



*Health Care in*

**NOWHERELAND**

*improving services for  
undocumented migrants in the EU*

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## **Policies on Health Care for Undocumented Migrants in EU27**

Country Report

Czech Republic

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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.

### **Healthcare in NowHereland: Improving services for undocumented migrants in the EU**

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#### *Partners:*

Centre for Health and Migration at the Danube University, Krems (AT) (main coordinator)

Platform for International Cooperation on Undocumented Migrants (BE)

Azienda Unità Sanitaria Locale di Reggio Emilia (IT)

Centre for Research and Studies in Sociology (PT)

Malmö Institute for Studies of Migration, Diversity and Welfare (SE)

University of Brighton (UK)

## 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.<sup>1</sup>

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.<sup>2</sup>

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<sup>1</sup> Information regarding the project and all 27 Country Reports can be found at <http://www.nowhereland.info/>. Here, an *Introduction* can also be found which outlines the theoretical framework and method as well as a clustering of the states.

<sup>2</sup> For the report at hand, the person to acknowledge is: Karolína Dobiášová, Senior Lecturer, Institute of Sociological Studies, Faculty of Social Sciences, Charles University, Prague and researcher for Mighealth.net in Czech Republic.

## The General Migration Context

The Czech Republic became a member of the European Union in 2004 and joined the Schengen Agreement in December 2007. The Czech Republic is situated at the border of the Schengen area.

Up until 1989, the Czech Republic (at that time part of Czechoslovakia) experienced modest international migration as the communist regime applied a very restrictive and specific migration policy (similar to those in other socialist/communist countries (Drbohlav & Medová [2008]2009). During this era, there was also a significant migratory outflow of political emigrants. Since 1989, the Czech Republic has become an immigration and transit friendly country. Up until 1997, liberal migration policies and practices were applied and the numbers of immigrants increased, attracted by the need for labour. During the same period, and due to the geographical position of the country in the middle of Central/Eastern Europe, many transit (irregular) migrants looked to migrate west. In terms of the management of migration, a new era began after the Czech Republic became a member of the European Union (in May 2004), with the harmonization of the migratory legislation and practices with those in the EU. In the field of migration and integration policy, the Czech Republic has adopted pro-active and systematic measures. In this context, combating irregular migration and migrants' irregular economic activities are also one of the priorities (ibid.).

Over the past years, the Czech Republic has had a net-immigration due to a rapidly growing economy and the demand for cheap, low skilled labour (esp. within the construction and manufacturing industry) and helped also by the organisation offered by mediators such as brokers and agencies (Drbohlav & Medová [2008]2009). Since 1993, a long-term increase in the number of foreigners has been recorded - in 1993 there were only 77 668 foreigners staying in the Czech Republic. Since 1996, there has been a gradual rise in the share of permanent residence permits (mostly linked to family reasons) at the expense of long-term residence permits (chiefly economic migrants) – from approximately 23% to the current 43%. The reasons can be found primarily within legislation, where conditions for obtaining permanent residence have been eased. In 2007, 653 241 visas were issued (including 292 316 to Russian and 142 245 to Ukrainian citizens) (Drbohlav & Medová [2008]2009).

Asylum seekers are not a significant group in the Czech migration context. Between 1994 and 2007, of 79 363 asylum seekers, only 1 969 gained asylum in the country (2.5%) (ibid. with reference to Horáková 2008<sup>3</sup>). In 2008, 1 650 asylum seekers applied for asylum in the Czech Republic (Eurostat 66/2009). Among those, 320 came from Ukraine and 250 from Turkey (ibid.). The same year, 2 880 decisions were issued (in the first and second

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<sup>3</sup> Horáková, M. (2008). Mezinárodní pracovní migrace v ČR (*International Migration in the Czech Republic*). Bulletin VÚPSV, No. 20, Praha: VÚPSV.

instance) and the rate of recognition was 15.5 % (in the first instance) (Eurostat 175/2009).

### **Total Population and Migrant Population**

By 1 January 2010, the population of the Czech Republic was 10 512 397 (Eurostat)<sup>4</sup>. As at 31 October 2009, foreign nationals numbered 436 116, or approximately 4% of the population. Of these, approximately 132 481 were from Ukraine and 75 210 were from Slovakia. The latter represent a very specific group, due to a shared history within one state and are not migrants in terms of mobility. Other significant groups are migrants from Vietnam (61 012) and Russia (29 976) (Questionnaire Czech republic with reference to Czech statistical office). The population of both legal and irregular migrants (see below) is probably the highest among all post-communist countries (Drbohlav & Medová [2008]2009). According to statistics from Eurostat, in 2008 foreign nationals numbered 348 000 (Eurostat 94/2009). Among these, 103 400 were from Ukraine, 67 900 from Slovakia and 42 300 from Vietnam (ibid.).

