

Outside and In:

Legal Entitlements to Health Care and Education for Migrants with Irregular Status in Europe

Report

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Contents

- List of Tables and Maps.....ii**
- Acknowledgements.....iii**
- About the Authorsv**
- Executive Summary..... 1**
- 1.0 Introduction 5**
 - 1.1 Irregular status.....5
 - 1.2 Mapping ‘entitlements’ 6
 - 1.3 Method..... 8
- 2.0 Entitlements to Health Care 9**
 - 2.1 Emergency care..... 11
 - 2.2 Primary and secondary care 12
 - 2.3 Infectious diseases..... 23
 - 2.4 Maternity care and child birth..... 23
 - 2.5 Access to health care for children 29
- 3.0 Entitlements to School Education38**
- 4.0 Implications and Contextual Factors: A Research Agenda46**
 - 4.1 Size of the irregular migrant population..... 47
 - 4.2 Domestic legal factors 47
 - 4.3 International human rights obligations 49
 - 4.4 Relative wealth or public attitudes? 50
 - 4.5 Institutional factors..... 51
- 5.0 Conclusion.....52**
- Appendix A: Is irregular entry and/or stay considered a criminal offence? 54
- Appendix B: Estimates of the irregular migrant population in selected EU countries 57
- Appendix C: Type of health care system and charges to irregular migrants in EU28 countries.... 60
- Appendix D: List of sources for tables 62
- Bibliography.....66**

List of Tables and Maps

Table 1 Right to health care for irregular migrants across the EU28: Emergency, primary and secondary care..... 14

Table 2: Specific health services accessible to irregular migrants in the EU28..... 25

Map 1: Showing polarisation of entitlements to health care of children with irregular immigration status across the EU28 30

Table 3: Medical care for migrant children with irregular status in the EU28..... 32

Map 2: Entitlement to school education of children with irregular immigration status across the EU28 39

Table 4 Right to school education for irregular migrants across EU28..... 41

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This report sets out for the 28 Member States of the European Union (EU28) the legal entitlements for migrants with irregular status to access health care services and, for children, education. The data is also set out for each country individually in a separate [Annex](#). The report is part of a broader study exploring the official rationales for granting access to services at national, regional and municipal level.

We use the term ‘migrants with irregular status’ and ‘irregular migrants’ to denote those who have remained in a country or entered without authorisation. We use ‘entitlements’ rather than rights as referring to a legal entitlement to a specific service rather than to the broader but sometimes less specific fundamental rights to health care and education in international human rights standards.

The report covers entitlements in law not the many barriers that can nevertheless impede an individual securing access to the service. We note, however, where a requirement to cover the full cost of health care, or a requirement on service providers to pass on the details of service users to the immigration authorities, in effect nullifies the entitlement to that service.

Method

In our mapping of entitlements we used the data in studies published by the EU Fundamental Rights Agency in 2011 as our baseline, updating subsequent reforms identified in academic and policy literature. We added data for the most recent EU Member State, Croatia, and drew on interviews conducted with policy makers and civil society representatives across 14 Member States in which legal entitlements was one topic covered. Our mapping of entitlements was, during the course of the study, sent to a national expert in each country to check the accuracy of the information. Recognising the difficulty of securing comparable data on this topic, and the extent to which entitlements can change over time, the authors will welcome any updates from authoritative sources to amend the tables in the Annex to this report.¹

Entitlements to Health Care

While there are instances where the law on access to health care has recently become more restrictive or further restrictions are under consideration there are also recent instances of entitlements to irregular migrants being extended.

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Table 1 shows the position across the EU28 in relation to entitlements to emergency, primary and secondary care. In all 28 Member States irregular migrants are at least entitled to emergency health care, variously defined. In six Member States, irregular migrant adults are entitled to emergency health care *only*. In a further 12 countries, irregular migrants are likewise excluded from primary and secondary care but do have entitlements to certain specialist services, such as care for infectious diseases (Table 2). In many of the countries where entitlements for adults are restricted to emergency care (with the addition in some cases of specialist services), some nevertheless grant greater entitlements to some categories of children (Table 3).

In 10 Member States irregular migrants are permitted by law to some level of access to primary and secondary care services: Belgium, Czech Republic, France, Germany, Ireland, Italy, Netherlands, Portugal, Sweden and the UK. The scope of services to which these entitlements provide access varies significantly. Before judging these countries to be the most accessible in this respect we consider whether a requirement to pay a significant part of the cost of care in effect nullifies that entitlement. In the Czech Republic, Germany, Ireland and the UK, that entitlement is indeed eroded by a requirement to pay the full cost of some or all care provided. In Germany, a requirement on public servants to inform the immigration authorities is a further barrier.

We conclude - notwithstanding further significant qualifications noted - that entitlements for irregular migrants to *a level of* primary and secondary care are, in relative terms, least restrictive in six countries: Belgium, France, Italy, the Netherlands, Portugal, and Sweden.

15 States allow access to screening for HIV and of them 10 allow access to treatment: that is, Belgium, France, Greece, Italy, Malta, Netherlands, Portugal, Spain, Sweden and the UK. Access was extended in the UK in 2012. A greater number of States (17) allow access to screening for other infectious diseases such as tuberculosis (TB), of which 14 also allow access to treatment, at least for TB.

There are thus 11 States where irregular migrants are not entitled to access screening or treatment for any infectious diseases, namely Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, Lithuania, Luxembourg, Romania, Slovakia and Slovenia. In some cases they may be able to access screening and treatment on the payment of the full cost of that service.

21 EU countries provide an entitlement to a level of maternity care: in a minority of cases for delivery only. Other states make no specific provision for maternity care. However, many or all will include giving birth within the definition of emergency. The question of who is liable for costs – as in countries which do allow greater access to maternity care - remains problematic.

Entitlements for children with irregular status to access health care (Table 3) are more extensive than for adults, particularly – but not only – for those who are unaccompanied. In

8 Member States children, *whether with their parents or unaccompanied*, have the same entitlements to health care as children who are nationals of that country: that is, in Estonia, France, Greece, Italy, Portugal, Romania, Spain and Sweden. The age to which the entitlement extends varies. In five countries, Bulgaria, Finland, Lithuania, Luxembourg and Slovakia, children (unless unaccompanied in some cases) are entitled only to emergency care. In a further seven countries they are entitled only to emergency care and to specialist services such as treatment for infectious diseases. In 11 countries children who are unaccompanied and/or known to the authorities have additional entitlements.

Entitlement to School Education

As with health care there has been an extension of access to education for children with irregular status in recent years.

In 23 of the EU28, children with irregular status are entitled to attend school. In many cases that entitlement is *implicit* in an entitlement for *all* children to attend, from which those with irregular status are not excluded. In ten countries, however, (Belgium, Croatia, Czech Republic, France, Greece, Italy, the Netherlands, Romania, Spain and Sweden) the entitlement is *explicit*: that is, a specific reference to the entitlement of children with irregular status is written into legislation, regulations, Ministerial decree or binding case law. This is also the case for primary education in Slovenia.

The entitlement, whether explicit or implicit, can be for education up to 18 years or exclude the 16-18 age group. The entitlement can include access to apprenticeships or to pre-school. There is further variation in whether an entitlement to schooling extends to an end of school certificate confirming results, or for instance to school meals.

In five countries, Bulgaria, Finland, Hungary, Latvia and Lithuania, the law does not entitle these children to attend school (except, as in Latvia, when children are in the Returns Procedure). In each case this is despite a constitutional provision establishing a right to education and/or that education for minors is compulsory. A procedural requirement in law that pupils must be registered in the civic or municipal register or have a residence permit nevertheless excludes children with irregular status from an entitlement to attend school. Children in the community may in practice get access to schools in these countries at the discretion of the school itself.

In countries where there is an implicit right to attend school, local procedural requirements (such as proof of address) can in practice, as in health care, restrict or deter access.

Research Agenda

There would be value, for a future research agenda, in exploring the extent to which entitlements in each country currently meet the standards of access to health care and education required by international and European human rights law. In that assessment, the

degree to which a requirement to pay excessively for a service undermines an entitlement will be one question, as is the implications of a lack of protection of service users' personal data from transfer to the immigration authorities. Research on the relationship between the use of a civic register and patterns of entitlements could help to ensure that procedural barriers do not impede access for which the law in other respects provides. Authoritative evidence on the implications of inclusion and exclusion from entitlements, for individuals and the wider community, is fundamentally important to inform future decisions on policy reform.

It would also be valuable to explore whether there are underlying legal, demographic, economic, cultural or institutional factors that may help to explain the uneven geography of entitlements. The report highlights differing levels of irregular migrant population; criminalisation of irregular entry and stay; the availability and frequency of opportunities for irregular migrants to regularise their immigration status; differing commitments under international and European human rights instruments; procedural differences such as the need to secure registration on a civic register in order to access services; different types of health care system; and relative wealth and differing public attitudes, as possible factors to explore.

Conclusion

Our mapping shows a polarisation in entitlements to health care services, from access to emergency care only to a level of access to primary and secondary care and some specialist services. Entitlements to health care are sometimes greater for children. While there has been some erosion in entitlements, they have also been extended in recent years. There nevertheless remain countries where access for both adults and children is severely limited. In relation to education, entitlements range from an explicit legal provision permitting children with irregular status to attend school through to an absence, in a minority of countries, of any entitlement. Notwithstanding the sharply uneven geography of these provisions, the mapping reveals a normality of a level of entitlements for irregular migrants to access health and education services across the EU, albeit in many cases at a very low level.

The nature of the service to which access is allowed varies. The entitlement may be enhanced by regulations at a regional level or undermined by a requirement to pay, for service providers to pass on the details of service users to the immigration authorities, and other procedural hurdles. In many cases, the entitlement is implicit rather than spelt out in law. Rather than establishing that there is, or is not, an entitlement, there are thus shades of grey, making comparison between countries – while essential – inherently problematic.

1.0 Introduction

This report sets out the findings of the first part of a study exploring the legal entitlements to access public services for migrants with irregular status in the 28 Member States of the European Union (EU28). The study set out, first, to map entitlements in national law to health care for adults and to education and health care for children. It is those findings that are covered in this report. While overview tables show data for the EU28, the position in each country is also available in a separate Annex that can be accessed online. This contains the same material but organised by individual country. We suggest, in section 4, some avenues for future research including the implications of granting or restricting entitlements and underlying contextual factors which may help to explain the uneven pattern of entitlements across the EU, and summarise our findings in the Conclusion.

Migrants are known to be disproportionately affected by the financial constraints and recalibration of European welfare states (Sainsbury, 2012:281) and exclusion from welfare support has been used to deter unwanted forms of population movement (Geddes, 2003:153). In that context, the further aim of the study has been to explore the reasons why European states provide irregular migrants with a level of access to welfare services and in some instances have extended that access in recent years. The over-riding pattern remains one of exclusion. It is therefore important to understand the reasons why access *is* granted to some services. The study is thus exploring the official rationales given for granting those and a broader range of entitlements at national, regional and city level. Those findings will be published separately.

1.1 Irregular status

We use the term ‘migrants with irregular status’ or ‘irregular migrants’ to denote those who have entered or have remained in a country without authorisation in preference to alternative terms. ‘Illegal’ carries connotations of criminality, yet ‘Migrants in an irregular situation are not criminals’ (OHCHR, 2014:2). Irregular entry and stay is indeed not a criminal offence in many states (Appendix A) and, where criminal penalties can be incurred, irregular migrants are not criminals in the usual sense of that term (Cholewinski, 2005:8; OHCHR, 2014:13). ‘Undocumented’ is a popular alternative, carrying no negative connotations for the individuals concerned but not always accurate if the individual has documents (a passport perhaps) but lacks authorisation to be in the country in which they are living. While we acknowledge that the term ‘irregular migrant’ is not optimal, implying that the individual is irregular rather than their immigration status, it more accurately reflects the reality that individuals’ status can move in and out of legality over time and that they can simultaneously hold elements of regular and irregular status (Bloch et al, 2009; Bloch et al, 2011; Jordan and Düvell, 2002; Ruhs and Anderson, 2010). It is increasingly the term used by

international bodies such as the Council of Europe and the International Organisation on Migration and, most recently, by the European Commission.

In 2008, the size of the irregular migrant population in the EU was estimated to be between 1.9 and 3.8 million, some 0.4 – 0.8% of the population of the then EU27 (CLANDESTINO, 2009), down from between 3.1 and 5.3 million in 2002. This estimate, accepted by the European Commission (European Commission, 2010), compares to 11.7 million unauthorized immigrants in the United States (2012): 28% of the foreign-born population and approximately 3.7% of the total US population (Passel et al, 2013).

There are many paths into irregularity. Irregular status encompasses those who entered lawfully, including labour migrants, students and asylum seekers, who remained when their permission to stay had expired; those who entered without permission; and the children of irregular migrants who have not acquired legal residence in the European country in which they were born (Düvell, 2011; Sigona, 2012). There can be a grey line between regular and irregular stay. Among overstayers, some become irregular through an unwillingness to leave, others through misinformation on requirements, through breakdown of their relationship with the holder of the permit, or through extended delays in the administration of their application to remain. While some irregular migrants are not known to the authorities, others are known but for a variety of legal, humanitarian or practical reasons have not been removed (Gibney, 2008; Paoletti, 2010; Sigona, 2012; De Genova, 2002).

1.2 Mapping ‘entitlements’

We use ‘entitlements’ rather than rights as we are referring here to a legal entitlement to a specific service rather than to the broader but sometimes less specific fundamental rights to health care and education in international human rights standards. We have recorded explicit entitlements to a service but also instances where the entitlement is *implicit*, as where the law states that *all* children may attend school, without exclusion on the basis of irregular immigration status. Where legislation excludes access despite an inclusive constitutional provision, we have judged there to be no entitlement.

Mapping entitlements across countries with differing legal, governance, health and education systems is not easy but we are not the first to attempt to do so. The EU Agency for Fundamental Rights (FRA) published ground breaking reports in 2011 based on a study in 2009-2010 on the situation of irregular migrants across the then EU27. A comparative overview of a range of entitlements to services including health care, education, rights at work, right to an adequate standard of living and the right to family life (FRA, 2011a) was accompanied by a thematic report in the same year focused on access to health care in ten Member States (FRA, 2011b)². It explored not only the entitlements in law but legal and

² Belgium, France, Germany, Greece, Hungary, Ireland, Italy, Poland, Spain and Sweden

practical barriers that can hinder access in practice. Those studies found uneven levels of protection across the EU, a degree of uncertainty in law and among service providers in the nature of entitlements to both health care and education, and a range of obstacles to securing access even where an entitlement exists.

Greater attention has been given in the literature to access to health care than to other services. A report by the Platform for International Cooperation on Undocumented Migrants (PICUM), the leading NGO in the field, had earlier reviewed access in eleven EU countries,³ the findings of a two year study exploring entitlements and the reality of access on the ground (PICUM, 2007). Health care for adults was also the focus of a major study, *NowHereland*, part funded by the EU, with the intention of improving services for irregular migrants in the then EU27.⁴ That study found that international human rights obligations relating to health care were not fully met in most Member States when criteria of accessibility such as affordability were taken into account (Cuadra, 2012:1).

A recent unpublished study by Médecins du Monde (2013a) on legal entitlements in ten European countries⁵ included a particular focus in some cases on infectious diseases and on children, following earlier reports by its HUMA network including an overview of entitlements in 16 countries (HUMA Network, 2010). The situation of children has also been the specific focus of attention, including overview reports by PICUM (most recently PICUM, 2015) and relating to their entitlements in particular countries (Sigona and Hughes, 2012).

In relation to education entitlements, the FRA overview report (2011a:85) set out the right to education in national law in the then EU27, identifying whether the right is 'implicit' or 'explicit' as we do in this report. It noted recent extensions in entitlements; that the higher the level of education the more likely that access will not be allowed; and that many procedural obstacles can in practice prevent access or disadvantage pupils with irregular status relative to their peers. Research evidence on the impact of irregular status on education outcomes is limited but suggests the risk of exclusion is greatest where a lack of entitlement or requirement to pay is compounded by procedural barriers such as a requirement for documentation which the parents cannot provide (Sabates-Wheeler, 2009:28). Internationally, barriers for this group of children accessing education have been found to include reporting obligations on schools to the immigration authorities and their enforcement practices; not having the documents required for enrolment; and inability to pay school fees (OHCHR, 2014:82).

³ Austria, Belgium, France, Germany, Hungary, Italy, Netherlands, Portugal, Spain, Sweden and the United Kingdom.

⁴ See project website <http://www.nowhereland.info/>

⁵ Belgium, France, Germany, Greece, the Netherlands, Portugal, Spain, Sweden, Switzerland and the United Kingdom,

1.3 Method

In our mapping of entitlements we used the data in the FRA studies as our baseline, first updating changes in law subsequent to 2010 identified in academic and grey literature, including the above cited reports and reforms highlighted in the informative PICUM monthly bulletins⁶ and added data for the most recent EU Member State, Croatia. Further evidence was obtained through interviews conducted with policy makers and civil society representatives across 14 EU member states⁷ between 2012 and January 2015 in which legal entitlements was one topic covered. We note in the footnotes to the tables and in some instances in the text some of the many variations in the details of entitlements which add to the complexity of the picture across the EU.

Our mapping of entitlements was sent to one or more national expert in each country, recruited through the authors' legal, academic and NGO networks (see acknowledgements), who agreed to check whether the information is correct. Some provided further updates and nuanced our findings with additional details. Their contribution has been immensely important in securing the accuracy of the information recorded and we reiterate our thanks to them. As the evidence was in some cases further updated, any errors are entirely the authors' responsibility.

Recognising the difficulty of securing comparable data on this topic, and the extent to which entitlements can change over time, the authors will welcome updates from authoritative sources in order to keep the Annex to this report up to date.⁸

Throughout this report we are looking at entitlements in law, not in most cases at the barriers which may nevertheless exist in practice to individuals securing access to the service. We know from many studies that such obstacles or 'implementation gaps' can be substantial, including refusal of access by service providers or administrative staff (whether knowingly or through lack of understanding of the complex rules on entitlements), documentary requirements that irregular migrants cannot provide, lack of knowledge on the part of the migrant of their entitlement, language barriers, and fear of detection if the service is used (PICUM, 2007; Cuadra, 2012; FRA, 2011b:41; HUMA Network, 2010; OHCHR, 2014:40). The relative impact of barriers cited, such as cost and fear of detection, are known to differ significantly between countries in relation to health care (Chauvin and Simonnot, 2013:36). There are examples of steps taken at national, regional and municipal level to overcome some of the barriers irregular migrants face in accessing the services to which in law they are entitled, not least those faced by children (PICUM, 2015). The barrier that we

⁶ <http://picum.org/en/news/bulletins/>

⁷ Austria, Belgium, Denmark, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Netherlands, Spain, Sweden and the UK.

