



Navigating disability and irregular status in Europe

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Executive Summary

This briefing explores the interactions between disability and irregular migration status, by drawing upon existing literature as well as case studies from Belgium, France, Germany, Greece, Italy, Malta and Sweden. While it doesn't claim to provide a comprehensive analysis, it builds on existing research to start an important conversation about those too often left out.

- **The intersection of disability and migration is largely invisible, requiring urgent attention.**

Research, policymaking, and practice have yet to adequately address the dual challenges of disability and irregular migration. The lack of data on undocumented migrants with disabilities further perpetuates this invisibility. Consequently, EU legal and policy frameworks fail to safeguard the rights of individuals facing these intersecting needs, despite strong commitments outlined in the EU Charter of Fundamental Rights and the UN Convention on the Rights of Persons with Disabilities (CRPD), the latter which is ratified by the EU and all its member states.
- **Undocumented status exacerbates barriers for persons with disabilities.**

When navigating life with a disability, people encounter many societal barriers. Even for those with regular residence status, barriers such as inaccessible transport, discriminatory laws, and inadequate housing create obstacles to equal participation in society. But for undocumented people, the challenges are higher. These may include marginalisation and limited access to services (including healthcare and housing), poor working conditions (increasing risks of occupational injuries, illnesses, and fatal accidents) and immigration detention (which may worsen pre-existing disabilities and vulnerabilities).
- **Undocumented migrants with disabilities struggle to access basic rights and services, including disability support.**

Recognition of disability status is often an important precondition to having access to disability support. However, this process typically involves submitting medical records, tests or other documentation provided by the patient's doctor. For undocumented migrants, who often face significant barriers to healthcare access, obtaining the necessary documentation can be extremely challenging.

Even when disability status is recognised, like France, undocumented migrants may still be excluded from critical support given that access is dependent on residence status. In Greece, some residence permits allow access to disability support whereas others will be excluded. In Germany, not all undocumented migrants with disabilities can access necessary support. Only persons with "Duldung" (temporary suspension of deportation) can access services and benefits, and the type of support is linked to the duration of their stay. After 36 months residing in Germany, undocumented migrants with severe disabilities holding a Duldung can apply for a disability card.

In Belgium, undocumented workers injured in recognised labour accidents are theoretically entitled to the same rights as other workers, including disability support. However, in practice, securing compensation and benefits often takes several years, leaving workers in prolonged vulnerability.

- **Immigration detention disproportionately harms people with disabilities.**

Immigration detention is always harmful and disproportionate. As evidenced in Italy, the harmful impact of immigration detention is exacerbated when it adds to pre-existing factors that already put detainees in a situation of vulnerability, such as a disability. Despite recommendations not to detain persons with disabilities, this practice remains widespread across Europe.

- **Barriers to regularisation and secure residence are compounded by disability.**

Undocumented migrants with disabilities face additional obstacles in securing regularisation and stable residence. This might include costly,

complex, or inaccessible procedures that disproportionately impact individuals with limited resources or additional accessibility needs. In Malta, the end of accepting new applications for Specific Residence Authorisation Status (allowing the regularisation of certain rejected asylum seekers), coupled with strict requirements, left numerous long-term residents, particularly with disabilities, without a path to regularisation. Another additional obstacle are policies that restrict people with disabilities' access to regularisation schemes or secure residence if they access benefits or subsidised programmes. For instance, in Sweden, subsidised employment for persons with disabilities is not recognised as valid income for permanent residency applications.

Moving forward

The findings of the briefing underline an urgent need for further research to better understand the barriers facing migrants with both irregular status and disabilities. Such research should inform legal and policy reforms that respond more effectively to the unique requirements of these communities.

By recognising and addressing these intersecting forms of discrimination, policy makers can develop more inclusive approaches that dismantle barriers to equal treatment. Enhanced understanding of the requirements of marginalised communities, coupled with consistent policy and legal actions, will promote social inclusion, ensure equal access to services, and support labour market participation, ultimately contributing to reduced inequalities and strengthened social cohesion.

Glossary

Child – Refers to any person below the age of 18 years old.¹

‘Migration’ or ‘residence’ status - Refers to the type of (or lack of) formal recognition of an individual’s residence by the government of the country they live in. Residence or migration status is based on an individual’s administrative situation and is linked to a visa, travel authorisation, residence permit, a suspension of deportation,² an ongoing legal procedure to access a residence permit on any grounds (including for asylum), or citizenship. Residence permits can be issued for a fixed or indefinite duration and on various grounds (e.g. employment, study, family, medical reasons,³ international protection or a child protection order⁴), subject to EU⁵ or country-specific rules.

‘Persons with disability’ – Refers to persons “who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”.⁶

‘Regularisation’ – Refers to any process or procedure through which someone can obtain a residence permit from a relevant government authority authorising – ‘regularising’ – their stay in the country they reside in. The person applies for these procedures from inside the country, including when residing irregularly, in contrast to residence and work permits which must be applied for from another country. While some benefit or target undocumented people, other measures target people with a temporary or restricted residence permit or a suspension of deportation (e.g., Duldung status).

1 [Convention on the Rights of the Child](#) adopted 20 November 1989 by General Assembly resolution 44/25 adopted, Article 1

2 Suspensions of deportations are not residence permits in the sense that the government has suspended the person’s deportation order but not given them the right to reside in the country. The access to services and the labour market varies widely for these statuses, with German suspensions of deportation giving access to certain social rights and sometimes training and the labour market, and Greek suspensions of deportation not giving access to any. See PICUM, 2023, [Regularisation mechanisms and programmes: Why they matter and how to design them](#).

3 In a [2023 Ad Hoc Query of the European Migration Network](#), a majority of member states self-reported that foreign nationals residing in the country can apply for a residence permit on the basis of their health condition.

4 In a [2023 Ad Hoc Query of the European Migration Network](#) about half of the responding member states self-reported that they have legal frameworks in place to granting a residence permit on the basis of a child protection order.

5 At EU level multiple Directives regulate residence statuses, such as [Directive 2003/109/EC](#) on the status of third-country nationals who are long-term residents, the EU Blue Card [Directive 2009/50/EC](#) on highly-qualified workers, the [Single Permit Directive 2011/98/EU](#), [Directive \(EU\) 2016/801](#) on Students and Researchers, [Directive 2003/86/EC](#) on Family reunification, the Return [Directive 2008/115/EC](#) and [Directive 2011/95/EU](#) on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection

6 [Convention on the Rights of Persons with Disabilities](#) adopted 12 December 2006 by Sixty-first session of the General Assembly by resolution A/RES/61/106, Article 1

Introduction

As disability activist Alice Wong remarked in 2017 “undocumented people have always been invisible, and there’s little known or written about undocumented disabled people”.⁷ Overlooked in research, policymaking, and practice,⁸ the intersection of disability and residence status is indeed an area that demands far greater attention.

Migration policies push individuals into undocumented status, as the lack of regular migration pathways or insecure residence permits forces them to live in countries where their residence is not officially recognised. Many people who are undocumented may have had temporary or precarious residence permits linked to employment, study, family, or international protection that have since expired. Children born to undocumented parents also inherit this uncertain status.⁹ Limited regular migration pathways means that some people arrive to Europe undocumented.¹⁰

A person’s residence status intersects with varying forms of discrimination including, gender, disability, racial or ethnic origin, religion or belief, disability, age, social class and sexual orientation, health condition. This impacts people’s experiences and circumstances, leading to undocumented children, women, those with disabilities, sex workers¹¹ and racialised people, to face additional barriers.

EU migration policies increase the likelihood of economic dependence, poverty, and abuse among individuals with irregular or precarious residence status, limiting their opportunities to change their situations. The EU’s recent adoption of the Pact on Migration and Asylum¹² (the Pact) raises alarming concerns for the future as it strengthens the criminalisation of human mobility. Far from upholding justice and protection, the laws and policies in the Pact are likely to increase human rights violations, perpetuate racial, ethnic and disability-based discrimination.¹³ The EU Fundamental Rights Agency has also raised

7 These words were spoken by Alice Wong, host of the Disability Visibility podcast in the episode of 24 September 2017 on Immigration and Disability. The podcast is part of the [Disability Visibility Project](#). A transcript by Cheryl Green is available [here](#). [Accessed on 24 October 2024]

8 In the United States, some disability rights scholars have looked into this issue: Butterworth, E., 2023, “[What if you’re disabled and undocumented? Reflections on intersectionality, disability justice and representing undocumented and disabled Latinx Client](#)” City University of New York Law Review. Vol. 26. Issue 2; Lakshmi Piepzna-Samarasinha, L. 2018, [Care Work: Dreaming disability justice](#) Arsenal Pulp Press.

9 Children can become undocumented for different reasons and may change statuses during the course of their childhood and youth. A child’s residence status is usually dependent on their parent’s status, and children can become undocumented if their parent loses their residence or work permit. Undocumented children can also be born in the EU to undocumented parents. Unaccompanied children (those living without their legal guardian, usually a parent) may be undocumented because their asylum claim or other residence procedure has failed, or because they did not lodge one. Some countries, such as [France](#), do not require children to have a residence permit. For them, their undocumented status becomes a reality when they turn 18. See also: PICUM, 2023, [FAQ Undocumented children](#); PICUM, 2021, [Navigating irregularity. The impact of growing up undocumented in Europe](#); PICUM, 2018[2015], [Protecting undocumented children: Promising policies and practices from governments](#)

10 Kierans, D. and Vargas-Silva, C., 2024, [The Irregular Migrant Population of Europe](#). MirreM Working Paper No. 11/2024

11 PICUM, 2019, [Safeguarding the human rights and dignity of undocumented migrant sex workers](#)

12 The EU Pact on Migration and Asylum is a set of legislative proposals and recommendations which was proposed by the European Commission in September 2020 and [adopted](#) in 2024. All the legislative files are available [here](#). Prior to the final negotiations of the EU Pact on Migration, PICUM joined 18 other leading human rights organisations in calling on EU lawmakers to [reject this Pact](#) and submitted an [open letter](#) calling out the human rights risks in the Migration Pact. PICUM analysis on these files are available [here](#). Moreover, in November 2023, the European Commission [announced](#) a series of initiatives to ‘Counter migrant smuggling’, including a revision of the Facilitators Directive. PICUM has [expressed concerns](#) on new Facilitators Directive, which is likely to create new grounds for criminalisation.

13 PICUM, 2024, [Exclusion by design: Unveiling unequal treatment and racial inequalities in migration policies](#); European Disability Forum, 2020, [A missed opportunity: How Europe can better protect migrants with disabilities and mental health problems](#)

alarms about the lack of investigations into serious rights violations during border management.¹⁴

Disability results from the interaction between an individual's impairment and various barriers in society (such as inaccessible transport, inaccessible housing, discriminatory laws) that hinder the person's equal participation.¹⁵ People with precarious or irregular migration status already face marginalisation, discrimination, lack of access to services, and unstable housing and work conditions. These challenges are likely compounded for individuals with irregular or precarious migration status who also live with disabilities.

This briefing offers a snapshot of key interactions between disability and irregular migration status, though it does not aim for comprehensive analysis due to limited research. It rather draws upon existing literature as well as case studies from Belgium, France, Germany, Greece, Italy, Malta and Sweden. It is primarily intended for experts, organisations and national and EU authorities working in the fields of migrant and disability rights. Its aim is to begin addressing some of the knowledge gaps in legislative and policy frameworks concerning migrants with disabilities.

14 Fundamental Rights Agency, 2024, [Guidance on investigating alleged ill-treatment at borders](#) [Accessed on 24 October 2024]

15 [Convention on the Rights of Persons with Disabilities](#) adopted 12 December 2006 by Sixty-first session of the General Assembly by resolution A/RES/61/106, Article 1

Stammering at the border

In the United Kingdom, the Equality Act prohibits discrimination based on disability, race, religion or belief. These are considered 'protected characteristics,' for which there are typically no exceptions. However, immigration authorities are granted an exception: "some public authorities, like immigration officers are allowed to discriminate against you when they make certain immigration decisions – for example, decisions about your right to come and live in the UK."¹⁶ They are explicitly permitted to treat individuals differently based on 'nationality, ethnic or national origins,' and 'religion or belief.'¹⁷

In a blog published by the Migrants' Rights Network, Neha exposes her fears and stress of crossing UK border controls as a non-white migrant with a stammer:¹⁸

"At the Border, I am three things: my name, my date of birth, and the reason I am entering a country that isn't mine. At the border, when I halt at and repeat the uncomfortable angles of my name, I am a suspicious character, because why would someone ever stumble on something as familiar as a name? (...)

It is difficult to permeate state machinery with equality legislation simply because the state in question is set up to discriminate against difference in itself. And it is not just the Border – the Border is where it starts but not where it ends. The intersection of disability, racialisation, and migration heightens the stakes involved in most aspects of your life, it is unavoidable in most official processes. For instance, losing your job or failing an exam due to a lack of reasonable adjustments is not only losing your job or failing an exam, it is the distinct possibility of being thrown out of the country you have built a life in and paid thousands of pounds in taxes to. (...)

