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Health Care for Undocumented Migrants: European Approaches

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ABSTRACT: European countries have smaller shares of undocumented migrants than does the United States, but these individuals have substantial needs for medical care and present difficult policy challenges even in countries with universal health insurance systems. Recent European studies show that policies in most countries provide for no more than emergency services for undocumented migrants. Smaller numbers of countries provide more services or allow undocumented migrants who meet certain requirements access to the same range of services as nationals. These experiences show it is possible to improve access to care for undocumented migrants. Strategies vary along three dimensions: 1) focusing on segments of the population, like children or pregnant women; 2) focusing on types of services, like preventive services or treatment of infectious diseases; or 3) using specific funding policies, like allowing undocumented migrants to purchase insurance.



OVERVIEW

An estimated 6.7 million—or 57 percent—of the 11.8 million undocumented migrants in the United States lacked health insurance in 2007, accounting for 14.6 percent of the nation's 46 million uninsured.¹ As the Affordable Care Act is implemented, determining whether and how to meet the medical needs of undocumented migrants will be challenging. This issue brief examines how undocumented migrants' access to care is handled in European health systems. Policies and practices vary greatly across countries and have become issues of intense debate.²

Undocumented migrants include people who have entered a country without documentation, as well those whose visas have expired. In Europe, this does not include regularized “temporary or guest workers” in guest worker programs with appropriate documentation who are covered by the national health system. Guest workers can become undocumented migrants if they overstay their work permits.

There is concern in policy circles in Europe that terminology—particularly words such as “illegal aliens”—can have a negative, inflammatory effect on thinking and arguments. A variety of terms are used in the European context, including undocumented or unauthorized migrants, people without papers, irregular or clandestine immigrants, and undocumented third-country nationals (i.e., referring to people who are neither from the European Union country in which they are staying nor any other country in the E.U.). For the purposes of consistency, we will use the term “undocumented migrant” for the remainder of this issue brief.

This paper focuses on health care arrangements for undocumented migrants, but it is important to recognize that in addition to challenges arising from their legal status, undocumented migrants also face language, cultural, and economic barriers to care that are common among immigrants. Whether such problems should be addressed by health systems (e.g., through translation services and efforts to increase cultural awareness) or by immigrants’ making needed adaptations is a highly politicized issue.

Care providers in several European countries report that undocumented migrants’ most common health care problems involve mental health, infectious and sexually transmitted diseases, and reproductive health.³ According to a project called “Health Care in Nowhereland,” which works to improve services for undocumented migrants in the E.U., barriers to care include fear of being reported, lack of information about their rights, lack of legal entitlements, costs of services, and discriminatory attitudes among health professionals.⁴

The U.S.–European Comparison

The U.S. and European Union differ in terms of the scale of their undocumented migrant populations. The total population of the 27 E.U. countries is more than 500 million, substantially exceeding the U.S.’s 300 million. Yet in the E.U., the estimated number of undocumented migrants ranges from 1.9 million to 3.8 million,⁵ far fewer than the U.S.’s estimated 11 million to 12 million. In both the U.S. and the E.U., health care for

immigrants—particularly those who lack documentation—is debated passionately.

In the U.S., attention is largely focused on migrants from Mexico and Central America and on a heavily policed border. The European immigrant population comes from many different countries, with a heavy concentration on countries in Africa, the Middle East, and the former Soviet Union. External borders of the European Union involve different countries with varying immigration policies. Concerns about trafficking, particularly of women and children, for commercial sexual exploitation or forced labor or slavery are more prominent in Europe, but policy regarding asylum-seekers and refugees is important in both the E.U. and the U.S. The human rights advocacy community is more prominent in policy discussions in the E.U. where health care is viewed as a human right rather than as a market good. The tradition of charity care by hospitals, physicians, and community health centers is more prominent in the U.S.

Undocumented Migrants: Ethical, Public Health, and Other Issues

Providing medical care for undocumented migrants in the E.U. involves several interrelated issues or concerns, including:⁶

- *Humanitarian/ethical issues:* The International Covenant on Economic, Social, and Cultural Rights, which has been ratified by most countries—although not the U.S.⁷—states that health care is a human right that should be available to everyone within the jurisdiction of a state, without discrimination.⁸ According to this argument, society should treat the poor or those who are vulnerable for a variety of reasons (e.g., age, fear, war trauma, language barriers), particularly when workers in many immigrant households do society’s dirty work.
- *Public health issues:* Public health concerns underlie policy decisions in some countries to provide services such as vaccination and prenatal care, as well as to provide treatment for communicable diseases. Providing such services to undocumented migrants also benefits population as a whole.

