships for school leavers in the Netherlands and apprenticeships in Finland, for instance, and access to pre-school education in Italy.

## ***What can be done by local authorities?***

### *Internal and inter-agency consultation, information sharing and coordination*

Issues relating to irregular migrants typically concern a number of municipal departments and other local public agencies, requiring a level of consultation and coordination when action is taken.



This can be on an ad hoc basis, through an inter-departmental group within the municipality or an inter-agency group that facilitates coordination with other public bodies.

- In 2017, the Integration Delegation of *Zurich* City Council set up an interdepartmental working group on irregular migrants ('sans-papiers'). The Departments of Security, Health and Environment, School and Sport, and Social Affairs are represented in the working group under the leadership of the Department of the Mayor. The working group reviewed the situation relating to healthcare, education, access to justice, and provision of advice and information, and summarised in May 2018 its assessment and recommendations in a preliminary report (see Box 5). The Integration Office is entrusted with the task of regularly organising interdepartmental networking and exchange meetings in order to discuss possible improvements in access to fundamental rights and services. Representatives of the canton and civil society may also be invited to take part.
- In *Helsinki*, a working group on asylum seekers and undocumented (irregular) migrants was established by the Mayor in May 2017. The group decided to focus solely on challenges relating to undocumented migrants and their service provision needs, and to make proposals for action, inter alia, on the need for cooperation with metropolitan area cities, NGOs and national institutions. The group met five times during 2017-2018 and finished a report in February 2018. The report tackles the following themes: information advice and service guidance; legal advice; psychosocial support; social benefits; health and well-being; emergency shelter and day time services; early childhood care; education; security; training and support for the personnel of the city; cooperation with metropolitan cities of Espoo and Vantaa; and voluntary return. The report consists of 30 measures to overcome challenges (agreed upon by the city of Helsinki departments), as well as service, monitoring and reporting needs. The report was passed to the Helsinki City Board for information in May 2018.
- *Stockholm's* Administration for Social Affairs liaises with departments across the city including its own Social Emergency Support. The latter has outreach units that refer people to the Social Services departments in the city's 14 district councils. The Social Affairs Administration provides guidelines on the limited, short-term financial support offered in some cases by these departments, including in relation to children. It is monitoring how the Social Services departments are using those powers. Social Emergency Support also refers people to civil society organisations and discusses the challenges related to irregular migrants within broader platforms for this collaboration.
- *Florence* is part of a Community Health Partnership (*Società della salute di Firenze*) of municipalities and the local health authority, established in 2004 to improve the integration of social and health services and the inclusion in services for disadvantaged people, including migrants. Services for irregular migrants are included within its agenda.

## **Box 2: Ghent's Municipal Steering Committee on Migrants with Irregular Stay**

*Ghent* has a Municipal Steering Committee ('Stedelijke Stuurgroep') on Migrants with Irregular Stay ('Mensen Zonder Wettig Verblijf'), established in February 2016 in anticipation of the 'refugee crisis' leading to 'new' irregular migrants, but now covering all those with irregular status in the city. Membership consists of the city's Asylum and Refugee Policy Service and its Social Welfare Centre (OCMW, responsible for access to health services), as well as collaborators of the Executive Councillors responsible for integration and poverty reduction, and the Mayor. It also includes two civil society organisations that are providers of information, legal advice and future orientation sessions. In 2017 the Steering Committee approved its terms of reference, which are:

- to have oversight of the number, profile and situation of irregular migrants who are living in Ghent;
- to inform irregular migrants correctly about their future options, and consider the best ways to do this; and
- to safeguard the rights of the migrants.

Among the issues that the Steering Committee discusses are: the limited data available on people with irregular status in the city; how to address issues relating to access to education and health services; and how to advise those intercepted on the way to the UK. One outcome has been a joint working group between the city and the Social Welfare Centre ('BBBplus') exploring the potential for a 24-hour shelter and advice service, based on the Dutch city model, to find a solution to irregularity through regularisation of stay or return. The group has the authority to take decisions on some matters, while others have to be referred to the council's full Executive Committee.

*Ghent* also has a twice-yearly Migration Forum at which the Mayor engages with stakeholders on policy and practice issues including on irregular migrants. Originally focusing on refugees, the first meeting with a broader agenda was held in September 2018.

## *Consultation and coordination with external stakeholders*

As many services are provided with or through external partners, some of the arrangements for regular dialogue that are made are inclusive of them. In some cases, membership is inclusive of NGOs that are not funded by the municipality but are knowledgeable on the situation of irregular migrants.

- *Berlin's* Senate Administration for Health established a roundtable in 2010 to bring together city officials, the local Medical Association and NGOs that provide medical assistance to irregular migrants in the city. City representation included Berlin's Interior Affairs and Sports Department, the Department for Integration, Employment and Social Affairs, the Regional Office for Health and Social Affairs, and the district health office. The aim was to explore practical solutions to

provision of access to health care within the constraints permitted by national legislation. The roundtable, in which moderation was shared by the State Secretary for Health with representatives of the NGO MediBüro, facilitated a regular exchange of information with civil society organisations that enabled the authorities to assess the medical needs of the city's irregular migrant population and help secure cross-institutional agreement on steps to take.<sup>20</sup>

### **Box 3: Oslo's Reference Group with External Stakeholders**

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In *Oslo*, consultation with external stakeholders is undertaken through a Reference Group set up in December 2017. It complements broader city engagement with NGOs in the city in order to focus on this issue. Its terms of reference are:

- \* to provide feedback on practices and services for irregular migrants;
- \* to generate ideas on potential areas of reform; and
- \* to give input to future policy issues for irregular migrants in Oslo.

The Reference Group has met regularly during the project period. Coordinated by Oslo's Department for Primary Health and Social Services, the external participants are organisations that either undertake particular measures for people with irregular status (some of which are funded by the City) or interact with them, including the Salvation Army, the Health Centre for Irregular Migrants (run by the Red Cross and the Oslo Church City Mission), Humans in Limbo, the Council of Immigrant Organizations and a centre focusing on prostitution. Issues discussed have included access to city services and data protection in relation to personal information. The reference group has made a summary of new short- and long term propositions on services such as legal advice, health care, housing and competence for employees on irregular migrants in Oslo. The summary is based on experiences with irregular migrants and information from other cities in the C-MISE project.

- The city of *Athens* participates in the ACCMR Access and Legal Rights Working Committee, an external group organised by the Athens Coordination Center for Migrant and Refugee issues (ACCMR). It is a working committee of legal actors who share information and coordinate to assess existing legal services, and build an understanding of legal gaps and challenges. The aims is to provide reliable, up-to-date and consistent information and guidance on legal issues related to asylum and integration of refugees and migrants. The committee is comprised of representatives of legal service providers, as well as representatives of public authorities, community-based organizations, the lawyers' Bar Association and other relevant stakeholders. The Working Committee has a focus on irregular migrants and, in the context of EU and national legal requirements, assesses their access in practice to advice and essential services. In 2018 it has considered recommendations relating to: the issuing of ID cards; de-criminalisation; provision of information, advice and representation; and housing and healthcare.

### *Coordination by municipal umbrella body*

Where many municipalities within a country face similar challenges in relation to irregular migrants, their umbrella body may take up the issue to provide guidance or to negotiate on their behalf.

- The Association of Finnish Local and Regional Authorities, the six largest Finnish cities (Helsinki, Espoo, Vantaa, Tampere, Turku, Oulu) and state authorities have formed a group responsible for providing an overview of irregular residence in Finland. In addition to the representatives of the Association and the cities, the group has members from the Ministry of the Interior, the Ministry of Social Affairs and Health, the Ministry of Education and Culture, the Ministry of Economic Affairs and Employment, the Finnish Immigration Service, and the National Police Board. The group promotes the exchange of information between the cities and state authorities on the situation of irregular residence in the cities and across the country. The cities and the Association of Finnish Local and Regional Authorities have had an opportunity to present their views on the services for undocumented migrants and on central government instructions to local authorities.
- The Association of Dutch municipalities, VNG, has played a key role in negotiating with the government on behalf of municipalities on the possibility of providing shelters to irregular migrants and on funding for that provision, on which agreement was reached in the autumn of 2018 (see Box 4).
- The Convention of Scottish Local Authorities (COSLA) has published guidance for Scottish local authorities in 2019 on migrants rights and entitlements to local authority services and works across Local Government to help to prevent destitution.
- The County Administrative Board in Stockholm did a mapping of missing unaccompanied minors 'Lost in Migration' 2016-2017. With the mapping a guidance for regional collaboration was published.<sup>21</sup>

### *Dialogue with national governments*

The significance of national legal and policy frameworks relating to irregular migrants and overlapping responsibilities for policies on access to services can necessitate dialogue between municipalities and national governments. This may be on a bilateral basis where the issue concerns one authority, or involve a number of municipalities. Municipalities also engage with the immigration authorities on individual cases (see Section 4.1).

- In 2017, the *Greater London Authority* (GLA) raised with the UK government the situation of the residents of Grenfell Tower with irregular status who lost their homes in the fire on 14 June that cost 72 lives. It involved letters and meetings to highlight issues and to talk through the Government response in detail. The GLA was one of the voices that influenced government to offer a route to permanent settlement for survivors with insecure immigration status, to extend the deadline to apply to ensure that survivors had more time to come forward, and to make revisions to the policy for family members living overseas to enable them to extend their leave in the UK where they were designated as core participants to participate fully in the subsequent Inquiry.<sup>22</sup>

- In 2012 Dutch municipalities, including *Amsterdam*, were influential in convincing the government that internships should be considered ‘education’ rather than ‘work’, so that school students with irregular status might be allowed to undertake them.<sup>23</sup>

#### **Box 4: Municipal agreement reached with government to provide shelter and advice**

In November 2018, the Association of Dutch Municipalities (VNG) secured an agreement<sup>24</sup> with the Dutch Ministry of Justice and Security on developing a national network of shelter and advice provision (National Immigration Facilities (LVVs)), beginning with several local pilots from early 2019. The scheme is intended, through close cooperation between municipalities and the national government, to find a durable solution for migrants who are not entitled to stay in the country. While the migrants are provided with shelter and care, the aim of guidance will be either to secure voluntary repatriation, transit migration or regularisation of status (see Box 9). The agreement states that the operation of the scheme is based on mutual trust between municipalities and government, use of mutual knowledge and skills, and that disagreements will be brought out into the open to be discussed. The implementation of the agreement is largely funded by the national government. An independent evaluation of the programme will be conducted. The findings will form the basis for a final arrangement between the national government and municipalities on this issue.

The agreement follows a long period of negotiation and litigation. *Utrecht*, seeking legal clarity that it could provide shelter, cooperated with a complaint from an NGO against the Dutch state to the European Committee of Social Rights (ECSR), the Council of Europe’s body tasked with judging states’ conformity in law and practice with the European Social Charter. The ECSR found the Netherlands in breach of the Charter in three different cases (ECSR, 20 October 2009, *DCI v. the Netherlands*, Complaint No. 47/2008; ECSR, *CEC v. The Netherlands*, Complaint No. 90/2013; ECSR, *FEANTSA v. The Netherlands*, Complaint No. 86/2012). With these cases, the municipality obtained judicial decisions backing the provision of shelter to irregular migrants. As the decisions of the ECSR are not legally binding, litigation continued in the Dutch national courts. In relation to accommodation of children with irregular status, the Dutch Supreme Court (judgment 21 Sept. 2012, ECLI:NL:HR:2012:BW5328) followed the reasoning of the ECSR and established that the Dutch government has a legal obligation to provide adequate facilities and care for children without a residence permit, if the parents do not have the financial resources to do so themselves.<sup>25</sup>

### *Developing a comprehensive action plan*

Some municipalities have an overall plan for their work relating to their residents with irregular status. In other cases, separate initiatives are planned for, or arise separately over time.

- The City Council of Barcelona in 2017 adopted a strategy aimed at encouraging regularisations and preventing regular immigration statuses from lapsing.<sup>26</sup> The strategy is made up of 6 goals

that include ensuring universal access to municipal services for irregular migrants in the city, and encouraging the regularisation of people in irregular situations through provision of information and free legal advice to help people to obtain residence permits. It also aims to prevent irregular migrants losing their residence permits ('lapsed regularity'), for example by creating a protocol for social services to refer people at risk of lapsed regularity (because of a loss of employment) to the local employment agency. This allows early access to job offers before losing a residence permit, access to training, and development of an employment activation plan. Barcelona's plan provides for an information leaflet in seven different languages on access to the municipal register (the pathway to local services), and establishes information sessions and training courses for professionals who engage with irregular migrants in the provision of services. Irregular migrants are included within the training courses and employment plans of the local employment agency, and in language courses, to facilitate their regularisation and social integration. Information initiatives target specific economic sectors and areas with a high presence of irregular workers, such as the domestic employment sector.

#### **Box 5: Zurich's City Council approves plan of action in 2018**

Zurich's City Council published a Position Paper on irregular migrants in September 2018 identifying a series of measures to be taken.<sup>27</sup> It followed the report (see Box 1) of an inter-departmental working group, *'Sans-Papiers in the City of Zurich: Problem areas and urban policy options'*. The Position Paper notes that irregular migrants ('sans-papiers') are a reality in Zurich and part of society with corresponding rights and obligations. It states that those who have lived in the city for several years should be regularised and integrated, that the Council has communicated that position to the Canton and Confederation, and asks meanwhile that they implement relevant improvements to enable them to exercise their basic human rights without risks. The City itself assumes responsibility for the irregular migrants living in the city and is resolved to improve their situation: to ensure they have access to municipal services (and to facilitate that access where monitoring identifies a barrier); to examine how to improve healthcare for those without health insurance; to ensure access to pre-school as well as compulsory schooling and to examine the education position of young people leaving school; to establish in which cases the legal status of foreigners must be ascertained when services are provided and to adapt existing practices accordingly, including seeking a legal opinion to clarify whether and to what extent a municipal identity card could contribute (while expressing reservations on whether that could be the case); to support non-governmental organisations that offer advice and information services; to promote urban citizenship; and to strengthen internal cooperation and exchange with civil society organisations on these issues.

#### *Allocating a budget*

There may be an identified budget for this work but elsewhere the cost of provision is not identified separately from provision of other services. Alternatively, it can be part of an allocation of funding to NGOs for the services they provide.

- *Gothenburg* has a budget of €3m per annum for provision of shelter for homeless third country and EU nationals, including those with irregular status. *Stockholm* similarly has a budget for partnerships with NGO's that offer support and shelter to unaccompanied minors who become 18 and are no longer in the asylum system.
- *Barcelona's* 2017 strategy (above) includes a budget of €341,000 (2018) for delivering the actions identified.
- In 2015 *Düsseldorf's* Committee for Health and Social Affairs agreed an annual budget of €100,000 to provide healthcare to irregular migrants with medical needs (see Section 4.4).<sup>28</sup>
- *Ghent* has a budget set aside to cover unpaid school bills, including those for pupils with irregular status (see Section 4.5)

## Part 3 Guidance on service provision: general principles

### 3.1 General principles on providing access to services

City approaches towards irregular migrants are evolving across Europe. Some cities have formal policies relating to this group of people and a specific budget allocation for services. Others are making adaptations which are less formal in approach, or coordinated across the authority. Access is often more extensive for children and vulnerable adults, reflecting national legal frameworks as well as the priorities of the municipality. While some service provision is intended to address the immediate effects of exclusion, in other cases the municipality also seeks to address the underlying problem of irregular status by facilitating access to legal advice.

Municipalities may facilitate access to mainstream services where this is appropriate. Examples include admitting children to mainstream schools and pre-school facilities, or extending the services of social workers dealing with homelessness to homeless migrants with irregular status. A municipality may enable an individual to pay for a mainstream service from which they would otherwise be excluded. In other cases, separate arrangements may be made for irregular migrants, or they may be included within a service provided for other migrants.

The service may be provided in whole or part by staff working for the authority or another public sector body. Alternatively, funding may be provided to NGOs to provide the service.

In order to ensure that those requiring services feel able to come forward, municipalities need to be able to provide assurances that personal information will not be disclosed to authorities responsible for enforcing immigration laws. There are a number of ways in which such a data ‘firewall’ can be achieved. These options are explored below.

#### ***Facilitating access to mainstream services with other residents and/or other migrants***

Municipalities may facilitate access to an existing service where possible, paying the provider if required. This avoids the development of ‘parallel’ services, ensuring that standards of service provision are maintained for all service users.

- *Helsinki* provides children and pregnant women with irregular status with the same health services as Finnish nationals in its public clinics and hospitals. Other irregular migrants can receive treatment for a wider range of illnesses than are accessible under national arrangements (see Section 4.4).
- *Barcelona* encourages migrants to access Spanish and Catalan language classes, training and employment services, regardless of immigration status (see Boxes 7 and 18).



- *Ghent* provides an information and advice service for all migrants and for Belgian nationals (see Section 4.1).
- *Liverpool* decided in 2018 to open its night and day shelters to any rough sleeper, regardless of immigration status. This is also the case in *Oslo* (see Section 4.2).

#### **Box 6: Barcelona: Ensuring access to services and regularisation through the municipal register**

Under Spanish law, all residents must register in the *padrón*. *Barcelona* is among municipalities that actively encourage and facilitate registration by irregular migrants. It does so by informing them of their obligation to register and allowing the registration of people with no fixed address through the City Council's Social Services Department, thus enabling their access to services such as education. This evidence of residence can also be provided to the immigration authorities if a migrant applies for regularisation of status. Providing such a report is a responsibility of municipalities under Spanish immigration law. In 2010, more than 16,000 people with no fixed address were registered in *Barcelona*, 13,400 of whom were non-EU country nationals. Many had irregular migration status. A monitoring committee on irregular migrants' access to services includes a focus on effective access to the register for people who are unable to show a valid tenancy agreement for their address.

### ***Provide a service for irregular migrants who cannot access a mainstream service***

An alternative arrangement is made for situations where it is not possible for irregular migrants to use a mainstream service.

- Cities such as *Frankfurt* and *Dusseldorf* established or fund clinics, sometimes in association with NGOs, that provide medical care for those without access to the mainstream healthcare system (see Section 4.4).
- Cities such as *Utrecht* and *Helsinki* provide access to legal advice for resolution of immigration status, whether directly or through an NGO (see Section 4.1).
- *Genoa* provides a range of services (including shelter and food) directly to vulnerable irregular migrants, including unaccompanied minors, victims of trafficking and pregnant women (see Section 4.2).