I do not fear disability. I am proud, I am more than however many times I stumble over first syllables and trail off into seeming confusion. (...) But at least once every year, I stand at the UK Border after a fourteen-hour flight. There is someone in uniform glaring down at me, and the two of us know full well that if I stumble on my name, I stand to lose everything. And at that moment, when I feel the smallest I have ever felt, if someone taps me on the shoulder and offers me a cure — I'd take it. I'd take it in a heartbeat."

¹⁶ Citizens Advice, [If your local council discriminates against you](#) [Accessed on 16 October 2024]

¹⁷ Ibid.

¹⁸ Migrants' Rights Network, 2024, [Stammering at the Border](#) [Accessed on 24 October 2024]

EU legal and policy framework

Numerous legal and policy frameworks affect the lives of people navigating both an irregular/precarious migration status and a disability.

However current EU frameworks for both disability and migrant rights fall short of meeting the requirements of individuals who face the dual challenges of undocumented or precarious status and disability. Nonetheless, the EU holds strong obligations to

persons with disabilities, as demonstrated by the EU Charter of Fundamental Rights (Charter)¹⁹ and the UN Convention on the Rights of Persons with Disabilities (CRPD).²⁰

The following chapter describes the main features of these legal and policy frameworks in the areas of disability and migration.

Disability

The rights of people with disabilities are addressed by the Charter of Fundamental Rights of the EU (Charter)²¹ and the UN Convention on the Rights of Persons with Disabilities²² (CRPD). The CRPD has been ratified by all EU member states as well as by the EU itself, making it a vital instrument in shaping

disability rights in the region.²³ This is accompanied also by the Strategy for the Rights of Persons with Disabilities 2021-2030 (EU Disability Strategy).²⁴ In the sections below, some key challenges that persons with disabilities face are highlighted.

Non-discrimination

Both the Charter and the CRPD guarantee equality before and under the law, equal protection and benefit before the law and prohibit discrimination on the basis of disability.²⁵ At the same time, it must be highlighted that access to justice is a challenge for people with disabilities. Barriers include the

deprivation of legal capacity, physical inaccessibility, the unavailability of information in accessible formats, inadequate communication technologies, the absence of qualified legal aid and representation and lack of support services.²⁶

19 [Charter of Fundamental Rights of the European Union](#), 2012/C 326/02

20 [Convention on the Rights of Persons with Disabilities](#) adopted 12 December 2006 by Sixty-first session of the General Assembly by resolution A/RES/61/106

21 [Charter of Fundamental Rights of the European Union](#), 2012/C 326/02

22 [Convention on the Rights of Persons with Disabilities](#) adopted 12 December 2006 by Sixty-first session of the General Assembly by resolution A/RES/61/106

23 An overview of the status of ratification of the CRPD is available [here](#). [Accessed on 24 October 2024]

24 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions [Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030 COM\(2021\) 101 final](#)

25 [UN CRPD Article 5](#); Charter Articles 20-21

26 Validity Foundation, 2024, [Fair Trial Denied: defendants with disabilities face inaccessible justice in the EU](#)

Accessibility

In line with Article 9 CRPD, accessibility to the built and virtual environments, to information and communication technologies (ICT), goods and services, including transport and infrastructure, is an enabler of rights and a prerequisite for the full participation of persons with disabilities on an equal basis with others. A number of EU rules have been adopted in

different areas to make the EU more accessible for persons with disabilities.²⁷ Still, barriers for persons with disabilities remain, hindering mobility within countries and across Europe, and preventing access to information, products, services, transport and housing.²⁸

Deinstitutionalisation and independent living

In line with Article 19 CRPD and General Comment 5²⁹ people with disabilities have the equal right to live independently and be included in the community, with the freedom to choose and control their lives. Yet in 2020, a report on institutionalisation across 27 member states estimated that there were at least

1.5 million European citizens confined to institutions and these numbers did not substantially change in the ten years since the launch of the first EU report on institutional care reform.³⁰ General Comment 5 provides the following descriptions of institutions:

“Although institutionalized settings can differ in size, name and set-up, there are certain defining elements, such as (...) no or limited influence over whom one has to accept assistance from; isolation and segregation from independent life within the community; lack of control over day-to-day decisions; lack of choice over whom to live with; rigidity of routine irrespective of personal will and preferences; identical activities in the same place for a group of persons under a certain authority; a paternalistic approach in service provision; supervision of living arrangements; and usually also a disproportion in the number of persons with disabilities living in the same environment. [...]”³¹

27 Notably these include the European Accessibility Act ([Directive 2019/882/EU](#)), the Web Accessibility Directive ([Directive 2016/2102/EU](#)), the Electronic Communications Code ([Directive 2018/1972](#)), the Audiovisual Media Services Directive ([Directive 2018/1808](#)) and copyright legislation under [the Marrakesh Treaty](#) (2013) to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled.

28 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions [Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030](#) COM(2021) 101 final page 7

29 Committee on the Rights of Persons with Disabilities [General comment No. 5 \(2017\) on living independently and being included in the community](#) CRPD/C/GC/5

30 Šiška, J., & Beadle-Brown, J., 2020. [Report on the Transition from Institutional Care to Community-Based Services in 27 EU Member States](#). European Expert Group on Transition from Institutional to Community-Based Care.

31 [CRPD/C/GC/5](#), Paragraph 16c

The EU has committed to ‘deinstitutionalisation’ of persons with disabilities, including the closure of institutions and the development of community-based supports and services (e.g. personal assistances³²).³³ Moreover, in line with legal requirements under the Charter and the CRPD, EU

funding should support member states’ deinstitutionalisation both in the 2014-2020 period and the current 2021-2027 period. Numerous complaints have been brought to the European Commission and Member States for failing to comply with these legal obligations.³⁴

Access to social protection

Article 28 of the CRPD clearly expresses the right of people with disabilities to social protection and to a decent (“adequate”) standard of living. Social protection from the perspective of persons with disabilities includes the provision of disability-specific income support and of selected support services for people with disabilities (e.g. cash benefits to cover specific disability-related expenses in the fields of healthcare and housing, social protection benefits for provision of assistive technology, personal assistance).³⁵

Entitlement to disability insurance and disability assistance cash benefits usually depends on meeting a combination of disability qualifying criteria (e.g. the person’s “capacity” for work) and criteria not related to disability (e.g. age, nationality and/or residency, contributory history).³⁶ The design and implementation of disability assessment systems are largely dominated by medical and/or functional based types of assessment, such as submitting medical records, medical notes, and/or the results of medical tests or examinations, all provided by the patient’s doctor.³⁷

Liberty of movement and nationality

Article 18 CRPD establishes that persons with disabilities have the same rights as others to freedom of movement, freedom to choose their residence, and to

hold a nationality. This includes not being deprived of their ability to obtain and use identification or engage in immigration processes due to their disability.

32 According to the European Network on Independent Living report ‘Towards Dignity and Autonomy: A comprehensive look at personal assistance policies for persons with disabilities worldwide (2024): “Personal assistance is the direct, one-on-one support a person with disabilities requires to achieve the same range of self-determination, opportunities, and activities as a nondisabled person. This can include day-to-day activities such as household chores, personal hygiene, working or studying, and childcare; and spontaneous activities such as going to the cinema or visiting friends.”

33 See for example the previous EU Disability Strategy for 2010-2020 ([COM\(2010\) 636 final](#)) as well as in the current EU Disability Strategy 2021-2030 ([COM/2021/101 final](#))

34 European Network on Independent Living, 2023, [Advancing Slowly, Regressing Quickly: First glance at the Right to Independent Living in the European Union Funding of 2021-2027](#); European Network on Independent Living, 2020, [Lost in interpretation: The use of ESI Funds during 2014 – 2020 and the impact on the right of persons with disabilities to independent living](#)

35 Baptista, I. and Marlier, E., 2023, [Social protection for people with disabilities in Europe: an analysis of policies in 35 countries](#). European Social Policy Network.

36 Ibid. page 11

37 Ibid. page 12

Barriers to freedom of movement for EU citizens with disabilities

Migration within the EU's borders by EU citizens – known as 'freedom of movement of persons' – is one of the cornerstones of the EU. It gives EU citizens and their family members the right to travel, live and work in any EU Member State of their choice.³⁸ However, this right is conditional on meeting certain criteria set out in the EU Freedom of Movement Directive.³⁹

For residence of up to three months, Member States may not impose any requirements other than a valid identity card. If a stay extends beyond three months, however, the right of residence is limited to economically active citizens, self-employed persons, and the family members of economically active citizens. To be considered a worker, an individual must work a minimum number of hours and earn above a certain income threshold – criteria that can exclude many disabled people.⁴⁰ EU citizens are also considered to have sufficient resources if their income is higher than the host Member State's threshold for minimum subsistence benefits.

According to the European Network on Independent Living, another barrier is the distinction between "social security benefits" and "social assistance" in EU law. This often makes it unclear to people with disabilities whether a specific benefit qualifies under social security or social assistance, which can vary between Member States. As a result, mobile EU citizens with disabilities may struggle to access social services in their host country, hindering their ability to fully exercise their right to freedom of movement.⁴¹

Additionally, people with disabilities often find that their national disability cards or certificates are not recognised in other EU countries. In 2024, the EU adopted the European Disability Card, which, although not meeting all demands of the disability movement, offers some benefits. The card provides a straightforward way to prove disability status when visiting another EU member state and enables access to special conditions or preferential treatment in various services, including culture, leisure, sport, transport, and commercial discounts.⁴² The European Disability Card however fails to grant persons with disabilities temporary measures to access social services while undergoing the disability "reassessment" process in the new country of residence.

38 The founding treaties (in particular Article 20 [Treaty on the Functioning of the European Union](#)), the [EU Charter of Fundamental Rights](#) and [secondary EU law](#) all recognize Freedom of Movement as a basic right for EU citizens, making it one of the four fundamental freedoms put down in title IV TFEU (FREE MOVEMENT OF PERSONS, SERVICES AND CAPITAL).

39 [Directive 2004/38/EC](#) of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

40 European Network on Independent Living, 2019, [Freedom of Movement](#)

41 European Network on Independent Living, 2019, [Freedom of Movement](#), page 8

42 European Disability Forum, 2024, [Agreement on the European Disability Card: major advance for freedom of movement](#)

Migration

Migration policies are a shared competence between the EU and its member states. Recent EU migration policies, notably the EU Pact on Migration and Asylum,⁴³ coupled with other initiatives seeking to further criminalise migration across the EU,⁴⁴ raise alarming concerns for the future.⁴⁵ Far from upholding justice and protection, these policies are expected to escalate human rights violations and perpetuate discriminatory practices within the very

structures meant to safeguard all individuals. This includes the cycle of racial and ethnic discrimination also embedded in EU migration policies.⁴⁶

This section describes briefly the key characteristics of migration policy which structurally contribute to the creation of irregularities among migrants and the subsequent challenges for people with an irregular/ precarious migration status.

Regulating entry, stay and return

At its core, migration policy is about regulating entry and stay within the EU territory, as well as return. To enter and/or reside in the EU, foreign nationals must have administrative documentation such as a visa, travel authorisation, residence permit, a suspension of deportation,⁴⁷ an ongoing legal procedure to access a residence permit on any grounds, including for asylum application. Residence permits, issued for a fixed or indefinite duration, can be based on various grounds, including employment, study, family,

medical reasons⁴⁸, international protection or a child protection order⁴⁹, subject to EU⁵⁰ or country-specific rules. Residence permits often make people dependent on an employer or spouse for their right to reside in a country, leaving them vulnerable to exploitation and abuse.

Migration policies increasingly are limiting regular migration pathways, with distinctions made based on countries of origin which serve to perpetrate racial

43 The EU Pact on Migration and Asylum is a set of legislative proposals and recommendations which was proposed by the European Commission in September 2020 and [adopted](#) in 2024. All the legislative files are available [here](#). PICUM analysis on these files are available [here](#).

44 On 28 November 2023, the European Commission [announced](#) a series of initiatives to 'Counter migrant smuggling', including a revision of the Facilitators Directive. PICUM has [expressed concerns](#) on new Facilitators Directive, which is likely to create new grounds for criminalisation.

45 Prior to the final negotiations of the EU Pact on Migration, PICUM joined 18 other leading human rights organisations in calling on EU lawmakers to [reject this Pact](#) and submitted an [open letter](#) calling out the human rights risks in the Migration Pact.

46 PICUM, 2024, [Exclusion by design: Unveiling unequal treatment and racial inequalities in migration policies](#)

47 Suspensions of deportations are not residence permits in the sense that the government has suspended the person's deportation order but not given them the right to reside in the country. The access to services and the labour market varies widely for these statuses, with German suspensions of deportation giving access to certain social rights and sometimes training and the labour market, and Greek suspensions of deportation not giving access to any. See PICUM, 2023, [Regularisation mechanisms and programmes: Why they matter and how to design them](#)

48 In a [2023 Ad Hoc Query of the European Migration Network](#), a majority of member states self-reported that foreign nationals residing in the country can apply for a residence permit on the basis of their health condition.

