Policies on Health Care for Undocumented Migrants in EU27

Country Report

Romania

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Preface

Undocumented migrants have gained increasing attention in the EU as a vulnerable group which is exposed to high health risks and which poses a challenge to public health. In general, undocumented migrants face considerable barriers in accessing services. The health of undocumented migrants is at great risk due to difficult living and working conditions, often characterised by uncertainty, exploitation and dependency. National regulations often severely restrict access to healthcare for undocumented migrants. At the same time, the right to healthcare has been recognised as a human right by various international instruments ratified by various European Countries (PICUM 2007; Pace 2007). This presents a paradox for healthcare providers; if they provide care, they may act against legal and financial regulations; if they don't provide care, they violate human rights and exclude the most vulnerable persons. This paradox cannot be resolved at a practical level, but must be managed such that neither human rights nor national regulations are violated.

The EU Project, “Health Care in NowHereland”, works on the issue of improving healthcare services for undocumented migrants. Experts within research and the field identify and assess contextualised models of good practice within healthcare for undocumented migrants. This builds upon compilations of

- policies in the EU 27 at national level
- practices of healthcare for undocumented migrants at regional and local level
- experiences from NGOs and other advocacy groups from their work with undocumented migrants

As per its title, the project introduces the image of an invisible territory of NowHereland which is part of the European presence, “here and now”. How healthcare is organised in NowHereland, which policy frameworks influence healthcare provision and who the people are that live and act in this NowHereland are the central questions raised.

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<th>Healthcare in NowHereland: Improving services for undocumented migrants in the EU</th>
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<tr>
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Introduction

This report is written within the framework of the research project, *NowHereland - Health Care in NowHereland – Improving Services for Undocumented Migrants in the EU*, and one of its work packages. The focus of this work package – *policy compilation* – was to collect data on policy approaches regarding access to health care for undocumented migrants in the EU member states, to deliver 27 Country Reports and to offer a clustering of the states. A descriptive approach has been applied. In order to contextualise health care access, certain other themes are covered, such as the main characteristics of the various health systems, aspects of policies regarding undocumented migrants and the general context of migration.¹

The term used in this project is thus, “**undocumented migrants**”, which may be defined as third-country nationals without a required permit authorising them to regularly stay in the EU member states. The type of entry (e.g. legal or illegal border crossing) is thus not considered to be relevant. There are many routes to becoming undocumented; the category includes those who have been unsuccessful in the asylum procedures or violated the terms of their visas. The group does not include EU citizens from new member states, nor migrants who are within the asylum seeking process, unless they have exhausted the asylum process and are thus considered to be rejected asylum seekers.

All the reports draw upon various sources, including research reports, official reports and reports from non-governmental organisations. Statistical information was obtained from official websites and from secondary sources identified in the reports. As regards legislation, primary sources were consulted, together with the previously mentioned reports. One salient source of this project was information obtained via a questionnaire sent to recognised experts in the member states.²

¹ Information regarding the project and all 27 Country Reports can be found at [http://www.nowhereland.info/](http://www.nowhereland.info/). Here, an *Introduction* can also be found which outlines the theoretical framework and methodological considerations as well as a clustering of the states.

² For the report at hand, the person to acknowledge is: Maja Mutson, Master of Social Work, Malmö University.
The General Migration Context

Romania entered the European Union in 2007 and implements the Schengen acquis only in part and consequently does not issue Schengen visas.\(^{3}\)

Over the past 100 years, Romania has predominantly been a country of emigration, directly or indirectly connected to ethnic minorities with historical ties (e.g. to Germany or Hungary) and partly in reaction to general and ethnic-based discrimination. Additional causes of this emigration are rooted in politics and economics (Horváth 2007). Migration has been one of the most pervasive socio-economic phenomena in Romania since the fall of communism in 1989 and since then, an estimated 10-15% of the population has emigrated. However, circular or temporary migration has emerged as the main pattern of migration from Romania, comprising migration to European countries (IoM 2008). In the period from 2001-2006 (characterised by the lifting of the Schengen visa requirements), the emigration rate was 28 immigrants per 1 000 inhabitants, whilst the main destination countries were Italy (40% of all labour migrants), Spain (18%), Germany (5%), Hungary (5%) and Israel (6%) (ibid.).

The numbers with respect to immigration are smaller. In 1991, Romania received 1 602 immigrants. Thereafter, the tendency has been ascendant, with certain annual variations, with the highest number of immigrants registered in 1998 (11 907 immigrants). Since then, the number of immigrants has been at a constant level of 10-11 000 persons each year (Predescu 2008). Based on this, it may be said that Romania has little experience of developing policies for managing the reception and integration of large numbers of immigrants (Horváth 2007).

