

Undocumented Children in Europe: Invisible Victims of Immigration Restrictions



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PLATFORM FOR INTERNATIONAL COOPERATION ON UNDOCUMENTED MIGRANTS

PICUM, the **Platform for International Cooperation on Undocumented Migrants**, is a non-governmental organization that aims to promote respect for the human rights of undocumented migrants within Europe. PICUM also seeks dialogue with organizations and networks with similar concerns in other parts of the world.

PICUM promotes respect for the basic social rights of undocumented migrants, such as the right to health care, the right to shelter, the right to education and training, the right to a minimum subsistence, the right to family life, the right to moral and physical integrity, the right to legal aid and the right to fair labor conditions.

PICUM's activities are focused in five main areas:

- 1. Monitoring and reporting:** improving the understanding of issues related to the protection of the human rights of undocumented migrants through improved knowledge of problems, policies and practice.
- 2. Capacity-building:** developing the capacities of NGOs and all other actors involved in effectively preventing and addressing discrimination against undocumented migrants.
- 3. Advocacy:** influencing policy makers to include undocumented migrants in social and integration policies on the national and European levels.
- 4. Awareness-raising:** promoting and disseminating the values and practices underlying the protection of the human rights of undocumented migrants among relevant partners and the wider public.
- 5. Global actors on international migration:** developing and contributing to the international dialogue on international migration within the different UN agencies, international organizations, and civil society organizations.

Based in Brussels, Belgium, PICUM has over 100 affiliated members and 107 ordinary members in 25 countries primarily in Europe as well as in other regions of the world. PICUM's monthly newsletter on issues concerning the human rights of undocumented migrants is produced in seven languages and circulates to PICUM's network of more than 2,400 civil society organizations, individuals and further.

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We hope that this report can be useful in bringing recognition and protection to some of the most vulnerable children in Europe today.

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DEFENSA DE NIÑAS Y NIÑOS INTERNACIONAL DNI
DEFENSE DES ENFANTS INTERNATIONAL DEI
DEFENCE FOR CHILDREN INTERNATIONAL DCI



Andalucía Acoge



Save the Children
Denmark

Introduction

Undocumented Children in Europe

Over the past few years of daily monitoring and advocacy for the rights of undocumented migrants, PICUM has noted a dangerous trend towards the erosion of the rights of undocumented children. The general lack of protection of undocumented children has been observed in almost all EU member states and the deterioration of this situation has been indicated both by civil society organizations as well as institutional bodies.¹

Undocumented children in Europe are a multifaceted and diverse group: undocumented children can be minors arriving in Europe to be reunited with their family but not falling under the official family reunification schemes; those who entered with one or more relatives irregularly; or children born in Europe but whose parents are undocumented. But undocumented children also include minors who are sent by their families to Europe in search of better

conditions or who have run away, and are therefore alone, but who prefer to keep outside the reception circuits for unaccompanied minors and are invisible to social services.²

Whatever their condition, the fact that these children are in Europe without protection through official family reunification programs or asylum process makes them “undocumented” and as such, affected by the policies on irregular migration.

Some aspects of recent European policies on the control of irregular immigration arouse strong concern about their effects on undocumented children and on these children’s access to basic social rights. Detention of undocumented migrants, including children with their families, is a common practice in most of the European countries; the repatriation of children with their families or even alone has been reported not only by NGOs but also by the European Court for Human Rights.³

¹ See Platform for International Cooperation on Undocumented Migrants (PICUM) (ed.), *PICUM’s Main Concerns About the Fundamental Rights of Undocumented Migrants in Europe in 2006*, PICUM, Brussels, 2006 (<http://picum.org/HOME/PICUM’s%20Main%20Concerns%202006.pdf>).

² They remain invisible to the social services out of the minor’s choice (out of fear of being repatriated) or more simply because they don’t know of the existence of the social support system set up for them.

³ See the recent case of Tabitha Mitunga, in which the Belgian government was condemned for inhumane treatment regarding a child, *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium* (Application No. 13178/03), Judgment, Strasbourg, 12 October 2006 (<http://cmiskp.echr.coe.int/tkp197/viewhbkm.asp?action=open&table=F69A27FD8FB86142BF01C1166DEA398649&key=58704&sessionId=11300000&skin=hudoc-en&attachment=true>).

The control policies against irregular migration currently being pursued by the European Union have dramatically switched the attention of governments and public opinion from the need to protect these young immigrants as children, to the repression of their irregular position. The very status of young immigrants as children is regularly challenged by national immigration control authorities who seek to take advantage of the apparent maturity of many teenagers. The absence of documentation in the form of birth certificates or authentic identity cards provides opportunities for officials to claim older ages for young people, thereby curtailing any protection they might have been entitled to as persons under the age of eighteen. Also of concern are the harsh requirements of many European countries for granting legal permission to stay to these children once they become adults.⁴ The increasingly narrow channels of obtaining a regular residence permit once they become of age often forces these young people into hiding.

The Triple Vulnerability of Undocumented Children

The main consequence of these aggressive policies for families in irregular conditions or of unaccompanied minors excluded from protection is the aggravation of a very vulnerable condition that characterizes this group. All migrants face great risk of poverty and social exclusion. These dangers are exacerbated for those who lack a proper residence permit. Amongst this group, children - whether they have migrated alone or are accompanied by their parents/carers - occupy an especially vulnerable

position in terms of their ability to access rights and protections.

Undocumented children are in a position of triple vulnerability: as children above all; as migrants; and finally and this unfortunately is their major vulnerability, as undocumented migrants. The particular vulnerability of these minors is daily reported by NGOs that deal with the protection of these minors and has been widely recognized on the European and international levels.

Council of Europe Human Rights Commissioner Thomas Hammarberg, in one of his messages of concern, has addressed the situation of the undocumented children: *“Migrant children are one of the most vulnerable groups in Europe today. Some of them have fled persecution or war, others have run away from poverty and destitution. There are also those who are victims of trafficking. At particular risk are those who are separated from their families and have no - or only temporary - residence permits. Many of these children suffer exploitation and abuse. Their situation is a major challenge to the humanitarian principles we advocate.”*⁵

“Migrant children are one of the most vulnerable groups in Europe today (...) At particular risk are those who are separated from their families and have no - or only temporary - residence permits.”

THOMAS HAMMARBERG,
COUNCIL OF EUROPE HUMAN RIGHTS COMMISSIONER

⁴ See for example recent legislative changes introduced in Italy and France, detailed further in Chapter One on Education.

⁵ See Commissioner for Human Rights of the Council of Europe, *Viewpoint: “Children in Migration Should Get Better Protection”*, 6 August 2007 (http://www.coe.int/t/commissioner/Viewpoints/070806_en.asp).

The Social Protection Committee of the European Commission released a report on “Child Poverty and Well-Being in the EU” in January 2008. In this report, referring to the situation of migrant children and their risk of poverty in the EU, the committee states that: *“Children living in a migrant household face a much higher risk of poverty than children whose parents were born in the host country. In most countries the risk of poverty rate they face reaches 30% or more and is two to five times higher than the risk faced by children whose parents were born in the country of residence.”*⁶

Undocumented Children: Invisible Children

The presence of undocumented children in Europe is, as stated, a varied and complex reality which is difficult to define conclusively. The category of undocumented children is by its nature a mobile and open category. Virtually no statistics exist for these minors in Europe, and official data and even estimates in this regard are only approximate. While it is estimated that there may be from 5.5 to 8 million undocumented migrants in Europe,⁷ there are no reliable figures and not even estimates of the number of undocumented children in Europe. On the national level even if attention is given to the

registration of separated children, little or no attention is given undocumented children.

Unfortunately it is difficult to know about and report such situations or the social exclusion and discrimination that these minors experience just because they are often invisible. The families and the minors themselves are afraid to report episodes of discrimination they have undergone. The danger of being identified by the authorities and consequently of being detained and expelled results in situations in which undocumented migrants often prefer to keep quiet rather than report the discrimination they face and be exposed to such a great risk. In this sense they are doubly victimized.

Alongside the objective difficulty of knowing about these actual cases is the political responsibility of governments: human rights violations also take place invisibly because receiving states routinely fail to collect the kind of data that would allow for an evaluation of the impact of immigration controls on children. As reported by the second joint Chief Inspectors’ Report on arrangements to safeguard children conducted in the United Kingdom in 2005: *“The lack of available information about the range of children in the UK who are subject to immigration control itself raises considerable concern about safeguarding arrangements.”*⁸

⁶ See European Commission Directorate General for Employment, Social Affairs and Equal Opportunities, *Child Poverty and Well-Being in the EU*, Office for Official Publications of the European Communities, Luxembourg, January 2008 (http://ec.europa.eu/employment_social/publications/2008/ke3008251_en.pdf).

⁷ See Global Commission on International Migration (GCIM), *Migration in an Interconnected World: New Directions for Action*, October 2005, p.32 (<http://www.gcim.org/attachements/gcim-complete-report-2005.pdf>).

⁸ See Joint Chief Inspectors / Commission for Social Care Inspection, *Safeguarding Children: The Second Joint Chief Inspectors’ Report on Arrangements to Safeguard Children*, 2005, (http://www.hmica.gov.uk/files/safeguards_imagefree.pdf).

PICUM Project: Fighting Discrimination-Based Violence Against Undocumented Children

Even if international appeals for the protection of the undocumented children would be multiplied, governments do not react with adequate and consistent action. On the contrary there has been a general lowering of the level of protection for minors in the name of increasingly restrictive and aggressive politics of the control of irregular immigration. Looking at the harshness of policies towards irregular immigrants it seems that what is completely lacking is an evaluation of the impact that these policies can have on the most vulnerable, such as undocumented children. The tension between the needs for protection and those presumed needs for security and control of irregular immigration makes the scales at this moment lean more toward the needs for security at the expense of the needs for protection.

In this rather scathing picture there are nevertheless some positive signs of a collective awareness of this phenomenon. Civil society, in the form of associations, or simply movements of actors at the local level, seems to realize the inhumanity of this situation and reacts against it. A variety of different means are undertaken to negate the approach of immigration control and instead emphasize the defence of children's rights.

Starting from the consciousness of the great vulnerability of undocumented children and of the fundamental role that civil society has in upholding the rights of these children, PICUM carried out a project entitled "Fighting Discrimination-Based Violence Against Undocumented Children." With this report PICUM aims to investigate the particular vulnerability that characterizes these children and analyze their specific needs and problems in various European countries.

Purpose and Structure of this Report

This report is the result of a two-year European project entitled "Fighting Discrimination-Based Violence Against Undocumented Children" co-funded by the European Commission, DG Justice Freedom and Security, under the DAPHNE Programme which aims at fighting discrimination-based violence against vulnerable groups.

PICUM's project ran from February 2007 to February 2009, and focused on discrimination-based violence against undocumented children in the areas of health care, housing, and education in nine EU member states: Belgium, France, Hungary, Italy, Malta, the Netherlands, Poland, Spain and the UK. The project partners were: Save the Children (Denmark), Defence for Children International (the Netherlands), Association Jeunes Errants (France) and Federación Andalucía Acoge (Spain).

In each of the three research fields (housing, health care, education) we reviewed previous studies and experiences, made a theoretical and legislative background search and identified a network of relevant actors. In each of the nine countries investigated the main actors working on the protection of the rights of foreign minors were contacted and more than eighty interviews were carried out with different NGOs and other actors working in this field.

Each chapter contains a review of national legislation developed in the different countries to guarantee access without discrimination for undocumented children together with international and European legislation. Moreover by looking at international human rights standards of protection for these children, it has also been possible to highlight how national legislation differs from those standards established by the international community.

In addition to legislative aspects, the report focuses primarily on highlighting and analyzing concrete examples of social exclusion of undocumented children. The reality of undocumented children in Europe is very fragmented and different, both in the characteristics of the minors in different countries and in the laws that govern these minors. Naturally we tried to take into account these differences in presenting the various problems on a national level.

Together with the legislative analysis the principal sources for this report are the interviews conducted in the different countries together with the reports of two international workshops held by PICUM during the course of the project.⁹ The particular difficulty of the subject, as well as the lack of ample literature have made the interviews essential. In order to allow an open and comparative approach the interviewees were given the opportunity to freely express what they thought were the main problems.

The information gathered in the interviews focused on the common problems faced by undocumented children in different countries in upholding their basic social rights. The report also highlights difficulties faced by NGOs in providing support to

families and minors in irregular conditions and the answers the institutional system has given to these problems; and if an adequate response does not exist on the institutional level, what strategies were put in place by NGOs.

The report is divided into three chapters, focused on access to education, health care and housing. Even if these basic social rights have been addressed separately, particular attention is given to the principle of interdependence of the social rights and how the access to these rights are “de facto” correlated in the reality of these children. To underline the importance of this principle a separate paragraph has been added to each chapter with concrete examples on the interdependence of rights.

With this report PICUM wants to contribute to the awareness of the situation of undocumented children in Europe as well as support an exchange between NGOs and other civil society actors that work in this sector. PICUM hopes to be able to offer a useful tool as well as to give voice to all the requests for justice raised by NGOs that work with undocumented children.

⁹ During the course of the project, two separate workshops were held in Brussels, where more than 100 participants at each workshop (including representatives of NGOs, local authorities, professionals from diverse fields, and other actors) shared experiences and discussed ways to address the problems associated with insufficient access to basic social services for undocumented children. The reports of the workshops are available at: www.picum.org.



Chapter 1. Access to Education

Chapter 1. Access to Education

Undocumented children experience significant barriers to the educational system in the nine European countries investigated in this report. These barriers may be practical, such as lack of identification; institutional, such as discriminatory legislation or broadly societal, such as the fear of being detected. As a result, both compulsory education and higher education can be difficult to access for undocumented children and youth. Though individual countries vary in their definitions, compulsory education will be defined in this report as primary and secondary education from 6 to 16 years of age.

The importance of school in children's formation and social integration is an established, incontrovertible fact that does not need to be dealt with at length. Suffice it to say that in school the young

person, beyond acquiring the knowledge necessary for his or her growth, begins the social and cultural integration necessary to become a full citizen of the society in which he or she lives.¹⁰

In addition, access to education for undocumented children represents the principal means for their introduction to society and starts the process towards obtaining regular permits of residence once they reach 18 years of age. In some countries it is thanks to regular school attendance that these children are able to receive residence permits at 18: in Italy¹¹ and France,¹² for example, conferral of the residence permit once the student reaches adulthood is tied to physical presence in the territory for a certain number of years and having followed a scholastic course.

¹⁰ In an article about the integration of migrants, Walter Kälin, Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, affirms that social integration is realized by integration in the educational system through non-segregated primary and secondary schools, as well as upper-level education. He considers equality of treatment one of the keys of integration, as is respect of the principle of non-discrimination. See Guimont, A. / Office of the High Commissioner for Human Rights (OHCHR), *Le droit à l'éducation des enfants migrants*, March 2007, p. 2 (http://www2.ohchr.org/english/bodies/cmw/docs/Droit_leducation_fr.pdf).

¹¹ See Law. 286/98, Art. 32 as modified by the 189/2002, Art. 25. The law states that in order to obtain a residence permit upon turning 18 years old, the child must be present in Italy for at least three years and have followed a "social integration process" (which includes school and vocational courses) for two years (<http://www.parlamento.it/leggi/02189l.htm>).

¹² In France until November 2003, undocumented children monitored by the child welfare services were entitled to apply for French nationality when they turned the age of 18. But the Act of 26 November 2003 on controlling migration flows (the so-called Sarkozy Act) has put an end to this: on reaching the age of majority, young people may apply for French nationality only if they have been on the child welfare services' books (schools for example) for three years, i.e. came to France below the age of 15. See Article 14 of LOI n° 2003-1119 of 26 November 2003 "relative à la maîtrise de l'immigration, au séjour des étrangers en France et à la nationalité" (<http://www.droit.org/jo/20031127/INTX0300040L.html>). See also Circulaire N° Nor/Int/D/04/00006/C of 20 January 2004, Application of the Law n°2003-1119 of 26 November 2003 "relative à la maîtrise de l'immigration, au séjour des étrangers en France et à la nationalité", which explains that the change is intended to restrict the "illegal immigration of unaccompanied minors" (<http://www.vie-publique.fr/documents-vp/intd0400006c.pdf>).

THE RIGHT TO EDUCATION FOR UNDOCUMENTED CHILDREN

International Standards

International Protection of the Right to Education for Undocumented Children:	
International Instruments	European Instruments
Art. 26 (1) UDHR	Art. 17 (2) ESC
Art. 28 (1), 29 (1) CRC	Art. 14 ECHR
Art. 13 (1)(2), 14 ICESCR	
Art. 5 (e)(v) ICERD	
Art. 30 ICRMW	

The importance of education for children is confirmed and consecrated by a wide range of international conventions. All the international conventions recognise the right of instruction as a fundamental right of every child. Taking the standards of international protection as a point of reference, discrepancies become apparent between the existing standards of international law and the actual situations of undocumented children.

Universal Declaration of Human Rights (UDHR)

Access to education as a fundamental right is found in the beginning of the United Nations Universal Declaration of Human Rights. The UDHR is the basic document of all UN human rights conventions. The declaration consists of 30 articles that outline the view of the United Nations on the human rights that are guaranteed to all people. Though the UDHR is a declaration and is not binding for states, in 1968 the United Nations International Conference on Human Rights decided that it “constitutes an obligation for the members of the international community” for all persons.¹³ Currently, the UDHR is considered to be part of customary international law and is thus intended to be binding on states.

Article 26 of the UDHR is dedicated to the right to education, stressing both the right to access to and the right to equality in education. “*Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory.*”

Convention on the Rights of the Child (CRC)

The other fundamental instrument in the protection of the rights of children is the Convention on the Rights of the Child. This is certainly the most important instrument for the defence of children’s rights on an international level. The CRC has been ratified by all the members of the UN General Assembly, except United States and Somalia. Access to education for all children, including those who are undocumented, is guaranteed by Article 28 of the convention. The article stresses obligations regarding children’s right to access education free from discrimination of any kind.

“States Parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all.”

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CONVENTION ON THE RIGHTS OF THE CHILD,
ARTICLE 28

¹³ See Office of the High Commissioner for Human Rights (OHCHR), *Fact Sheet No.2 (Rev.1), The International Bill of Human Rights*, Geneva, June 1996 (<http://www.unhchr.ch/html/menu6/2/fs2.htm>).

The principle of non-discrimination reported in Article 28 and more directly in Article 2 means that the right to education must be guaranteed comprehensively and without any distinction between undocumented children and children whose residence is authorised.¹⁴

Along with these two instruments, another series of instruments can be cited and, though not directly related to undocumented children, can be applied in a general way.

International Convention on Economic, Social and Cultural Rights (ICESCR)

The UN International Convention on Economic, Social and Cultural Rights contains some of the most significant international legal provisions establishing economic, social and cultural rights.

Article 13 of the convention is dedicated to the right to education, and states among other things that *“primary education shall be compulsory and available free to all; secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education.”*¹⁵

International Convention on the Elimination of all forms of Racial Discrimination (ICERD)

The UN International Convention on the Elimination of All forms of Racial Discrimination requires all countries to condemn all forms of racial discrimination and to pursue policies that eliminate racial discrimination in all its forms.

Article 5 of the convention explicitly states that *“in compliance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights... the right to education and training.”*

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)

The third section of the text of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990 deals with the right to education of all migrant workers and the members of their family, no matter what their migratory status may be.

¹⁴ The meaning of this article for undocumented children has been clarified by the Committee on Rights of the Child, *General Comment No.6: Treatment of Unaccompanied and Separated Children Outside Their Country of Origin*, CRC/GC/2005/6 (1 September 2005) In this General Comment, the committee affirmed that “State obligations under the Convention apply within the borders of a State, including with respect to those children who come under the State’s jurisdiction while attempting to enter the country’s territory. Therefore, the enjoyment of rights stipulated in the Convention is not limited to children who are citizens of a State party and must therefore, if not explicitly stated otherwise in the Convention, also be available to all children – including asylum-seeking, refugee and migrant children – irrespective of their nationality, immigration status or statelessness” ([http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/532769d21fcd8302c1257020002b65d9/\\$FILE/G0543805.pdf](http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/532769d21fcd8302c1257020002b65d9/$FILE/G0543805.pdf)).

¹⁵ See the Committee on Economic, Social and Cultural Rights (CESCR), *The Right to Education (Art.13)*, E/C.12/1999/10 (8 December 1999): “The Committee takes note of Article 2 of the Convention on the Rights of the Child and Article 3 (e) of the UNESCO Convention against Discrimination in Education and confirms that the principle of non-discrimination extends to all persons of school age residing in the territory of a State party, including non-nationals, and irrespective of their legal status” ([http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.1999.10.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/E.C.12.1999.10.En?OpenDocument)).

Article 30 lays down the premise that *“each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned”*. The text specifies that the children of irregular migrants fully hold the right to education and that states are obliged to respect this right. *“Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child’s stay in the State of employment.”*

It must be underlined that since the ICRMW entered into force in 2003, no EU member state, the United States, Canada, Australia, nor any other major so-called immigrant “receiving” countries have ratified the convention.

European Conventions and Legislation

In addition to international standards, European instruments are also relevant.

Council of Europe

The Council of Europe adopted both the European Social Charter, Article 17, and the European Convention on Human Rights and Freedoms, protocol 1, Article 2. These documents clearly state that no person shall be denied the right to education and that the state has a clear duty to render this right effective.

European Union

Finally the other convention that must be cited is the Charter of Fundamental Rights of the European Union. The text on freedoms in chapter 2, Article 14, states that *“everyone has the right to education and to have access to vocational and continuing training; this right includes the possibility to receive free compulsory education.”*

Besides European conventions, the legislation of the European Union demonstrates that the right to education is protected for children who are nationals of third countries and either have regular status or have been resident for at least a certain minimum period.¹⁶ However, no clear provision is included for the education of children who are third-country nationals and irregularly resident in European Union territory. In the case of immigrant children who are irregularly present on European Union territory, no form of educational entitlement is specified in European legislation.¹⁷

National Legislation

As we have seen, international legislation guarantees all children access to compulsory education, regardless of their immigration status. The standards set in force by international legislation are clear and relate to the principle of non-discrimination. The legislation cited imposes a moral duty on states and requires some minimum rules to be respected. The majority of the agreements cited have been ratified by the EU member states included in this report and, as such, are binding (e.g. the Convention on the Rights of the Child).

¹⁶ For a more detailed analysis of the legislation, see the recent study undertaken by the European Commission on access to education for migrant children in Europe: European Commission Directorate General for Education and Culture, *Integrating Immigrant Children into Schools in Europe*, Eurydice, 2004 (http://eacea.ec.europa.eu/ressources/eurydice/pdf/0_integral/045EN.pdf).

¹⁷ *Ibidem*, p.12.

International legislation establishes minimum standards of protection that are expected to be put into practice through national legislation by the states' parties. The relationship between international and national legislation will be critically analyzed in relation with the countries involved in this study. The aim of this exploration is, first of all, to see if there are forms of direct discrimination against undocumented children in the laws and, secondly, to see how the right to education is guaranteed. For this reason we will therefore analyse the primary legislation together with the constitutional reference.

Also, the analysis shows a general picture regarding the countries involved, in order to see key aspects of the legislation concerning access to education. Research already done on a European level will assist this effort, as will information obtained in the interviews and direct study of the legislative sources. To this point, research at the national level clearly shows that the countries have agreed on the importance of education in the integration process of migrant children.

Neither the interviews nor the examination of the national legislation uncovered any case of direct discrimination in the legislation against undocumented children with regards to accessing education in the countries studied.¹⁸ In no case did the law explicitly forbid access to education for undocumented children nor were there reports of direct legislative discrimination explicitly prohibiting undocumented children's access to education. Nevertheless, the level of protection given to foreign children and to undocumented children varies from country to country.

As stated, this study has been an attempt to present a very general picture of legislation by looking primarily at legislative sources and at other studies. In addition to these secondary sources, additional information came from interviews. One part of the interview was devoted to comments on the legislation's strengths and weaknesses. With these two sources, the legislative picture of every country was analysed, concentrating specifically on the instruments that help to protect undocumented children.

¹⁸ As it is underlined in the report *Integrating Immigrant Children into Schools in Europe*, "Almost all European countries comply fully with this basic right, extending it to all immigrant children, irrespective of their residential status. In other words, families of refugees or asylum seekers or those who are irregularly resident, no less than those with long term residential status, may all enrol their children at a school in the host country." See European Commission Directorate General for Education and Culture (2004, p. 67).

Different Types of Protection at National Level

National Legislation on the Right to Education and Its Application to Undocumented Children		
Explicit Reference in Legislation Specific reference in the legislation to the right to education for irregular children	Implicit Right in Legislation Right to education for all children, implicitly including undocumented children	Right to Education Only with a Residence Permit Law only mentions the right to education for migrant children with regular resident permit
Belgium	France	Hungary
Italy	Spain	Malta
Netherlands	Poland	
	UK	

To sum up some of the principal points highlighted in the legislation, we can group the legislation of the states investigated according to the different levels of protection granted to undocumented children. Simplifying a little, it is possible to divide the countries in three different groups:

Countries with an Explicit Reference in the Legislation

Belgium

Belgium has constitutional protection of the right to education. Article 24, paragraph 3, of the constitution establishes that *“each person is entitled to education in accordance with respect for basic freedoms and rights. Access to education is free up to the end of compulsory education.”* The constitutional obligation is accompanied by legislation that puts this principle into practice. In Belgium the responsibility for the implementation of this principle falls under the governments of the different linguistic communities and this section thus highlights relevant articles in the legislation of the French and the Flemish communities.

In the region of Wallonia, Article 40 of the Decree of 30 June 1998 as amended under the Decree of 27 March 2002 establishes that *“Children staying*

illegally on French-speaking territory are, as long as they stay with their parent or guardian, admitted into educational establishments.” Similarly, in Flanders, a circular letter of the Flemish Minister of Education gives the right to these children to attend school. Moreover, this text guarantees that the headmasters of the school do not have to inform the police about the administrative status of the children and their parents, and it guarantees that they will not be arrested within the vicinity of the school.¹⁹

Children are allowed an education if the parents are registered foreigners (therefore documented), while children in irregular conditions are guaranteed the right, though it may not necessarily be obligatory, reported Charlotte Van Zeebroeck of the organisation Service Droit des Jeunes (Services for the Rights of the Minors) in Brussels: *“In the decree, it is stipulated that every child has the right to education no matter what their legal status. Parents are obliged to register their children within the 60 days following their registration on the ‘population’ register. This means that, once the parents receive official documentation, they must register their children in school. Of course, many parents do not have papers and so technically avoid this obligation, but they often register their children in schools anyway.*

¹⁹ See Ilke A., ‘The Social and Economic Situation of Undocumented Migrants in Belgium’, in PICUM (ed.), *Book of Solidarity Volume I*, PICUM, Brussels, December 2002, p.20-25.

The decree specifically stipulates that it includes 'children in illegal situations.' Even in this case, the interviews did not indicate particular points of weakness in the law concerning access to education for undocumented children. In fact, the majority of interviews cited the Belgian law as a good standard procedure for access. Some problems were indicated with regard to the dynamics of enrolling, but they are analysed later in this report.

Italy

In Italy the right to education is guaranteed by the Italian constitution. Article 34 of the constitution establishes that *"school is open to everyone. Elementary education of at least eight years is compulsory and free."* In addition to this general reference, access to education for undocumented children is protected directly by legislation.