### 3.2 In Focus: Provision through or in partnership with Non-Governmental Organisations (NGOs)

Municipalities may provide a service in partnership with an NGO or may fund, or contribute to the funding of, an NGO service provider.

#### *Why municipalities work with or fund NGOs to provide services*

- An NGO can be well informed regarding the changing situation of irregular migrants and have the expertise to meet their particular needs
- Irregular migrants may be more confident in approaching an NGO than an official council service
- An NGO may not be bound by any legal duty to transfer personal information on service users to immigration authorities
- Provision through an NGO may be less sensitive politically than direct provision by the council
- Outsourcing a service to an NGO may prove less expensive

#### *What can be done by local authorities?*

There are a number of different possible arrangements.

#### *Partner with one or more NGOs to provide a service*

- *Düsseldorf* funds an NGO to provide medical consultations and refer patients to specialist doctors, covering the cost of care provided (see Section 4.4).
- *Barcelona's* SAIER advice service is provided in partnership with six NGOs which together have the necessary expertise to advise on a wide range of issues (see Box 7).
- *Munich* provides healthcare services for people without health insurance in cooperation with an NGO, Café 104, which provides free medical advice as well as advice and representation on immigration status.

#### *Funding NGOs to provide a service or contribute to the cost*

This is common practice across a range of services. Many examples are given in the relevant sections of the guidance, such as:

- *Utrecht, Eindhoven and Nijmegen*, where funding to NGOs includes covering the cost of some health services and medicines for which the individuals cannot otherwise receive reimbursement (such as dental care) (see Section 4.4).
- *Stockholm and Gothenburg* provide funding for places in NGO shelters for victims of domestic violence and other irregular migrants who are homeless (see Sections 4.2 and 4.3).

- *Warsaw* provides 40 percent of the funding for a medical NGO that provides services to uninsured residents, irrespective of immigration status (see Section 4.4).
- *Oslo* funds an accommodation centre, managed by the Salvation Army and the Red Cross, which provides overnight stays during the winter for those without rights to other social services (see Section 4.2).
- *Amsterdam* funds an NGO to provide an allowance to irregular migrants in critical need with no means to sustain themselves (but itself authorises each case before payment).
- *Barcelona* works with a network of 120 NGOs, and provides funding to advice providers so that they may remain up to date on changes in law and regulations affecting their clients.

### *Providing other means of support*

In addition to or instead of providing funding to an NGO, a municipality can provide other means of support. This might include endorsing an application from an NGO to an external funder, or vouching for the importance of the services the NGO provides.

- *Athens* supports the Melissa Network, an NGO providing a range of services to migrant women, by endorsing the value of its work in funding applications and recommending it as a reliable partner for projects.

## **3.3 In Focus: Handling of personal data (and the concept of ‘firewalls’)**

Many municipalities take steps to safeguard the personal data of service users from immigration enforcement authorities, while continuing to fulfill their responsibilities under national law. Provision of a service for people with irregular immigration status is only effective if the service users are reassured that their personal details will not be reported to immigration law enforcement authorities. Fear of detection and removal is a significant deterrent to using a service, even where an individual is entitled to do so under national law or municipal policy.

A separation between public immigration enforcement activities targeted at irregular migrants and the provision of services to them is known as a ‘firewall’. Firewalls are particularly relevant to such services as healthcare, social services, education and access to the justice system. Firewalls are implemented to ensure that individuals are not deterred from accessing essential services by a fear that doing so could lead to their arrest and deportation.<sup>29</sup>

A legal firewall to prevent disclosure may be provided for by national legislation in relation to particular services to which government considers access important. Municipalities should be informed about the circumstances in which they are, or are not, required to transfer information on service users with irregular status to police or immigration authorities, and about the potential relevance of the General Data Protection Regulation (GDPR) for their handling of this sensitive data.<sup>30</sup>

## Legal and policy background

- The Council of Europe's European Commission Against Racism and Intolerance (ECRI) recommends that governments establish personal data 'firewalls' to prevent certain social service providers from sharing the personal data of irregular migrants for purposes of immigration control and enforcement. General Policy Recommendation 16, 'On safeguarding irregularly present migrants from discrimination' (2016), provides guidance relating to healthcare, education, housing, labour protection, policing and criminal justice, and specialised advice agencies.<sup>31</sup>
- Objective 15 of the UN Global Compact for Migration commits signatory states to: '*Ensure that cooperation between service providers and immigration authorities does not exacerbate vulnerabilities of irregular migrants by compromising their safe access to basic services or unlawfully infringing upon the human rights to privacy, liberty and security of person at places of basic service delivery*' (para 31b).<sup>32</sup>
- National laws or regulations may, in particular circumstances, explicitly prohibit the transfer of information on immigration status to police or immigration authorities. In many countries, medical professionals and teachers are required to observe confidentiality laws regarding patient and student data. In Spain, this is also the case for data on the municipal register (except in the case of serious crime, where police may gain access). Under Swiss law, there is a firewall between tax and immigration authorities, so that individuals may pay tax without fear of their personal data being accessed for immigration purposes.
- In contexts where there is a general requirement for public servants to report migrants with irregular status, a specific service may be the subject of an exemption. This is the case in Germany with respect to information held by doctors and teachers, and in the UK with respect to patients seeking treatment for a range of conditions including transferable diseases.
- Professional associations may advise their members that transfer of data on service users would breach the ethics of their profession, as recommended by the World Medical Association (WMA). The WMA also urges local authorities to ensure access to adequate healthcare regardless of legal status.<sup>33</sup>
- National policy may provide for alternative administrative arrangements for service users with irregular status, allowing them to access services for which other residents have an identity code or number. For example, in Italy, where children are entitled to education until age 18, irregular migrants are exempt from the requirement to present the fiscal code of the student, and those of his or her parents, upon registration at a school. Instead, the Ministry of Education has provided a specific mechanism wherein such migrants may obtain a temporary code from the school to be used for the purpose of registration.<sup>34</sup>

## *What can be done by local authorities?*

There are a number of procedural steps that municipalities can take to ensure that someone with irregular status is confident that they can use a service without immigration authorities being informed.

### *Not ask service users for information on immigration status*

The simplest step that a municipality can take to ensure access to a service is to remove a requirement that the immigration status of the individual is identified to the service provider. Municipalities can also ensure that their services, and those of NGOs that they fund, do not ask for information on immigration status unless they are required to do so as a matter of national law. For many services (such as libraries, social and cultural services, and public transport) there is usually no expectation that individuals will be asked for information that identifies their immigration status. Irregular migrants will therefore feel able to use these services. Where information on immigration status is currently required, municipalities can review whether this is necessary.

- *Zurich* recently decided to review all relevant services to establish if immigration status is identified and, if so, whether such information is needed.
- *Athens* has a food distribution service which is open to all those in need without questions asked about immigration status.
- *Amsterdam* police initiated the policy (now nationwide) of enabling victims of and witnesses to crime to make reports without reference to their immigration status (see Section 4.3).
- Italian municipalities, including *Turin*, *Florence* and *Genoa*, instructed municipal kindergartens not to require any documentation relating to a regular residence at enrolment (see Section 4.5).

The simplest step that a municipality can take to ensure access to a service is to remove a requirement that the immigration status of the individual is identified to the service provider.

### *Alternative measures where municipalities are required or need to identify immigration status*

If information on immigration status is recorded because relevant for the service, the municipality can adopt a policy not to disclose such information if not required to do so. If national law requires evidence on immigration status before a service is used, funding can be provided to an external organisation to provide the service (usually an NGO). The NGO may either not ask for information on immigration status or, if that information is needed to provide the service, have no duty to disclose it.

- *Rotterdam* asks midwives, general practitioners and schools to refer children for vaccinations regardless of immigration status, so as to avoid these children being excluded from that service.<sup>35</sup>
- *Dusseldorf* externalised reimbursements for medical services offered to irregular migrants to an NGO, which is not bound by a legal duty to report patients with irregular status. Otherwise, local welfare affairs offices reimbursing medical treatments for uninsured patients may be obliged to report those with irregular status (see Section 4.4).
- *Frankfurt* established a local health clinic where irregular migrants can obtain free medical consultations anonymously (see Section 4.4).
- *Munich* set up a mechanism for anonymous immigration case reviews, where irregular migrants, through the mediation of an NGO, can anonymously request an opinion on their chances of regularisation from immigration authorities (see Section 4.1)

If proof of identity, but not of immigration status, is required, municipalities can issue a local civic card that can be accepted as proof of identity or residence in the city when accessing services such as enrolment in a school. Such cards can be issued only to irregular migrants, or alternatively to all local residents so that the card provides no indication of status (a practice widely adopted in the USA) (see Section 5.2).

## Part 4    Guidance on specific areas of service provision

This section provides guidance on specific areas of service provision and is built on the experience of European municipalities which offer services to migrants with irregular status. For each area of service provision, brief information is given on the nature of the service; on why municipalities feel the need to make provision; and on the relevant legal and policy context. Subsequently, information is given on specific arrangements made. The practices presented in this section are initiatives that have been implemented across Europe and may serve as practical examples for other municipalities with similar needs. The aim is to provide practical, sustainable solutions to the different social challenges brought by the presence of irregularly-staying migrants.

### 4.1    Terminating irregularity: facilitating the regularisation and promoting the return of migrants with irregular status

This guidance is based on the premise that an irregular immigration status implies a variety of challenges for both the migrants and the communities they live in. It is recognised that irregularity is never a solution but a condition that should be addressed by facilitating either the regularisation or the return of migrants with irregular migration status. For this reason, this part of the guidance starts with a section dedicated to the provision of legal advice and counselling aimed at resolving immigration irregularities either by supporting the acquisition of a regular status or by encouraging and supporting the voluntary return of migrants to their countries of origin.

#### *Why local authorities get involved*

- The provision of legal advice and counselling to migrants can prove key to terminating a condition of irregularity and, as a consequence, to reducing the social challenges related to the presence of migrants with irregular status. Facilitating regularisations or returns reflects a ‘problem-solving’ approach.
- Supporting migrants in transitioning from irregularity allows for a reduction in the number of individuals living in an irregular condition, which in turn fosters more lawful conditions in the city and provides reassurance to the population regarding migrants’ legality.
- The provision of immigration counselling and support for individuals’ efforts to regularise increases migrants’ trust in officials, encourages them to interact with authorities, and ultimately makes them more likely to accept advice on voluntary return.
- Providing advice on, and material support for, voluntary returns encourages more humane return practices. It is also more cost effective as voluntary returns are less expensive than detaining and forcibly deporting a person.
- Combining the provision of a service (e.g. shelter) with the provision of counselling aimed at terminating irregularity (including by encouraging return) is often a way to reconcile a municipality’s inclusive aims with regulations that restrict immigration and funding.

## Legal and policy background

- Decisions regarding the regularisation or removal of irregularly-staying third country nationals do not normally fall within the competences of municipalities but are the prerogative of national authorities. Within their limited powers, however, local authorities may facilitate access to regularisation or voluntary departure through counselling and support.
- According to the European Commission: *‘Tailored individual coaching, which empowers the returnee to take in hand his/her own return has proven to be successful. A systematic horizontal coaching of all potential returnees, covering advice on possibilities for legal stay/asylum as well as on voluntary/enforced return from an early stage (and not only once forced removal decisions are taken) should be aimed at’*.<sup>36</sup>
- The Principles and Guidelines on the protection of the human rights of migrants in vulnerable situations (including irregular migrants) developed by the UN Human Rights Office (UN-OHCHR) with the UN Global Migration Group assert that authorities should *‘take steps to provide competent, independent, free and confidential legal and other assistance to migrants, including accessible information and interpretation services, enabling them to understand their rights and obligations as well as relevant criminal, administrative, civil and labour justice procedures’*.<sup>37</sup>
- EU Regulation 516/2014 establishing the Asylum, Migration and Integration Fund (AMIF) provides that the Fund shall support, *inter alia*, the provision of social assistance, information or help with administrative and/or judicial formalities, and information on counselling. The Fund is also intended to support the provision of legal aid and language assistance to irregular migrants, including non-removed migrants. The specifications on how to use the Fund at national level, however, are set in National Programmes that may disregard this opportunity.<sup>38</sup>
- Assisted Voluntary Return and Reintegration (AVRR) programmes offer logistical, financial and/or material assistance. The European Commission has proposed enhancing voluntary return as a first action to increase the effectiveness of the EU return system.<sup>39</sup> Similarly, preference for voluntary return has been expressed in the jurisprudence of the Court of Justice of the EU (CJEU),<sup>40</sup> in line with the Return Directive (Art. 7) which places a general *obligation* on Member States to grant a period of 7 to 30 days to allow migrants issued with a return decision to leave voluntarily before enforcement measures are taken. EU Member States had to develop AVRR schemes by 1 June 2017.<sup>41</sup> The share of voluntary returns among total returns in the EU has gradually increased from just 14% in 2009 to around 40% in 2013.<sup>42</sup>

## What can be done by local authorities?

### Providing information, counselling and support on regularisation

Municipalities may support irregular migrants’ efforts to find a solution to their immigration status by providing information and counselling on legal opportunities for regularisation, facilitating mediation between migrants and immigration authorities, and providing support for the voluntary return of those who, through professional counselling, realise they will be unable to regularise their status.



## Setting up municipal information or counselling centres on immigration matters

Municipalities may set up dedicated information centres to provide counselling (see Box 7 for Barcelona's SAIER centre).

- The City of *Ghent* set up and manages an 'info-point on migration' (*Infopunt migratie*) that provides general advice and information on immigration matters to all residents of the city, including regular and irregular migrants and Belgian nationals. Irregular migrants can obtain information regarding opportunities and procedures to regularise their status, or can access voluntary return programmes. In addition, migrants receive information on services they can access in the city while their status is irregular (e.g. obtaining a medical card that allows access to a local doctor), and are referred to the relevant municipal departments or local organisations. To increase irregular migrants' trust in municipal employees providing advice, *Infopunt migratie* ensures the confidentiality of data shared and collects only minimal details from clients, including nationality, gender and immigration status. A person's name and telephone number is only requested in exceptional circumstances (for example, when a follow-up is needed).

## Financially supporting independent organisations providing information or counselling

A municipality may prefer to externalise immigration counselling and advice by providing funding to local NGOs offering such services. There are several reasons for doing this including restrictive national regulations that prevent public officials from interacting with irregular migrants or require public service providers to report clients with irregular migration status. In some cases, outsourcing of services to NGOs is more cost effective, or is aimed at increasing migrants' trust in their advisors so as to render outreach efforts more effective.

- To make sure legal advice reaches the most reluctant migrants, the City of *Ghent*, in addition to its 'info-point on migration', also financially supports an independent organisation providing immigration counselling in its 'Transit-house'.
- To reach the highest number of irregular migrants in the city, *Barcelona* funds a network of 55 non-profit 'social entities' to provide free legal advice on obtaining regular status, renewal of expiring residence permits, and access to services in the city, as well as advice for foreign spouses of Spanish nationals. The social entities also follow the cases of migrants at risk of losing their regular migration status and can mediate on migrants' behalf with the local administration processing immigration cases. To ensure the consistency and efficiency of the service, the municipality established the *Network of Social Entities Offering Legal Advice for Foreigners* (XESAJE), which facilitates the circulation of information on changes in laws and regulations affecting foreigners. It also organises periodic meetings with institutions to obtain up-to-date information on the most pressing issues for both the administration and users.
- The City of *Stockholm* established partnerships with NGOs offering counselling, legal advice and support to young irregular unaccompanied migrants. The City is further investigating new

opportunities for partnerships with a local NGO to provide counselling to asylum seekers and migrants with irregular status.

### *Offering mediation mechanisms between migrants and immigration authorities to obtain guidance on regularisation issues*

Municipalities (or their partners) can act as intermediaries to facilitate interaction between immigration authorities and individuals who otherwise would not approach authorities. The mediation may be conducted by municipal employees if they are not required to report irregular migrants or by a private partner.

- The Social Services Department of the City of *Athens*, when certifying that women with irregular status have been victims of violence, has been negotiating the issuance of humanitarian permits on victims' behalf with the Greek Ministry of Interior.

In countries where public officials are required to report irregular migrants, municipalities may install a system of anonymous individual case reviews.

- The City of *Munich* has entered into partnership with a local NGO to take on cases of irregular migrants living in the city and discuss individual situations in an anonymous manner with immigration authorities. This allows the authority to assess individual situations and either suggest ways to regularise status or state that there is no prospect of an alternative to removal. The NGO thus obtains official individual consultations without having to disclose a migrant's identity and can advise migrants accordingly on their possibilities to regularise, or alternatively encourage them to join programmes of assisted voluntary return.<sup>43</sup>

### *Embedding immigration counselling within local shelters and other facilities providing services*

Municipalities may combine the provision of a service with legal counselling on immigration matters.

- The *Mayor of London*, for instance, in association with a charitable foundation (Trust for London) is developing a pilot scheme to embed legal support on immigration matters and guidance for children with irregular status in local primary schools.<sup>44</sup>

Professional legal advice on immigration may be offered within a shelter for irregular migrants (see Section 4.2). This solution allows for individual and close follow-up of the immigration cases of the shelter's residents and builds trust between migrants and legal advisors who ultimately may be able to encourage migrants to accept advice on voluntary return. The provision of legal advice within shelters shapes the practice around a 'problem-solving approach' rather than solely service provision (see Box 9).

- The City of *Utrecht* is funding NGOs to offer shelters for unsuccessful asylum seekers and other individuals with irregular immigration status (see Box 8 ) Legal advice on immigration cases is offered within the shelter. Legal staff in the shelter advise on asylum appeals and other

avenues to obtain a residence permit (e.g. on family or medical grounds). If a chance of regularisation is identified, municipal officers subsequently mediate for individual migrants with national immigration officers to confirm that the solution identified is indeed viable. Legal staff then follow up on the procedure for regularisation. If no chance of regularisation is identified, the migrant is encouraged to participate in a programme of assisted voluntary return (see below).

### *Developing guidance and outreach activity for residents with irregular status*

Municipalities may develop guidance and outreach activities to inform residents with irregular or insecure immigration status regarding the possibility of regularising their status, and on the steps to follow to secure regular status.