49 In a [2023 Ad Hoc Query of the European Migration Network](#) about half of the responding member states self-reported that they have legal frameworks in place to granting a residence permit on the basis of a child protection order.

50 At EU level multiple Directives regulate residence statuses, such as [Directive 2003/109/EC](#) on the status of third-country nationals who are long-term residents, the EU Blue Card [Directive 2009/50/EC](#) on highly-qualified workers, the [Single Permit Directive 2011/98/EU](#), [Directive \(EU\) 2016/801](#) on Students and Researchers, [Directive 2003/86/EC](#) on Family reunification, the Return [Directive 2008/115/EC](#) and [Directive 2011/95/EU](#) on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection

inequalities.⁵¹ For example, entry for short stay to the EU is regulated by the EU's common visa rules. When it comes to labour migration policies, national authorities tend to focus available work permits mainly for workers in highly-paid employment or for very specific skills shortages, perpetuating inequalities.⁵² In recent years, EU migration policy has also

emphasised increasing returns, often overlooking that return may not be a viable option for many undocumented people due to human rights concerns (e.g., non-refoulement, protection of family or private life, best interests of the child) or practical barriers (e.g., lack of passport or medical reasons).⁵³

Racism⁵⁴

Migration policies are not racially neutral. While the prohibition of xenophobia and racial discrimination applies to the enjoyment of all civil, political, economic, social and cultural rights, citizenship, nationality and immigration status remain preconditions for full enjoyment of human rights for people everywhere.⁵⁵ In practice, states frequently engage in racial discrimination in access to these statuses through policies and rhetoric that superficially appear neutral.⁵⁶

A recent study revealed that African visa applicants (despite their lower per capita application rates) encounter notably greater challenges in securing a Schengen visa to the EU than applicants from other

regions, with refusal rates reaching 30% in 2022 compared to the worldwide average of 17.5%.⁵⁷ The study suggests the primary reason for refusals of visas is concerns by European states about visa applicants' intention to leave the destination country before the visa expires. Nonetheless, there is a lack of evidence connecting a higher rate of rejection of visas to decreased irregular migration.

The EU's anti-discrimination legal and policy frameworks do not address differences in treatment based on nationality and statelessness, nor do they tackle issues related to immigration law or unequal treatment arising from residence status.⁵⁸

51 PICUM, 2024, [Exclusion by design: Unveiling unequal treatment and racial inequalities in migration policies](#), p. 20

52 PICUM, 2021, [Designing labour migration policies to promote decent work and social inclusion](#)

53 PICUM, 2022, [Barriers to return: Protection in international, EU and national frameworks](#)

54 PICUM, 2024, [Exclusion by design: Unveiling unequal treatment and racial inequalities in migration policies](#), p. 20

55 International Convention on the Elimination of All Forms of Racial Discrimination, art. 5.

56 Human Rights Council Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance - Note by the Secretariat, Thirty-eighth session 18 June–6 July 2018, [A/HRC/38/52](#)

57 Taddele Maru, M., 2024. [Predetermined Bias: Comparing the Visa Rejection Rate of Africans versus the Rest of the World](#)

58 EU law only explicitly protects victims of crime against residence status-based discrimination. The EU [Victims' Directive 2012/29/EU](#), adopted in 2012 and currently under revision, establishes common standards across all EU member states for the rights of victims of crime. While it does not guarantee a resolution of an undocumented person's legal status, it mandates that member states take necessary measures to ensure that victims' rights are not dependent on their residence status, citizenship, or nationality (Article 1). Since the EU Victims' Directive serves as the overarching legal framework (lex generalis), it also provides protection against residence status-based discrimination for victims of violence against women and domestic violence as defined by [Directive \(EU\) 2024/1385](#).

Limited rights for undocumented migrants

The EU has adopted various policy documents to promote the inclusion of marginalised groups. While some policies, like those addressing child rights⁵⁹ and victim rights⁶⁰ identify and address some of the needs of undocumented migrants, most of the relevant EU policies concerning inclusion and integration are ill-equipped to address the comprehensive needs of undocumented migrants.⁶¹

In fact, migration policies prioritise the irregularity of a person's residence status over their fundamental rights, such as, decent work and safety, access to healthcare,⁶² privacy rights, access to justice or safe

reporting systems.⁶³ This comes with detrimental effects. For example, not only does exclusion from healthcare negatively impact undocumented migrants' overall well-being, the exclusion of undocumented migrants from non-emergency care also imposes a significant financial burden on health systems.⁶⁴ Moreover, even though undocumented migrants contribute to social protection systems as taxpayers, workers, and informal caregivers, states impose severe restrictions on access to social protection for individuals with temporary, precarious, or irregular residence status.⁶⁵

59 For example, the EU Strategy on the Rights of the Child ([COM/2021/142 final](#)) highlights that access to inclusive, non-segregated, quality education should be guaranteed regardless of disability and residence status. Moreover, the European Child Guarantee ([ST/9106/2021/INIT](#)) covers children with a migrant background regardless of their migration status.

60 For example, the EU Strategy on victims' rights (2020-2025) ([COM/2020/258 final](#)) recognises irregular migrants as vulnerable and facing challenges to access justice, in particular to report a crime.

61 Notably these include Action plan on Integration and Inclusion 2021-2027 ([COM\(2020\) 758 final](#)), Anti-Racism Action Plan for 2020-2025 ([COM\(2020\) 565 final](#)), [European Pillar of Social Rights](#) and the accompanying action plan ([COM\(2021\) 102 final](#))

62 Fundamental Rights Agency, 2016, [Healthcare entitlements of migrants in an irregular situation in the EU-28](#); PICUM, 2023, [Migration status: A key structural social determinant of health inequalities for undocumented migrants](#); PICUM, 2022, [The Right to Health for Undocumented Migrants](#)

63 PICUM, 2022, [Unconditional access to services for undocumented victims of crime](#)

64 In its 2016 report [Cost of exclusion from healthcare – The case of migrants in an irregular situation](#), the Fundamental Rights Agency shows, looking at the examples of hypertension and prenatal care in Germany, Greece and Sweden, that by providing healthcare to undocumented migrants Germany and Greece would see savings of 48 percent of health system costs after 2 years, and Sweden up to 69 percent.

65 PICUM, 2022, [A snapshot of social protection measures for undocumented migrants by national and local governments](#); PICUM, 2020, [A Worker is a Worker: How to Ensure that Undocumented Migrant Workers Can Access Justice](#)

Criminalisation of migration

Migration policies even go so far as treating (undocumented) migrants and those that support them as a ‘threat’.⁶⁶ The EU and member states use a variety of tools to criminalise migration, such as:

- Administrative immigration detention, understood as the deprivation of liberty for reasons related to a person’s migration status.⁶⁷ Notably every year, more than 100,000 people are detained for immigration purposes in Europe.⁶⁸
- Penalising migrants for irregular border crossings or stay;⁶⁹
- Technological surveillance and control measures;⁷⁰
- Reporting obligations requiring public officials to report undocumented people to immigration authorities.⁷¹

Regularisation⁷²

Regularisation refers to any process or procedure through which someone can obtain a residence permit from a relevant government authority authorising – ‘regularising’ – their stay in the country they reside in. The person applies for these procedures from inside the country, including when residing irregularly, in contrast to residence and work permits which must be applied for from another country. While some benefit or target undocumented people, other measures target people with a temporary or restricted residence permit or a suspension of deportation. Despite migration governance

prioritising border control and other measures to prevent irregular migration, regularisation is a policy tool that has been used widely in the EU in recent decades.⁷³

66 PICUM, 2024, [Between administrative and criminal law: An overview of criminalisation of migration across the EU](#); PICUM, 2024, [Cases of criminalisation of migration and solidarity in the EU in 2023](#)

67 There exist overall three types of administrative detention, namely pre-entry detention (often seen in airport procedures and zones d’attente in France), detention during asylum procedures and detention during the return procedure.

68 Data collected by the [Global Detention Project](#) shows that more than 100,000 people are detained for immigration reasons each year in the European Union. However, it is difficult to identify trends as most countries only publish data every two to three years, and some countries never publish them.

69 PICUM, 2024, [Between administrative and criminal law: An overview of criminalisation of migration across the EU](#)

70 PICUM, 2024, [Exclusion by design: Unveiling unequal treatment and racial inequalities in migration policies](#), p. 29

71 Ibid, p. 32.

72 PICUM, 2022, [Regularisation mechanisms and programmes: Why they matter and how to design them](#)

73 PICUM, 2022, [Regularisation mechanisms and programmes: Why they matter and how to design them](#)

EU's migration policies and disability rights: scrutiny from the CRPD Committee

In its 2016 review of the EU, the CRPD Committee expressed deep concern over the vulnerability of migrants, refugees, and asylum seekers with disabilities. The Committee noted that many were detained in conditions lacking appropriate support and reasonable accommodation, and that decision-making procedures remained largely inaccessible. It recommended that the EU mainstream disability in migration policies and issue guidelines against restrictive detention practices for persons with disabilities.⁷⁴

Looking ahead to the EU's next review in 2025, the CRPD Committee has requested updates on several key areas:⁷⁵

- Under equality and non-discrimination (article 5): Provide information on the status of migrants with disabilities.
- Under liberty and security of the person (article 14): Detail measures ensuring that EU-funded detention facilities - including immigration detention centers - respect the rights of persons with disabilities and outline specific provisions for support and reasonable accommodation.
- Situations of risk and humanitarian emergencies (article 11): Report on inclusive, accessible measures taking during the COVID-19 pandemic.

74 Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of the European Union, CRPD/C/EU/CO/1, 2 October 2015, paras. 34 and 35

75 Committee on the Rights of Persons with Disabilities, List of issues prior to submission of the second and third periodic reports of the European Union, CRPD/C/EU/QPR/2-3, 20 April 2022, paras. 6 and 12.

Country examples

The following case studies provide examples from seven countries – Belgium, France, Germany, Greece, Malta, Italy and Sweden - illustrating the intersection

of disability and residence status, and its impact on undocumented migrants.

BELGIUM – Labour accidents and disability benefits

This case study draws on FAIRWORK Belgium’s contributions to the report ‘A Snapshot of Social Protection Measures for Undocumented Migrants by National and Local Governments’.⁷⁶ With over 20 years of experience, FAIRWORK Belgium defends the employment rights of both documented and undocumented labour migrants, domestic workers, and au pairs.

Undocumented migrants may develop disabilities due to labour accidents. In cases where an undocumented worker has a labour accident that is recognised, they are entitled to the same rights as any other worker: compensation for all medical costs, transport to medical appointments, and if the accident results in incapacity to work, disability benefits - monthly payments either temporarily or for the rest of their life, in relation to the percentage of incapacity to work (total or partial). If a labour accident is fatal, the worker’s family is entitled to compensation to cover funeral costs, monthly compensation for loss to family income, including if they do not live in Belgium.

In cases where the employer is uninsured, the governmental organisation Fedris will take over the role of the insurance and compensate the worker and their family, as well as work to recover funds from the employer.

However, there are numerous practical barriers to having a labour accident recognised, including having to demonstrate the burden of proof that the worker was indeed working (even if they were undocumented); the need to demonstrate the existence of an employment relationship and that the accident happened at work, the time limit on claims; and lack of awareness of the procedure. It can also take years for a court to take a decision recognising a labour accident; during this time the worker only has access to urgent medical care, and no residence status or financial support, even when they are unable to work as a result of the accident.

⁷⁶ PICUM, 2022. [A snapshot of social protection measures for undocumented migrants by national and local governments](#), p. 25

FRANCE – Disability recognition and access to disability support

The case study below is based on the report by *Fédération des acteurs de la solidarité Ile de France*.⁷⁷ It was reviewed by *Médecins du Monde France*, a medical humanitarian organisation founded in 1980 that provides healthcare to vulnerable populations, both within France and internationally. Their work includes offering medical care, supporting public health initiatives, and advocating for access to healthcare as a fundamental right.