Regarding the education of minor immigrants, Italy guarantees the right to instruction in the same manner as it does for Italian citizens, regardless of legal status. The framework for the right to education for non-Italian pupils was integrated into national legislation in the 1998 Immigration Act.²⁰ This legislation affirms the principle of equal treatment for foreigners' access to public services and places a duty on the *"regions, provinces, municipal authorities and other local authorities"* to take measures aimed at eliminating the obstacles that *"hinder from enjoying full recognition of the rights and legitimate interests accorded to foreigners in the territory of the State."*²¹ Article 45 of the Presidential

Decree (DPR) 394/99 establishes that *"foreign children present in the national territory have the right to education regardless of their residence status, in the same way as provided for Italian citizens."*²²

Access to education was cited in many of the interviews as a strong point of the legislation, and the only problems indicated were in relation to practical barriers. Gianni Fulvi of the National Coordination of the Community for Children (Coordinamento Nazionale Comunita' per Minori) commented on how Italian laws represent an excellent level of inclusion that could be taken as an example in Europe: *"For everybody, both accompanied and unaccompanied, in a regular or irregular situation, access to education is well protected, so registration at school is done without asking for any documents but only making an estimate on the age of the child and what he or she declares."*

Netherlands

Perhaps the single most important piece of Dutch legislation pertaining to immigrants is the first article of the Dutch Constitution, which states, *"All persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race, sex or on any other grounds whatsoever shall not be permitted."* From age five, all children residing in the Netherlands are legally required to attend school. This requirement extends to school-age children of asylum seekers and irregular residents. Through the Local Compensatory Education Act (*'Wet GOA'*, 1998), the government decentralised the whole education policy regarding

²⁰ Law 286/1998, 25 July 1998, (http://www.giustizia.it/cassazione/leggi/dlgs286_98.html).

²¹ See European Migration Network (EMN) and Italian Contact Point, *Irregular Migration in Italy. Illegally Resident Third Country Nationals in Italy: State Approaches Towards Them and Their Profile and Social Situation*, Rome, December 2005, p.27 (<http://www.emnitaly.it/down/pilotstudy2-english.pdf>).

²² Law 394 of 31 August 1999 (http://www.giustizia.it/cassazione/leggi/dpr394_99.html).

disadvantaged pupils. Municipal governments with a certain proportion of disadvantaged children are allocated a specific budget to improve provisions for these target groups.²³

For undocumented children there is specific legislation both for primary and secondary school in which it is clearly stated that a check on immigration status for admission of children is forbidden until the age of 18. Article 41 of the Law of 2 July 1981 concerning the Law of primary education in fact stated “*The decision on admission and removal of pupils has to be taken by the competent authorities. The admission to the school is not dependent on the holding of lawful residence in the meaning of Article 8 of the Immigration Act 2000.*”²⁴ A similar provision is also included in the Article 27.1.a of the Law on the secondary education.²⁵

The most problematic aspect widely discussed in relation to the legislation in the Netherlands was the Local Compensatory Education Act. The decentralisation provided by the law at times has translated into discretionary power of the school directors to decide whether to accept these children or not (this subject will be taken up later). Finally, some NGOs have pointed out the fact that the funding for undocumented children is not well-known, and for this reason many schools do not request it or are afraid of accepting it.

Countries Whose Legislation Stipulates the Right to Education for All Children, Implicitly Including Undocumented Children

France

In France access to education for all children, including those who are undocumented, is guaranteed both by the constitution and by primary and secondary legislation. Legal access to education, including professional and cultural courses, is guaranteed by the Preamble of the Constitution of 27 October 1946, integrated in the constitution of 1958. In addition to the constitutional reference, the principle of compulsory education is found in Article L 131-1 of the Code of National Education which states, “*Instruction is compulsory for both French and foreign children of both sexes between the ages of 6 and 16.*” Non-discrimination regarding foreign children is expressly mentioned by the minister of national education in the circulars of 6 June 1991 and 20 March 2002.²⁷

During the interviews there was no particular mention of the weaknesses of legislation, and legislation was cited in all the interviews as a point of reference of the desired ideal. The problems reported were practical barriers that hindered the correct application of a set of laws that fully guaranteed access to education

²³ On top of their regular budget, which is based on the overall number of pupils, primary and secondary schools receive additional funding from the Ministry of Education, based on the percentage of immigrant pupils. This additional budget is allocated regardless of the residence status of the immigrant pupils. The way these budgets are spent is agreed on in the Local Compensatory Education Policy Plan (GOA plan), which is drawn up by the municipal government in consultation with school boards. The budgets are mostly used to reduce class sizes, but they are also used to introduce more specific measures, such as a school-wide language policy or reception facilities for newcomers. See European Commission Directorate General for Education and Culture, *Integrating Immigrant Children into Schools in Europe – Country Report, The Netherlands*, Eurydice, 2004, p.6 (<http://www.mszs.si/eurydice/pub/eurydice/migranti/Netherlands.pdf>).

²⁴ Law of 2 July 1981 concerning the Law of primary education, (Wet van 2 juli 1981, houdende Wet op het basisonderwijs) (http://www.st-ab.nl/wetten/0725_Wet_op_het_primair_onderwijs_WPO.htm).

²⁵ Law of 14 February 1963 concerning the Law of secondary education (Wet van 14 februari 1963 tot regeling van het voortgezet onderwijs) (http://www.st-ab.nl/wetten/0728_Wet_op_het_voortgezet_onderwijs_WVO.htm).

²⁶ Code de l'Éducation as modified by the Law no. 2006-396 of 31 March 2006, Art. L.111-1 (<http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006071191&dateTexte=20081006>).

²⁷ Circulaire 91-124 du 6 juin 1991 “Directives générales pour l'établissement du règlement type départemental des écoles maternelles et élémentaires” modified by the Circulaire n°2002-063 du 20 mars 2002 (http://educ73.ac-grenoble.fr/nectar/nectar_enseignant/gestion/textes/vie_ecoles/circulaire_reglement_departemental.htm).

for undocumented children. *“According to the law, education is compulsory between the ages of 6 and 16, and in this case the law is very strict. Breaching it by placing obstacles in the way of the education of a child even counts as a penal infraction, including for the parents of the child in question,”* explained Antoine Math of the NGO GISTI.

Spain

The principal legislative references relating to access to school for undocumented children in Spain are the Spanish Constitution, Article 27, the Law on the Protection of the Minor, and the Organic Law on the Quality of Education of 2002.

Article 27 of the Constitution stipulates the right of any child to receive free and compulsory education from the age of 6 until the age of 16. The Law on the Protection of the Minor establishes in Article 10 the right of all migrant children present in Spain to receive education.²⁸ Finally, point 4, Article 42 of the 23 December Organic Act 10/2002 on the Quality of Education (LOCE) stipulates that foreign students have the same rights and duties as Spanish students and that their incorporation into the education system implies the acceptance of the generally established rules of co-existence that govern the educational establishments into which they are to be integrated.²⁹

Interviews carried out in Spain resulted in no particular part of the legislation being criticised, but, on the contrary, the legislation granting access to education was always cited as an example of good

practice to be followed at European level.

Poland

Article 70 of the Polish Constitution states, *“Everyone shall have the right to education. Education to 18 years of age shall be compulsory. The manner of fulfilment of schooling obligations shall be specified by statute.”* The legislation currently in force regarding access to education for migrant children is regulated by the Act of 21 December 2000, amending the Act on the Education System.³⁰ Specifically, Article 94 of the Act on the Education System establishes that children who are not Polish citizens can benefit from the education and care in public pre-schools, and children who are subject to compulsory schooling can benefit from the education and care in public primary schools and *gymnasia* (lower secondary schools) on the same terms as Polish citizens.

Access to education is based on a territorial basis (registration as an inhabitant of the local district) regardless of the parents’ or guardians’ status of stay in Poland. It is necessary to register in the town hall in order to have access to education but such a law can represent an obstacle for those children in an irregular condition who are not registered. However, it must be said that such problems were not mentioned in the interviews.

The main criticism of the legislative system relates to school financing. Similar to the reality in the Netherlands, schools in Poland receive financing according to the number of children enrolled. For this reason

²⁸ Ley Orgánica 1/1996, de 15 de enero, de Protección Jurídica del Menor (http://noticias.juridicas.com/base_datos/Privado/lo1-1996.t1.html#a10).

²⁹ Ley Orgánica 10/2002, de 23 de diciembre, de Calidad de la Educación (http://noticias1.juridicas.com/base_datos/Derogadas/r1-lo10-2002.html).

³⁰ Change of the Education System Act of 21 December 2000, Wolters Kluwer Online Service of Polish Legislation, (<http://www.lex.com.pl/serwis/du/2000/1320.htm>). Also see the Ordinance of the Minister of Education on access of aliens to public education of 4 October 2001, Wolters Kluwer Online Service of Polish Legislation, (<http://www.lex.com.pl/serwis/du/2001/1458.htm>).

some school directors are reluctant to accept undocumented children. This criticism was reported by some of the interviews done in Poland. For example, Malgorzata Gebert of the NGO Polska Akcja Humanitarna stated: *“Our main document, the Constitution, says that primary and secondary education is mandatory for all children from age 6 to 18, but the ‘primary law’ is a separate problem. Another problem is school funding. In Poland schools are funded by local governments, and funding is allocated by the number of children enrolled. If an undocumented child attends, the school does not receive any funding. Enrolment of undocumented children depends on the school. We have a group of good directors who accept them, because the funding for one, two, three, four, or five children is not so important. They keep the best interest of the child in mind, because these children have to learn. On the other hand, I suppose it depends on each individual director.”*

United Kingdom

Looking at research already done and at the primary legislation on this matter, including the Education Act 1996³¹ and the Education and Inspections Act 2006,³² emerges that the local education authorities (LEAs) in England and Wales, as well as the Education and Library Boards in Northern Ireland, have a legal duty to ensure that education is available to all children in their areas appropriate to age, ability, aptitude and any special educational needs they may have. This duty applies irrespective of a child’s immigration status or rights of residence.

Interviews carried out in the UK did not lead to the recording of any specific criticism of the legislation. However, the legislation was referred to as a theoretical point of reference which is far from being

enforced due to the concrete barriers that these children encounter in their daily lives.

Countries in Which the Law Only Mentions the Right to Education for Migrant Children with Regular Resident Permits

Hungary

The Hungarian Constitution guarantees access to education for its own citizens. Article 70 of the Constitution states, *“The Republic of Hungary guarantees the right of education to its citizens. The Republic of Hungary shall implement this right through the dissemination and general access to culture, free compulsory primary schooling, through secondary and higher education available to all persons on the basis of their ability, and furthermore through financial support for students.”* Concerning migrant children’s access to education, the relevant legislation is 1993 N°. LXXIX Public Education Act as amended in 2003 by the Law 2003/LXI (Preamble, Articles 3, 6, 110).³³

Provisions for the education of migrants are made in the above-mentioned law on public education. Under Article 110 (1) of the law, the right to education is extended to non-Hungarian nationals who hold the legal status of asylum seeker, refugee, temporarily protected person (hereafter referred to as a refugee), immigrant, settled immigrant, minor with humanitarian residence permit but unaccompanied by a guardian, or minor holding a residence permit jointly with his or her parents. Under Article (2), schooling becomes legally mandatory when the child’s duration of residence exceeds a period of one year or, in the case of a stay not exceeding one year, if schooling is requested by the parent. The article

³¹ Education Act 1996 (http://www.opsi.gov.uk/Acts/acts1996/ukpga_19960056_en_1).

³² Education and Inspections Act 2006 (http://www.opsi.gov.uk/acts/acts2006/ukpga_20060040_en_1).

³³ Act LXXIX of 1993 on Public Education (<http://planipolis.iiep.unesco.org/upload/Hungary/Hungary-Public-Education-Act-79-2001.pdf>).

was enacted as part of the Law on Public Education on 1 January 2002.³⁴ From this law it appears that a residence permit is necessary for access to education.³⁵

It must be emphasised that the interviews made in Hungary showed that there were many occasions when practical barriers impeded the correct application of the law, but no specific comment was made about the legislation itself.

Malta

While no specific law in Malta appears to relate to undocumented children, the analysis of the Maltese legislation must take into consideration the particular context of Malta. According to the organisations interviewed, there are very few undocumented children in Malta as a whole. According to these organisations, geographical characteristics and the fact that all immigrants entering the country must undergo a period of detention and identification means that there are very few migrant children, unaccompanied or with their families, in a completely irregular condition. However a number of children/minors in their early teens are in detention and awaiting referral for their release from OIWAS (Organisation for the Integration and Welfare of Asylum Seekers), the governmental agency responsible for detention. The procedure can take months and during this period the child has no access to free state education unless released from detention.

As for the legislation in Malta, Article 10 of the Constitution states, “*Primary education shall be compulsory and in State schools shall be free of charge.*” However, the only other apparent reference with regard to education for migrant children is in the Refugees Act of 2000³⁶ and the Legal Notice 259/2002³⁷ which regulates the education of children of migrant workers.

Regarding the treatment of asylum seekers, the law states that “*an asylum seeker shall also have access to state education and training in Malta.*” As to the rights of refugees, “*a person declared to be a refugee shall be entitled to have access to state education and training in Malta.*” Those persons who are granted humanitarian protection also receive free state education and even children of rejected asylum seekers have access to free state education. Legal Notice 259/2002 regulates the education of children of migrant workers. These children are to be given state education and support in the learning of the official languages.³⁸

THE SITUATION ON THE GROUND

Without going into detail about the overall legislative picture, it seems evident that the right to education for undocumented children is protected by law in all the countries analysed, or at least is not explicitly denied in any case. Shifting the attention to the

³⁴ See Fleck, G. *Report of Minority Schooling in Hungary*, Vienna, Institute of Ethnic and National Minority Studies of the Hungarian Academy of Sciences, 2004, p. 13 (<http://fra.europa.eu/fra/material/pub/RAXEN/4/edu/CC/EDU-Hungary-final.pdf>).

³⁵ During the second multisectoral workshop organized by PICUM in April 2008, Judith Balog, the invited expert from Hungary, confirmed this impression in her presentation of the country. See the report of the second workshop on PICUM, *Fighting Discrimination - Based Violence Against Undocumented Children*, Brussels, 4 April 2008, p. 12-15 (<http://picum.org/HOMEPAGE/Microsoft%20Word%20-%20REPORT%20%20workshop%204%20April.pdf>).

³⁶ Laws of Malta, Act XX of 2000, The Refugees Act (http://docs.justice.gov.mt/LegalPub/Legal_Publications/Acts/English/2000/20.pdf).

³⁷ Legal notice 259/2002 entitled ‘Migrant workers (Child Education) regulations’.

³⁸ See Jesuit Centre for Faith and Justice, *Refugees and Asylum Seekers in the Maltese Educational System. RAXEN National Focal Point for Malta*, November 2004, p.6 (http://www.jesuit.org.mt/justice/asylum_seekers_in_education_mt_2004.pdf).

actual situation of young immigrants in European schools and the practical barriers to education they encounter, a much more complex picture than the one just seen emerges.

Various national and international organisations report strong discrimination suffered by young immigrants in the field of education, both in gaining access to it and after enrolment in school. A recent report published by the European Network Against Racism (ENAR) describes a comparative study on education undertaken by the European Monitoring Centre on Racism and Xenophobia (EUMC) in Europe which states that, *“institutional education appears to have a twofold effect on the situation of migrants and ethnic minorities. On the one hand, education offers the opportunity to get ahead in society. Special programmes (e.g. language instruction and intercultural programmes) can facilitate learning and foster the integration process by building bridges between communities and individuals from diverse backgrounds. On the other hand, education reproduces inequalities if discriminatory practices, such as exclusion and segregation, lead to lower educational attainments of disadvantaged minority groups.”*³⁹

The report emphasises that despite the considerable efforts of the EU, it is an unfortunate reality that educational inequality and discrimination in European education systems continue to be widespread, with the educational attainment of migrants and minorities lagging behind that of majority groups. The 2003 Programme for International Student Assessment (PISA) performance study on

the educational outcomes of migrant children in the Organisation for Economic Cooperation and Development (OECD) notes that *“despite strong learning dispositions, immigrant children often perform at significantly lower levels than their native peers in key school subjects such as mathematics, reading and science, as well as in general problem-solving skills.”*⁴⁰

At the second multilateral workshop on “Fighting Discrimination-Based Violence Against Undocumented Children” organized by PICUM in April 2008,⁴² one of the first aspects emphasized by many participants was the big gap between the theoretical entitlement granted by law to all children, even undocumented ones, and the concrete practices these children experience. The distance between law and practice and the discrepancy between what the law states in terms of exclusion and the reality of exclusion experienced by undocumented children was an underlying theme of the conference and of all the interviews conducted, both in the educational field as well as the other social rights in review.

The following section provides an overview of some of the main practical barriers to undocumented children entering school, including: lack of identification document, discretion at the local level, fear of being detected, problems with costs for materials and extracurricular activities, housing problems for these families, and precarious living conditions. Connected with these main problems are others such as the difficulty in reaching and informing these minors and their lack of preparation for school.

³⁹ See European Monitoring Centre on Racism and Xenophobia (EUMC), *Migrants, Minorities and Education*, EUMC, Vienna, 2004, p.3 (<http://fra.europa.eu/fra/material/pub/comparativestudy/CS-Education-en.pdf>) as reported in European Network Against Racism (ENAR), *Fighting Racism and Promoting Equal Rights in the Field of Education*, Brussels, April 2007 (http://cms.horus.be/files/99935/MediaArchive/pdf/education_en.pdf).

⁴⁰ See Programme for International Students Assessment (PISA). *Where immigrant children succeed – A comparative review of performance and engagement in PISA 2003*, Organisation for Economic Co-operation and Development (OECD), Paris, April 2006 (<http://www.oecd.org/dataoecd/2/38/36664934.pdf>).

⁴¹ See the already mentioned report of the second workshop of PICUM on *Fighting Discrimination - Based Violence Against Undocumented Children* (April 2008).

Practical Barriers

Lack of Identification

Interviews from several countries reported that one of the most serious barriers to entering schools is the practice of asking children for proof of their residence in the school district. Such a practice, even if justified by the fact that many schools are responsible only for the minor residents in their particular district, represents a de facto violation of the letter of the law, or at least amounts to a particularly reductive interpretation.

Requiring such a document from these children, even if not a residence permit but some identifying document that can prove their effective residence in the district, obviously demonstrates a serious act of discrimination that excludes these children from the possibility of enrolling in school. It must be kept in mind the continual threat of detection and expulsion of irregular families makes these families particularly sensitive to requests for any document that may compromise their continued residence.

Identification Document Requests for Reasons of Funding

Cases of similar practices have been reported in different countries. In the Netherlands, Poland, and Hungary such practices have been referred, citing as an explanation the school's reimbursement by the state according to the number of pupils and the necessity to provide a valid document as proof of the presence of an undocumented child. Though in some cases there are special funds for migrant children from which schools could draw on to cover such costs, in many cases school administrators are not aware of these funds or do not want to take advantage of them due to the long bureaucratic processes.

In the case of the Netherlands, the problem was exemplified by the NGO Defence for Children International (DCI). *"There is a growing problem with school financial records. These schools ask for subsidies for undocumented children. In theory, the government will pay a standard amount for every child enrolled at the school, but schools must prove student enrolments with identity papers. Some undocumented children have nothing, so the schools are fined for it. This is a growing problem,"* reported Carla van Oos of DCI.

Similar episodes have been encountered in completely different contexts, such as in Hungary and Poland. Similar to the Dutch example, discriminatory practices in Hungary based on the schools' demand for identification documents were reported by Juli Gaszo of the Menedék association. Speaking about access to education in Hungary, she stated that *"the law says that every minor under 18 years of age must go to school, but the schools obviously need money. The money comes from the state or local government (two sources), and the schools must account for the number of children.... They just take the children for any reason, but they don't apply for the money that would be given to each student. Maybe they benefit economically from the other children, but it always depends on the director of the school and the financial prospects they have. If nobody is paying for a particular child, the school won't take her or him."*

Both cases refer to the same problem, that is, the fact that schools receive funding according to the number of minors enrolled, which creates a problem when justifying the presence of the undocumented child without a document proving her or his identity. Both those interviewed stated clearly that there are possible solutions but that it depends almost exclusively on the good will of the director, leaving the right of discretion to the administrators.

The “Solidarity Fund”

A solidarity fund has been established in the town of St. Niklaas in Belgium to support schools in running special projects in favour of undocumented pupils. Jozef Hertsens of the NGO Kinderen Zonder Papieren said that *“All the schools that have undocumented children put money into a general fund so they can support one another. The money comes directly from the schools, so even private schools have the possibility of participating in the fund. The funds are solidarity money, and the schools organise themselves. This example is very important for other towns to see; in Antwerp there is nothing like this anymore, and it is unlikely that the government will provide any funding. The message is that schools can raise the funding themselves through events such as school parties or barbeques. The idea is very local to the town of Sint Niklaas, but now we want to let others know so they can copy the programme. The main point is that a person without documents does not exist in the eyes of the Belgian state. Undocumented children can go to school, but they may not have the money for attend the school*

(books, pencil, public transportation etc). These people come to organisations like ours to get the money to go to school.”

The organization Kinderen Zonder Papieren (Undocumented Children) was founded in 2005 in Antwerp, Belgium out of the rage and frustration of teachers, neighbours and activists. As a movement Kinderen Zonder Papieren tries to sensitise public opinion and to change the policy discourse on migration and children’s rights. They have an emergency telephone line for families in danger of deportation and they support individual cases from time to time. Their main activities are informing families, teachers, social workers and doctors about the situation and rights of undocumented children, through an action plan for undocumented families who risk expulsion, support to local action groups and support committees, and political lobbying, together with other NGOs.

Kinderen Zonder Papieren

<http://www.kzp.be/>

Identification Document Requests for Administrative Reasons

In a different context yet without financial justification, similar episodes have been noted by some NGOs working with immigrants in France. Whilst schools are not paid according to the number of students, thus nullifying the aforementioned justification, there have been reported cases in which the school requires an identification document from the minor and tries to exclude undocumented minors. The reason is tied to the fact that in France, as in many other countries, the school provides a territorial service for the people of that area, and it is necessary to prove residency in that area in order to enrol.

In general the law is very clear concerning the right to schooling for minors, even those who are undocumented, but episodes of this kind arise nonetheless. Besides the problem of a fixed place of residence, other problems include the fact that the minors may not live with their parents but with a relative such as a grandparent or aunt. *“The most common justification for denying education to a child is due to housing. This is frequently used by directors who, at least in the case of primary schools, are responsible for registering the child. They often create difficulties for foreigners, often those without residence permits or other official documentation, who do not have a receipt of their rent payments. Another method of discrimination occurs when the children are in the care of somebody other than their*

parents. The objection is that you cannot register the child because you are not the parent. There are many children who are perfectly legally in the care of their uncles or aunts; as the law states, it is the adult responsible for the child, whether they are the child's parent or not, who must take responsibility for their school registration," explained a representative of the NGO Gisti (Groupe d'information et de soutien des immigrés),

"The most common justification for denying education to a child is due to housing. This is frequently used by directors who, at least in the case of primary schools, are responsible for registering the child. They often create difficulties for foreigners, often those without residence permits or other official documentation, who do not have a receipt of their rent payments."

ANTOINE MATH, GISTI (GROUPE D'INFORMATION ET DE SOUTIEN DES IMMIGRÉS), FRANCE

A similar episode was reported by Maxence Moreteau, a researcher from the organization Adeus which recently published a study on migrant children in the French school system.⁴² He also reports on episodes of discrimination in access to schools, in most cases carried out by the administrative boards of the schools: "The first difficulty sometimes comes from the higher administrative departments of institutions, especially managerial teams and secretaries. Their behaviour is often discriminatory, for instance during the registration for training courses following an introductory class when

they ask if the student has official documentation, although doing this is forbidden. Generally, however, this does not pose too many long-term problems because the head of the establishment often intervenes to re-establish the legal frameworks."

Discretion at the Local Level

Another theme that emerged on several occasions during the interviews is the discretionary power often enjoyed by the schools as to whether or not to accept undocumented children. This problem has come to light in the case of the requested identification document but goes beyond this single aspect to the incorrect and non-uniform application of the law at a local level.

An example of such discretionary power of schools in France was reported on by Alexandre Le Cleve of the association Hors la Rue. In their case, it refers specifically to the condition of the Roma, a category in which many undocumented migrants are included, and is therefore significant in demonstrating a discriminatory attitude towards a minority: "It depends on the municipality. In some cases for the registration of Roma children we have seen systematic refusals from mayors and officials. The simple task of registering in school becomes a kind of war between, on one side, parents and students, and on the other the administrative system, the latter of whom has the power to hijack this right. Even when the child is registered, the mayor can order the dismissal of the Roma from the land on which they live due to sanitary conditions, disputes over the ownership of the land or other reasons. Their situation is thus rendered even more complex."

⁴² See Agence nationale pour la Cohésion Sociale et l'Égalité des chances (ACSE), *Les dispositifs d'insertion et de scolarisation des jeunes Etrangers Nouvellement Arrivés en France (ENAF) âgés de 15 à 18 ans, en région PACA, 2007* (http://www.reseau-reflex.org/references/adeus/groupe_reflex_Synthese_ENAF.pdf).

“The simple task of registering in school becomes a kind of war between, on the one side, parents and students, and on the other the administrative system, the latter of whom has the power to hijack this right.”

ALEXANDRE LE CLEVE, HORS LA RUE, FRANCE

According to what was reported by Sarah Reynolds of the NGO Salusbury World, similar episodes have also taken place in London, where many young people have not been accepted in schools with various excuses given. These cases for the most part deal with undocumented children, though not always: “*Actually it depends on the child’s age, as well as whether the school wants to admit them as students. There are some schools that take issue*

with things like age in order to avoid accepting the students. I have statistics on a situation some years ago in London in which about 2,000 school-age children did not have a school placement. Some of them were probably undocumented children, some not, but all of them were entitled to a school placement. Schools were avoiding them, because they didn’t want to admit students who might have a negative impact on their test-score statistics. The issue came up at a crucial time in the educational system, just before taking the national tests. There is national obsession with league tables and with the judgements made on schools based on their test results. Schools wouldn’t want their results to be depressed by taking children who may not achieve highly. Particularly children of secondary age were avoided, because the GCSE public exams are taken at the end of year eleven.”

Segregation of Schools with Migrant Children

Discretionary behaviour is a dangerous signal of incomplete compliance with the law. One of the most serious aspects of this behaviour is the reluctance of schools in some districts of London with a greater presence of immigrants, and generally with already strong social tensions, to take on the burden of undocumented minors. Even if this process is inevitable in part, to permit a certain discretionary power to accept or deny these minors will only reinforce the problem, forcing families in irregular conditions to enrol their children in schools where they know there will be fewer problems in accepting them and not in those where they will have the best education.

This fear was confirmed by interviews in other EU member states. For example, Annik Leonard of the Belgian NGO Mentor Escale makes a clear reference to this risk: *“We are also faced with the problem of ‘ghetto’ schools, which accept foreigners. In Belgian law, schools must accept everybody and have no right to discriminate between pupils. Between the time of registration and the moment when they are told “I’m very sorry, but this school is completely full and we cannot accept you”, knowing full well that this is not the truth, the child has lost three months to the application process and still has no place in a school. It is possible to launch a complaint against the school, which will*

then be criticised for its actions, but this is useless in improving the situation. Racism, unfortunately, exists throughout Europe, even in its schools.”

The problem of discretionary power means, of course, that there is no uniform application of the norm; rather the acceptance of the minor is left to the local level. The examples reported are cases of schools and local authorities that make a correct application of the law difficult.

On the other hand there are also many examples of excellence, cases in which this discretionary power of schools and administrators leaves room for good practices, sometimes exceeding the letter of the law. For example, José Miguel of the Spanish NGO Federación Andalucía Acoge cites as a positive example the work of the council of Andalusia where there are no problems in taking in irregular families who are, indeed, allowed access to the main social services of the territory. *“In Andalucía, it is a fact that registration is the way to access basic rights, and certainly Andalucía is one of the best examples at the European level, one to be followed for others to improve. Our perspective is to generalise what happens in Andalucía and to reinforce public services here. In general, there is an effort made to improve services here.”*

Fear of Being Detected

Access to education for undocumented minors should be seen within a more general theme of the continuing battle that governments and mass media are waging against irregular immigration. The climate of suspicion and fear that is mounting in many European countries obviously reverberates in every aspect of the lives of families in irregular conditions, including access to education.

A significant example is in France, where, beginning in 2006, in order to keep his promise of 25,000 deportations a year, the former Minister of the Interior Sarkozy sent police to French schools to detect irregular families who went to fetch their children from school. This striking example clearly shows how the politics of repression of irregular immigration can de facto cancel a universal right such as access to education. A representative of the organization Education Without Borders (Réseau Éducation Sans Frontières - RESF) reported that after the

episodes in 2006, thanks to a large degree of pressure from civil society, no other cases of raids by the police in front of schools were reported.