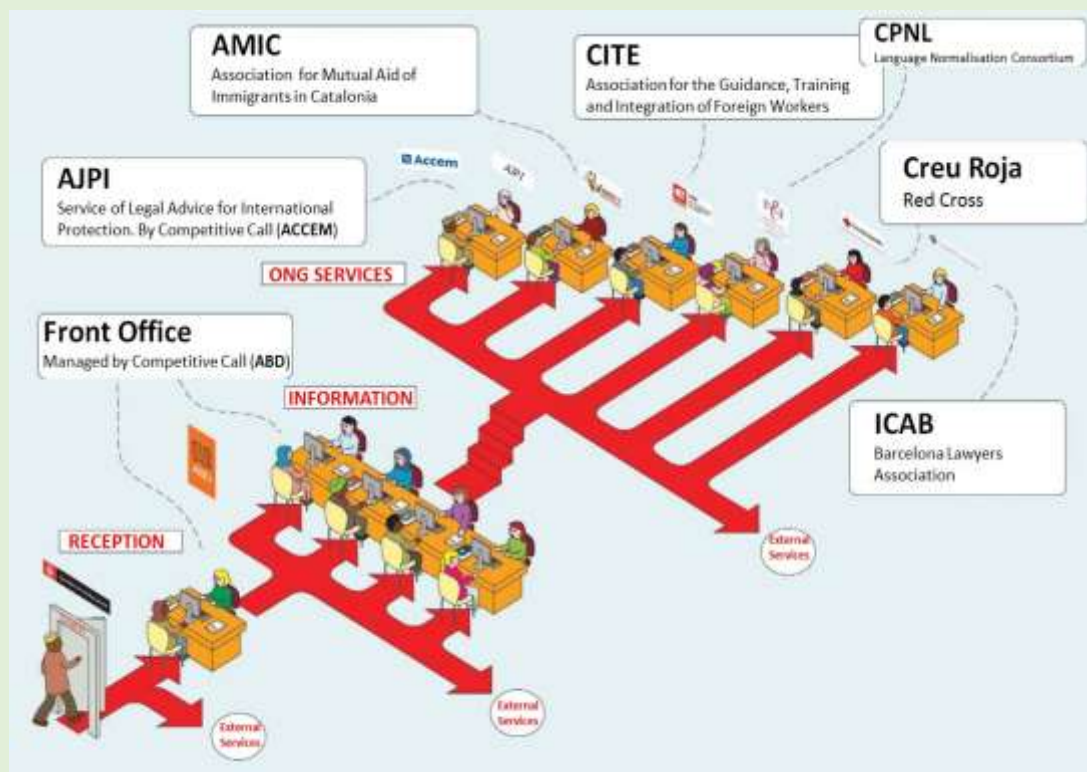
- The *Greater London Authority* (GLA), in partnership with specialised NGOs and with the support of philanthropic charities, developed two sets of guidance aimed at supporting young Londoners who have been living and growing up in the city with insecure immigration status to secure a legal right to residence in the UK. Both sets of guidance are hosted on the website of the Mayor of London. One set of guidance is aimed at informing young Londoners about their rights and how to receive professional support in London. The other set supports professionals helping young Londoners in changing their immigration status. In addition, the guidance directs irregular migrants to relevant local civil society organisations according to their advice needs. The expertise necessary for developing the guidance was secured through a secondment of civil society experts within the city administration, funded by philanthropic organisations. In addition, the GLA carried out outreach activities including hosting a ‘Young Londoners Forum’ for young people with insecure status and workshops for the city’s officials and professionals.<sup>45</sup>

#### **Box 7: A one-stop-shop for migration-related services: Barcelona’s Services Centre of Assistance to Immigrants, Emigrants and Refugees (SAIER)**

- The City of Barcelona has developed a one-stop-shop where migrants (including irregular migrants), but also emigrants and refugees, may obtain information and access a variety of migration-related services for free. The goal is to provide comprehensive assistance to migrants and potential emigrants through one integrated structure. SAIER thus provides general assistance on immigration (including on accessing shelters), emigration, asylum and voluntary return.

SAIER's services to immigrants (regardless of status) include the following: welcome services and general information about the city of Barcelona; immigration legal advice and support for documentation procedures; labour legal advice; orientation for labour insertion; training; provision of information on accessing housing, recognition of foreign qualifications and licenses, and how to access education services and courses on Catalan and Spanish; assistance with voluntary returns; and information on how to access social care for certain categories of socially vulnerable migrants with irregular status.

SAIER is managed by the municipal administration through a system of public-private partnership, with seven NGOs contracted by the city to provide information and services. The interaction of migrants, emigrants and refugees with service providers is structured on three levels to ensure that each user, according to their specific condition, is directed to the relevant service provider. The first level is 'reception', where users are welcomed by a desk officer who registers their request. Each user is then directed to the 'Front office' where a desk officer identifies the kind of assistance required, provides general information on the assistance the city can offer in relation to the user's specific needs, and directs the user to the third and final level, the relevant NGO contracted by the municipality to provide the specific service needed by the user.



Source: Presentation of Ramon Sanahuja, Director de Serveis d'Immigració i Interculturalitat, City of Barcelona, to the Working Group of the City Initiative on Migrants with Irregular Status in Europe (C-MISE), Barcelona, 5 July 2018.

More information can be found at: [www.bcn.cat/novaciutadania/arees/en/saier/saier.html](http://www.bcn.cat/novaciutadania/arees/en/saier/saier.html).

## Promoting the return of irregular migrants to their countries of origin

Regardless of what form the provision of legal counselling takes, it may be accompanied by programmes supporting the return of irregular migrants to their countries of origin. For many individuals, returning may not only be the outcome required by immigration law but may also be the best option on a personal level. Legal counselling can play a key role in helping migrants realise that they may be better off returning than continuing in a condition of irregularity. Often, however, migrants who decide to leave may not have the means to do so or may hesitate to return to their countries of origin because of personal challenges, pressures from their communities of origin, or social ties in Europe. Material support and social counselling may strongly support migrants in choosing to cooperate in their return. Voluntary return programmes may be more cost effective as (in addition to being more humane) they are less expensive than detaining and forcibly deporting migrants.

### *Promoting the voluntary return of irregular migrants through counselling*

Offering legal counselling on a potential path to regularisation is key to building migrants' trust in the officials promoting voluntary return: individuals who have been assisted in seeking a way to regularise (without success) may be more inclined subsequently to accept advice on returning to their country of origin.

- The City of *Barcelona*'s one-stop-shop for Services of Assistance to Immigrants, Emigrants, and Refugees (SAIER - see Box 7) has a desk officer dedicated to providing irregular migrants with information on opportunities for Assisted Voluntary Return programmes in the city and in Spain. Migrants can access SAIER to inquire about a number of immigration matters including regularisation. They may be directed to the relevant desk officer if they express an intention to return or if return is deemed the best option for the migrant. SAIER may then refer the migrants to relevant entities providing support for and managing assisted voluntary returns.

### *Embedding counselling on and support for returns within local shelters and other facilities providing services*

Access to shelters for irregular migrants in the City of *Utrecht* is combined with the provision of counselling on immigration matters (see above). If no opportunity to regularise is identified, migrants are advised on opportunities to join programmes for assisted voluntary return. The provision of engaged and trusted counselling showing no realistic chance to obtain a residence permit has been a strong factor in determining a migrant's choice to return voluntarily: about 19% of those who received immigration counselling in the period 2002-2018 decided to return voluntarily to their country of origin (see Box 9).

- The City of *Ghent* provides homeless migrants who sign up for return programmes with access to accommodation in a reception centre (called '*De Tussenverdieping*') managed by the municipality. During their stay in the centre they receive basic assistance and professional counselling in planning their return. If return is not possible for reasons beyond the control of

the migrant, legal staff explore all legal alternatives including a residence permit under national law and/or financial support by the public social welfare centre.

### *Offering material support to returning migrants*

- In addition to the above mentioned mediation service, the City of *Munich* (Social Affairs Department) manages the 'Coming Home' project which offers migrants whose immigration case cannot be solved, or who simply declare their interest in returning, the cost of travel and provides a small grant for the re-integration of voluntary returnees in their country of origin.<sup>46</sup>

## **4.2 Providing accommodation: shelters and support for housing needs**

Irregular migrants are prohibited from working, cannot receive social benefits, and often engage in low-paid work in the informal economy that may not provide them with sufficient means to afford housing. In addition to economic factors, migrants with irregular status face a variety of legal or administrative obstacles in accessing housing, including private rental accommodation, social housing and public shelters for homeless people. These include national legislation imposing sanctions on landlords for renting to irregular migrants (or requiring landlords to report tenants with irregular status). Access to public shelters or assistance with housing may be hindered by requirements to show a residence permit or other documentation that irregular migrants cannot produce, such as a social security number. Only rarely do state-owned homeless shelters admit migrants in an irregular situation.<sup>47</sup>

Municipalities setting rules on admission to shelters and housing play a key role in facilitating or hindering access to locally-administered shelters. Where national legislation does not explicitly prevent irregular migrants from accessing housing facilities for homeless people, individual organisations managing the facilities may still be reluctant to accept them because they fear their public funding could be jeopardised.<sup>48</sup> As a consequence, irregular migrants often live in substandard and precarious conditions, are vulnerable to abusive landlords who impose exploitative conditions, or end up homeless in the streets of European cities. This risk is exacerbated for the increasing number of unsuccessful asylum seekers whose stay in accommodation centres may be interrupted abruptly as a consequence of the rejection of their asylum claim.

Municipalities may facilitate access to temporary and night shelters for the homeless but also provide housing facilities on a longer term basis, often accompanied by legal counselling with the aim of finding a solution to migrants' irregularity and related homelessness.

### *Why local authorities get involved*

- Legal duties of care upon municipalities in relation to destitution and homelessness, the need to protect the fundamental rights of all, including rights to housing, and respect for the human dignity of individuals often require local authorities to take action to ensure that all, irrespective of migration status, can access a shelter.



- Providing a shelter is often – especially during the cold winters of Northern Europe – necessary to ensure the life and health of homeless individuals, irrespective of their migration status.
- Cities can fight homelessness, irregular settlements and squatting by providing alternative accommodation or otherwise supporting irregular migrants' housing needs.
- Reducing the homeless population of a city is an issue of public order, health and safety, irrespective of the migration statuses of the homeless. Other negative consequences of homelessness include street prostitution, substance abuse, crime, and the physical dangers associated with sleeping in the street or in derelict premises.
- A reduction in the homeless population, including irregular migrants, reassures the local population in relation to their security concerns.
- Municipalities aiming to reduce crime and violence in their territory can allow vulnerable individuals in need, including women and children with irregular status and no other accommodation alternatives, to escape situations of crime, including domestic violence, trafficking and sexual exploitation, by providing them with a safe shelter.
- Local authorities may act because they are concerned about the impact homelessness has on the image of their city and the consequences of the visibility of homelessness for tourism.
- Supporting vulnerable migrants' housing needs helps reduce exploitation by abusive landlords.
- Stable accommodation, with counselling and support, is often the first step toward ending a situation of irregularity. It allows migrants to concentrate on their regularisation paths or prospects of returning and also makes it easier for legal staff to follow up on the immigration cases of shelter residents.

## Legal and policy background

- The right to housing for all persons regardless of nationality or legal status is recognised by a wide range of international Human Rights treaties as one of the facets of the right to an 'adequate standard of living', including Article 25(1) of the Universal Declaration of Human Rights and Article 11(1) of the International Covenant of Economic, Social and Cultural Rights.<sup>49</sup>
- The European Committee of Social Rights (ECSR) of the Council of Europe has found that the European Social Charter (ESC) recognises the right to shelter of migrants with irregular status. In its (non-binding) decisions, the ECSR held that '*States Parties are required [...] to provide adequate shelter to children unlawfully present in their territory*'<sup>50</sup> and that '*shelter must be provided also to adult migrants in an irregular situation, even when they are requested to leave the country and even though they may not require that long-term accommodation in a more permanent housing be offered to them*'.<sup>51</sup> On the other hand, the European Court of Human Rights stated that this right is not covered by the European Convention of Human Rights, and that the Convention (Art. 3) does not impose a positive obligation on State Parties to provide emergency social assistance and shelter to unsuccessful asylum seekers if they are not prevented from returning to their country of origin and the hosting state offers accommodation under the condition that the individual cooperates with their return.<sup>52</sup>

- National legislation in the majority of EU countries imposes penalties on landlords renting properties to irregular migrants, including fines and imprisonment. Renting to irregular migrants may be explicitly punishable in the law, or a general rule on facilitation of irregular stay may be interpreted to include renting housing to irregular migrants.<sup>53</sup>

## *What can be done by local authorities?*

### *Mainstreaming irregular migrants' access to municipal shelters and adopting admission procedures that facilitate their access*

Where national legislation does not prohibit offering migrants with irregular status access to public shelters, municipalities managing the facility (or the organisations to whom the management is delegated) may nevertheless formally restrict access to the facility to regular migrants only. Alternatively, they may impose admission requirements such as presenting documentation that irregular migrants often lack (a residence permit, an identification document, or a social security number). Adjusting rules to ensure that admission procedures facilitate rather than exclude access is the first step to including irregular migrants in admission to shelters or other municipal accommodation facilities.

The most straightforward solution is not to require the production of a residence permit as a requirement to access municipal shelters and to refrain from carrying out immigration checks within shelters.

- As Irish national law does not regulate the issue, the City of *Dublin* allows homeless irregular migrants in immediate need access to the city's emergency shelters by avoiding questions about immigration status. Immigration checks may be carried out at a later stage, in part to refer the person towards other services to tackle their condition of homelessness for which they may be eligible.
- The City of *Liverpool* decided to allow access to its night and day shelters to any street sleepers, including failed asylum seekers and other migrants with no right to access services. In addition, the municipality started an outreach campaign named 'Always Room Inside' to make sure that any street sleeper, as well as the wider population, is aware of the possibility of accessing the shelter, regardless of immigration status.<sup>54</sup>

Where the national legal framework on this issue is unclear, municipalities can choose the most extensive interpretation of the law in relation to access to the service.

- In Italy, the City of *Genoa* backs the provision of shelter and food to vulnerable individuals with irregular migration status (including women, victims and children), by taking advantage of complexities in the national legislation and thus prioritising the implementation of legal duties to assist vulnerable people over limitations imposed by immigration legislation.



### *Funding or reimbursing NGOs for the provision of shelter to irregular migrants*

Municipalities may fund the activities of NGOs to provide shelters to people in need, regardless of migration status.

- In *Oslo*, NGOs run shelters for people needing a place to sleep, regardless of their residence status. In 2018, the City of Oslo provided €600,000 to the shelters. On a regular basis there are 133 beds for overnight stay and legal and medical assistance is provided. During cold winter periods the capacity is increased. The City of *Stockholm* has a similar model.

This practice is used in particular in countries where restrictive national legislation prevents direct municipal provision of housing services to irregular migrants, or limits the possibility of accessing national funds to cover the costs of providing shelter. The mediation of an NGO allows indirect provision of shelters. In particular, in national contexts where public officials are bound to report irregular migrants requesting services, the mediation of an NGO can offer a ‘firewall’ (see Sections 3.2 and 3.3).

Support may take the form of funds provided upfront to manage a facility with the specific goal of providing accommodation for those who cannot access municipal shelters.

- In the Netherlands, where national law strictly limits the provision of services to irregular migrants, the City of *Utrecht* provides funding to NGOs to manage three shelters hosting irregular migrants. Beyond accommodation, NGOs also provide financial, legal and medical assistance in the shelters (see Box 8).
- The City of *Stockholm* has a partnership with a local NGO to offer shelter in family homes to young irregular unaccompanied migrants.

Support may also take the form of reimbursements for organisations that cannot access funds from national governments for the costs of providing shelter to irregular migrants.

- In Sweden, where administrative barriers hinder access to state-funded emergency shelters for people with irregular status, the Cities of *Gothenburg* and *Stockholm* reimburse non-profit shelters for the costs of providing accommodation to women with irregular status escaping situations of violence.

### Box 8: Shelters for migrants with irregular migration status in Utrecht

The City of *Utrecht* funds NGOs to manage three support centres providing irregular migrants with, among other services, shelter. One centre is dedicated to women and children, one to homeless adults with irregular migration status and a third is an 'emergency shelter' for unsuccessful asylum seekers. Those who are deemed to be in need of shelter are hosted in small groups in rented apartments made available to the NGOs thanks to the municipality's funding. In 2018, 30-40 such houses offered 225 places. The NGOs are mandated to support migrants' access to the services they need, including education and health, as well as to provide financial, legal and medical assistance. In particular, NGO staff also provide legal counselling within the shelter, which is central to Utrecht's approach of providing services to terminate migrants' condition of irregularity (see Section 4.1 on legal counselling and Box 9, 'A problem-solving approach'). Incentivising migrants to remain in their irregular condition is not an option that can be pursued by the NGOs. Utrecht's policy to provide shelters to people with irregular migration status was motivated by the need to address the negative impacts in terms of homelessness (and related problems) arising from migrants' exclusion from national shelters. Asylum seekers are required to leave government shelters 28 days after the rejection of their asylum claims and so are youngsters with irregular status after their 18<sup>th</sup> birthday.

### *Initiatives supporting irregular migrants' access to the private housing market*

Local authorities may implement initiatives supporting irregular migrants' access to rented accommodation and protect them from exploitative renting conditions. This often happens through an NGO.

The mediation by NGOs between landlords and tenants may facilitate access to rented housing for irregular migrants.

- The Autonomous Community of *Madrid* has been supporting an NGO to mediate between prospective tenants and home owners and check housing conditions. The NGO keeps tenants' identities anonymous to the landlord before the conclusion of the leasing agreement in order to prevent discrimination and avoid landlords asking for documents that migrants cannot produce (such as payslips).<sup>55</sup>

Municipalities may financially support destitute migrants for accommodation purposes.

- The City of *Amsterdam* has been funding an NGO that provides monthly allowances for living expenses and if needed additional accommodation allowances, to migrants with irregular status and no other means to sustain themselves. The city keeps control over the use of funds through a requirement that officials authorise each case before funds are released.