Romania is, to a lesser extent, a destination country. However, an expected economic growth, together with a deepening of labour shortages in combination with an expanding ageing population, has led the National Commission of Forecast to estimate that by 2013-2015, approximately 200 –300 000 foreign workers will enter the Romanian labour market (IoM 2008). In 2006, 7 992 work permits were issued to persons originating from Turkey, Moldova, China and France.

When analysing migration to Romania, irregular migration is an important consideration. In light of the country’s EU accession and its position at the crossroads of Eastern and Western Europe, linking South Asia with North and West Europe, it is expected that the flow of irregular migrants travelling to and settling in the country will intensify (IoM 2008).

The number of asylum seekers is low, whilst the number of asylum applications is expected to increase due to the EU regulations regarding the country's responsibility in this respect, combined with the fact that two-thirds of Romania's borders are shared with non-EU countries (Moldova, Ukraine and the former Yugoslavia). In this context, the authorities established transit and accommodation centres for asylum applicants in 2006 (Horváth 2007). However, asylum applications remain at a low level. In 2008, the number of applications was 1,180, mainly in respect of persons from Pakistan (255) and Iraq (175) (Eurostat 66/2009). The same year, 715 decisions were issued (in the first and second instance) and the rate of recognition was 16% (110 in the first instance) (Eurostat 175/2009). In 2007 and 2008, the migrants' main countries of origin were Pakistan, India, Iraq, Bangladesh and Turkey.  

**Total Population and Migrant Population**

By 1 January 2010, the population in Romania was 21,466,174 (Eurostat). By January 2008, the total number of foreign nationals was 26,000, which equalled 0.1% of Romania's population (Eurostat 94/2009). The main countries of origin of these foreign nationals were Moldova (5,500), Turkey (2,200) and China (1,900) (ibid.).

**Estimated Number of Undocumented Migrants**

There is no data in respect of the number of undocumented migrants in Romania, however it is estimated that their numbers are comparatively low in relation to the population (Baldwin-Edwards and Kraler 2009:41). Other statistics provide indications as to the number of apprehended persons staying illegally, removed persons, and the number of registered illegal border crossings, and in 2006, this involved a total of 2,298 persons (IoM 2008). The most common countries of origin of apprehended migrants in the period from 2004 – 2006 were: Turkey (3,196), Moldova (2,886), China (799), Syria (419), and Ukraine (372) (ibid.:29). Furthermore, during 2006, 1,422 persons were apprehended whilst illegally crossing the Romanian border, of which 1,008 were Moldavian (ibid.:30).

The nongovernmental organisation, Jesuit Refugee Service (JRS Romania), refers to information (with no further sources) which states that in July 2008 the number of undocumented migrants in Romania was 2,916. Of these persons, 401 were returned by force and 257 were placed into administrative detention. The returnees were sent back to countries such as Moldova, Turkey, China, India, Morocco, Nigeria, Iran, Liberia, Sudan, Cameroon and Somalia.


Categories of Undocumented Migrants

The main pathway into an irregular stay in Romania is via irregular entry, followed by the overstaying of residence permits and visas. Another, less important group, consists of rejected asylum seekers. However, the asylum process is still considered to play a role in "producing" undocumented migrants (Baldwin-Edwards & Kraler 2009:41). In 2007, there were 88 asylum requests submitted by migrants being held in detention centres (i.e. after being apprehended), and 554 of these asylum seekers had entered Romania irregularly.

Policies Regarding Undocumented Migrants

Regularization Practice, its Logic and Target Groups

Romania has not implemented any regularization programs (Baldwin-Edwards and Kraler 2009:41). The Romanian legislation relating to migration has been changed significantly as part of the EU accession, especially with respect to border controls, political asylum laws and practices, and human rights protection for minority groups (Reichel 2009:124).

In this context, it is interesting that in the Aliens Act 194/2002 Art. 103, it is stated that in certain situations, irregular (i.e. illegal) immigrants may be permitted to stay in the country. One such situation mentioned in this legislation, is where a court establishes that human trafficking is involved, and in such cases, Art. 104 of the Act provides that an irregular migrant may be permitted to stay in the country for a period of six months.

Internal Control: Accommodation, Labour, Social Security and Education

According to the Aliens Act 194/2002, undocumented migrants may not access employment or the related social security benefits, as this requires a legal stay (i.e. legal residency, employment permit, etc).