Parents' fear of being detected if sending their children to school was regularly expressed in many interviews. In the majority of cases fear is tied to the general climate more than to specific episodes related to school surveillance. Even though there have been such episodes cited in France, they appear to be isolated cases. Nevertheless, the perception that exposure brings risk of being discovered is present in most countries even where there have been no verified episodes of police roundups at schools. This fear is so embedded that many parents prefer not to risk sending their children to school due to the fear of being detected. Events such as the abovementioned episode in France do not mitigate this fear of course.

Instances of parents taking their children out of school for fear of being discovered have been reported in all the countries examined. In one of the interviews, Terry Smith, an independent researcher that collaborates with Save the Children UK, explained that even if the law obliges parents to send their children to school, in some cases they don't do so due for fear of being detected: *"The law is very clear that everyone under 16 must go to school. It's actually against the law for them not to go. Yet, again, we have the same problems with undocumented children. Usually it will be their parents or caregivers who are very fearful that if the child registers for school and attends, then the school will know who they are, their names, and where they live. The real fear is that the Home Office will get that information, see that they are undocumented, and will remove them from the country. So, although in theory the law says that every child, whether documented or not, should go to school, often it doesn't happen. Children separated from their parents should attend and that fear shouldn't be there, and they should have someone, usually a social worker or a foster caregiver, who will ensure that they do."*

"Usually (undocumented children's) parents or caregivers are very fearful that if the child registers for school and attends, then the school will know who they are, their names, and where they live. The real fear is that the Home Office will get that information, see that they are undocumented, and will remove them from the country. So, although in theory the law says that every child, whether documented or not, should go to school, often it doesn't happen."

TERRY SMITH, INDEPENDENT RESEARCHER, UK

Even in countries where the law states that it is unnecessary to show a valid residence permit in order to be admitted to school, and where there generally have been no outstanding problems, such as in Italy or Spain, the fear is still present, and some do not send their children to school. Antonella Inverno, a social worker of the Italian branch of Save the Children, for example, reported that *"If the child attends school, but the parents have not officially registered them due to their fear of making their status known to the school officials, the school considers that the child is unaccompanied and is obliged to notify the municipal social services. This is done in order to ensure protection for the child. However if the parents do not want to officially register their children at school because they are afraid of the police, it is obviously a problem if they want to send their children to school."*

Special attention has been dedicated to the French case and, in particular, the events between 2006 and 2007. The French case is unique because of the media's wide coverage of it and the strong reaction of civil society, resulting most importantly in the formation of the group Education Without Borders (Réseau Éducation Sans Frontières - RESF). As explained by Jacques Piard, RESF is more a movement than an

organisation, made up of different volunteers such as students, parents, pupils, citizens and organizations. This movement was born in response to the government's attempt to use children to detect irregular families. The main aim of the movement is to protect the rights of education for migrant children and to protect their families from expulsion.

Among the various activities carried by RESF includes an innovative way to protect undocumented children and their parents in a so-called "godparent" scheme. RESF has introduced a mentor scheme of becoming a civil "godparent" to an undocumented child across France, particularly in cities where mayors and heads of departments tend more to the political Left. This programme developed after several incidences in which police officers entered schools and falsely told children that their parents had been taken into custody and were asking for them. *"The police arrived in schools, saying 'your parents are looking for you, they are at the police station. So, even though this wasn't true and no parents were at the police station, they took away the children and in a show of dishonesty and hypocrisy took these children hostage... There were also raids and mass arrests which took place, notably in the 13th district*

and around the François Mitterrand Library, at the school gates. When the children came out of school, the police looked for parents who could have been undocumented, put them in handcuffs and arrested them," said Jacques Piard of RESF.

"There were raids and mass arrests which took place, notably in the 13th district and around the François Mitterrand Library, at the school gates. When the children came out of school, the police looked for parents who could have been undocumented, put them in handcuffs and arrested them."

JACQUES PIARD, EDUCATION WITHOUT BORDERS NETWORK (RESF), FRANCE

The mentor scheme has no legal standing, but its symbolic worth is significant and there are even celebrities who participate. In addition, it provides undocumented migrants with yet another support network because if the child's parents are ever arrested the 'godparent' can immediately contact a legal expert with all the relevant information.

“Let Them Grow Up Here”

On June 26, 2004, at the Bourse du Travail in Paris, a gathering took place attended by teachers, staff in the national education system, parents of students, youth workers, associations, trade unions and human rights organizations, all concerned with the situation of undocumented pupils who attend school from nursery up to university level. The meeting followed the arrest and expulsion of two young people over the age of 18 who were enrolled in secondary education, and was initially aimed at mobilising protests against their treatment. From this meeting a support network grew which they named Education without Borders Network (Réseau Éducation Sans Frontières).

The signatory trade unions, parents' associations, organisations and representatives of associations and educational institutions, called on teaching and other staff of school institutions at all levels to be aware and to inform their pupils that they are ready to mobilise in order to help them regularise their

situation. “Let them grow up here” has become RESF's slogan, referring to their belief that if a child starts their education in France then he should finish it there, even if this means that they could be in further education until the age of 30.

The actions of the Education without Borders Network mainly begin in education establishments with the signing of petitions, rallies of parents, and teacher strikes. The network also offers drop-in legal sessions to advise undocumented families on their rights and to help them complete official documents. RESF is a network which currently consists of more than 200 local branches, but is not constituted by a hierarchy and central structure which would properly define it as an organisation.

Réseau Éducation Sans Frontières (Education Without Borders Network)

<http://www.educationsansfrontieres.org/>

Working with Families

As the above mentioned case of RESF demonstrates, working with undocumented children and informing minors and their families of their rights is fundamentally important. Thus the difficulty of reaching these families and the invisibility of these minors become essential factors in supporting undocumented children.⁴³ To overcome these problems, good practices made by NGOs and by local authorities revealed a variety of possible initiatives. In the diversity of examples reported, the main theme was an active search for the families of undocumented children, bringing services outside of the classic structures in order to find them.

The main approach is not to wait for undocumented children and their families to contact social services but to approach them in their own environment. Such activities range from general assistance in reaching the services to trying to contact street children completely excluded from any social service. Until recently, the NGO Kom-pas had carried out this kind of service in Belgium over a period of many years. Due to a recent change in the decree concerning the integration of foreigners in Flanders, Kom-pas no longer has the authority or financial capacity of carrying out services to irregular families with

⁴³ In the workshop organized by PICUM in April 2008 the difficulty of reaching these families in order to give them correct information on their rights came up time and time again. The interviews also often emphasized the importance for having a specific strategy to reach these children and their families.

children. Nonetheless, when the organization did undertake these services, the immense benefits of reaching out towards these families were noticed. At the time of the interview, one of its workers reported on the important job of working with families of undocumented children: *“ Things have improved since we started this project. The parents were a bit scared to let their children go alone to activities someplace, so you have to let the parents know that everything is safe and good for their children. I really can understand that if you are in a strange town, in a strange country, and if you do not speak the language, it would be very scary to let your children go to do things alone. Also sometimes they need the children to help out with a lot of household things or with interpreting on legal procedures.”*

Another positive example of working with families was reported by Carla Calanca, a social worker at the Social Service of the City of Rome. *“ We have recently started a small project set up especially for immigrant children. Workers go into the homes, especially to families in which the father works and the mother stays home. Consequently, these children are in a difficult position, because they become translators for their parents, either for the father or for the mother who stays home living in isolation. The project works to encourage integration and, therefore, to have children in the same area meeting one another. The parents are reassured that if they go to the centre their*

children will meet children of different nationalities and will thereby enrich their lives. This is a small programme, in which we have enrolled about a dozen families.”

There are also examples of a more difficult undertaking where street workers try to reach ostracised and excluded minors. The City of Turin in Italy has undertaken such an initiative. The head of the service for unaccompanied minors of Turin, Laura Marzin explains the project: *“ A project called ‘ A Window on the Piazza ’ is situated on Piazza Porta Palazzo, a meeting place to encounter different cultures. We have a multi-cultural and multi-professional team working on the streets. The children can go directly to this place to be listened to and helped, and they do not need the assistance of their community or other avenues they see as constrictive. They have a point of reference that can, in the long run, facilitate changes in their life choices.”*

These are obviously only some of the examples of various activities carried out by NGOs. The important aspect characterising these different activities is the pro-active structuring of the work in which children are sought out without expecting them to come to the service. What in fact is seen from the interviews and the studies undertaken is that in many cases these children and their families are in a situation of total social exclusion and, not being in a position to reach the service on their own, it is up to NGOs to try to reach them.

Problems with Extracurricular Expenses

Another problem concerning the education of undocumented children is tied to the economic difficulties facing irregular families. As it has been reported by many NGOs, though access to primary education is free, irregular families are excluded from economic aid for extra expenses such as books, transportation, etc. This usually does not amount to a great deal, but still may pose an overwhelming obstacle to some of these families.

In France Jean Haffner from Secours Catholique stated that *“public schools are compulsory and free, but the additional expenses are not. If a child’s parents have no job, they face problems in terms of this. Equally, depending on the municipality school, meals at the canteen can present these migrants with further difficulties. There are examples of undocumented migrants being refused from schools because they are unable to pay the fees for these kinds of services. These fees usually depend upon the earnings of the parents, but undocumented migrants have no way of proving their salaries.”*⁴⁴

Organisations in Italy and in the Netherlands also emphasise that these expenses can represent a serious obstacle to education for these minors. Rian Ederveen from Stichting LOS, an umbrella organisation for groups helping undocumented migrants, reports on the fact that in some cases money for books and transportation are covered by the local authority, depending on the local political will. *“There is also the problem of money for books and for transportation. There are some special local rules requiring payment for books and school fees, but they depend on the city. It’s a national rule, but it’s locally based. They have to find money to cover it, and it’s not in all cities. In some cities it works, but*

schools in some cities are closed for undocumented children. In some other cities there is a local government that decides.” Strong discretionary power is granted to the local authorities as to whether to supply these school expenses or not, such that sometimes the expense is entirely up to the parents and at other times the school bears the burden.

The fact that in some cases these expenses could represent an overwhelming obstacle for these families was also recalled by Antonella Inverno, a researcher for Save the Children Italy. She recalls that *“undocumented children can attend school, but they have no right to transportation, books, or lunch, which are all a series of measures that make access to education difficult for those who are already poor.”*

“Undocumented children can attend school, but they have no right to transportation, books, or lunch, which are all a series of measures that make access to education difficult for those who are already poor.”

ANTONELLA INVERNO, SAVE THE CHILDREN, ITALY

A number of NGOs work in collaboration with schools and even with the local authorities. On the local level NGOs can play an important role of support and help for these families by furnishing educational material and giving appropriate assistance to minors. One example is a cooperative in the Netherlands called “Learning Without Papers”. This cooperative asked local governments to make education for undocumented children practically possible by providing financial help. The local government agreed and gave money to support undocumented children for extra expenses necessary for their education, materials, sport clothes, as well as fees for school trips.

⁴⁴ In a recent study, attention is paid to the socio-economic context of migrant children, to explain some of the difficulties that these children face at school. See Observatoire des Inégalités, *Les élèves d’origine étrangère: le poids des difficultés sociales*, 21 August 2007 (<http://www.inegalites.fr/spip.php?article309>).

INTEGRATION OF UNDOCUMENTED CHILDREN IN SCHOOLS

In addition to the numerous barriers to registering within the school system, undocumented children also face obstacles and discrimination in the classroom.

One obstacle is linked with language problems and is similar to the challenges faced by all newcomers migrant children (including those with valid immigration status) who do not speak the language in the country of destination. The other obstacle only affects undocumented children and refers to the fact that in most of these cases these children do not receive a formal recognition at the end of their scholastic career (a diploma).

Language Problems

One of the problems cited many times was the difficulty of good scholastic integration, given the poor language skills of many of the minors. This difficulty creates a problem for both the minors and the schools. Examples of these problems were provided along with some solutions offered by NGOs or by schools as good practices.

Without going into detail about the different policies of language instruction in the various countries studied,⁴⁵ overall the policies are many and varied. In some of the countries programmes have been developed to help foreign minors learn the language, while in others there is a complete lack of instruction, leaving the burden of support on NGOs.

An example of language support activities is the case of the “passerelle” or “gateway” classes in Belgium. Charlotte Van Zeebroeck of Service Droit des Jeunes reports: “*In 2001, a decree was passed in the French-speaking community of Wallonia which created specific learning provisions for minors who had lived in Belgium for less than one year, whether they were asylum seekers or not. ‘Gateway classes’ were created, where the child could attend from one week to up to a year, and generally they attended from six months to a year. They could learn French or how to read and write, and also had instruction on how to prepare themselves for the following year’s integration into a class which corresponded to their level. It was a great step forward. The equivalent in the Flemish community has been in existence since 2002, and it is a system which works really well and allows children to integrate themselves into the school environment.*”⁴⁶ Similar courses exist and have been reported in interviews made in others countries such as France and Spain.

Nevertheless particular difficulties have been recorded in Poland, Hungary and Malta. In these cases, the NGOs interviewed said that along with the intrinsic problem of language difficulty for young undocumented children, language programmes are completely lacking in schools to provide special training for undocumented children.

In Budapest, for example, Juli Gaszo from the NGO Menédek said: “*The first difficulty is the Hungarian language, which is rather difficult to learn. Until the present there has been no Hungarian course offered to children prior for their integration into school.*”

⁴⁵ For a detailed study on the legislation, also see European Commission Directorate General for Education and Culture (2004).

⁴⁶ However it is important to recall that one of the weaknesses of the system reported by interviewees is that while asylum seeking children get a formal diploma at the end of these classes, undocumented children often do not receive their diplomas.

They are put directly into classes, and they don't understand a word. For the school, it's easier not to pay extra attention to them. If they can pass the exam at the end of the semester, it's good for them, but nobody cares if they don't. All these problems are due to the lack of knowledge of the Hungarian language. If the parents are motivated enough to push their children to go to school and to help them, if they can, or if there is a volunteer working with the children, then it is much easier. The students will be more motivated to stay in class and to put forth a concentrated effort."

Similar examples have also been reported in Poland and Malta. In Malta, for example, the lack of a clear and comprehensive integration policy has been denounced actors working with immigrants. Fr Paul of the Jesuit Refugees Service (JRS) stated that: *"In Malta, there is no real integration policy. The children go to school, but the level of the effort for integration depends on the individual school. The children go to schools where they are offered English lessons but in general they don't have special classes. It is my impression that it all depends on the individual school. Most of these children live in the centre and so go to the same schools which often have very accepting attitudes towards them, but where the numbers are smaller the situation is more difficult."*

The NGOs involved in this study have given much linguistic support to undocumented children in all the countries concerned. They also help families with their schooling and extra-curricular activities such as trips and programmes which might normally exclude undocumented children.

The British NGO Salusbury World has developed particularly a successful way of providing information and support to families. Ben Smith of Salusbury World, said: *"Parents have a different experience, but the longer the children stay in school, the quicker they blend in. We believe that they should have the same opportunity to go to the school of their choice. If they are taken into a good school, I am sure they can do well. We have one school worker who focuses on the transition process who just last week was making sure that the children we work with received primary-level school placements. This assistance has become an essential part of the pilot programme, called the Bridge Programme. We hope to bridge the gap not only between primary and secondary education, but also between parents and their children. There can be a lack of communication sometimes, because a lot of parents don't understand what is going on at school or what is coming home with the students. A bit more communication is needed between the parents and the educators, between the home and the school."*

The “Leisure Programme”

The Multikultura Association in Budapest has a programme open to refugee, asylum seeking and undocumented children, the so-called “leisure programme, which offers these minors the possibility of attending various leisure activities such as trips, museum visits, etc. from which they would ordinarily be excluded. *“We have a weekly programme in which our volunteers go into the camp to help the children. Then they prepare them for the weekend, for the Saturday leisure programme. For this we rent a bus, go to the camp, pick up the children, and then bring them to different locations in Budapest where the activities will be taking place. We took them to a children’s train that goes up the hill. We took them to the amusement park, the circus, the castle. It was a long year, but overall it was a leisure programme just*

for them to feel good” said Fafore Adebawale of Multikultura.

The Multikultura Association was founded in Budapest, Hungary on April 2002 with the aim of supporting foreigners and ethnic minorities living in Hungary. Their activities include organising cultural events to introduce the art and culture of minority groups and serve the integration of non-Hungarians in the country. Members of the organisation include Hungarian and non-Hungarian citizens, as well as refugees or the representatives of minority groups or members of the Hungarian community outside the borders of Hungary.

Multikultúra Egyesület

<http://www.multikultura.hu/>

No Diploma Released

In addition to the issue of enrolment, one of the problems cited in nearly all the countries studied is the issuing of diplomas. In many of the countries investigated, NGOs have reported that even where there has been no problem in access to education, there has been a problem receiving a diploma at the end of the scholastic career. This is because residence permission or an identification document is required for the diploma to be granted.

Not to receive a diploma is a clear form of discrimination against undocumented children. Such practices have been reported in many of the interviews regarding both the diploma for compulsory education and the diploma given at the end of training courses.

This practice has a serious psychological effect on these children who receive no recognition for the work they did, and in some cases the fact that there

is no hope for a diploma in the end causes them to abandon their studies. In addition to this important psychological effect, the lack of respect to the spirit of the law should also be noted. If access to education is allowed, the diploma should be rewarded. Otherwise the years of school have no meaning and in the end the state does not recognise its own practice of access to the educational system.

Not being able to cite all the cases in which such a practice has been noted, we refer only to the case of Spain and Italy, countries where access to schooling has often been cited by NGOs as an example of good practice. Even in these countries serious problems in guaranteeing undocumented children a diploma has been reported. Ángel Madero of the Spanish Asociación Pro Inmigrantes de Córdoba (APIC) reports: *“The big problem we see is that access to education is not mandatory for those older than 16 in the Socially-Guaranteed Programmes (PGS) and that someone who is undocumented can be terminated from the PGS. Your friend would have a diploma, but*

you wouldn't have one. You would only have an unofficial school certificate. It isn't official, because the centre will allow you to enrol, but the administration won't allow it."

"Access to education is not mandatory for those older than 16 in the Socially-Guaranteed Programmes (PGS) and someone who is undocumented can be terminated from the PGS. Your friend would have a diploma, but you wouldn't have one. You would only have an unofficial school certificate."

ÁNGEL MADERO, ASOCIACIÓN PRO INMIGRANTES DE CÓRDOBA, SPAIN

In Italy, according to the text of the law, there should be no problems in rewarding a diploma even for undocumented children. Article 45 of the DPR 394/99 states that: *"Enrolment with reservation does not prejudice the attainment of a diploma at the conclusion of a course of study on every level. Lacking verification of the identity declared by the student, the diploma will be rewarded with the identification given at the time of enrolment."* However in practice what has been reported is that in many cases the schools are reluctant in issuing the diploma for these children. According to the lawyer Mariella Console of the Association on Legal Studies on Immigration (ASGI), this happens because *"issuing the diploma requires the child to bring something with his/her precise name, which has been interpreted as requiring a resident permit. Actually an identification document from the child's own country showing his/her name would suffice."*

PROBLEMS AND PROSPECTS BEFORE AND AFTER COMPULSORY SCHOOLING

Kindergarten (Until Age 6)

While this report focuses primarily on undocumented children in compulsory education, from the ages of 6-16, interviewees also discussed aspects of education both before the age of 6 and after the age of 16. In many countries kindergarten is not compulsory and is problematic in terms of gaining access to public institutions even for native families. Nevertheless some specific cases are referred to because they concern undocumented children who are born in Europe but who, because of citizenship laws, are excluded from social services such as kindergarten. Though they may not be obligatory state services, such types of education are public services and so to exclude undocumented children would constitute a discriminatory practice.

A recent court ruling in Italy condemned local administrations because they wanted to exclude undocumented children from kindergarten. In the ruling the first civil section of Milan upheld the appeal presented by a Moroccan citizen against a circular issued by the municipality of Milan that excluded the children of irregular immigrants from enrolling in nursery schools.⁴⁷

In France, a similar example was mentioned by Aminata Diouf of the Collectif des Sans Papiers de Marseille: *"We have had examples of mayors who have tried, in particular because compulsory schooling starts at six years of age, to say that before this age they have the right to refuse*

⁴⁷ See the ruling of the judge Claudio Marangoni of the First Civil Section of Milan, Associazione Studi Giuridici sull'Immigrazione (ASGI), *Milano: asilo aperto a tutti i bambini stranieri*, 11 February 2008 (<http://www.asgi.it/index.php?page=nws.home&idint=cn08021104&offset=7>).

pre-school education to foreigners and in particular undocumented migrants. This has been criticised, and there are mayors who have been denounced for discrimination because education remains a public service to which everybody has an equal right.”

Vocational and Professional School (16-18 Years Old)

The other age range excluded from compulsory education is of youth from 16 to 18 years old. This range also concerns unaccompanied children included in some protection programmes who often abandon them because of the few possibilities to obtain a residence permit once they reach the age of adults, and de facto become undocumented.

Though this issue may not directly concern access to compulsory education, it is relevant because a credible prospect of integration after the age of 16 is necessary for education to offer real integration. On the other hand, as was also mentioned in interviews, even for schools and colleges, the fact that integration could not be foreseen discourages access to secondary education.

What Noémie Rigaud of the organisation Jeunes Errants reports is very significant in this regard: *“The big problem which then arises is between the ages of 16 and 18. Compulsory education ends at 16, even though the child is not required to have official documents until they turn 18, and this presents problems for those young people who arrived in France later in*

their life. There are those who speak no French, and those who have not had the privilege of an education in their country of origin. They arrive at 16 years of age and we say to them, ‘you have to leave school because of your age but we have nothing to offer you in terms of vocational training because your level isn’t high enough.’ This causes a massive amount of damage to these 16- to 18-year-olds, who often have little education or knowledge of French, and despite the fact that some specialised structures exist to deal with this, when the child has undocumented parents or is separated from their family everybody seems to say to themselves ‘anyway, this child won’t stay in France so we will leave the few places that we have for other children.’”

Finally, within the more general problem of access to education for undocumented children over 16, a special study was dedicated to the possibility of vocational classes for these minors. This does not mean that it is necessarily the only way of instruction that these young people must follow. No one wants to give them over to an exclusively technical instruction, denying them the opportunity to follow other scientific or literature training. Nevertheless, given the precarious economic condition of the families, referring both to minors with families in irregular conditions and the families who remain in the country of origin, financial aid is expected for the minors. In the case of unaccompanied minors, vocational classes can be an important instrument to guarantee rapid adaptation to the work force and to avoid forms of exploitation and relegation to unskilled jobs, often dangerous and poorly paid.

In general, access to these courses is more problematic than with compulsory school. Even in cases where serious problems were not found with compulsory schooling, some difficulties have been reported when entering into these classes. In the greater number of cases, these difficulties are tied to the lack of a residence permit. With such unsure prospects, companies are reluctant to undertake the investment in dealing with minors between 16 and 18. Charlotte Van Zeebroeck of Service Droit des Jeunes in Belgium stated that *“In practice, the majority of these centres refuse to take children in irregular situations because the aim of training programmes is to find a job afterwards. Institutions and businesses are of the opinion that undocumented children will never be regularised and so will never have the official right to work.”*

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CHARLOTTE VAN ZEEBROECK, SERVICE DROIT DES JEUNES, BELGIUM

A similar situation was reported in the Netherlands, where NGOs indicated how crucial training courses are, and, more generally, the passage to majority. They criticised the rigidity of the system that de-

facto excludes the undocumented children from any possibility for vocational classes which as a consequence makes it very difficult to obtain a residence permit once reaching the age of 18. Rian Ederveen from the NGO Stichting LOS said: *“Yes, undocumented children are required to finish secondary education and to do practical work. This suggests they can get a diploma, but they can’t. This suggests they can do training, but they can’t do this either. The employer doesn’t want an undocumented worker, because they don’t have SOFI numbers (social security number). Employers, like in the case of many schools, need the personal SOFI number and can’t risk taking somebody without this number.”*

The subject of education for 16- to 18-year-olds and vocational classes came up in many interviews and generally revealed a discouraging picture. Even in countries such as Italy, Spain and France, where access to education is guaranteed, problems with vocational classes were reported. What appears clear from the interviews is that without help from NGOs, access to these courses is almost impossible.

Some good practices have been undertaken by NGOs to facilitate the insertion of undocumented minors into the work force, to access vocational training, and, more generally, to support the minor at this crucial time in their life when they reach adulthood. Even if in the majority of cases the activities reported refer mainly to those who are unaccompanied, there are also some cases of undocumented migrants and the difference between the two cases is not a distinct one because, once an adult, the unaccompanied minor becomes undocumented.

Accompanying the Child Through to Adulthood

The Virtus association in Rome carries out a project to accompany undocumented minors once they reach adulthood. Marco Caporale, one of those responsible for this project, explained that their work is mainly to accompany these children in this delicate passage: *“We have some special apartments for children who reach the age of adult, in “semi-autonomous” settings. The children remain there until they become adults with a source of income and at least two months’ wages. Even if they turn 18 and have requested a renewed resident permit, they will remain in the classification with heavy educational responsibility until they have accumulated two months’ wages. Aside from this classification, we have two semi-autonomous levels: reserved and sharing. In the reserved classification, if a person moves to an apartment, then the educational responsibility diminishes. There is no longer instruction, just monitoring of*

activities inside the apartment. In this way, children who are semi-autonomous do not pay for housing. However, they do pay for food and cook it themselves, because they must begin to live an autonomous life.”

Since 1994 the Associazione Virtus has worked in the field of education in support of minor immigrants. Their educational objectives are to help the minors discover and make use of the qualities and abilities they possess in order to make use of the diversity that the immigrant minors bring with them. They aim to help children not to see diversity as something that makes them inferior to Italians and Italian life, but to know and appreciate this diversity.

Associazione Virtus Ponte Mammolo

<http://www.virtuspontemammolo.it/>

INTERDEPENDENCE OF RIGHTS

One final aspect reported in the interviews was how precarious living conditions also affect access to education. Only by guaranteeing access to decent living quarters can these minors can be guaranteed access to education and so forth. Conversely, undermining access to housing inevitably ends up doing the same in the case of other social rights such as education and health care.

As stated in the introduction, the approach that has guided this PICUM study has been to emphasise the interdependence of social rights and consequently the problems accessing them. This relationship must be explicitly underlined each time it comes up, as in this case.

Various NGOs stressed the fact that irregular families, either for economic reasons or out of fear of being tracked down by the authorities, often move residence, thus making it impossible for their children to complete an entire year of school in one

place. Peter Schultz from the NGO ASKV in the Netherlands for example said at this regard: *“They have no place to stay. If they stay with someone or even if they stay with us, they stay for half a year and then they have to move again. That’s the main problem for the children; they have to move all the time. For this reason it is almost impossible for these children to follow an entire school year with all the consequences you can imagine.”*

A similar report comes from Moyra Rushby of Medact who stated: *“I think the biggest problem is the constant moving. It’s not happening as much as it used to. But this moving around constantly means that they’re often in and out of school. They’re quite isolated. They often and increasingly can’t get into schools. Which means that they are very isolated and often in poor conditions. I have cases, not so much of unaccompanied minors, but quite small children who live with their mother in a hostel.”*

Access to Education: In Brief

The Right to Education for Undocumented Children in International and European Standards

All of the main international conventions recognise the right of instruction as *a fundamental right of every child*.

The Convention on the Rights of the Child (CRC) is particularly important due to its specific reference to the protection of the rights of all children. *CRC Art 28 "States Parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all."*

At the European level both the Council of Europe and the European Union have adopted instruments for the protection of the right to education for *all children*.

Charter of Fundamental Rights of the European Union, Chapter 2, Article 14, "everyone has the right to education and to have access to vocational and continuing training; this right includes the possibility to receive free compulsory education."

However the EU legislation the right to education is protected for those children who are regularly present in the territory but no clear provision is included for undocumented children.

► In Theory

The right to education for undocumented children is protected by law in all the countries analysed and is *not explicitly denied in the legislation in any case*.