### *Providing accommodation for irregular migrants cooperating in their return*

- In contexts of restrictive national policies, the local need to ensure accommodation for homeless migrants with irregular status can be reconciled with immigration rules on migrants' removal by limiting access to accommodation facilities to migrants agreeing to cooperate in their return. This is the case, for instance, at *Rotterdam's* 'bed-bath-food shelter'.
- The limitations of this approach can include leaving other irregular migrants without shelter, as well as not addressing the situation of non-removable migrants. In *Utrecht*, rather than requiring migrants' agreement on their return, migrants receive legal counselling while in the shelter, which may convince them to participate in programs of voluntary return (see Section 4.1).

#### **Box 9: A problem-solving approach: matching shelters with immigration counselling**

The provision of shelter or accommodation to irregular immigrants can be and often is accompanied by additional services, including counselling and immigration advice, aimed at supporting immigrants in putting an end to their condition of irregularity. This integrated approach is aimed at eradicating the condition that most often is the main cause of their homelessness and destitution: thus it is aimed at solving the problem for which the services are needed, rather than simply providing the service. In the period 2002-2018, in *Utrecht* this approach delivered a 92% solution rate (from a total of about 1000 people): about 59% of the local shelters' guests with irregular status managed to obtain a regular residence permit, 19% agreed to return to their country of origin, 13% were readmitted into the asylum accommodation system, and only 8% left the shelters with an irregular status. In *Ghent*, in the period 2011-2018, of the 290 homeless migrants hosted in the '*De Tussenverdieping*' accommodation centre (see Section 4.1 on voluntary return), about 75% returned to their country of origin and 7% received a residence permit. 17% did not return or regularise, finding both options not achievable.

### **4.3 Ensuring justice and protection for victims of crime with irregular status**

Irregular migrants are particularly vulnerable to exploitation and crime including labour exploitation, trafficking and domestic violence, because of their limited ability to obtain support from law enforcement authorities. Beyond cultural and linguistic barriers, victims of and witnesses to crime in an irregular condition refrain from reporting it to the police for fear of being arrested and deported. This is particularly true in countries where an irregular migration status is a crime under national law. Irregular migrants thus generally mistrust law enforcement authorities, which translates into high levels of underreporting of crime by migrant victims and witnesses.

Often, in Europe, municipal competences in relation to policing are limited or none, yet in some national contexts municipalities have competences on ‘community safety’ and some oversight on local police bodies. Municipalities can coordinate with local law enforcement to ensure that migrants with irregular status use all available options in law to report crime to the local police without fear of deportation. Municipalities may also engage in outreach and public campaigns informing migrants with irregular status of their entitlements to seek out the help of the local police, where possible without incurring the risk of deportation. The experience of US ‘Sanctuary cities’ may be of interest to European cities (see Boxes 12 and 20).

### ***Why local authorities get involved***

- To have a section of the local population refrain from reporting crime entails serious security and public order concerns. Developing practices that enable irregular migrants to reach out to the local police reduces the risk of crime underreporting.
- Instilling trust in migrants towards law enforcement authorities increases the police’s opportunity to obtain crucial information to tackle crime within diaspora communities. In cities with a significant migrant population, the opportunity to develop interaction between the police and all migrants may be of great support for the police in gathering essential information to prevent and address criminality.
- Allowing irregular migrants to report a crime ensures their access to justice, their protection against violence, and respect of their fundamental rights.
- Facilitating interaction between local police bodies and irregular migrants – beyond allowing access to justice and protection for victims – helps address crime locally, especially in urban realities with a significant migrant population.

### ***Legal and policy background***

- The FRA<sup>56</sup> and the European Commission<sup>57</sup> have recommended that national authorities adopt practices that ensure irregular migrants can report crime without risking apprehension and removal (see Box 10).
- Directive 2012/29/EU (the ‘Victims Directive’)<sup>58</sup> sets out rights, support and protection measures that explicitly apply to all victims of crime, irrespective of their residence status. These include *e.g.* the right of victims to be informed of their rights and their case in a way they understand; to make a complaint in a language they understand; and to access support services in a free and confidential way.
- EU Member States’ policies show an increasing awareness of the need to ensure irregular migrants are able to report crime and access justice and have been introducing legislation allowing the issuance of special residence permits for victims of certain criminal offences (*e.g.* domestic violence) who report the crime and/or cooperate with police investigations and prosecutions.<sup>59</sup> EU law also provides the possibility of issuing special residence permits to victims of trafficking and serious labour exploitation.<sup>60</sup>

- National reforms inspired by local practices in this area have been introduced in the Netherlands where *Amsterdam* police's 'free in, free out' policy was adopted at national level on the occasion of the transposition into Dutch law of the EU Victims Directive in 2015 (see below and Box 11).
- In the UK guidelines were issued by the National Police Chiefs Council (December 2018) to the effect that information on immigration status will no longer be passed automatically to the immigration authorities: *'When someone reports a crime police will always, first and foremost, treat them as a victim .... The police priority is to protect victims and investigate crime, and we are extremely careful about doing anything to deter victims from reporting to us.'*<sup>61</sup>

#### **Box 10: The FRA guideline to Member States on access to justice**

The Fundamental Rights Agency of the EU (FRA) guidelines on the *Apprehension of migrants in an irregular situation* recommended the following (guideline 9):

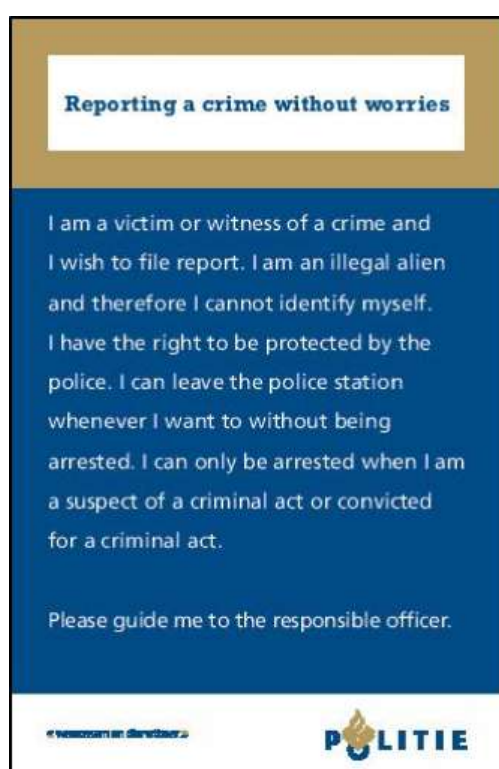
*'In the interest of fighting crime, Member States may consider introducing possibilities for victims and witnesses to report crime without fear of being apprehended. To this end, the following good practices may be considered:*

- *introducing possibilities for anonymous, or semi-anonymous, or other effective reporting facilities;*
- *offering victims and witnesses of serious crimes the possibility to turn to the police via third parties (such as a migrants ombudsman, specially designated officials; or entities providing humanitarian and legal assistance);*
- *defining conditions under which victims or witnesses of crime, including domestic violence, could be granted residence permits building upon standards included in Directive 2004/81/EC and Directive 2009/52/EC;*
- *considering the need for delinking the immigration status of victims of violence from the main permit holder, who is at the same time the perpetrator;*
- *developing leaflets in cooperation with labour inspectorates or other relevant entities to systematically and objectively inform migrants apprehended at their work places of existing possibilities to lodge complaints against their employers, building upon Directive 2009/52/EC, and in this context taking steps to safeguard relevant evidence'.*<sup>62</sup>

## What can be done by local authorities?

### The ‘free in, free out’ policy

The key element of the ‘free in, free out’ policy is the choice – formally or informally adopted by police management – to prioritise prosecution of crime over immigration enforcement, by instructing police officers to refrain from investigating the immigration status of individuals reporting a crime and/or apprehending individuals with irregular status reporting a crime, unless suspected themselves of committing a crime. The policy is accompanied by outreach activities in local migrant communities that aim to inform residents of their right to report a crime without risking apprehension and deportation, and to build trust towards law enforcement authorities:



The local police of *Amsterdam* adopted the ‘free in, free out’ policy in 2013 (see Box 11). Local police officers are instructed not to ask about the immigration status of individuals reporting a crime. A local police officer is charged with ensuring the functioning of the policy and that colleagues in the local police are aware of what is expected of them. Amsterdam’s police sought the cooperation of individuals and organisations trusted by the diaspora community (including churches, NGOs, and migrant organisations) to disseminate information on the means of reporting crime and to build trust in the service. Police refrained from patrolling the premises of organisations offering support to irregular migrants (see Section 5.3 on patrolling). They distributed leaflets (see picture), outlining the policy in Dutch and English, which migrants could hand to police officers when reporting a crime to make sure that the officer they interact with is aware of the policy and refrains from apprehending the migrant, and to explain why the migrant cannot show an appropriate identification document.<sup>63</sup>

#### Box 11: The ‘free in, free out’ policy in Amsterdam

The ‘free in’ free out’ principle was initially designed by the police of *Amsterdam* with the approval of the Mayor, and was motivated by the need to strengthen the interaction between local police and migrant communities, including the need to strengthen the police’s access to intelligence from these communities. The police acknowledged that irregular migrants were a reality in the local population and that their precarious condition made them vulnerable to crime. The policy officially started as a pilot project in 2013 after police senior management sought agreement from the State Secretary of Justice. The pilot project eventually proved successful as the police witnessed increasing trust from migrants

and increasing numbers of migrants reaching out to law enforcement authorities. The police also reported an additional positive outcome in terms of the ability to focus on targeting the migrants who committed crime rather than any irregular migrant. In view of these positive outcomes, in 2015 the 'free in, free out' policy was adopted by national authorities on the occasion of the transposition of the EU Victims Directive into national law. The government guidelines on the implementation of the Directive thus extended the application of the practice to police forces across the Netherlands.<sup>64</sup>

### *Outreach on the rights of victims with irregular immigration status*

Outreach activities are aimed at informing migrants of their rights as victims of crime, including (where existing) their right to report a crime without risking identification for immigration purposes or the right to obtain a special residence permit for victims of certain crimes who cooperate with police investigations or prosecutions. Municipalities may engage in raising awareness of the possibilities offered in the city and by national legislation to increase the reporting of crime by victims of specific crimes with irregular migration status.

#### **Box 12: Outreach activities in New York**

In *New York*, the city administration finances outreach activities in relation to the possibilities (provided by national law) of obtaining special residence permits for victims of crime cooperating with the police (the 'U' and 'T' visas). Outreach activities are conducted with migrant communities, advocates and lawyers. The city also created a web-source for the public and funds cultural mediators in police stations informing irregular migrants of their rights when reporting a crime. In 2017 alone over 600 'Know your rights' Forums were carried out by the city administration.<sup>65</sup>

### *Funding shelters for victims escaping violence*

For crimes involving situations of domestic violence, reporting a crime is particularly challenging if the victim does not have access to a safe place to shelter from the perpetrator of the crime. This is particularly true for victims with irregular migration status (or those who might lose their residence permit if they escape from their violent spouse, as their permit is dependent on that relationship), who experience obstacles in accessing state-run shelters.

Municipalities can fund the running of shelters for victims with irregular migration status who need to escape a situation of violence.

- In Sweden, the City of *Gothenburg* passed a motion to reimburse non-profit shelters providing a protected space for irregular migrant women escaping violence, with the specific aim of reducing domestic violence in the city. The local Municipal Emergency Shelter for Women has similarly been instructed to provide other assistance and protection to women in an irregular



condition. The City of *Stockholm* has a similar policy regarding shelters for women escaping violence.

- One of *Utrecht*'s shelters for irregular migrants (see Section 4.2) is specifically dedicated to accommodating women and children, as well as providing financial, legal and medical assistance, especially if fleeing violence.<sup>66</sup>

### **Box 13: Municipal initiatives for victims of crime with irregular status in the USA.**

Cities across the USA have adopted several initiatives with the aim of protecting migrants with irregular status from crime and allowing them to report criminal offences without risking deportation. These include:

**Municipal ID Cards allowing self-identification of irregular migrants to police:** the lack of identification documents often makes irregular migrants easy targets of theft as they cannot open bank accounts and have to carry cash. At the same time, such migrants refrain from contacting the police as a request to identify themselves would lead to disclosing their immigration status. Following an increase of attacks against migrants, in 2007 New Haven (CT) was the first US city to make a city ID card available to irregular migrants with the aim (*inter alia*) of preventing crime against migrants and ensuring migrants are able to identify themselves to local police to report crime. The initiative has been replicated by many municipal administrations in the country including San Francisco, Los Angeles, Washington DC and New York (see more in Section 5.2 and Box 20).

**Sanctuary ordinances:** several city administrations in the US adopted special ordinances, known as 'Sanctuary ordinances', preventing municipal employees from investigating the immigration status of clients they interact with or communicating the immigration details of their clients to federal immigration authorities (unless the individual is suspected of a serious crime). These initiatives allow interaction between municipal authorities and people with irregular immigration status but also have a strong crime prevention and enforcement component as they aim to allow safe reporting of crime for irregular migrants. For example, in San Francisco municipal ordinances are accompanied by the Police Department (SFPD)'s General Order (5.15) preventing police officers from inquiring into an individual's immigration status unless the individual is arrested for committing certain crimes, or has committed such crimes in the past.<sup>67</sup> Sanctuary ordinances have been legally possible in the USA as the country's constitutional framework precludes federal authorities (competent for immigration enforcement) from imposing affirmative actions on state or local authorities for the implementation of federal competences.<sup>68</sup> It is not yet clear whether similar ordinances could be implemented in the legal framework of European countries.



## 4.4 Facilitating access to healthcare

Migrants with irregular status face a range of obstacles in accessing medical treatments necessary for their well-being and the public health of the communities they live in. Their entitlement to treatment may be limited by national legislations allowing for only minimal access to public healthcare. In several EU countries, irregular migrants may be entitled to emergency care but not to primary or secondary care,<sup>69</sup> nor to the possibility of registering with a general practitioner (GP) and obtaining continuous care. People with irregular status may also not be able to access healthcare they are entitled to because of practical and administrative obstacles related to their immigration status. These include the lack of ‘firewalls’ in national legislation, which exposes migrants attending public facilities to the risk of being reported to the immigration authorities and deters them from seeking medical care. Moreover, in healthcare systems are based on enrolment in a national insurance scheme, irregular migrants may not be able to obtain insurance because of their immigration status. They may thus be prevented from obtaining care because of inaccessible costs or administrative procedures. Uncertainty concerning the medical treatments that irregular migrants can access under national law (or for which they might be eligible to obtain reimbursement) deters patients from seeking care, and medical doctors from providing treatment (due to reluctance to take patients with irregular status or concerns about payment).<sup>70</sup> The result is that irregular migrants may not seek medical help until their medical condition deteriorates to the point where they need emergency treatment, which carries risks for their life and health and the health of those around them, as well as higher costs for hospitals, which bear the expense of emergency treatment rather than (less costly) preventative care.

### *Why local authorities get involved*

- Authorities at all levels of governance are legally required to ensure the fulfilment of anyone’s right to health as recognised by international human rights law.
- Beyond an obligation under human rights law, providing healthcare for irregular migrants is a humanitarian issue, particularly in relation to healthcare for children, pregnant women, the elderly, disabled individuals, and those with chronic diseases and in vulnerable situations. The hardships and destitution often experienced by irregular migrants makes them particularly vulnerable to such conditions.
- Ensuring that there are no segments of society excluded from access to healthcare is an issue of public health and is thus in the interests of the whole community. If migrants fear going to a public health facility, they will not seek the necessary medical treatments they are entitled to and their medical condition will remain unknown.
- It has been shown that facilitating regular access to medical treatments for irregular migrants, including preventative care, is cost efficient for public finances. If migrants avoid seeking medical help at an early stage they may later require emergency treatments with higher costs for healthcare providers.<sup>71</sup>
- Where irregular migrants needing healthcare have no alternative but to seek emergency services, public hospitals may experience an excess demand on these facilities, with negative

consequences for the services offered to the whole population. Municipalities responsible for the management of local hospitals may thus improve the efficiency of healthcare by enabling irregular migrants to obtain non-emergency treatment (e.g. from GPs or paediatricians).

## *Legal and policy background*

- The right of everyone to the enjoyment of the highest attainable standard of physical and mental health ('the right to health') is a well-established human right recognised by a number of international treaties, including in particular Art. 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>72</sup>
- The UN Committee on Economic, Social and Cultural Rights (UNCESCR) has clarified in several instances that States have an obligation to ensure that all persons, including migrants regardless of their migration or residence status and documentation, have equal access to preventive, curative and palliative health services.<sup>73</sup>
- The UN Global Compact for Migration, under the objective to provide access to basic services for migrants (Obj. 15), provides an action point to: *'incorporate the health needs of migrants in national and local health care policies and plans, such as by strengthening capacities for service provision, facilitating affordable and non-discriminatory access, reducing communication barriers, and training health care providers on culturally-sensitive service delivery, in order to promote physical and mental health of migrants and communities overall, including by taking into consideration relevant recommendations from the WHO Framework of Priorities and Guiding Principles to Promote the Health of Refugees and Migrants'* (para. 31, let. E).
- National legislation in EU countries generally restricts irregular migrants' access to healthcare to minimal levels. All the 28 Member States of the EU (and Schengen associated countries) recognise in law irregular migrants' right of access to emergency healthcare. In six EU countries, this is the *only* level of care that people with irregular status are entitled to. In a further 12 EU countries, irregular migrants are generally excluded from primary and secondary care but are allowed to access certain specialist services. Only in the remaining 10 Member States are irregular migrants entitled to some level of access to primary and secondary care services.<sup>74</sup>
- Children with irregular status may be entitled to wider access to healthcare than adults: in eight EU countries they have the same entitlements as children who are nationals of those countries. However, in five EU countries children, like adults, only have the right to obtain emergency healthcare.<sup>75</sup>
- The concepts of 'urgent' or 'necessary' healthcare to which irregular migrants might be entitled are interpreted differently in different countries. The Fundamental Rights Agency has recommended that migrants in an irregular situation should, as a minimum, be entitled to necessary healthcare services, which should include the possibility of seeing a general practitioner and receiving necessary medicines.<sup>76</sup>
- Within the Council of Europe, the ECRI Commission recommended that Member States *'ensure that health service providers do not require documentation relating to immigration or migratory status for registration which irregularly present migrants cannot procure'*.<sup>77</sup>

## *What can be done by local authorities?*

### *Establishing 'firewalls' that prevent migrants seeking healthcare from being reported to immigration authorities by public employees*

In most EU countries, medical doctors (including doctors employed by public institutions) have a legal and professional obligation of medical confidentiality that prevents them from reporting irregular migrants to immigration authorities. However, this obligation does not always apply to other public employees in medical facilities, including those in the administrative departments of a hospital, or those working in the local welfare offices responsible for covering the expenses of medical treatments provided to uninsured patients. Municipalities can develop initiatives that remove the risk of being reported for irregular migrants seeking healthcare, to allow migrants' access to care and concomitantly ensure that their health conditions are known by health authorities.