Undocumented children may access education, and this may be considered to be implicit, as there is no impediment to the enrolment of children who do not have legal residency status in the country (European Commission 2004:33).

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7 Information from ORI (Oficiul Roman ptr Imigrari) by telephone (Maja Mutson, January 2010).
Main Characteristics of the Health System

Financing, Services and Providers

Healthcare is mainly financed through social insurance contributions and supplemented by central tax revenues. Taxes are an important contribution mechanism in respect of the financing of healthcare (13% in 2005), and the state is responsible for funding public health services, capital investments, preventive activities and certain treatments falling under the national health programs. However, the dominant contribution mechanism since 1998 has consisted of social insurance and health funds, derived primarily from the population as a mandatory health insurance scheme (linked to employment) and covering the whole population. Certain categories are exempt from insurance contributions and the central government makes contributions on their behalf (the unemployed, persons completing military service or detained in penitentiaries, on sickness or maternity leave, or entitled to social security benefits, etc.) (Vlădescu et al. 2008). These exempted categories encompass approximately half of the population (Predescu 2008). Contributions to the insurance are collected by the central tax agency, and allocations from central tax revenues are pooled by the National Health Insurance Fund and allocated to the 42 District Health Insurance Funds (DHIF) and 2 national occupation-based health insurance funds. Contribution rates are set centrally and paid by employees (6.5%) and employers (7.0%). In addition, certain payments are made out-of-pocket (co-payments and informal payments). Private health insurance plays a minor supplementary role. There are two types of voluntary health insurance, namely supplementary and complementary (Vlădescu et al. 2008).

The system is administrated by The Ministry of Public Health, which regulates both the public and private health sectors and their interface. The Ministry has local representatives in all the country’s districts; The Public Health District Authorities. The National Health Insurance House administrates the health services and the social health insurance system and has local representatives in all the country’s districts; The District Health Insurance Houses (Predescu 2008). The legislative framework is The Health Reform Law (95/2006), consisting of 17 components, including social health insurance, private health insurance, hospitals, community care, primary healthcare, pharmaceuticals, emergency services, public health, national and European health cards, national health programs and professional liability (Vlădescu et al. 2008:23).

The publicly financed health system covers all citizens and residents for a broad range of health services (preventive, ambulatory and hospital care, dentistry services, medical emergency services, complementary medical rehabilitation services, all levels of maternity care, home nursing, pharmaceuticals, healthcare materials and orthopaedic devices). Services which are not covered include in vitro fertilization, adult cosmetic surgery and some dental care. The uninsured have access to a more limited package of benefits (basic services), which includes emergence care, care of communicable diseases, preventive services and family planning. In addition, all health programs funded by the Ministry of Public Health are accessible to both insured and uninsured persons. Cost sharing applies to
outpatient pharmaceuticals, long term spa treatment and specialist visits without referral (Vlădescu et al. 2008; see also Thomson et al. 2009:181). Various barriers to accessing the healthcare system have been identified, and one such barrier involves the increasing differences between different social categories in terms of rural and urban areas and income (Predescu 2008).

The basic schemes also cover pensions and unemployment benefits. There are both public and private providers of healthcare. However, most providers are state driven bodies. Primary healthcare services are provided by independent (private) practitioners (family doctors) with contractual relationships with the DHIF. Ambulatory secondary care is delivered through a network of hospital outpatient departments, centres for diagnosis and treatment and office-based specialists. There are only a few private hospitals (Vlădescu et al. 2008). In addition, there is significant activity by nongovernmental organisations (NGOs) in many health areas (orphanages and services for people living with HIV, health promotion and education, screening for asthma and COPD), financed by foreign donor agencies (ibid.).

**Basis of Entitlement**

There are different bases of entitlement to healthcare. In terms of legislation, social health insurance is compulsory for all citizens, and all citizens living within the Romanian borders are insured. Foreigners resident in Romania are insured if they are legally resident in the country (Vlădescu et al. 2008.46).

**Special Requirements for Migrants**

Foreigners, stateless persons and Romanian citizens resident in other countries on the basis of temporary residence permits, obtain social health insurance on a voluntary basis. Services included in the benefits package are accessed on the basis of a certificate, which certifies the contribution payment provided by the administration. Citizens of EU member states are provided, upon request, with European Health Insurance Cards, which allows them to receive necessary medical assistance during a temporary stay in a country within the European Economic Area and in Switzerland (Vlădescu et al. 2008.46). The Romanian Office for Immigration (as part of the Romanian Ministry of Internal Affairs) is, amongst other things, responsible for issues related to healthcare (Predescu 2008).