Neither the interviews nor the examination of legislation uncovered any case of direct discrimination at legislative level against undocumented children with regards to accessing education in the countries studied.

► In Practice

- Despite the considerable efforts of the EU, educational inequality and discrimination in European education systems continue to be widespread, with the educational attainment of migrants and minorities lagging behind that of majority groups.
- There remains a big gap between theoretical entitlements granted by law to all children, even undocumented children, and the concrete practices these children experience.

Practical Barriers to Gaining Access to the Educational System

- Lack of identification document. This is generally justified by the fact that the school is reimbursed by the state according to the number of pupils and they need a valid document to prove the presence of an undocumented child (cases have been reported for example in Poland and in the Netherlands). Another possible justification is the fact that the school provides a territorial service for the people of that area, and it is necessary to prove residency in that area in order to enrol.
- Fear of being detected. Even if in most countries there have been no verified episodes of police roundups at the schools, this fear is so embedded that many parents prefer not to risk sending their children to school due to the fear of being detected.
- Problems with extracurricular expenses. Though access to primary education is free, irregular families are excluded from economic aid for extra expenses such as books, transportation, etc. This usually does not amount to a great deal, but is still an insurmountable obstacle to these families.
- Poor knowledge of the language. This limits access not only to undocumented minors, but to all immigrated minors.
- Precarious living conditions. The precarious living conditions have an affect on their schooling. Having to move often does not allow these minors to complete an entire school year.

A specific problem cited in nearly all of the countries was fact that diplomas are not regularly issued at the end of a scholastic career. This demonstrates a clear form of discrimination against undocumented children.

Before and After Compulsory Education

Though it is not an obligatory state service, kindergarten is a public service and to exclude undocumented children would constitute a discriminatory practice. However, it is not compulsory and in many countries access is problematic even for native families.

In general access to courses from the ages of 16 to 18 is more problematic than with compulsory education. In the greater number of cases, these difficulties are tied to the lack of a residence permit.



Chapter 2. Access to Health Care

Chapter 2. Access to Health Care

Not only do undocumented children face barriers to education, but they face considerable obstacles to accessing health care. As stated in PICUM's 2007 report *Access to Health Care for Undocumented Migrants*, "Undocumented migrants in Europe face serious problems in gaining access to health care. Their physical and mental health is apt to worsen because of poor access to health care services and/or the continual fear of being discovered and expelled."⁴⁸ Undocumented children encounter similar difficulties in accessing a high standard of health care, in terms of bureaucratic impediments, a lack of adequate information and the fear of being caught.

This chapter considers different legislation guaranteeing the right to health care for undocumented children, the practical difficulties they experience and discrimination these minors may face within the health care system. Though this study does not concentrate on the specific medical aspects related to access to health care for undocumented children, the interviews do reveal a general picture of the problems encountered. In this sense, the study does

not delve into the different aspects related to the age of the children in question (e.g. paediatric care, post-natal care, etc). Other NGOs such as Doctors of the World (Médecins du Monde), for example, have gone into this subject in greater depth.⁴⁹

THE RIGHT TO HEALTH CARE FOR UNDOCUMENTED CHILDREN

International Standards

International Protection of the Right to Health Care for Undocumented Children	
International Instruments	European Instruments
UDHR, Art 25	ESC, Art 13
ICERD, Art 5(e-iv)	ECHR, Art 3
CRC, Art 24(1), 25, 39	
CEDAW, Art 14 (2b)	
ICRMW, Art 28	
ICESCR, Art 12(1)	

⁴⁸ See PICUM (ed.), *Access to Health Care for Undocumented Migrants in Europe*, PICUM, Brussels, 2007, p.5 ([http://www.picum.org/HOMEPAGE/Health%20care/REPORT%20Access%20to%20Health%20Care%20for%20Undocumented%20Migrants%20in%20Europe%20\(17\).pdf](http://www.picum.org/HOMEPAGE/Health%20care/REPORT%20Access%20to%20Health%20Care%20for%20Undocumented%20Migrants%20in%20Europe%20(17).pdf)).

⁴⁹ See Médecins du Monde (MDM), *European survey on undocumented migrant's access to health care*, European Observatory on Access to Health Care, June 2007. (http://www.medecinsdumonde.org/gb/content/download/4518/36169/file/rapport_observatoire_english.pdf).

The right to health care protected at the international level by a variety of international instruments. A detailed analysis of the international conventions will show the protection accorded to these children by several individual provisions.

Universal Declaration of Human Rights (UDHR)

The first reference on right to health care is the Universal Declaration of Human Rights, Article 25.

The article states that “*everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care.*”

We have already seen how the UDHR is considered international law and thus is intended to be binding on states.

International Covenant on Economic, Social and Cultural Rights (ICESCR)

Another important instrument that can be recalled with regard to the right to health care is the International Covenant on Economic, Social and Cultural Rights.

Article 12 of the convention establishes that “*the States Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*”⁵⁰

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

References to the inalienable right to health care are present in all the principal conventions on human rights. The International Convention on the Elimination of All Forms of Racial Discrimination establishes in Article 5 that:

“*States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights... e) (iv) The right to public health, medical care, social security and social services.*”⁵¹

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)

Specific references to the right to health care are also present in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) in Article 28.

The latter addresses the topic in the section regarding all migrant workers, “*Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with*

⁵⁰ For the understanding of the extensions of the provisions granted in Art. 12, see the Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No.14: The Right to the Highest Attainable Standard of Health*, 11 August 2000, para.9, 34 “(...) Consequently, the right to health must be understood as a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health. (...) In particular, States are under the obligation to *respect* the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and *illegal immigrants*, to preventive, curative and palliative health services” ([http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.2000.4.En](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En)).

⁵¹ The Committee on the Elimination of Racial Discrimination on the extension of this provision stated “ (...) Ensure that States parties respect the right of non-citizens to an adequate standard of physical and mental health by, *inter alia*, refraining from denying or limiting their access to preventive, curative and palliative health services (...)”. See Committee on the Elimination of Racial Discrimination (CERD), *General Recommendation 30: Discrimination Against Non Citizens*, 1 October 2004, para.36 (<http://www.unhcr.ch/tbs/doc.nsf/0/e3980a673769e229c1256f8d0057cd3d?Opendocument>).

nationals of the State concerned. Such emergency medical care shall not be refused them by reason of any irregularity with regard to stay or employment.”

Convention on the Rights of the Child (CRC)

The Convention on the Rights of the Child specifically protects the rights of all children in its first chapter. This specification can be interpreted as a protection of the right to health care for undocumented children in particular.

Article 24 of the CRC states that “*States Parties recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.*”

“States Parties recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.”

CONVENTION ON THE RIGHTS OF THE CHILD,
ARTICLE 24

European Conventions and Legislation

Council of Europe

European references to the right to health care for undocumented children can be found in the European Social Charter (ESC) and in the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). The ESC not only refers to the right to health care but specifies in Article 13 that such a right must be guaranteed by the state for all, even for those without resources who are excluded from the social security scheme.⁵²

European Court of Human Rights

Though the ECHR has no specific reference to the right to health care in its text, the European court on human rights has ruled that Article 3 of the convention, which prohibits torture or inhuman or degrading treatment, may in certain exceptional circumstances protect those denied health care if they may as a consequence suffer inhuman or degrading treatment or punishment. In the case of *Pretty v the United Kingdom*, the Court held that “*the suffering which flows from naturally occurring illness, physical or mental, may be covered by Article 3, where it is or risks being, exacerbated by treatment, whether flowing from conditions of detention, expulsion or other measures, for which the authorities can be held responsible.*”⁵³

⁵² Even though the appendix states that the ESC applies to nationals or other persons residing or working lawfully within the territory of the state parties, the Committee on Social Rights of the Council of Europe ruled otherwise in the Complaint No. 14/2003, *The International Federation for Human Rights (FIDH) v. France*. See European Committee of Social Rights, *FIDH v. France*, Decision on the Merit, Complaint No. 14/2003 (8 September 2004) (http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC14Merits_en.pdf).

⁵³ European Court of Human Rights, *Pretty v. United Kingdom*, judgment of 29 April 2002 (Application No. 2346/02), para. 52 (http://www.pusc.it/can/p_martinagar/lrgiurisprinternaz/HUDOC/Pretty/PRETTY%20vs%20UNITED%20KINGDOMen2346-02.pdf).

National Legislation

The national legislation of different EU member states considered in this study protect the right to health care for undocumented children in different forms. Not all legislative sources will be addressed in depth; rather this report attempts to give a general picture of the level of protection guaranteed by law in order to draw comparisons with international standards, as well as to identify the strengths and weaknesses of the laws.

This section is based on the preceding research on this topic, particularly the study on *Access to Health Care for Undocumented Migrants in Europe* done by PICUM in 2007, on the primary legislative sources and analysis of the interviews. The organisations interviewed were also asked to indicate the strengths and weaknesses of health care legislation.

Different Types of Protection at National Level

National Legislation on the Right to Health Care and Its Application to Undocumented Children			
Right to all children	Differences between separated and undocumented children	Discretion of GP	No special clause
Spain	Italy	The Netherlands	Hungary
	France	UK	Malta
	Belgium		Poland

A comparative analysis of the different laws, aside from specific experiences reported by the interviews, shows some common aspects of these laws and some important differences worth noting. Among the countries analysed, only Spanish legislation fully conforms to the international standards guaranteed by the CRC. In fact the provisions for health care for undocumented children are equal to the provisions for health care granted to Spanish children.

In some other countries in Europe the law makes a distinction between separated children and undocumented children with their parents. In Italy,⁵⁴ Belgium and France, the law provides that while separated children have a status completely equal to native children, undocumented children with parents only have the possibility of accessing health care which is essential, just as for their parents. Even though

the importance of special protection for separated children is recognised, due to their particularly vulnerable condition, it is hard to understand why other undocumented children are excluded from full access.

A third group includes those for whom the law neither forbids nor permits complete access to health care, instead leaving the choice to the General Practitioners (GP) who decide if the care is essential for the minor's recovery. The UK and the Netherlands are included in this group.

Finally, legislation in Hungary, Poland and Malta does not provide any special safeguards for undocumented children, and therefore the access they are guaranteed is the same as for undocumented adults.

⁵⁴ In Italy, according to text of the law, the possibility of being registered in the National Health System and receiving equal treatment to a national child depends on the possession of a resident permit, not the fact of being accompanied. However while unaccompanied children receive resident permits, undocumented children almost never do. In this sense different treatment exists between unaccompanied and undocumented children.

Countries Where Access to Health Care for Undocumented Children is Equal to Access for National Children

Spain

Access to the emergency system in Spain is generally guaranteed free of charge to all documented and undocumented foreigners present in the country who become severely ill or have an accident, for the duration of their treatment. Regarding undocumented migrants' access to other health care services and medicine, a distinction is made between pregnant women and children on the one hand and other categories of undocumented migrants on the other. Undocumented children under the age of 18 and undocumented pregnant women are entitled to access the Spanish national health care system free of charge under the same conditions as nationals. However, the remaining undocumented migrants only enjoy this right if they are registered in the local civil registry of their habitual residence.

Specifically Article 12 of the Act 4/2000 of 11 January 2000 on the Rights and Freedoms of Aliens in Spain states that "*foreigners younger than 18 years old who are present in Spain have the right to access the health care system on the same conditions as the nationals.*"⁵⁵

Countries with Different Protection for Separated and Undocumented Children

Belgium

In general the Belgian legislation guarantees only access to essential health care for undocumented migrants. In Belgium the relevant legislation is the *12th December 1996 Royal Decree concerning the*

urgent medical assistance dispensed by the Centre of Social Welfare (SWA) to the aliens who stay illegally in the Kingdom. The decree specifies that 'Urgent Medical Care' can be both preventative and curative and that the costs are only paid back to the Center of Social Welfare by the state, provided this centre produces a medical certificate proving the urgent necessity of the care.⁵⁶ Laws were recently modified on 13 December 2006, including the "Law supporting various schemes regarding health care" (*Loi portant dispositions diverses en matière de santé*) and the successive circular OA n 2008/198 of 9 May 2008.

This important circular, following pressures from various NGOs,⁵⁷ establishes that unaccompanied minors, independent of their status, may be enrolled free of charge in the health insurance system, exactly as national minors are. The law also establishes a series of other conditions required in order to be eligible for the health insurance, such as to have attended a primary or secondary school, recognised by the Belgian authorities, for three consecutive months.

The inclusion of this category of minors can only be judged positively. Nevertheless we must underline the disparity of treatment between separated children and undocumented children. While separated children are provided with health insurance, it is not provided for undocumented children living with their families, and consequently they are covered exclusively by the 1996 Decree. The only exception in the case of undocumented children is when they are housed together with their families in reception centres for asylum seekers.⁵⁸ There the children can

⁵⁵ Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social (http://noticias.juridicas.com/base_datos/Admin/lo4-2000.html).

⁵⁶ See Ilke, A. (2002, p.20-25).

⁵⁷ An important role was played in the drafting of this circular by the organization Medimmigrant. See text box "Lobbying to Change the Law".

⁵⁸ Children in irregular status with their families can be hosted in centres for asylum seekers (this particular provision is analyzed in the chapter on housing).

receive outpatient treatment in the same centres, but cannot get health insurance like unaccompanied minors do.

France

As a general practice it can be noted that free access to health care for the poorest groups of society irrespective of administrative status was guaranteed in France until 1999, when the Universal Health Coverage Act (*CMU*) removed entitlements for those without regular residence.⁵⁹ Along with this, a new parallel administrative system created specifically for undocumented migrants was put in place. The system, called “State Medical Assistance” (*Aide Médicale de l’Etat - AME*), allows undocumented migrants and their dependents to access publicly subsidised health care upon compliance of certain conditions. With regard to health care for children it seems that while separated children are provided with access under the Universal Health Coverage Act (*CMU*) on the condition of being taken into the system of social aid to children (*Aide Sociale à l’Enfance - ASE*) undocumented children with families can only register with the *AME*.

As was reported by Jean Haffner of *Secours Catholique*: *“The difficulty of obtaining the CMU (universal sickness cover) or the AME (state medical assistance) is based around the fact that people have to present the authorities with a home address and photo, along with photos of any children they may have. Things such as glasses, hearing aids and false teeth are, moreover, very poorly reimbursed. Undocumented migrants who have been in the country for less than three months, or equally those who cannot prove they have lived there for over three months,*

cannot benefit from the system. In addition, the AME is only valid for one year after which it must be renewed, meaning that there is a constant necessity to prove residence in France for over three months. Certain people do not want to hand over their photographs or their address to the authorities, and so end up without the AME.”

Italy

Under the Immigration law and regulations concerning non-EU citizens, separated or unaccompanied children who are entitled to a residence permit are registered with the National Health System and have access to health care on an equal basis with Italian citizens.⁶⁰

While unaccompanied foreign minors are granted a residence permit for social protection which allows them the right to enrol in the National Health Service, undocumented minors with their families are usually not granted a residence permit. These minors are subject to the same norms as adults, and therefore have only the right to emergency or essential care (STP), and are not guaranteed access to the other national health services.⁶¹

This same preoccupation was expressed by Antonella Inverno of *Save the Children Italy* who stated that *“a minor without documents is not easily admitted. There is a particular problem with paediatricians since irregular foreigners who have the right to STP do not have the right to total health service. The youngest minors are not guaranteed continuous paediatric care, that is, a family paediatrician. For older minors the STP more or less serves their needs.”*

⁵⁹ Article 3 of the Universal Health Coverage Act (Loi n°99-641 du 27 juillet 1999. Loi portant la création d’une couverture maladie universelle, Journal Officiel de la République Française of 28 juillet 1999) as reported in the already mentioned report of PICUM on *Access to Health Care for Undocumented Migrants in Europe* (2007, p.28).

⁶⁰ Immigration law n. 286/98, Art. 34 (<http://www.parlamento.it/leggi/deleghe/98286dl.htm>).

⁶¹ *Ibidem*, para. 3.

Countries Where Access Depends on the Discretion of the GP

The Netherlands

Generally speaking, access to health care services for undocumented migrants is very limited. With the introduction of the so called Linkage Act in 1998,⁶² certain rights, such as the right to state medical insurance, became linked to the condition of authorised residence. Undocumented migrants can still receive “care that is medically necessary.” In principle, they should always bear the costs of medical treatment. Nonetheless, if undocumented migrants cannot pay, the cost will be covered by a special fund called ‘Koppelingsfonds’, which directly reimburses the health care provider, but never the patient.⁶³ The law, however, makes a specific distinction regarding children. In the case of pregnant women, all care is considered to be essential care both before and during birth and if related to preventive care and vaccinations for children.

Moreover in 2007 an official report was published⁶⁴ in which the criteria for medically necessary care for undocumented migrants were laid down. These standards are considered to be the official standard for access to health care for undocumented migrants in the Netherlands. The report says that a doctor is not allowed to discriminate between patients on non-medical grounds. This text also makes clear that medically necessary care is ‘appropriate care’, and this definition is the same as the definition used in the basic health care insurance system that is considered as the minimum standard for everyone.

NGOs have especially underlined problems associated with the correct implementation of the law. Gerd Beckers of the Dutch NGO Médecins du Monde (MdM) the Netherlands, stated in this regard: *“I think the legal framework is satisfactory, it’s a safeguard. My only criticism is that it should be enforced and there should be a feedback mechanism, so that it is possible both to identify those who violate this law and to assist the victims of these violations. It’s difficult, however, because we of course oppose social exclusion and that is the linkage law. I suppose it could be improved but that would not be realistic so instead we focus on the legislation which already exists and which, compared to other countries, is relatively well organised. The only problem is the complex system of the law and of the professional guidelines; medical science also gives room to manoeuvre to doctors, for instance they cannot carry out treatments which conflict with medical science and international humanitarian law.”*

United Kingdom

The United Kingdom’s health care system is called the National Health Service (NHS). The guiding principles of the NHS assert that “health care is a basic human right...unlike private systems; the NHS will not exclude people because of their health status or ability to pay.”⁶⁵ Generally speaking, undocumented migrants should have access to primary care and emergency care, or treatment considered “immediately necessary” by a medical practitioner. Children of undocumented migrants are entitled to free health care which is considered “urgent” and “immediately necessary”; their parents or guardian will be liable

⁶² Law of 26 Mars 1998, so called “Koppelingswet” (<http://www.st-ab.nl/1-98203.htm>).

⁶³ See PICUM on *Access to Health Care for Undocumented Migrants in Europe* (2007, p.61). However since 2004 residential care (in psychiatric hospitals, or homes for disabled, or children homes) is no longer covered by the Koppelingsfonds.

⁶⁴ See Commission on Medical Care for Failed Asylum Seekers and Illegal Migrants, *Arts en vreemdeling*, Pharos, Utrecht, 2007 (http://orde.artsennet.nl/uri/?uri=AMGATE_6059_397_TICH_R203942816227560).

⁶⁵ See Department of Health, *The NHS in England: Core Principles*, October 2008 (<http://www.nhs.uk/aboutnhs/CorePrinciples/Pages/NHSCorePrinciples.aspx>).

for charges regarding any secondary care. Unaccompanied minors are also “chargeable”; a bill will be handed to the person accompanying the child and “copies should be sent to the child’s parents.”⁶⁶

The most recent legislation in this regard is the Department of Health, Statutory Instrument 2004 No614’ (SI614) which came into force in 2004.⁶⁷ It made groups considered to be not ‘lawfully resident’ in the UK liable for NHS hospital charges. Despite this, the Department of Health Table of Entitlement to NHS Treatment (June, 2007) states that GPs have the discretion to register excluded groups as NHS patients.⁶⁸

Countries Without Any Special Safeguards in the Legislation for Undocumented Children

Hungary

Even if the Hungarian Constitution declares the right of everybody living in Hungary “to the highest possible level of physical and mental health,”⁶⁹ with the exception of stateless persons, undocumented migrants are not entitled to benefit from the Hungarian health insurance scheme.⁷⁰ They therefore do not have access to any publicly subsidised health care in Hungary besides emergency care, which is always free of charge.⁷¹

Beyond these generalities there are no specific provisions in the law for undocumented children, who therefore must follow the same treatment as adults. In this case there is also a difference in treatment between unaccompanied and undocumented children. In fact, while unaccompanied children (at least those who are in centres) are entitled to seek assistance from doctors visiting the centres on a regular basis⁷², for undocumented children there are no special guarantees provided.

Malta

As we have already seen, Malta’s situation is different and clearly distinguished from other countries. This is also evident in the legislation. Concerning access to health care, there are no specific laws for undocumented children. Legislation refers only to refugees, asylum seekers or children of migrant workers.⁷³

The main problem recalled during the interviews was access to health care during the period of detention⁷⁴. In the interview done with Fr. Paul of the Jesuit Refugee Service (JRS) in Malta, the primary NGO working with detained migrants in Malta, he reported that: “*There are big improvements and people are much happier but there are still many weaknesses. Even simple access to medicines can*

⁶⁶ See PICUM, *Access to Health Care for Undocumented Migrants in Europe*, Brussels, 2007, p.100.

⁶⁷ See Statutory Instruments No. 614 of 2004, *The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2004*, March 2004 (<http://www.opsi.gov.uk/si/si2004/20040614.htm>).

⁶⁸ See Medact, *Proposals to Exclude Overseas Visitors from Eligibility to Free NHS Primary Medical Services: Impact on Vulnerable Migrant Groups*, 2004 (<http://www.medact.org/content/refugees/Briefing%20V1%20agreed.pdf>).

⁶⁹ Section 70/D Paragraph 1 of the Hungarian Constitution (Act 20 of 1949).

⁷⁰ Hungarian Ministry of Health, *Beneficiaries of health care in Hungary with special regard on foreigners*, [2004a]. (<http://www.eum.hu/english/social-security-of/beneficiaries-of>).

⁷¹ See PICUM, *Access to Health Care for Undocumented Migrants in Europe*, Brussels, 2007, p.48.

⁷² See Kopitar, A. *The Risk Group of Unaccompanied Minors: Protection Measures in an Enlarged European Union, Country Report Hungary*, 2007, p. 15 (http://www.zrs-kp.si/EN/Projekti/Daphne/MnOrs_Hungary.pdf).

⁷³ See for example art. 12 Refugee Act ACT XX of 2000, as amended by Act VIII of 2004 and Legal Notice 40 of 2005, cp. (1October 2001) (http://docs.justice.gov.mt/lom/Legislation/English/Leg/vol_13/chapt420.pdf).

⁷⁴ See in Médecins du Monde, “*Everybody just tries to get rid of us.*” *Access to health care and human rights of asylum seekers in Malta. Experiences, results and recommendations*, 2007 (http://www.no-fortress-europe.eu/uploadFortress/Malta_Report_MDM.pdf).

be difficult: the doctor prescribes medicines and it takes a long time to arrive (sometimes even 5 days or more) because there is no pharmacy in the detention centre. The prescription is taken by the soldier to hospital, sometimes the next day, so that the detainees can't take the medicines they need. During the follow-up if a doctor realises that you need to go to a specialist this is arranged, but like for everybody else in Malta this can take months. Or you are hospitalised. 1,700 persons are detained in two centres and in each centre there is a nurse working part-time with one doctor. They cannot provide an effective follow-up. Besides the doctor and nurse, who comes to see these people? There are soldiers but they are responsible for the general running of the centre and do not have enough time to tend to the needs of every individual. And it is also fair to say that they do not have the training for it."

Poland

In Poland even if there is a specific reference to the right to health care for everybody in the constitution (Art. 68) the concrete reference regarding access to health care for undocumented children can be only found within the asylum seekers procedure.

In the Aliens Protection Act, there is a reference regarding access to health care for migrant children but it only refers to unaccompanied minors, or children within the refugee process (asylum seekers, with temporary protection or with refugee status).⁷⁵ Health care from doctors who work in the centres is guaranteed for those who request asylum.

The Aliens Protection Act of 18 March 2008 contains a section on additional protection granted to aliens who have undergone violence or repression in their home country, but also again reiterates that access to public medical healthcare is available only to those migrants applying for refugee status. Additionally, unaccompanied children, who may have undergone physical violence or may be disabled, have access to state-paid healthcare.⁷⁶

THE SITUATION ON THE GROUND

What it Means to Have Access Only in Emergency Situations

NGOs have underlined the consequences to these children who have access only to essential and urgent care, without the care of a GP, and with stringent limits to specialist care. In the majority of cases access to health care for undocumented children does not differ much from access to health care for undocumented migrants in general, with the important exception of separated children. Nevertheless it will be useful to look deeper into this aspect to better understand the consequences of this situation.

First of all it must be underlined that the interpretation of urgent care differs from country to country. It ranges from the situation in Italy in which the interpretation is rather open and allows for all continuous care,⁷⁷ to Poland or Hungary for example in which the interpretation is much more restrictive. Moreover there are even different interpretations on the local level according to the institutions questioned

⁷⁵ See Act of 11 April 2001 amending the Aliens Protection Act (Journal of Laws, 2001, No 42, item 475), Wolters Kluwer Online Service of Polish Legislation, (<http://www.lex.com.pl/serwis/du/2001/0475.htm>) and Aliens Act of 13 June 2003 r. (Journal of Laws, 2003, No 128, items 1175 and 1176, Wolters Kluwer Online Service of Polish Legislation, (<http://www.lex.com.pl/serwis/du/2003/1175.htm>) and (<http://www.lex.com.pl/serwis/du/2003/1176.htm>).

⁷⁶ See the latest Act on Protection of Aliens of 18 March 2008 (Journal of Laws, 2008, No 70, item 416), Wolters Kluwer Online Service of Polish Legislation, (<http://www.lex.com.pl/serwis/du/2008/0416.htm>).

⁷⁷ Immigration law n. 286/98, Art. 35, para. 3

about the interpretation of “urgent care” (that may even include mental health for some doctors but means much less for others).

Generally speaking beyond the more or less strict interpretation of the term, it is generally very problematic for these children to have access to guaranteed continuous care by a GP and to all specialist care. Terry Smith, an independent researcher collaborating with Save the Children in the UK, said that it is practically impossible for these minors to be seen by a GP and they can turn to hospital services only in case of emergency: *“I think that for any child, and really for any adult, if you’ve got health needs, emergency health needs, you should be seen by a medical practitioner. That’s particularly so for children. If you’re undocumented then it’s very difficult to register with a doctor. And I think in practice they’ll only be seen if they’ve got an emergency. And again another practical difficulty is for families that are here undocumented, they don’t want to draw attention to themselves so they will not register their child.”*

“If you’ve got health needs, you should be seen by a medical practitioner. That’s particularly so for children. If you’re undocumented then it’s very difficult to register with a doctor. In practice they’ll only be seen if they’ve got an emergency.”

TERRY SMITH, INDEPENDENT RESEARCHER, UK

In addition to problems with access to continuous care, another major problem reported is access to specialist care. There have been reports of many

difficulties for example of obtaining dental care or exams for glasses when needed. Moreover particular attention was given by the NGOs interviewed to the problems related to mental health for these children. This specific aspect will be analyzed in greater detail further on.

Karen Malfliet, a social worker with the NGO Kom-Pas in Belgium, emphasises the absurd aspects of the law in these cases: *“Dental care is something that is often a problem, as is eye care; sometimes it is very obvious that the children have eyesight problems and the school will see this very easily in the classroom, but then you have a problem with glasses. You can have your eyes checked but you cannot buy glasses. They can have the test for free but they have to pay for the glasses.”*

Ousmane Abdoul Moumouni of the NGO Synergie 14 in Belgium reports on the story of a young undocumented child outside of the protection system and how it is difficult for him to get access to his basic social rights. *“It is trickier for those who are not in centres, because even when a consultation is reimbursed a certain amount of money is needed to pay in the first place. We unfortunately see, therefore, a lot of young people who turn to self-prescription and self-medication. There was one case in particular that affected us a lot, of a boy who hangs around at the South Train Station. We had told him that he could claim the right to health care from the state but only in the case of an emergency. But it wasn’t emergency medical care that he needed, but a follow-up and some support. So he was at a loss, spending his time begging on the streets. He is a minor and has no papers; we searched and searched, but we couldn’t find anyone willing to help.”*

Application of the Law

Discretionary Power

One of the first problems concerning the application of the law most often cited in nearly all the countries is the strong discretionary power: laws applied by a hospital or by a GP often vary widely. It was mentioned many times by interviewees that correct access to care often depends on the goodwill of the doctor rather than on a correct interpretation of the law.