In France, undocumented migrants are legally entitled to healthcare through the State Medical Aid ('Aide Médicale d'Etat, AME').⁷⁸ It covers medical expenses, including doctor consultations, hospitalisations, prescription medications, as well as certain specific procedures (treatment of illnesses, maternity care, medical imaging, etc.). Certain non-urgent care and treatment is only covered after a period of nine months following admission to State Medical Aid. To qualify for AME, beneficiaries must have been residing irregularly in France for more than

three months and have an income below a certain threshold. AME is not granted automatically and not all of the eligible persons are effectively covered. In fact, studies show significant obstacles in access to AME in practice.⁷⁹ For example, the findings of the survey « Premiers Pas » by the Institute for Research and Documentation in Health Economics indicate that the non-take-up rate for AME reaches 49%. Moreover, after five years or more of residence in France, 35% of undocumented individuals have still not accessed their AME entitlements.⁸⁰

Disability recognition independent of residence status

In France, accessing disability-related assistance and support requires individuals to be officially recognised as having a disability. The application for recognition of disability status is made through a form, which includes a medical certificate to be completed by a doctor. A multidisciplinary team at the Departmental House for Persons with Disabilities ('Maison Départementale des Personnes

Handicapées' - MDPH)—composed of doctors, psychologists, social workers, and others—evaluates the individual's situation. The Commission for the Rights and Autonomy of Persons with Disabilities ('Commission des droits et de l'autonomie des personnes handicapées' - CDAPH) then makes a decision, accompanied by an assessment of the disability level.⁸¹

77 Fédération des acteurs de la solidarité Ile de France, 2023, [Note sur l'accès aux droits des personnes étrangères en situation de handicap](#)

78 Code de l'Action Sociale et des Familles, Livre II, Titre V, articles L251-1, L251-2, L251-3, L251-4, L252-1, L253-1. More on the AME is also available on Médecin du Monde webpage: <https://www.medecinsdumonde.org/ame-laide-medicale-detat/>

79 La Cimade, Comede, Dom'Asile, Médecins du Monde et Secours Catholique, 2023, [Entraves dans l'accès à la santé : les conséquences de la réforme de 2019 sur le droit à l'aide médicale d'Etat](#)

80 Jusot, F. et al., 2019, [Access to State Medical Aid by Undocumented Immigrants in France: First Findings of the "Premiers Pas" Survey](#)

81 Fédération des acteurs de la solidarité Ile de France, 2023, [Note sur l'accès aux droits des personnes étrangères en situation de handicap](#), page 1

This recognition process applies equally to foreign nationals and French citizens, and it is conducted by the MDPH in the applicant's department of residence.⁸² One crucial point is that disability recognition does not depend on an individual's residence permit. While regular residence status is required to access financial benefits and other forms of disability-related support, it cannot be used as a criterion for the MDPH to process a recognition request.

For foreign nationals who do not qualify for disability-related financial assistance due to their administrative status (see below), the recognition of disability can still have significant benefits⁸³:

- It can help individuals be recognised as vulnerable by the French Office for Immigration and Integration (Office Français de l'Immigration et de l'Intégration - OFII), which can lead to adapted housing, particularly for asylum seekers.

- It may support an application for a residence permit on health grounds.
- Once residency rights are secured, prior disability recognition can accelerate the process of accessing other disability-related rights and benefits, as eligibility would have already been assessed.

Despite the legal framework, many MDPH offices in practice refuse to process applications without proof of regular residency status. This refusal is illegal and unsupported by any legislative or regulatory texts, meaning these decisions can be challenged through appeals to the MDPH.⁸⁴

Access to disability support

Unlike disability recognition, most financial benefits for persons with disabilities are subject to the condition of having regular residence status. This applies to benefits such as the Allowance for Disabled Adults ("Allocation aux adultes handicapés") and the Recognition of the Status of Disabled Worker ("Reconnaissance de Qualité de Travailleur Handicapé" - RQTH).⁸⁵ Additionally, departmental support for people with disabilities is also conditioned on having a regular residence status.⁸⁶

According to legal provisions, access to medical-social care institutions for children, adults, or adolescents with disabilities - such as Medicalised Care Homes (Foyers d'Accueil Médicalisé - FAM) and Specialised Care Homes (Maisons d'Accueil Spécialisé - MAS) - is not conditioned on regular residence status. However, in practice, this requirement is often enforced due to the way these structures operate, and because the State Medical Aid ("Aide Médicale d'Etat" - AME) available to undocumented migrants does not fully cover the necessary care in these facilities.

⁸² Ibid, page 1

⁸³ Ibid, page 1

⁸⁴ Ibid, page 2

⁸⁵ Ibid, page 5

⁸⁶ Ibid, page 6

Support for children with disabilities of parents with irregular status⁸⁷

Children of parents in an irregular migration status are eligible for State Medical Aid (Aide Médicale d'État - AME) regardless of their parents' resources or the duration of their residence. If the parents have regular residency (excluding short-stay visas), the children have the right to Universal Health Protection (Protection Universelle Maladie - PUMa) without the requirement of having been in France for a specific length of time.

While the medical and treatment costs of children or adolescents with disabilities in medical-social institutions are part of the excluded services from the AME, the daily fee in such institutions for children can be covered by AME. This means that parents with irregular migration status will still need to bear the costs of medical and treatment services to ensure their children with disabilities receive adequate care while residing in these facilities.

GERMANY – Access to support for people with disabilities with a temporary suspension of deportation

The case study below is based on information from Handbook Germany, a project from [Neue deutsche Medienmacher*innen](#) (New German Media Makers) a nationwide network of journalists with and without migration backgrounds, dedicated to promoting diverse media representation. It is also based on information by Handicap International / Humanity & Inclusion (HI) - a non-profit organisation for humanitarian action and development assistance, active in over 60 countries around the world. Through its program Crossroads, HI works to improve the living conditions, realise the rights, and promote the inclusion of refugees and migrants with disabilities in Germany.

In Germany, individuals who cannot return or be deported receive a temporary suspension of deportation ("Duldung"⁸⁸), which can be issued for any duration between a few days and months.⁸⁹ It must be noted that German authorities are increasingly not

issuing a Duldung but rather another administrative document not defined in the law or not defined for this purpose (e.g. "Grenzübertrittsbescheinigung" - confirmation of crossing the border) which can impact access to benefits and disability recognition.⁹⁰

⁸⁷ Ibid, page 7

⁸⁸ Bundesministerium der Justiz. [Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet](#). ("Law on the Residence, Employment and Integration of Foreigners in the Federal Territory")

⁸⁹ Handbook Germany, [Tolerated Stay \("Duldung"\)](#). [Accessed on 24 October 2024]

⁹⁰ According to the Central Register of Foreigners (AZR), as of October 31, 2023, a total of 250,749 individuals were obligated to leave the country, of whom 201,084 had a toleration of stay (Duldung) and 49,665 did not have a Duldung. See: Deutsche Bundestag, 2023, Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Clara Bünger, Nicole Gohlke, Anke Domscheit-Berg, weiterer Abgeordneter und der Fraktion DIE LINKE, [Drucksache 20/9796](#), p. 28; On this topic, see also: ProAsyl, 2023, [Uneinigkeit über faktische Duldung: Keine Chance auf das Chancen-Aufenthaltsrecht?](#)

The Duldung

The “Duldung” is not an actual residence permit, but only a temporary toleration of stay which formally registers people’s presence in the country. In other words, holders of a “Duldung” are still subject to a valid return order.

If the reason why the suspension of deportation was granted ceases to exist, people can be detained and deported even when the “Duldung” is still valid. In some cases, people are detained when they present themselves to the local office to renew the “Duldung”. A “Duldung” is issued when there are barriers to return, such as lack of documents, a ban to returns

to a specific country, having immediate family (such as caring for a child), lack of flight routes, or when someone is too ill to travel. In these cases, the “Duldung” is granted ex officio by the immigration office at the municipality level.

The “Duldung” can also be granted for other reasons, including urgent humanitarian, family or personal reasons, for instance when individuals are receiving medical treatment or if they are caring for a sick family member. In these cases, it is granted on a discretionary basis.

Disability rights and benefits under the Duldung

Persons with a disability who have a “Duldung” are entitled to benefits and support under the Asylum Seekers’ Benefits Act (Asylbewerberleistungsgesetz, AsylbLG).⁹¹ These benefits are generally lower than those provided under the standard social welfare system and intended to cover only the most essential needs (e.g. food, housing, a small spending budget)⁹², acute medical treatment, vaccination and maternal care.⁹³

The Federal Social Court (“Bundessozialgericht”) recently clarified that the ‘treatment of acute medical needs’ also includes treatment of chronic and mental illnesses if their treatment cannot be postponed and is medically necessary – even if they are not yet emergencies.⁹⁴

For medical needs exceeding acute illnesses and pain, such as speech therapy, therapeutic/assistive devices, care benefits (e.g. stay in care facilities or financial support to family caregivers), and benefits designed to promote independence and equal opportunities for individuals with disability (e.g. assistance in securing employment), individuals must apply separately to the local Social Welfare Office. Despite Germany’s obligation under the UN CRPD to provide necessary disability-related assistance, care and participation benefits, such support is only granted on a discretionary basis according to the wording of the AsylbLG.⁹⁵ Consequently, many Social Welfare Offices continue to deny these benefits, requiring individuals to enforce their rights to assistance, care and participation under the UN-CRPD (in connection

91 Bundesministerium der Justiz. [Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet](#). (“Law on the Residence, Employment and Integration of Foreigners in the Federal Territory”)

92 Ibid. (§3 AsylbLG)

93 Ibid. (§4 AsylbLG)

94 Bundesgrenzschutz, judgement of 29.02.2024. (B 8 AY 2/23 R)

95 Bundesministerium der Justiz. [Asylbewerberleistungsgesetz](#) (§ 6 AsylbLG)

with their German constitutional rights) with the help of legal counsel or legal support services. Furthermore, the AsylbLG imposes sanctions for non-compliance with certain cooperation requirements (e.g. not cooperating in return procedure), and persons with disabilities are not explicitly exempt from these sanctions under national law. In the experience of attorneys in the network of HI, if an attorney or legal counselling service get involved, sanctions are usually lifted in the case of persons with disability.

After 36 months residing in Germany, persons with “Duldung” receive benefits analogous to the scope of

benefits provided to German citizens and holders of residence permits.⁹⁶ The restrictions of the AsylbLG are lifted then. In this case, Germany recognises the need to support individuals with disabilities through a mechanism known as “disadvantage compensation” (“Nachteilsausgleich”).⁹⁷ This system provides a range of benefits, such as specialised medical care, assistance in job hunting, protection from dismissal, household assistance, support for childcare costs, free public transport, early retirement, and tax relief. However, not all persons with disabilities qualify for every form of support; eligibility depends on the specific nature and degree of the individual’s conditions.

Accessing state support through the disability card

While not a formal requirement, in practice it makes it easier to benefit from state support, if individuals apply for an ID card for persons with severe disabilities (“Schwerbehindertenausweis”).⁹⁸ This card is available only to those classified with a severe disability. The application process requires individuals to complete the relevant forms and submit them, along with medical certificates, to their local Pension Office (“Versorgungsamt”). For individuals with a lower classification of disability, support may still be accessible under certain circumstances; in such cases, it is advisable to seek guidance from a counseling center.

Importantly, individuals in the asylum process or those holding a “Duldung” can also apply for a ID card for persons with severe disabilities.⁹⁹

Traditionally, the validity of this ID card has been tied to the status of the residence permit.

However, legislative changes in 2021 have allowed individuals with a “Duldung” to maintain the validity of their card regardless of the suspension’s duration, provided it is not evident to the local Pension Office that deportation is imminent.¹⁰⁰ In practice, local Pension Offices do not always recognise this entitlement without legal intervention. However, often individuals are not issued a “Duldung”, but rather other papers indicating that they are obliged to leave Germany (such as “Grenzübertrittsbescheinigung” - confirmation of crossing the border). This significantly hinders their ability to obtain disability cards and access the associated benefits linked to their recognised disability.

96 Ibid. (§ 2 AsylbLG)

97 Handbook Germany, [Living with a disability](#) [Accessed on 24 October 2024]

98 Handbook Germany, [Living with a disability](#) [Accessed on 24 October 2024]

99 Handbook Germany, [Asylum and Right of Residence for People with Disabilities](#) [Accessed on 24 October 2024]

100 Bundesministerium der Justiz. Schwerbehindertenausweisverordnung (SchwbAwV §6 Abs. 5); Bundesministerium für Arbeit und Soziales, [Erlass/Behördliche Mitteilung vom 21.09.2021](#) - Va 2-158170-3 - asyl.net: M30046.

GREECE – Impact of residence status on access to disability support

The case study below is based on information provided by [Generation 2.0 for Rights, Equality and Diversity](#), a nonprofit organisation in Greece consisting of people with different origins who work together to promote equal participation in a diverse society, through the empowerment of communities. Aiming to empower the most vulnerable members of migrant communities in Greece, such as people with disabilities and the elderly, Generation 2.0 is currently implementing ACCESS, a project aiming to address the legal and administrative barriers to accessing citizenship, residence status and social rights for these groups through advocacy and legal counselling. This project is running under the 'Building a robust and democratic civic space' (BUILD) programme, co-funded by the European Union, the Bodossaki Foundation and the NGO Support Centre.

The Greek legal and administrative framework places significant barriers on persons with disabilities. Even though persons with disabilities may access aid and social support, poverty constitutes an important barrier.¹⁰¹ Although some disability benefits are available, they are severely limited. Eligible individuals may receive only €300 to €400

per month - a sum that falls far short of covering basic needs, especially with Greece's rising cost of living. As a result, many persons with disabilities find themselves in a precarious situation. The situation is particularly challenging for third-country nationals due to the residency requirements to access benefits.