In countries where national legislation establishes a general obligation on all public officials to report the irregular migrants interacting with them, local authorities managing healthcare may seek the mediation of external actors such as NGOs to provide the services that irregular migrants would not request from public officials.

In Germany, for instance, although doctors are exempted from the general obligation imposed on public officials by national law to report irregular migrants, employees of municipal Welfare Departments, who are responsible for reimbursing the costs incurred by doctors caring for uninsured individuals, may still be obliged to pass on the details of irregular patients to police,<sup>78</sup> nullifying the confidentiality 'firewall' imposed on medical doctors. Several German municipalities have thus found alternative solutions to establish a firewall:

- The City of *Düsseldorf* decided to externalise medical services by funding an NGO (STAY!Medinetz)<sup>79</sup> to act as a GP for irregular migrants, provide medical consultations, manage referrals to hospitals or specialist doctors (including gynaecologists, dentists, ophthalmologists and urologists), and cover the costs of care. By externalising the service, the local Welfare Department does not interact directly with irregular migrants and does not know their names or details, so the obligation of reporting does not apply. As irregular migrants cannot enrol in medical insurance schemes, the municipality has made a budget reservation that the NGO can use to pay doctors' fees (at a previously-agreed reduced cost). The budget of the NGO is also used to cover the costs incurred by hospitals for treatments to irregular migrants in an emergency. The organisation provides irregular migrants with a form that they can hand to hospitals explaining that STAY!Medinetz will reimburse such costs. The NGO also informed the local hospitals that they can refer to STAY!Medinetz instead of the Municipal Welfare Department to ask for reimbursement of costs irrespective of whether these were patients initially referred by STAY!Medinetz or not, so that none are exposed to risk of denunciation by municipal authorities.<sup>80</sup>
- The City of *Frankfurt*, in cooperation with an NGO (Maisha), has set up its own municipal medical consultation centre, known as 'Humanitarian Consultation Hours' (*Humanitäre*

*Sprechstunde*) where the only public employee is a medical doctor of the local Health Department (not bound by the duty to report), while other staff work on behalf of the NGO (also not duty bound). The centre operates as a GP, can provide medicines, and works in partnership with a network of specialist doctors to refer patients with more serious health concerns.<sup>81</sup> The cost of the activities of the Humanitarian Consultation Hours are financed by Frankfurt's Department of Health and the Department for Women, while the Department of Social Care provides medicines. Healthcare is provided anonymously and is generally free of charge but the centre asks for contributions according to the patient's means.<sup>82</sup>

### *Setting up or supporting medical facilities offering healthcare beyond national entitlements*

In national contexts where there is only an entitlement to emergency care, irregular migrants are not able to register with a GP, and children likewise may not enrol with a paediatrician, which often forces migrants to seek care only when their condition requires emergency intervention. Local authorities may set up municipal medical clinics that operate as GPs and paediatricians, providing specialist care or other treatment that is not provided for by national law. Authorities may also support external actors managing health centres that offer such services.

- For a period of time, the City of *Florence* (together with the Tuscan regional government) funded an NGO (Caritas) to manage, in cooperation with municipal officers, a medical facility ensuring continuity of care to irregular migrants following their release from local hospitals. The centre would host patients post-hospitalisation and provide them with long and medium-term treatments according to an individually structured care pathway until full rehabilitation. Besides its humanitarian aims, the initiative aimed to avoid the saturation of emergency rooms and long-term hospitalisations in hospitals that previously had been delaying the release of irregular migrants from emergency in order to provide them with post-emergency care.<sup>83</sup>
- The City of *Helsinki* decided to provide, in its public clinics and hospitals, minors and pregnant women with irregular migration status with the same health services as Finnish nationals. In addition to the medical services normally accessible in Finland (urgent care), the municipality further decided to offer all irregular migrants treatments for chronic diseases, medicines, medical follow up, vaccinations and dental care.

#### **Box 14: Municipalities supporting extended access to care for irregular migrants in Norway**

In Norway, irregular migrants are only entitled to access 'necessary care' and not to register with a GP (a '*fastlege*'). They are also supposed to bear the costs of medical consultations as they cannot be enrolled in the national health insurance scheme. This means that irregular migrants often refrain from seeking help for non-emergency treatments and may not access specialist care. GPs may refuse to care for patients with irregular status and a follow-up on the medical condition of irregular migrants may not be ensured.

- The City of *Trondheim* has set-up its own 'Refugee Health Team' with municipally-employed medical staff providing medical consultations and treatments to asylum seekers, as well as to irregular migrants '*with an asylum background*'. While refugees may register with a GP following a positive asylum decision, those who lose their right to stay following the final rejection of their asylum case can continue accessing the Refugee Health Team as their GP. Services offered by the team include paediatric treatment, mental health support, assistance with pregnancy, medical checks for infectious diseases (such as tuberculosis), and vaccinations.<sup>84</sup>
- The City of *Oslo* contributes financially to the activities of the 'Health Centre for Undocumented Immigrants', a non-profit clinic set up and managed by independent organisations. The Centre provides irregular migrants with a range of medical services for free which they may not be able to access in public clinics or hospitals without paying significant sums up front. These include medical consultations offered by a GP. After the consultation, the Centre refers patients for primary or secondary care treatments (including dental care) to doctors who have previously agreed to treat on a volunteer basis individuals referred by the centre.<sup>85</sup>

### *Providing a safety net for migrants who are excluded from health insurance coverage*

In countries where access to healthcare is organised around enrolment in a national health insurance scheme, irregular migrants are often excluded from accessing the mainstream insurance scheme and may not enrol (or be able to afford to enrol) in alternative insurance. This in practice nullifies their right to access care, as they may be expected to pay inaccessible medical fees for treatments they are entitled to, including necessary and emergency care.

Municipalities may make budget reservations and provide funding to cover the expenses incurred by patients and hospitals for treatments offered to uninsured individuals, irrespective of nationality and immigration status, thus forming a safety net for those not covered by national health insurance schemes. This funding can be channelled through the work of public or private organisations managing health services for uninsured people. Such organisations can include within their target groups people with irregular immigration status.

- The City of *Düsseldorf* – besides providing funding for the management of the health initiative STAY!Medinetz described above – has reserved €100,000 per year to cover the costs of medicines and the fees of doctors and hospitals treating irregular migrants. STAY!Medinetz has agreed with the municipality that they would refer irregular migrants only to doctors who have previously agreed that they would bill individuals referred by STAY!Medinetz at minimal cost.<sup>86</sup>
- The City of *Vienna* financially supports several NGO-initiatives that aim to form a wide safety net for individuals not covered by mainstream health insurance, including irregular migrants and some EU and Austrian nationals. In particular, Vienna's 'Social Fund' contributes to the funding of *AmberMed*, an NGO-managed health clinic for uninsured individuals. Their target

group includes irregular migrants and unsuccessful asylum seekers with no alternative medical insurance. AmberMed acts as a GP and has developed a network of about 80 specialist doctors (and one hospital) to whom uninsured migrants can be referred, and who have agreed to treat AmberMed's referrals for free. Some treatments are directly offered at AmberMed's clinic, including treatment for diabetes. The City of Vienna also funds a health clinic for homeless people who have difficulty accessing mainstream medical services. It is managed by the NGO *Neunerhaus*, which does not differentiate in terms of access to its services by migration status. *Neunerhaus* and *AmberMed* work in close contact to avoid double treatments and refer to each others medical cases according to the patients' personal situation and the treatment needed. Finally, the Vienna Social Fund supports an NGO-managed mobile clinic (the 'Louise Bus') to reach out to uninsured individuals in night shelters and the city's most sensitive areas. The Louise Bus offers medical consultations and basic treatments, and provides information on the possibilities of obtaining treatment at *AmberMed* and *Neunerhaus*.<sup>87 88</sup>

- The City of *Warsaw* offers public grants for providing assistance to its uninsured homeless population. Grants from Warsaw City and Province have been funding 40% of the activities of an NGO (*Doctors of Hope*) which operates a health clinic with volunteer doctors who in 2015 treated around 8,000 uninsured residents.<sup>89</sup>
- Several municipalities in the Netherlands, including *Eindhoven*, *Amsterdam*, *Nijmegen* and *Utrecht*, support local NGOs that provide medical assistance to uninsured migrants and cover the cost of health services that are not covered by the 'National Basic Health Insurance',<sup>90</sup> such as dental care and physiotherapy and fees for pharmaceuticals. Local NGOs also facilitate access to dental services by connecting patients with dentists willing to treat them for a reduced fee.<sup>91</sup>

### *Simplifying administrative procedures to access healthcare and refraining from requiring documentation that irregular migrants may not produce*

In several EU countries, irregular migrants may need to undergo cumbersome administrative procedures to access the healthcare they are entitled to under national law. These procedures may constitute a significant barrier for migrants who are irregular (especially if they have no fixed address), as they might be required to show documentation that they cannot procure (e.g. related to their residence or a social security number). In addition, irregular migrants may be impeded from accessing medical treatment promptly when urgently needed because of time-consuming administrative processes. Local authorities responsible for the management of healthcare at the local level may develop simplified procedures that take into account the challenges that irregular migrants may face in meeting certain procedural requirements.

In Belgium, for instance, the welfare departments of local authorities verify the requirements<sup>92</sup> to access a dedicated national coverage scheme for patients with irregular status (the AMU/DMH scheme).<sup>93</sup> While some municipalities have developed complex procedures which are difficult for irregular migrants to meet (including house visits by a social assistant to verify local residency which can last up to one month, irrespective of the urgency of care, and may not be possible for irregular migrants who may not have a stable housing situation), other cities have opted for more



simplified procedures that take into account the particular conditions of irregular migrants without documentation:

- The City of *Ghent*, following a recommendation from the Belgian Ministry of Health, has developed a flexible procedure to issue a *medical card* for irregular migrants and has eased requirements and decided to rely on alternative types of evidence to verify them. This includes testimony by trusted local organisations as to a migrant's residence in the city and their condition of destitution. Furthermore, to secure swift payments for doctors (and so avoid reluctance to treat patients with irregular status), the city reimburses doctors immediately for treatments provided to patients holding the card and only later requests reimbursement from the federal government under the AMU/DMH scheme. This reduces the waiting time for payments from six months to one week. Doctors thus trust that they will be reimbursed for treatments offered by people holding Ghent's medical card.
- The municipality of *Molenbeek (Brussels)* arranges (and bears the costs for) an initial medical consultation as soon as an irregular migrant requests medical assistance, without requiring first that the conditions for AMU/DMH eligibility be met. This considerably reduces administrative barriers and allows for rapid detection of serious illness.

In the Netherlands – where destitute irregular migrants may seek reimbursement for the costs of only some treatments (see above) – it can be difficult for health professionals to determine if someone is eligible for reimbursement. Complex bureaucratic systems for reimbursement can make doctors and hospitals reluctant to treat patients with irregular migration status.

- The cities of *Eindhoven*, *Amsterdam*, *Nijmegen* and *Utrecht* contribute to the funding of local NGOs that, besides supporting the medical costs for irregular migrants, certify migrants' eligibility for reimbursement and provide them with a note of confirmation to present to hospitals and doctors.<sup>94</sup>

#### **Box 15: Regional regulations expanding irregular migrants' entitlements to health care**

Regional governments in Europe often have the power to adopt regulations and legislation that can effectively expand the entitlements of irregular migrants regionally – an option often not available to municipalities which have only implementational, organisational and administrative prerogatives in the provision of health services. Several regional governments in Europe have indeed adopted regulations expanding irregular migrants' entitlements to health care. This is the case for several Spanish 'Autonomous Communities' which – in response to a 2012 national reform of the Spanish health system severely restricting access to healthcare for irregular migrants – approved regulations re-expanding migrants' entitlements at regional level. In some regions, including Andalusia or Catalonia, local regulations re-established equality of access to healthcare with Spanish nationals for all migrants, regardless of migration status. In Catalonia, the Autonomous Community ('*Generalitat*') approved several regulations that attached access to universal health care services to registration with the municipal registrars ('*padrón*') of Catalan cities, rather

than to immigration status. Similarly, in Italy, several regions, including Puglia, approved regional legislation allowing irregular migrants to enrol with local GPs. Italian regions also reached an agreement with the Italian government to adopt legislation in each region allowing the registration of irregular migrant children with paediatricians.<sup>95</sup> In Sweden, at least six regions took the opportunity, offered by a national law, to extend access to health services for irregular migrants to the level of Swedish nationals.<sup>96</sup>

## 4.5 Access to schools, education, and training

Although entitled by international human rights law to attend school and access education, children with irregular immigration status in Europe may encounter several barriers impeding their enrolment in and effective attendance of school. Enrolment procedures requiring documentation that irregular migrants are not able to produce (such as a residence proof or a social security number) are one such barrier. Other barriers include students' fear of exposing themselves and their families to detection by immigration authorities when attending public schools. In addition, pupils with irregular status may not receive state support for costs related to their education, which in practice makes it impossible for many in precarious conditions to afford books, school meals, transportation to school, participation in school trips, etc. In some countries not all children can attend state schooling free of charge. Depending on how they are funded, local schools may not be reimbursed for costs related to their students with irregular status, as the latter may not feature in the official counts of the school population; this may make school administrators reluctant to accept students with irregular status. Students with irregular status may be unable to take official exams and receive their final school-leaving certificate. Irregular migrants out of schooling age are generally not entitled to attend educational, training, vocational, or life-learning programmes (including language education), while also being officially excluded from the labour market. Their educational or vocational qualifications obtained in their countries of origin might not be recognised in their country of destination. Vocational and training programmes might be out of reach also for adolescents of schooling age as they are often equated with work. Municipal authorities with competency over the administration of schools within their territory may facilitate effective access to education for children in an irregular condition by overcoming many of the barriers they encounter.

### *Why local authorities get involved*

- Providing access to school (particularly primary school) to everyone irrespective of migration status is the subject of the universal right to education, firmly recognised by international human rights law. Authorities at all levels are required to respect and fulfil this right.
- Local authorities have domestic legal duties of care towards their juvenile population, irrespective of a child's immigration status.
- Access to school helps prevent situations of juvenile anti-social behaviour, such as juvenile criminality, inequality and social exclusion.



- In the longer term, children have a higher chance of obtaining a regular residence permit for their country of irregular residence, thus early integration is beneficial.
- Addressing administrative issues relating to the presence in local schools of students with irregular status, and supporting the related costs to schools and students, may be more cost effective for schools. For instance, reimbursing local education facilities for costs that are not reimbursed by national schemes supports the sustainability of school budgets. Supporting the costs of school trips for irregular students who may not afford the relevant fee, for instance, allows the school's administration to organise the trip more effectively.
- Access to educational and training programmes that complement the mainstream education system offered by local authorities might have a crucial positive impact on the lives of irregular migrants, including adolescents regularly enrolled in mainstream schools but excluded from traineeships and other vocational education and adults who have particular educational needs, e.g. in relation to language skills.

## Legal and policy background

- The right of everyone (irrespective of migration status) and of children in particular to education is a human right firmly recognised by several international human rights treaties, including by Art. 13 of the International Covenant on Economic, Social and Cultural Rights; Art. 23 and 28 of the Convention on the Rights of the Child; Art. 2 of Protocol 1 to the European Convention on Human Rights; and Art. 14 of the Charter of Fundamental Rights of the EU.<sup>97</sup>
- The UN Global Compact for Migration, under the objective of providing access to basic services for migrants (Obj. 15), includes an action point to: *'Provide inclusive and equitable quality education to migrant children and youth, as well as facilitate access to lifelong learning opportunities, including by strengthening the capacities of education systems and by facilitating non-discriminatory access to early childhood development, formal schooling, non-formal education programmes for children for whom the formal system is inaccessible, on-the-job and vocational training, technical education and language training, as well as by fostering partnerships with all stakeholders that can support this endeavour'* (para. 31, let. F).
- The Principles and Guidelines on the human rights protection of migrants in vulnerable situations developed by UN-OHCHR with the Global Migration Group recommend that states and other stakeholders *'develop procedures, mechanisms and partnerships to ensure that all migrant children enjoy effective access to adequate and appropriate education at all levels, including early childhood, primary education – which shall be free and compulsory, secondary and higher education, as well as vocational and language training, on equal terms with nationals'*; and that authorities should *'establish binding and effective firewalls between schools and other education service providers on one hand, and immigration enforcement authorities on the other. Instruct administrators, teachers and parents that they are not required to report or share data on the regular or irregular status of pupils or their parents'*.<sup>98</sup>
- In EU law, specific provisions on access to education for children with irregular immigration status are only provided in relation to children whose removal has been postponed, and require

that they are provided ‘with access to the basic education system for minors subject to the length of their stay (Art. 14, para 1, Return Directive).

- The national legislation of 23 EU countries entitle minors in an irregular situation to attend compulsory education (either explicitly or implicitly through a requirement of all children to attend school). In the other Member States,<sup>99</sup> however, national law does not entitle irregular migrant children to attend school, and in practice the decision on whether to admit them is left to the discretion of each school.<sup>100</sup>
- Education policy is generally a national competency but local authorities are often responsible for the practical management of schools in their territory. They thus play a crucial role in facilitating effective access to education for irregular migrants.
- The Council of Europe ECRI Commission recommended that Member States guarantee access to preschool, primary and secondary education for children with irregular status under the same conditions as nationals of the hosting State; and that they ensure that procedures for enrolment in school do not require documentation relating to immigration status which irregularly present migrants cannot procure.<sup>101</sup>

## ***What can be done by local authorities?***

### ***Instructing local schools to develop enrolment procedures that do not require documentation which irregular migrants cannot procure***

To allow enrolment of children with irregular status, local authorities responsible for the administration of schools in their territory should not require the production of a valid residence permit or other documentation that cannot be procured by families and children with irregular immigration status (including a fixed address, official residence into municipal registrars, or social security numbers) for enrolment in local schools.