As an example, Ahmet Pouri of the NGO Prime in the Netherlands reports: *“A lot of things depend too much on the goodwill of people, if they are willing or not willing to help. For example, doctors sometimes do not want to help migrants while others are willing to help them. The same goes for dentists: some are willing but it takes a lot of time because of the whole administration, they have to wait a long time to get those services reimbursed and sometimes it does not work. So you can feel that there is a lot of difference between the people that they want to help and the people they do not want to help.”*

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AHMET POURI, NGO PRIME, THE NETHERLANDS

As stated in the earlier PICUM report on health care, this power of deciding whether or not to offer health care to undocumented children amounts to a form of discrimination. An example of the importance of the doctor’s goodwill was related by Moyra Rushby of the Medact association. *“For instance, this week, I had the case of a young woman who had a four-month-old baby, whose appeal had been refused. And that wicked GP had taken her off his list. And she had no doctor, and the only doctor that we could find her was in the centre of London and she lives in Richmond; that is a huge distance across London to travel to see a doctor when you have no money, no access to funds and a small baby who’s not well. And we’re increasingly seeing that. This discretion is being used more and more by GPs to remove people from their lists. You need to talk to GPs about that; most would say that treating undocumented migrants lowers your chances of reaching government targets, so it actually costs you to provide care. That is one of the reasons why there’s an increasing keenness to move people off when they can.”*

One of the consequences is that those doctors and/or those NGOs who handle this kind of situation are under enormous pressure that comes from this discretionary power of access. Given the gaps and failures of the health care system, there is enormous pressure on NGOs and charities, particularly in countries where legislation is rather restrictive. These organisations make a tremendous effort to fill the gaps and correct the failures of the state system and on many occasions feel obliged to constantly improvise solutions.⁷⁸

⁷⁸ See PICUM, *Access to Health Care for Undocumented Migrants in Europe*, Brussels, 2007, p.10.

Working Within the Health Providers Community

The British Medact Refugee Health Network devotes a large proportion of their resources to finding GPs who will treat undocumented migrants, focusing specifically on maternity care and health care for children. Their advocacy for undocumented children has taken the form of awareness raising in the health community, for instance with talks at the Royal College of Paediatrics and Child Health, and recruiting high-profile members of the medical community. They have also worked on publicising the NHS scheme which allows a 'care first, pay later' approach for immediate necessary care but has been neglected in government documents and is therefore ambiguous when dealing with the letter of the law.

The Refugee Health Network was conceived following training sessions held on refugees' health during the period from 1999 -2001. In each case the

evaluations recorded that some of the most important issues at the time were the ability to meet and share information with fellow health workers.

This network of health professionals, many of whom have considerable professional experience, do campaigning and lobbying with governments, international bodies and other influential organisations, calling upon them to take positive action on preventing violent conflict, improving health and on raising the standards of health care worldwide. Members of the network share information and resources and offer mutual support. The network currently has 280 members.

Medact Refugee Health Network

http://www.medact.org/ref_about_network.php

Complex Procedures to be Refunded (Bureaucratic Problems)

A second problem in the actual application of the law, also mentioned many times (especially in those countries with a system of access based on health insurance, such as the Netherlands and Belgium), is that the procedure is too complex, especially regarding government funding for doctors and hospitals that provide care to undocumented children.

Such complexities often cause doctors to refuse to help undocumented children because of the long bureaucratic process required for compensation. Thus one could conclude that such complexities are responsible for the choice of whether to accept the undocumented children or not.

As Gerd Beckers of Médecins du Monde the Netherlands reported, it is often the doctor who decides whether to accept children for care or not; in many cases this decision is made at the hospital reception desk based strictly on financial concerns. *“If you are an undocumented child, they send you to a house doctor. The general practitioner makes his evaluation; if possible he provides treatment, if not he issues a referral. So that is already the judgment of a doctor. But the medical necessity is being*

established by the general practitioner and then the specialist on his level can decide if specialist care is necessary. In theory it can never be the case that because of financial reasons a referred patient is refused because he cannot pay. But this happens, of course. The majority of the cases we learned of last year showed that the problem is at the level of the financial desk at the hospital. It is a financial problem. So the financial desk won't refer the patient.”

Sometimes problems tied to reimbursement can fall on the NGO who tries to give support to these minors, explained Rakos András of the NGO Oltalom in Hungary: *“We had a child who had an operation and was taken to hospital. There was a doctor who said kindly, ‘it is a life-saving action so we have to do it.’ But afterwards, they asked the family to pay. ‘How can we pay?! We cannot pay!, they said.’ So our organization replied on their behalf and the financial services demanded that we pay. Why should we pay? Because we took them to the hospital. But why should we pay? We have no funds to pay for this kind of thing. There was a lot of letter-writing and I also asked the office of immigration and nationality to help; the family could not pay, but our organisation also could not pay...I mean, why should we pay?”*

Lobbying to Change the Law

The Belgian NGO Medimmigrant was the leading group for a proposal to change the Belgian law to obtain access to health insurance for undocumented minors. Success came in December 2006, when a law was passed which stated that unaccompanied minors, both documented and undocumented are able to obtain insurance. The law became active 1 May 2008. Before the introduction of this law, unaccompanied children and adults alike had access only to urgent medical care. The result is that unaccompanied children are now treated at the same level and have the same rights as nationals.

Medimmigrant seeks to ensure that the right to health care for undocumented migrants and people with a precarious residence status is embedded in the legislation and that it is concretely implemented by social services and other public institutions. Besides providing information about entitlements to access to health care, Medimmigrant actively mediates to speed up the procedure to access health care. Their assistance is

specifically addressed to residents or organisations located in the Brussels Capital Region.

Medimmigrant also takes part in numerous platforms and initiatives at the national level and makes regular recommendations to the government in the field of access to health care with the aim of achieving better implementation of the law as well as raising awareness amongst the different stakeholders. Part of this work also focuses on residence permits for medical reasons. This organisation is committed to upholding the right to stay and the right to social services for people who are unable to return to their country of origin as a result of their illness. It also lobbies for the establishment of a European medical database with information covering the accessibility and availability of necessary treatments and medicine in the countries of origin.

Medimmigrant

<http://www.medimmigrant.be>

Practical Barriers

In addition to problems with the correct application of the law, as revealed in the interviews, there are real and practical barriers that interfere with the full implementation of the law. Due to the vulnerability of undocumented children, these barriers often supersede the law and make the protection that the law technically allows useless.

Lack of Awareness

Many of the organisations interviewed in all the different countries commented on migrants' lack of awareness of their entitlements and their ignorance about how the system works. Doctors are also often unaware of their obligations, which is just as obstructive. This overall deficiency obstructs access to health care for undocumented children. If families are not aware of their child's right to health care, they will not go to a doctor except under extreme circumstances. The reasons are many, from poor knowledge about the law to the fear the families have of exposure.

Antonella Inverno of the Italian organization Save the Children Italy relates how some children contacted by social workers are beginning to request help with health matters: *"The street children we encounter inquire about health care more than anything else, girls especially, but more and more the boys. They are certainly afraid of being checked, and then there is total ignorance of the different illnesses they can contract in the street with activities connected with street living. Particularly sexually transmitted diseases, and not only HIV, but also common infections."*

Added to this is doctors' lack of awareness of what their obligations are. Moreover, as was reported by Ellen Druyts of the Belgian NGO Medimmigrant, in rural areas doctors might not be aware of the law because they have never had to apply it and may believe that undocumented migrants have no right to health care: *"Some doctors are aware, some others are not, but in big towns most of the time social services know the information. In the countryside there are more difficulties because not everyone is aware or new doctors do not trust themselves to judge or do not know what urgent medical care is and they do not treat those who are undocumented."*

In general, many NGOs report that because of immigrants' and doctors' lack of awareness, it is often only the children and families under the protection of an NGO that have access to health care, while others, with no means of support, are excluded.

Peter Schultz of the NGO ASKV in the Netherlands tells how *"By law people have a right to healthcare but they often don't know that and many doctors also don't know that. This is a difficult combination; people do not know what their rights are, and often doctors don't know what their obligations are. I think for example that this 'Koppelings fund', which gives money to doctors, should be more publicized. We as an organisation can always call on doctors who are willing to help but for people on their own it is difficult."*

"By law people have a right to healthcare but they often don't know that and many doctors also don't know that. This is a difficult combination; people do not know what their rights are, and often doctors don't know what their obligations are."

PETER SCHULTZ , NGO ASKV , THE NETHERLANDS

Raising Awareness of Migrants and Doctors

Some NGOs inform doctors about their responsibilities towards immigrants, such as Médecins du Monde (MdM) in the Netherlands and MdM UK's programme, Project:London. They combine this service with a vigorous effort to inform and empower immigrants as well as to inform doctors about the contents of the law.

One of the most important activities undertaken by the MdM in the Netherlands, as Gerd Beckers told us, is informing irregular migrants of their rights and helping them join the national health care system: *"Within my project I work with five volunteers, some medical, some not, medical staff, and a project assistant providing information to undocumented patients. He helps to disseminate information to undocumented migrants, providing information to the health care professional that might get in contact with them, and provide medical documents to facilitate adequate transfer of information, continuity of care, quality of care, etc."*

Isabelle Raymond of MdM Project:London explained how their main goal is to help undocumented migrants (and children) to reach the mainstream services: *"This project was set up two years ago, and is an advocacy and lobbying project for anyone who needs support in accessing health care. Mainly we are working with the migrant community, but it could also be anyone who struggles with access to health care. We target the migrant group, as well as sex-workers and the homeless. But most of the time, these groups are linked and there is some overlap. The clinic is a medical centre, so we provide health care on site. But the main work we are doing here is really helping people to reach the mainstream services."*

Alongside this service is informing and making doctors aware. In fact, as Isabelle Raymond has reported, MdM Project:London also participates in some orientation programmes for GPs: *"Take GP trainees, for example. They have a free orientation programme where they do rotations in hospital and in GP surgeries to learn how to work in these*

different environments. I attended one of their training days in order to explain the regulations and to emphasise that, yes, they still have the right of discretion, they still can say yes. But they are not always aware of this, or if they are, they don't trust the system because it is so vague. They want something solid in order to say, 'that is the rule, we follow the rule!' But where does this rule come from? Do they know that they have some right to change create this rule themselves, or even to not apply the existing one? They are not always aware of what they can do so we try as much as we can to speak directly to GPs, and in addition to other charities in order to spread the word that there is another way of approaching this issue.

Médecins du Monde is an international humanitarian association which, since its establishment in 1980, has relied on the commitment of its members (healthcare professionals) to bring relief to the most vulnerable populations, in France and the UK and throughout the world. Their mission is to provide medical care for the most vulnerable populations when they are faced with crises or exclusion from society, by encouraging voluntary commitment from doctors and health care providers, as well as from professionals in other fields required for its activities.

In the UK, MdM's Project:London was set up to combat the social inequalities in health between wealthier and poorer groups which have widened, and continue to do so, since the 1970s. The discrepancies with the health situation of marginalised groups is marked: rough sleepers aged between 45 and 64, for example, have a death rate 25 times that of the general population. MdM UK aim to provide care to people who have been refused care within the system.

Médecins du Monde Netherlands

www.doktersvandewereld.org

Médecins du Monde Project: London

www.medecinsdumonde.org.uk/projectlondon/default.asp

Fear of Being Detected

Another roadblock to assistance often cited in the interviews is the fear of being caught and repatriated. In many cases undocumented children and their families will not go to the hospital or to the doctor to ask for the help they need.

Fear of being detained is something that affects every facet of an undocumented child's life, and consequently his or her access to social rights. It is important to remember the psychological aspect of fear. Even if NGOs reported no instance of undocumented children and families being detected at hospitals, nevertheless the general atmosphere of fear imposed by the new policies has a strong impact on the behaviour of these families.⁷⁹

Kasia Fenik of the NGO Nobody's Children Foundation in Warsaw reports: *"They are afraid as they have to provide some documents, and they fear that the hospital will send the information to the police. This is usually not done, but the fear exists. It has happened that the hospitals call us to ask us what to do. I do not know of any case where they have phoned the police. This is the practice, and in general social services and the hospital deal with the issue."*

"Undocumented migrants are afraid as they have to provide some documents, and they fear that the hospital will send the information to the police. This is usually not done, but the fear exists."

KASIA FENIK, NGO NOBODY'S CHILDREN
FOUNDATION, POLAND

Language Problems

Language is often a barrier that foreign minors must face in gaining access to social services, whether documented or not. Poor knowledge of the language can be a serious handicap for these minors and their families. Obviously not being able to express themselves or making themselves understood seriously limits their access to social services. Just as with education, they need the help of interpreters and cultural mediators to overcome this difficulty.

As it was underlined by Dominique Lodwick, director of the French organization Jeunes Errants, *"If these children were not accompanied by professionals who speak both their language and the language of the country to help them, they would not be cared for. This language barrier is always a problem; to explain a child's medical history the doctor must be able to call upon the parent. The work of associations is often accompaniment, because there are plenty of health desks and centres, and the health care services won't refuse to care for a child, no matter what their status, but somebody has to take responsibility for mediation, interpretation and accompaniment."*

As with the problem of education, this situation is not uniform in every country, nor is it the same on the local level. In some cases mediation and interpretation is provided by the hospital itself or by the local agency. In other cases the NGO takes the responsibility, and in others still there is no help available at all.

⁷⁹ A good legislative practice protecting undocumented migrants from denunciation of their status by health care institutions can be found in Article 35 of the Italian Immigration Law, "Testo Unico" n. 286/98, in which it is stated that "Access to the health care structure for migrants without resident permit would not entail any type of reporting to the public authority [...]".

Major problems concerning language difficulties have been reported in Poland and Hungary, where NGOs mentioned the difficulty of the language itself and the fact that there are generally no linguistic ties with the present migrant communities (as might be the case in some countries in Western Europe where migrant populations from former colonies most likely speak the language) as contributing to this problem. Tomasz Godziński, a social worker of the Centre for unaccompanied children in Warsaw, for example, speaks of Warsaw and Poland in general. *“Language barriers are a problem, yes of course. Children who go to see the doctor try to explain the problem but have difficulties with communication because they don’t understand many words. They cannot speak in English, either, because neither they nor many doctors or social workers speak a sufficient level of English. I also experience this problem. It’s getting worse and worse. Communication is one of the biggest obstacles that exists in this case.”*

A clear example of how language represents an overwhelming barrier has been reported by Ramón Esteso of the Spanish NGO Médecins du Monde (MdM) Spain: *“A very practical example is a Nigerian girl who didn’t speak Spanish when she came up*

to the hospital reception desk, and was sent away. This caused her not to come back, and other Nigerians would not come either. Many people have felt discrimination and have turned to our resources. Then again, it might be due to fear of trouble from the networks or the mafia, who have told them not to give any information. Also, the very concepts of police and security are different for other people. For them, they might represent corruption, providing documents, or giving the information necessary to be expelled. This is a difficulty.”

For these reasons MdM Spain has developed a project on cultural mediators. More than linguistic translation, the activity promoted by the NGO is cultural mediation in its true sense, as the understanding and meeting of different cultures.

“If these children were not accompanied by professionals who speak both their language and the language of the country to help them, they would not be cared for. This language barrier is always a problem.”

DOMINIQUE LODWICK, JEUNES ERRANTS, FRANCE

Working Within Detention Centres

Even if the theme of detention was not addressed in the research, it is important to highlight an example of good practice of work done within a detention centre, that facilitates access to basic social services for migrant children who are detained there.

The Jesuit Refugee Service provides support for detained migrants who need access to health care. In Malta, detention on arrival is universal and includes pregnant women, children and babies. Government policy states that vulnerable persons are not to be detained, but the process to be identified as vulnerable can take time, sometimes even weeks or months. Pregnant women are sent back into detention after giving birth together with their babies, and they spend weeks in the same conditions before they are released. JRS has access to these detention centres, with permission to be on the list of visitors in order to give support to migrants with health problems. For the last two years, a fully qualified nurse was seconded to JRS from the government service to work in this area. Access to health care and medication in detention tends to be very limited because of

the overcrowding of detention centres and lack of medical staff.

Among the different activities done within the detention centres one of the most important developments by JRS is a project to train cultural mediators who can facilitate access to social services and help in the detention centres. Translators and interpreters are not available in hospitals as much as they are in detention centres. As a result, the government, as well as NGOs, have set up various initiatives allowing for hospitals to benefit from the services of translators and interpreters - for instance JRS cultural mediators and interpreters are often called upon to help at state hospitals.⁸⁰

In September and October 2007, JRS organised a short training course for interpreters. This course, which was being funded mainly by UNHCR as part of the SGBV (sexual and gender based violence) project, consisted of a series of seminars aimed at providing participants with the basic skills required to provide a service.

Jesuit Refugee Service Malta

<http://www.jrsmalta.org/>

⁸⁰ The most important innovation by the government was the institution in 2007 of the Organization for the Integration and Welfare of Asylum Seekers (OIWAS) which aims to improved access to social services for families of asylum seekers and refugees, as well as undocumented migrants if they are detained.

Mental Health

In the course of the interviews issues related to mental health and the difficulties of accessing adequate care were mentioned repeatedly. Some of the interviews focused on how the precarious daily living conditions of these children can make them more vulnerable to mental health problems while others analysed the main difficulties of having some kind of support for their needs.

Rian Ederveen of the NGO Stichting LOS in the Netherlands highlighted that often these children are burdened with the families' irregular status and that it is often too much for children of their age to bear: *"Children take a lot of responsibilities for their parents because they speak the language earlier and understand the system more easily, so often it's the children who take on the responsibility and for them there is no support network. You see parents who are traumatised and don't have the strength to go on, and you see children who are traumatised. They become too old too soon. They speak Dutch and the parents don't so sometimes they get stuck in the middle. They have to explain everything to all the organisations. Because they are undocumented the situation is really hard. They have to ask for housing and they have to tell a sad story. It must be difficult for second generation children too but for undocumented children it is more difficult."*

"Children take a lot of responsibilities for their parents because they speak the language earlier and understand the system more easily, so often it's the children who take on the responsibility and for them there is no support network. You see parents who are traumatised and don't have the strength to go on, and you see children who are traumatised. They become too old too soon."

RIAN EDERVEEN, NGO STICHTING LOS,
THE NETHERLANDS

Still another aspect that can have a much more deteriorious effect on these children, given their age, is tied to the migration trauma. José Miguel, director of the Andalucian NGO Federación Andalucía Acoge, explains it this way: *"Adults as well as children have some specific needs. For example, the young people in the family haven't decided to come, and in some cases they feel conflicted about living where they don't really want to. It is difficult when they move to another city within Spain, but it is even harder when they move to another country or another continent. It is not strictly an issue of health. In some cases, to change the context, the problem derives from a conflict between the values at home, the values they see on television, and the values existing at the high*

school. For example, in the case of sexuality there may be conflict between a restrictive culture and one that is more permissive. In that case, considering the different values, work should be done on information and training, not only for the children but for all foreigners.”

Finally Jessica Nott of Save the Children UK commented on children’s particular vulnerability: *“I think for mental health as well there are a lot of needs that children have simply as a result of going through the asylum system here. The level of uncertainty can be really stressful. They can go from being absolutely fine and coping really well to, in the case of a negative decision or rejection, suddenly everything going really badly for them and their mental health really declining. It is a very important issue.”*

The other aspect reported by interviewees is the lack of an adequate response to these needs. In the great majority of the cases it is almost impossible for these children to have access to any form of mental health care. Karen Malfliet of the NGO Kom-Pas in Belgium highlighted: *“Concerning mental health, it is very difficult for undocumented migrants to access psychologists or psychiatrists, in particular because there are a lot of waiting lists even for those who are documented. During the period when we had a lot of refugees from Kosovo, this was a really big problem. We also got a lot of calls from schools saying that it was not possible to accommodate these children as they were too damaged and that we needed to help them. When the schools asked what we were going to do about it we had to answer. We could not solve it.”*

INTERDEPENDENCE OF RIGHTS

The right to health care, just as in the case of all other basic social rights, is strictly related to other social rights; for example, only by guaranteeing decent housing the health of children is guaranteed. Several examples have been reported concerning the interdependence of the right to health care with other rights.

There is much evidence to show the relationship between bad housing conditions and the health of undocumented children. Precarious and unhealthy living conditions obviously take a toll on their health.

Nathalie Simonnot of Médecins du Monde (MdM) France recalls how there are often cases of infant lead poisoning caused by bad housing conditions: *“Those with the worst accommodation are also those with the worst health. They are thus the first victims of lead poisoning, particularly amongst the children, because these families only find lodgings in monstrous places that can only be described as hovels. In this type of accommodation, diseases roam free, from asthma to pest-induced illnesses. These are children who sleep badly and very little; they are exhausted and therefore even more vulnerable. The consequences on these children are like an enormous snow ball, but today’s society does not pay nearly enough attention to the effects. Lead intoxication means damage on central nervous system with no cure possible.”*

Another aspect emphasised by Nathalie Simonnot is the psychological effect on children living in unhealthy quarters, without privacy and in conditions which could encourage promiscuity with adults. *“Another point is the psychological pressure linked to cramped conditions. We have seen examples of teenagers completely breaking down because they lived in one room with several other people and so never had a place to get dressed or undressed. The only way to do it was under the*

sheets. The difficulty of such mundane, everyday things, lead these children to say ‘I can’t do it anymore.’ I met a set of twins who asked to be placed in foster care when they were still just children because they could no longer bear to live in a room with thirteen other people. They just couldn’t do it anymore. And they didn’t even have any problem with their parents. Do you know why they wanted to be placed in care? One month earlier, we fought for their case because all children had lead poisoning and they were given an offer of accommodation. They were living in a room which was 15 m² and were being offered 73 m². The twins, themselves just 15 years old, read the letter to their parents and celebrated the fact that the whole family was going to be able to leave, to move somewhere else. But their file was subsequently refused because their new lodgings were said to be too small! It was then that the twins broke down and asked to be put in social housing and, in effect, to destroy the links between themselves, their parents, and their brothers and sisters.”

With regard to the interdependence of rights it is important to emphasise the fact that one right can facilitate access to the others. In some of the interviews it was stressed how having access to education can also lead to access to health care for these children.

Prof. Irena Rzeplinska of the Helsinki Foundation of Human Rights in Warsaw, for example, underlined that *“access to health care is very difficult for undocumented migrants because they are irregular in Poland so only under specific circumstances can they have access, free of charge, to public health care. Only when there is a risk of losing life. Students, on the other hand, are by law under the guardianship of school professionals and it is the law that each child who is in school, until they are 18, has the right to health care. They have this right because they are pupils, they are in school.”*

Access to Health Care: In Brief

The Right to Health Care for Undocumented Children in International and European Standards

The right to health care is protected on the international level by a variety of International Instruments.

The Convention on the Rights of the Child (CRC) is particularly important due to its specific reference to the protection of the rights of all children. *CRC Art. 24* “States Parties recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.”

At European level references to the right to health care for undocumented children can be found in the European Social Charter (ESC) Article 13 and in the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) Article 3. The European court on human rights has ruled that Article 3 of the convention, which prohibits torture or inhuman or degrading treatment, may in certain exceptional circumstances protect those denied health care if they may as a consequence suffer inhuman or degrading treatment or punishment.

► In Theory

Among the countries analysed, only in Spain does legislation fully conform to international standards guaranteed by the CRC. In fact access provisions for health care for undocumented children are equal to the provisions for health care granted to Spanish children.

Other countries generally fit in the following three categories:

- Different protection for separated and undocumented children children with their parents (Italy, Belgium and France)
- Access to health care depends on the discretion of the GP (UK and the Netherlands)
- Without any special safeguards in the legislation for undocumented children (Hungary, Poland and Malta)

► In Practice

- In the majority of cases access to health care for undocumented children does not differ much from that of undocumented migrants in general.
- Undocumented children are often given the right to health care only in case of emergency. This interpretation of urgent care differs from country to country, and even from doctor to doctor. Access to specialist services, for instance dental or eye care, has proven to be particularly problematic.
- A strong discretionary power exists amongst hospitals and GPs in their application of the law. Correct access to care often depends on the goodwill of the doctor or GP rather than on a correct interpretation of the law.

Principal Barriers

Complex procedure. Procedures are complex, especially regarding government funding for the doctors and hospitals that provide care to undocumented children.

Lack of awareness. Not only are migrants oftentimes unaware about how the system works, with a lack awareness of their entitlements, but doctors are also often unaware of their obligations. This means that it is often only the children and families with the support of an NGO that have access to health care.

Fear of being detected. The fear of being caught and repatriated means many migrants and their families will not go to hospitals or doctors for help.

Language. Language is a barrier that foreign minors must face in gaining access to social services, particularly as they may have to use complex terms to describe an illness.

Mental Health

The precarious living conditions of undocumented children can make them more vulnerable to mental health problems, which proves problematic when a restrictive definition of urgent medical care is applied.



Chapter 3. Access to Housing

Chapter 3. Access to Housing

In all of the interviews the subject of housing always emerged as the biggest problem and often in discussing the question the first reply given freely by NGOs was that in some cases there is no possibility for helping the families, in other cases the problem is serious even for native families and therefore even more so for irregular families.

A first important point to stress is that the right to housing for undocumented children is strictly tied to the conditions of social exclusion that irregular immigrant families undergo. Their access to regular work is very limited and they are most often relegated to the informal labour market, where they routinely experience underpayment, exploitation as well as abuse. The family's poor economic conditions have a dramatic impact on their living conditions: besides being excluded from public housing due to their lack of a resident permit, they are relegated to the margins of the private market through their economic and social conditions.

As stated in the introduction, in the recent European Commission study entitled "*Child Poverty and Well-Being in the EU*" it is highlighted that the risk of poverty for migrant children is two to five times higher than the risk faced by children whose

parents were born in the country of residence.⁸¹ The erosion of the social rights of undocumented children, particularly as it concerns access to housing, was highlighted by FEANTSA (European Federation of National Organisations Working with the Homeless) in a report on child homelessness in Europe, released in June 2007.⁸² The FEANTSA report notes that amongst children in homeless families and unaccompanied adolescents experiencing homelessness, undocumented children are strongly represented.

Contrary to the previous two chapters on education and health care, which began with an overview of the international and national legislation in those respective areas concerning undocumented children, the legislative analysis in the present chapter is focused primarily on international legislation. Even if there is international legislation on the right to housing, there is no national legislation that protects and guarantees the right to decent housing for undocumented children.

For this reason this chapter begins with the international legislation and then presents an overview of the concrete problems reported by NGOs in the interviews. Two different aspects of housing for

⁸¹ See European Commission Directorate General for Employment, Social Affairs and Equal Opportunities (2008, p. 63-65).

⁸² See European Federation of National Organisations Working with the Homeless (FEANTSA), *Child Homelessness in Europe – An Overview of Emerging Trends*, June 2007 (http://www.feantsa.org/files/Streamlined%20strategy%20social%20protection%20and%20inclusion/children/2007/EN_ChildrenHomeless.pdf).

undocumented children were reported and analyzed in the interviews: undocumented children with families in irregular conditions and unaccompanied children in shelters. Even though unaccompanied children possess a resident permit (and therefore cannot be considered strictly undocumented), they are apt to fall into irregular conditions when they reach the age of adults or leave the centres. The dividing line between the two groups is flexible, and unaccompanied children can easily fall into irregularity and be excluded from social services.⁸³

THE RIGHT TO HOUSING FOR UNDOCUMENTED CHILDREN

International Standards

International Protection of the Right to Housing for Undocumented Children	
International Law	European Law
Art. 25 (1) UDHR	Art. 31 ESC
Art. 27 (3) CRC	
Art. 5 (e)(iii) ICERD	
Art. 11 (1) ICESCR	
Art. 14 (2)(h) CEDAW	

The right to housing is explicitly recognized as a basic human right among a wide range of international instruments.