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9 Benefits are regulated by The Health Reform Law (95/2006).

10 The Unemployment Law (76/2002), Article 17. Benefits differ with the number of years of membership (10 years equals 12 months’ membership, 5 years equals 9 months and 1 year equals 6 months).


12 National Health Insurance Cards are issued according to The Health Reform Law (95/2006) Chapter VIII, Sec. 1, Art. 211.
In terms of the Asylum Act (122/2006 Section 1, Art. 17 (o), asylum seekers are entitled to obtain employment, healthcare and education on equal grounds as legal residents.\textsuperscript{13}

\textbf{Difference Sensitivity}

As regards adaptive structures to migrants in the healthcare system, mediation and translation services are regulated by the Aliens Act.\textsuperscript{14}

\section*{Health Care for Undocumented Migrants}

\textbf{Relevant Laws and Regulations}

There is no specific legislation regarding access to healthcare for undocumented migrants. Within the general legal framework, The Health Reform Law (95/2006), which regulates the benefits, is of relevance.

\textbf{Access to Different Types of Health Care}

Legally, undocumented migrants have no right to healthcare (Predescu 2008:49). According to The Health Reform Law (95/2006), every person who requires medical assistance in cases of emergency must be provided care. However, services (included in the basic benefits package) are accessed on the basis of a certificate which certifies the contribution payment provided by the administration.\textsuperscript{15}

This implies that undocumented migrants do not have access to emergency care. Also, care beyond emergency care is not accessible to undocumented migrants.

According to the Aliens Act, undocumented migrants held in detention centres (in Bucharest and in Arad) are entitled to free healthcare and medication.\textsuperscript{16}

\textsuperscript{13} Full quotation: “the right to receive access to the labour market under the conditions stipulated by law for Romanian citizens, after the completion of one year from the submission of the asylum application, if the asylum-seeker is still in the procedure of establishing a form of protection;”

\textsuperscript{14} The Aliens Act (194/2002).

\textsuperscript{15} National Health Insurance Cards are issued according to The Health Reform Law (95/2006) Chapter VIII, Sec. 1, Art. 211.

\textsuperscript{16} The Aliens Act (194/2002), Sec. 1, Art 99 (2) and Section 1, Art 100 (1),
Costs of Care
Care provided at detention centres is free of charge, and the cost is covered by the state (according to the Aliens Act).

Specific Entitlements
The Aliens Act states that children (under 18 years old) are entitled to healthcare, even if they are unable to prove their identity (Questionnaire Romania).

There are no specific entitlements in terms of specified diseases (including HIV, TB, etc.).

Regional and Local Variations
There are no local or regional variations in entitlements to care in terms of legislation.

Obstacles to Implementation
This topic is not relevant.

Obligation to Report
There is no obligation on healthcare staff to actively report an undocumented migrant to migration authorities. However, there is a passive obligation, which involves answering direct questions from authorities.\(^\text{17}\)

Providers and Actors

Providers of Health Care
In light of the above, it is clear that the providers of care are to be found at detention centres.

The Jesuit Refugee Service (JRS) is a non governmental organisation active in assisting undocumented migrants. Amongst other activities, they provide medical assistance. Two medical doctors and a network of young medical students support the JRS’s work as volunteers, attending to persons living in the accommodation centres. Free medical exams and analyses, vaccines and pharmaceuticals are offered by the JRS.\(^\text{18}\)

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\(^{17}\) Information from the Romanian Office for Immigration (ORI, Oficiul Roman ptr Imigrari). December 2009.

\(^{18}\) [http://www.jrseurope.org/countries/romania.htm](http://www.jrseurope.org/countries/romania.htm)
**Advocacy Groups and Campaigns on Rights**

There are nongovernmental organisations advocating on behalf of undocumented migrants. One example is the Jesuit Refugee Service (JRS) (Predescu 2008:50). However, there have not been any particular campaigns in respect of the right to healthcare for undocumented migrants.19

**Political Agenda**

Undocumented migrants are not a salient topic on the political agenda in Romania.

**International Contacts**

The Jesuit Refugee Service (JRS) is an international organisation. Médecins du Monde are active in Romania, but do not target undocumented migrants.20

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**Bibliography**


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19 This refers to information from the Romanian Office for Immigration (ORI, Oficiul Roman ptr Imigrari). December 2009.

20 http://www.medecinsdumonde.org/gb/International/Romania


