



P I C U M

PLATFORM FOR INTERNATIONAL COOPERATION ON  
UNDOCUMENTED MIGRANTS

## Undocumented children and families in Europe

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## Diverse children affected

- **Undocumented children: diverse & status changes**
    - Did not qualify for an official family reunification scheme (parent with regular status)
    - Parent loses work or residence permit
    - Application for international protection refused as family
    - Entered with one or more relatives irregularly
    - Children born in Europe to undocumented parents/ mother
    - Separated children who are not in contact with any services
  - Children whose own status is regular still affected by migration status of parent
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## Making children vulnerable

- **Almost no data** – e.g. UK 120,000 (65,000+ born), 2-6,000 Ireland
- No consideration - **gap in migration and social policy**  
(ref: current focus on asylum seeking children and families)
- **Absence of systematic consideration of best interests in migration-related decisions**
  - Residence – status linked to parents & rarely treated as individual in applications for protection
  - Subject to same immigration control measures as parents e.g. restrictions on basic social rights, detention, deportation
  - inc. in questions of family unity → family separation (child protection, detention, deportation)
  - Staff untrained in child rights and best interests assessments

## Access to services: legal exclusion

### Education:

- Compulsory education usually provided (6-16)
- Denied formal certification, internships & training
- Rarely access to non-compulsory education:
  - Pre-schools/ ECEC
  - College (16-18 education), training and university

### Health care:

- Usually same as adults – no extra protection
  - Very varied – emergency only (e.g. Austria) – equal access as national children (e.g. France)
  - “Urgent”/ “essential” treatment = non-medical, undefined
  - Lack of access to continuous, specialist (e.g. dentistry, optometry) & mental health care
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## Access to services: practical barriers

- Documents required for registration/ administration
  - Discretionary power
  - Lack of awareness and complex rules
  - Fear of detection (& data sharing issues in some countries)
  - Barriers associated with conditions of living in an irregular migration situation  
e.g. moving frequently, poor living conditions, difficulties to meet costs of transport, lunch, etc. (education), costs of treatment, medications (health care), impact of fear, insecurity & exclusion on mental health (esp. youth)
  - Interdependence of rights
  - Impact of restricted access to rights for parents
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## Promising policy and practice

### Education:

- 10 MS = right to education regardless of status explicit in law  
BE, HR, CZ, FR, EL, IT, NL, RO, ES & SE)
- Measures to address practical barriers
  - equal access to subsidies/ bursaries for disadvantaged students (FR, ES)
  - explicit right to certification in law (IT)
  - access to internships (ES, NL)
  - access to ECEC (e.g. explicit law in FR; Flemish campaign 'Look what I can do')

### Health care:

- 8 + 1 MS = entitled to the same level of health services as nationals according to the law or official policy  
ES, FR, IT, SE, EL = explicit; PT = explicit – until 16 years & after 90 days; RO, EE = implicit; CY = explicit in ministerial circular (not legally enforceable)
- Minimising administrative requirements (FR)
- Local solutions (e.g. DE)

## Right to housing: law and practice

### Law:

- Across Europe – similar – no national laws
- Usually excluded from reception centers & homeless shelters
  - Exc. NL, BE – right to shelter in reception centres recognised; FR - homeless
- Some LA - temp accommodation to families with pending application in extreme circumstances (mothers with young children) e.g. UK, FR

### Practice:

- No access to subsidised housing unless separated from families
  - Emergency shelter accommodation temporary & not suitable
  - Shortage of cheap, decent housing on private market
  - Residence permit sometimes required by landlords (law & practice)
  - Poor & exploitative conditions, insecure housing arrangements, move frequently, homelessness risk
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## Enforcement measures

- **No access to justice – police or judicial remedies**
    - Deported rather than protected
    - Lack of legal representation & information
  - **Deportation**
    - In contradiction of best interests (punitive not protective)
    - Traumatic conditions
    - Family separation through deportation of parents
  - **Detention**
    - Fact is illegal (CRC Art 37) (nb. EU law)
    - Process, length and conditions violate more rights
    - Family separation through detention of parents
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## Promising policy and practice