### **Estimated Number of Undocumented Migrants**

Estimates of the number of undocumented migrants in the Czech Republic range from 15 000 to more than 300 000. An estimate from 2003 mentions 195 000 undocumented migrants, which is comparatively high and equals 1.9 % of the population (Baldwin-Edwards & Kraler 2009:41). However, the numbers can be expected to have decreased since 2000 (due to EU enlargement) (Reichel 2009: 34). The majority of the undocumented migrants probably derive from Ukraine, Vietnam, Moldova, Russia, Belarus and China. They are "driven" by demand for labour in the informal sector and the need to fill short or long-term gaps in the Czech labour market and reside mainly in Prague and other highly urbanized areas (Drbohlav & Medová [2008]2009).

### **Categories of Undocumented Migrants**

In the Czech Republic there are undocumented migrants who have followed different pathways in reaching their present situation, whilst the asylum system definitely also plays a role in "producing" undocumented migrants (Baldwin-Edwards & Kraler 2009:41). The main categories consists of persons who are "visa overstayers" (Reichel 2009:107). They can be understood as being "partially legalized" by virtue of having (presently or previously) a visa or permit, although not of the type required for obtaining employment. Furthermore, migrants who can be considered as "truly irregular" (those who never had any type of visa or residence permit, i.e., entered illegally), appear to be an uncommon type of irregular labour (Drbohlav & Medová [2008]2009). The pathways into irregularity are:

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<sup>4</sup> Eurostat.

<http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&language=en&pcode=tps00001&tableSelection=1&footnotes=yes&labeling=labels&plugin=1> (09-03-2010).

visa overstaying (especially in the case of tourist visas); violating conditions of work permits or trade license; working while waiting for (or being refused) asylum status; not respecting administrative procedures (tied to the immigration process as per The Act on Residence of Foreigners No. 326/1999 Coll.) (ibid.). In summation, in the Czech context, asylum seekers who unlawfully work and persons with a work permit working with something else, are referred to as irregular.

## **Policies Regarding Undocumented Migrants**

### **Regularization Practice, its Logic and Target Groups**

The Czech Republic has not conducted any regularisation program (Baldwin-Edwards & Kraler 2009:41). The general policy towards undocumented migrants is very strict, as there is (almost) no possibility to obtain legal status (Reichel 2009:34). There was, however, an action plan in 2004 to combat illegal migration (aimed at prevention, control, sanction, legislation and cooperation both nationally and internationally) (ibid.). Undocumented migrants are criminalized to a large extent. There is no current plan to regularise (did).

### **Internal Control: Accommodation, Labour, Social Security and Education**

In accordance with Act No. 40/1964 Collection of Laws (Civil Code) [undocumented] migrants can sign a contract for accommodation. However, persons renting accommodation to foreign nationals are obliged by law to report such to the police. Failure to report can be penalised. In practice, it is almost impossible for undocumented migrants to sign a contract for accommodation. Undocumented migrants can neither gain access to work nor the related social security (Questionnaire Czech Republic).

With respect to schooling, the Czech Republic explicitly permits school enrolment for undocumented children, in terms of The Czech Republic: Regulation No. 21 836/2000-11 (European Commission 2004:33). Furthermore, in terms of Act No 561/2004 Collection of Law (School law), § 20, article 2, persons from non EU countries have the right to basic (primary) school education. However, other types of education, such as secondary school, college, etc, require legal residency. (Questionnaire Czech Republic).

## **Main Characteristics of the Health System**

### **Financing, Services and Providers**

The welfare system in the Czech Republic is mainly financed by state driven insurance. Health care is thus mainly financed through social insurance contributions and supplemented by central and municipal taxes (appr.10%). Social insurance contributions

are levied on earnings at a centrally set rate (with employers contributing 9.0% and employees 4.5%) and specific rates apply to self-employed people. The publicly financed health system covers all citizens (the membership is universal), who are required to enrol with one of nine health insurance non-profit funds. The central Government makes contributions on behalf of children, unemployed people, soldiers and pensioners. The General Health Insurance Fund (the statutory insurer) provides also private health insurance, mainly to non-residents and to Czech residents travelling abroad (Thomson et al. 2009:124ff).

There is only a very small market for voluntary insurance (approximately 0.1% of health expenditure). This includes coverage for foreign nationals who are not eligible for the statutory health insurance system as well as for certain services not provided under the state system (e.g. cosmetic surgery or some kinds of dental care) (Rokosová and Háva 2005: 35).

Individuals have free choice of health insurance funds. The General Health Insurance Fund is obliged to accept all applications and is therefore the largest insurer, covering approximately 75% of the population.

The level of benefits covered by the statutory health insurance is very high, even including spas and over-the-counter drugs. The benefits package covers a broad range of services (universal). Out-of-pocket payments are required mainly for drugs, dental care and medical aids. Even informal payment occurs (Rokosová and Háva 2005:35). From 2008, cost sharing was introduced for doctor visits, inpatient stays and the use of the emergency department, with exemptions for pregnant women, chronically ill people and people with low incomes (Thomson et al. 2009:124).