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do consider here in relation to health care is where the entitlement is in effect nullified by a significant requirement to pay, or likewise by a requirement on service providers to notify the police about the service user.

2.0 Entitlements to Health Care

Providing an overview of entitlements to health care is complicated by the differing health systems and services available across the EU28, by differing expectations of payment for care where access is permitted and differing terminology for services provided, making direct comparison problematic.

One key difference between systems is whether health care is funded by taxation, social insurance or a combination of the two. The system of funding brings with it differing procedural requirements for accessing services in which insurance models have greater independence from the state (Chimienti and Solomos, 2015); but patterns of access to care across the EU have been found to be independent of the system of financing (Cuadra, 2012). Irregular migrants may in theory be able to purchase private health insurance without proof of residence status, but the cost makes this option inaccessible in most cases, as for the general population (Thomson, Foubister et al, 2009).

Regardless of the funding basis of the system, it is expected in some countries that individuals make a small - or significant - out of pocket direct payment for some or all health care services. In its interpretation of the right to health under the International Covenant on Economic, Social and Cultural Rights (CESCR), the UN Committee on the CESCR has argued that the right to health care means care which is available, accessible, acceptable and of good quality.⁹ While in this mapping of entitlements we cannot assess the extent to which those broader criteria are met, we do consider here the extent to which, despite an entitlement in law, irregular migrants can nevertheless be prevented from accessing care by a requirement to pay. An entitlement which is in effect economically inaccessible cannot be deemed an entitlement (Cuadra, 2012). There is evidence that the cost of care is a significant barrier to access; the principal barrier cited by irregular migrants in Cyprus for instance and in Poland. In the latter, almost half of 51 irregular migrants surveyed had not seen a health professional on the last occasion that they had needed to do so (Huma, 2011:139).

Cost requirements differ between countries in scale and in the services for which payment is expected (for instance for some or all treatments, laboratory fees and/or medicines), as do the impact of charges relative to earnings. This criteria is therefore difficult to implement in our study. Where individuals cannot pay, moreover, there are differences between and

⁹ CESCR (2000) General Comment 14 'The right to the highest attainable standard of health'. 11.08.2000. E/C 12/2000/4

within countries in whether treatment is nevertheless provided. In most cases we therefore simply note (in Table 1) where an out of pocket payment is expected, but consider the implications of the requirements more closely in relation to those countries where access in other respects appears to be the least restricted.

An entitlement may also be undermined by a simultaneous requirement on health care providers, or those administering the payment for treatment, to pass on the details of service users to the immigration authorities (or by the absence of a data firewall preventing that transfer). The potential for such transfers has been a controversial issue in some countries, notably Germany, and its proposed introduction the focus of opposition by health professionals, as in Italy.

Categorisation of countries to enable comparison is further complicated by the scope of differing terminology used for health services, in particular for 'emergency', 'primary' and 'secondary' care. For ease of comparison, we have adopted the grouping of services used by the Fundamental Rights Agency:

Emergency care includes life-saving measures as well as medical treatment necessary to prevent serious damage to a person's health. Primary care includes essential treatment of relatively common minor illnesses provided on an outpatient or community basis (e.g. services by general practitioners). Secondary care comprises medical treatment provided by specialists and, in part, inpatient care (FRA, 2011a:74).¹⁰

A further distinction is that some countries have legal provisions which overtly provide an entitlement for irregular migrants to access certain health care services while in other cases the entitlement is implicit: it is the absence of the exclusion of irregular migrants from a universal service. An explicit entitlement provides greater clarity but does not necessarily mean greater access than where the entitlement is implicit (FRA, 2011a:74). Where the delivery of health care is the responsibility of regional authorities, as in Spain, there can be further variation in entitlements to the extent allowed by national law.

¹⁰ Using the same breakdown into emergency, primary and secondary care, the HUMA network (2009:11) gave the following, fuller definitions:

Emergency care: medical or other health treatment, services, products or accommodations provided to an injured or ill person for a sudden onset of a medical condition of such nature that failure to render immediate care would reasonable result in deterioration of the injured person's medical condition.

Primary care: the first level contact with people taking action to improve health in a community. Primary Health Care is essential health care made accessible at a cost which the country and community can afford, with methods that are practical, scientifically sound and socially acceptable.

Secondary care: Specialized ambulatory medical services and commonplace hospital care (outpatient and inpatient services). Access is often via referral from primary health care services.

Before turning to the details on entitlements it is significant to note the direction of travel. While there are instances where the law has recently become more restrictive, as in Spain in 2012 (albeit now under review) and further restrictions are under consideration (as in the UK) there are also recent instances of entitlements to irregular migrants being extended. This is the case in Sweden, where access for adults and children was considerably extended by law reform in 2013; in the UK for victims of domestic and sexual violence in 2015 and likewise in relation to access to treatment for HIV in 2012 (although Greece tightened the criteria for access in the same year). Italy recently extended access for children to paediatric care, while Finland is currently reviewing its restrictions.

Table 1 shows the position across the EU28 in relation to entitlements to emergency, primary and secondary care. As it can be the case that a country does not generally make provision for access to primary and secondary care but nevertheless provides access to some additional services, we have indicated that further access on this table while spelling out the extent of those services in Table 2. As children are often granted different entitlements to adults, these are set out in Table 3. Further access for adults and children may be provided for those in detention or whose removal has been suspended or postponed (a requirement of the EU Returns Directive¹¹), a category not included in this mapping exercise though noted in some footnotes to the tables. The extensive footnotes provide additional detail and qualifications in relation to each country, including length of residence requirements in some cases (e.g. Portugal) while the final column cites the relevant legislation.

2.1 Emergency care

We see from Table 1 that in all 28 Member States irregular migrants are entitled to emergency care (variously defined). In some instances, payment may nevertheless be required although, as reportedly in Austria for instance, care providers may be expected to provide care regardless.

In six Member States irregular migrants adults are entitled to emergency health care *only* (Bulgaria, Cyprus, Finland, Lithuania, Luxembourg and Slovakia).

In a further 12 countries, irregular migrants are likewise excluded from primary and secondary care but do have entitlements to certain specialist services, as shown in more detail in Table 2 (that is, in Austria, Croatia, Denmark, Estonia, Greece, Hungary, Latvia, Malta, Poland, Romania, Slovenia and Spain).

We can also see in Table 1 that in many of the countries where entitlements for adults are restricted to emergency care (with the addition in some cases of some specialist services),

¹¹ 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, OJ 2008 L348/98.

some nevertheless grant greater entitlements to some categories of children (set out further in Table 3).

Where the entitlement is to emergency care only, in some cases there may be no legal bar to further access if the patient can pay for that service directly or has been able to pay for private health insurance.

2.2 Primary and secondary care

In 10 Member States we can see from Table 1 that irregular migrants are permitted by law to some level of access to primary and secondary care services: that is, in Belgium, Czech Republic, France, Germany, Ireland, Italy, Netherlands, Portugal, Sweden and the UK. The scope of services to which these entitlements provide access varies significantly, depending not only on the wording of the legislation (in Sweden, care ‘that cannot be deferred’, Belgium ‘essential or urgent care’ and in the Netherlands ‘medically necessary care’) but also the judgement of the health professional who decides whether that criterion applies.

Before judging these countries to be the most accessible in this respect we need to consider whether in any cases a requirement to pay a significant part of the cost of care in effect nullifies that entitlement. We make this judgement on the basis of evidence on payment for care (not for medicines and other costs), including evidence from Doctors of the World (Médecins du Monde), a significant provider of health care services to this population (2013a); the evidence collected for the NowHereland study (Cuadra, 2012) and by the Fundamental Rights Agency (2011b:42-3).

In the Czech Republic, access is only on the basis of full payment for care so that it cannot be considered a meaningful entitlement. In Ireland, care is likewise only for payment and, although regulations allow for reduced or no payment in cases of undue hardship, it cannot be said that an entitlement to care exists. In Germany, there is no hospital treatment without payment before or after care. Moreover, if irregular migrants want the state to pay for their health care (other than in an emergency) they must approach the Sozialamt (social security) office which, unlike doctors, has a duty to report irregular migrants if they are approached by them. As the Fundamental Rights Agency concludes, ‘This risk renders access to non-emergency health care meaningless’ (FRA, 2011b:16); and likewise Médecins du Monde: ‘undocumented migrants do not really have access to health care, because they are stopped by the legal risk of being turned in’ (2013a:33). In the UK access to secondary care is likewise significantly constrained by requirements to pay the full cost of treatment (and plans to charge 150% in some cases) so that no entitlement can be said to exist. Access to primary care is currently free but under review. Plans for greater data sharing between the NHS and immigration authorities in relation to recovery of the cost of treatment may prove to be a further constraint. Accident and emergency services and treatment for communicable diseases remain free of charge and treatment for certain vulnerable groups such as children in local authority care.

There are further procedural requirements which can, to varying degrees, undermine the entitlement to access care. Irregular migrants can have to demonstrate that they are experiencing financial hardship before qualifying for free treatment, a requirement which (as in Belgium) can prove a procedural obstacle to receiving the care needed (Médécins du Monde, 2013a:8). In addition, the challenges which health care providers in Italy, France and Belgium experience in recouping the costs of care from the state mean that irregular migrants are sometimes turned away without treatment (FRA, 2011b:42-3). In the Netherlands, only a limited number of contracted hospitals can be reimbursed for care to irregular migrants and in most cases only 80% of the cost of services by primary care providers is reimbursed. Further procedural barriers can be a residence requirement of a certain period, as in the 90 days' residence required in Portugal for access to secondary care.

On the basis of this analysis we conclude - notwithstanding the significant qualifications on the strength of the entitlements noted above - that entitlements for irregular migrants to *a level of* primary and secondary care are, in relative terms, least restrictive in six countries: Belgium, France, Italy, the Netherlands, Portugal, and Sweden. There can, as we have emphasised, nevertheless be procedural and other barriers to securing access in practice.

Table 1 Right to health care for irregular migrants across the EU28: Emergency, primary and secondary care

Country	Emergency care	Primary care	Secondary care	Out of Pocket Payment for care	Additional provision for some/all children (see Table 3)	Any additional specific services (see Table 2)	Law
Austria	✓			✓ ¹²	✓	✓	Basic Care Agreement, BGBl.I Nr. 80/2004. Austrian Federal Hospitals Act.
Belgium	✓	✓	✓ ¹³		✓	✓	Art. 57 § 2, 1° Loi organique des CPAS (8 July 1976); Arrêté royal relatif à l'aide médicale urgente octroyée par les centres publics d'aide sociale aux étrangers qui séjournent illégalement dans le Royaume (Royal Decree, 12 December 1996).
Bulgaria	✓			✓			Health Act (2004), Articles 82 (1), 99 (1) and 100 (1); enforced on 1 January 2005. ¹⁴
Croatia	✓ ¹⁵			✓	✓	✓	Law on Foreigners' Obligatory Health Insurance and Health care of Foreigners in the Republic of Croatia (Article 24).

¹² **Austria:** People without insurance have access to emergency treatment but are then expected to pay. Hospitals are obliged to pay costs if patients are unable to pay. Irregular migrants can under certain circumstances gain health insurance coverage if they register at asylum centres or are in contact with immigration authorities (Article 2(6) §§2,4 of the BGBl Nr. 80/2004).

¹³ **Belgium:** The right to health care is explicit in law. Legislation refers to “essential or urgent care” which can encompass a broad range of services. Access to emergency medical assistance is through the programme “*Aide Médicale Urgente, AMU*” (Emergency Medical Assistance) since 1996. The ‘necessity’ of care must be certified by a medical professional. To secure financial assistance, irregular migrants must demonstrate that they are living in the district where they are applying for it and are unable to pay for health care. Specialist and inpatient treatment can also be provided and some medication free of charge. Public Welfare Officers consider requests for emergency assistance which, if approved and paid for, are reimbursed by the Federal government.

¹⁴ **Bulgaria:** Emergency medical aid is provided when related to (a) life endangering health conditions; (b) examination of pregnant women or medical assistance during delivery; (c) psychiatric aid; (d) transplantation of organs, tissues or isolation; (e) mandatory medical treatment or isolation; (f) medical establishment of temporary or permanent working disability.

Country	Emergency care	Primary care	Secondary care	Out of Pocket Payment for care	Additional provision for some/all children (see Table 3)	Any additional specific services (see Table 2)	Law
Cyprus	✓			✓ ¹⁶	✓		Administrative circulars, 2000 Refugee Law.
Czech republic	✓ ¹⁷	✓	✓	✓ ¹⁸			Act No. 372/2011 Collection of Laws on health services and the conditions of their provision.
Denmark	✓ ¹⁹			✓	✓	✓	Health Act, Section 80 (2008).
Estonia	✓				✓	✓	Health Services Organisation Act (<i>Tervishoiuteenuse korraldamise seadus</i>), Article 6(1) (2001), RT I 2001, 50, 284.

¹⁵ **Croatia:** Only if they are accommodated in a detention centre or are in the returns procedure. While the law refers to emergency care for 'foreigners who reside illegally' they are defined in Art 19 of the Act as those who are detained, whose removal is postponed or who have been given a date for voluntary return. Emergency care is defined (Art 8) as diagnostic and therapeutic procedures necessary to avoid immediate danger to life and health. The Act specifies that the patient is expected to pay for the treatment but if unable to do so the Ministry of Health will cover the cost.

¹⁶ **Cyprus:** Irregular migrants are given emergency treatment in hospitals but have to pay for any further treatment.

¹⁷ **Czech Republic:** Those holding a Czech Republic toleration visa are entitled to primary health care services: Act No.325/1999 Coll. on Asylum, Article 88. Access to health care is granted to both adults and children whose removal has been suspended or postponed: Act No.326/1999 Coll., on the Residence of Foreign Nationals in the Territory of the Czech Republic, Article 48.

¹⁸ **Czech Republic:** Can in principle access primary and secondary care for payment of full cost.

¹⁹ **Denmark:** Non-removed persons in Denmark are entitled to health care beyond emergency services if they are accommodated in alien or asylum centres: Aliens (Consolidation) Act, No.785 (2009), Article 14(1) b.

Country	Emergency care	Primary care	Secondary care	Out of Pocket Payment for care	Additional provision for some/all children (see Table 3)	Any additional specific services (see Table 2)	Law
Finland	✓			✓			Health Care Act (1326/2010) Section 50, Health Care Professionals Act (559/1994) Section 15, Act on Specialized Medical Care (1062/1989) Sections 3 and 30; and Act on the Implementation of Social Security Legislation (1573/1993) Sections 3, 3a and 3c. ²⁰
France	✓	✓	✓ ²¹		✓	✓	Loi No 99-641 (1999).
Germany	✓	✓	✓	✓ ²²	✓	✓	Asylbewerberleistungsgesetz (Asylum Seeker Benefit Act), BGBl. I S. 2022 (1997), Sections 1, 4; Aufenthaltsgesetz, BGBl. I S. 162, Sections 87(2) and 88(2).

²⁰ **Finland:** The reason they can only access emergency care is that they are not registered as legal residents in any city or commune.

²¹ **France:** Under express legal provisions, irregular migrants who have resided in France for more than three months are entitled to all basic services through the State Medical Aid (*Aide Médicale d'État*, AME; regulated by Social Action and Family Code, Article L.251-1: Loi No. 99-641 of 27 July 1999) if they have resources under €720.43/month since July 2014 (the AME threshold was raised by Decree No 2013-507 of 17 June 2013) and is valid for one year. Irregular migrants who cannot prove that they have been resident in France for more than three months are only entitled to hospital services for care that is deemed urgent. Minors are entitled to AME on arrival. There is also full access to free and confidential mental health treatment and e.g. methadone treatment.

²² **Germany:** Access to health care for irregular migrants is the same as for asylum seekers and goes beyond emergency care. An instruction by the Federal Assembly (2009) states that hospital administrative and medical personnel are bound by medical confidentiality (*Allgemeine Verwaltungsvorschrift (AVV) zum Aufenthaltsgesetz Nr. 88.2.3. vom 26 Oktober 2009*). However, for health care beyond emergency reimbursement needs to be sought from social welfare offices and ambiguity remains as they are not covered by that confidentiality requirement. Access to primary and secondary care is only for acute health care needs and not for chronic diseases (e.g. rheumatism). There is also a policy ('*Duldung status*') to provide maternal care and medical assistance for giving birth. Adults can receive medicines at reduced or at no cost.

Country	Emergency care	Primary care	Secondary care	Out of Pocket Payment for care	Additional provision for some/all children (see Table 3)	Any additional specific services (see Table 2)	Law
Greece	✓ ²³			✓	✓	✓	Law no. 2910/2011. Directive 2 May 2012 amending law on 'Entry, residence and social integration of third-country nationals in the Hellenic Territory', No. 3386/2005, Article 84(1).
Hungary	✓			✓ ²⁴		✓	Act on Health, Act CLIV of 1997, Articles 94(1) and 142(2) and Regulation 52/2006.
Ireland	✓	✓	✓	✓ ²⁵		✓	Health Act 1970 (as amended 1991), Sections 45(1) and 47A. This introduced an "ordinarily residence" rule.
Italy	✓ ²⁶	✓	✓ ²⁷		✓	✓	Art. 35 National Immigration Law (Legislative Decree No. 286/1998), as amended, Article 35(3). ²⁸

²³ **Greece:** In May 2012 the Greek Health Ministry urged public hospitals to cut free medical care to irregular migrants beyond the required emergency care. Although pregnancy constitutes a reason to be awarded temporary suspension of removal, it does not extend to entitlements for maternal care during this period. A Circular (18 August 2011) states that patients should be examined by doctors who decide whether or not the state of health constitutes an emergency.

²⁴ **Hungary:** If a patient cannot pay then the treatment is qualified as non-returnable and the health care provider can be reimbursed by the state. Non-removed persons are entitled to health care beyond emergency services if they are accommodated in alien or asylum centres: Government Decree 114/2007 (V.24) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals, Article 139. Irregular migrants have to pay for the full cost of medicines. Decree 87/2004 (X.4.) ESZCSM lists categories of persons entitled to compulsory insurance, which is needed to receive health care free of charge. May also access primary care with private practitioners at patient's full cost.