- Before the issuance of national guidelines on enrolment procedures for irregular children, the Italian cities of *Turin*, *Florence* and *Genoa* issued local ordinances instructing municipally-managed kindergartens not to require any documentation relating to a regular residence at enrolment.<sup>102</sup>
- The City of *Barcelona* applies flexibility in the registration of irregular migrants in its municipal registrar (*padrón*) and actively encourages the registration of irregular migrants. Subsequently, the registration in the *padrón* is made the only essential requirement for irregular children to access municipal schools, with no need to show further documentation.
- Similar to Barcelona, the City of *Madrid*’s decision to issue municipal ‘civic cards’ to irregular migrants registered in the city’s municipal registrar (see Section 5.2) allows children with irregular status to enrol in local school with this municipal card.

### *Instructing schools to refrain from reporting students with irregular status to immigration law enforcement authorities ('firewall')*

Where national law does not clearly provide for a 'firewall measure' preventing teachers and school staff from passing on the details of students with irregular status, local authorities can instruct local schools and their employees not to report irregular students and their relatives.

### *Allocating financial resources to cover schools' costs for irregular students*

Where schools are not reimbursed by national funds for costs related to students with irregular status (who do not feature in official counts), municipalities can make budget reservations to cover such expenses, support school costs, and thus avoid reluctance to accept irregular students.

- The City of *Ghent* has set up a 'social fund for schools', a budget reservation aimed at covering unpaid school bills of the children of indigent and vulnerable families, including children with irregular status.
- In the municipality of *Sint-Niklaas* in Belgium, a solidarity fund has been established to support schools in running special projects in favour of pupils with irregular migration status. All schools raise funding (through events such as school parties) and contribute to a general fund so that they can support one another.<sup>103</sup>

### *Supporting students' expenses for attending school (such as books, transportation and school meals)*

Pupils with irregular status are generally excluded from state financial aid for school expenses, including books, transportation and school meals. As irregular migrants cannot officially work, pupils' families may often be destitute and unable to bear these costs, which in practice hinders access to school. Municipalities may allocate financial resources to support migrants' expenses, or support schools or other organisations in covering migrant students' costs.

- The City of *Amsterdam* has been financing a local NGO ('*Leren Zonder Papieren*', or Learning Without Papers) that provides financial support to families of children with irregular status for school expenses, including school materials, sport clothes and fees for school trips.<sup>104</sup>
- The City of *Ghent* provides free public transportation to school for all students, including those with irregular status, by reimbursing the costs of a '*bus pass*'. To enable irregular students to obtain the pass, the city allows social assistants within the school to request the pass on behalf of the students from the municipal Asylum & Refugee Policy Service, which in turn requests the bus passes from the local transportation company. The latter delivers the passes to the school, which then hands them to the students.

*Including irregular migrants in adult educational services, language classes, training and vocational programmes offered by local authorities outside of the mainstream education system*

Municipalities often offer a range of educational opportunities beyond the mainstream educational system. These programmes are often geared toward individuals out of mainstream education, particularly adults and/or foreigners who did not receive official education in the country where they reside, or who have particular education needs, *e.g.* in relation to language skills. These programmes can offer crucial education for irregular migrants, particularly adults out of schooling age who are not in the official labour market and may not have sufficient skills in the local language.

- A consortium of the city of *Barcelona* with the Autonomous Community of *Catalonia* offers complementary ‘adult education’ courses for adults who could not access good-quality education, those who have dropped out of education, or migrants who did not receive education in Spain and who need to learn the language. These courses are open to migrants with irregular status, as long as they can show a passport (also see Box 18).

Municipalities also offer complementary educational services that target the specific educational needs of migrants.

- The City of *Barcelona* funds a network of NGOs (‘social entities’) to offer programmes in the sphere of education, including training courses and classes in Catalan and Spanish, to migrants regardless of status. The network also provides legal advice on how to obtain recognition of qualifications obtained abroad. Barcelona’s SAIER centre (see Box 7) informs irregular migrants of opportunities to access educational and training services offered by the city.

**Box 16: The ‘Rossinyol project’ in Catalonia**

About 25 municipalities in Catalonia have joined an innovative ‘mentoring’ project led by Catalan Universities aimed at increasing interactions between migrant children and local university students. The programme matches university students with migrant and refugee children in primary and secondary schools, including children with irregular status. Mentors and mentees meet once a week after school for at least seven months. Mentors are expected to help migrant children practice the Catalan language, but also to discover the city and the leisure and cultural activities it offers. The programme is expected to develop higher educational expectations for the children, help them learn to navigate in the new educational context, and develop their sense of belonging to the city. The programme eventually aims to address social problems faced by recently-arrived migrant children, such as inequality and social exclusion. The programme is based on a ‘dual benefits approach’ because it also aims to improve the intercultural competencies of university students to help them in their future as professionals in a diverse society. Participating local authorities and universities do not inquire about the immigration status of children signing up to the

programme. On the contrary, they and their families are asked to enrol according to a set of criteria (*i.e.* whether the child would be the first in their families to reach the university, if they do so; whether they lack a caring environment; etc.).<sup>105</sup>

## Part 5: Guidance on practices addressing general barriers to accessing services

In this section, rather than addressing one specific area of service provision, this guidance looks at local initiatives aimed at addressing general barriers that prevent migrants with irregular status from accessing any type of service provision, including previously-mentioned services. The practices showcased in this section can therefore be key to overcoming general obstacles, including migrants' lack of documentation and fear of authorities, and newcomers' general lack of knowledge of their rights, the local language and services offered locally.

### 5.1 Promoting awareness of migrants' rights and orientation of newcomers

A main challenge for ensuring effective access to any service offered is making sure that the end users are aware of the services they can access in the city. Regardless of the existence in law and practice of opportunities for irregular migrants to access a service, irregular migrants, and particularly newcomers without knowledge of their host society and the local language, may often be unaware of such opportunities and fearful of interacting with local authorities. In Section 4.1, this guidance has dealt with legal counselling in relation to immigration matters. This section instead looks at initiatives aiming to provide wider information to newcomers, regardless of migration status, on their rights and obligations in the city and local society, and access to basic services.

#### **Box 17: The UN Global Compact for migration on access to information for migrants**

The UN Global Compact for migration set an objective to '*provide accurate and timely information at all stages of migration*' (Objective 3), and the Member States of the UN committed to '*provide newly arrived migrants with targeted, gender-responsive, child-sensitive, accessible and comprehensive information and legal guidance on their rights and obligations, including on compliance with national and local laws, obtaining of work and resident permits, status adjustments, registration with authorities, access to justice to file complaints about rights violations, as well as on access to basic services*'.

Several initiatives by local authorities can facilitate migrants' orientation and provide them with relevant information on their rights, opportunities and obligations.

## *Offering orientation and language courses for newcomers, regardless of status*

Municipalities may offer orientation programmes for newcomers to help them become familiar with the local society and understand their opportunities and obligations in the city. Orientation courses focus on practical information, such as how to enrol children in school, to access local hospitals or to report a crime, but also provide information on special services offered to irregular migrants, including legal counselling. Such courses may be open to all migrants, regardless of status.

- The Spanish town of *Olot* offers migrants (regular and irregular) the possibility of enrolling in a ‘welcoming programme’. Civil servants interview migrants when they register in the local municipal registrar (which is open to irregular migrants) and inform them about the town and the public services available locally that are relevant to the migrant’s personal and familial condition. Migrants are then offered the opportunity to participate in two courses of 10 sessions (for a total of 30 hours) on social services, cultural aspects, the labour market, and immigration legislation. The programme also offers a basic course in Catalan and Spanish (90 hours for an A1 or A2 level), and a certification from the municipality and the Catalan government, as language training is understood as a key tool for orientation in the local community.<sup>106</sup>
- For a period of time, the City of *Ghent* funded a local NGO, *Intercultureel Netwerk Gent*, to offer intensive orientation courses called ‘Living Together and Orientation’ to irregular migrants. The courses were structured on thematic sessions providing essential information on various issues of relevance for irregular migrants, including information on return (voluntary or forced), legal assistance, residence procedures, local social services, access to cultural and leisure activities, and children’s enrolment in school. The courses were given to small groups, in migrants’ mother tongues, and ran periodically over a few weeks.<sup>107</sup>
- Through its SAIER centre (see Box 7) the City of *Barcelona* offers language courses in Spanish and Catalan (see Box 18); orientation for labour insertion; training; provision of information on access to housing; validation of foreign degrees and licenses; information on how to access education services and language courses; assistance with voluntary returns; and information on access to social care for certain categories of socially vulnerable migrants with irregular migration status.

### Box 18: Language classes for irregular migrants in Barcelona

The City of Barcelona, in its strategy on irregular migrants (see Section 2.1), made a commitment to guaranteeing access to language-learning for people in irregular situations who are registered in the municipal registrar (*padrón*). The City Council aims to provide immigrants with access to language-learning from the moment of their arrival and irrespective of their immigration status.

Barcelona allows irregular migrants to access the many courses of Catalan and Spanish offered by the municipality: these include access to the courses (free for initial learning) offered by the *Barcelona Language Normalisation Consortium*; the courses are specifically designed for migrants and are intended also to inform about the city and local society. In addition, the municipality contributes to the funding of a network of NGOs (*'Coordinadora de la llengua'*) that offer courses in Spanish and literacy for foreigners. Finally, irregular migrants can also access 'adult education' courses (including language classes) offered by a consortium of the city of *Barcelona* with the Autonomous Community of *Catalonia*.<sup>108</sup>

Offering courses in the local language is an important service in tackling marginalisation of non-native speakers. As Barcelona's strategy specifies *'knowledge of Barcelona's official languages is key to ensuring immigrants are able to enjoy better work, educational, relational and social opportunities'*. In addition, in Spain knowledge of local languages is an important factor in obtaining regularisation, as migrants who demonstrate particular social ties to the country can obtain a regular status through the national legal institute of the *'Arraigo social'* after living a period of time in the country and meeting other requirements.

### Conducting information campaigns and outreach activities targeting irregular migrants

Outreach to migrant communities is key to ensuring that a service offered by local authorities is known to and understood by those migrants who interact least with authorities. Often the provision of a specific service needs to be accompanied by a specific information campaign or other outreach activity to ensure that the service is used. Several examples of specific outreach activities are offered in the relevant sections of this guidance (see, for instance, Amsterdam's outreach activities on the reporting of crime described in Section 4.3). In other cases, local initiatives aim to raise migrants' awareness of their rights more broadly.

- The City of *Utrecht* in 2012 carried out an information campaign targeting the local population of irregular migrants. The municipality distributed leaflets titled *'Without papers, not without rights'*, which provided information on irregular migrants' rights.



- The City of *Madrid* – following national reforms of the Spanish health care system that impacted on irregular migrants' access to care – carried out the public campaign '*Madrid sí cuida*' ('Madrid does look after you'). The campaign provided information for irregular migrants on their avenues to access healthcare in the city and on how to report and seek help if improperly denied access to care, and encouraged all migrants to register with local health units.<sup>109</sup>
- The Mayor of *London* supported the publication and distribution of a leaflet informing irregular migrants how to access primary care and register with a GP in London. The campaign aimed to tackle migrants' and professionals' lack of awareness of migrants' rights, increase registrations with GPs and avoid migrants being wrongly turned away.<sup>110</sup>
- In the field of education, the Mayor of *London*, in cooperation with civil society organisations, also developed guidance for young Londoners with 'insecure citizenship status' explaining how their immigration status might impact their ability to access higher education. The Mayor developed a web portal where young Londoners can access the guidance as well as information on obtaining legal support for accessing colleges and universities.<sup>111</sup>

### *Offering training and guidance to public employees and service providers on the rights of irregular migrants*

Municipal authorities may develop training and guidance for their employees and partners on the entitlements of users with irregular migration status, and on how to assist them to access services effectively. These practices are particularly important in contexts where there are widespread misconceptions about the entitlements of irregular migrants, as in periods of legislative change or where a local regulation differs from national standards.

- The local health unit of the Province of *Bari* (Italy) distributed internal letters to all local health providers explaining that irregular migrants in the provincial territory should be allowed access to healthcare services and registration with GPs. This followed regional legislation in the Region of Puglia which extended access to care beyond national standards (see Box 15).<sup>112</sup>
- The City of *Barcelona*, together with the Autonomous Community of Catalonia, adopted a series of initiatives to address widespread misunderstanding among health providers regarding irregular migrants' entitlements to healthcare under regional legislation (see Box 15).<sup>113</sup> To ensure that irregular migrants were not improperly denied access to care in Barcelona, the municipality carried out training sessions for employees of local health centres and information campaigns targeting health professionals and service users on the entitlements of irregular migrants under regional regulations; prepared and distributed informative leaflets on requirements and procedures to follow to access care; and cooperated with local NGOs in identifying cases of improper denial of care, so as to resolve individual cases, identify noncompliant health centres, and promote training.<sup>114</sup>

## 5.2 Facilitating access to documentation and issuing local ‘civic cards’ giving access to services

Holding an identification document is a particularly critical issue for irregular migrants and for children who are born abroad to parents without a regular migration status. Irregular migrants may be prevented from obtaining IDs, birth certificates and other identification documentation because they lack any previous documentation or because they fear approaching authorities due to the risk of being reported for deportation purposes. Lacking documents proving one’s identity is a barrier to accessing any services that require identification of those seeking provision. Therefore, practices facilitating the issuance of such documentation can facilitate access to a broader spectrum of basic services.

### **Box 19: The UN Global Compact for migration on migrants’ documentation**

*In the UN Global Compact for Migration, the Member States of the UN committed ‘to ensure, through appropriate measures, that migrants are issued adequate documentation and civil registry documents, such as birth, marriage and death certificates, at all stages of migration, as a means to empower migrants to effectively exercise their human rights’ (para. 20). Amongst the actions envisaged to fulfil this commitment, the UN Member States propose to: ‘Review and revise requirements to prove nationality at service delivery centres to ensure that migrants without proof of nationality or legal identity are not precluded from accessing basic services nor denied their human rights’ (para. 20, let. g).*

The Global Compact then mentions the role of local authorities, thus confirming the centrality of practices adopted by municipalities in issuing crucial documentation, including ‘registration cards’. The Compact (Para. 20, let. g) indeed proposes building ‘*upon existing practices at the local level that facilitate participation in community life, such as interaction with authorities and access to relevant services, through the issuance of registration cards to all persons living in a municipality, including migrants, that contain basic personal information, while not constituting entitlements to citizenship or residency*’.

### *Issuing birth certificates to children born with an irregular immigration status*

Irregular migrants may experience serious challenges in obtaining a birth certificate for their newborns. Migrants who are ‘undocumented’ might be required to present identity documents when registering their babies. Irregular migrants may fear approaching authorities for the risk of being detected, especially in countries where public officials are required to report them to immigration authorities.

Birth registration is a fundamental right recognised by the International Covenant on Civil and Political Rights (Art. 24, para. 2) and the Convention on the Rights of the Child (art. 7). Moreover, lacking birth registration unduly impacts on children’s enjoyment of a number of human rights, particularly in relation to protection, nationality and access to basic social, health and education

services.<sup>115</sup> Several cities in Europe have thus adopted practices to overcome the practical challenges of registering children of irregular migrants. These include adapting registration procedures to the specific conditions of irregular migrants who lack relevant documentation: for example, adopting practices that do not require specific details of parents, or removing procedures that cannot be met by migrants without documents and a fixed residency.

- The City of *Ghent*, for instance, accepts registration in the municipality where the child was physically born (instead of the municipality of residence, as is the general rule). In these cases, municipal employees are expected not to request any documentation concerning the immigration and residency status of parents.
- The City of *Berlin* accepts registration requests from local hospitals where the children were delivered (rather than from the parents), accompanied by records that do not display any personal details of the newborn's mother.

### *Issuing local 'civic cards' giving access to services*

Inspired by the example of the municipal 'ID cards' issued by several cities across the USA (see Box 20), some European municipalities have created their own 'civic cards'. While in the USA municipal IDs were intended to, among other things, provide a substitute for national identification cards for migrants who lack documentation (or who would generally be reluctant to show a passport so as not to display their lack of a regular status), the European initiatives have not so far offered a substitute for identification purposes (a passport is still needed to obtain a civic card in Madrid, for instance). The intent has rather been to facilitate access to certain services for the card holders, regardless of migration status.

There are several reasons for municipalities to establish a local 'civic card' programme. If the card is accepted as a proof of identity or residence in the city, it may open the door to a range of services that require identification and local residency (but not proof of a regular residence permit). This could facilitate access to essential services offered by the municipality (for instance, enrolment in schools) and its partners (e.g. museums, as in Paris; or banks, as is often the case in the USA). In this way, municipalities could solve administrative hurdles, facilitate access to services, increase a sense of belonging to the local community, and favour social cohesion and inclusion. In some national contexts (as in Spain), the possession of civic cards can favour regularisations for migrants who can show ties to the local community through their cards. In the USA, where the local cards can be used for identification with the local police or to open bank accounts, the issuance of ID cards has also been associated with the need to ensure greater safety (see Box 20). Local cards can be issued to irregular migrants only (as in Barcelona or Madrid) or to all local residents, regardless of migration status (as in Paris). Having the card be available to all residents (and making it the means of access to attractive services, such as free cultural activities) is also a way of avoiding a situation wherein holding a card is a mark of one's irregular migration status.