Access to social support for undocumented people with disabilities

In Greece, access to aid and social support for people with disabilities is contingent upon residence status. Undocumented people with disabilities are left without essential services, exacerbating their marginalization. Generation 2.0 RED has seen many individuals fall in and out of regular residence status

due to systemic obstacles. Because of institutional gaps - such as lack of regulations that cater to the specific needs of the migrant population and the socio-economic conditions in Greece - combined with dysfunctions in public administration, including delays, people can easily lose their residence status.

101 See: OPEKA, FAQ, Available at: <https://opeka.gr/atoma-me-anapiria/anapirika-epidomata/sychnes-erotiseis/> [Accessed on 24 October 2024]

Humanitarian permit and access to disability benefits

In order for third country nationals with disabilities to have access to disability benefits, they must hold a specific type of residence permit or status. More specifically, they need to hold a residence permit on humanitarian grounds or be a family member of a Greek or EU citizen.¹⁰²

Before the 5038/2023 Greek Migration Code came into effect, holders of residence permits on humanitarian grounds did not have the right to access the labour market, meaning that they had to rely solely on low benefits to meet their basic needs. With the implementation of the new code, they are now allowed access to work, which not only ensures a

more decent standard of living but also strengthens the sense of autonomy and visibility in society through their participation in the labour market.¹⁰³

However, the fact that holding a residence permit on humanitarian grounds remains a precondition to accessing disability benefits means that holders of other residence permits are still required to apply for a change of their permit. That may mean changing from a permit of longer duration (e.g. long-term residence permit) to a humanitarian residence permit with a validity of only one year, preventing the feeling of security and stability in view of multiple renewals.

Access to citizenship

Apart from the living standard, low benefits can also impact access to citizenship for third country nationals with disabilities. According to the current legal framework there is a pre-condition of a minimum income to naturalise. Persons without disabilities should at minimum prove 7,500 euros yearly annual income whereas persons with disabilities

should prove 5,500 euros yearly annual income.¹⁰⁴ Disability benefits are included in the calculation of the required income for citizenship eligibility. Generation 2.0 RED has witnessed cases of people with disabilities unable to apply for Greek citizenship due to financial barriers.

¹⁰² Greek Migration Code, [Law 5038/2023](#), Art. 18 Par. 3 read together with Doc. 09-4785, General Directorate of Benefits, Organization of Welfare Benefits and Social Solidarity (OPEKA)

¹⁰³ Art. 134 of [Law 5038/2023](#)

¹⁰⁴ Circular No. 81/04-02-2022, Available at: <https://www.ypes.gr/wp-content/uploads/2022/02/eggr6929-egk81-20220204.pdf> [Accessed on 24 October 2024]

ITALY – Intersection of disability and immigration for undocumented migrants

The following case study is based on information provided by two organisations: Italian Association for Legal Studies on Immigration ([Associazione per gli Studi Giuridici sull'Immigrazione](#)) and the Society for Migrations' Medicine ([Società Italiana di Medicina delle Migrazioni, SIMM](#)). ASGI is a membership-based association in Italy focusing on all legal aspects of immigration. SIMM is national policy network for the exchange of experiences, data, scientific evidence and considerations of local health policy.

Undocumented migrants in Italy face multiple challenges in accessing basic services, including healthcare and education. While certain legal

provisions exist to protect marginalised groups, such as children and individuals with disabilities, significant barriers remain.

Access to healthcare

In Italy, access to healthcare for undocumented migrants is limited, but certain essential services are available. Although undocumented individuals are excluded from many social benefits and civil rights,¹⁰⁵ including the right to work and access to public housing, they are entitled to urgent and essential healthcare services. These services include outpatient and inpatient care, first-level health services, emergency services, treatment for chronic diseases, maternity care, and vaccinations.

To access these services, undocumented migrants must obtain the STP (Temporarily Present Foreigner) code, a 16-character identifier.¹⁰⁶ The STP code is valid for six months and can be renewed. It allows access to crucial healthcare services, such as general medical care, treatment for drug addiction, mental health services, and child health protection, ensuring that vulnerable individuals, including minors, pregnant women, and those with chronic conditions, can receive necessary medical attention despite their irregular status.

Authorising family members' stay for children with health needs

In cases where a child has health issues, as well as with disabilities, the Juvenile Court may authorise the stay of one or more family members for a period tied to the child's therapeutic needs.¹⁰⁷ This is possible when serious reasons related to the psychophysical development of the child, including their age and

health conditions, justify such authorisation. The intention behind this provision is to protect the best interests of the child, particularly when applying ordinary immigration rules could cause harm to the child.

¹⁰⁵ Art. 2, para. 1, [Legislative Decree 286/98](#); Art. 2, para. 2, Legislative Decree 286/98

¹⁰⁶ Art. 43, para 3, Presidential Decree of the Republic 394/99

¹⁰⁷ Art. 31, paragraph 3 of the Consolidated Text on Immigration ([Legislative Decree 286/98](#))

Immigration detention

In Italy, sending a person to an immigration detention centre requires a doctor's certificate proving that they are "fit for detention".¹⁰⁸ Often, this certification is done in emergency rooms by overworked doctors with limited time and without a thorough medical examination. The process typically lacks the individual's consent and is not supported by a cultural mediator. As a result, doctors often only certify that the person does not have communicable diseases, neglecting a comprehensive health assessment.

Within Italian immigration detention centres, SIMM has documented cases of individuals with various disabilities, ranging from blindness to mobility issues (e.g., people using wheelchairs) and chronic health conditions. Many detainees also suffer from various psycho-social disabilities, such as psychosis, PTSD, and bipolar disorder.

One prominent case, highlighted by the Italian National Guarantor for the Rights of Persons Detained or Deprived of Liberty following a monitoring visit in 2023 involved a 61-year-old Tunisian man, J.F., who had lived in Italy for over 40 years and was blind due to cataracts and bilateral glaucoma.

Despite his obvious incompatibility with life in an immigration detention facility, he was declared fit for detention following a brief examination by an ophthalmologist in an emergency room in Syracuse. Although the detention centre staff repeatedly reported his inadequate environment to the authorities, they were still awaiting a response at the time of the monitoring visit.¹⁰⁹

The challenges faced by detainees with disabilities go beyond inadequate access to healthcare; they also include the denial of the right to health itself. These issues have been raised by civil society organisations like SIMM and ASGI, as well as by the Italian National Guarantor for the Rights of Persons Detained or Deprived of Liberty.¹¹⁰

At the start of 2024, civil society organisations led by SIMM, ASGI and the network "No More Lager" ([Mai più lager – No ai CPR](#)) launched a campaign to stop doctors from declaring people "fit for detention".¹¹¹ In this campaign, the associations link the health risks of immigration detention with the ethical risks faced by doctors when sending someone to a place of harm.¹¹²

108 Conditions are regulated by a [2022 ministerial directive](#). [Accessed on 24 October 2024]

109 The Italian National Guarantor for the Rights of Persons Detained or Deprived of liberty, <https://www.garantenazionaleprivatiliberta.it/gnpl/resources/cms/documents/7d0819819cfff5d81f8e541b4ab46f10.pdf>, p.10

110 The Italian National Guarantor for the Rights of Persons Detained or Deprived of liberty [document](#); The Italian National Guarantor for the Rights of Persons Detained or Deprived of liberty, [Summary document concerning the CPRs, also in the light of the monitoring activities carried out by the local Guarantors in the exercise of the visit powers conferred to them by the National Guarantor in January-March 2023](#)

111 ASGI, 2024, [Inidoneità alla vita nel CPR: appello ai medici. Necessaria la presa di coscienza](#)

112 PICUM, 2024, [In Italy, campaigners are fighting immigration detention with doctors](#). Blog post.

MALTA – Intersection of disability and precarious residence status

The case study below is based on information provided by [Jesuit Refugee Service \(JRS\) Malta](#), an NGO which aims to help with those needs that are considered immediate for people seeking refuge to enable them to become self-sufficient in the long run. They offer legal support, social, medical and psychological assistance and social work services to assist refugees and asylum seekers in the asylum and integration process.

In recent years, undocumented people in Malta, particularly those with disabilities or chronic health conditions, have faced increasing challenges after

their asylum claims were rejected. The data and information provided by JRS Malta illustrates the complexity of these challenges.

A story of living in limbo¹¹³

B, a 53-year-old man from Togo, arrived in Malta in 2005. After his asylum claim was rejected, he was granted a series of precarious and temporary residence permits.

While he had one of these temporary residence permits, B suffered a stroke, which left him with severe mobility and cognitive impairments. During this difficult period, he was unable to renew his status because he was no longer able to work, and subsequently became undocumented.

In April 2024, an application for Temporary Humanitarian Protection was submitted on B's behalf, highlighting his chronic health conditions and the urgent need for access to affordable healthcare and medication.

However, no acknowledgment of the application was received until the end of July. With the help of lawyers from the Jesuit Refugee Service (JRS), B was granted a "yellow book" from the Immigration Police, granting him "tolerated stay". This document offers minimal legal protection but does not provide access to healthcare or other essential services, leaving him in a highly precarious situation. This document has different lengths of validity (usually between 3 to 6 months, though recently they are being granted for one year), depending on the individual's situation and at the discretion of the Immigration Police. Furthermore, this document can be cancelled at any time, and renewal depends on production of a work permit and a registered rental contract.

B is unable to work due to his physical and cognitive disabilities, and his high blood pressure puts him at risk of another stroke. The cost of his healthcare is high, and he has only been able to pay his medical bills with the support of JRS and his friends.

¹¹³ This story was shared by Jesuit Refugee Service Malta.

Regularisation avenues

Malta offers limited pathways for regularisation, leaving many long-term residents in precarious positions. In 2018, the Specific Residence Authorisation (SRA) status was introduced to allow certain rejected asylum seekers residing in Malta for over five years to regularise their status.¹¹⁴ However, the end of acceptance of new SRA applications in December 2020, coupled with increasingly strict renewal requirements, has left numerous long-term residents - particularly those with disabilities or chronic illnesses - without a path to regularisation.¹¹⁵ Many are unable to meet the employment criteria necessary for renewal, severely limiting their access to healthcare and other fundamental rights.

In the absence of other options, Temporary Humanitarian Protection (THP) is a potential, though restrictive, option. THP is available to individuals with chronic health conditions or other humanitarian

considerations who cannot return to their country of origin. The application process, administered by the International Protection Agency, is lengthy and requires substantial medical documentation as well as relying heavily on proof that medication is not available in their country of origin. JRS Malta observes that, despite submitting THP applications, many individuals remain undocumented for months, relying on NGO and community networks for health-care and basic needs.

The last option for undocumented people is to apply for a “yellow book,” granting temporary “Tolerated Stay” for a few months at the Immigration Police’s discretion. While this document permits work or study, it lacks legal protections and access to health-care, and renewal requires a work permit (or proof of full-time studying) and a rental contract.

Some figures

Accurate statistics of undocumented people in Malta are not publicly available, and likely not collected. There is also no available data on the SRA status. However, it is worth noting that Malta holds one of the lowest asylum recognition rates in the EU¹¹⁶,

with a rate of 15% in 2023 and 6% in 2022, which gives an indication of the increase in rejected asylum seekers, with no path to regularisation.¹¹⁷

Between January 2023 - June 2024, 75 people out

114 SRA was introduced to replace the former Temporary Humanitarian Protection New (THPN) status. SRA recognised the needs of failed asylum seekers who have been residing in Malta for a period of five years and who were actively contributing to Maltese society. Applicants needed to have entered Malta irregularly prior to 1 January 2016 and been physically present in Malta for a period of 5 years preceding the date of application. They must have their application for international protection finally rejected by the competent asylum authorities. Applicants must demonstrate that he or she has been in employment on a frequent basis (minimum of 9 months per year during the preceding 5 years). They must also show their integration efforts. See: Maltese Ministry for Home Affairs and National Security, 2018, [Policy regarding Specific Residence Authorisation](#)

115 The new policy specified that new applications for the SRA would only be accepted until the end of December 2020, meaning that no new application were permitted after this date. Existing holders of the SRA were still able to renew their status in accordance with the revised policy, but no new application was allowed. See: Maltese Ministry for Home Affairs and National Security, 2020, [Policy regarding Specific Residence Authorisation: Updated policy – October 2020](#)

116 The overall EU+ recognition rate for first instance decisions on asylum applications was 39% in 2022. More information at European Union Agency for Asylum, 2023, [Asylum Report 2023](#)

117 UN Refugee Agency Malta, [Figures at a Glance](#)

of 2,145 served by JRS Malta were rejected asylum seekers¹¹⁸ who were either undocumented or with a tolerated stay document. 33 of the 75 people were deemed vulnerable by service providers (usually due to physical or psycho-social disabilities)¹¹⁹. These cases typically involve multiple and complex needs,

ranging from legal challenges to securing protection statuses to addressing serious health concerns. JRS Malta provides legal support for these individuals, often assisting with applications for Temporary Humanitarian Protection (THP) or renewing their precarious residency statuses.