²⁵ **Ireland:** Irregular migrants are not granted the medical card which entitles the holder to cost-free medical services. In practice the level of health care is decided by hospitals on a case by case basis for payment. In some instances irregular migrants may be able to access secondary care which, if urgent and necessary, may be at reduced charge or without charge if charging the full economic cost would cause undue hardship (Department of Health Circular 13/92, 7 July 1992). In practice this excludes many, including children, from accessing any health care beyond emergency care (http://www.immigrantcouncil.ie/images/stories/publications_-_special_rapporteur_sub_310110.pdf). For guidance on 'ordinarily resident' see: http://www.flac.ie/download/pdf/habitual_residence_condition_guide_final.pdf

Country	Emergency care	Primary care	Secondary care	Out of Pocket Payment for care	Additional provision for some/all children (see Table 3)	Any additional specific services (see Table 2)	Law
Latvia	✓			✓ ²⁹		✓	Medical Treatment Act, Sections 16, 17 and 18 (1998, as amended).
Lithuania	✓ ³⁰				✓		Law on Health Insurance (2008, as amended in 2012), Article 8.
Luxembourg	✓ ³¹			✓ ³²	✓		No specific legal provision. ³³

²⁶ **Italy:** In order to access care free of charge irregular migrants must state in written form that they cannot afford to pay for treatment.

²⁷ **Italy:** This also covers specialist and inpatient treatment. Adults can receive medicines at reduced or no cost. Access can in practice be impeded by the lack of an entitlement to register with a GP.

²⁸ **Italy:** Preventative, urgent and essential treatment is provided. See also Art. 32 Italian Constitution and Regulation of the Ministry of Health of March 24th, 2000 (Administrative Circular No. 5/2000) and affirmed by Italian Constitutional Court, judgement 252/2001. The State-Regions Permanent Conference agreed “Guidelines for the correct application of legislation on health care to the foreign population by the Italian Regions and Autonomous Provinces” on 20 December 2012 aiming to ensure that legislation on access to health care is applied equally throughout Italy. The provision of health services is delegated to the regional authorities (Article 43 of the Decree of the President of the Republic (DPR) 394/99) and some regions may apply a more restrictive or generous interpretation of the national law.

²⁹ **Latvia:** Except for detained persons, including children. The Ministry of Interior bears the costs for foreigners detained according to the Immigration Law, Organization and Financing of Health Care (No. 1046, 19 December 2006).

³⁰ **Lithuania:** Persons who are not covered by the obligatory health insurance are exempted from payment for emergency care. Non-removed persons are entitled to health care beyond emergency services if they are accommodated in foreigners’ or asylum centres: Order of the Minister of Interior No. IV-340, 4 October 2007.

³¹ **Luxembourg:** Non-removed persons registered with immigration authorities may be registered with health insurance and access encompassed health care services. Adults whose removal has been postponed or suspended are also granted access to health care, but children may receive a wider range of treatments.

³² **Luxembourg:** Migrants may apply for post-treatment costs reimbursement from a fund dedicated to covering treatment costs for uninsured patients, which explicitly includes migrants in an irregular situation.

³³ **Luxembourg:** “However, there is an informal agreement between the Ministry of Health and the Ministry of Immigration, in terms of which the Ministry of Health draws up a list of names of persons (patients) who are undocumented migrants and submits the list to the Ministry of Immigration every six months [...]. The purchasing of insurance does not require legal residency. In terms of an informal government agreement from 2007, undocumented migrants may purchase social insurance if they can demonstrate that they are resident in the territory identified in, for example, a contract of accommodation or utility bill.” (Cuadra, 2010p:9).

Country	Emergency care	Primary care	Secondary care	Out of Pocket Payment for care	Additional provision for some/all children (see Table 3)	Any additional specific services (see Table 2)	Law
Malta	✓ ³⁴				✓	✓	Refugees Act 13(2) ³⁵
Netherlands	✓	✓	✓ ³⁶			✓	Art 10, S2 Foreigners Act 2000; Amendment to the Health Insurance Act 31249 (2008) Article 122
Poland	✓			✓ ³⁷		✓	Law on Health care Services Financed by Public Funds, 2004 ³⁸
Portugal	✓	✓	✓	✓ ³⁹	✓	✓	Despach do Ministério da Saúde No. 25/360/2001; Decreto Lei No. 135/99 (1999), Art.34. No.2 Basic Law on Health XXXIII.
Romania	✓ ⁴⁰				✓	✓	Health Reform Law, 95/2006, Article 211.

³⁴ **Malta:** Irregular migrants in detention are entitled to health care services. The law is silent about health care rights once released from detention.

³⁵ **Malta:** There is also a policy document which states that irregular migrants are entitled to “free state medical care and services”. Ministry for Justice and Home Affairs and Ministry for the Family and Social Solidarity, *Irregular Immigrants, Refugees and Integration – Policy Document*, 2005, p. 12.

³⁶ **Netherlands:** Care is free of charge if the patient can prove he/she is unable to pay. Secondary care also covers specialist and inpatient treatment. Medical professionals must assess and certify the ‘necessity’ of care prior to treatment. It is the health providers’ duty to produce evidence that a patient cannot cover treatment expenses: Law on the Reimbursement of Costs of Care to Illegal Foreigners.

³⁷ **Poland:** The situation regarding payment remains unclear, but medicines are not cost-free.

³⁸ **Poland:** Also Foreigners Act of 13 June, Dz. U. (Journal of Laws) No. 128 of 2003, item 1175, as amended; Act on Providing Protection to Foreigners in the Territory of the Republic of Poland of 13 June 2003, Dz. U. (Journal of Laws) No. 128 of 2003, item 1176, as amended and Act on the Card of the Pole of 7 September 2007, Dz. U. (Journal of Laws) No. 180 of 2007, item 1280, as amended. All care has to be paid for except emergency and infectious diseases.

³⁹ **Portugal:** Irregular migrants are granted access to the national health system provided that they have lived in Portugal for more than 90 days, obtain confirmation of residence from the district administration and register as a temporary patient at a local health centre. Those who have been resident for fewer than three months may only access emergency health care, maternal care and care for communicable diseases. Circular Informativa no. 12/DQS/DMD/07.05.09. Payment of standard fees is expected except for those unable to pay or pose a public health risk.

Country	Emergency care	Primary care	Secondary care	Out of Pocket Payment for care	Additional provision for some/all children (see Table 3)	Any additional specific services (see Table 2)	Law
Slovakia	✓ ⁴¹			✓ ⁴²	✓		Act No. 576/2004 Coll. on Health care, Health care Related Services and on amendments and supplementation of certain Acts ⁴³
Slovenia	✓					✓	Care and Health Insurance Act, Article 7 (1992, as amended), Aliens Act (ZTuj-2) ⁴⁴
Spain	✓ ⁴⁵				✓	✓	Royal Decree Act 16/2012 ⁴⁶

⁴⁰ **Romania:** Emergency care, anti- and post-natal care and infectious diseases are to be provided free of charge to every patient by law. Payment of full cost is necessary for further treatment.

⁴¹ **Slovakia:** Emergency care is to be provided free of charge to every patient by law. There are no specific regulations for non-removed persons or for children in an irregular situation.

⁴² **Slovakia:** If a migrant does not have commercial insurance, then direct payments are necessary, only foreigners with permanent residence and employed migrants with temporary residence can (must) have a public insurance.

⁴³ **Slovakia:** *Zákon 576/2004 Z.z. o zdravotnej starostlivosti, službách súvisiacich s poskytovaním zdravotnej starostlivosti a o zmene a doplnení niektorých zákonov*, Section 11 and Act No. 580/2004 Coll. on Health Insurance as amended (*Zákon č. 580/2004 Z.z. o zdravotnom poistení*). Emergency care, ante- and post-natal care and infectious diseases are to be provided free of charge to every patient by law.

⁴⁴ **Slovenia:** Health Uradni list RS (Official Gazette of the Republic of Slovenia), No. 50/2011 of 27 June 2011).

⁴⁵ **Spain:** Since May 2012 access to health care services at the same level as nationals has been restricted to emergency, serious disease, accident, maternity and child care. Proof of identity (e.g. a passport) and of factual residence is required. Adult migrants can receive medicines at reduced or no cost. The ambiguity of the concept of “emergency” and ‘serious disease’ gives considerable discretionary power to health professionals. The level of access to health care varies considerably between the autonomous regions of Spain. In a ruling relating to the Basque Country on 13 December 2012 the Constitutional Court upheld universal health care access, ruling that it prevails over the financial benefit linked to savings made by excluding certain groups. It further stated that health protection cannot be dismissed due to human rights enshrined in the Spanish Constitution (article 43) and the European Court of Human Rights. Catalan law guarantees access to public services, especially health care, for all persons registered in the regions: National Immigration Pact (Resolution 742/IX of the Parliament of Catalonia).

⁴⁶ **Spain:** amending the Foreigners Act; Art. 3 of the Law 16/2003; Ley Organica 4/2000 sobre derechos y libertades de los extranjeros en España y su integración social (2000). Prior to this decree entitlement to health care was universal through registration in the local municipality which is accessible to irregular migrants.

Country	Emergency care	Primary care	Secondary care	Out of Pocket Payment for care	Additional provision for some/all children (see Table 3)	Any additional specific services (see Table 2)	Law
Sweden	✓ ⁴⁷	✓	✓	✓ ⁴⁸	✓	✓	Law (2013:407): Health and Medical Care for Certain Foreigners Residing in Sweden without Proper Documentation Act. ⁴⁹

⁴⁷ **Sweden:** Health care reforms came into effect 1 July 2013 granting access to subsidised health care to migrants without legal immigration status. This includes ordinary care to children under the age of 18, and for others care “that cannot be deferred” including dental care, maternity care, contraception and sexual and reproductive care.

⁴⁸ **Sweden:** Since 2013 the fees are the same as for asylum seekers. There are no charges for preventative infant and maternity care (public primary health care providers only), obstetric care and measures under the Communicable Diseases Act (2004:168).

⁴⁹ **Sweden:** Changes in the health care laws, amending laws (1982:763) (1985:125), (2004:168) and (2008:344).

Country	Emergency care	Primary care	Secondary care	Out of Pocket Payment for care	Additional provision for some/all children (see Table 3)	Any additional specific services (see Table 2)	Law
UK	✓	✓	✓	✓ ⁵⁰	✓	✓	Immigration Act 2014 (s39). National Health Service (Charges to Overseas Visitors) Regulations 2015. Guidance on Implementing the Overseas Visitors Hospital Charging Regulations, Department of Health, 2015. ⁵¹

⁵⁰ **UK:** Detailed regulations (Department of Health, 2015) cover the services for which charging is required. The scope and process for reclaiming the costs from those ineligible for free NHS care have been under review including the potential extension to cover parts of primary care and secondary care services provided outside of hospitals. Further data sharing between the NHS and immigration authorities in this context is also planned. A two year timeline was set in July 2014 for a *Visitor and Migrant NHS Cost Recovery Programme: Implementation Plan 2014-2016*. In July 2014 the Department of Health announced that some non EEA patients would be charged 150% of the cost of treatment. Hospital trusts that fail to identify and bill chargeable patients would face financial sanctions. <https://www.gov.uk/government/news/plans-to-encourage-the-recovery-of-migrant-nhs-health-care-costs>

⁵¹ **UK:** Irregular migrants can currently register with a general practitioner (GP) or local health centre, free of charge. Secondary care can also be accessed, but only against payment for the full cost of treatment. That requirement includes the cost of giving birth unless this service was provided by midwives in community health centres. Access to free secondary care depends, with certain exceptions, on whether a person is *ordinarily resident* and (since 2014) has indefinite leave to remain whereas those who are not ('overseas visitors') are charged. Services that are free to everyone are accident and emergency services (but not subsequent inpatient/outpatient treatment), compulsory psychiatric treatment, family planning, treatment for a range of communicable diseases including HIV/Aids and viral hepatitis, and (from April 2015) treatment for victims of domestic and sexual violence. Vaccination is available for all children and adults residents through their GP and baby clinics. Treatment deemed 'immediately necessary' or 'urgent', including maternity services, cannot be withheld pending payment. Treatment which is 'immediately necessary' is defined as treatment which a patient needs to save their life, to prevent a condition from becoming immediately life threatening or to prevent permanent serious damage from occurring; and 'urgent treatment' as that which, although not immediately necessary, cannot wait until the person can reasonably be expected to return home (Guidance, 2015, paras 8.4-8.8). Payment is required but should not be delayed or withheld for the purposes of securing payment. The Guidance does not cover primary care which is not currently subject to charging but is under review.

2.3 Infectious diseases

We have further looked at whether screening and treatment is available for infectious diseases, including HIV, as a specialist area to which access is often provided. Migrants from countries with generalised HIV epidemics (such as in sub Saharan Africa) are known to be disproportionately affected by HIV and migrants can also be disproportionately represented among key affected populations such as sex workers and intravenous drug users, so that some countries in the EU consider migrants an important sub-population of their response to it. However, the European Centre for Disease Prevention and Control (ECDC) reports that 'Undocumented migrants are more likely to face barriers to prevention, testing, treatment and care, due to lack of legal residence status and health insurance (ECDC, 2014:8).⁵²

Table 2 shows that 15 States allow access to screening for HIV and of them 10 allow access to treatment: that is, Belgium, France, Greece, Italy, Malta, Netherlands, Portugal, Spain, Sweden and the UK. Patients can however face the same obstacles to access as noted for primary and secondary care. Since 2012 patients seeking treatment in Greece have risked being detained and deported if considered to pose a risk to public health.⁵³ A recent report from the ECDC shows a larger number of EU States where treatment 'is accessible' (ECDC, 2014). The extension of access to free HIV treatment to irregular migrants in the UK in 2012 followed a significant debate at parliamentary level on, in particular, the public health implications of excluding this section of the public.⁵⁴

A greater number of States (17) allow access to screening for other infectious diseases such as tuberculosis (TB), of which 14 also allow access to treatment, at least for TB.

There are thus 11 States where irregular migrants are not entitled to access screening or treatment for any infectious diseases, namely Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, Lithuania, Luxembourg, Romania, Slovakia and Slovenia. In some cases they may be able to access screening and treatment on the payment of the full cost of that service.

2.4 Maternity care and child birth

Child birth and related health care needs are sometimes seen as a special case, greater access being allowed to a level of care. The practice in the UK of providing maternity services regardless of payment up front, for instance, 'is justified by the significant risks to both mother and baby if health goes unchecked, and the fact that, at least for delivery, it cannot be delayed' (Department of Health, 2015b:10).

⁵² See also ECDC (2012)

⁵³ Following an amendment to Presidential Decree 114/2010 (law 4075/2012, art.59).

⁵⁴ See Minister in the relevant parliamentary debate at:

<http://www.publications.parliament.uk/pa/ld201212/ldhansrd/text/120229-0003.htm#12022983000049>

The nature of maternity services across Member States – that is, of pre and post-natal care and delivery - vary so that Table 2 can give only a broad indication of an entitlement rather than clarity on the level of service to which that in practice should provide access.

Table 2 shows that 21 EU countries provide an entitlement to a level of maternity care although in three countries (Austria, Greece and Slovenia) that is an entitlement to care for delivery only. Seven States make no specific provision relating to maternity care (Bulgaria, Cyprus, Finland, Lithuania, Luxembourg, Poland and Slovakia). Ireland illustrates the many ambiguities we find in provisions across the EU: an entitlement for maternity care for those 'ordinarily resident' but a lack of clarity whether irregular migrant women can qualify for that status. Many or all states without specific provisions will include giving birth within the definition of emergency. The question of who is liable for costs – as in countries which do allow access to maternity care - remains problematic.

Table 2: Specific health services accessible to irregular migrants in the EU28

Country	Maternity care	HIV		Other infectious diseases		Law
		Screening	Treatment	Screening	Treatment	
Austria	Birth only			TB	TB	Basic Care Agreement, BGBl.I Nr. 80/2004.
Belgium	✓	✓	✓	✓	✓	Loi organique des centres public d'aide social, 8 July 1976, Article 57.
Bulgaria						Health Act (2004).
Croatia	✓ ⁵⁵	✓		✓	✓	Regulation on Accommodation in Detention Center, Official Gazette Nr. 66/13; Law on Obligatory Health Insurance and Health care of Foreigners 2014; Law on the Protection of the Population of Infectious Diseases (Official Gazette Nr. 79/07, 113/08, 43/09).
Cyprus						Administrative Circulars and 2000 Refugee Law. ⁵⁶
Czech republic	✓					Act No. 372/2011 Collection of Laws on health services and the conditions of their provision.
Denmark	✓					Health Act (2008).
Estonia	✓ ⁵⁷					Health Services Organisation Act (2001).

⁵⁵ **Croatia:** The 2014 Act specifies only emergency health care for those in the returns procedure. The earlier regulation on Accommodation in Detention (Art 13) refers to medical services provided in a morning clinic and specifically to maternity services. Given the subsequent Act it is not clear if this Regulation remains in force.

⁵⁶ **Cyprus:** A ministerial circular of 2011 (Y.Y.11.11.09(4)) states that pregnant women should have access to health care, but it is reportedly not implemented. The Huma Network (2011:23) states that the hospital authorities regularly report women to the immigration authorities so that they risk arrest when their health allows. The Network (2011:16; 25) also reports Government assurance that treatment for TB and HIV is free regardless of immigration status (see Regulation 6 *peri Kyvernitikon Iatrikon Idrimatou kai Ypiresion Genikoi Kanonismoi* on public health system of 2000 as amended; and Regulation 3(3)) but say this is not normally reflected in practice, full payment being required.

⁵⁷ **Estonia:** They have access but only against payment.

Country	Maternity care	HIV		Other infectious diseases		Law
		Screening	Treatment	Screening	Treatment	
Finland						Health Care Act (2010).
France	✓	✓	✓	✓	✓	Loi n°98-657, 29 July 1998.
Germany ⁵⁸	✓	✓		✓	✓	Asylbewerberleistungsgesetz, BGBl. I S. 2022 (1997), Section 4(2).
Greece	Birth only	✓	✓ ⁵⁹	✓		Law no. 2910/2001. Directive 2 May 2012 amending law 3386/2005, S84.
Hungary	✓ ⁶⁰	✓		✓		Regulation 52/2006.
Ireland	✓ ⁶¹	✓		✓		Health Act 1970 (as amended 1991).
Italy	✓	✓	✓	✓	✓	Legislative Decree 1998/286 (Decreto Legislativo 25 luglio 1998, n. 286), as amended, Article 35(3).
Latvia	✓			TB	TB	Medical Treatment Act (1998 as amended).
Lithuania						Law on Health Insurance (2008, as amended 2012).
Luxembourg						

⁵⁸ **Germany:** Here again note that the entitlement is in effect nullified by the obligation on social services staff to report irregular migrants.