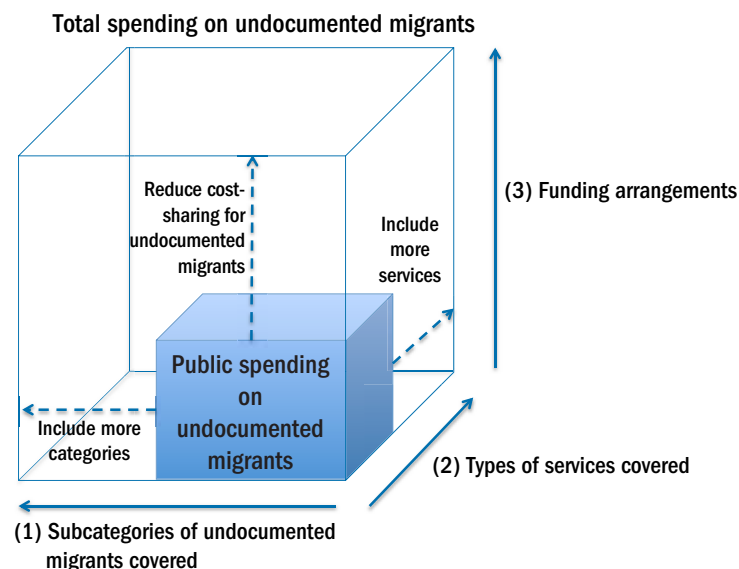
- *The “magnet” concern:* One objection to providing access to care for undocumented migrants is that doing so will attract more migrants. Little evidence is available. Similar arguments have been made in the U.S. about allowing immigrants (and immigrant children) access to education or other services.
- *The “free rider” concern:* Another argument against providing care to uninsured immigrants—particularly if they lack means to pay—is that they should not benefit from a system that others have paid for.
- *Health system concern:* In some countries, like England, that have queues for service, concerns have arisen that providing care to undocumented migrants will reduce access for others. Additionally, all countries have concerns about health care costs, which arguably would increase if services are provided to migrants. Little is known about the relative costs of different policies—allowing no access, access only to emergency services, or access to preventive services, primary care, or secondary care.

Policies Regulating Care of Uninsured Migrants in the European Union

Although undocumented migrants are accorded a right to health care under legal conventions adopted by the European Union, there is substantial room for interpretation. Specifically, there are considerable country-to-country variations regarding: 1) subcategories of the undocumented migrant population—for example, detained undocumented migrants, asylum seekers, children, victims, refugees; 2) the types of services, ranging from emergency care to a full range of services; and 3) types of funding arrangements—for example, separate funding, full coverage by the national health system, or allowing individuals to purchase insurance coverage in the statutory system. The higher the coverage in each of these three dimensions, the more comprehensive the care is in a given country (Exhibit 1).

The International Covenant on Economic, Social, and Cultural Rights and the Council of Europe have defined the provision of emergency care as a basic human right. In addition, a policy that requires screening the immigration status of people needing emergency services is not practical. However, beyond emergency care, there is great variation among European countries

Exhibit 1. Three Dimensions of Health Care Coverage Policy for Undocumented Migrants



regarding the provision of health care to undocumented migrants.⁹

The Nowhereland project grouped the European Union countries, plus Switzerland and Norway, into three categories based on a public health perspective.¹⁰ Twenty countries provide access only to emergency care, four allow access to some health services beyond emergency care, and five allow undocumented migrants that meet certain conditions—for example, proof of identify or length of residence—access to the same range of services as nationals (Exhibit 2).

To illustrate the variation in coverage among countries, this issue brief explores several countries in more depth: four countries that provide full access under certain conditions and three countries that provide access to certain services or certain categories of undocumented migrants (Exhibit 3).

COUNTRIES PROVIDING FULL ACCESS TO UNDOCUMENTED MIGRANTS UNDER SPECIFIED CONDITIONS

France

The French experience illustrates the practical challenges when a country tries to establish and implement policies to give undocumented migrants access to medical care while also trying to discourage the illegal immigration of people seeking free care from the public system. The estimated 400,000 undocumented migrants in France come mainly from Asia, Central Africa, West Africa, Algeria, Morocco, Turkey, and Chechnya,¹¹ and have a

variety of infections, chronic illnesses, and mental health conditions.