Challenges for persons with disabilities

Undocumented persons with disabilities face many challenges:

- **Loss of SRA status:** A significant issue faced by undocumented individuals with disabilities or chronic health conditions is the potential loss of SRA status. JRS Malta served six clients who, while managing to retain their SRA status, came seeking advice on what might happen if their health deteriorated further, potentially disqualifying them from renewal. These individuals often face the harsh reality that if they are unable to meet the requirement of legal employment, they risk losing their SRA status, leaving them undocumented and without access to essential services.¹²⁰
- **Access to healthcare:** Without valid residency documents, people are ineligible for public healthcare and must pay exorbitant fees for medical treatment.¹²¹ In cases where health issues arise from work-related injuries, particularly for those in informal employment, the situation becomes even more dire. These individuals, often holding protection documents from other EU countries like Italy, find themselves de facto undocumented in Malta, without access to legal employment or healthcare. JRS Malta reports that many such individuals face medical bills running into thousands of euros, with no means to pay or access alternative support.
- **Increased detention:** In recent years, Malta has also seen an increase in raids and detention of irregular migrants for removal.¹²² This includes those whose visas have expired, those unable to renew their work permits, and rejected asylum seekers holding the “yellow book” (“tolerated stay”) document. The fear of detention and deportation has created a climate of uncertainty

118 This data is from the JRS Malta internal database.

119 Ibid.

120 Times of Malta, [Migrant worker: 'I was forced to lie about my accident'](#) (7 October 2021) [Accessed 28 October 2024]

121 Government of Malta Healthcare Entitlement Unit, [Health Entitlement to Refugees/Migrants](#) [Accessed 16 October 2024]; United Nations High Commissioner for Refugees [page on healthcare](#). [Accessed 16 October 2024]

122 Newsbook Malta [45 detailed in migration raids](#) (October 13 2024); Malta Independent [Over 1,000 immigrants have been deported from Malta since the start of 2022](#) (28 March 2023) [Accessed 28 October 2024]

and fear within migrant communities, particularly for those with disabilities or chronic health conditions.¹²³ For many, the risk of being detained

and sent back to countries where they may face significant health risks or other challenges is a constant source of anxiety.¹²⁴

SWEDEN – Subsidised employment as a barrier to accessing a secure residence permit

The case study below is based on information provided by [Newcomers with Disability in Sweden](#), a disability- and migrant-led organisation founded in 2021, that includes undocumented migrants among its members. Their mission is to empower newcomers with disabilities in Sweden and raise awareness about the conditions faced by asylum seekers and refugees with disabilities. Its activities include biweekly in-person meetings where members can exchange experiences and support one another.

Persons with disabilities in Sweden can access subsidised employment managed by the Swedish Public Employment Service (Arbetsförmedlingen). These programmes provide financial support to employers who hire individuals with disabilities, ensuring workplace accommodations and promoting inclusion.¹²⁵ The main subsidised employment programmes for persons with disabilities include:

- **Wage subsidies (Lönebidrag):** Employers receive wage subsidies for hiring persons with disabilities, helping reduce employment barriers for those with health conditions or impairments.¹²⁶

- **Development employment (Utvecklingsanställning):** This programme offers training and work experience to individuals with disabilities, improving their employability.¹²⁷

As further described below, third-country nationals with disabilities can secure employment through subsidised programmes. However, the source of this income gives them significant challenges in obtaining secure and permanent residence permits.

¹²³ Malta Independent 'We hoped this was a mistake, but we were wrong' – NGO holds demonstration over migrants' detention (10 September 2024) [Accessed 28 October 2024]; Malta Independent [No child should be made to live in fear of deportation – Commissioner for Children](#) (26 August 2024) [Accessed 28 October 2024]

¹²⁴ JRS Malta has experienced this first hand, with in-depth and long-standing clients with mental and physical disabilities being detained, and in some cases removed from the country, despite significant vulnerabilities.

¹²⁵ Sveriges Riksdag, [Act \(1994:260\) on public employment](#). Ministry of Finance ESA.

¹²⁶ Ibid

¹²⁷ Ibid

One case that highlights the challenges faced by third country nationals with disabilities is that of Saddik Kanaan, a blind Syrian man employed by Samhall, a Swedish government programme arranging work for people with disabilities.¹²⁸

Despite his steady job, Kanaan faced the risk of deportation, as income from subsidised employment at Samhall does not meet the criteria for permanent residency. The Swedish Migration Agency reasoned that subsidised employment is not the basis for permanent residence permits, and employment at Samhall is subsidised by the government.

After eight years of effort to become self-sufficient, including relocating his family to be closer to work, he was initially denied residency. A court later granted him permanent residency, citing a legal exception for individuals with lasting disabilities. However, Kanaan's case illustrates the ongoing challenges disabled immigrants face in meeting residency requirements.

As further described below, third-country nationals with disabilities can secure employment through subsidised programmes. However, the source of this

income gives them significant challenges in obtaining secure and permanent residence permits.

¹²⁸ Mårten Martos Nilsson, 3 April 2024, [Blinde Saddik was at risk of being deported despite a permanent job at Samhall](#) [Accessed 13 November 2024]; Kroon, C. 9 May 2024, [Mohamad får inte permanent uppehållstillstånd – eftersom han jobbar på Samhall](#) [Blinde Saddik was at risk of being deported despite a permanent job at Samhall](#), Svt Nyheter [Accessed 13 November 2024]

Temporary residence permits enabling access to subsidised employment

Third-country nationals with a disability who hold a temporary residence permit can access subsidised employment programmes¹²⁹. Qualifying residence permits include:

- **Residence permit for refugees or persons granted asylum** - Refugees or those granted subsidiary protection can participate in subsidised employment programmes once they have a temporary residence permit. Employment support services, including wage subsidies for persons with disabilities, are available through the Swedish Public Employment Service¹³⁰.
- **Residence permit for humanitarian reasons** - A third-country national with a disability may receive a residence permit on humanitarian grounds, which allows access to employment services. This permit is granted when other protection statuses do not apply, but there are compelling reasons—such as severe health issues or disabilities—making return to the country of origin unsafe or unreasonable.¹³¹
- **Residence permit for family reunification** - A third-country national with a disability entering Sweden through family reunification may also access subsidised employment. If they hold a temporary or permanent permit based on family reunification, they can access the same employment support programmes available to other residents with disabilities.¹³²
- **Residence permit for work (with Disabilities)** - Persons with disabilities can access subsidised employment through wage subsidy programmes. A third-country national with a temporary work permit who later develops a disability, or who has a disability prior to employment, may qualify for this support as long as they remain in the labour market.¹³³
- **Residence permit for studies** - In rare cases, third-country nationals with disabilities on a study permit may access some employment-related support if their disability significantly affects their ability to work. However, study permits primarily allow access to the education system; a transition to subsidised employment usually occurs after converting to another residence permit (e.g., for work or humanitarian reasons).¹³⁴

129 Government Offices of Sweden. [Aliens act \(2005:716\)](#).

International Labour Organization. Ordinance on Special Measures for Persons with Disabilities ([Förordning 2000:630](#)).

130 Government Offices of Sweden. [Aliens act \(2005:716\)](#).

131 International Labour Organization. Ordinance on Special Measures for Persons with Disabilities ([Förordning 2000:630](#)).

132 Government Offices of Sweden. [Aliens act \(2005:716\)](#).

133 International Labour Organization. Ordinance on Special Measures for Persons with Disabilities ([Förordning 2000:630](#)).

134 Government Offices of Sweden. [Aliens act \(2005:716\)](#).

Conditions for permanent residence

Despite access to subsidised employment when holding a temporary residence permit, third-country nationals with disabilities face significant challenges in securing permanent residence. Swedish legislation^{135 136} sets out specific conditions for permanent residence:¹³⁷

- **Time living in the country:** Individuals with temporary residence permits (e.g., for asylum seekers or family reunification) must have lived in Sweden for at least three years to be eligible for permanent residence. Highly skilled workers with a work permit may qualify after four years of continuous employment.
- **Self-sufficiency:** Applicants must demonstrate financial self-sufficiency. This requirement applies to individuals seeking permanent residence for reasons such as asylum, work, or family reunification, and it involves proving a stable income without reliance on social welfare.
- **Employment or income:** Applicants must have a stable job or self-employment that ensures financial stability. Their income must be sufficient to cover living expenses for themselves and their family, meeting a basic standard of living.
- **No Criminal Record:** Applicants must have no criminal record, as a history of criminal activity may affect their eligibility.

Financial self-sufficiency remains a crucial factor in determining eligibility for a permanent residence permit. Subsidised employment, however, is currently not considered valid income for this purpose, posing a barrier for third-country nationals with disabilities aiming for permanent residency.¹³⁸

135 International Labour Organization. Ordinance on Special Measures for Persons with Disabilities ([Förordning 2000:630](#)).

136 Government Offices of Sweden. [Aliens act \(2005:716\)](#).

137 The Swedish government has proposed that applicants for permanent residence should demonstrate basic knowledge of the Swedish language and society, although this requirement is still under debate and may be formally introduced in the future. See: The Local, 29 May 2024, [Sweden plans to introduce tests for permanent residency from 2027](#)

138 Crown, C., 9 May 2022, [Migrationsverket om nya lagen: "Arbetet får inte vara subventionerat av staten](#), Svt Nyheter [Accessed 13 November 2024]

Key challenges to living undocumented with a disability

Across Europe, people with disabilities who have a regular residence status already face significant barriers in accessing disability support, living in the community and fully participating in society on an equal basis with others. For those who are undocumented, these challenges are compounded by an additional layer of discrimination, making it even harder to access fundamental rights and services.

This chapter offers an overview the additional challenges faced by undocumented migrants with disabilities. It draws upon existing literature as well as the above case studies from Belgium, France, Italy, Germany, Greece, Malta and Sweden. Although not exhaustive, it provides a snapshot of some of the key challenges to better understand the interaction between disability and irregular migration status and develop adequate responses.

Invisible in the data

Data on undocumented migrants with disabilities is largely absent, both in disability-related statistics and migrant data. The first 'World report on disability', jointly produced by the World Health Organisation and the World Bank in 2011, suggests that more than a billion people in the world experience disability, about 15% of the population.¹³⁹ More than one-quarter (27.0 %) of the EU population aged 16 years and over had a disability ('activity limitation') in 2022.¹⁴⁰ However, data on migrants with disabilities is generally absent.¹⁴¹ A joint statement by the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) and the Committee on

the Rights of Persons with Disabilities (CRPD) has highlighted the underrepresentation and significant data gaps concerning migrants with disabilities.¹⁴²

At the same time, the number of undocumented people living in Europe is uncertain and estimates vary. Recent research suggests that between 2.6 and 3.2 million irregular migrants resided in 12 European countries (including the UK) between 2016 and 2023.¹⁴³ These estimates place irregular migrants at less than 1% of the total population and between 8% and 10% of those are born outside the Schengen Area (for EU countries) or the Common Travel Area (for Ireland and the UK).¹⁴⁴

139 World Health Organisation and World Bank, 2011, [World Report on Disability](#)

140 Eurostat, 2023, [Population with disability](#). [Accessed on 24 October 2024]

141 Migration Data Portal, 2022, [Visible in advocacy but missing in data: Migrants and persons with disabilities](#). [Accessed on 24 October 2024]

142 Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) and the Committee on the Rights of Persons with Disabilities (CRPD), 2017; Joint Statement "[Migrants and refugees with disabilities must be priority in new Global Compact on Migration – UN experts](#)"

143 Kierans, D. et al., 2024, [MIreM Public Database on Irregular Migration Stock Estimates](#). [Accessed on 24 October 2024]

144 Notably, the study found no significant increase in the number or proportion of irregular migrants in Europe since 2008 - contrary to the widespread narrative of continuously rising irregular migration. A previous 2008 study funded by the European Commission estimated that there were 1.9 to 3.8 million undocumented migrants in the EU, making up about 0.39% to 0.77% of the total population. European Commission. 2019. [Size and development of irregular migration to the EU. Counting the Uncountable: Data and Trends across Europe](#)

Effect of migration status on disability

It is important to highlight how undocumented status might affect the development of disabilities, or deterioration of existing conditions. For example, migrant workers are largely at greater risk of developing occupational illnesses and experiencing injuries and accidents, including fatal accidents.¹⁴⁵

This is due, in particular, to their sectors and conditions of work and limited access to training and safety equipment, as well as language barriers.

Undocumented migrants who are in immigration detention centres also face conditions which can cause additional psychological and physical harm.¹⁴⁶

The detrimental effects of detention are compounded by pre-existing conditions, such as poor health, disabilities, trauma, or age, which leave migrants with disabilities more at risk of developing serious illness or dying.