Universal Declaration of Human Rights (UDHR)

As one of the facets of an “adequate standard of living”, it is stipulated in the Universal Declaration of Human Rights. Article 25 states “*Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and*

necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

International Convention on Economic, Social and Cultural Rights (ICESCR)

The most complete provision for the right to adequate housing is mentioned in Article 11, paragraph 1 of the ICESCR, which states: “*The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and to the continuous improvement of living conditions. The State Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.*”

“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and to the continuous improvement of living conditions.”

INTERNATIONAL CONVENTION ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, ARTICLE 11

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)

Article 43.1 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) states that: “*Migrant workers shall enjoy equality of treatment*

⁸³ “Children in or leaving institutions (medical care institutions, foster care, etc) are perceived to be at risk of homelessness if they have no relatives, no safe home to go to or no secure housing of their own. This situation can concern young offenders, children in medical institutions, or orphans in child care institutions. The recent report of the Council of Europe on rights of children at risk and in care confirms the high homelessness rates of children leaving care in Europe.” Council of Europe, *Rights of Children at Risk and in Care*, Strasbourg, 2006 as reported in FEANTSA (June 2007, p.16).

with nationals of the State of employment in relation to...(d) Access to housing, including social housing schemes, and protection against exploitation in respect of rents.”

Convention on the Rights of the Child (CRC)

Article 27.3 of the Convention on the Rights of the Child (1989) states that: *“States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in the case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”*

The right to adequate housing is also recognized in several other international instruments that have focused on the need to protect the rights of particular groups.⁸⁴

European Conventions and Legislation

Council of Europe

The Council of Europe’s European Social Charter (Art. 31) clearly states that with a view to *“ensuring the effective exercise of the right to housing, member states undertake to take measures designed:*

- 1. To promote access to housing to an adequate standard;*
- 2. To prevent and reduce homelessness with a view to its gradual elimination;*

3. To make the price of housing accessible to those without adequate resources.”

The position at the Council of Europe level is more limited than in other international conventions mentioned because the revised European Social Charter only protects the right to housing of nationals of other Contracting State Parties.⁸⁵ However, the right to be free from degrading treatment in Article 3 of the European Convention on Human Rights (ECHR) and the right to private and family life, home and correspondence in Article 8 of the ECHR might also be invoked to protect undocumented migrants from intolerable housing conditions.⁸⁶

European Court of Human Rights

As far as the ECHR is concerned, the jurisprudence of the European Commission and European Court of Human Rights clearly suggests that the right to be free from degrading treatment in Article 3 ECHR and the right to private and family life, home and correspondence in Article 8 ECHR might be invoked to provide a positive obligation on the state to protect persons from particularly intolerable housing conditions.⁸⁷

As Cholewinski has underlined in his study on “Obstacles to Effective Access of Irregular Migrants to Minimum Social Rights”, the European Commission of Human Rights has recognised the close association between the right to respect for family life and the right to adequate housing by stating that, even though there is no obligation to provide

⁸⁴ See also Article 14.2 (h) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICEDR).

⁸⁵ For the extension of this provision to *irregular migrants* one would need to argue the significance of the right for the preservation of human dignity, along the lines argued in the case of *International Federation of Human Rights (FIDH) v. France* [8 September 2004]. See what already stated in the paragraph on the Chapter on right to health care for undocumented children in the paragraph on European Legislation.

⁸⁶ See Cholewinski R. (Rapporteur), *Report Ad Hoc Working Group on Irregular Migrants (MG-AD)*, Council of Europe Publishing, Strasbourg, 12 March 2004 ([www.picum.org/DOCUMENTATION/Cholewinski%20Report%20MG-AD%20\[2003\]%203.doc](http://www.picum.org/DOCUMENTATION/Cholewinski%20Report%20MG-AD%20[2003]%203.doc))

⁸⁷ Similar arguments can also be gauged from the equivalent provisions (articles 7 and 17 respectively) in the International Convention of Civil and Political Rights (ICCPR).

housing, the ECHR did not “discount the possibility that the right to respect for family life [can] be violated in a case where the authorities impose intolerable living conditions on a person or his family.” Clearly, seeking reliance on Article 8 ECHR to avoid “intolerable living conditions” would, in line with the universal personal scope of the ECHR, be open to all persons within the state’s jurisdiction and thus includes irregular migrants.⁸⁸

What Right to Housing for Undocumented Children without National Protection?

Even if the right to decent housing exists on the international level there is no specific reference for the protection of this right for undocumented children at national level. An obligation exists for protection (which also includes the guarantee for adequate housing) by the government for unaccompanied children,⁸⁹ but nothing is provided for undocumented children with their families. For them there is no legal protection for the right to housing.

In many cases local authorities (who are generally responsible for separated children) do not accept irregular immigrants in reception centres nor do they guarantee any assistance, except for those most vulnerable, such as mothers with newborn or small babies, for limited periods. Consequently, minors accompanied by undocumented parents generally do not have access to housing or to assistance, often living in inadequate housing and living conditions (e.g. dilapidated and overcrowded lodging, abandoned factories, shacks along rivers, etc.).

The only form of protection that can be invoked for children is given by the law referring to their status

as minors. However, in this case the state accepts the care of the minor and offers him or her a housing solution (in shelters), but not his/her family. Such policies offer hard choices: either the minor lives with his/her family, and is basically left without any assistance, in violation of the right of every child to development in adequate living conditions; or, in order to guarantee him/her assistance, s/he is separated from his/her parents, violating the minor’s right to grow up with his/her own family⁹⁰.

Deborah Garvie of Shelter England said: “*What we are increasingly finding is that with certain degrees of categories of people from abroad, when they apply for housing assistance, the local authorities say that they won’t house the family. They accept that they have duties to house the child so they take the child into the care of the local authorities and accommodate them. So they house the child and not the family and the family is faced with the situation that they either become homeless or they have to give up child to the social care.*”

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⁸⁸ See Cholewinski R., *Study on Obstacles to Effective Access of irregular Migrants to Minimum Social Rights*, Council of Europe Publishing, Strasbourg, December 2005 (http://www.coe.int/t/dg3/migration/Documentation/Legal_texts/5879-7-Effective%20access%20of%20irregular%20migrants%20to%20minimum%20social%20rights_en.pdf).

⁸⁹ A commitment that is defaulted once the minor turns 18 years old or decides to leave the centre.

⁹⁰ See Rozzi E., ‘Minori stranieri e comunitari accompagnati da genitori irregolari: quali diritti?’, in *Minori giustizia*, no. 3, 2008.

THE SITUATION ON THE GROUND

Housing for Undocumented Families with Children

Generally speaking it is important to underline how access to housing for undocumented children is extremely problematic in all the countries involved. As it was highlighted in a PICUM study on housing for undocumented migrants,⁹¹ families in irregular conditions have serious problems in gaining access to both the private market and excluded from social housing. The family's irregular status results in a serious obstacle to housing and often translates into forms of exclusion and/or discrimination against the family, which obviously affect the minor.

Social Housing

In all of the countries studied access to social housing for irregular families proves to be nearly impossible. Even if families are living in extremely poor conditions and with minors, the fact that they are irregular excludes them from the possibility of having access to social housing.⁹²

In cases where the country has very little social housing, even documented migrants may have difficulties accessing it. This shortage in social housing doesn't affect undocumented migrants directly, though creates a more competitive atmosphere where cheap and decent housing is difficult to find.

Rhian Beynon of the British organization JCWI reports that the only situation where it is possible to have access to public housing is when one member of the family has a resident permit: *"In terms of housing, basically, if you're irregular, you probably can't directly access any public housing. It might be that you can access it if you practice deception or if you're living with a member of a family who is regular because not all irregular people are necessarily living by themselves. They may be living with their member of the family who are completely regular. That might be the particular case with certain settled migrant communities."*

In extreme cases temporary lodging is sometimes offered to the family or in the majority of cases only to a single mother with a child. A constant element reiterated in the interviews was the reluctance of local authorities to take responsibility for these children even when live in precarious conditions. A clear example of this reluctance was reported by Antoine Math of the French organization Gisti in Paris: *"There are families, with their children, who have been taken care of because of a lack of housing, so their children are in danger, on the streets and uneducated. In these cases, we come across accommodation under the jurisdiction of the ASE (State social services for child care) and the regional councils, who have the legal obligation to take care of these people. In practice, it is very difficult to find places in homes for very young children so instead the councils often pay for*

⁹¹ See Van Parys R. and Verbruggen N., *Report on the Housing Situation of Undocumented Migrants in Six European Countries: Austria, Belgium, Germany, Italy, the Netherlands and Spain*, PICUM, Brussels, March 2004, p.25 (<http://picum.org/HOUSING/PICUM%20Report%20on%20Housing%20and%20Undocumented%20Migrants%20March%202004.pdf>).

⁹² See also European Federation of National Organisations Working with the Homeless (FEANTSA), *Immigration and Homelessness in the European Union*, October 2002, (http://www.feantsa.org/files/immigration/imm_rept_en_2002.pdf).

hotel rooms. But this is not always the case, especially as these are not regular migrants. The method of reasoning of the councils is to say, 'We have to intervene when a child is in danger. If this danger is due to a lack of housing, we can easily pay for a hotel room or find them a place in a family. The problem is, without papers, this family will still be on our hands in ten years' time and will still be paying for them'. They believe, therefore, that the fact of having no papers means that there is no way to insert them into the workplace and this in turn means that the government will be condemned to pay for them for the rest of eternity. So we arrive at a situation where many local government bodies do whatever they can to avoid taking responsibility for the most vulnerable members of their communities, such as single undocumented mothers with children, and delay for as long as possible the payment of hotels or the placement in a shelter for undocumented minors. Even when the hotel room is paid, the council still has the attitude that the stay will be for at most two to three months and then the migrant can take care of themselves. All of this results in a very precarious situation."

In the case of lodging for a mother and child, the main criticism has been that hostels are mainly for men and unsuitable for children. Many NGOs referred to mothers who had refused to go to these centres, even preferring to stay where chance took them. This is because they knew that such centres are frequented by single men, sometimes with substance-abuse problems and that they are not places suitable for minors and even dangerous for the mothers themselves. Some NGOs in fact told of episodes of violence against young women who were lodged in these centres.

Social Assistance for Families

In some countries, such as Italy and France for example, the family as a social unit can receive social assistance, which can also include rent allowance. However what has been reported in all the countries investigated is that irregular families are always excluded from these policies. Even in countries where previously such assistance was conceded to irregular families, they have been gradually removed or in some cases used as an instrument of immigration control.

The UK is such an example. Under the impetus of immigration control policies, families in irregular conditions are de facto deprived of any form of economic or social support in the attempt to move toward a form of voluntary repatriation. The stated purpose of the policy is to encourage the 'voluntary' return of families who have reached the end of the asylum determination process. The effect of these policies towards children is not taken into consideration, except in the case of taking charge of a minor alone, separating him or her from his or her family as if the responsibility of his destitution fell on the family.

In a recent report on migrant children in the UK,⁹³ the Immigration Law Practitioners' Association (ILPA) stated that children in asylum seeking families do not benefit equitably from government efforts to eradicate child poverty. Indeed it could be argued that child poverty is being utilised as a tool of immigration control. ILPA states that according to the Asylum and Immigration Act 2004, the UK government now has the power to withdraw asylum support from asylum seeking families with

⁹³ See Crawley H., *Child First, Migrant Second: Ensuring That Every Child Matters*, Immigration Law Practitioners' Association (ILPA, ed.), London, February 2006, p.24 (http://www.ilpa.org.uk/publications/ilpa_child_first.pdf).

dependent children if they cannot explain why they have not taken any practical steps to leave the UK voluntarily when their application has not been successful.

The Children's Commissioner for England, Professor Al Aynsley-Green, has expressed his concerns that state powers to remove children from their families should only be used where it is clear that this is in the best interests of the child and not simply to be tough on failed asylum applicants: *"I am especially concerned about the effect of asylum policy and the level of support offered to the children of families seeking asylum, particularly those facing the traumatic possibility of being separated from their parents and taken into care. It is vital to ensure that the state should only use its powers to take children away from their families where it is clear that it is the best thing to do for the child and not simply to be 'tough' on failed asylum applicants."*⁹⁴

Situations of exclusion of social assistance for irregular families were also been reported in other cases. The French NGO GISTI highlights that theoretically the ASE (State social services for child care) is not linked with the possession of a regular permission to stay (Article L 111-2 du CASF). In practice it is almost impossible for irregular families to receive this aid. Concretely the different departments of ASE have the tendency to refuse this right to irregular families using different arguments such as the absence of any plans for social insertion of the children or the

impossibility of checking the source of income of the families.⁹⁵

In Belgium, the constitutional court established in a ruling in 2003 that the government was required to give social assistance necessary for the wellbeing of the minor even to irregular families.⁹⁶ In 2006, however, the law was modified and now provides help only for those families that are lodged in the Fedasil centres (the government agency for asylum seekers). Charlotte Van Zeebroeck of Service Droits des Jeunes reported: *"Many undocumented families have been living for several years in Belgium, in an apartment in an area which they know very well and where they have much contact with their neighbours, and where they have a job. From one day to the next, they are denied all forms of social aid until they can no longer pay their rent. As a result, they have to move to a centre for those benefiting from social aid. Some accept this change but many refuse because of the difficulties of living in a community. The whole family sleeps in the same room, children have to change school... So, when families refuse to live in centres, they in effect condemn themselves to living in an extremely precarious situation."* Some other NGOs insisted however that many families do not want to go to the centres for fear of being easily taken and returned to their country. Nonetheless Fedasil has indicated that episodes of that kind have never occurred and the number of families in these centres has constantly grown in recent years.

⁹⁴ *Ibidem*, p.39.

⁹⁵ Gisti (Groupe d'information et de soutien des immigrés), *Sans-papiers mais pas sans droits*, Paris, 2006, (http://www.gisti.org/IMG/pdf/np_sans-pap-pas-sans-droits_4.pdf).

⁹⁶ See European Migration Network (EMN) and Belgian Contact Point, *Illegally Resident Third Country Nationals in Belgium: State Approaches Towards Them and Their Profile and Social Situation*, Brussels, September 2005 (<http://emn.sarenet.es/Downloads/download.do;jsessionid=96F617E87E70CDF76D1EA77EB27D08F5?fileID=274>).

Welcoming Undocumented Families in Shelters: The Role of NGOs

The fact that irregular families have no access to social housing makes the role played by NGOs in protecting and supporting these families even more important. A number of NGOs run shelters for irregular families with children.

Oltalom Charity Society in Budapest was founded in 1989 by a group of people who recognised the needs of disadvantaged, socially abandoned, vulnerable, endangered persons. They established an organisation that would endeavour to alleviate the needs of such individuals and groups. The organization aims to locate and support people in need and to raise the awareness and support of the general public.

The association runs a number of centres for homeless, street children or families with minors in irregular conditions, attempting to help them to find an adequate accommodation. In this situation of general shortage of social housings and difficulty in accessing the private market for irregular families, the Oltalom center plays an important role and for many of these families is the only way to have housing in Budapest.

Oltalom Charity Society

<http://www.oltalom.hu/>

Private Market

Due to the lack of access to social housing, the most common channel utilized by irregular families with children is the private market. Nevertheless even in the private market there is strong discrimination and difficulties of access reported in all of the countries studied. PICUM's previous report on housing⁹⁷ also found that irregular families faced strong discrimination in access to the private housing market. In the majority of cases the problem is tied to racist attitudes and to the family's economic difficulties in general rather than to problems of legality. In many countries a resident permit is not required to access the private market, nevertheless the private market is accessible to undocumented migrants in generally very poor conditions and exploitative prices. This is especially the case in countries where there is a scarcity of rental housing such as Italy and Spain, which forces most people to share a flat with several other people. Many tenants end up with great debts to the owners due to their unstable financial condition.

Episodes of racism have also been found in all the countries examined. Irena Rzeplinska of the Helsinki Foundation in Poland reported the following: *"For the private market there are some problems because the Polish people don't want to rent to Chechnyan people because they connect it to the false prejudice that they don't pay the rent and now the Polish people don't want to rent to them."* Similar stories have been reported for example regarding the Moroccan community in Madrid or the Somali and Pakistani communities in the UK and many others. A further example is what has been reported by Antonella Inverno of Save the children Italy: *"These families (in irregular status) have enormous problems in accessing the private market. Generally*

⁹⁷ See Van Parys, R. and Verbruggen, N. (March 2004, p. 22).

speaking what we see for Rome, but I'm sure this is the case also for others cities, is that they suffer severe forms of discrimination. This concretely means that the conditions of the housing they have access to are usually very poor and they have to pay rent that is more than the double the normal price."

The living conditions of irregular families are generally very precarious, many times with several families sharing the same apartment. Mônica Pereira of the Belgian NGO Abraço in Bruxelles reported an example: *"In Anderlecht an apartment block had been sub-let, the flats inside had been sub-let again, and finally the rooms were also sub-let. Each room was filled with six to eight people, and even the cellar was full. In 2006 the whole block was inspected. In the basement they found a mother with a 15-week-old child. The building was declared insalubrious and all of the occupants were expelled directly to his or her country of origin (most were from Brazil)."*

In the face of these extremely precarious and often exploitative situations, irregular families most often do not turn to the authorities to denounce the landlord. The fear of being identified, in addition to losing their housing, results in families remaining in these living conditions rather than risking denouncing their landlords and finding themselves in the street, or worse, repatriated.

This fear has been reported in different contexts by a number of NGOs. Many highlighted that even when the family is in contact with an NGO ready to help and, if the case, to offer free legal assistance, in most of cases they prefer not to proceed with their complaint. They also know that even if the owner will be condemned, at best they will find themselves out of the apartment but looking for alternative accommodation, with no guarantee of protection.

The Private Market and Role Played by NGOs

In many cases NGOs act as intermediaries in gaining access to housing for irregular families through consultation and mediation with the landlords. NGOs in this field mainly give support to the family and introduce them where possible to social service or to advocate with local authorities or defend them against landlords' exploitation.

An interesting example of good practice is the work done by the NGO Shelter in the UK. Shelter does not offer housing directly but rather gives confidential help to people with all kinds of housing problems. Within this kind of activity they have also offered support and confidential help to undocumented families with children. Shelter tackles the root causes of bad housing by lobbying government and local authorities for new laws and policies, and more investment, to improve the lives of homeless and badly housed people. Their influential campaigns bring aspects of bad housing to the

attention of the media and the public, who help in the fight for solutions.

In the UK, the NGO Shelter was founded in 1966 by the Reverend Bruce Kenrick, who was horrified by the state of the tenements around his Notting Hill parish in London. Shelter now helps more than 170,000 people a year fight for their rights, get back on their feet, and find and keep a home. Shelter's vision isn't simply that everyone should have a roof over their heads, but that everyone should have a home, working to alleviate the distress caused by homelessness and bad housing. By giving advice, information and advocacy to people in housing need, Shelter campaigns for lasting political change to end the housing crisis for good.

Shelter

<http://england.shelter.org.uk/>

Access to Housing for Unaccompanied Children

Access to housing for unaccompanied children should not be an issue of concern since, as it was highlighted in the introduction, states should have the responsibility for them. However many NGOs have reported that in many cases unaccompanied children are “de facto” excluded from the social services set up for them, and end up in living situations of social exclusion similar to the precarious conditions faced by undocumented children living with their parents. Two principle conditions were emphasized: unaccompanied children outside any form of shelter and minors who leave the centres after being taken in and once again live in the streets. Both situations have been reported in all the countries involved in the study.

According to a report by FEANTSA (European Federation of National Organisations Working with the Homeless), “*The precarious living situations of unaccompanied minors (asylum-seekers) in Europe often amount to forms of homelessness and housing exclusion. These children have often migrated from non-EU countries and tend to receive accommodation in hostels, bed and breakfast accommodation, foster families or care institutions. Some may end up staying in temporary accommodation much longer than planned. Some may slip through the system and rapidly find themselves without a roof over their heads.*”⁹⁸

Unaccompanied Children Outside of the Social Support System

Information is limited about those who stay completely outside the social support system, and NGOs provided only summary information of such cases. These children are largely minors sent by their families to work and send money back home.⁹⁹ The majority of the cases remain invisible to the social services either out of the minor’s choice (out of fear of being repatriated) or more simply because they don’t know of the existence of the social support system set up for them. Dealing with a hidden and irregular phenomenon makes it difficult to have sure information but many NGOs referred to these children.

In France, the Marseilles-based organisation “Jeunes Errants” estimated that from 3,000 to 4,000 unaccompanied minors are sent to France every year, from countries such as Romania, Morocco, China, Afghanistan, and Rwanda, to earn money for their family. These children arrive in the French cities of Marseille, Lyon, Paris, and Calais after travelling very long distances, are exhausted and disorientated, without any social networks, not necessarily speaking French, and consequently sleep in public spaces or squats.

Many of these children are primarily interested in a job as a source of income in order to send some money home and if they have the opportunity to start working, even in the informal sector, in most of the

⁹⁸ See FEANTSA, *Child Homelessness in Europe – An Overview of Emerging Trends*, June 2007, p. 15.

⁹⁹ In her 2001 study for the French Directorate of Population and Migration, Angéline Étiemble divided unaccompanied minors into five categories (and her typology has been generally adopted by French writers and researchers). Among those five groups, these children are called “Emissaries” (“Mandatés”). See Étiemble A., ‘Quelle protection pour les mineurs isolés en France ?’ in *Hommes et Migrations*, 2004, No.1251, p.9-22 (<http://www.hommes-et-migrations.fr/articles/1251/1251.pdf>).

cases they do not ask for protection. Therefore these minors are excluded from the social support system and integration route and most of the time prefer to remain “invisible” to the social services. In fact, fear of being repatriated once they are identified and the necessity of finding work to be able to send money home keeps them away from contact with social services.

A serious problem that remains unresolved in these cases is the fact that once these children reach majority there is no possibility for them to be regularized,¹⁰⁰ and in fact the passage to irregularity is automatic. NGOs in these cases try to contact the young people, usually with the help of community outreach workers, to get them into shelters and to provide assistance with other needs.

Working with “Young Wanderers”

The association Jeunes Errants is a non-governmental organisation that was established in 1994 in Marseille (France), just as the phenomenon of unaccompanied foreign minors started to appear in France. The city of Marseille, an international harbour and a migration crossroads, has always seen a movement of people from different continents, but North Africans have always been the most common group of migrants.

The association Jeunes Errants (which translates as “young wanderers”) works together with competent institutions such as the children’s protection office, government representatives, juvenile courts, and the public prosecutor. Jeunes Errants ensures a specific approach for each child thanks to case-by-case treatment and a multidisciplinary and multicultural team. The association offers services dealing with legal measures, investigations, educational orientation measures, research, resources, and dissemination. The association’s activities recently have been duplicated in two other places in France, the Department of Haute-Corse (in Bastia) and the Department of Seine-et-Marne (in Meaux), both at the request of the institutions in charge of childhood’s protection.

About 500 minors are followed up each year by the different services of the organization. These

minors come from nearly thirty countries, the majority from North Africa and Eastern Europe. The minors encountered by the organization may be classified in several categories: unaccompanied minors who arrive in France alone, the majority who are trafficked; minors who are “separated” because their parents or a relative is present in France, but they find themselves in the street after a breach with the person responsible for them; minors who are in “wandering” families, most whom belong to the Roma community, their parents being or not asylum seekers or refugees.

Jeunes Errants works closely with the families because the parents have responsibilities for their child, and because knowing the background of the child with his/her family and the places he/she may still have or not within it, is determinant to guide the minor. The organization thus aims to draw up new procedures and new methods in order to combat the children’s loss of identity, and their exploitation, and to establish transnational cooperation with the countries of destination, transit and origin.

Jeunes Errants

<http://www.jeuneserrants.org/>

¹⁰⁰ In all the countries this is one of the requirements for obtaining a resident permit once adult.

Unaccompanied Children Who Have Left Shelters

Another example reported by various NGOs is unaccompanied children who live on the streets or in abandoned houses because they have abandoned the shelter they were living in. It is easier for the NGO to follow these children because there has already been contact with social services. Many of the cases discussed deal with problems of youth who leave the centres because of behavioural problems or because their needs are not adequately met and they are found to be living in the street.

Charlotte Van Zeebroeck of the Belgian organization Service Droit des Jeunes explained how some of these children are completely excluded by the social services and can become undocumented: *“The story of an unaccompanied minor springs to my mind. He had been living for several years in Belgium and, at the time, was 17 years old. He was used to living independently, looking after himself. One day, he was arrested by the police and placed in a centre for unaccompanied children which had been created in 2004. He arrived just after the creation of this centre and there were very few social workers present, so he found himself one of 50 young people who were taking care of themselves in this centre. They were neither enrolled in school nor supervised and so he fooled about doing stupid things, though nothing serious. For this, he was excluded from the centre with no prospects and no other housing offer because his supervisor had failed to find him anything. He returned to the streets because no other centre would take him. He would go to a centre to sleep for the night and then wake up early to leave in the morning. We couldn’t find any solution.”*

In some cases these minors do not find an adequate response to their needs in the centres specifically set up for them and they decide to live elsewhere. While it is not an objective of this study to evaluate the system set up for unaccompanied children, nevertheless it is worthwhile to mention some of the problems that have been reported by NGOs because they confirm the situations of abandonment that have been mentioned.

Two of the recurring problems are that often these centres are too large and the child is not looked after in an adequate manner, and in some cases the level of guaranteed care is gravely disproportionate between regions and a guide for common standards is completely lacking. It is important to remember that once these minors leave the centre they are much more vulnerable and therefore at risk of being drawn into situations in which they may be exploited.

Along with this risk once outside the centre access to other social services like school or hospital becomes more complicated. Generally from the moment the children leave the centre their application for resident permit (for social protection or asylum) stops as well as any guarantee of access to schools and hospitals. In Spain for example, Pilar Cuca, a social worker from the organization Coordinadora de Barrios, reports: *“In Madrid we noticed that kids aged about 16 who leave the centre can’t access an official education course, even if that is mandatory. Once a kid ran away from a shelter, the centre where he was studying sent us a letter saying that they had to cancel his registration. If one of them leaves the centre he still has the healthcare number, but they cancel his domiciliation and so he can’t attend the*

course. So, if he goes living with some friends and he doesn't have any documents, he can't get domiciliation (*empadronamiento*). In this way kids have no legal guardianship, because the local authorities have revoked his guardianship. The social service of the local authorities says that kids who run away from a shelter don't want to be protected and so they close their file. They will open it again only if the kid comes back."

A final troubling aspect is children who leave the centres out of fear of being caught and repatriated once they are adults. Theoretically the police cannot enter these centres, but there have been instances when the police have gone directly into these centres and taken the minors. The Spanish NGO *Coordinadora de Barrios* in Madrid reported that there were several cases of the police going into centres to take children who were or were about to turn 18 years old. The dramatic effect of this action is that many of the shelters are empty and many children have chosen to leave the shelter even at the risk of living on the street, for fear of being detected.

Similarly, Adrian Mathews from the Office of Child Commissioner in the UK explains that the legislation change in UK, which moved the age required for temporary leave to remain from 18 to 17, had as an effect that many children leave the centre when they are about 17, fearing deportation: "The government

is bringing together legislation regarding refugees and migrants, and one of these includes reducing the age requirement for temporary leave to remain from 18 to 17. This will allow both the application and the appeal to be rapidly processed, ideally all before the migrant is 18. So at 18 these migrants take on an irregular status in the UK, and can be removed. Organisations like ours are becoming increasingly worried because this proposal has not come along independently. The government has just brought in a new requirement for people with temporary leave to remain to have to report to the Secretary of State. This will result in a situation where people at the aforementioned stage in the procedure have to go and see immigration officers, and they are going to get really scared because they know that they will be deported. So what will happen, we are very certain, is that when young people are called at 17 or 18 to go to report, they will realise that they will either be put in a detention centre or removed. They are just going to start leaving care earlier, at 17 or 17 and a half. This is a real, real concern of ours. And we, as an organisation, have done a lot of lobbying with the government on this subject. One of the main points that we were raising in relation to unaccompanied minors was that the government were basically putting them into the hands of the people who are most likely to exploit them. If they have not been through a fair process and they don't feel safe returning to their countries, they can just disappear."