⁵⁹ **Greece:** Serious infectious diseases are covered because considered emergencies. This was limited by the Directive of 2 May 2012 so that HIV treatment for irregular migrants is only accessible until the patient's health has been "stabilised".

⁶⁰ **Hungary:** It is unclear whether irregular migrants have to pay for maternal services or not: Regulation 52/2006.

⁶¹ **Ireland:** According to the Health Services Executive 'Every women who is pregnant and ordinarily resident in Ireland is entitled to maternity care under the Maternity and Infant Scheme. Ordinarily resident means you are living here, or you intend to remain living here for at least one year.' <http://www.hse.ie/eng/services/list/3/maternity/combinedcare.html>. While the definition of 'ordinarily resident' does not include legal residence it is reportedly interpreted to do so. It is therefore unclear whether maternity care is in fact available.

Country	Maternity care	HIV		Other infectious diseases		Law
		Screening	Treatment	Screening	Treatment	
Malta	✓	✓	✓	✓	✓	Refugees Act 13(2). 2001, as amended.
Netherlands	✓	✓	✓	✓	✓ ⁶²	Amendment to the Health Insurance Act (2008).
Poland ⁶³		✓		✓	✓	Act on Preventing and Combating Human Infections and Communicable Diseases of 5 December 2008, Dz. U. (Journal of Laws) No. 234 of 2008, item 1570, as amended and Act on Mental Health Protection of 19 August 1994, Dz. U. (Journal of Laws) No. 111 of 1994, item 535, as amended; Act on Alcohol Abuse Prevention and Treatment of 26 October 1982, Dz. U. (Journal of Laws) No. 35 of 1982, item 230, as amended, and Act on Drug Abuse Prevention of 29 July 2005, Dz. U. (Journal of Laws) No. 179 of 2005, item 1485, as amended.
Portugal	✓	✓	✓	✓	✓	Despach do Ministério da Saúde No. 25 360/2001; Decreto Lei No. 135/99 (1999); and Decreto-Lei No 70/2000.
Romania	✓ ⁶⁴					Law 95/2006, Art.213 and Article 213 Law 95/2006.
Slovakia						Act No. 576/2004 Coll. on Health care, Health care Related Services and on amendments and supplementation of certain Acts.

⁶² **Netherlands:** This is for hepatitis.

⁶³ **Poland:** Irregular migrants are also entitled to substance abuse treatment in the case of drug or alcohol addiction and psychiatric treatment if mentally ill or impaired.

⁶⁴ **Romania:** Pregnant women and women who have just given birth (6-8 weeks after birth) are eligible for health care insurance regardless of immigration status based on low income.

Country	Maternity care	HIV		Other infectious diseases		Law
		Screening	Treatment	Screening	Treatment	
Slovenia	Birth					Aliens Act (ZTuj-2) Uradni list RS (Official Gazette of the Republic of Slovenia), No. 50/2011 of 27 June 2011).
Spain	✓	✓	✓	✓	✓	Ley 33/2011, de 4 Octubre, General de Salud Pública.
Sweden	✓	✓	✓	✓	✓	Law (2013:407): Health and Medical Care for Certain Foreigners Residing in Sweden without Proper Documentation Act.
UK	✓ ⁶⁵	✓	✓ ⁶⁶	✓	✓	National Health Service (Charges to Overseas Visitors) Regulations 2015.

⁶⁵ **UK:** Although these services are chargeable Department of Health guidance states that no woman must ever be denied, or have delayed, maternity services due to charging issues.

⁶⁶ **UK:** This was introduced on 1st October 2012.

2.5 Access to health care for children

Finally, we looked at any particular entitlement that children may enjoy to health care beyond those enjoyed by adults. Table 3 shows that entitlements for children with irregular status are generally more extensive than for adults: particularly but not only for those who are unaccompanied. Unaccompanied children, whether or not within the asylum system, are sometimes granted additional entitlements such as accommodation, as well as health care. The obverse is that children who are with their parents can be in a less favourable position. While we identify here whether there are additional entitlements to health care for unaccompanied children and those otherwise recognised by the authorities (and hence not ‘irregular’ per se) we do not provide a detailed overview of the particular provisions for these children.

In 8 Member States children, *whether with their parents or unaccompanied*, have the same entitlements to health care as children who are nationals of that country: that is, in Estonia, France, Greece, Italy, Portugal, Romania, Spain and Sweden.⁶⁷ In most cases the entitlement is explicit in law or regulations, while in Estonia and Romania it is implicit: the law states that all children are automatically insured, with no exception made for those with irregular status. In Estonia, the entitlement is for children attending school while in Poland children, who otherwise like their parents are entitled only to emergency care, can also through school attendance secure access to vaccinations and some additional services. In the Netherlands there is full access for children to certain preventative treatments including dental check-ups but otherwise only to the same level of entitlements as their parents. The age to which the entitlement extends can vary: in Portugal, for instance, it is for those up to 16 years of age and in Spain those less than 18.

⁶⁷ A recent PICUM report (2015) judged there to be nine Member States where entitlements are the same as those of nationals. It included Cyprus, where we judge that the Ministerial Circular granting entitlements may not meet our criteria of legal entitlement (see Table 3 footnote on Cyprus), illustrating the grey area that can pertain in relation to entitlement/no entitlement.

Map 1: Showing polarisation of entitlements to health care of children with irregular immigration status across the EU28



Table 3 shows that in a further 11 countries those children who are unaccompanied (and/or those known to the authorities) have additional entitlements relative to adults with irregular status. In the case of Belgium, Croatia, France, Luxembourg and the UK unaccompanied children are entitled to the same level of care as nationals of the country.

Where Table 3 shows that children are entitled only to the same level of care as their parents, it is necessary to look at Table 1 to see what access that should provide. We saw there that among those countries, Belgium, the Netherlands and the UK allow a level of access to primary and/or secondary care, so this will equally apply to children; but elsewhere the minimal entitlements for adults can equally apply.

In five countries, Bulgaria, Finland, Lithuania, Luxembourg and Slovakia, - children (other than those who are unaccompanied in some cases) are thus entitled only to emergency care.

In a further seven countries - Austria, Croatia, Hungary, Latvia, Malta, Poland, and Slovenia – they are entitled only to emergency care and, if applicable, to those specialist services such as treatment for infectious diseases to which access may be granted.

In the Czech Republic and Ireland we saw that, while access to a level of primary and secondary health care may be allowed, it is effectively barred for children as well as adults by a requirement to pay the full cost of treatment. (In Ireland this may change for children under six: see Ireland footnote, Table 3). For children in Greece, in theory entitled to the same care as nationals, the cost of care can prevent access in practice. Evidence of vaccinations, as in France and Greece, is a criterion for registering at school, an example of exclusion from health care having a broader impact than on health alone.

Table 3: Medical care for migrant children with irregular status in the EU28

Country	Same as nationals	Same as migrant children with legal status	Same as adults with irregular status	Additional rights if unaccompanied and/or known to the authorities/ tolerated status	Law
Austria			✓	✓	Basic Care Agreement, BGBl.I Nr. 80/2004. Austrian Federal Hospitals Act.
Belgium			✓	✓	Loi relative à l'assurance obligatoire soins de santé et indemnités (14 juillet 1994), Article 32 1st alinea No. 22. ⁶⁸ Royal Decree, 12 December 1996.
Bulgaria			✓		Health Act (2004), Articles 82(1), 99(1) and 100(1); enforced on 1 January 2005.
Croatia			✓	✓ ⁶⁹	Regulation on Accommodation in Detention Center, Official Gazette Nr. 66/13; Law on Obligatory Health Insurance and Health Care of Foreigners 2014; Law on the Protection of the Population of Infectious Diseases (Official Gazette Nr. 79/07, 113/08, 43/09).
Cyprus		✓ ⁷⁰		✓	Revision of Health Care Scheme in Public Hospitals 1.8.13; Ministerial Circular dated 2011 (Y.Y.11.11.09(4)); 2000 Refugee Law.

⁶⁸ **Belgium:** For unaccompanied minors in Wallonia see for example circular OA Nr. 2008/198 (9 mai 2008).

⁶⁹ **Croatia:** Children like their parents are entitled to emergency care only if in the returns procedure, with the exception of unaccompanied children who, under the Regulation on Accommodation in Detention Center (Art 22) are entitled to the same health care as those insured under the obligatory health insurance system.

Country	Same as nationals	Same as migrant children with legal status	Same as adults with irregular status	Additional rights if unaccompanied and/or known to the authorities/ tolerated status	Law
Czech republic			✓	✓	Act No. 372/2011 Collection of Laws on health services and the conditions of their provision.
Denmark		✓ ⁷¹			Health Act, Section 80 (2008).
Estonia	✓ ⁷²				Health Insurance Act (Ravikindlustuse seadus) §5(4), RT I 2002, 62, 377.
Finland			✓		Health Care Act (1326/2010) Section 50, Health Care Professionals Act (559/1994) Section 15, Act on Specialized Medical Care (1062/1994) Sections 3 and 30; and Act on the Implementation of Social Security Legislation (1573/1993) Sections 3, 3a and 3c.
France	✓			✓ ⁷³	Code on Social Action and Families (Code de l'action sociale et des familles – CASF) Loi No 99-641 of July 1999 and Decree of the Council of State of 7 June 2006 (Arrêt du Conseil d'Etat du 7 juin 2006).

⁷⁰ **Cyprus:** The law grants access only to free emergency care and specific services such as for infectious diseases and includes vaccinations if attending school (Huma Network, 2011:28). The Circular of 2011 that regulates access of undocumented children provides that they should have access to necessary treatment, without cost if unable to pay. While said to have the force of law (PICUM 2015:36) the Circular has not been officially published.

⁷¹ **Denmark:** Also entitled to certain preventative treatments, examinations and dental check-ups.

⁷² **Estonia:** The Act provides health care insurance for all children who attend school under the age of 19 and students up to 24.

⁷³ **France:** Explicit entitlement. Conditional (except in emergencies) on receiving *Aide Médicale d'État* AME (State Medical Aid) but otherwise the same entitlement as citizen children.

Country	Same as nationals	Same as migrant children with legal status	Same as adults with irregular status	Additional rights if unaccompanied and/or known to the authorities/ tolerated status	Law
Germany		✓ ⁷⁴		✓	§§ 1, 4 and 6 AsylbLG; and §§ 7, 19 Infektionsschutzgesetz.
Greece	✓ ⁷⁵				Codification of Legislation on the Entry, Residence and Social Integration of Third-Country Nationals on Greek Territory, Law 3386/2005 (Government Gazette-GG A 212), Article 84 (1), amended by Directive of 2 May 2012.
Hungary			✓		Act on Health, Act CLIV of 1997, Articles 94(1) and 142(2) and Regulation 52/2006.
Ireland			✓ ⁷⁶		Health Act 1970 (as amended 1991), Sections 45(1) and 47A.

⁷⁴ **Germany:** The entitlement is as for Asylum Seeker children. However, the requirement to seek reimbursement from social services who in turn have a duty to report irregular migrants to the authorities in effect means children do not have access to care, including vaccinations. For this reason, Médecins du Monde purchases and pays the costs of all vaccines it provides to the children of undocumented parents (2013a:33).

⁷⁵ **Greece:** The 2012 Directive on Article 84.1 Law No. 3386/2005 is explicit that health care should be provided to minors whether unaccompanied or not, in an emergency or not, regardless of status.

⁷⁶ **Ireland:** The Health (General Practitioner Service) Act 2014 (s5) provides an entitlement for children aged 5 and younger to have access to a free GP service if 'ordinarily resident'. Parents must provide information to establish that entitlement. 'Ordinarily resident' does not formally require legal status but immigration status has in practice been used as a criteria to deny eligibility, e.g. to asylum seekers who cannot be deemed ordinarily residents. See: http://www.flac.ie/download/pdf/habitual_residence_condition_guide_final.pdf. In Parliamentary debates on the 2014 Act Ministers refer to 'all' children benefiting from the new entitlement. It remains to be seen how it is interpreted when it comes into force (Oireachtas Second Stage debate, 2 July 2014).

Country	Same as nationals	Same as migrant children with legal status	Same as adults with irregular status	Additional rights if unaccompanied and/or known to the authorities/ tolerated status	Law
Italy	✓ ⁷⁷				Art. 35 National Immigration Law (Legislative Decree No. 286/1998), as amended, Article 35(3). Italian State-Regions Permanent Conference, Agreement No.255/CSR of 20 December 2012.
Latvia			✓		Medical Treatment Act, Sections 16, 17 and 18 (1998, as amended).
Lithuania			✓	✓	Law on Health Insurance (2008, as amended in 2012), Article 8.
Luxembourg			✓	✓	Code of Social Insurance, Article 32.
Malta			✓	✓	Refugees Act 13(2).
Netherlands			✓ ⁷⁸		Amendment to the Health Insurance Act 31249 (2008) Article 122.
Poland ⁷⁹			✓ ⁸⁰		Law on education system (7 September 1991), Articles 92 (1) and (2) and Regulation of the Minister of Health on the organisation of the prophylactic health care for children and youths of 28 August 2009.

⁷⁷ **Italy:** In October 2012 Minister of Health Renato Balduzzi put forward measures to ensure that irregular children will be guaranteed a home paediatrician on the same basis as children with Italian nationality.

⁷⁸ **Netherlands:** All children are granted free access to certain preventive treatment, examinations and dental check-ups, otherwise children have the same access as parents.

⁷⁹ **Poland:** Irregular migrants are also entitled to substance abuse treatment in the case of drug or alcohol addiction and psychiatric treatment if mentally ill or impaired. Act on Preventing and Combating Human Infections and Communicable Diseases of 5 December 2008, Dz. U. (Journal of Laws) No. 234 of 2008, item 1570, as amended and Act

Country	Same as nationals	Same as migrant children with legal status	Same as adults with irregular status	Additional rights if unaccompanied and/or known to the authorities/ tolerated status	Law
Portugal	✓ ⁸¹				Despach do Ministério da Saúde No. 25/360/2001; Decreto Lei No. 135/99 (1999). Decreto-Lei nº 67/2004 de 25-03-2004. Circular Informativa no. 65/DSPCS.
Romania	✓ ⁸²				Law 95/2006 on health care reform, Article 213. Romanian Law on the protection and promotion of the rights of the child/272/2004, Article 43.
Slovakia			✓		Act No. 576/2004 Coll. On Health Care, Health Care Related Services and on amendments and supplementation of certain Acts.
Slovenia			✓		Care and Health Insurance Act, Article 7 (1992, as amended), Aliens Act (ZTuj-2).
Spain	✓ ⁸³				Ley 33/2011, de 4 Octubre, General de Salud Pública; Royal Decree Act 16/2012 (introducing Art 3ter.al.4 of Law 16/2003).

on Mental Health Protection of 19 August 1994, Dz. U. (Journal of Laws) No. 111 of 1994, item 535, as amended; Act on Alcohol Abuse Prevention and Treatment of 26 October 1982, Dz. U. (Journal of Laws) No. 35 of 1982, item 230, as amended, and Act on Drug Abuse Prevention of 29 July 2005, Dz. U. (Journal of Laws) No. 179 of 2005, item 1485, as amended.

⁸⁰ **Poland:** In addition children receive free of charge medical and dental prophylactics, mandatory vaccinations, medical check-ups and screening tests if they attend public school. Articles 92 (1)(2) of the Law on education system of 7 September 1991 and Regulation of the Minister of Health on the organization of the prophylactic health care for children and youths of 28 August 2009.

⁸¹ **Portugal:** Decreto-Lei nº 67/2004 (25-03-2004) reiterates the equal right to health care for children until 16 years. A specific register is established for them.

⁸² **Romania:** Free (through an inclusive system of health insurance) to all children under the age of 18 regardless of their citizenship or their parents' insurance status.

Country	Same as nationals	Same as migrant children with legal status	Same as adults with irregular status	Additional rights if unaccompanied and/or known to the authorities/ tolerated status	Law
Sweden	✓				Art.6 Law (2013:407): Health and Medical Care for Certain Foreigners Residing in Sweden without Proper Documentation Act.
UK			✓	✓	National Health Services (Charges to Overseas Visitors) Regulations 2015.

⁸³ **Spain:** Article 3^{ter}.al.4 of Law 16/2003, introduced by Art 1 Royal Decree Act 16/2012 specifically provides that foreigners under 18 are entitled to health care under the same conditions as Spanish citizens in all cases.

3.0 Entitlements to School Education

As with health care, there has been an extension of access to education for children with irregular immigration status in recent years. It is also notably more inclusive than children's health care entitlements (though, as in relation to health care, we are looking at legal entitlements not whether actual practice meets the tests of availability, accessibility, acceptability and adaptability of education which the international human rights standards require (OHCHR, 2014:81)).