Access to health care and disability support

As described above, recognition of disability status is often an important precondition to having access to disability support. Proving disability status will require submitting documents, such as medical records, medical notes, and or the results of medical tests or examinations, all provided by the patient's doctor.¹⁴⁷

Yet, as also noted above, undocumented migrants face considerable challenges in accessing health care. In fact, none of the EU member states have fully achieved the World Health Organisation's definition of universal health coverage for everyone on their territory, regardless of migration status.¹⁴⁸ Some European countries including Belgium¹⁴⁹, Italy¹⁵⁰, France¹⁵¹ and Portugal¹⁵²

145 European Agency on Safety and Health at Work (EU-OSHA), 2007, 'Literature study on migrant workers'; Moyce, S. & Chenker, M., 2018, '[Migrant Workers and Their Occupational Health and Safety](#)', Annual Review of Public Health, Volume 39, p. 351-365.

146 For example, Stichting LOS – The Immigration Detention Hotline – reports having witnessed the detention of several individuals in situations of vulnerability, including children, elderly people, people in wheelchairs, persons with mental disabilities, persons recovering from cancer surgeries, post-traumatic stress disorder, severe mental illnesses and drug addictions. See page 28 of PICUM, 2021, [Preventing and Addressing Vulnerabilities in Immigration Enforcement Policies](#).

147 Baptista, I. and Marlier, E., 2023, [Social protection for people with disabilities in Europe: an analysis of policies in 35 countries](#). European Social Policy Network. Page 12.

148 Fundamental Rights Agency, 2016, Healthcare entitlements of migrants in an irregular situation in the EU-28; PICUM, 2023, [Migration status: A key structural social determinant of health inequalities for undocumented migrants](#); PICUM, 2022, [The Right to Health for Undocumented Migrants](#)

149 Since 1996, Belgium offers Urgent Medical Aid (AMU-DMH) to undocumented migrants. This covers all health care, preventive and curative, certified by a doctor. See: [Arrêté royal relatif à l'aide médicale urgente octroyée par les centres publics d'aide sociale aux étrangers qui séjournent illégalement dans le Royaume](#) (Royal Decree, 12 December 1996)

150 Since 1998, Italy grants urgent care and essential care to undocumented migrants. See: Art. 35, para. 4 of [Legislative Decree no. 286/98](#), see also <https://www.icmigrations.cnrs.fr/en/2022/07/25/defacto-031-06/> [Accessed on 24 October 2024]

151 Since 1999 France offers State Medical Aid (AME). AME provides free access to nearly all health services available to French nationals, covering care related to sexual and reproductive health such as pregnancy, delivery, family planning, contraception and abortion. It is awarded based on request and subject to conditions of residence and resources for a period of one year. See: Art. L.251-1 of the [Code de l'action sociale et des familles](#); [Loi No. 99-641 of 27 July 1999](#); see also: <https://www.service-public.fr/particuliers/vosdroits/F3079> [Accessed on 24 October 2024]

152 Since 1999 Portugal allows undocumented migrants who have been resident for 90 days to register with local health centre to access most services. See also: [Despacho do Ministério da Saúde No. 25/360/2001](#); [Decreto Lei No. 135/99 \(1999\)](#). Moreover [Decreto-Lei nº 67/2004 de 25-03-2004](#) reiterates the equal right to health care for children until working age (which is 16) and establishes a specific register for them.

have had in place legislation to ensure that undocumented migrants residing in their countries can access necessary preventative and curative healthcare.

Even in countries where health services are available as a matter of law, there are many administrative and other practical barriers that can prevent people who are undocumented from receiving the healthcare they are entitled to.¹⁵³ For example, in France, a recent survey into access to the state medical aid found that 64% of those surveyed encountered difficulties accessing healthcare, and seven out of ten abandoned their healthcare.¹⁵⁴ Undocumented migrants may also receive large bills they cannot pay as a result of accessing services. They may also be denied healthcare because of complicated and inconsistently applied rules. Sometimes, administrative personnel in hospitals are not even aware that undocumented people have a right to access health care services.

The case studies further show, for example, that in France, where recognition of disability status is legally possible for undocumented migrants, their irregular migration status leaves them unable to access disability support. In Belgium, undocumented workers who suffer a recognised labour accident are entitled to the same disability benefits as other

workers. However, significant barriers in the recognition process can leave them without financial support during prolonged claim periods. Consequently, even while facing severe barriers due to their disabilities, they often have limited access to essential services and resources.

Having some form of residence permit is still an important precondition to access some form of support. In Germany, not all undocumented migrants with disabilities can access necessary support. Only persons with “Duldung” (temporary suspension of deportation) can access services and benefits, and the type of support is linked to the duration of their stay. After 36 months residing in Germany, undocumented migrants with severe disabilities holding a Duldung can apply for a disability card.

Also, in Italy, in cases where a child has health issues, including disabilities, the Juvenile Court may authorise the stay of one or more family members for a period tied to the child’s therapeutic needs.¹⁵⁵

In Greece, undocumented migrants are largely excluded from disability support. While humanitarian permits grant access to disability benefits, the process is restrictive, and the system is plagued by administrative delays, leaving many undocumented people without necessary support.

¹⁵³ Medicos Del Mundo, 2023, [Informe de barreras al sistema nacional de salud en poblaciones vulnerabilizadas](#)

¹⁵⁴ La Cimade, Dom Asile, Committee pour sante des exilé, Médecins du Monde France, Secours Catholique, 2023, [Entraves dans l'accès à la santé : les conséquences de la réforme de 2019 sur le droit à l'aide médicale d'Etat](#)

¹⁵⁵ Art. 31, paragraph 3 of the Consolidated Text on Immigration ([Legislative Decree 286/98](#))

Immigration detention

Immigration detention - which remains widespread across Europe¹⁵⁶ - is always harmful and disproportionate.¹⁵⁷ The harmful impact of immigration detention is exacerbated when it adds to pre-existing factors that already put detainees in a situation of vulnerability. This includes children, families, people who suffered torture, violence or trafficking in human beings, and people with disabilities.

For example, within Italian immigration detention centres, cases of individuals with various disabilities, ranging from blindness to mobility issues (e.g. people using wheelchairs) and chronic disabling conditions have been documented. Many detainees also live with psycho-social disabilities, such as psychosis, PTSD, and bipolar disorder. In fact, the former UN Special Rapporteur on the rights of persons with disabilities also reported that “persons with disabilities are significantly overrepresented in mainstream settings of deprivation of liberty, such as prisons and immigration detention centres.”¹⁵⁸

In line with the recommendations of the UN Working Group on Arbitrary Detention Revised Deliberation No. 5 on deprivation of liberty of migrants and the Principles and Guidelines on migrants¹⁵⁹ in vulnerable situations, adopted by the Global Migration Group Working Group on Migration, Human Rights and Gender,¹⁶⁰ persons with disabilities should not be detained.

In the initial review of the EU by the CRPD Committee in 2016, the latter urged the EU to mainstream disability in its migration and asylum policies noting the use of detention in arrangements that do not ensure appropriate support and reasonable accommodation and the lack of accessible information and communication tools that hamper access to procedures.

The Committee also recommended “that the European Union issue guidelines to its agencies and member States that restrictive detention of persons with disabilities in the context of migration and asylum seeking is not in line with the Convention.”¹⁶¹

156 PICUM, 2021, [Preventing and Addressing Vulnerabilities in Immigration Enforcement Policies](#), p. 11-12.

157 Special Rapporteur on the human rights of migrants, 2012 “[Report of the Special Rapporteur on the human rights of migrants, François Crépeau](#)”, A/HRC/20/24; von Werthern, M. et al., 2018 “[The impact of immigration detention on mental health: a systematic review](#)” in BMC Psychiatry; Bosworth, M. and Kellezi, B., 2012 “[Quality of Life in Detention: Result from the Questionnaire Data Collected in IRC Yarl’s Wood, IRC Tinsley House, and IRC Brook House, August 2010 – June 2011](#)” Centre for Criminology University of Oxford,

158 Human Rights Council, [Rights of persons with disabilities - Report of the Special Rapporteur on the rights of persons with disabilities](#), A/HRC/40/54, para 13

159 Working Group on Arbitrary Detention, 2018, [Revised Deliberation No. 5 on deprivation of liberty of migrants](#)

160 United Nations Human Rights Officer of the High Commissioner and Global Migration Group, 2017, [Principles and Guidelines supported by practical guidance on the human rights protection of migrants in vulnerable situations](#)

161 Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of the European Union, [CRPD/C/EU/CO/1](#), 2 October 2015, paras. 34 and 35

Traditionally, under EU law, states have been allowed to use immigration detention in four contexts: to prevent entry to their territory; to carry out return/deportation; to carry out intra-European transfer (so-called Dublin) procedures; and during asylum procedures.¹⁶² However, even when there is a legal ground for detention, states should examine whether less invasive measures (e.g. alternatives to detention) can be applied instead of detaining the person.¹⁶³ Moreover, under EU law, specific considerations should be taken for vulnerable persons, including those with disabilities, but EU law does not mandate an exception from the possibility to use detention for these categories.¹⁶⁴

Even though the current EU legal framework allows for the use of immigration detention in specific circumstances and as a measure of last resort, detention is always harmful, disproportionate and ineffective. For this reason, an increasing number of international bodies have stated that detention for immigration control purposes should be progressively ended. PICUM is against the use of immigration detention in all circumstances, and calls on Member States and the European Union to put an end to it.

¹⁶² These circumstances are regulated in the Schengen Borders Code ([Regulation \(EU\) 2016/399](#)), the Return Directive ([Directive 2008/115/EC](#)), the Dublin Regulation ([Regulation \(EU\) No 604/2013](#)), and the Reception Conditions Directive ([Directive 2013/33/EU](#)), respectively. Both the Dublin Regulation and the 2013 Reception Conditions have been revised under the EU Pact on Migration and Asylum, which will enter into force in July 2026.

¹⁶³ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals OJ L 348, 24.12.2008, art. 15, available [here](#). See also CJEU, Joint cases [C-924/19 PPU, C-925/19 PPU](#) (May 14, 2020), para. 293.

¹⁶⁴ See Art. 16 Return Directive ([Directive 2008/115/EC](#)) and Art. 11 [Recast Reception Conditions Directive](#) ([Directive 2013/33/EU](#)). Moreover, under the Recast Reception Conditions Directive, persons with disabilities are subject to assessments of their 'special reception needs.' However, the processes for identifying these needs remain largely unclear, particularly for individuals with invisible disabilities. Furthermore, the European Disability Forum [has raised concerns](#) that language describing persons with disabilities as 'vulnerable' perpetuates stereotypes and contradicts a rights-based approach to disability; persons with disabilities are not per se vulnerable because of their disability but are instead disadvantaged and made vulnerable due to discriminatory and inaccessible environments. For instance, Article 25 of the Directive recommends that individual assessments be conducted by medical practitioners or psychologists. This provision, however, reflects a medical model of disability and fails to fully align with the principles of the CRPD. Additionally, the Directives leave significant room for interpretation, delegating the responsibility to Member States to ensure their migration legislation complies with CRPD obligations.

The adoption of the EU Pact on Migration and Asylum in May 2024 has not changed this fundamental principle, and risks further expanding the circumstances under which people could be detained. Under the Pact, all individuals arriving irregularly at the EU's external borders will undergo a screening process. During this time, people are not formally considered to have entered EU territory (informally referred to as 'fiction of non-entry') and are required to "remain at the disposal" of authorities at designated screening locations for up to seven days.¹⁶⁵ Furthermore, the Pact mandates that asylum border procedures be applied to broad categories of individuals based on nationality—those with an average protection rate of less than 20 percent—or if they are considered a security risk, or suspected of misleading authorities.¹⁶⁶

The border procedure will take place under similar conditions as the screening and is expected to last an average of twelve weeks.¹⁶⁷ Additionally, for individuals whose asylum applications are denied, this border procedure will also be applied to the return process, potentially extending detention by

an additional twelve weeks. Not only the fiction of non-entry could be used to justify detention to prevent irregular entry in the territory, despite people's physical presence in the EU. Due to the obligation to remain at disposal of the authorities, it is highly likely that even in circumstances that are not formally recognised as detention, restrictions of freedom of movement imposed to applicants may amount to de facto deprivation of liberty.¹⁶⁸

In the EU Migration and Asylum Pact, there is no general exclusion for people with special needs from border procedures. The legal text says that they should be excluded from border procedures when there is insufficient support available, for medical reasons, or where such procedures cannot be applied without detention.¹⁶⁹ However, the nature and location of border procedures, compounded by the legal fiction of non-entry, make it highly unlikely that any essential services will be accessible. Furthermore, even in settings not formally recognised as detention, the restrictions placed on applicants will often amount to a deprivation of liberty.

¹⁶⁵ Screening Regulation ([Regulation 2024/1356](#)). See also PICUM, 2024, [Analysis of the Screening Regulation](#)

¹⁶⁶ Art. 45, Asylum Procedure Regulation (APR) ([Regulation 2024/1348](#)).