France's Universal Health Coverage Act provides publicly financed insurance coverage to all residents of the country, but there are separate laws and regulations regarding health care for undocumented migrants. The State Medical Assistance (AME) system allows a major subset of undocumented migrants to become eligible for publicly subsidized, free physician and hospital care. Undocumented migrants can apply for coverage at various health or social service centers, hospitals, and non-governmental organizations. Applications must include an identification document (e.g., passport, birth certificate, or expired residency permit), an address, evidence of in-country residence for at least three months, and proof that household income is under the threshold (€631/month as of 2009). Successful applicants receive a one-year coverage certificate that the undocumented migrant can present to care providers who can invoice the state for reimbursement. Some services (e.g., dental prostheses and corrective lenses) are excluded and there is variation within the country regarding access to services. An estimated 180,000 undocumented migrants receive AME coverage.

Undocumented migrants who do not meet AME requirements are nevertheless entitled to: care in life-threatening situations; treatment of contagious diseases, but not other chronic diseases; all types of health care for children; maternity care; and abortion for medical reasons. Undocumented migrants who have been living in France for at least three years are eligible for

Exhibit 2. Undocumented Migrants' Access to Medical Care in European Countries

Degree of access	Countries
Access only to emergency services	Austria, Bulgaria, Cyprus, Czech Republic, Denmark, Germany, Greece, Estonia, Finland, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Poland, Romania, Slovak Republic, Slovenia, Sweden
Greater access to some services or for some categories of undocumented migrants	Belgium, Italy, Norway, and the United Kingdom
Full access under specified conditions	France, the Netherlands, Portugal, Spain, Switzerland

Source: The Nowhereland Project, Center for Health and Migration/DUK, and Malmo Institute for Studies of Migration, Diversity, and Welfare, *Two Landscapes of Nowhereland: Fact Sheet Policies*, 2010.

Exhibit 3. Health Care Access to Undocumented Migrants in Seven European Countries

Country	Undocumented migrants as percentage of population	Main vehicle for covering undocumented migrants	Benefits	Additional notes
England	1.2%	National Health Service (NHS)	Emergency care and certain infectious diseases with public health hazard. NHS requires hospitals to confirm the ability to pay of patients not covered by the NHS.	Cost must either be covered by the patient or taken out of the hospital's budget, which creates a barrier
France	0.6%	State Medical Assistance (AME)	Full range as provided in the public system	Undocumented migrants without AME eligibility are entitled to emergency care, pediatric care, and maternity care
Germany	0.6% to 1.8%	Separate tax-funded scheme where providers can receive reimbursement for the costs of emergency treatment	All emergency care. Several categories of "planned care," only accessible with a medical card.	Undocumented migrants face a high barrier when applying for a medical card in the welfare office because the office must report the individual to the authorities, which could lead to deportation
Italy	0.3% to 1.6%	Undocumented migrants can apply to a local national health service office for a temporary (i.e., six-month) health card	Health card entitles urgent care, essential care, preventive care (including maternity care), and diagnosis/treatment of infectious diseases.	There are local differences in interpretation of the law and willingness to provide services. There are reports of many people without access.
Netherlands	0.4% to 1.4%	Separate tax-funded scheme in which the government pays providers for undocumented migrant care at 80% of normal fees for costs that cannot be recovered from the patient	Full range as provided in the public system	The requirement that patients be billed and the limited number of contracted providers for services provided on referrals may create barriers to care
Spain	0.8%	Undocumented migrants are covered by the national health service if they have registered as residents of the municipality	Full range as provided in the public system	The requirements for registration with a municipality (valid passport, a proven residency) and the fact that police have access to registers constitute the greatest barriers
Switzerland	1.0 % to 1.3%	Undocumented migrants are required to purchase insurance in the statutory health insurance system provided by private insurers. There are income-related subsidies.	Full range as provided in the public system	High premiums, cost-sharing requirements, and administrative procedures may seriously hamper undocumented migrants' ability to purchase insurance. Undocumented migrants mostly rely on basic health care provided by the cantons.

Source: Country-specific reports from the Nowhereland Project and the Platform for International Cooperation on Undocumented Migrants (PICUM).

“home medical assistance,” which is less comprehensive than the AME but that nevertheless allows them to see general practitioners without charge. The Platform for International Cooperation on Undocumented Migrants (PICUM) has observed that documenting three years of continuous residence can be difficult.

People who become undocumented when their status as legal immigrants expires can remain insured for up to four additional years.