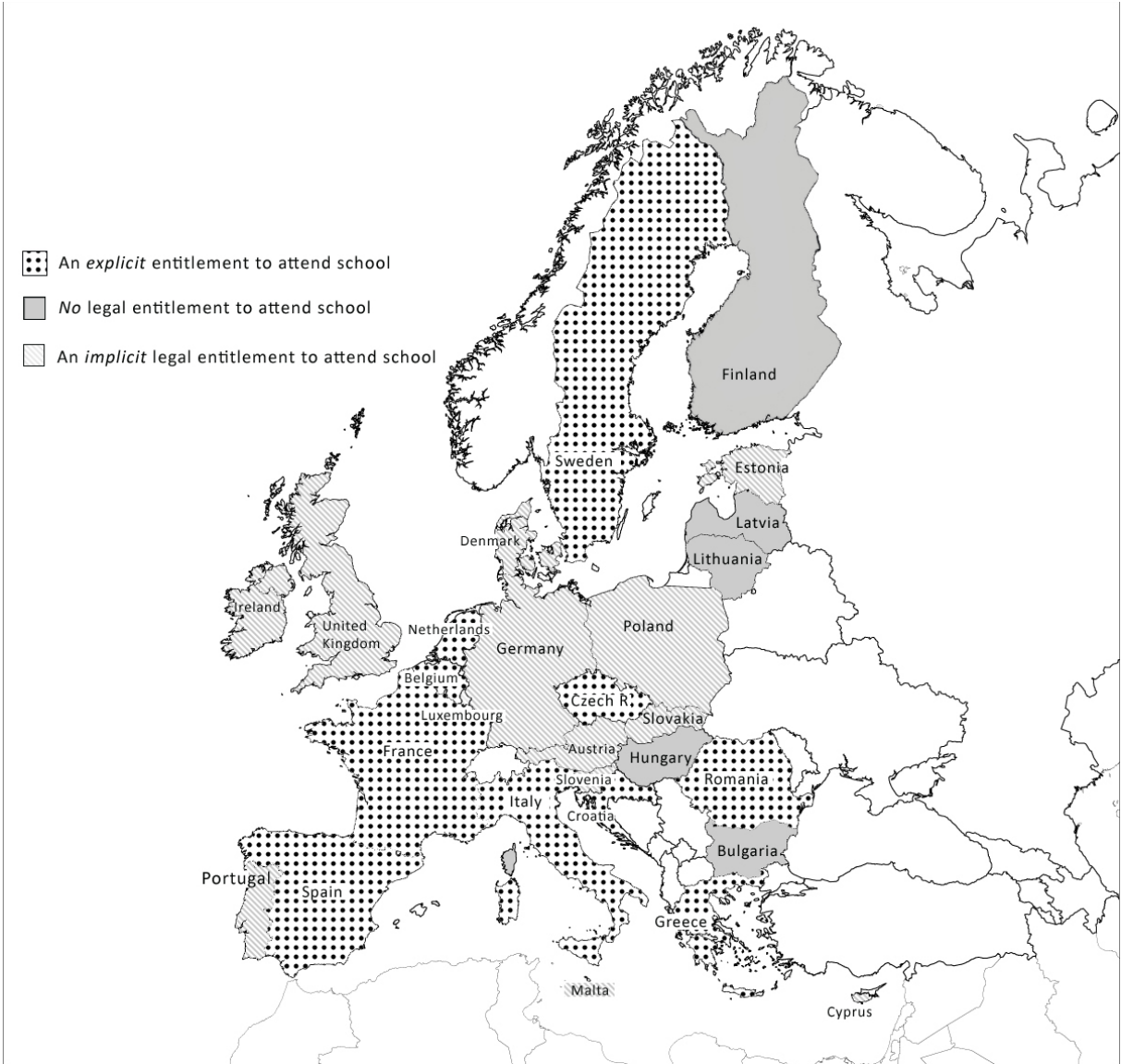
As Table 4 shows, in 23 of the EU28, children with irregular status are entitled to attend school. In a majority of cases the entitlement is *implicit* in an entitlement for *all* children to attend. In ten countries, however - Belgium, Croatia, Czech Republic, France, Greece, Italy, the Netherlands, Romania, Spain and Sweden - the entitlement to primary and secondary education is *explicit*: that is, not only referred to in any constitutional provisions but explicit in legislation, regulations, Ministerial decree or case law. This is also the case for primary education in Slovenia and in the education provisions of some Länder in Germany.

In Italy, for instance, the Constitution not only states that '*School is open to everybody*' (Art. 34) but legislation has clarified that '*foreign minors staying in Italy have the right to education irrespective of their regular status*', and they exercise this right under the same terms and conditions as Italian citizens.⁸⁴ Education is compulsory from 6 – 16 years of age and a right until 18 years or until they receive a certificate of secondary education. As a fiscal code is required for parents to register their children in school, a special procedure enables parents with irregular status to obtain a temporary code just for the purposes of school registration. A Ministry of Education circular clarifies that schools are not required to pass on information about these children to the immigration authorities (Delvino and Spencer, 2014).⁸⁵

⁸⁴ Art. 38 of the Legislative Decree No. 286 of 1998 and Art. 45, par. 1, D.P.R. No. 394 of 1998

⁸⁵ Italian Ministry of Education, University and Research, *Linee guida per l'accoglienza e l'integrazione degli alunni stranieri del febbraio 2014*; Circular letter No. 28 of 10 January 2014.

Map 2: Entitlement to school education of children with irregular immigration status across the EU28



While obligations under the UN Convention on the Rights of the Child have provided a conducive context for extending access to education, rights protected in national constitutions have proved significant in practice: a test case in Spain’s constitutional court in 2007, for instance, clarifying that the entitlement to education extends to 18 years of age.⁸⁶

In five countries, Bulgaria, Finland, Hungary, Latvia and Lithuania, the law does not entitle these children to attend school except, as in Latvia for instance, when children are in the Returns Procedure. In each case this is despite a constitutional provision establishing a right

⁸⁶ *Sentencia del Tribunal Constitucional - STC 236/2007*, 7 November 2007, appeal of unconstitutionality number 1707-2001, lodged by the Parliament of Navarre against Organic Law 8/2000, of 22 December, reforming Organic Law 4/2000).

to education and/or that education for minors is compulsory. A procedural requirement in law that pupils must be registered in the civic or municipal register or have a residence permit nevertheless excludes children with irregular status from an entitlement to attend school. Children may in practice get access to schools in these countries at the discretion of the school itself, which in the case of Bulgaria is only if the parents can pay.

In the countries where there is an implicit right to attend school, procedural requirements (such as proof of address) can in practice, as in health care, restrict or deter access, as can a lack of clarity on requirements: in Cyprus, for instance, it remains unclear whether schools are expected to report the presence of these children to the immigration authorities.

The entitlement, whether explicit or implicit, can be for education up to 18 years, including pre-school provision and apprenticeships, but to a lower age in some cases, excluding the 16-18 age group. The entitlement may or may not be accompanied by a requirement to attend school. There is further variation in whether children who are allowed to attend school can access school related resources such as school meals, as specifically provided for in the Netherlands. Entitlement to attend school does not necessarily carry with it an entitlement to receive the end of school certificate confirming their education and results, whether directly barred by their irregular status or because of a procedural requirement to provide other official documentation such as an identify number or birth certificate.

As in relation to health, in countries where education is the responsibility of regional authorities, the detail of entitlements may vary in different parts of the country.

Table 4 Right to school education for irregular migrants across EU28

Country	Right ⁸⁷			Duty to report	Law
	Explicit	Implicit	No right		
Austria		✓ ⁸⁸		No	Law on Compulsory Education, Articles 1 and 17, BGBl. 76/1985, last amended by BGBl. 77/2013 (23 May 2013).
Belgium	✓ ⁸⁹			No	Constitution, Article 24, paragraph 3; Law on obligatory education (29 June 1983).
Bulgaria			✓ ⁹⁰	No	Public Education Act, as amended 2009 Article 4(2), 4(3).
Croatia	✓			No	Act on Amendments to the Act on Upbringing and Education in Primary and Secondary Schools, 13.07.2013.
Cyprus		✓ ⁹¹		Yes	Constitution, Article 20.

⁸⁷ Generally refers to schooling throughout (and not before) the years of compulsory education unless stated otherwise.

⁸⁸ **Austria:** Pupils need identity documents, proof of address and birth certificate to enrol. Some discretion exists for school authorities of the Länder in this context. There is an explicit attitude and legal interpretation in the Ministry of Education that states residence papers are not necessary for the enrolment process. The Ministry of Education has also been supportive of school campaigns trying to regularise pupils' status.

⁸⁹ **Belgium:** The right is explicitly stated in several Flemish decrees on education (art. 26 Decree on elementary education (25 February 1997); Decree on equal opportunities in education (28 June 2002)), and further explained in ministerial circulars (ministerial circular 24th of June 1999 on the right to education for irregular children). For the French speaking community the right to school education for irregular migrant children can be found in the missions decree based on a *contrario* reading of the relevant provision (Art. 79 §2) Décret-Missions (24 July 1997), *inuncto* the obligation on education and Art. 24 § 3 of the constitution. In the French and Dutch speaking communities, registration is regulated to protect irregular children's access to education; furthermore the right to receive official certification is explicit; a circular by the Minister of Interior on 29 April 2003 forbids the arrest of children during school time and recommends that police do not wait for children at school gates. Further provisions were made in a circular letter by the Minister of Education in the Flemish community on 24 February 2003. The circular states that headmasters and teachers do not have to inform the immigration authorities or police and these authorities cannot use schools as a means to detect families in an irregular situation.

⁹⁰ **Bulgaria:** Despite a constitutional guarantee of primary and secondary education (Article 53) because in practice a residence permit is required. Possible access upon payment if they have a birth certificate.

⁹¹ **Cyprus:** A decision from the Cyprus Equality Body says that children of irregular migrants are entitled to education and that teachers should not have to report them, however this was rejected by the Council of Ministers. Thus access to education for children of irregular migrants remains ambiguous.

Country	Right ⁸⁷			Duty to report	Law
	Explicit	Implicit	No right		
Czech republic	✓ ⁹²			No	Constitution, Article 33(1); Amendment of the Act on School Education, No 343/2007 (Zákon č 343/2007 Sb, kterým se mění školský zákon).
Denmark		✓		No	Law on State Schools, Section 32, Act No. 1049 of 28 August 2007; Aliens Act, Section 42g.
Estonia		✓ ⁹³		Encouraged	Education Act (<i>Eesti Vabariigi haridusseadus</i>) (10 April 1992), Riigi Teataja I, 12, 192.
Finland			✓ ⁹⁴	No	Constitution, section 16, Basic Education Act (628/1998).
France	✓ ⁹⁵			No	Preamble of French Constitution; National Education Code, Article L131-1. ⁹⁶
Germany		✓ ⁹⁷		No ⁹⁸	Constitution, Article 7, paragraph 1 GG.
Greece	✓ ⁹⁹			No	Article 21 Law No 4251 Immigration and Social Integration Code and other provisions, Government Gaz 80A, 1.April 2014 updating Article 72 Codification of Legislation on the Entry, Residence and Social Integration of Third-country nationals on Greek territory, Law 3386/2005.

⁹² **Czech Republic:** Requires proof of address for enrolment.

⁹³ **Estonia:** Children also receive a school diploma.

⁹⁴ **Finland:** Section 16 of the Constitution states that everyone has the right to basic education free of charge. Provisions on the duty to receive education are laid down in the Basic Education Act (628/1998). However, only children permanently residing in Finland shall attend compulsory schooling and the local authorities do not have a duty to arrange education for other children. In practice, children effectively only have the right to attend school if registered as resident in the municipality, and to be registered their residence status has to be legal. Children who do attend can also receive a school diploma.

⁹⁵ **France:** Compulsory education between 6 and 16.

⁹⁶ **France:** Also a circular of the Ministry of National Education (20 March 2002).

⁹⁷ **Germany:** Some Länder (e.g. Hamburg and Bremen) positively codify the right to education also for irregular migrant children. Proof of address and birth certificate are required for enrolment. In some regions identity documents are also needed.

⁹⁸ **Germany:** The duty to report existed until 2011 when it was abolished, § 87 Abs. 1 Aufenthaltsgesetz. Children also receive a school diploma.

⁹⁹ **Greece:** The law (2014 Act) is explicit that migrant children shall be subject to mandatory schooling and have unrestricted access to the activities of the school and may enrol with insufficient documentation when 'They are third-country nationals residing in Greece, even if their legal residence therein has not been regulated' (Art 21(3)).

Country	Right ⁸⁷			Duty to report	Law
	Explicit	Implicit	No right		
Hungary			✓ ¹⁰⁰	No	Public Education Act No. CXC, 2011.
Ireland		✓ ¹⁰¹		No	Constitution, Article 42, Education Act 1998.
Italy	✓ ¹⁰²			No ¹⁰³	Italian Constitution, Art 34; Article 38 National Immigration Law; Article 6 National Immigration Law.
Latvia			✓ ¹⁰⁴	No	Law on Education, Section 3 (3) and 4, as amended on 4 March 2010.
Lithuania			✓ ¹⁰⁵	No	2011 Law on Education, Article 22 (2); Order of the Minister of Interior No. 1V-340 of 4 October 2007 §17.16.
Luxembourg		✓ ¹⁰⁶		No	<i>Loi du 9 février 2009 relative à l'obligation scolaire</i> , Memorial A-N° 20 (16 February 2009), Articles 2 and 7.

¹⁰⁰ **Hungary:** Access only upon payment; proof of address and reportedly also proof of residence status required for enrolment.

¹⁰¹ **Ireland:** Children also receive a school diploma, though practical obstacles may prevent this. May need Personal Public Service Number (PPSN) to enrol. Significant discretion is given to individual schools.

¹⁰² **Italy:** Italian Constitution (Art 34) states 'School is open to everybody' and it is explicit that 'foreign minors staying in Italy have the right to education irrespective of their regular status' (Art.38 Legislative Decree No.286 of 1998 and Art.45, par. 1, D.P.R.No.394 of 1998). Education is compulsory for those age 6-16 years and a right until 18 years (Art.1, par.3, Legislative Decree No.76 of 2005). Formally no documents are required for registration and children can receive a school diploma. The right to education includes access to educational services and to support measures. Access may extend beyond compulsory school age. E.g. in 2012 Milan removed the requirement (Administrative Circular of the Municipality of Milan No. 20/2007) for a residence permit to register children in kindergarten, allowing access to irregular migrant children (PICUM Bulletin 29 May 2012): Administrative Circular of the Municipality of Milan (No. 4/2012) following a judgement by the Tribunal of Milan on 11th February 2008.

¹⁰³ **Italy:** An Italian Ministry of Education circular states 'there is no obligation on school staff to report the irregular stay of pupils who are attending the school and who are thus exercising a right established by law' (Italian Ministry of Education, University and Research, *Linee guida per l'accoglienza e l'integrazione degli alunni stranieri del febbraio 2011*; Circular letter No. 28 of 10 January 2014).

¹⁰⁴ **Latvia:** Children only have the right to acquire basic education when in the return procedure or with a valid residence permit. (Section 3 (3). Section 11 of the same Act also specified that everyone educated in Latvia should receive the relevant documentation.

¹⁰⁵ **Lithuania:** Only for children staying in centres. Art 41 Constitution nevertheless makes education compulsory up to the age of 16.

¹⁰⁶ **Luxembourg:** Children also receive a school diploma.

Country	Right ⁸⁷			Duty to report	Law
	Explicit	Implicit	No right		
Malta		✓		No	Constitution, Article 10; laws of Malta, Act XX of 2000, as amended. The Refugees Act; Legal notice 259/2002 entitled migrant workers (Child Education) regulations.
Netherlands	✓ ¹⁰⁷			No	Law of Primary Education (2 July 1981), Article 41; Law of Secondary Education (14 February 1963); Article 3 and 4 Compulsory Education Act 1969; Article 10 Immigration Act 2000.
Poland		✓ ¹⁰⁸		No	Constitution, Article 70; Article 94 of the Act on the Education System 1991, as amended 2000.
Portugal		✓ ¹⁰⁹		No	Constitution, Articles 13, 15, 73 and 74.
Romania	✓			No	Law on Foreigners, Article 132 (5 June 2008).
Slovakia		✓		Yes ¹¹⁰	Constitution, Chapter 2, Section V, Article 42 (1).
Slovenia		✓ ¹¹¹		No	Aliens Act (ZTuj-2) Uradni list RS (Official Gazette of the Republic of Slovenia), No. 50/2011 of 27 June 2011).

¹⁰⁷ **Netherlands:** Children in an irregular situation, like all other children, are entitled to funds for school materials (Articles 10, 18 of the Decree on Funding WPO and Articles 14a, 3 of the Decree on Funding WVO); and Children receive a school diploma. From 1 July 2013 students with irregular status are also able to take up an apprenticeship.

¹⁰⁸ **Poland:** This only guarantees the right to primary education, not secondary education. Formally no documents are required for registration and children can receive a school diploma. Children need a personal identification number to sit exams. It is possible to use various ID numbers for this, and a temporary PESEL number can be also issued for this purpose.

¹⁰⁹ **Portugal:** Children can also receive a school diploma. Law 23/07, Article 122 (1)(b) states that attending preschool, primary school, secondary or professional education is grounds for the regularisation of minors born in Portugal. Order 25360/2001 gives educational responsibility to the Ministry of Education in partnership with the High Commission for Immigration and Intercultural Dialogue.

¹¹⁰ **Slovakia:** Act on Stay of Aliens Article 53 (3): School administrations are required to report foreigners attending or leaving school.

¹¹¹ **Slovenia:** The entitlement to primary education (up to the age of 14/15) is explicitly provided by Article 75 of the Aliens Act (ZTuj-2) Uradni list RS (Official Gazette of the Republic of Slovenia), No. 50/2011 of 27 June 2011).

Country	Right ⁸⁷			Duty to report	Law
	Explicit	Implicit	No right		
Spain	✓ ¹¹²			No	Immigration Law 2011, Chapter 29, Section 4; Point 3 of Article 10 of the Organic Law 1/1996 of 15 January.
Sweden	✓ ¹¹³			No	Bill 2012/13:58, Education Act (2010:800).
UK		✓		No	Education Act 1996; Education and Inspections Act 2006.

As Table 3 shows, the majority of States do not require schools to pass on the details of pupils with irregular status. There is such a requirement in Slovakia and Cyprus, and reporting is encouraged in Estonia. A duty to report in Germany was withdrawn in 2011 following administrative action by some Länder to remove that duty from school authorities in their area and civil society campaigns (FRA, 2011a: 91).

¹¹² **Spain:** Spanish Constitutional Court ruling *Sentencia del Tribunal Constitucional* – STC 236/2007, 7 November 2007: irregular children up to the age of 18 have the right to non-compulsory education and financial support should be provided. Children are eligible to apply for scholarships or social aid and receive a school diploma. The right also entitles irregular migrant children to obtain qualifications and access grants and financial assistance the same as Spanish nationals. They can also access work experience placements or internships.

¹¹³ **Sweden:** This means that children without regular migration status have the same right to education as regularly resident children for pre-school, elementary school and equivalent types, high school and special high school. They are also entitled to free school transportation.

4.0 Implications and Contextual Factors: A Research Agenda

An overarching aim of our study is to establish the reasons *why* entitlements are granted to migrants with irregular status, including the apparent direction of travel towards extending entitlements (albeit with notable exceptions). In subsequent publications we shall set out the reasons that policy makers have given for granting entitlements which we have found range from legal and ethical reasons through to pragmatic concerns relating to their capacity to achieve policy goals for the rest of the population and the efficient management of public services.