### **Access to justice:**

- Residence permit (FR, ES)
- Safe police reporting (Amsterdam)
- EU Victims Directive

### **Non-deportation:**

- Firewall (FRA apprehension guidelines)
- Delayed deportation/ regularisation while in school (LU)

### **Non-detention:**

- Prohibition in law (IE)
  - Specifying very limited circumstances (SE)
  - Community-based alternatives
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## Promising policy and practice: regular status

- **Prevention** e.g. BID in decisions on applications; independent residence status from parent → child would not lose status with parent
  - Italy – law gives independent permit from age 14 to 18 (nb. not well implemented)
- Some countries – should be **no ‘undocumented child’ legally**
  - France – no residence permit required; Italy – residence permit for all children (nb. not accessible for children in families-risk of arrest for parents)
  - But still some restrictions on social services, fear of enforcement action against parents, uncertainty and need to resolve status at 18.
- Many **regularisation programs & mechanisms** in EU relate to length of residence, social ties, school attendance; **access to nationality**.
- But barriers (e.g. fees, legal assistance, strict requirements, admin. barriers, awareness) & length of time often still long for young people
- **Right to reside** - private & family life (ECHR Art. 8) (nb. only deportation appeals)

## Strategies to improve the protection of young people

- **Protection in the community they live and in migration and residence procedures:**
    - **Age-appropriate migration policies and practices** = right to be heard, best interests of the child in all decisions (status and enforcement), no enforcement in violation of children's rights (detention or deportation)
    - **Secure residence status** = regularisation, non-discrimination in long-term residence & citizenship (inc. EU nationals after Brexit)
    - **Social protection systems** = access to education, health care, shelter, child and youth welfare
    - **Civil/ criminal justice** = tenants' rights, labour rights, police reporting
    - **Community mobilisation** = participation, support, empowerment, anti-xenophobia actions
  - **Urgent need for multi-stakeholder actions** : e.g. governments (all levels), social workers, service providers (teachers, doctors, shelters), legal services, children's rights organisations, youth organisations, school communities, undocumented young people and wider public.
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## The role of school communities

- Essential support network for children and young people
  - School communities crucial actors in campaigns against deportation and for regularisation – show solidarity, that child/ young person and family are part of community (classmate, parent), denounce their deportation
  - Part of successful regularization campaigns in e.g. NL, LU (see manual)
  - Recent case of Nonso in Ireland
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# The role of school communities

News > World > Europe



**Irish students save their classmate from deportation to Nigeria**

'I am really looking forward to my future here in Ireland,' says 14-year-old Nonso Muojeke

**Josh Gabbatiss** | @josh\_gabbatiss | Saturday 13 October 2018 17:42 | 11 comments

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Irish students have successfully campaigned to save their classmate from being deported to Nigeria.

Nonso Muojeke, 14, is a student at Tullamore College in County Offaly, where he has lived with his family for the past 11 years.

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## Reseau Educations Sans Frontieres (RESF), France

- Mobilise when student at risk of deportation – petitions, media, asking elected officials to publicly align themselves with the family or put pressure in other ways, demonstrations
  - Key steps:
    1. Student informs a teacher and close friends with support from RESF, they pass on information to other teachers and students
    2. Petition signed by school community
    3. Public action – sit-in in the school yard, rally in front of local government office, media etc.
    4. Ask for an appointment at the local government
    5. In case of emergency (arrest, detention), bombard the local government and Mol with emails
  - Nothing is done without the young person's agreement
  - Bringing the situation of individual young people to light changes people's attitudes, gives them a support network, wins cases (risks of visibility balanced with benefits)
  - Local govt. decision-making power crucial but parts of methodology relevant
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# Thank you for your attention



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The Reality of Undocumented Migrants in Europe

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