¹⁶⁷ Art.51 Asylum Procedure Regulation (APR) ([Regulation 2024/1348](#)). This deadline can be extended to a total of 16 weeks if the person is relocated from one member state to another and the receiving member state is applying the border procedure. In situations of crisis and force majeure, defined in Article 1(4) of the so-called Crisis Regulation ([Regulation 2024/1359](#)), the asylum border procedure can be extended for six more weeks. See also PICUM, 2024, [Analysis of the Asylum Procedure Regulation and Return Border Procedure Regulation](#).

¹⁶⁸ See PICUM, 2024, [Analysis of the Asylum Procedure Regulation and Return Border Procedure Regulation](#), forthcoming

¹⁶⁹ Art. 53 Asylum Procedure Regulation (APR) ([Regulation 2024/1348](#)).

Regularisation and secure residence

Independent of disability status, there exist different challenges for people to regularise their stay, including the extent to which procedures are digitised and how expensive procedures are.¹⁷⁰ Governments have been digitising their procedures, setting up portals and online payment methods, which create opportunities but also create challenges for the digitally excluded. Moreover, fees and other costs are a common feature of regularisation measures but are prohibitively high in several countries.¹⁷¹

Application or renewal fees are not the only issue, however. Regularising one's stay involves other costs too, including paying for identity card pictures, photocopies, the translation of and/or sending for documents, the registration of biometric data, the issuing (printing) of permits, hiring a lawyer, travelling for interviews and submissions, travel costs and taking time off from work. Together, these costs can be too high for a person to bear, or simply not be accessible (e.g. not easy read, or inaccessible public transport), and cause them not to regularise even though they meet all other criteria.

Moreover, accessing benefits and other social protection measures should not be grounds for refusing to grant or extend a permit.¹⁷² Yet, some regularisation policies prevent or effectively punish people from/for accessing benefits. For instance, some residence permits do not allow people to access (all) supports. This is the case in the UK, where residence permits

on private and family life grounds prohibit access to a wide range of benefits, including child benefits, disability living allowance and income support.¹⁷³ Other permits cannot be renewed if people have accessed benefits. For instance, to renew a permit issued during Geneva's 'Operation Papyrus' people must show that they still meet the original criteria, including financial independence (i.e., not having debts or be on welfare).¹⁷⁴

Undocumented people with disabilities in Malta struggle to access regularisation pathways. Since the end of the Specific Residence Authorization (SRA) in 2020, those with chronic health conditions face barriers in renewing their precarious residency statuses. Many rely on Temporary Humanitarian Protection, which offers minimal legal protection and slow processing, leaving people in vulnerable situations without access to healthcare. Denying people access to supports, or punishing them when they do, keeps or pushes them in precarious situations and poverty. It also risks discriminating against parents, young people and people with disabilities and denies people access to vital social protection supports, including when they have been paying into the social protection system. In Sweden, third-country nationals with disabilities face significant challenges in obtaining secure and permanent residence permits; employment through subsidised programmes is not recognised as valid income for the purpose of permanent residency.

170 PICUM, 2022, [Regularisation mechanisms and programmes: why they matter and how to design them](#)

171 PICUM, 2023, [The use of fees in residence procedures in Europe: pricing people out of a residence permit?](#)

172 PICUM, 2022, [Regularisation mechanisms and programmes: why they matter and how to design them](#)

173 This and other permits are stamped 'NRPF' (No Recourse to Public Funds), meaning that permit holders cannot access public funds classed as such for immigration purposes, unless an exception applies. Source: NPRF Network, [Benefits, Public funds, exceptions, claiming benefits as a mixed household, and eligibility rules for EEA nationals](#) [Accessed on 24 October 2024]

174 PICUM, 2022, [Regularisation mechanisms and programmes: why they matter and how to design them](#), p.30

Conclusion

To bridge the knowledge gap concerning undocumented migrants with disabilities, this briefing drew on existing literature and case studies from Belgium, France, Italy, Germany, Greece, Malta and Sweden.

Undocumented migrants face significant challenges in accessing their basic human rights, such as healthcare, housing, and social services. For undocumented migrants with disabilities, these challenges are even more pronounced, as they are disproportionately affected by exclusion. Disability policies do not adequately take into account how migration status can affect persons with disabilities, such as the recognition of disability, access to support services, and the availability of assistance linked to residence permits. Even when individuals are recognised as having a disability and are entitled to disability support, their irregular migration status often excludes them from receiving these essential services.

Migration policies and procedures themselves fail to adequately account for the needs of persons with disabilities. This can manifest in various ways, including the lack of accessibility in the procedures for obtaining residence permits, which can create additional barriers for disabled individuals in navigating the migration system, the lack of recognition of disability benefits as income, or even the lack of access to community-based services in immigration detention.

As outlined in the recommendations below, the findings underscore the critical need for further research to better understand the barriers faced by migrants navigating both irregular status and disability. Such research should also inform legal and policy frameworks, ensuring a more effective response to the complex requirements of these communities.

By identifying, acknowledging, and addressing these intersecting forms of discrimination, more inclusive approaches can be adopted, dismantling barriers to equal treatment. A deeper understanding of the needs and challenges of marginalised communities, coupled with more consistent policy and legal actions, will contribute to social inclusion. In turn, this will help ensure equal access to public services and labour market participation, contributing to reduced inequalities and fostering social cohesion.

Recommendations

The set of recommendations described in this chapter are based on the identified gaps, common needs and challenges faced by undocumented people with disabilities, together with the corresponding policy and legal responses.

Implementing these recommendations requires close cooperation between the migration and disability sectors, including policymakers, NGOs, experts, researchers, etc, also in the scope of currently working networks and coalitions.

Research

Address the lack of knowledge and data on the intersection of disability and migration, particularly for those with undocumented status, in order to better understand the common needs and challenges.

This research should:

- Include their pathways to the EU, as well as daily life.
- Cover both the disability and migration perspectives, and include a wide range of instruments, such as data collection (disaggregated by disability, age, gender), investigation of human rights violations, access to support services, case studies on everyday life challenges, testimonies, etc.

Community empowerment

Ensure that people with an irregular migration status, including those with disabilities, are involved in capacity building empowerment actions. As a result, the knowledge and skills of the communities should be increased to respond to the identified needs and challenges.

Community empowerment actions should:

- Lead to full participation of undocumented migrants with disabilities in decisions that concern them - regarding policy, law, and practice.
- Ultimately should address, among others: human rights violations; enhanced cooperation with relevant stakeholders (CSOs, human rights lawyers, fundamental rights bodies, etc); fundraising.

Policy and legislation

Ensure that both targeted (e.g. migration and disability rights) and mainstream (e.g. education, labour market, health and social policy; housing, etc.) legislation and policies address the rights and requirements of people with an irregular migration status and disabilities.

Measures should be fully aligned with the human rights requirements of the European and international legal frameworks (e.g. human dignity, accessibility, non-discrimination, independent living, etc.) including:

- **Regular migration pathways:** Developing regular migration pathways on a range of grounds (e.g. labour, family reunification, etc);
- **Access to essential public services regardless of residence status:** Ensure access to healthcare, social protection, education, justice, and other essential services and benefits, irrespective of residence status. This should include disability benefits and support (e.g. personal assistance, accessibility measures, employment measures, etc).
- **End immigration detention:** Cease the practice of detaining individuals in immigration detention centres, including for persons with disabilities, as this perpetuates discrimination, violence, abuse, institutionalisation and violates human rights.
- **Community-based alternatives to detention:** Adopt community-based solutions to migration enforcement which allow people to live in the community while working on their migration procedures. These solutions include case management, which is a structured social work approach which empowers individuals to work towards case resolution (i.e., any temporary or permanent migration outcome, such as a visa, regularisation scheme, re-migration or voluntary return).¹⁷⁵
- **Pathways to regularisation:** Ensure secure access to secure residence permits, to provide long-term protection and reduce vulnerability, for people in the EU and people in screening and border procedures.

¹⁷⁵ PICUM, 2024, [Working together to end immigration detention: A collection of noteworthy practices](#)

EU funding

Ensure that all EU funding in the current 2021-2027 period and the post-2027 period supports the social inclusion of marginalised groups (e.g. access to housing, education, health, labour), irrespective of residence status, and upholds fundamental rights.

Moreover, EU funds should:

- EU funds should exclude investments that violate fundamental rights, such as walls and fences at the EU's external borders, immigration detention facilities, and building or renovating institutions and segregated living settings, surveillance systems, etc.
- Involve people with disabilities and lived experience of migration and their representative organisations in the programming, monitoring and evaluation of EU funding at national and EU level.

Legal actions

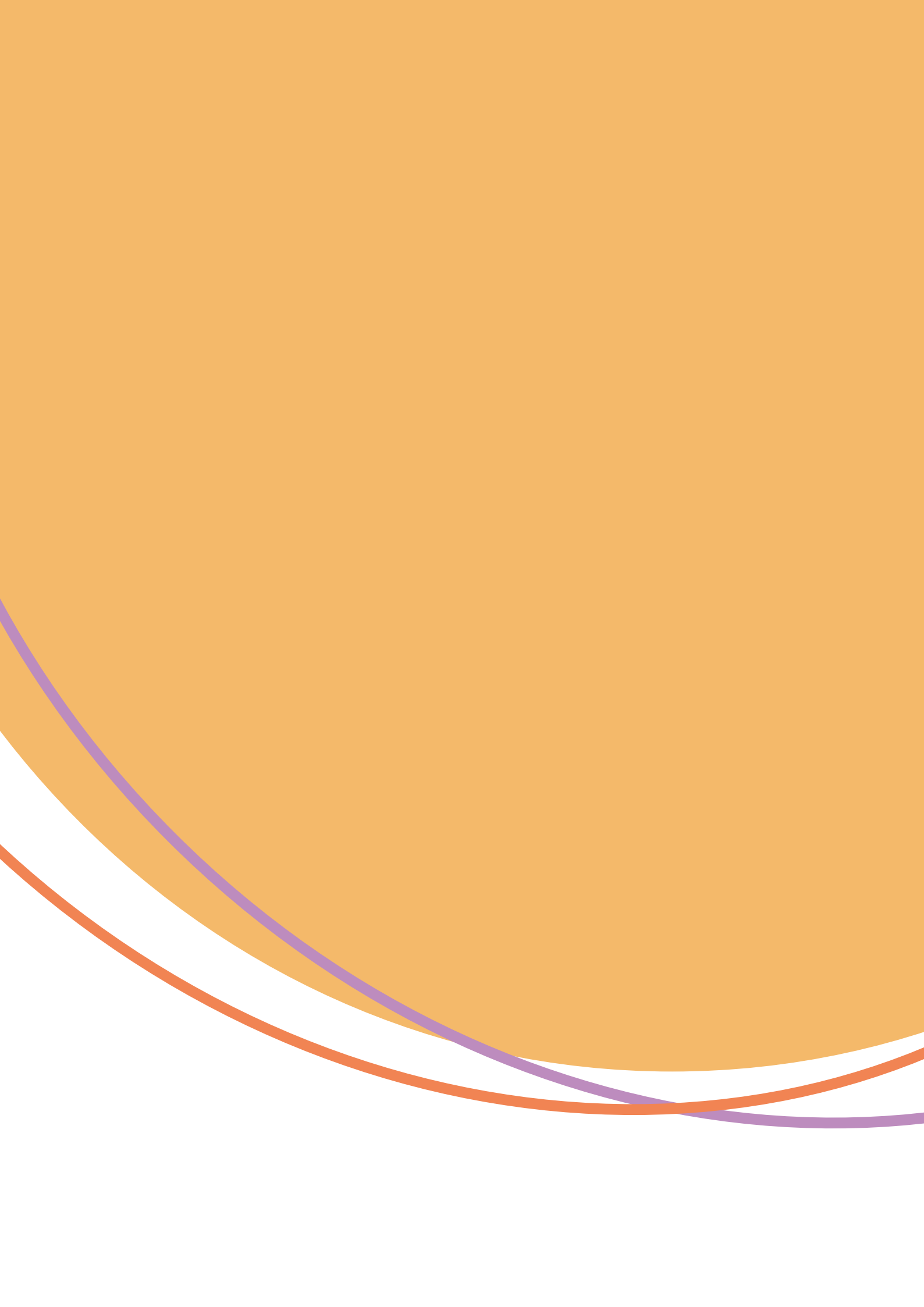
Use the available legal instruments (e.g. litigation, complaints, petitions, etc) at national and EU level to address rights violations (including human, social, disability, migrant, racialised community, etc.).

In particular, it is necessary to:

- Ensure strategic litigation responds to structural issues and use the outcomes in policy-making and to propose modification of legal frameworks.
- Foster the cooperation of human rights defenders across different sectors (e.g. disability, migrants, racialised communities, etc).

Intersectional cooperation

Cooperation between organisations representing and/or led by persons with a migration background, racialised communities and people with disabilities should be strengthened. This should include cooperation in research, advocacy, policymaking, fundraising, service design and delivery, etc.





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for social justice.

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