Helping Children Who Have Abandoned the “System”: A Matter of Confidence

Very often minors who have been sent away from shelters are in total abandoned. For these children, who are usually between 16 and 18, leaving the shelter means ending up living in the streets and therefore at risk of being drawn into situations in which they can be exploited. Moreover, their past negative experience leads, in many cases, to a strong distrust of guardianship institutions and makes it more difficult for NGOs to approach them and start again a guardianship path.

The Belgian NGO Synergie 14 has for a number of years provided shelter and tries to build up relations with unaccompanied minors who are outside the shelter system. Synergie 14 was born as an initiative of a multicultural and multidisciplinary team of political refugees and others interested in the topic of migration, including teachers, professors, nurses, judges, students and social workers. The organisation’s aim is to develop debates about migration and exile, as well as to improve the standards of education, integration, solidarity and fundamental human rights amongst exiled communities, both in the northern and southern hemispheres.

Community outreach workers from the organization establish initial contact with street minors and offer accommodation as well as accompaniment for those who already have accommodation but are looking for a place to socialize. *“Apart from those who are sheltered, we also give hospitality to street kids who are not staying here. So a youth can come here take a shower, do the laundry, eat. The independent ones, who go to school, can always come in a privileged place where they can meet an adult and talk with him,”* said one of the organization’s staff.

Besides providing accommodation, the association takes care of all the administrative procedures for the residence permit of the child. Finally, importance is given to entertainment and many Belgian volunteers are involved to promote a cultural exchange between kids and Belgian society.

Synergie 14

<http://www.synergie14.be/>

The Coordinadora de Barrios is a group of neighbourhood associations in the city of Madrid, which was set up a number of years ago to work on issues of concern in neighbourhoods, including employment and HIV/AIDS. Nowadays issues covered have expanded to include immigration, prisons, Rom populations, and youth in general.

The coordination is composed of different NGOs which work at the district level. Pilar Cuca, a social worker of one of those NGOs, says: *“There isn’t a hierarchic structure. If there is a concrete problem, the structure sends an e-mail, makes a proposal and the others answer and make proposals. We don’t move in a bureaucratic way. There is confidence and trust and if a group promotes something the rest gives logistical support to encourage it.”*

Work at district level creates a strong presence on the territory. Also in this case through community outreach workers they try to reach street children and to establish a relation based on trust. The association offers accommodation for all children that might need it, including undocumented children, as well as other services such as legal assistance, help in finding employment, etc.

Coordinadora de Barrios

<http://www.coordinadoradebarrios.org/>

INTERDEPENDENCE OF RIGHTS

Access to decent housing is a crucial condition for the possibility of accessing health care and education for undocumented children. Examples of this tight connection have been reported from many actors. Some have also been cited in previous chapters: with no fixed residence and having to move often, it is practically impossible for undocumented children to attend a whole school year. Dreadful accommodation also has significant effects on children's health.

Another aspect which is important to highlight is how not having the right to housing influences future opportunities of the children and their right

to grow up in their best interest. The NGO Shelter recalls in its report on poor housing conditions and children that the lower educational attainment and health problems associated with bad housing in childhood impact on opportunities in adulthood. If an individual is homeless or experiences bad housing as a child then he/she is more likely to be unemployed or working in a low-paid job and has fewer chances to enjoy leisure and recreation in future life. Furthermore, behavioural problems associated to bad housing can manifest themselves in later offending behaviour, with one study showing that nearly 50% of young offenders had experienced homelessness.¹⁰¹

¹⁰¹ See Shelter, for the Campaign to End Child Poverty, *Child Poverty and Housing*, 2007 (http://www.endchildpoverty.org.uk/files/j0907Housing_Briefing.pdf).

Access to Housing: In Brief

The Right to Housing for Undocumented Children in International and European Standards

The right to housing is explicitly recognized as a basic human right among a wide range of international instruments. As one of the facets of an “adequate standard of living”, it is stipulated in the Universal Declaration of Human Rights (UDHR) and the International Covenant of Economic, Social and Cultural Rights (ICESCR). This right is applicable to all persons regardless of nationality or legal status.

The Convention on the Rights of the Child (CRC) is particularly important due to its specific reference to the protection of the rights of all children. *CRC Art. 27(3): “States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and*

shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”

At European level the European Convention on Human Rights (ECHR) can be invoked for the protections of the right to housing for undocumented children. The jurisprudence of the European Commission and European Court of Human Rights suggests clearly that the right to be free from degrading treatment in Article 3 ECHR and the right to private and family life, home and correspondence in Article 8 ECHR might well be invoked to provide a positive obligation on the state to protect persons from particularly intolerable housing conditions.

► In Theory

Even if the right to decent housing exists on the international level, there is no specific reference for the protection of this right for undocumented children at national level.

An obligation exists for protection by the government for unaccompanied children, but nothing is provided for undocumented children present with their families.

The only form of protection that can be invoked for children is given by the law referring to their status of minors. However, in this case the state accepts the care of the minor and offers him/her a housing solution (in shelters), but not to the family.

► In Practice

- Access to housing for undocumented children is extremely problematic in all the countries examined: families in irregular situations are completely excluded from social housing and have in the majority of the cases also serious problems in gaining access to the private market.
- Generally speaking accommodation is generally granted to unaccompanied children but no accommodation for irregular families. This clearly leads to the risk of dividing the family (even though it is not in the best interest of the child)
- Exceptions may be made for mothers with children, but only temporarily and often in “bed and breakfasts”, usually for single men and those are clearly not suitable for children.

Principal Barriers

- A constant element of all the interviews was the reluctance of the local authorities to take responsibility for these children even when they are in precarious situations.
- Irregular families are excluded from any form of social housing and access to social assistance for families has also proven to be very problematic.
- There are problems in gaining legal access to the private market, the main reason because very often a residence permit is required.
- Irregular families face strong discrimination in access to housing. In the majority of cases the problem is tied to racist attitudes and to the family's economic difficulties in general rather than to problems of legality.
- Even in the face of these extremely precarious and often exploitative situations irregular families most often do not turn to the authorities to denounce their landlord due to the fear of being identified.

Poor housing conditions have severe consequences both in access to education and health care conditions and finally in opportunities in adulthood.

Housing for Unaccompanied Children

Access to housing for unaccompanied children should not be an issue of concern since states should have the responsibility for them. However many NGOs have reported that in many cases

unaccompanied children are “de facto” excluded from the social system set up for them, and end up in living situations of social exclusion similar to undocumented children with their parents.

Conclusion

A Still Unknown Reality

This report has investigated and discussed a reality that is still not very well-known and studied: the situation of undocumented children and their access to social rights in Europe. What is evident from the research is the fact that there are very few studies and almost no statistical data on this phenomenon. Many of the NGOs and institutions interviewed made a general request for more studies and information on this subject coming from the awareness that the real situation of these children was not really well known. In some countries even the presence of these children is widely unknown.

This is surely one of the main results that must be underlined: it is only through a better knowledge and awareness of the reality of these children that it will be possible to promote specific policies for their integration and protection. What comes out clearly from the report is the fact that access to basic social rights for undocumented children appears to be very problematic and characterized by many barriers for these minors and their families. Their “irregular” status in respect to their right to stay seems to be more important than the moral and juridical obligation of protection that the state should have for them as children. The control policies currently pursued by the European Union against irregular migration have dramatically switched the attention of governments, and often of public opinion, from the need to protect these young immigrants as children to that of control and repression of their irregular status.

What Rights for Undocumented Children?

The overall view emerging from the report is of diverse situations among the countries investigated, both in respect to the profile of these children and to the level of access to the services. The nature of the phenomenon itself of undocumented children in Europe is a varied and complex process which is difficult to define. Undocumented children fall into

mobile and open categories and can be present with some members of their families who are also undocumented or documented, but can also be unaccompanied. Nevertheless, within this varied situation there are some common characteristics of the problems that these children encountered in accessing their rights and of the policies implemented by the governments on this matter.

A first common aspect that must be emphasized is the fact that the rights due all children regardless of their status according to the international legislation go unheard in many cases. Even if all of the EU member states have ratified the Convention on Rights of the Child (CRC), which includes basic principles and detailed provisions that when implemented should ensure equal access to services and education as well as equitable treatment and protection to all children, undocumented migrant children most often remain invisible and face a variety of barriers in accessing their rights.

A second general outcome of the report is that in the majority of cases practical barriers often exclude these minors from their social rights. More than direct legal discrimination the NGOs interviewed often reported the practical and concrete barriers that make laws ineffective. Access to education, for example, even if not explicitly denied in any of the countries investigated, is in many cases blocked by practical barriers that make the law ineffective, such as the schools requesting identification document, or the irregular families’ fear of being detected.

Barriers to Accessing Social Rights

Alongside problems of a more general nature, the research delved into specific cases of discrimination against undocumented children for access to health care, housing and education. Some principal aspects of legislation and the reality of the situation on the ground as related by the NGOs have been emphasized.

As for the right to education on the legislative level, neither the examination of laws nor the interviews uncovered any case of direct discrimination against children in the countries studied. However, beyond the legislative aspect, the NGOs interviewed emphasised the practical barriers that impede access for these children. Examples of these barriers are request to show identification document before enrolling, and the parents' fear of being detected. The problem of extra expenses tied directly to the child's education (e.g. for books, transportation, etc.) was also underlined as a barrier. It was also reported that a serious way of discriminating undocumented children is through the non-issuance of diplomas at the end of their scholastic career.

Concerning access to health care, only in Spain does legislation fully conform to the international standards guaranteed by the Convention on the Rights of Child. In Spain, access to health care for all children, documented or not, is the same as for Spanish children. In the other countries, as we have seen, access often depends on the discretion of the GP or other aspects such as whether they are accompanied or not.

What results from the interviews, however, is that in the majority of cases access to health care for undocumented children differs little from access to health care for undocumented migrants in general; they encounter similar difficulties accessing a high standard of health care in terms of bureaucratic impediments, lack of adequate information and the fear of being caught. Once again their irregular status has more weight than their status as children. In general it was reported that these children are often given the right to health care only in case of emergency, but access to specialist services, for instance dental or eye care, has proven to be particularly problematic.

Concerning the right to housing, even if the right to decent housing exists on the international level there

is no specific reference for the protection of this right for undocumented children at the national level. An obligation exists for protection by the government for unaccompanied children, but nothing is provided for undocumented children present with their families. While the government accepts responsibility for the unaccompanied children (and offers them suitable accommodation) they generally don't accept any responsibility for undocumented children with their families.

For undocumented children living in unsuitable conditions the state usually accepts care for the minor by offering him or her a housing solution in shelters, but generally no hospitality is given to the family. This clearly leads to the risk of dividing the family, which of course is not in the best interest of the child. As a result access to housing for undocumented children is extremely problematic in all the countries involved, in that irregular families face serious problems in both the private market and in social housing.

Interdependence of Rights

Besides showing the various individual barriers that impede access to different social rights, another aspect that has been brought out in the reports is the profound interdependence of all social rights. Only by guaranteeing basic access to education, health care, and housing, are these children allowed sure and solid development. To deny access of one of these rights affects all the others.

Many examples of this interdependence were reported. The fact that these children are often forced to change lodging and do not have a stable and secure home means keeping them from continuously attending school and therefore impedes their access to education. Moreover, to live in very poor housing conditions clearly has significant repercussions on the physical and mental health of the minor.

The Role Played by NGOs

In addition to highlighting various problematic aspects associated with access to education, health care and housing, this report highlighted experiences in the field of NGOs in protecting and promoting the rights of undocumented children. In investigating the problems of access to social rights for these minors the report also aims to show the response developed by NGOs for the needs of these children.

The results show a civil society that is very active and sensitive to this issue. Many activities have been developed to protect the rights of undocumented children, ranging from the direct offer of services for these children, such as the case of the clinics open to the families in irregular conditions, to advocacy and protection, to access to education for undocumented children.

By showing these good practices this report hopes to offer some concrete examples for NGOs that work on the ground with undocumented children and their families that could be emulated and put into practice in different contexts.

Every Form of Discrimination Is Social Violence

In conclusion PICUM believes that every form of discrimination represents a form of violence against not only the victims of the discrimination, but also

indirectly against society as a whole. To continue to deny access to those basic social rights that give dignity to every human being is violence against the principles of fundamental solidarity of our society, and even more so in the case of vulnerable people such as undocumented children. As Miguel Benasayag of the Education Without Borders Network (RESF) has underlined, *“In reality, the entire society is traumatized... threats against undocumented children disrupt the entire social fabric.”*¹⁰²

Along with a moral obligation to protect every child present in its territory and therefore under its responsibility, European governments have legal obligations that are consecrated by instruments of international rights such as the Convention on Rights of the Child. As Paulo Sergio Pinheiro, the independent expert for the Secretary-General’s study on Violence against Children emphasized in his report: *“States have the primary responsibility to uphold children’s rights to protection and access to services, and to support families’ capacity to provide children with care in a safe environment.”*¹⁰³

Only real and complete access to these rights can guarantee true protection for undocumented children. There can be no form of exclusion based on the status of the child, whether accompanied or unaccompanied, inside or outside the process of asylum. At the same time it is only by guaranteeing access to all the basic social rights such as education, health care and housing, that real protection can be offered.

¹⁰² See the interview with Miguel Benasayag “Child Deportation: It’s Traumatizing for the Entire Society” published on the 27/06/2007 (<http://www.rue89.com/2007/06/27/child-deportation-its-traumatizing-for-the-entire-society>).

¹⁰³ See United Nations General Assembly, *Report of the Independent Expert for the United Nations Study on Violence Against Children*, A/61/299 (29 August 2006) (<http://www.violencestudy.org/IMG/pdf/English-2-2.pdf>).

Recommendations

1. Children first and foremost

Undocumented children should be entitled to the same treatment and rights as national or resident children and should be treated as children first and foremost. The immigrant status of the children should not be of relevance for the state; the only concern of the state should always be the best interest of the child as outlined in international standards of protection for children.

2. Respect international obligations

EU member states should comply with their obligations under international human rights law¹⁰⁴ and therefore guarantee undocumented children equal access to services and protection as to national children. All the rights granted in the Convention on the Rights of the Child should apply to all children present in the territory irrespective of their immigration status; any reservations on the UN Convention on the Rights of the Child (CRC) should be withdrawn.

3. Protection from detention

In the view of the best interest of the child as it is expressed in the Convention of the Rights of the Child, children should not be detained for the purpose of immigration control due to the negative physical, mental and educational consequences of detention. In order to protect the right of family unit, some alternative to the detention of the entire family or to mothers detained with children should be implemented.

4. Access to education

All migrant children irrespective of their status should have access to the same statutory education as national children. Formal recognition of their education through the issuing of recognized diplomas should be undertaken; access to vocational training and secondary education should also be promoted. Any form of limitations to the enjoyment of this right should be removed as they are contrary to international obligations. All the administrative and practical barriers that impede correct access should be eliminated.

5. Access to health care

All migrant children irrespective of their status should have access to health care on an equal basis with national children. Access to health care should not be limited to emergency care but also include continuous care granted by GPs and specialists. Any form of limitations to the enjoyment of this right should be removed as they are contrary to international obligations. All of the administrative and practical barriers that impede correct access should be eliminated.

6. Access to housing

Housing provisions should not be denied to undocumented children on the grounds of their irregular status, particularly given the importance of the right to adequate housing for the enjoyment of other social rights. States must take care whenever is possible of the entire family unit and avoid dividing the child from his/her family in all possible manners; undocumented families with children should receive social assistance to prevent destitution.

¹⁰⁴ For a list of all of the international instruments that have been ratified by EU member states, that offer protection to undocumented children, see PICUM, *Undocumented Migrants Have Rights! A Guide to the International Human Rights Framework*, Brussels, 2007, p. 8.

7. Ensure the correct information and implementation of undocumented children's entitlements

States should ensure that information about undocumented children's entitlements are accessible to all actors involved and should eliminate all practical barriers that prevent undocumented children from enjoying their entitlements. EU member states should take the necessary measures to guarantee that undocumented children's entitlements are uniformly implemented by regional and local authorities.

8. Promote better knowledge of the realities faced by undocumented children in Europe

Research needs to be promoted as a tool of knowledge for improving the knowledge of the situation of undocumented children. The collection of comparable data on undocumented children's access to basic social rights should be promoted by states with the active participation of NGOs and other actors who work in this field. In no case should the information collected be used against the best interests of the child and his/her family in the realm of immigration control.

9. Include undocumented children in EU social policies

Undocumented children are a particularly vulnerable group and should be included in all EU and member states' legislation for the protection of children, including the National Action Plans on social inclusion (within the EU Social Inclusion-Social Protection Process), the Strategy on the Rights of the Child, the Integration Strategy, the Fundamental Rights Agency (FRA), and other relevant EU policy processes and agencies.

The impact of EU directives and policies on asylum, migration and external borders on undocumented children's rights should be evaluated.

10. Ratify the International Migrant Workers' Convention

EU member states should ratify and implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which guarantees various social rights to undocumented migrants and their families, including undocumented children.

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Index of Organizations

BELGIUM

ABRAÇO ASBL

199 Chaussée de Forest
1060 Bruxelles
0494/99.78.97
info@abraco-asbl.be
www.abraco-asbl.be

Abraço is a non-profit organisation, established in 2006, which works to provide aid, advice and information to Portuguese-speaking migrants. Staffed solely by volunteers, Abraço works in Brussels and its surrounding areas and concentrates on informing migrants on their general rights regarding access to health care, education, decent working conditions, family life and culture. They also serve as an intermediary service between migrants and other organisations.

BOND ZONDER NAAM

(Movement without a Name)

St.-Jacobsmarkt 39
2000 Antwerpen
Tel: 03 201 22 10
Fax: 03 201 22 15
bnz@bnz.be
www.bnz.be/e/index.php

Movement without a Name is a social and cultural movement that regards existential humanitarian values and principles as central to the effort to improve the quality of societies. The organisation aims for a more agreeable and caring society and calls for creative action, thereby affirming its belief in the strength that resides in the individual.

BUREAU DES MINEURS ÉTRANGERS NON ACCOMPAGNÉS – L'OFFICE DES ÉTRANGERS

(Department of Unaccompanied Minors)

l'Office des étrangers
World Trade Centre tour II
Chaussée d'Anvers 59B
1000 Bruxelles
Tel: 02/206.15.99
rmaekers@dofi.fgov.be
www.dofi.fgov.be/fr/1024/frame.htm

The Foreign Office assists the Minister of the Interior in the management of policies regarding foreigners. The rights to enter and to stay in a country are partly regulated by national legislation. In the case of Belgium, these rules are additionally determined by the law of 15 December 1980 and the Royal Decree of 8 October 1981 which set out the rights regarding access to the country, permission to remain and/or settle, and the expulsion of the foreigner from Belgian territory.

CENTRE D'OBSERVATION ET D'ORIENTATION DE NEDER-OVER-HEEMBEEK (NOH)

(Centre of Observation and Orientation of Neder-over-Heembeek (NOH))

Rue Bruyn 11-20
Site de l'Hôpital militaire
1120 Neder-over-Heembeek
0473 25 06 96
isabelle.plumat@fedasil.be

The Neder-over-Heembeek centre offers specific shelter for approximately fifty foreign unaccompanied minors. The services offered are different from those provided by other shelters. About thirty collaborators work day and night on the accompanying and on daily activities of the shelter of Neder-over-Heembeek. Kids are supported by a team of chaperons and social assistants, a psychologist, a medical service, an administrative team and some logistic collaborators.

FEDASIL

Rue des Chartreux 21
1000 Brussels
Tel: +32-(0)2-213 44 11
Fax: +32-(0)2-213 44 22
info@fedasil.be
www.fedasil.be/home/index

In order to improve the organisation of the reception of asylum seekers, the federal government decided in February 2001 to create the Federal Agency for the Reception of Asylum Seekers (Fedasil). Fedasil's mission is to organise the humane, efficient, flexible and high-quality reception of asylum seekers in Belgium.

JUNA – voormalig t'Huis

Tel: 053/70.99.79
Fax: 053/77.75.21
info@juna-vzw.eu

This organisation provides support and accompaniment to foreign non-accompanied minors and victims of child trafficking. They can be contacted through the Committee for Child Welfare or the Children's court.

BEWEGING KINDEREN ZONDER PAPIEREN

(Undocumented Children Movement)

Secretariaat Beweging voor Kinderen Zonder Papieren
VLOScentrum
Kasteelstraat 4
9100 Sint-Niklaas
Tel: 03 766 29 13
Fax: 03 777 97 76
info@kinderenzonderpapieren.be
www.kzp.be/index2.php

Kinderen Zonder Papieren is a network which works to defend the rights of children as they are set out in the International Convention on the Rights of the Child. With a core of five or six volunteers and 20 more casual helpers, they advocate for the immediate release of all unaccompanied children held in closed detention centres. They also give advice concerning housing, health care and education.

KOM-PAS

Kom-Pas Gent vzw

Onthaal anderstalige nieuwkomers Gent

Kongostraat 42
9000 Gent
Tel: 09 265 78 40
Fax: 09 265 78 49
info@kompasgent.be www.kompasgent.be/Home/
tabid/36/Default.aspx
www.vzwkompas.be

Kom-Pas is a non-profit organisation based in Gent. Their main area of work is providing advice and carrying out policy work on education for migrants. For adults, they have Dutch courses and courses explaining the Belgian social system and work system. For children, they provide counselling to help with finding a school and, if there are problems socially or on a material basis, guide them to other organisations.

LA PLATE-FORME MINEURS EN EXIL DE BRUXELLES

(Brussels Platform of Unaccompanied Children)

Rue Marché aux Poulets 30
1000 Bruxelles
Tel: 02/209.61.61,
Fax: 02/209.61.60
csz@sdj.be
www.mena.be/index.php

The Brussels Platform of Unaccompanied Children is focused on unaccompanied foreign minors. The organisation aims to exchange information by organisations working for the rights of these young people, to improve the conditions of detention of unaccompanied minors and to develop proposals for legislation change.

MEDIMMIGRANT

(Rue) Gaucheret(straat) 164,
1030 Brussel/Bruxelles
Tel: (00-32).02/274.14.33-34
Fax: (00-32).02/274.14.48
info@medimmigrant.be
www.medimmigrant.be

Medimmigrant aims to safeguard the position of undocumented migrants and people with a precarious residency status in their pursuit of a dignified existence. The organisation is committed to having the right to healthcare for these people embedded in legislation and for concrete implementation of this right in social services, institutions and structures.

MENTOR ESCALE ASBL

Rue Souveraine, 19
1050 Ixelles
Tel: 02 / 505.32.32
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www.mentorescale.be
info@mentorescale.be

Mentor Escale assures the essential educational and social development and supervision of exiled, unaccompanied adolescents who live in independent housing. The organisation aims to help these young people to take charge of their own lives in a responsible and independent way during their stay in Belgium, in part by creating a supporting social network made up of teenage migrants and allowing them to develop projects which favour their individual talents.

MINOR NDAKO

Vogelenzangstraat 76
1070 Anderlecht
Tel: 02/503.56.29
(0478/39.85.63)
Fax: 02/503.47.45
minorndako@skynet.be
www.minor-ndako.be

This organisation, supported by the Flemish community, provides a reception centre for unaccompanied minors who have not applied for asylum.

SERVICES DES TUTELLES*(Guardianship Service)*Boulevard Waterloo 115 (7th floor)

1000 Bruxelles

Tel: 02/5427952

bernard.gearis@just.fgov.be

The organisation Services des Tutelles was set up to provide a guardianship service for unaccompanied foreign minors, who are either candidates for refugee status or who have found themselves in Belgium or at its borders without documents of authorisation to access or to stay in the country.

SYNERGIE 14

33 Rue Jean Van Volsem,

1050 Bruxelles

Tel: 026469670,

Fax: 026469680

synergie14@skynet.bewww.synergie14.be

The non-profit organisation Synergie 14 was the initiative of a multicultural and multidisciplinary team who aimed to develop discussion around migration and asylum and to develop the education, integration and solidarity of both migrants and those working in the field through the respect of fundamental rights and freedoms that belong to every human being.

FRANCE**L'ADÉUS GROUPEREFLEX***(Agence D'Études Urbaines & Sociales)*

12 Boulevard Sainte Thérèse

13005 MARSEILLE

tel: (+ 33)6 68 57 75 63

fax: (+ 33)9 55 38 75 63

adeus@adeus-reflex.orgwww.adeus-reflex.org

Established in 1991 in Marseille, Adeus groupereflex (Agency of Urban and Social Studies) aims to lead reflective thought on the links between social, economic and urban issues largely using sociological thought and processes.

ANAEM – AGENCE NATIONALE D'ACCUEIL DES ÉTRANGERS ET DES MIGRATIONS*(National Agency for the Welcoming of Foreigners and Migrants)*

44 rue Bargue

75732 Paris cedex 15

Tel: 01.53.69.53.70

Fax: 01.55.76.57.31

www.anaem.social.fr/default.php3

Founded in 2005, ANAEM is the French agency responsible for migration and welcoming foreign people. It was set up both to manage and control the arrival of immigrants and to offer them social services upon their arrival in France. Today, ANAEM has the authority to apply the policies of the Ministry for Immigration, Integration, National Identity and Joint Development.

ASSOCIATION NATIONALE D'ASSISTANCE AUX FRONTIÈRES POUR LES ÉTRANGERS – ANAFE*(National Association for Assistance of Foreigners at the Borders)*

21 ter rue Voltaire

75011 Paris

Tel/Fax: 01.43.67.27.52

contact@anafe.orgwww.anafe.org/index.php

Anafe, the National Association for Assistance of Foreigners at the Borders, works at the French borders to bring legal aid to immigrants hoping to come into France and/or kept in centres, for instance at airports. Their main objective is to give legal advice and to represent these migrants, and also to report back on their observations and denounce any violations of human rights.

COLLECTIF DES SANS PAPIERS DE MARSEILLE*(Undocumented Migrants Association of Marseille)*

23 bd Charles Nedelec

13003 Marseille

Tel: 04.91.05.83.70

csp13@free.fr<http://csp13.free.fr/>

The Collectif des Sans Papiers de Marseille works in an area with a large diaspora community of Comorians, Senegalese, Algerians and other minority nationalities. Over time, the organisation has evolved from its activist origins to becoming a means for migrants to receive help whilst at the same time retaining their independence, for instance with official papers and job hunting.

**GRUPE D'INFORMATION ET DE SOUTIEN
DES IMMIGRÉ – GISTI**

(Information and Support Group of Immigrants)

3 villa Marcès,
75011 Paris
Tel: 01 43 14 84 84
www.gisti.org/index.php

GISTI is a French non-profit human rights organisation created in 1972 to protect the legal and political rights of foreigners and immigrants and to advocate freedom of movement across borders. This group provides information and support to immigrants through its knowledge of immigration law and its experience of immigration practices. It defends foreigners, offers training and publications and participates in the debate on migration policies.

HORS LA RUE

(Off the Streets)

7/9 rue de Domrémy
75013 Paris
Tel: 01.42.96.85.17
Fax: 01.42.96.85.70
contact@horslarue.org
www.horslarue.org/index.php

Hors la Rue is a non-governmental organisation offering a support centre for undocumented minors in Paris and its suburbs. Activities, meals and washing facilities are on offer as well as support and information services. The organisation was originally set up for Romanian migrants but it now works with children of various nationalities.

JEUNES ERRANTS

(Young Wanderers)

jeunes.errants@wanadoo.fr
www.jeuneserrants.org

The association Jeunes Errants was established in 1994 at the demand of the public authorities, specifically to manage the problem of foreign undocumented minors who arrive, either alone or accompanied, in France and particularly in Marseille. They work to improve access to all basic social rights (health care, safety, education, right to remain) for undocumented children, in particular those who have arrived without their parents and are effectively living on the street.

MEDECINS DU MONDE FRANCE

(Doctors of the World France)

62, Rue Marcadet
75018 Paris
Tel: 01 44 92 15 15
Fax: 01 44 92 15 99
www.medecinsdumonde.org

Doctors of the World (*Médecins du Monde*) is an independent international solidarity association, governed by the fundamental human rights to health and a decent life. The aim of the organization is to assist the most vulnerable populations in the field of health, including those in humanitarian crises and those unprotected by social systems.