Even with these systems in place, undocumented migrants face many practical difficulties in getting care. According to PICUM, thousands of undocumented migrants do not have AME coverage for which they appeared to be entitled.¹² The main reasons cited include: 1) uneven interpretation and implementation of the law across agencies and cities, 2) undocumented migrants’ lack of awareness of the program, and 3) lack of acceptable identification documents or adequate evidence regarding residency requirements. Some doctors and pharmacies reportedly refuse to serve people with AME coverage.

The Netherlands

In the Netherlands, arrangements for care of undocumented migrants—an estimated 0.4 percent to 1.4 percent of the population—have changed in recent years. Under reforms initiated in 2006, all citizens and legal residents are obliged to purchase private insurance coverage, as are nonresidents who pay income tax.¹³ Separate arrangements were made under which providers were paid by the government for their service to undocumented migrants.

In 2009, a new scheme defined the terms under which government would pay providers for care to undocumented migrants. It distinguishes among types of care and, to a certain extent, types of undocumented migrants. Providers are paid on a fee-for-service basis—generally at 80 percent of normal fees—for “medically necessary care” to undocumented migrants, if the providers previously tried to recover the costs from the patient but were unsuccessful. The scheme distinguishes between services that are directly accessible and those that require a referral or prescription. For directly accessible

services—which involve general practitioners; midwives; dentists, for patients up to age 18; physiotherapists; and hospital emergency departments—all providers can be reimbursed for service to undocumented migrants. For services requiring a referral—those provided by hospital departments other than the emergency room, specialist physicians, nursing homes, and dispensaries—reimbursement is available only to specifically contracted providers.

The requirement that patients be billed for some services and the limited number of contracted providers for services provided on referrals may create barriers to care.¹⁴ Even so, the Dutch arrangements go further than do those of most other countries in regularizing access for undocumented migrants.¹⁵

Spain

There were an estimated 354,000 undocumented migrants living in Spain in early 2008, mostly individuals who overstayed their visas.

In theory, Spain provides some of the broadest health coverage to undocumented migrants in Europe. Since the mid-1990s, several regularization programs have granted legal status to approximately 1 million undocumented migrants in Spain.¹⁶ The regionally organized, tax-funded National Health Service provides universal coverage with free health care at the point of delivery. Undocumented migrants are included if they have registered as residents of the municipality, thereby obtaining a health card. Undocumented migrants who are not registered in a municipality are entitled to emergency treatment free of charge. Interpretation and practice may vary across Spain’s 17 regions. For example, Madrid has provided health cards to undocumented migrants without requiring them to register. Some Spanish authorities and providers have organized information campaigns aimed at undocumented migrants and have distributed printed materials to inform and facilitate their access to health care.

Nevertheless, undocumented migrants face many practical obstacles accessing the health system. The requirements for registration with a municipality (i.e., valid passport, proven residency) and the fact that police have access to registers constitute the greatest barriers.

Recently the situation has worsened. Spain's conservative government approved a law that denies undocumented migrants full access to the public system. From September 2012, undocumented migrants only have access to emergency, maternity, and pediatric care. More than 1,300 Spanish doctors and nurses have vowed to continue treating undocumented migrants.¹⁷

Switzerland

A 2005 study estimated the number of undocumented migrants in Switzerland at 80,000 to 100,000. Most are believed to be former seasonal workers from non-European Union countries who overstayed their residence permits. Article 12 of the Swiss constitution gives every person the right to basic health care, but Switzerland's 26 cantons are responsible for incorporating article 12 into their respective bodies of law.

Undocumented migrants, like any person present in Switzerland for more than three months, have the obligation and the right to purchase statutory health insurance provided by private companies. There are income-related subsidies. Insurers are obliged to accept all applicants for the basic package of benefits, regardless of individual risk. Applicants have to provide their full name, date of birth, a contact address, and a bank or post office address.

The process may be complicated for undocumented migrants. Expensive insurance premiums and cost-sharing requirements, as well as complex administrative procedures and requirements for subsidies, may seriously hamper their ability to purchase insurance. As a result, undocumented migrants often rely on their right to basic health care as implemented by the cantons, which can vary in scope. Most cantons provide only emergency care. In practice, undocumented migrants may bear the full costs of nonemergency health services, effectively making such care unaffordable.¹⁸

COUNTRIES PROVIDING ACCESS TO NONEMERGENCY SERVICES OR PROVIDING CARE TO CERTAIN CATEGORIES OF UNDOCUMENTED MIGRANTS

Italy

Italy is one of the largest immigrant countries in Europe, with foreign-born individuals representing almost 6 percent of the population. Estimates of the number of undocumented migrants range from 200,000 to 1 million people.¹⁹ Most entered the country legally on tourist or work visas and remained after they expired. The main countries of origin are Romania, Albania, Morocco, Ukraine, China, Tunisia, and Poland.