- In Spain, where irregular migrants are allowed to register in municipal registrars (the *padrón* - see Box 6), the cities of *Madrid* and *Barcelona* have started issuing 'local residency cards' (*tarjetas* or *documentos de vecindad*) to demonstrate, in a reliable and immediate way, migrants' registration in the local registrar. The cards thus allow easy access to all services connected to the registration, including local social services, health care, education, language training, and cultural and sport activities offered by the city. The card is also used to show the holder's continued residency in the city, which could facilitate their regularisation in Spain. In Barcelona, the *documento de vecindad* issued by the municipality is also aimed at providing migrants with a document recording their particular integration in the city (including, for instance, information on whether the card holder has done language training, has an income, or has relatives in the city) which could help them resist deportation. The local cards do not operate as a substitute to official ID cards, and indeed an official identification document is needed to register.<sup>116</sup>
- The City of *Paris* has adopted the 'Paris citizen card' (*'Carte citoyenne/citoyen de Paris'*) which can be requested by anyone residing in Paris '*without conditions related to nationality*' and is automatically issued to any student enrolled at an institution in Paris. The Paris citizen card mostly allows its holders to access cultural and communal activities and services (*e.g.* cultural events, access to libraries, training) offered in the French capital for free, and is not a substitute for an identification card.<sup>117</sup> The card was in part inspired by the New York City card (see Box 20), and was introduced in a strategy adopted following the Paris terror attacks to increase a sense of belonging to the city and reduce segregation of the most marginalised social groups, including irregular migrants.<sup>118</sup>

#### **Box 20: Municipal ID cards in the USA – the IDNYC card**

- Several cities in the USA (including New York, Los Angeles, San Francisco, Chicago, and Washington DC, as well as smaller towns such as New Haven) have adopted 'Municipal ID cards' for their residents and allowed irregular migrants to obtain such cards. Municipal ID cards serve a number of goals and were initially motivated by the need to ensure greater safety of local communities. US cities aimed to overcome migrants' fear of being detected as having irregular immigration status when contacting the authorities. Allowing irregular migrants to identify themselves with the police and medical professionals, so as to assist in crime prevention and detection and improve access to medical assistance, was one of the main goals of municipalities. The cards indeed constitute an alternative form of identification for irregular migrants who can use them to identify themselves with the police when reporting a crime or to open bank accounts. This helped to tackle the phenomenon of robberies against migrants who, lacking bank accounts, were known to be carrying significant amounts of cash on pay-day. Unlike passports, municipal ID cards convey no information about one's country of origin and imply nothing about legal status.<sup>119</sup>

The City of New York has developed the US's largest municipal ID programme with the adoption of the 'IDNYC card'.<sup>120</sup> By August 2016, the city had released more than 863,464 cards. Success factors for New York's IDNYC card included:

- Developing partnerships with diverse public and private actors, including the local police (NYPD), banks, hospitals, and museums. Through these partnerships, the city administration made sure that partners would accept the IDNYC card as a reliable form of identification, sufficient to, for example, open a bank account, report a crime, or register to access health services. With this aim, the city engaged and invested resources in producing a tamper-proof document.
- Making the IDNYC card available to all New Yorkers (not only to residents with irregular status) and attaching benefits to the card to incentivise the registration of all residents. The city, for instance, attached to the card free membership of some 40 cultural institutions, discounts at pharmacies or for groceries and other numerous benefits. The IDNYC card proved popular among all New Yorkers. It therefore is not held only by those with irregular immigration status, avoiding a situation where possession of a card exposed irregular migrants to detection (which would have discouraged the use of the card).
- **Promoting the card with extensive outreach and advertising.** Outreach activities were crucial in determining the success of the IDNYC programme and in advertising the benefits for both migrants and the native population.<sup>121</sup>

### 5.3 Addressing irregular migrants' fear of being apprehended at service providers

Irregular migrants may fear approaching public service providers, which in practice nullifies their entitlement to access a service (especially when hesitation is justified by a real risk of being apprehended by, or reported to, immigration authorities). Such migrants may be particularly deterred from approaching facilities that specifically serve irregular migrants (for example, information centres on immigration issues, or shelters or clinics for irregular migrants), unless they are confident that attending such a facility will not require them to reveal their immigration status to enforcement authorities. To ensure the effective functioning of service provision to irregular migrants, it is therefore crucial to instil trust that users with irregular status will not be apprehended or reported. Local authorities may establish 'firewalls' preventing the denunciation of users (see Section 3.3), inform migrants of their right to access a service without risking apprehension (see Section 5.1), and ensure that immigration enforcement authorities do not target facilities providing services when carrying out patrolling and apprehending activities.

The FRA has found that *'detections at or next to public institutions such as schools, hospitals or courts, as well as reporting or exchange of personal data between these institutions and immigration law enforcement bodies may create a general atmosphere of fear among migrants in an irregular situation, deterring them from accessing such institutions and thus disproportionately*

*interfering with their fundamental rights’.*<sup>122</sup> FRA’s guidelines to immigration law enforcement bodies on apprehension practices recommend that migrants in an irregular situation should not be apprehended at or next to medical facilities, schools, religious establishments, facilities providing birth certificates or offering health care, trade unions, and entities offering legal aid.<sup>123</sup>

### *Ensuring that facilities providing essential services are not specifically targeted in patrolling and immigration enforcement activities*

To instill trust and ensure the effective provision of services to irregular migrants, municipalities within their competences may instruct local police bodies not to patrol or apprehend (for non-criminal purposes) migrants seeking medical, educational, legal or other assistance at or next to facilities established to provide such services. Where law enforcement bodies are not under the control of the municipality, local authorities may coordinate and mediate with the relevant authorities to ensure that patrolling and immigration enforcement activities are not carried out at or next to the above-mentioned facilities.

- The local police of *Amsterdam* are instructed not to patrol around a local organisation (the ‘*Wereldhuis*’) providing legal counselling and other assistance to irregular migrants. This practice was based on an informal decision of the police’s senior management and a ‘gentlemen’s agreement’ with the Mayor.<sup>124</sup>
- The local police of *Munich* are instructed not to patrol around the area where a local NGO offers mediation on regularisation issues to irregular migrants on behalf of the city.<sup>125</sup>
- The local police of *Utrecht* have agreed not to enforce apprehensions in the municipal shelters for irregular migrants (see Section 4.2) for reasons of public order, thus respecting mayoral instructions. In addition, guests of the shelters are provided with proof of their stay, which they can show to police officers should they be apprehended when outside the shelter. The police have agreed not to apprehend people with such proof, so as not to disrupt the work being done to regularise the migrant or assist in his or her voluntary return.

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## Endnotes

- <sup>1</sup> For more information, visit [www.opensocietyfoundations.org/about/programs/open-society-initiative-europe](http://www.opensocietyfoundations.org/about/programs/open-society-initiative-europe).
- <sup>2</sup> For more information, visit [www.compas.ox.ac.uk/engagement/global-exchange](http://www.compas.ox.ac.uk/engagement/global-exchange).
- <sup>3</sup> For more information, visit [www.eurocities.eu/eurocities/issues/migration-integration-issue](http://www.eurocities.eu/eurocities/issues/migration-integration-issue).
- <sup>4</sup> Delvino, N. (2017). *European Cities and Migrants with Irregular Status: Municipal initiatives for the inclusion of irregular migrants in the provision of services*. Oxford: COMPAS, available at: [www.compas.ox.ac.uk/2017/european-cities-and-migrants-with-irregular-status/](http://www.compas.ox.ac.uk/2017/european-cities-and-migrants-with-irregular-status/).
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- <sup>10</sup> FRA. (2011). *Fundamental Rights of Migrants in an Irregular Situation in the European Union*. Vienna: EU Fundamental Rights Agency.
- <sup>11</sup> Spencer, S. & Hughes, V. (2015). *Outside and In: Legal Entitlements to Health Care and Education for Migrants with Irregular Status in Europe*. Oxford: COMPAS. Available at: [https://www.compas.ox.ac.uk/wp-content/uploads/PR-2015-Outside\\_In\\_Mapping.pdf](https://www.compas.ox.ac.uk/wp-content/uploads/PR-2015-Outside_In_Mapping.pdf). The Annex to the report provides information on the entitlements in each Member State.
- <sup>12</sup> Spencer, S. (2018). *Multi-level governance of an intractable policy problem: migrants with irregular status in Europe*. In *Journal of Ethnic and Migration Studies*, Volume 44 (12); Spencer, S. & Delvino, N. (2019). 'Municipal activism on irregular migrants: the framing of inclusive approaches at the local level'. *Journal of Immigrant & Refugee Studies*. DOI: 10.1080/15562948.2018.1519867
- <sup>13</sup> Deriving from Articles 21 and 124(1) of the Constitution and Article 2.1.1 of the 'Wet maatschappelijke ondersteuning' (Wmo) - the Dutch Social Support Act (2015).
- <sup>14</sup> UNESCO. (2016). *Cities Welcoming Refugees and Migrants*. Paris: United Nations Educational, Scientific and Cultural Organization. Available at <http://unesdoc.unesco.org/images/0024/002465/246558e.pdf>.
- <sup>15</sup> 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.
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- <sup>25</sup> Delvino, N. (2017). *European Cities and Migrants with Irregular Status: Municipal initiatives for the inclusion of irregular migrants in the provision of services*. Oxford: COMPAS, available at: [www.compas.ox.ac.uk/2017/european-cities-and-migrants-with-irregular-status/](http://www.compas.ox.ac.uk/2017/european-cities-and-migrants-with-irregular-status/).
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- <sup>28</sup> PICUM. (2017). *Cities of rights: Ensuring health care for undocumented residents*. Brussels: Platform for International Cooperation on Undocumented Migrants. [http://picum.org/wp-content/uploads/2017/11/CityOfRights\\_Health\\_EN.pdf](http://picum.org/wp-content/uploads/2017/11/CityOfRights_Health_EN.pdf)
- <sup>29</sup> Crépeau, F. and Hastie, B. (2015). 'The Case for 'Firewall' Protections for Irregular Migrants. *Safeguarding Fundamental Rights*'. in *European Journal of Migration and Law*, 17: 157-184
- <sup>30</sup> 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). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679>
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- <sup>34</sup> Italian Ministry of Education, University and Research. (2014). *Linee guida per l'accoglienza e l'integrazione degli alunni stranieri del febbraio 2014*; Circular letter No. 28 of 10 January 2014.
- <sup>35</sup> Garcés-Masareñas B. (2014). *Immigrants' equal access and equal use: a review of local policies in the domains of health care, housing, education and the labour market*. KING Project. Social Science Unit Desk Research Paper n. 10/July 2014. Milano: Fondazione ISMU.
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Handbook, C(2015)6250, available at: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/return\\_handbook\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/return_handbook_en.pdf)

<sup>37</sup> OHCHR. (2017). *Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations*. Geneva: Office of the United Nations High Commissioner for Human Rights (OHCHR).

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<sup>39</sup> European Commission. (2015). *Commission Recommendation of 1.10.2015 establishing a common "Return Handbook" to be used by Member States' competent authorities when carrying out return related tasks – Annex Return Handbook*, C(2015)6250, available at: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/return\\_handbook\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/return_handbook_en.pdf)

<sup>40</sup> Delvino N. (2017). *The challenge of responding to irregular immigration: European, national and local policies addressing the arrival and stay of irregular migrants in the European Union*, Oxford: COMPAS, available at: <https://www.compas.ox.ac.uk/2017/autumn-academy-2017-report-the-challenge-of-responding-to-irregular-immigration>.

<sup>41</sup> Council of the European Union. (2016). *Council Conclusions of 9-10 June 2016*.

<sup>42</sup> European Commission. (2015). Communication from the Commission to the European Parliament and to the Council - EU Action Plan on return, COM(2015) 453 final.

<sup>43</sup> Delvino, N. (2017). *European Cities and Migrants with Irregular Status: Municipal initiatives for the inclusion of irregular migrants in the provision of services*. Oxford: COMPAS, available at: [www.compas.ox.ac.uk/2017/european-cities-and-migrants-with-irregular-status/](http://www.compas.ox.ac.uk/2017/european-cities-and-migrants-with-irregular-status/).

<sup>44</sup> Trust for London. (2018). *Citizenship and Integration Initiative: Piloting legal advice in an educational context - Invitation for expressions of interest*, available at: [www.trustforlondon.org.uk/news/citizenship-and-integration-initiative/](http://www.trustforlondon.org.uk/news/citizenship-and-integration-initiative/)

<sup>45</sup> The guidance can be accessed at: [www.london.gov.uk/what-we-do/communities/migrants-and-refugees/guidance-young-londoners-citizenship-residence](http://www.london.gov.uk/what-we-do/communities/migrants-and-refugees/guidance-young-londoners-citizenship-residence).

<sup>46</sup> Delvino, N. (2017). *European Cities and Migrants with Irregular Status: Municipal initiatives for the inclusion of irregular migrants in the provision of services*. Oxford: COMPAS, available at: [www.compas.ox.ac.uk/2017/european-cities-and-migrants-with-irregular-status/](http://www.compas.ox.ac.uk/2017/european-cities-and-migrants-with-irregular-status/).

<sup>47</sup> FRA. (2011). *Fundamental Rights of Migrants in an Irregular Situation in the European Union*, Luxembourg: Publications Office of the European Union, available at: <http://fra.europa.eu/en/publication/2012/fundamental-rights-migrants-irregular-situation-european-union>.

<sup>48</sup> PICUM. (2014). *Housing and Homelessness of Undocumented Migrants in Europe: Developing Strategies and Good Practices to Ensure Access to Housing and Shelter*. Brussels: PICUM. Available at [http://picum.org/Documents/Publi/2014/Annual\\_Conference\\_2013\\_report\\_HOUSING\\_EN.pdf](http://picum.org/Documents/Publi/2014/Annual_Conference_2013_report_HOUSING_EN.pdf).

<sup>49</sup> However, it remains controversial whether the obligation to fulfil the right to housing also includes the duty of states to provide irregular migrants with basic services such as adequate shelters for destitute individuals; see FRA. (2011). *Fundamental Rights of Migrants in an Irregular Situation in the European Union*, Luxembourg: Publications Office of the European Union.

<sup>50</sup> ECSR. (2008). *DCI v. The Netherlands*, Complaint No. 47/2008. Decision on the merits.

<sup>51</sup> ECSR. (2013). *CEC v. The Netherlands*, Complaint No. 90/2013. Decision on the merits.

<sup>52</sup> European Court of Human Rights. (2016) *Hunde v. The Netherlands*, Application No. 17931/16, Decision of 5 July 2016.

<sup>53</sup> FRA reported that, in 2014, all but five EU Member States had laws imposing penalties on landlords renting properties to irregular migrants. Of the remaining five Member States, Ireland does not punish facilitation of stay, and thus does not punish landlords for renting accommodation to irregular migrants. In France and Malta, a punishment is possible, but those who accommodate a close relative are excluded from punishment (although the Maltese exclusion is limited to seven days). Italy punishes landlords for taking unfair advantage by profiting from irregular migrants'

vulnerable situations, but not for renting to them. Belgian law explicitly excludes from punishment assistance provided for humanitarian reasons, which might include providing accommodation. See FRA. (2014). *Criminalisation of Migrants in an Irregular Situation and of persons engaging with them*. Luxembourg: Publications Office of the European Union. Available at <http://fra.europa.eu/en/publication/2014/criminalisation-migrants-irregular-situation-and-persons-engaging-them>

<sup>54</sup> For more information, visit: <https://liverpool.gov.uk/alwaysroominside>

<sup>55</sup> PICUM. (2014). *Housing and Homelessness of Undocumented Migrants in Europe: Developing Strategies and Good Practices to Ensure Access to Housing and Shelter*. Brussels: PICUM. Available at [http://picum.org/Documents/Publi/2014/Annual\\_Conference\\_2013\\_report\\_HOUSING\\_EN.pdf](http://picum.org/Documents/Publi/2014/Annual_Conference_2013_report_HOUSING_EN.pdf).

<sup>56</sup> FRA. (2013). *Apprehension of migrants in an irregular situation – Fundamental Rights considerations*. Available at <http://fra.europa.eu/en/theme/asylum-migration-borders/practical-guidance#irregular-migrants>.

<sup>57</sup> European Commission (2015), *Commission Recommendation of 1.10.2015 establishing a common "Return Handbook" to be used by Member States' competent authorities when carrying out return related tasks – Annex Return Handbook*, C(2015)6250. Available at: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/return\\_handbook\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/return_handbook_en.pdf).

<sup>58</sup> Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.

<sup>59</sup> Delvino N. (2017). *The challenge of responding to irregular immigration: European, national and local policies addressing the arrival and stay of irregular migrants in the European Union*. Oxford: COMPAS, p. 51, available at: <https://www.compas.ox.ac.uk/2017/autumn-academy-2017-report-the-challenge-of-responding-to-irregular-immigration>.

<sup>60</sup> PICUM. (2015). *Guide to the EU victims' directive: advancing access to protection, services and justice for undocumented migrants*. Brussels: PICUM, pp. 30-31. Available at: [http://picum.org/wp-content/uploads/2017/11/VictimsDirectiveGuide\\_Justice\\_EN.pdf](http://picum.org/wp-content/uploads/2017/11/VictimsDirectiveGuide_Justice_EN.pdf); Delvino N. (2017). *The challenge of responding to irregular immigration: European, national and local policies addressing the arrival and stay of irregular migrants in the European Union*, Oxford: COMPAS, available at: <https://www.compas.ox.ac.uk/2017/autumn-academy-2017-report-the-challenge-of-responding-to-irregular-immigration>.

<sup>61</sup> National Police Chiefs' Council. (2018). *New guidance for officers on sharing information with Immigration Enforcement* [online]. Available at: <https://news.npcc.police.uk/releases/new-guidance-for-officers-on-sharing-information-with-immigration-enforcement>; reported in *The Guardian*. (2018). *Victims of crime being handed over to immigration enforcement*. 14 May 2018. Available at: <https://www.theguardian.com/uk-news/2018/may/14/victims-crime-handed-over-police-immigration-enforcement>.

<sup>62</sup> FRA. (2012). *Apprehension of migrants in an irregular situation – Fundamental Rights considerations*. Available at: <http://fra.europa.eu/en/theme/asylum-migration-borders/practical-guidance#irregular-migrants>.

<sup>63</sup> Zwart, M. (Dutch National Police Unit Amsterdam). (2017). *Equal rights without discrimination*, [presentation] in Autumn Academy 2017: Strategic Approaches to Migrants with Irregular Status in Europe, held in Oxford 18-22 September 2017.

<sup>64</sup> Zwart, M. (Dutch National Police Unit Amsterdam). (2017). *Equal rights without discrimination*, [presentation] in Autumn Academy 2017: Strategic Approaches to Migrants with Irregular Status in Europe, held in Oxford 18-22 September 2017.

<sup>65</sup> Mostofi, B. (2017). *The Right Balance: Smart Policing and Inclusive Immigration Policies in New York City*, [presentation] in Autumn Academy 2017: Strategic Approaches to Migrants with Irregular Status in Europe, held in Oxford 18-22 September 2017.

<sup>66</sup> PICUM. (2015). *Guide to the EU victims' directive: advancing access to protection, services and justice for undocumented migrants*. Brussels: PICUM, p. 29. Available at: [http://picum.org/wp-content/uploads/2017/11/VictimsDirectiveGuide\\_Justice\\_EN.pdf](http://picum.org/wp-content/uploads/2017/11/VictimsDirectiveGuide_Justice_EN.pdf).