RÉSEAU EUROMÉDITERRANÉEN MINEURS ISOLÉS – REMI
(Euromediterranean Network for Unaccompanied Children)

1 rue Nicolas Copernic
13200 Arles
Tel: +33 (0)4 90 96 81 86
contact@reseauemi.org
<http://reseauemi.org/>

Remi is a Euromediterranean network made up of several local authorities working together to find a collective solution to the plight of unaccompanied foreign minors. Much of their work is aimed at countries in the Global South, particularly in Northern Africa, and for instance they put in place platforms in the countries of origin of these minors to develop knowledge of the topics of education, health care, working conditions and qualifications.

RÉSEAU EDUCATION SANS FRONTIÈRES
(Education Without Borders Network)

C/o EDMP
8, Impasse Crozatier
75012 Paris
educsansfrontieres@free.fr
www.educationsansfrontieres.org

RESF is a network of teachers, parents of students, youth workers, action groups, government education workers, trade unions and organisations devoted to defending the human rights of unaccompanied migrant children in school. Their slogan is "Laissons-les grandir ici" ("Let them grow up here").

SECOURS CATHOLIQUE*(Catholic Aid)*

106 rue du Bac,
75007 Paris
Tel: 01.45.49.73.00
info@secours-catholique.org
www.secours-catholique.asso.fr

Secours Catholique is a non-profit organisation focusing on the problems of poverty and exclusion and working for the promotion of social justice. It is part of the international Caritas network, made up of Catholic relief, development and social service organisations.

HUNGARY**HUNGARIAN RED CROSS**

Arany János u. 31
1051 Budapest
Tel: +36-1-3471338
Fax: +36-1-3471312
el-samahi@hrc.hu
www.voroskereszt.hu

The Hungarian Red Cross is a member of the International Federation of Red Cross and Red Crescent Societies, the world's largest humanitarian organization, providing assistance without discrimination as to nationality, race, religious beliefs, class or political opinions. The Hungarian Red Cross strives, through voluntary action, for a world of empowered communities better able to address human suffering and crises with hope, respect for dignity and a concern for equity.

MENEDÉK

Jósika u. 2. I/4
1077 Budapest
Tel/Fax: +36-1-4111711
juli.gazso@menedek.hu
<http://menedek.hu/en>

Menedék, the Hungarian Association for Migrants, was established in January 1995 as a civil initiative. The association operates as a non-profit organisation, independent from governmental institutions. Menedék's mission is to represent migrants towards the majority society, including asylum seekers, refugees, temporarily protected persons, foreign employees, immigrants, and other foreigners in Hungary.

MULTIKULTURA EGYESULET

Almássy tér 6. 4th floor room 413
1077 Budapest
Tel: +36 1 322 1502
info@multikultura.hu
www.multikultura.hu

The Multi-Culture Association was founded in Budapest, Hungary, on 15 April 2002, under the original name Multikultúra Egyesület, with the aim of supporting foreigners and ethnic minorities living in Hungary. The organization holds cultural events to introduce the art and culture of minority groups and its activities serve the integration of non-Hungarians.

OLTALOM

Dankó u. 9,
1086 Budapest
Tel: +36-1-21054000
Fax: +36-1-3055082
oltalom@oltalom.hu
www.oltalom.hu

Oltalom Charity Society was founded in 1989 by a group of people who recognized the needs of disadvantaged, socially abandoned, vulnerable, endangered persons. The goal of the society is to locate and support people in need and to raise the awareness and support of the general public.

ITALY**ASSOCIAZIONE PER GLI STUDI GIURIDICI SULL'IMMIGRAZIONE - ASGI**

(Association for Legal Studies on Immigration)
Via Gerdill, 7
10100 Torino
Tel: 011.4369158
Fax: 011.5217594
info@asgi.it
www.asgi.it

The Associazione per gli Studi Giuridici sull'Immigrazione (Association for Legal Studies on Immigration) was started in 1990. It gathers lawyers, university teachers and jurists with a specific professional interest on juridical topics related to immigration.

ASSOCIAZIONE VIRTUS PONTE MAMMOLO – ONLUS

Via Donato Menichella, 146
00156 Roma
Tel: 06-41200952
Fax: 06-41222099
virtus@virtuspontemammolo.it
www.virtuspontemammolo.it/index.htm

Since 1994 the Associazione Virtus has worked on education for immigrant minors to help the individuals to discover and improve their own qualities and capabilities to make the most of the diversity that immigrant minors carry with them. The purpose of the psycho-pedagogic team, together with the social workers, is to make the children discover their own qualities helping them grow up with self-esteem and trust in others.

**CENTRI DI PRONTO INTERVENTO MINORI CARITAS
(Caritas Centre for Rapid Intervention on Minors)**

Via di Torre Spaccata, 157 - 00169 Roma
Tel: +39- 06.23267202 – 06.23267207
intervento.minori@caritasroma.it

The Centri di Pronto Intervento Minori (CPiM) are structures of the diocesan Caritas in partnership with the Municipality of Rome. They have a first shelter for Italian boys and girls, but in particular for immigrants, who show psycho-social problems. The three offices (Torre Spaccata, Pelizzi and Frascati) dispose of 32 beds in total.

**CENTRO DI CONTRASTO ALLA MENDICITÀ INFANTILE
(Infantile Begging Hinderer Centre)**

Tel: 0661532567
monica.lanzillotto@libero.it

The Centro di Contrasto MendicITÀ Infantile was started in 2003 in the Municipality of Rome - a branch of Social Politics, created thanks to a financing by law 285/97 - with the aim of opposing the phenomenon of child begging. An experimental project, realized for the first time in Italy, which proposes to shelter, in a quiet and friendly atmosphere, children taken from the street, to know them, help them, and be able to intervene easily in their life's struggle.

**COMUNE DI TORINO UFFICIO MINORI STRANIERI
(Foreign Minors Bureau of the Municipality of Turin)**

Corso Novara 96,
10152 Torino
Tel: +39-011.4429433
Fax: +39-011.4429446
laura.marzin@comune.torino.it
www.comune.torino.it/stranieri-nomadi/min_stran.htm

The Foreign Minors Bureau of the Municipality of Turin was established in 1992 and it is in charge of activities of first aid for foreigner minors, orientation, assistance and links with other services and with the private social network, tutelage, protection and support for foreigner minors.

**COORDINAMENTO NAZIONALE COMUNITÀ PER MINORI
(National Community Coordination for Minors)**

Piazza SS. Annunziata 12 - 50122 Firenze
Tel. 055.23.47.041
segreteria@cncm.it

The Coordinamento Nazionale delle Comunità per Minori di tipo familiare was started in 1990. It is a place of research and consideration where educators can discuss important topics such as community identity, educational planning, day-by-day life organization, supervising. Moreover the C.N.C.M. has a representative function with local and national institutions and has relations with international organisms and associations belonging to the educational services area.

**MÉDECINS SANS FRONTIÈRES ITALIA
(Doctors Without Borders Italy)**

Via Volturno, 58 - 00185 Roma
Tel. 06 4486921
www.medicisenzafrotiere.it

Msf Missione Italia gives medical assistance to regular and irregular foreigners who live in Italy with the aim of granting access to health care and to assist those who arrived to Italian coasts. From 2003 Medici Senza Frontiere – Missione Italia started many projects on the whole national territory. The aim is to open clinics for irregular immigrants inside the National Healthcare System by reaching agreements with the local health centre of reference.

SAVE THE CHILDREN ITALY

Via Firenze, 38
00184 Roma
Tel: (+39) 06.480.7001
Fax: (+39) 06.480.700.39
info@savethechildren.it
www.savethechildren.it/2003/index.asp

Save the Children Italy has developed programs with the aim of improving the life of children who live in Italy. In the last years, the organization strengthened its presence in a number of different sectors, such as for example the protection of young migrants in Italy.

SERVIZIO SOCIALE – MUNICIPIO 6 – COMUNE DI ROMA*(Social Service of the Municipality of Rome)*

Via dell'Acqua Bullicante, 28 bis

00156 Roma

Tel: 0669606643

carla1.calanca@comune.roma.it

The Social Service carries out activities of social secretariat and manages all types of assistance, for adults and minors, including: economic assistance to individuals and to families in indigence; home assistance for older people, needy minors and handicapped people; drug-addiction prevention, school dispersion; minors guardianship when ordered by law; management of community centre for older people and minors; etc.

MALTA**DIOCESAN EMIGRANTS COMMISSION**

Diocesan Curia

5, Triq l-Iljun, Floriana, VLT 16,

Tel: 0035-621232545

info@maltachurch.org.mt

This organization conducts discussion and research regarding the causes of physical and structural social violence and promotes different ways of building peace.

JESUIT REFUGEE SERVICE MALTA

Triq ix-Xorrox, 50

Birkirkara,

Tel: 0035-621442751

info@jrsmalta.orgwww.jrsmalta.org

The Jesuit Refugee Service was set up in Malta in 1993 to support the first influx of asylum seekers to the island from crisis areas in the Mediterranean and Eastern Europe, mainly from Iraq and Bosnia. Although the situation is now very different, with asylum seekers and forcibly displaced people arriving mostly by boat from the African coast, JRS Malta continues to respond to existing needs.

ORGANISATION FOR THE INTEGRATION AND WELFARE OF ASYLUM SEEKERS (OIWAS)

Dar Is-Sliem, Conservatorio under Bugeja

St. Joseph High Road

HMR 18, St. Venera

Tel: +35 621472170

sarah.borda@gov.mt

With origins in the ministry of the family and social solidarity, this governmental organisation now provides services to asylum seekers in Malta. These migrants arrive on boats, mainly from Africa, and are taken by OIWAS to asylum processing centres: one in Valletta for male adults, three smaller centres for families and women with children and two other homes for unaccompanied minors. These centres are responsible for all the different aspects of the integration of the unaccompanied children, including education, health care and follow up.

UNHCR

156/1 Strait Street

Valletta

Tel: 356 27010153

Fax: 356 27010153

falzon@unhcr.orgwww.unhcr.org/country/mlt.html

There is also a Malta page on www.unhcr.it

UNHCR is actively engaged in supporting the Maltese authorities as regards their policies in response to the needs of asylum seekers and refugees, especially within the context of so-called mixed population flows (i.e. which comprise both potential refugees and economic migrants) arriving in Malta. UNHCR's work in Malta is carried out in close coordination with non-governmental organisations such as the Emigrants' Commission, the Jesuit Refugee Service, the Malta Society for the Red Cross as well as with international organisations such as the International Organisation for Migration (IOM).

THE NETHERLANDS**ASKV**

Frederik Hendrikstraat 111C

1052 HN Amsterdam

Tel: 020 627 24 08

Fax: 020 420 32 56

askv@dds.nlwww.askv.nl

ASKV supports and accompanies rejected refugees who cannot return to their country of origin. Their support consists of solidarity work, aimed at political change and publicity. They are also able to assist a restricted group by mediating in housing, medical care, legal assistance, education and mental support.

COMMISSION FOR FILIPINO MIGRANT WORKERS

De Wittenstraat 25
1052 AK Amsterdam
Tel: 31-20-664-6927
Fax: 31-20-664-7093
admin@cfmw.org
www.cfmw.org

The Commission for Filipino Migrant Workers (CFMW) works in partnership with the Filipino migrant community and aims to develop migrant empowerment and capacity building through self-organisation, education and campaigns for migrant rights and welfare and for solidarity with migrants of other nationalities against racism.

DEFENCE FOR CHILDREN INTERNATIONAL

PO Box 75297
1070-AG Amsterdam
Tel: +31 20 420 3771
Fax: +31 20 420 3832
info@defenceforchildren.nl
www.defenceforchildren.nl

Defence for Children International (DCI) is an international children's rights organisation that was established in 1979, which was the International Year of the Child. DCI has, as an independent nongovernmental organisation (NGO), more than 40 national sections. The work of Defence for Children International is based on the UN Convention on the Rights of the Child that was adopted by the United Nations in 1989.

STICHTING LOS

Kanaalstraat 243,
3531 CJ Utrecht
Tel: 030.299.02.22
Fax: 030 2990223
info@stichtinglos.nl
www.stichtinglos.nl

The LOS foundation is involved in the social situation of undocumented migrants. They provide a support point for people who are helping undocumented migrants. The foundation collects and disseminates information on the living conditions for undocumented migrants in the Netherlands and the solidarity of Dutch people towards them.

MEDICINS DU MONDE NETHERLANDS

(Doctors of the World)
Rijswijkstraat 141-A
1062 ES Amsterdam
Tel: 020 - 465 28 66
Fax: 020 - 463 17 75
www.doktersvandewereld.org

Doctors of the World (*Médecins du Monde*) is an independent international solidarity association, governed by the fundamental human rights to health and a decent life. The aim of the organization is to assist the most vulnerable populations in the field of health, including those in humanitarian crises and those unprotected by our social system. Their interventions respond to complaints by witnesses of human rights violations, both against women and men, especially relating to barriers to access to health care.

PHAROS

Herenstraat 35
Postbus 13318
3507 LH Utrecht
Tel: 030 234 9800
info@pharos.nl
www.pharos.nl

Pharos is a Dutch knowledge centre that is specialised in the field of health care for refugees, asylum seekers, undocumented migrants and other migrants. Pharos' mission is to assist professionals and organisations that want to improve the provision of (health) care and services to refugees and migrants.

PRIME

Stationsweg 62
2515 BP Den Haag
Tel: 00-31-70-3050415/ 70-3803058
Fax: 00-31-70-4020917
prime95@prim95.nl
www.prime95.nl

PRIME organizes demonstrations for refugees at the national and European levels, mobilizing more than 50 or 100 people at a time. Particularly active at the Dutch national level but also active in France or Germany, PRIME receives calls for assistance from asylum seekers in prison and in other situations of need. The main goal of the organization is the asylum process as a whole, but PRIME also has engaged in helping undocumented workers and labourers at different points in its history.

POLAND**STOWARZYSZENIE INTERWENCJI PRAWNEJ**
(Association for Legal Intervention)

Al. 3-go Maja 12 lok. 510
00-391 Warszawa
Tel/Fax: +48 22 621-51-65
interwencja@interwencjaprawna.pl
www.interwencjaprawna.pl

The Association for Legal Intervention is composed of four sections dealing with different areas of law, one of which is a foreigners section. This section provides legal and social assistance to all categories of foreigners in Poland, including asylum seekers, recognised refugees, undocumented migrants, and documented migrants. Within these categories, children and elderly are cared for as well.

HELSINKI FOUNDATION FOR HUMAN RIGHTS

Zgoda str. 11
00-018 Warsaw
Tel: (48 22) 828 10 08
Fax: (48 22) 556 44 50
hfhr@hfhrpol.waw.pl
www.hfhrpol.waw.pl/en

The Helsinki Foundation for Human Rights was established in 1989. In 1993, the Foundation set up the Human Rights House in Warsaw.

NOBODY'S CHILDREN FOUNDATION

ul. Walecznych 59
03-926 Warszawa
Tel: (+48 22) 616-02-68
Fax: (+48 22) 6160314
fdn@fdn.pl
www.fdn.pl

The Foundation formulated its main goal as developing an efficient aid system for abused children, a system that would integrate activities of state institutions, local authorities and non-governmental organizations working for the benefit of children in the particular region.

POLSKA AKCJA HUMANITARNA
(Polish Humanitarian Organisation)

ul. Szpitalna 5/3,
00-031 Warsaw
Tel: 0048 228288882
www.pah.org.pl

Polska Akcja Humanitarna is a non governmental organisation registered in Poland, which works internationally and within the country. The organization aims to make the world a better place through alleviation of human suffering and promotion of humanitarian values.

WARSAW LEGAL CLINIC

Krakowskie Przedmieście street 26/28
00-927 Warszawa
Tel: +48-22-8267571
Fax: +48-22-8267853
cnowak@poczta.fm

The Warsaw University Legal Clinic was established in 1998 and currently operates as an NGO. The clinic operates as a part of the law faculty at the university, providing legal assistance free of charge to people who can not afford a professional lawyer. The clinic is based on voluntary work of law students, accepting only law students in the 4th or 5th year. The refugee section provides legal assistance to people seeking asylum in Poland who want to get refugee status and be recognized as refugees.

SPAIN**ACCEM**

Plaza de Santa María Soledad Torres Acosta,2.
28004 Madrid
Tel: 91 532 74 78
Fax: 91 532 20 59
accem@accem.es
www.accem.es

ACCEM offers services to refugees and immigrants to promote their integration into Spanish society at all of its different levels. They seek to bring together, with mutual understanding, Spanish society and migrants who form an integral part of its environment, although they do not always enjoy the same conditions and rights as other Spanish people.

FEDERACIÓN ANDALUCÍA ACOGE

C/ Miguel Cid, N° 42 Bajo
41002 Sevilla
Tel: 95 490.07.73
Fax: 95 490.14.26
acoge@acoge.org
www.acoge.org

The federation Andalucía Acoge was established in 1991 and is composed of ten federated associations, which are distributed throughout the provinces of Andalucía, as well as in Melilla. The first aim was to join forces in order to give a more efficient and global answer to the immigration phenomenon. Their overall objectives are focused on promoting the integration of immigrants in the society of reception, and on the promotion of an intercultural society.

APDHA – ASOCIACIÓN PRO DERECHOS HUMANOS ANDALUCIA

(Association for Human Rights of Andalucía)

C/ Blanco White 5

41018 Sevilla

Tel: 954536270

Fax: 954534086

andalucia@apdha.org

www.apdha.org/index.php

The Andalucía Association for Human Rights is a private non-profit association founded on the Universal Declaration of Human Rights created in 1948 by the United Nations. The mission and affiliation of APDHA involve direct action in Andalucía, and APDHA activities include a universal mission, since human rights are the heritage of all humanity.

CONSEJERIA DE BIENESTAR SOCIAL DE ANDALUCIA
(Ministry for Equality and Social Welfare of Andalucía)

Avda. de Hytasa, 14

41071-Sevilla

Tel: 955 048 000

Fax: 955 048 234

correo.cibs@juntadeandalucia.es

www.juntadeandalucia.es/igualdadybienestarsocial/

opencms/system/modules/com.opencms.

presentacionCIBS/paginas/portada.jsp

As a part of the Andalusian government, the Ministry for Equality and Social Welfare was created to give continuity to the various projects that followed the adoption of the Law on Social Services of Andalusia. With 16 years of experience as a social protection network, the ministry addresses new scenarios involving the needs of the elderly, persons with disabilities, families, children and youth from many conditions and special situations.

COORDINADORA DE BARRIOS

(Neighborhood Coordinator)

C/ Peironcely, 2

28053 Madrid

Tel: 914778578

Fax: 914778399

coordinadora@coordinadoradebarrios.org

www.coordinadoradebarrios.org

The Neighbourhood Coordinator is a historic union of neighbourhood associations around Madrid. Though each group has its own mission and ideological position, the Neighbourhood Coordinator helps these smaller groups gain visibility throughout Madrid. By incorporating these various interests into a large network, the Neighbourhood Coordinator helps them gain weight and due consideration in the Spanish institutions.

DEFENSOR DEL PUEBLO DE ANDALUCIA

(Ombudsman of Andalucía)

C/ Reyes Católicos, nº 21

41001 Sevilla

Tel: 954 21 21 21

Fax: 954 21 44 97

defensor@defensor-and.es

www.defensor-and.es

The Ombudsman of Andalucía is an institution whose mission is to defend the rights and liberties guaranteed by Title I of the Constitution, by which it's possible to supervise the activities of the Autonomous Administration of the Andalucía, including the town halls and the Andalusian council.

FUNDACIÓN TOMILLO

(Tomillo Foundation)

C/ Serrano 136

28006 Madrid

Tel: 91 561 16 04

Fax: 91 563 97 84

fundacion@tomillo.es

www.tomillo.es

The Tomillo Foundation was established in 1984 as a non-profit, independent organisation with the objective of providing value to the community through solidarity actions and initiatives. Tomillo Foundation carries out programmes and projects in five major fields of activity: Pedagogy, Training and Employment Services, Open Centre, Social Economy Organisations, Economic Research.

MEDICOS DEL MUNDO ESPAÑA
(Doctors of the World Spain)

Andrés Mellado 31, bajo
28015 Madrid
Tel: 915436033
Fax: 915437923
informacion@medicosdelmundo.org
www.medicosdelmundo.org/NAVG/pagina/NAVGEstructuraPrpal.jsp

Doctors of the World (*Médecins du Monde*) is an independent international solidarity association, governed by the fundamental human rights to health and a decent life. The aim of the organization is to assist the most vulnerable populations in the field of health, including those in humanitarian crises and those unprotected by the social system. Their interventions respond to complaints by witnesses of human rights violations, both against women and men, especially relating to barriers to access to health care.

MENSAJEROS DE LA PAZ
(Messengers of Peace)

Valverde, 32
28004, Madrid
Tel: .91 522 95 28
Fax: 91 521 57 95
direccion@mpazm.es
www.mpazm.es

The Messengers of Peace Association was founded in 1962 by Father Ángel García Rodríguez. The Association aims for the human and social promotion of society's most disadvantageous and needy groups: minors, youth under a social risk condition, abused women, physical and psychical handicapped people and old people who live alone, in abandon or poverty.

MOVIMIENTO POR LA PAZ
(Movement for Peace)

C/ Martos 15,
28053, Madrid
Tel: (34) 91 429 76 44
Fax: (34) 91 429 73 73
mpdl@mpdl.org
www.mpdl.org/home.htm

The MPDL, Movement for Peace, Disarmament and Liberty is a non-governmental organisation working in Development, Social Action and Humanitarian Aid, that was created in 1983. In Spain, the organization develops social integration projects for immigrants including education, general sensibility, gender equality, voluntary work, and legal and professional advice.

UK

11 MILLION / CHILDREN'S COMMISSIONER

1 London Bridge
London SE1 9BG
Tel: 055 11437846
adrian.matthews@11million.org.uk
www.11million.org.uk

11 Million is the organisation led by the Children's Commissioner of England, making sure that adults in charge listen to children's views. Giving a voice to children of all ages and abilities, 11 Million has a vision to see that children are actively involved in shaping all decisions that affect their lives, that they are supported to achieve their full potential through the provision of services, and that they will live in homes and communities where their rights are respected, and they are loved, safe and enjoy life.

JOINT COUNCIL FOR THE WELFARE OF IMMIGRANTS (JCWI)

115 Old Street,
London EC1V 9RT
Tel: +44 02 (0) 7251 8708
Fax: +44 02 (0) 7251 8707
info@jcwi.org.uk
www.jcwi.org.uk/index.html

JCWI was formed in 1967 to combat injustice and discrimination in the UK's immigration and nationality laws. JCWI works to influence all the major debates on immigration and asylum in the UK and increasingly the European Union where the agenda for UK's immigration policy is more frequently being set.

MÉDECINS DU MONDE UK
(Doctors of the World)

14 Heron Quays
London, E14 4JB
Tel: 020 7515 7534
fizza.queshi@medecinsdumonde.org.uk
www.medecinsdumonde.org.uk/projectlondon/default.asp

Project:London is an initiative from *Médecins du Monde* UK to help improve access to healthcare for vulnerable groups in London. First and foremost, Project:London is an advocacy project that provides information, advice and practical assistance to vulnerable people to help them access NHS and other services. In order to reach the most hard-to-reach groups, Project:London's volunteer teams provide basic healthcare in the interim period, until these people reach mainstream services.

MEDACT

The Grayston Centre, 28 Charles Square, London N1 6HT
 Tel: +44 (0)20 7324 4739
 Fax: +44 (0)20 7324 4734
moyrarushby@medact.org
www.medact.org

Medact is a global health charity tackling issues at the centre of international policy debates. Led by its health professional membership, it undertakes education, research and advocacy on the health implications of conflict, development and environmental change, with a special focus on the developing world. As health professionals, they campaign and lobby governments, international bodies and other influential organisations, calling on them to take positive action on preventing violent conflict, improving health and on raising the standards of health care worldwide.

THE NATIONAL COUNCIL OF VOLUNTARY CHILD CARE ORGANISATIONS (NCVCCO)

Unit 25 Angel Gate
 City Road
 London EC1V 2PT
 Tel: 020 7833 3319
 Fax: 020 7833 8637
jason@ncvcco.org
<http://www.ncvcco.org/>

NCVCCO is an umbrella organisation whose members are all registered charities that work with children, young people and their families. They range from very large national organisations to small local based charities. Between them they invest over £500 million in direct services. They work in different ways, in and across various disciplines, and with different groups of children, but they share the aim of improving the quality of life for children.

NATIONAL SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN (NSPCC)

Weston House, 42 Curtain Road,
 London, EC2A 3NH
 Tel: 020 7825 2500
 Fax: 020 7825 2525
ktilly@nspcc.org.uk
www.nspcc.org.uk

The National Society for the Prevention of Cruelty to Children (NSPCC) has been operating under its name since 1889. Its aim then was to protect children from cruelty, support vulnerable families, campaign for changes to the law and raise awareness about abuse. Today, the NSPCC looks very different, but its purpose remains the same: to end cruelty to children.

REFUGEE COUNCIL UK

240-250 Ferndale Road
 London SW9 8BB
 Tel: 020 7346 6700
 Fax: 020 7346 6701
helen.johnson@refugeecouncil.org.uk
www.refugeecouncil.org.uk

The Refugee Council is the largest organisation in the UK working with asylum seekers and refugees. They not only give direct help and support, but also work with asylum seekers and refugees to ensure their needs and concerns are addressed.

SALUSBURY WORLD

c/o Salusbury Primary School
 Salusbury Road
 London, NW6 6RG
 Tel: 020 7372 2244
 Fax: 020 7372 0022
mail@salusburyworld.org.uk
www.salusburyworld.org.uk

Salusbury World is a charity that supports refugee and asylum seeking children and families. Established in 1999, it was the first refugee centre to be set up within a primary school. Salusbury World provides educational, social and emotional support for refugee children, and supports parents and the wider refugee community by providing home/school liaison, family workshops and outings, and also a comprehensive social advice service.

SAVE THE CHILDREN UK

1 St John's Lane
London EC1M 4AR
Tel: 020 70126762
j.nott@savethechildren.org.uk
www.savethechildren.org.uk

Save the Children is the world's largest independent organisation for children, making a difference to children's lives in over 120 countries. From emergency relief to long-term development, Save the Children helps children to achieve a happy, healthy and secure childhood. Save the Children listens to children, involves children and ensures their views are taken into account. Save the Children secures and protects children's rights – to food, shelter, health care, education and freedom from violence, abuse and exploitation – delivering immediate and lasting improvements to children's lives worldwide.

SHELTER

88 Old Street
London EC1V 9HU
Tel: 0844 5151215
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england.shelter.org.uk

Shelter helps more than 170,000 people a year fight for their rights, get back on their feet, and find and keep a home. Shelter's vision isn't simply that everyone should have a roof over their heads, but that everyone should have a home.

Undocumented children in Europe may be living with members of their families but can also be unaccompanied, living alone without their parents or guardians. Whatever their condition, the fact that these children are in Europe without protection through official family reunification programs or asylum processes makes them “undocumented” and as such affected by policies on irregular migration.

This report aims to investigate the particular vulnerability that characterizes the reality of undocumented children and analyze their specific needs and problems encountered in various European countries. The report is specifically focused on the discrimination that these children might face in accessing their basic social rights in the areas of education, health care and housing.

The legislative background and the main practical barriers in terms of access to education, health care and housing in nine European countries are analysed. Good practices of civil society organizations in providing assistance to undocumented children are illustrated. The report also underlines the profound interdependence of all social rights and how denying access to one of these rights affects all the others.

With this report, PICUM aims to raise awareness about the situation of undocumented children in Europe and support exchange amongst NGOs and other civil society actors working to defend these children’s rights. PICUM hopes that this report can be a useful tool and can give a voice to the many requests for justice raised by NGOs and other actors working with undocumented children.

PICUM - Platform for International Cooperation on Undocumented Migrants

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PLATFORM FOR INTERNATIONAL COOPERATION ON UNDOCUMENTED MIGRANTS