We saw in section 2 that in international law it is not only on the legal entitlements to health care that a state's compliance is judged but on whether care is available, accessible, acceptable and of good quality. The extent to which entitlements in each country meet those criteria, and likewise the extent to which there is genuine accessibility to education, have been considered in past studies and official reports and remain significant questions for a future research agenda. The degree to which a requirement to pay excessively for a service undermines an entitlement is a further question, as is need for evidence on the implications of the absence of a firewall that would protect service users' personal data from the immigration authorities.

We saw that exclusion from services can also derive from procedural barriers in law rather than a direct exclusion – if registration on a civic register is the normal pathway to access for instance and legal residence is a requirement for registration. Such a requirement can in effect nullify an inclusive constitutional provision. In Spain, on the other hand, the municipal register is the means through which services are accessed and irregular migrants not excluded from registration but required to do so. Research on the relationship between the use of a civic register and patterns of entitlements would thus be valuable and could help to ensure that procedural barriers do not impede access for which the law in other respects provides. Further authoritative evidence on the implications of inclusion and exclusion from entitlements, for individuals and for the wider community, is fundamentally important to inform future decisions on policy reform. What are the implications of exclusion from treatment for infectious diseases, for instance, for the spread of HIV and TB; or of the exclusion of children from education? Where there is an entitlement to a service, does that play any part in an individual's decision to migrate or to remain?

The uneven pattern of entitlements that the mapping reveals also raises the question whether there are any underlying contextual factors - legal, demographic, economic, cultural or institutional - which may help to explain how those patterns have emerged. Is it richer countries or those with larger populations of irregular migrants, for instance, which allow greater access or those where attitudes towards irregular migrants are least hostile? We see value in research exploring those factors, if only to challenge simple assumptions that might otherwise be made.

4.1 Size of the irregular migrant population

In relation to the demographic context, for instance, it might be suggested that a higher proportion of irregular migrants in the population could lead to pressure for higher levels of entitlement to services - if the granting of entitlements is a reflection of the level of need. However, lower levels of entitlement could be expected if the cost implications of provision were the prime concern. Analysis of the relationship between levels of migration per se and the extent of migrants' social rights is inconclusive, restrictions varying hugely between countries with similar proportions of foreign born and countries with few migrants not always the most generous (Sainsbury, 2012:21).

Estimating the number of irregular migrants is difficult, and caution would have to be exercised when using them (Vollmer, 2011). The comparability of estimates is also limited due to the differing methodologies employed and different years for which they are provided. The date of the estimate, moreover, may not reflect the size of the irregular migrant population at the time when legislation on entitlements was enacted. Overall levels of irregular migration may also tell us less than we might expect given that in most instances the estimate is at or below 1% of the population (see Appendix B). It may be concentrations in particular cities that generate pressure for access to services rather than the national average; or the proportion who are in need that is relevant (e.g. the extent to which there are children needing schooling) – a ratio that will differ from state to state. The volume of irregular migration has indeed been found to be 'a poor predictor of policies on access to health care' though there could be a correlation with the *type* of irregularity: whether former asylum seekers, for instance, or related to the informal labour market (Cuadra, 2012:4).

4.2 Domestic legal factors

It might also be anticipated that there could be a correlation between levels of entitlement and whether irregular entry and/or stay is treated as a criminal or an administrative offence. There has since the mid 1970's been a trend among EU states towards treating irregular entry and/or stay, and assistance to irregular migrants, as criminal offences (Parkin, 2013). This contrasts with the position in other EU states where irregular status attracts administrative sanctions or is a crime only in limited circumstances. In some recent instances the trend towards criminalisation has been reversed: as in the decision in Italy April 2014 to remove criminal penalties from irregular entry and stay¹¹⁴ and in France two years earlier to decriminalise irregular stay. A proposal in the Netherlands that irregular stay should become a criminal offence was rejected in April 2014.¹¹⁵ A criminal offence of irregular entry or stay

¹¹⁴ See http://www.repubblica.it/politica/2014/04/02/news/ddl_carceri_oggi_voto_alla_camera_lega_cerca_slittamento-82530799/

¹¹⁵ <http://www.nisnews.nl/criminalisation-of-illegal-stay-dropped.html>

may in many cases be punished by imprisonment and/or a fine but in some countries only by a fine (FRA, 2011a:42; FRA, 2014). Assisting irregular entry or stay in some form (whether for financial gain or provision of support) is now often also a criminal offence (Commissioner for Human Rights, 2010:13-16). EU law has been a factor in that trend, adopting a series of measures that rely on criminal sanctions in the policing of borders but also internally: on those who intentionally facilitate unauthorised residence (and entry and transit)¹¹⁶, currently under review, and on employers of irregular migrants (Provera, 2015).¹¹⁷

In some countries criminalisation brings with it obligations on service providers to report the presence of irregular migrants to the authorities (Parkin 2013:8). Criminalisation might be expected to be associated with greater levels of exclusion from entitlements if we assume that it is a reflection on how irregular migrants are perceived in that country (FRA, 2014a: 2) or reflects a greater level of priority attached to enforcement action. The criminalisation of irregular migrants does not negate the country's obligations to them under human rights instruments but can make it more difficult for the individuals to realise those rights in practice (even in those instances where criminal penalties are in practice little used and appear to have a greater symbolic or deterrent value than practical application) (Aliverti, 2012; Parkin, 2013:18).

Here again, however, comparing patterns of entitlements to countries where irregular entry and stay is criminalised would not be straight forward. Irregular entry may be criminalised but not stay; and the timing of measures to criminalise (or recently de-criminalise) may not coincide with periods in which the legislative provisions on entitlements were enacted.

The existence of opportunities for regularisation could be a factor in relation to a greater level of entitlements because it may lead to expectations that irregular migrants will not in fact be temporary residents and should perhaps be integrated sooner rather than later. Regularisation programmes are, moreover, often preceded by advocacy by civil society that frames regularisation in public debate as an instrument for addressing discrimination and social exclusion. Data on regularisation programmes is far from comprehensive but on a conservative reading there were 4.7 million applicants for 43 regularisation programmes in 17 countries in the period covered by one study, 1996-2007, of whom just under 3.2 million were granted legal status. A high proportion of applications were accounted for by a limited number of countries, but acceptance rates were much higher in some than others, adding complexity to any comparative analysis (Baldwin-Edwards and Kraler, 2009). It could moreover be the frequency of regularisation exercises that has the greatest impact on perceptions that irregular migrants are likely to be allowed to stay rather than overall numbers; or alternatively perceptions of whether irregular migrants are in practice likely to be deported, regardless of whether an official regularisation scheme exists. The

¹¹⁶ 'Facilitation Directive' 2002/90/EC

¹¹⁷ Directive 2009/52

NowHereland study on access to health care found that the countries which it identified as having the greatest access to health care (Italy, Portugal, Spain, France and the Netherlands) were, with the exception of the Netherlands, among those using regularisation programmes to a significant extent whereas the more restrictive countries were less likely to do so (Cuadra, 2012:4).

4.3 International human rights obligations

In any exploration of underlying factors contributing to the pattern of entitlements granted across the EU, the varying commitment of states to relevant international and European human rights standards would also be a factor to explore, notwithstanding the difficulty of establishing a causal link between ratification of human rights instruments and changes in policy and practice (Heyns and Viljoen, 2001; Neumayer, 2005) and recognition that the impact of international human rights 'depends on a political and social 'reception' for them at the national level' (Chimienti and Solomos, 2015:32).

Unless individuals are expressly excluded on the basis of their immigration status, they share the protection those instruments afford, not least in relation to health care and education. Failing to comply with the conditions for entry or stay in an EU Member State does not deprive an individual of the basic rights shared by all human beings (FRA, 2011a: 7). Where the international standards do permit distinctions on the basis of immigration status, moreover, they nevertheless require that such restrictions serve a legitimate aim and, crucially, are proportional to its achievement (Cholewinski, 2005:27-8; OHCHR, 2014:31-36).

All EU Member States have, however, ratified the principal United Nations human rights instruments which have particular relevance for the protection of the social rights¹¹⁸ so that if ratification were directly related to implementation, there could be no correlation with the pattern of entitlements for irregular migrants. All of the EU28 are also contracting parties to the European Convention on Human Rights (ECHR, 1950). EU countries have not all received the ECHR into their domestic legal systems in the same way, however. Rather there is an evolving process in which its impact and the impact of the Strasbourg court in particular varies (Keller and Sweet, 2008). On the other hand, many of the ECHR's provisions may be found in domestic constitutions, as in Italy. Assessing the potential impact of the ECHR on entitlements is thus not straightforward.

The ECHR is complemented by the European Social Charter (ESC) which provides protection for economic and social rights and here there is variation in levels of commitment. Although

¹¹⁸ Notably the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Elimination of All Forms of Racial Discrimination (CERD); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC). The status of ratification of UN human rights instruments can be seen at: <http://www.ohchr.org/Documents/HRBodies/HRChart.xls> (accessed 10 March 2014).

its application is largely restricted to those who are legally resident, the denial of the rights to irregular migrants has been found incompatible with the Charter where it breached the fundamental principles on which it is based, not least for children.¹¹⁹ All 28 EU Member States have ratified the original Charter (1961) but nine have not ratified the revised Charter (1996) and only 14 EU Member States have submitted themselves to its collective complaints procedure.¹²⁰ States can moreover choose not to sign up to particular Articles in the Charter so that it is in relation to this instrument that the greatest variation in levels of commitment is found.¹²¹ If there were found to be any correlation between acceptance of the provisions of the Charter and entitlements granted to irregular migrants, only a historical analysis of developments in each country could however reveal whether ratification reflected a prior compliance with its standards or whether the standards had contributed towards compliance related reforms.

For those irregular migrants who are in return procedures or who are in limbo having not been removed, the Return Directive (Article 14)¹²² requires Member States to take into account the need for certain minimum safeguards for individuals pending return: emergency health care and essential treatment of illness; considerations of the special needs of vulnerable persons and access to the basic education system for minors. All EU Member States are party to that Directive except Ireland and the UK. A recent Communication by the European Commission reporting on implementation of the Directive was not yet able to assess progress in relation to these safeguards (European Commission, 2014:23). Mapping of national provisions in relation to those in the returns procedure and their year of enactment would be necessary for any analysis of the possible impact that the Returns Directive has had on entitlements for this particular group of people.

4.4 Relative wealth or public attitudes?

Further factors that could be considered include the relative wealth of European states: is it the wealthy that are less restrictive in the access to services that they allow or is greater access equally allowed by states which can least afford it? Comparative data on GDP per capita, for instance, shows a marked disparity between Member States, and analysis could

¹¹⁹ For instance in *Defence for Children International (DCI) v. Belgium*, Complaint No. 69/2011 Decision on the Merits 23 October 2012. Paras 36-37 https://www.coe.int/t/dghl/monitoring/socialcharter/complaints/CC69Merits_en.pdf. See also European Committee of Social Rights (2011) Article 17 – Right of children and young persons to social, legal and economic protection. Paragraph 2 - Free primary and secondary education - regular attendance at school. Statement of Interpretation, 2011.

¹²⁰ Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Italy, Netherlands, Portugal, Slovenia and Sweden.

¹²¹ Ratifications as of 26 March 2013 see http://www.coe.int/t/dghl/monitoring/socialcharter/Presentation/Overview_en.asp accessed 14 March 2014.

¹²² 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, OJ 2008 L348/98.

be nuanced by comparison of data adjusted for purchasing power to reflect (if crudely) the differing relative costs of provision of services not only of the nation's wealth. At first glance, our data suggests that some of those States which are least restrictive in relation to entitlements to primary and secondary health care (e.g. Portugal), and in relation to health care for children (e.g. Greece and Romania) are not among the wealthiest EU Member States, all having a GDP well below the European average.¹²³

A further factor to consider could be differing attitudes towards irregular migration. The limited data available suggests that there are sharply differing levels of concern, but using opinion poll indicators can be problematic. Data on attitudes towards irregular migrants is not available for all 28 EU countries and, in at least one case, uses the terminology of concern about 'illegal immigration' which may influence the response, as can inflated perceptions (greater in some countries than others) on the proportion of irregular migrants present in the country (TransAtlantic Trends, 2011; 2013). This could moreover be just one indicator of a range of attitudes that could be relevant: attitudes towards rule-breaking, for instance, may differ across Europe; and attitudes towards the degree of primacy that should be given to fundamental rights such as access to education and health care.

4.5 Institutional factors

In relation to health care it could be relevant to consider whether differing models of health system (whether tax or insurance based or a combination of the two, see Appendix C) is a factor in entitlements (Chimienti and Solomos, 2015:34), notwithstanding that a correlation with barriers to health care (rather than entitlements per se) was not found in an earlier study (Cuadra, 2012:4). It could be more relevant to establish whether the model of the welfare system in each state is related to the level of entitlements granted. Since Esping-Andersen's seminal text (1990) establishing a typology of three 'ideal type' welfare models (liberal, conservative corporatist and social democratic), a body of work has critiqued, modified and extended those models to include some southern European states within a Mediterranean model and Central and Eastern European states within their own, subdivided post-communist category (Fenger, 2007; Sainsbury, 2012). Categorized according to a range of characteristics including the basis of entitlement to benefits (e.g. work, need or citizenship) and the relationship between the state, market and family in social provision, scholars in the migration field have argued that each resulting model of welfare state impacts (among other effects) on the social rights of migrants. It is not straight forward, however, to apply this analysis to our mapping of the social rights of irregular migrants. There is no single categorisation of the 28 EU states according to one set of criteria, some scholars as a result classifying states under different models. While some models rely heavily

¹²³ 'GDP per capita, consumption per capita and price level indices', Eurostat Statistics Explained http://ec.europa.eu/eurostat/statisticsexplained/index.php/GDP_per_capita,_consumption_per_capita_and_price_level_indices accessed 5 January 2015.

on the characteristics of the system for accessing welfare payments, welfare regimes include health, education, housing and other programmes which have differing institutional histories and cultures, and are developed by different sets of policy actors, leading some to challenge the idea that it is in fact possible to categorise states according to a single welfare regime (Fenger, 2007:11). The impact of welfare regimes on the social rights of migrants is, moreover, known to be affected not only by the extent of entitlements granted but on the combined effect of whether the state has an inclusive or exclusive ‘incorporation regime’ (Sainsbury, 2012).

As in relation to the other contextual factors, these are complex questions which could only be answered fully with an in-depth comparative study and face methodological challenges across 28 countries with such differing histories, legal and governance systems and migration patterns. The breadth of any of these contextual factors could not easily be reduced to measurable indices and entitlements may, as we saw, have been agreed at a time when the value of the indicator available was different. Nevertheless, understanding any relationship which such contextual factors may have with entitlements for irregular migrants is one necessary part of explaining their uneven geography across the EU.

5.0 Conclusion

In this report we set out, for the 28 Member States of the European Union (EU28), the legal entitlements for migrants with irregular status to access health care services and, for children, education. We have not considered here the further entitlements that may be granted by regional and municipal authorities, within their respective remits, or the many barriers which can in practice impede individuals securing access to a service to which the law says they are entitled.

Our mapping shows a polarisation in entitlements to health care services, from access to emergency care only through to a limited level of access to primary and secondary care and some specialist services. Entitlements to health care are in most but not all cases greater for children, in particular (but not exclusively) for those who are unaccompanied: eight Member States granting all children the same level of entitlement to health care as children who are nationals. Without analysis of legislative debates, it is unclear why children accompanied by their parents should be treated less favourably in law in relation to health care than those who are not.

Significantly, while there have been instances where entitlements have been curtailed in recent years, entitlements for both adults and children have in other cases recently been extended. There nevertheless remain countries where access for both adults and children is severely limited: countries which allow access only to emergency care, where irregular migrants are excluded from urgent treatment, and countries which deny treatment for infectious diseases.

In relation to education we likewise saw entitlements range from an explicit legal provision permitting (and often requiring) children with irregular status to attend school through to an absence, in a minority of countries, of any entitlement at all. Inclusive constitutional provisions had proved insufficient to secure an entitlement for this group of children.

Notwithstanding the sharply uneven geography of these legal provisions, it could be said that the mapping reveals a normality of a level of entitlements for irregular migrants to access services across the entire European Union, albeit in some cases, even for children, at a very low level.

The nature of the services to which access is allowed varies between countries. Even within education the age range of the entitlement (whether including nursery education and provision beyond 16 years), and to an extent content (whether for instance including the end of school certificate, and access to an apprenticeship), differs. Entitlements may, moreover, be enhanced by regulations made at a regional level or undermined by a requirement to pay for some or all of the cost of the service, a requirement on service providers or administrators to pass on the details of service users to the immigration authorities, or other procedural hurdles. In some cases entitlements are not granted in the first weeks after arrival, or apply to some categories of irregular migrants and not others – all adding to the huge complexity of these provisions across the EU. In many cases, the entitlement is implicit rather than spelt out in law, potentially allowing greater scope for narrow interpretation or erosion in practice. Rather than establishing that there is, or is not, an entitlement, there are thus shades of grey, making comparison between countries – while essential – inherently problematic.

The fact that the direction of travel appears to be towards extending entitlements (notwithstanding some notable exceptions), requires explanation - one of many questions raised by this mapping exercise. The extent to which entitlements meet the commitments each country has made to international human rights standards (significantly questioned in earlier studies) could usefully be the focus of future research agenda in this field as could the extent to which a requirement to pay the full cost of a service, or absence of a firewall maintaining confidentiality of service users, undermine entitlements. Perhaps most important we need an authoritative evidence base on the implications of exclusion and inclusion, not least on the impact of recent law reforms. In section 4 we suggested further questions on contextual factors – demographic, legal, social and institutional, that may help to explain the uneven geography of entitlements across the EU.

Appendix A: Is irregular entry and/or stay considered a criminal offence?

Country	Yes	No	Law
Austria		✓ ¹²⁴	Article 120 of the Aliens' Police Act
Belgium	✓		Aliens Act, Article 75 (15 December 1980); and Belgian Code of Criminal Procedure, Article 29 (17 November 1808)
Bulgaria	✓		Art 48(1) Foreigners Act No. 326/1999, Coll. (as amended); Art. 279 Criminal Code No. 40/2009.
Croatia	✓		Art 42 of the Act on the Monitoring of State Borders; Art 222 of the Aliens Act ¹²⁵
Cyprus	✓		Aliens and Immigration Act, Art 19 Chapter 105 (1959, last amended in 2013)
Czech republic		✓ ¹²⁶	Article 156 of the Act on Residence of Foreign Nationals in the territory of the Czech Republic, Foreigners Act No. 326/1999, Coll. (as amended), Criminal Code No. 40/2009.
Denmark	✓		Aliens Act 2009, Article 59 (1)
Estonia	✓		Section 17 State Borders Act; Criminal Code (<i>Karistusseadustik</i>), § 258, 260 (2001), RT I 2001, 61, 364. Law on Foreigners (<i>Välismaalaste seadus</i>), s298 Aliens Act (2010), RT I 2010, 3, 4.
Finland	✓		Section 185 Aliens Act (301/2004), and s17Criminal Code 39/1889, Chapter 16, Sections 3-5.
France	✓ ¹²⁷		Code of the Entry and Stay of Foreigners and Asylum Law, Article L621-2. 2009 as amended.