Italy's tax-funded health system covers all citizens and regular immigrants who register with a local health administration and receive a health card that entitles them to primary, inpatient, and emergency care that is free at the point of service. There are copayments for most other services, though there are exemptions for senior citizens and people with low incomes or with chronic diseases, as well as pregnant women and prisoners.

Undocumented migrants cannot register in the mainstream health system. However, they can apply to a local office of the national health system for a six-month health card that entitles them to urgent care, as well as essential care for diseases that could become dangerous. Undocumented migrants are also entitled to preventive care, including maternity care, and diagnosis and treatment of infectious diseases.

There may be barriers to access related to knowledge, culture, and language, as well as fear. Physicians and office staff are prohibited from reporting undocumented migrants to authorities, but legislation to require reporting has been publicly debated in recent years.²⁰ The allowable copayments may also create financial barriers.

There are also local differences interpreting what the law requires and in willingness to provide services. However, a number of nongovernmental organizations and charitable health care providers serve undocumented migrants regardless of whether they have gone through the process to gain an entitlement.²¹

England

In England, the National Health Service (NHS) is funded from general taxes and care is largely free at the point of service to all “ordinary residents.” Visitors and undocumented migrants have access only in emergencies and for certain infectious diseases that constitute a public health hazard.²² Hospitals are owned by the NHS, and the specialist physicians based therein are salaried employees. General practitioner (GP) physicians receive an annual capitation payment for registered patients. This structure creates barriers to care for undocumented migrants.

NHS regulations require hospitals to ascertain the status of all patients and, for patients not covered by the NHS, to confirm the ability to pay. If a medical professional determines that a treatment is immediately necessary, it must be provided, but the cost must either be covered by the patient or taken out of the hospital’s budget. However, hospitals are reimbursed by the NHS for accident and emergency services and treatment of certain communicable diseases provided to non-NHS patients. HIV/AIDS is not on the list of communicable diseases eligible for free care. Undocumented migrants with HIV or AIDS may be admitted if critically ill and in immediate danger, but they will not be eligible for further services after discharge.²³ For routine primary care, unless non-NHS patients have the means to pay, their access to care depends upon finding a provider willing and able to provide service without additional compensation. Patients without proper documentation may be unable to get beyond the receptionist in a practice.²⁴

Germany

Estimates of the number of undocumented migrants in Germany range from 500,000 to 1.5 million. A complicated regulatory framework for immigrants has led to a great deal of uncertainty for undocumented migrants, health professionals, and administrators. Rules for emergency care differ from those for planned services.

Hospitals and GPs are obliged to provide emergency care to undocumented migrants. Health workers and administrators in health establishments are not required to report undocumented migrants to authorities,

but other public officials are. Providers can receive reimbursement for the costs of emergency treatment from the tax-funded social welfare office. Under such circumstances, the social welfare office does not have to report the undocumented migrant because the provider, who is applying for funding, has professional confidentiality protections which are extended to the office.

In case of planned care for serious illness or acute pain, improvement or relief of illnesses and their consequences, postnatal care, preventive care, and infectious and sexually transmitted diseases, undocumented migrants are entitled to the same publicly subsidized health care benefits as asylum seekers residing in Germany but they must have a medical card.

Undocumented migrants must personally apply for a medical card in the welfare office. Since the application comes from the undocumented migrant, not the provider, the welfare office is obliged to report the undocumented migrant to the immigration office. This deters applications since the process could eventually lead to deportation unless the undocumented migrant successfully applies for a temporary residence permit, known as *Duldung*. However, applying for *Duldung* only temporarily suspends a potential deportation. Special rules exist for children and pregnant women and traumatized persons, but access to maternity and child care is only possible after a successful application for a *Duldung*.

Consequently, as a practical matter, undocumented migrants have difficulty accessing planned care and many obtain such services only if they can pay out-of-pocket or providers are willing to forgo their fees.

In addition, the Law for Infectious Diseases provides for anonymous counseling and check-ups for patients with tuberculosis and sexually transmitted diseases. Such services are provided at public health offices.