<sup>67</sup> Delvino, N. (2017). *European Cities and Migrants with Irregular Status: Municipal initiatives for the inclusion of irregular migrants in the provision of services*. Oxford: COMPAS, available at: [www.compas.ox.ac.uk/2017/european-cities-and-migrants-with-irregular-status/](http://www.compas.ox.ac.uk/2017/european-cities-and-migrants-with-irregular-status/).

<sup>68</sup> Kittrie, O. (2006). *Federalism, Deportation, and Crime Victims Afraid to Call the Police*. Kittrie, Orde F., Federalism, Deportation and Crime Victims Afraid to Call the Police. Iowa Law Review, Vol. 91, pp. 1449-1508, 2006. Available at SSRN: <https://ssrn.com/abstract=926766>.

<sup>69</sup> Spencer S. & Hughes V. (2015). *Outside and in: Legal Entitlements to Health Care and Education for Migrants with Irregular Status in Europe*. Oxford: COMPAS. Available at: [https://www.compas.ox.ac.uk/wp-content/uploads/PR-2015-Outside\\_In\\_Mapping.pdf](https://www.compas.ox.ac.uk/wp-content/uploads/PR-2015-Outside_In_Mapping.pdf).

<sup>70</sup> OHCHR. (2019 forthcoming). *Promising practices on the right to health for migrants with irregular status at the local level*. Geneva: Office of the United Nations High Commissioner for Human Rights (OHCHR)

<sup>71</sup> FRA. (2015). *Cost of exclusion from healthcare – The case of migrants in an irregular situation*. Luxembourg: Publications Office of the European Union. Available at: <http://fra.europa.eu/en/publication/2015/cost-exclusion-healthcare-case-migrants-irregular-situation>.

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Universal Declaration of Human Rights (Article 25); International Covenant on Economic, Social and Cultural Rights (Article 12); International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (article 28); International Convention on the Elimination of All Forms of Racial Discrimination (Article 5), International Convention on the Elimination of All Forms of Discrimination against Women (Article 12); Convention on the Rights of the Child (Article 24). See for regional treaties: Charter of Fundamental Rights of the European Union (Article 35), European Convention on Human Rights and Freedoms (Article 3, as interpreted by the European Court of Human Rights) and the European Social Charter (Article 13).

<sup>73</sup> E.g. Committee on Economic, Social and Cultural Rights. (2000). General Comment No. 14, para. 34; and Committee on Economic, Social and Cultural Rights. (2017). Duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights, E/C 12/2017/1, para. 5, 6, 9, 11, 12 and 15.

<sup>74</sup> Spencer S. & Hughes V. (2015). *Outside and in: Legal Entitlements to Health Care and Education for Migrants with Irregular Status in Europe*. Oxford: COMPAS. Available at: [https://www.compas.ox.ac.uk/wp-content/uploads/PR-2015-Outside\\_In\\_Mapping.pdf](https://www.compas.ox.ac.uk/wp-content/uploads/PR-2015-Outside_In_Mapping.pdf)

<sup>75</sup> Spencer S. & Hughes V. (2015). *Outside and in: Legal Entitlements to Health Care and Education for Migrants with Irregular Status in Europe*. Oxford: COMPAS. Available at: [https://www.compas.ox.ac.uk/wp-content/uploads/PR-2015-Outside\\_In\\_Mapping.pdf](https://www.compas.ox.ac.uk/wp-content/uploads/PR-2015-Outside_In_Mapping.pdf)

<sup>76</sup> FRA. (2011). *Fundamental Rights of Migrants in an Irregular Situation in the European Union*, Luxembourg: Publications Office of the European Union.

<sup>77</sup> European Commission Against Racism and Intolerance (2016), *General Policy Recommendation No. 16 on safeguarding irregularly present migrants from discrimination*.

<sup>78</sup> The issue is disputed, as some municipalities have been interpreting differently the rules exempting medical doctors from the reporting obligation, with some municipalities considering the exemption to automatically extend to municipal employees in welfare offices, and others interpreting this extension to be limited to cases of emergency. OHCHR. (2019 forthcoming). *Promising practices on the right to health for migrants with irregular status at the local level*. Geneva: Office of the United Nations High Commissioner for Human Rights (OHCHR).

<sup>79</sup> For more information, visit: [www.stay-duesseldorf.de/medinetz/](http://www.stay-duesseldorf.de/medinetz/).

<sup>80</sup> OHCHR. (2019 forthcoming). *Promising practices on the right to health for migrants with irregular status at the local level*. Geneva: Office of the United Nations High Commissioner for Human Rights (OHCHR).

<sup>81</sup> OHCHR. (2019 forthcoming). *Promising practices on the right to health for migrants with irregular status at the local level*. Geneva: Office of the United Nations High Commissioner for Human Rights (OHCHR).

<sup>82</sup> For more information, visit: [www.gesundheitsamt.stadt-frankfurt.de](http://www.gesundheitsamt.stadt-frankfurt.de).

<sup>83</sup> Municipality of Florence. (2011). *'Marginali e immigrati irregolari, un progetto per garantire l'assistenza anche dopo l'ospedale'* [online press release] 12 September. Available at [http://press.comune.fi.it/hcm/hcm58683-1\\_Marginali+e+immigrati+irregolari](http://press.comune.fi.it/hcm/hcm58683-1_Marginali+e+immigrati+irregolari).

<sup>84</sup> OHCHR. (2019 forthcoming). *Promising practices on the right to health for migrants with irregular status at the local level*. Geneva: Office of the United Nations High Commissioner for Human Rights (OHCHR).

<sup>85</sup> For more information, visit: [www.rodekors.no/en/om-rode-kors/lokalforeninger-og-distrikter/oslo/pages-in-englishx/health-centre-for-undocumented-migrants-in-oslo](http://www.rodekors.no/en/om-rode-kors/lokalforeninger-og-distrikter/oslo/pages-in-englishx/health-centre-for-undocumented-migrants-in-oslo).

<sup>86</sup> According to the lowest rate of the German Scales of Medical fees – GOÄ – or Fees for Dentists – GOZ.

<sup>87</sup> For more information, visit: [www.amber-med.at](http://www.amber-med.at); [www.neunerhaus.at](http://www.neunerhaus.at) and [www.caritas-wien.at/hilfe-angebote/obdach-wohnen/mobile-notversorgung/medizinbus-louise-bus](http://www.caritas-wien.at/hilfe-angebote/obdach-wohnen/mobile-notversorgung/medizinbus-louise-bus).

<sup>88</sup> OHCHR. (2019 forthcoming). *Promising practices on the right to health for migrants with irregular status at the local level*. Geneva: Office of the United Nations High Commissioner for Human Rights (OHCHR).

<sup>89</sup> PICUM. (2017). *Cities of rights: Ensuring health care for undocumented residents*. Brussels: Platform for International Cooperation on Undocumented Migrants. [http://picum.org/wp-content/uploads/2017/11/CityOfRights\\_Health\\_EN.pdf](http://picum.org/wp-content/uploads/2017/11/CityOfRights_Health_EN.pdf)

<sup>90</sup> In the Netherlands, irregular migrants are ineligible for state health insurance and must pay up front for the ‘medically necessary’ care to which they are entitled. Destitute individuals might have the costs of their treatment reimbursed by a public body called ‘CAK’, but only for treatments falling under the ‘National Basic Health Insurance’.

<sup>91</sup> PICUM. (2017). *‘Cities of rights: Ensuring health care for undocumented residents’*. Brussels: Platform for International Cooperation on Undocumented Migrants. [http://picum.org/wp-content/uploads/2017/11/CityOfRights\\_Health\\_EN.pdf](http://picum.org/wp-content/uploads/2017/11/CityOfRights_Health_EN.pdf)

<sup>92</sup> Which include an irregular status, usual residence in the municipality, a condition of destitution and no alternative social security sources.

<sup>93</sup> In Belgium, irregular migrants cannot enrol in the mainstream national health insurance, and access to care for irregular migrants is regulated under a separate national insurance scheme known as ‘Aide médicale urgente’ (AMU) or ‘Dringende Medische Hulpverlening’ (DMH).

<sup>94</sup> PICUM. (2017). *‘Cities of rights: Ensuring health care for undocumented residents’*. Brussels: Platform for International Cooperation on Undocumented Migrants. [http://picum.org/wp-content/uploads/2017/11/CityOfRights\\_Health\\_EN.pdf](http://picum.org/wp-content/uploads/2017/11/CityOfRights_Health_EN.pdf)

<sup>95</sup> OHCHR. (2019 forthcoming). *Promising practices on the right to health for migrants with irregular status at the local level*. Geneva: Office of the United Nations High Commissioner for Human Rights (OHCHR); PICUM. (2017). *‘Cities of rights: Ensuring health care for undocumented residents’*. Brussels: Platform for International Cooperation on Undocumented Migrants. [http://picum.org/wp-content/uploads/2017/11/CityOfRights\\_Health\\_EN.pdf](http://picum.org/wp-content/uploads/2017/11/CityOfRights_Health_EN.pdf)

<sup>96</sup> PICUM. (2017). *‘Cities of rights: Ensuring health care for undocumented residents’*. Brussels: Platform for International Cooperation on Undocumented Migrants. [http://picum.org/wp-content/uploads/2017/11/CityOfRights\\_Health\\_EN.pdf](http://picum.org/wp-content/uploads/2017/11/CityOfRights_Health_EN.pdf)

<sup>97</sup> ICESCR, art. 13 (2) (a) and (b) and 14; Convention on the Rights of the Child, art. 23(3) and 28; Convention on the Rights of Persons with Disabilities, art. 24; ICMW, art. 30; CRC, general comment No 6, paras 41–43; CRC, general comment No 20, para. 70; CRC, general comment No 7, paras 24 and 36 (c); E/C 12/2017/1, paras 3, 4, 5, 6, 9 and 11; CESCR, general comment No 11 (1999) on plans of action for primary education, paras 6–7; CESCR, general comment No 13 (1999) on the right to education, in particular paras 9, 13, 14, 24 and 34; CESCR, general comment No 20, para 30; CERD, general recommendation No 30, paras 29–30; CMW, general comment No 1, para. 57; CMW, general comment No 2, paras 75, 76 and 79; Declaration of the High-level Dialogue on International Migration and Development, para. 13; 2030 Agenda for Sustainable Development, paras 20 and 25 and Sustainable Development Goals targets 4.1 and 4.5; General Assembly resolution 70/147, para. 5 (i); New York Declaration for Refugees and Migrants, para. 32; Human Rights Council resolution 20/3, particularly paras 2–4; UNESCO, Convention against Discrimination in Education, art 3 (e).

<sup>98</sup> OHCHR. (2017). *Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations*. Geneva: Office of the United Nations High Commissioner for Human Rights (OHCHR).

<sup>99</sup> Bulgaria, Finland, Hungary, Latvia and Lithuania.

<sup>100</sup> Spencer S. & Hughes V. (2015), *‘Outside and in: Legal Entitlements to Health Care and Education for Migrants with Irregular Status in Europe’*. Oxford: COMPAS. Available at: [https://www.compas.ox.ac.uk/wp-content/uploads/PR-2015-Outside\\_In\\_Mapping.pdf](https://www.compas.ox.ac.uk/wp-content/uploads/PR-2015-Outside_In_Mapping.pdf)

- <sup>101</sup> European Commission Against Racism and Intolerance. (2016). *General Policy Recommendation No. 16 on safeguarding irregularly present migrants from discrimination*.
- <sup>102</sup> National guidance followed instructing all municipalities not to require such documentation. See Delvino, N. and Spencer, S. (2014). *Irregular migrants in Italy: law and policy on entitlements to services*. Oxford: COMPAS, available at [www.compas.ox.ac.uk/2014/pr-2014-irregular\\_migrants\\_italy](http://www.compas.ox.ac.uk/2014/pr-2014-irregular_migrants_italy).
- <sup>103</sup> PICUM. (2008). *Undocumented Children in Europe: Invisible Victims of Immigration Restrictions*, Brussels: Platform for International Cooperation on Undocumented Migrants.
- <sup>104</sup> PICUM. (2008). *Undocumented Children in Europe: Invisible Victims of Immigration Restrictions*, Brussels: Platform for International Cooperation on Undocumented Migrants; Defense for Children International and Stichting LOS, Schoolfonds Leren zonder Papieren Amsterdam. Available at <http://www.ilegaalkind.nl/?pageAlias=hoofd&mainId=56&id=183&setNivo=3>.
- <sup>105</sup> For more information, visit: [www.projecterossinyol.org](http://www.projecterossinyol.org).
- <sup>106</sup> Casademont Falguera X. (2018). *Local municipal practices relating to irregular migrants in Catalonia*. Email to the authors, 14 June 2018, personal communication.
- <sup>107</sup> Following the incorporation of *Intercultureel Netwerk Gent* into the local integration agency 'IN-Gent', the courses 'Living Together and Orientation' were put on hold in 2016.
- <sup>108</sup> For more information, visit: [www.bcn.cat/novaciudadania/arees/en/llengues/llengues.html](http://www.bcn.cat/novaciudadania/arees/en/llengues/llengues.html)
- <sup>109</sup> For more information, visit: <https://si-cuida.madrid.es>
- <sup>110</sup> OHCHR. (2014). *The Economic, Social and Cultural Rights of Migrants in an Irregular Situation*, p. 45, Geneva: Office of the United Nations High Commissioner for Human Rights (OHCHR). available at: [www.ohchr.org/Documents/Publications/HR-PUB-14-1\\_en.pdf](http://www.ohchr.org/Documents/Publications/HR-PUB-14-1_en.pdf)
- <sup>111</sup> For more information, visit: [www.london.gov.uk/what-we-do/communities/migrants-and-refugees/guidance-young-londoners-citizenship-residence/education](http://www.london.gov.uk/what-we-do/communities/migrants-and-refugees/guidance-young-londoners-citizenship-residence/education)
- <sup>112</sup> OHCHR. (2019 forthcoming). *Promising practices on the right to health for migrants with irregular status at the local level*. Geneva: Office of the United Nations High Commissioner for Human Rights (OHCHR).
- <sup>113</sup> Misconceptions were mainly provoked by a series of national and regional reforms which respectively restricted irregular migrants' entitlements to care and re-extended equal access to care for irregular migrants as Spanish nationals at the regional level of Catalonia.
- <sup>114</sup> OHCHR. (2019 forthcoming). *Promising practices on the right to health for migrants with irregular status at the local level*. Geneva: Office of the United Nations High Commissioner for Human Rights (OHCHR).
- <sup>115</sup> OHCHR. (2014). *Birth registration and the right of everyone to recognition everywhere as a person before the law - Report of the Office of the United Nations High Commissioner for Human Rights*. (UN doc A/HRC/27/22). Available at: <http://undocs.org/A/HRC/27/22>.
- <sup>116</sup> For more information on Madrid's *tarjeta de vecindad*, visit: <https://sede.madrid.es>. For Barcelona's *documento de vecindad*, visit: [www.bcn.cat/novaciudadania/arees/es/veinatge.html](http://www.bcn.cat/novaciudadania/arees/es/veinatge.html).
- <sup>117</sup> For more information, visit: [www.paris.fr/cartecitoyenne](http://www.paris.fr/cartecitoyenne).
- <sup>118</sup> Apolitical. (2016). 'New York helps Paris integrate vulnerable migrants after terror attacks'. Available at: [https://apolitical.co/solution\\_article/new-york-paris-municipal-id-terror-attacks/](https://apolitical.co/solution_article/new-york-paris-municipal-id-terror-attacks/)
- <sup>119</sup> De Graauw E. (2014). 'Municipal ID Cards for Undocumented Immigrants: Local Bureaucratic Membership in a Federal System', in *Politics & Society*, Vol. 42(3) 309–330. Available at: <http://www.ilo.org/dyn/migpractice/docs/203/Article.pdf>; Maytree Foundation & Cities of Migration. (2012). *Good Ideas from Successful Cities: Municipal Leadership on Immigrant Integration*. Toronto: Maytree Foundation. Available at: [http://citiesofmigration.ca/wp-content/uploads/2012/03/Municipal\\_Report\\_Main\\_Report2.pdf](http://citiesofmigration.ca/wp-content/uploads/2012/03/Municipal_Report_Main_Report2.pdf)
- <sup>120</sup> For more information, visit: [www1.nyc.gov/site/idnyc/index.page](http://www1.nyc.gov/site/idnyc/index.page).
- <sup>121</sup> Daley, T. C., et al. (2016). *IDNYC: A Tool of Empowerment – A Mixed-Methods Evaluation of the New York Municipal ID Program*. Rockville: Westat, Inc. Available at: [https://www1.nyc.gov/assets/idnyc/downloads/pdf/idnyc\\_report\\_full.pdf](https://www1.nyc.gov/assets/idnyc/downloads/pdf/idnyc_report_full.pdf).



<sup>122</sup> FRA. (2012). *Apprehension of migrants in an irregular situation: Fundamental rights considerations*. Available at: <http://fra.europa.eu/en/theme/asylum-migration-borders/practical-guidance#irregular-migrants>.

<sup>123</sup> FRA. (2012). *Apprehension of migrants in an irregular situation – Fundamental Rights considerations*. Available at: <http://fra.europa.eu/en/theme/asylum-migration-borders/practical-guidance#irregular-migrants>.

<sup>124</sup> Delvino, N. (2017). *European Cities and Migrants with Irregular Status: Municipal initiatives for the inclusion of irregular migrants in the provision of services*. Oxford: COMPAS, available at: [www.compas.ox.ac.uk/2017/european-cities-and-migrants-with-irregular-status/](http://www.compas.ox.ac.uk/2017/european-cities-and-migrants-with-irregular-status/).

<sup>125</sup> Delvino, N. (2017). *European Cities and Migrants with Irregular Status: Municipal initiatives for the inclusion of irregular migrants in the provision of services*. Oxford: COMPAS, available at: [www.compas.ox.ac.uk/2017/european-cities-and-migrants-with-irregular-status/](http://www.compas.ox.ac.uk/2017/european-cities-and-migrants-with-irregular-status/).



The Global Exchange on Migration and Diversity is an ambitious initiative at the Centre on Migration, Policy and Society (COMPAS) opening up opportunities for knowledge exchange and longer term collaboration between those working in the migration field.