¹²⁴ **Austria:** However, there is a system of administrative fines which applies to irregular migrants to a considerable extent, which operates via the law on aliens' police matters. Imprisonment is an option if the fine is not paid. (Fremdenpolizeigesetz BGBl. I 100/2005, last amended by BGBl. I Nr. 68/2013 (17 April 2003). This includes fines for the immigrant as well as for those aiding them.

¹²⁵ **Croatia:** Except when the person applies for asylum, when irregular entry is not considered a crime.

¹²⁶ **Czech Republic:** According to Paragraph 156 of the Foreigners Act irregular stay is an administrative offence attracting a fine. However, obstruction with an administrative decision is a crime punishable with imprisonment, according to Paragraph 337 of the Criminal Code No. 40/2009, Coll.

¹²⁷ **France:** Irregular stay is no longer a crime as Article L.621-1 was withdrawn in 2012 by Loi No. 2012-1560 of 31 December 2012.

Country	Yes	No	Law
Germany	✓		Section 95 Residence Act, §§ 1 N. 2 and 3. 2004. ¹²⁸
Greece	✓		Immigration Law 3386/2005, Article 83 §1 and 2 ¹²⁹ . Only entry, not stay. FEK A 212 23 August 2005.
Hungary		✓ ¹³⁰	Sections 204 and 208 of the Petty Offences Act 2012.
Ireland	✓		Immigration Act 2003, Section 4.
Italy ¹³¹		✓	Amendment to Law N. 925/2014. Fine only, no imprisonment.
Latvia	✓ ¹³²		Latvian Criminal Code Sections 284 and 285 of 01 April 1999, as amended and Art 190 of Administrative Violations Code.
Lithuania	✓		Criminal Code, Article 291. As amended on 13 July 2013. Article 206 in relation to irregular stay.

¹²⁸ **Germany:** Irregular stay is only punishable after the third country national has been issued with a return decision and has not left the country within the voluntary return period. There is currently a debate on this question in Germany based on case law of the ECJ (C-61/11, C-329/11 and C-430/11).

¹²⁹ **Greece:** Art. 83 §3 specifies that the public prosecutor may abstain from prosecution.

¹³⁰ **Hungary:** It is considered a petty (administrative) offence under section 204 of Act II of 2012 on Petty Offences:

204 § (1) Anyone crossing the borders of Hungary irregularly or in an illegal manner or attempts to do so, commits a petty offence.

(2) Anyone violating the rules on travel documents commits a petty offence.

(3) The procedure concerning the above paragraphs (1) and (2) fall under the competence of the police.

Section 11 (1) of the Petty Offence Act foresees that the lowest amount of the fine is 5 000 HUF – unless the law prescribes otherwise – and the highest amount is 150 00 HUF.

Section 12 (1) In case the fine is not paid by the offender, the court may change the fine into confinement for petty offences. When changing the fine into confinement 5 000 HUF may count as one day of confinement.

¹³¹ **Italy:** Imprisonment for crimes of irregular entry or stay was the subject of a 2011 judgement by the CJEU which found criminal detention of a migrant who does not comply with an order to leave the national territory to be incompatible with the Return Directive. Detention of irregular migrants should be under administrative measures (CJEU, C-61/11, El Dridi, 28 April 2011). Italy subsequently changed the law (Law of Decree of 23 June 2011, No. 89, as modified by Law 129 of 2 August 2011). The Italian parliament decided in April 2014 to abolish the crime of irregular entry and irregular stay (Delvino and Spencer 2014). 'irregular entry and irregular stay will, from now on, be considered administrative infringements and punished with removal.' Repubblica (online) 2 April 2014. http://www.repubblica.it/politica/2014/04/02/news/ddl_carceri_oggi_voto_alla_camera_lega_cerca_slittamento-82530799/

¹³² **Latvia:** Only if committed repeatedly within one year.

Country	Yes	No	Law
Luxembourg	✓		Immigration Law, Article 140.
Malta		✓	Immigration Act Art. 5
Netherlands		✓ ¹³³	Art.108 Aliens Act and Art. 1970f of Criminal Code
Poland		✓ ¹³⁴	Art.49a Petty Offences Code and Art.148 Aliens Act
Portugal		✓	Art.138 Foreigners Law
Romania	✓		Art.70 Government Emergency Ordinance 105/2001 and Art.134 Government Emergency Ordinance 194/2002
Slovakia		✓ ¹³⁵	Art. 116 and 118 Act on Residence of Aliens 2011.
Slovenia		✓ ¹³⁶	Aliens Act (ZTuj-2) Art.145 Uradni list RS (Official Gazette of the Republic of Slovenia), No. 50/2011 of 27 June 2011); Art. 308 Criminal Code.
Spain		✓	Art. 53 §1 Organic Law 4/2000 of 11 January on Rights and Freedoms of Aliens in Spain and their Social Integration. ¹³⁷
Sweden	✓		Aliens Act (2005: 716), Chapter 20, Sections 1, 2, and 4.
UK	✓		Immigration Act 1971, Section 24.

¹³³ **Netherlands:** Only exceptionally a criminal offence if declared an 'undesired alien' (Article 1970f of the Criminal Code) for which punishment can be imprisonment or a fine. A proposal in 2012 to criminalise irregular stay was dropped in 2014 [<http://www.nisnews.nl/criminalisation-of-illegal-stay-dropped.html>]

¹³⁴ **Poland:** According to Polish Criminal Code (Art. 244 par. 2) however a person who, in violation of regulation, crosses the border of the Polish Republic, using violence, threat, deceit or in cooperation with others, shall be punishable by imprisonment up to 3 years. According to Act of 13 June 2003 a migrant who stays on Polish territory, without having to this legal title shall be punishable by a fine.

¹³⁵ **Slovakia:** According to the 2011 Act, irregular entry/stay is considered a misdemeanour.

¹³⁶ **Slovenia:** According to the Criminal Code Art. 308 violent entry and providing forged documents to others is considered a criminal offence. Entry with a forged passport is covered under Article 251. Other illegal entry is considered a misdemeanour punished with a fine.

¹³⁷ **Spain:** Irregular presence on Spanish territory is an administrative infraction.

Appendix B: Estimates of the irregular migrant population in selected EU countries

In 2009 the CLANDESTINO project compiled a database on irregular migration to provide transparent data on the stocks and flows of irregular migrants in Europe and, crucially, giving an assessment of the estimates' reliability. The project estimated the total stock of irregular migrants to be between 1.9 and 3.8 million in 2008, the latter some 0.4 – 0.8% of the population of the then EU27¹³⁸ down from between 3.1 and 5.3 million in 2002 (CLANDESTINO, 2009). These estimates were accepted by the European Commission (European Commission, 2010). It is generally thought that the methodology used in the CLANDESTINO project is as rigorous as current methods allow and for the countries that it covers provides the best compilation and overview of the available estimates. The estimates are nevertheless becoming dated, in particular with the changing migration patterns in Europe that have taken place due to the economic crisis and political instability in neighbouring regions. Where available we use those estimates here, supplemented by others where necessary, as referenced. There is no reliable enough estimate available for Croatia, Finland, Latvia, Lithuania, Luxembourg, Malta,¹³⁹ Norway, Romania or Slovenia.

¹³⁸ 496, 116 956

¹³⁹ Although there are no numbers for the stocks of irregular migrants in Malta, there are fairly good numbers for inflows, where most enter without authorisation but are then able to regularise their status. UNHCR states that in 2012 1,890 individuals arrived by boat in Malta (<http://www.unhcr.org/mt/news-and-views/news/653-malta-asylum-trends-2012>) (Mainwaring, C. 2014).

Country	Central Estimate ¹⁴⁰	Quality ¹⁴¹	Date of estimate	Population ¹⁴²	Percentage of population	Source
Austria	36 252	Medium	2008	8 318 592	0.4%	(HWWI, 2009)
Belgium	120 000	-	2007	10 584 534	1.1%	(Baldwin-Edwards, 2009)
Bulgaria	2 050	-	2012	7 327 224	0.03%	(European Migration Network, 2012)
Cyprus ¹⁴³	40 000	-	2007	778 684	5.1%	(Baldwin-Edwards, 2009)
Czech republic	195 000	Med	2000	10266546 (2001)	1.9%	(HWWI, 2009)
Denmark	30 000	-	2012	5 580 516	0.5%	(PICUM, 2009)
Estonia	7 500	-	2007	1 342 409	0.6%	(Baldwin-Edwards, 2009)
Finland	5,500	-	2012	5 401 267	0.1%	Ministry of Interior, Expert Interview
France	300 000	Low	2005	62 772 870	0.5%	(HWWI, 2009)
Germany	250 000	Med	2010	81 802 257	0.3%	(HWWI, 2012; Bundesamt für Migration und Flüchtlinge, 2012)

¹⁴⁰ Used central estimate where given, or calculated it where upper and lower estimates are given by the relevant study.

¹⁴¹ Quality of the estimate as assessed by HWWI for the CLANDESTINO project. The highest quality estimate was chosen, rather than the most recent. Where no indicator given, no assessment of quality was available.

¹⁴² All total population figures are from EUROSTAT. The total population figure given is, unless otherwise indicated, for the same year as the estimate of the irregular migrant population: <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&language=en&pcode=tps00001&tableSelection=1&footnotes=yes&labeling=labels&plugin=1>

¹⁴³ **Cyprus:** Although problematic, numbers on flows are of better quality than on the stocks of irregular migrants in Cyprus. In 2008 there were 7 051 irregular migrants apprehended in the Republic of Cyprus and in 2009 there were 3,851 (Mainwaring, C. 2012 *unpublished PhD Thesis*).

Country	Central Estimate ¹⁴⁰	Quality ¹⁴¹	Date of estimate	Population ¹⁴²	Percentage of population	Source
Greece ¹⁴⁴	190 500	Med	2007	11 171 740	1.7%	(HWWI, 2012)
Hungary	40 000	Low	2007	10 066 158	0.4%	(HWWI, 2009)
Ireland	14 500	-	2007	4 312 526	0.3%	(Baldwin-Edwards, 2009)
Italy	294 000	High	2013	59 685 227	0.5%	(ISMU 2014)
Netherlands	88 116	High	2005	16 305 526	0.5%	(HWWI, 2009)
Poland	175 000	Low	2004	38 190 608	0.5%	(HWWI, 2009)
Portugal	115 000	-	2007	10 627 250	1.1%	(Baldwin-Edwards, 2009)
Slovakia	15 000	Low	2007	5 393 637	0.3%	(HWWI, 2009)
Spain	345 000	Med	2009	45 828 172	0.8%	(HWWI, 2009)
Sweden	47 500	-	2007	9 113 257	0.5%	(Baldwin-Edwards, 2009)
UK	618 000	Med	2007	60 781 346	1%	(HWWI, 2009; Gordon, 2009)

¹⁴⁴ **Greece:** A more recent but lower quality estimate suggests that there were 390 000 “irregular foreign workers” in Greece in 2011 ((HWWI, 2012)

Appendix C: Type of health care system and charges to irregular migrants in EU28 countries

Country	Social insurance-based health care system	Tax-based health care system	Combined health care system
Austria	✓		
Belgium			✓
Bulgaria			✓ ¹⁴⁵
Croatia ¹⁴⁶			✓
Cyprus			✓ ¹⁴⁷
Czech republic	✓		
Denmark		✓	
Estonia		✓	
Finland			✓
France			✓
Germany	✓		
Greece			✓ ¹⁴⁸
Hungary	✓		
Ireland			✓
Italy			✓

¹⁴⁵ **Bulgaria:** Relies heavily on Out of Pocket Payments.

¹⁴⁶ **Croatia:** Croatian Health Insurance Fund (<http://www.hzzo.hr/zdravstveni-sustav-rh/omis-zdravstvenog-sustava>); Law on Obligatory Health Insurance, 8.11.2013.

¹⁴⁷ **Cyprus:** Relies heavily on Out of Pocket Payments.

¹⁴⁸ **Greece:** Relies heavily on Out of Pocket Payments.

Country	Social insurance-based health care system	Tax-based health care system	Combined health care system
Latvia	✓ ¹⁴⁹		
Lithuania			✓
Luxembourg	✓		
Malta		✓	
Netherlands			✓
Poland	✓		
Portugal	✓		
Romania			✓
Slovakia	✓		
Slovenia	✓		
Spain		✓	
Sweden		✓	
UK		✓	

¹⁴⁹ **Latvia:** Relies heavily on Out of Pocket Payments.

Appendix D: List of sources for tables

- BALDWIN-EDWARDS, M. & KRALER, A. 2009. *Study on practices in the area of regularisation of illegally staying third-country nationals in the Member States of the EU: Final Report*. Vienna: International Centre for Migration Policy Development (ICMPD).
- BIONDI DAL MONTE, F. 2012. *The impact on fundamental rights of certain practices to detect or report migrants in an irregular situation: A Member State Perspective – Italy*. Presentation, FRA, Vienna, 2 March 2012
- CLANDESTINO 2009. SIZE AND DEVELOPMENT OF IRREGULAR MIGRATION TO THE EU. Counting the Uncountable: Data and Trends across Europe. Comparative Policy Brief - Size of Irregular Migration. <http://research.icmpd.org/1244.html>
- CROATIAN HEALTH INSURANCE FUND (<http://www.hzzo.hr/zdravstveni-sustav-rh/opis-zdravstvenog-sustava>)
- CUADRA, C. B. 2010a. *Country Report Belgium. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University
- CUADRA, C. B. 2010b. *Country Report Bulgaria. Policies on Health Care for Undocumented Migrants in EU27* Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010c. *Country Report Cyprus. Policies on Health Care for Undocumented Migrants in EU27* Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010d. *Country Report Czech Republic. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010e. *Country Report Denmark. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University
- CUADRA, C. B. 2010f. *Country Report Estonia. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010g. *Country Report Finland. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University
- CUADRA, C. B. 2010h. *Country Report France. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010i. *Country Report Germany. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010j. *Country Report Greece. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010k. *Country Report Hungary. Policies on Health Care for Undocumented Migrants in EU27* Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010l. *Country Report Ireland. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.

- CUADRA, C. B. 2010m. *Country Report Italy. Policies on Health Care for Undocumented Migrants in EU27* Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010n. *Country Report Latvia. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010o. *Country Report Lithuania. Policies on Health Care for Undocumented Migrants in EU27* Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010p. *Country Report Luxembourg. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010q. *Country Report Malta. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010r. *Country Report Netherlands. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010s. *Country Report Poland. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010t. *Country Report Portugal. Policies on Health Care for Undocumented Migrants in EU27* Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010u. *Country Report Romania. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010v. *Country Report Slovak Republic. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010w. *Country Report Slovenia. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010x. *Country Report Spain. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010y. *Country Report Sweden. Policies on Health Care for Undocumented Migrants in EU27*. Malmö, Sweden: Malmö University.
- CUADRA, C. B. 2010z. *Country Report United Kingdom. Policies on Health Care for Undocumented Migrants in EU27* Malmö, Sweden: Malmö University.
- DEPARTMENT OF HEALTH, 2015, 'The National Health Service (Charges to Overseas Visitors) Regulations 2015. Statutory Instrument 2015 No.238
- ESTABANEZ, M. A. M., 'The Reality of Access to Basic Social Rights for Children and Families in an Irregular Migration Situation in the EU'. Plenary presentation at PICUM Conference *Children First and Foremost: realising the Rights of Children and Families in an Irregular Situation*, Brussels 27 February 2013.
- EU FUNDAMENTAL RIGHTS AGENCY 2011a. *Fundamental rights of migrants in an irregular situation in the European Union*. Vienna: Fundamental Rights Agency

- EU FUNDAMENTAL RIGHTS AGENCY 2011b. *Migrants in an irregular situation: access to health care in 10 European Union Member States*. Vienna: Fundamental Rights Agency
- EU FUNDAMENTAL RIGHTS AGENCY 2014a. *Criminalisation of migrants in an irregular situation and of persons engaging with them*. Vienna: Fundamental Rights Agency
- EU FUNDAMENTAL RIGHTS AGENCY 2014b. *Criminalisation of migrants in an irregular situation and of persons engaging with them – Annex (EU Member States' legislation on irregular entry and stay, as well as facilitation of irregular entry and stay)*. Vienna: Fundamental Rights Agency
- EUROPEAN COMMISSION 2010. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL: *First Annual Report on Immigration and Asylum* (2009). Brussels.
- EUROPEAN MIGRATION NETWORK 2012. Country Factsheet: Bulgaria 2012. Brussels.: European Commission.
- HUMA Network (2010). *Are Undocumented Migrants and Asylum Seekers Entitled to Access Health Care in the EU? A Comparative Overview in 16 Countries*. <http://www.epim.info/wp-content/uploads/2011/02/HUMA-Publication-Comparative-Overview-16-Countries-2010.pdf>
- HWWI 2009a. Stocks of Irregular Migrants: Estimates for Austria, last change October 2009. Hamburg Institute of International Economics (HWWI).
- HWWI 2009b. Stocks of Irregular Migrants: Estimates for France, last change November 2009. Hamburg Institute of International Economics (HWWI).
- HWWI 2009c. Stocks of Irregular Migrants: Estimates for Hungary, last change October 2009. Hamburg Institute of International Economics (HWWI).
- HWWI 2009d. Stocks of Irregular Migrants: Estimates for Italy, last change October 2009. Hamburg Institute of International Economics (HWWI).
- HWWI 2009e. Stocks of Irregular Migrants: Estimates for Poland, last change October 2009. Hamburg Institute of International Economics (HWWI).
- HWWI 2009f. Stocks of Irregular Migrants: Estimates for Slovakia, last change November 2009. Hamburg Institute of International Economics (HWWI).
- HWWI 2009g. Stocks of Irregular Migrants: Estimates for Spain, last change November 2009. Hamburg Institute of International Economics (HWWI).
- HWWI 2009h. Stocks of Irregular Migrants: Estimates for the Czech Republic, last change October 2009. Hamburg Institute of International Economics (HWWI).
- HWWI 2009i. Stocks of Irregular Migrants: Estimates for the Netherlands, last change October 2009. Hamburg Institute of International Economics (HWWI).
- HWWI 2009j. Stocks of Irregular Migrants: Estimates for the United Kingdom, last change November 2009. Hamburg Institute of International Economics (HWWI).