For most of their care needs, undocumented migrants rely on professionals’ willingness to offer free treatment or on the ability of charitable, religious, or aid organizations to provide assistance. The number of such charitable activities has been increasing. Most provide direct treatment and medication or pay for treatments from providers willing to treat undocumented migrants.

Berlin is aiming to regularize medical treatment for undocumented migrants and has proposed increasing access through anonymous health insurance cards, anonymous payments, and guaranteed doctor's fees.^{25,26}

CONCLUSIONS AND OPPORTUNITIES FOR CROSS-NATIONAL LEARNING

There is no standard European approach to care for undocumented migrants. It is difficult to pinpoint the reasons why countries differ in their policies but factors such as the history and magnitude of a country's experience with immigration probably play a role, as well as the overall political climates and prevailing attitudes toward migrants and immigration.²⁷

In addition to the legal complexities presented by undocumented migrants, they also create moral dilemmas for providers who may have to choose between providing care that is against national regulations or violating recognized human rights and their own moral standards.²⁸ Some adopt a strategy termed "functional ignorance,"²⁹ where the legal status of a care seeker is not ascertained by providers.

In many European countries, health care access for undocumented migrants is as much of a policy and political problem as it is in the United States. Although undocumented migrants have the right to health care under legal conventions adopted by the European Union, these regulations leave substantial room for interpretation. In most countries, the right to health care is interpreted as access to emergency care. But even in countries that provide full access, barriers remain because of the vulnerable position of the undocumented migrant. A right to care does not necessarily equate to full access to the health system. Gaps between policy and practice exist, although there is a lack of good data to describe the extent of the problem. Most available evidence is patchy and anecdotal.

Even so, the experience of several European countries shows it is possible to substantially improve access to care for undocumented migrants. Options to cover undocumented migrants can vary along three dimensions: 1) particular segments of the undocumented population, 2) particular types of services, or

3) funding arrangements. Examples of various strategies include Switzerland's policy of allowing undocumented migrants to obtain insurance coverage in the national system, Spain's former strategy of providing undocumented migrants with coverage in the national health service even without their financial contributions, and the Netherlands' plan to provide an additional source of funding to ensure that physicians and hospitals receive compensation for providing services to undocumented migrants. Policies to provide undocumented migrants with access to care may be more feasible in countries that have universal health insurance coverage because that coverage negates arguments that undocumented migrants are getting privileges not available to citizens. But even in countries with universal coverage, providing access to undocumented migrants requires explicit policy efforts.

The challenge of covering undocumented migrants is arguably more urgent in the U.S. than in the E.U., given the size of the U.S.'s undocumented migrant population and the implementation of the Affordable Care Act, which explicitly excludes them. There is little solid evidence regarding the cost-effectiveness and public health benefits of providing care to undocumented migrants. And despite economic arguments against providing coverage to undocumented migrants, evidence shows that the number of undocumented migrants in the U.S. has leveled off or declined, that many pay taxes and have insurance coverage, and that they do not cost more to cover or utilize more services than U.S.-born citizens.³⁰ The myriad policies in Europe could provide a tool box for the U.S., but experience in Europe shows that even with supportive policies, undocumented migrants often face formidable language, legal, cultural, and bureaucratic barriers to obtaining care.

NOTES

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- ⁸ *Ibid.* Article 12 and General Comment 14.
- ⁹ C. Björngren Cuadra and S. Cattacin, *Policies on Health Care for Undocumented Migrants in the European Union and Switzerland: Towards a Comparative Framework. Summary Report, Second Ed.* (Malmö University, Jan. 2011). See also C. Björngren Cuadra, “Right of Access to Health Care for Undocumented Migrants in European Union: A Comparative Study of National Policies,” *European Journal of Public Health*, 2012 22(2):267–71. More information is available from the Center for Health and Migration at <http://www.c-hm.com>.
- ¹⁰ Other groupings are possible. The Nowhereland project also grouped countries into three categories based on undocumented migrants’ right of access to care. Here, six countries (France, Italy, the Netherlands, Portugal, Spain, and Switzerland) give undocumented migrants the right (or more than a minimum right) to obtain emergency care and also primary and hospital care free of charge or for modest fees. However, there may be administrative requirements (e.g., a required period of stay before eligibility is established) that must be met before undocumented migrants become eligible for services.
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- ²⁸ C. Björngren-Cuadra and S. Cattacin, *Policies on Health Care for Undocumented Migrants in the European Union 27: Towards a Comparative Framework, Summary Report* (Health Care in Nowhereland, 2010).
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