- HWWI 2012a. Stocks of Irregular Migrants: Estimates for Germany. Hamburg Institute of International Economics (HWWI).
- HWWI 2012b. Stocks of Irregular Migrants: Estimates for Greece. Hamburg Institute of International Economics (HWWI).
- ISMU, FONDAZIONE 2014. *Diciannovesimo rapporto sulle Migrazioni 2013*
- KARL-TRUMMER, U., NOVAK-ZEZULA, S. & METZLER, B. 2010. Access to health care for undocumented migrants in the EU: A first landscape of NowHereland'. *Eurohealth*, 16, 13-16.
- KINKOROVÁ, J. & TOPOLČAN, O. 2012. 'Overview of health care system in the Czech Republic'. *The EPMA Journal*, 3.
- MAINWARING, C. 2013. Malta. In: TRIANDAFYLLIDON, A. & GROPAS, R. (eds.) *European Migration: A Sourcebook*. Alderhot: Ashgate.
- MÉDECINS DU MONDE 2013. *Access to Health care in Europe in Times of Crisis and Rising Xenophobia*. http://www.mdminternational.org/IMG/pdf/MdM_Report_access_healthcare_in_times_of_crisis_and_rising_xenophobia.pdf
- PASSEL, J. S., COHN, D. & GONZALES-BARRERA, A. 2013. 'Population Decline of Unauthorized Immigrants Stalls, May Have Reversed'. Washington: Pew Research Center.
- PICUM 2011-2012. *Building Strategies to Improve the Protection of Children in an Irregular Migration Situation in Europe*. Country Briefs for Italy, Spain, France, Belgium, Netherlands, Poland and the United Kingdom. [<http://picum.org/en/publications/conference-and-workshop-reports/>]
- PICUM Bulletins from May 2009 – February 2015. [<http://picum.org/en/news/bulletins/>]
- PICUM, 2015. *Protecting Undocumented Children: Promising policies and Practices from Governments*. Brussels: Platform for International Cooperation on Undocumented Migrants.
- RÖDAKORSET 2013. *New law gives undocumented migrants the right to health care*. [<http://www.redcross.se/PageFiles/6433/webinfo%20sjukv%C3%A5rds%20engelska.pdf>]
- RÖDAKORSET 2013. *Undocumented migrant children have the right to go to school!* [Accessed 1 Dec 2013: http://www.redcross.se/PageFiles/6433/20130624_skola_original_Straker_English.pdf]
- SCHNEIDER, J. 2012. 'Practical Measures for Reducing Irregular Migration'. Working Paper 41 of the Research Section of the Federal Office. Nuremberg: Federal Office for Migration and Refugees. http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/EMN/Nationale-Studien-WorkingPaper/emn-wp41-irregular-migration.pdf?__blob=publicationFile
- VOLLMER, B. A. 2011. Policy Discourses on Irregular Migration in the EU - Number Games and Political Games. *European Journal of Migration and Law*, 13, 317-339.

Bibliography

- ALIVERTI, A. 2012. 'Making people criminal: The role of the criminal law in immigration enforcement'. *Theoretical Criminology*. 16(4), 417-434.
- BALDWIN-EDWARDS, M. & KRALER, A. 2009. *Study on practices in the area of regularisation of illegally staying third-country nationals in the Member States of the EU: Final Report*. Vienna: International Centre for Migration Policy Development (ICMPD).
- BIONDI DAL MONTE, F. 2012. *The impact on fundamental rights of certain practices to detect or report migrants in an irregular situation: A Member State Perspective – Italy*. Presentation, FRA, Vienna, 2 March 2012
- BLINDER, S. 2014. 'UK Public Opinion Towards Immigration: Overall Attitudes and Levels of Concern'. *Migration Observatory Briefing*: Oxford: Migration Observatory <http://www.migrationobservatory.ox.ac.uk/briefings/uk-public-opinion-toward-immigration-overall-attitudes-and-level-concern>]
- BLOCH, A., SIGONA, N. & ZETTER, R. 2009. *No Right to Dream: The social and economic lives of young undocumented migrants in Britain*. London: Paul Hamlyn Foundation.
- BLOCH, A., SIGONA, N. & ZETTER, R. 2011. 'Migration routes and strategies of young undocumented migrants in England: a qualitative perspective'. *Ethnic and Racial Studies*, 34, 1286-1302.
- CHAUVIN, P. & SIMONNOT, N. 2013. *Access to health care of excluded people in 14 cities of 7 European countries. Final report on social and medical data collected in 2012*. Paris: Médecins du Monde/Doctors of the World International Network. http://www.iplesp.upmc.fr/ds3/Rapports%20en%20ligne/report_2013_access_care_vulnerable_people_14_cities_7_countries.pdf
- CHIMIANTI, M and SOLOMOS, J (2015) 'How Do International Human Rights Influence National Health care Provisions for Irregular Migrants? A Case Study in France and the UK' *Journal of Human Rights*, online April 2015, DOI: 10.1080/14754835.2015.1032225 <http://dx.doi.org/10.1080/14754835.2015.1032225>
- CHOLEWINKSI, R. 2005. *Study on Obstacles to Effective Access of Irregular Migrants to Minimum Social Rights*. Strasbourg: Council of Europe.
- CLANDESTINO 2009. SIZE AND DEVELOPMENT OF IRREGULAR MIGRATION TO THE EU. 'Counting the Uncountable: Data and Trends across Europe. Comparative Policy Brief - Size of Irregular Migration'. <http://research.icmpd.org/1244.html>
- COMMISSIONER FOR HUMAN RIGHTS 2010. *Criminalisation of Migration in Europe: Human Rights Implications*. Issue Paper. Strasbourg: Council of Europe.
- CUADRA, C. B. 2012. 'Right of access to health care for undocumented migrants in EU: a comparative study of national policies'. *The European Journal of Public Health*. Advance access June 9 2011.

- CUADRA, C. B. & CATTACIN, S. 2010. *Policies on Health Care for Undocumented Migrants in the EU27: Towards a Comparative Framework*. Summary Report. Sweden: Malmö University.
- DE GENOVA, N. P. 2002. 'Migrant 'Illegality' and Deportability in Everyday Life'. *Annual Review of Anthropology*, 31, 419-447.
- DELVINO, N. AND SPENCER, S. 2014. 'Irregular Migrants in Italy: Law and Policy on Entitlements to Services'. Oxford: COMPAS
- DEPARTMENT OF HEALTH, 2015a. 'The National Health Service (Charges to Overseas Visitors) Regulations 2015'. London: Department of Health
- DEPARTMENT OF HEALTH, 2015b. 'Equality analysis: The National Health Service (Charges to Overseas Visitors) Regulations 2015. London: Department of Health. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/403251/equality-analysis-charges-ovs-visitors.pdf
- DEPARTMENT OF HEALTH, 2015c. 'Guidance on implementing the overseas visitor hospital charging regulations 2015'. London: Department of Health https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418634/Implementing_overseas_charging_regulations_2015.pdf
- DÜVELL, F. 2011. 'Paths into irregularity: the legal and political construction of irregular migration'. *European Journal of Migration and Law*, 13 (3).
- ECDC (2012) *Thematic Report: Migrants: Monitoring implementation of the Dublin Declaration on Partnership to Fight HIV/AIDS in Europe and Central Asia. 2012 progress report*. Stockholm: European Centre for Disease Prevention and Control.
- ECDC (2014) *From Dublin to Rome: ten years of responding to HIV in Europe and Central Asia: Summary report*. Stockholm: European Centre for Disease Prevention and Control.
- ESPING-ANDERSEN, G. 1990. *The Three Worlds of Welfare Capitalism*. Cambridge: Polity.
- ESTEBANEZ, M. A. M. 2013. 'The Reality of Access to Basic Social Rights for Children and Families in an Irregular Situation'. Presentation at PICUM conference *Children First and Foremost: realising the Rights of Children and Families in an Irregular Situation*. Brussels. 27 February 2013.
- EUROPEAN COMMISSION 2010. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL: First Annual Report on Immigration and Asylum (2009). Brussels.
- EUROPEAN COMMISSION 2014. Communication from the Commission to the Council and the European parliament on EU return policy. COM (2014). Brussels. 199 final.
- EU FUNDAMENTAL RIGHTS AGENCY (FRA) 2011a. Fundamental rights of migrants in an irregular situation in the European Union. Vienna: Fundamental Rights Agency

- EU FUNDAMENTAL RIGHTS AGENCY (FRA) 2011b. Migrants in an irregular situation: access to health care in 10 European Union Member States. Fundamental Rights Agency. Vienna: Fundamental Rights Agency
- EU FUNDAMENTAL RIGHTS AGENCY (FRA) 2014a. Criminalisation of migrants in an irregular situation and of persons engaging with them. Vienna: Fundamental Rights Agency
- EU FUNDAMENTAL RIGHTS AGENCY (FRA) 2014b. Annex: Criminalisation of migrants in an irregular situation and of persons engaging with them – Annex (EU Member States' legislation on irregular entry and stay, as well as facilitation of irregular entry and stay). Vienna: Fundamental Rights Agency
- EUROPEAN MIGRATION NETWORK 2012. Country Factsheet: Bulgaria 2012. Brussels: European Commission. [http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/country-factsheets/country_factsheet_bulgaria_2012_\(en\)-_400027_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/country-factsheets/country_factsheet_bulgaria_2012_(en)-_400027_en.pdf)
- FENGER, H.J.M 2007. 'Welfare regimes in Central and Eastern Europe: Incorporating post-communist countries in a welfare regime typology'. Web journal: *Contemporary Issues and Ideas in Social Sciences*. Retrieved from ResearchGate, 3 July 2014.
- FONDAZIONE ISMU, 2014. *Diciannovesimo rapporto sulle Migrazioni 2013*. Milan: ISMU
- GEDDES, A. 2003. Migration and the Welfare State in Europe in S. Spencer (Ed) *The Politics of Migration: Managing Opportunity, Conflict and Change*. Oxford: Blackwell/Political Quarterly. pp 150-162.
- GIBNEY, M. J. 2008. 'Asylum and the Expansion of Deportation in the United Kingdom. *Government and Opposition*', 43, 146-167.
- GORDON, I., SCANLON, K., TRAVERS, T. & WHITEHEAD, C. 2009. *Economic Impact on the London and UK Economy of an Earned Regularisation of Irregular Migrants to the UK*. London: Great London Authority.
- HEYNS, C, VILJOEN, F. 2001. 'The Impact of the United Nations Human Rights Treaties on the Domestic Level'. *Human Rights Quarterly*, 23, 483 - 535
- HUMA NETWORK. 2009. *Access to Health care for Undocumented Migrants and Asylum Seekers in 10 EU Countries: Law and Practice*. http://www.episouth.org/doc/r_documents/Rapport_huma-network.pdf
- HUMA NETWORK. 2010. *Are Undocumented Migrants and Asylum Seekers Entitled to Access Health Care in the EU? A Comparative Overview in 16 Countries*. <http://www.epim.info/wp-content/uploads/2011/02/HUMA-Publication-Comparative-Overview-16-Countries-2010.pdf>
- HUMA NETWORK. 2011. *Access to Health care and Living Conditions of Asylum Seekers and Undocumented Migrants in Cyprus, Malta, Poland and Romania*. http://interwencjaprawna.pl/docs/wpdt2011_1_en.pdf

- JORDAN, B. & DÜVELL, F. 2002. *Irregular migration: the dilemmas of transnational mobility*, Cheltenham: Edward Elgar.
- KARL-TRUMMER, U., NOVAK-ZEZULA, S. & METZLER, B. 2010. 'Access to health care for undocumented migrants in the EU: A first landscape of NowHereland'. *Eurohealth*, 16, 13-16.
- KELLER, H. & SWEET, A.S. 2008. 'Assessing the impact of the ECHR on national legal systems' in Keller, H and Sweet, A.S (ed.) *A Europe of Rights, The Impact of the ECHR on National Legal Systems*. Oxford: Oxford University Press
- KINKOROVÁ, J. & TOPOLČAN, O. 2012. 'Overview of health care system in the Czech Republic'. *The EPMA Journal*, 3.
- MAINWARING, C. 2014. Malta. In: TRIANDAFYLLIDON, A. & GROPAS, R. (eds.) *European Immigration: A Sourcebook*. Aldershot: Ashgate.
- MÉDECINS DU MONDE 2013a. *Access to Health care for Vulnerable Populations: update of legislation in 10 European countries*. Unpublished report. Paris: Médecins du Monde
- MÉDECINS DU MONDE 2013b. *Access to Health care in Europe in Times of Crisis and Rising Xenophobia: an overview of the situation of people excluded from health care systems*. Paris: Médecins du Monde
- MÉDECINS DU MONDE EUROPEAN OBSERVATORY 2009. *Access to Health care for undocumented migrants in 11 European countries*. Paris: Médecins du Monde
- NEUMAYER, E. 2005. 'Do International Human Rights Treaties Improve Respect for Human Rights?' *Journal of Conflict Resolution*, 49(6) 925-953.
- OHCHR, 2014. *The Economic, Social and Cultural Rights of Migrants in an Irregular Situation*. Geneva: Office of the High Commissioner for Human Rights.
- PAOLETTI, E. 2010. 'Deportation, non-deportability and ideas of membership'. *Working Paper Series*. Oxford: Refugee Studies Centre, University of Oxford.
- PARKIN, J. 2013. 'The Criminalisation of Migration in Europe: A State-of-The-Art of the Academic Literature and Research'. *Liberty and Security in Europe Papers*. Brussels: Centre for European Policy Studies (CEPS).
- PASSEL, J. S., COHN, D. & GONZALES-BARRERA, A. 2013. 'Population Decline of Unauthorized Immigrants Stalls, May Have Reversed'. Washington: Pew Research Center.
- PICUM 2007. *Access to Health Care for Undocumented Migrants in Europe*. Brussels: Platform for International Cooperation on Undocumented Migrants.
- PICUM 2011. 'Building Strategies to Improve the Protection of Children in an Irregular Migration Situation in Europe - Country Brief Poland'. Brussels: Platform for International Cooperation on Undocumented Migrants.

- PICUM 2012a. 'Building Strategies to Improve the Protection of Children in an Irregular Migration Situation in Europe - Country Brief Netherlands'. Brussels: Platform for International Cooperation on Undocumented Migrants.
- PICUM 2012b. 'Building Strategies to Improve the Protection of Children in an Irregular Migration Situation in Europe - Country Brief Italy'. Brussels: Platform for International Cooperation on Undocumented Migrants.
- PICUM 2012c. 'Building Strategies to Improve the Protection of Children in an Irregular Migration Situation in Europe - Country Brief Spain'. Brussels: Platform for International Cooperation on Undocumented Migrants.
- PICUM 2012d. 'Building Strategies to Improve the Protection of Children in an Irregular Migration Situation in Europe - Country Brief Belgium'. Brussels: Platform for International Cooperation on Undocumented Migrants.
- PICUM 2013. *Children First and Foremost: A guide to realising the rights of children and families in an irregular migration situation*. Brussels: Platform for International Cooperation on Undocumented Migrants.
- PICUM 2015. *Protecting Undocumented Children: Promising policies and Practices from Governments*. Brussels: Platform for International Cooperation on Undocumented Migrants.
- PROVERA, M. (2015). 'The Criminalisation of Irregular Migration in the European Union'. CEPS Paper in Liberty and Security in Europe, No.80. Brussels: Centre for European Policy Studies.
- RÖDAKORSET. 2013a. *New law gives undocumented migrants' right to health care* [Online]. Available: <http://www.redcross.se/PageFiles/6433/webinfo%20sjukv%C3%A5rdslag%20engelska.pdf> [Accessed].
- RÖDAKORSET. 2013b. *Undocumented migrant children have the right to go to school!* [Online]. Available: http://www.redcross.se/PageFiles/6433/20130624_skola_original_Straker_English.pdf [Accessed 1 Dec 2013].
- RUHS, M. & ANDERSON, B. 2010. 'Semi-compliance and illegality in migrant labour markets: an analysis of migrants, employers and the state in the UK'. *Population, Space and Place*, 16, 195-211.
- SABATES-WHEELER, R. 2009. *The Impact of Irregular Status on Human Development Outcomes for Migrants*, Research Paper 2009/26, UNDP.
- SAINSBURY, D. 2012. *Welfare states and immigrant rights: the politics of inclusion and exclusion*, Oxford: Oxford University Press.
- SCHNEIDER, J. 2012. 'Practical Measures for Reducing Irregular Migration'. Working Paper 41 of the Research Section of the Federal Office. Nuremberg: Federal Office for Migration and Refugees. http://www.bamf.de/SharedDocs/Anlagen/EN/Publikationen/EMN/Nationale-Studien-WorkingPaper/emn-wp41-irregular-migration.pdf?__blob=publicationFile

- SIGONA, N. 2012. 'Deportation, non-deportation and precarious lives: The everyday lives of undocumented migrant children in Britain'. *Anthropology Today*, 28, 22-23.
- SIGONA, N. & HUGHES, V. 2012. *No Way Out, No Way In: Irregular migrant children and families in the UK*. Oxford: Centre on Migration, Policy and Society (COMPAS), University of Oxford.
- THOMSON, S, FOUBISTER, T and MOSSIALOS, E *Financing Health care in the European Union, Challenges and Policy Responses*. European Observatory on Health Systems and Policies. Observatory Studies Series No 17.
- TRANSATLANTIC TRENDS, 2011. 'Transatlantic Trends: Immigration'. [http://trends.gmfus.org/files/2011/12/TTImmigration_final_web1.pdf]
- TRANSATLANTIC TRENDS, 2013. 'Transatlantic Trends 2013: Key Findings'. [<http://trends.gmfus.org/files/2013/09/TTrends-2013-Key-Findings-Report.pdf>]
- TRANSATLANTIC TRENDS, 2014: 'Mobility, Migration and Integration. Key findings from 2014 and selected highlights from Transatlantic Trends and Transatlantic Trends Immigration 2008-13'.
- VOLLMER, B. A. 2011. 'Policy Discourses on Irregular Migration in the EU - Number Games and Political Games'. *European Journal of Migration and Law*, 13, 317-339.