One of the main features of the health care system in the Czech Republic is diversity of provision, with mainly private ambulatory care providers and public hospitals which have contractual arrangements with the insurance fund (Rokosová and Háva 2005:15). The general practitioners in primary care are to a large extent private (95%) and most hospitals are public. Collectively, outpatient healthcare is 80 % private. Outpatient healthcare consists of 47,5% primary care (GPs) and 52,5% outpatient specialists (Institute of Health Information and statistics of the Czech Republic 2007 - [www.uzis.cz](http://www.uzis.cz)).

Citizens register with a primary health care physician of their choice and can re-register with a new physician every three months (ibid.:46). Nongovernmental organisations have a minor role in health care and operate at the interface of social care (Rokosová and Háva 2005:58).

### **Basis of Entitlement**

The basis of entitlement to health care in the Czech Republic is legal residency, which also applies to foreign nationals (Questionnaire Czech Republic).

### **Special Requirements for Migrants**

Under certain prerequisites, effectively insurance regulated through legal residency, employment or an ongoing decision process (ex. for asylum), foreigners (EU and non-EU countries) participate in the public health insurance and access health care similarly to Czech citizens. This is the case if they have permanent residence or long-term permits (with a visa for a period exceeding 90 days) and are employed by an employer residing in the country. So too for persons from EU countries who run a business in the Czech Republic and for their children and spouses. This also applies to asylum seekers and children born to asylum seeking women (during the process of decision or if they have not yet gotten a negative decision) as well as children of persons with permanent permits (if applied for). Foreigners from non-EU countries with a long-term permit (with a visa for a period exceeding 90 days) and who are not employed in the Czech Republic (such as entrepreneurs, housewives, and children) have to purchase commercial health insurance (approximately 25 % of foreign nationals from “non EU countries”). There is an ongoing debate as to whether to grant them (i.e. third country nationals/ non-EU migrants) access to the public insurance (Questionnaire Czech Republic).

### **Difference Sensitivity**

Generally speaking, there are some adaptive structures to migrants in the health care system in the Czech Republic, however these are mainly integrated in the education of healthcare providers. They can be found in university level curriculums for health professionals (Questionnaire Czech Republic).<sup>5</sup>

## **Health Care for Undocumented Migrants**

### **Relevant Laws and Regulations**

In the Czech Republic there is no specific legislation relating to the right to health care for undocumented migrants. The relevant laws are instead found in Act No. 20/1966 Collection of Laws on Care for the People’s Health, § 30 which regulates circumstances under which health care is provided to foreigners.

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<sup>5</sup> Exampels can be found at [http://mighealth.net/cz/index.php/Hlavn%C3%AD\\_strana](http://mighealth.net/cz/index.php/Hlavn%C3%AD_strana) topic5. (20-01-2010).

Also relevant is the Bill of Fundamental Rights and Freedoms (Constitutional Law No 2/1993 Collection of Laws, article 31) of which provides that all persons have the right to health and the right to free health care on the basis of public health insurance.

Also, Act No. 20/1966 Coll., on Care for the People's Health, § 55, article 2 c) states that all health care workers must provide acute and urgent care to all, in cases of risk of life or serious risk of health and where such is not available by the usual way.

### **Access to Different Types of Health Care**

In the Czech context, persons who do not have access to the public insurance are supposed to purchase a private insurance. In that case, they access care in accordance with the contract.<sup>6</sup> However, if they are uninsured they have access to emergency care in accordance with the act on Care for the People's Health, § 55, article 2 c) due to the health workers obligation to provide acute and urgent care to all (Act No. 20/1966 Coll.).

### **Costs of Care**

Regarding the cost of care, undocumented migrants are supposed to personally fund the full cost of emergency care if they do not have a private insurance. However, if they are insured (i.e. have purchased a commercial health insurance) with a basic scheme, the cost for emergency care is covered by the insurance. If they have a more extensive insurance (Health Insurance of Foreigners – complete care provided by VZP a.s. insurance company), the cost is also covered for primary and secondary care. This is in accordance with Act No. 20/1966 Collection of Laws on Care for the People's Health, § 30 which states that health care is provided to foreigners: a) free of charge; in accordance with international agreements, b) without direct payment; if payment is covered by the public health insurance or by the commercial health insurance, c) via personally funded payment.

It is likely that a minority of undocumented migrants purchase a private insurance and it can be concluded that they are expected to pay the full costs when seeking emergency care. As undocumented migrants who are not insured have to pay for health care (also for emergency care) personally, they can become indebted to the health care providers (Questionnaire Czech Republic).

### **Specific Entitlements**

In regard to the entitlement to health care for undocumented migrants, there are no specifically identified groups; not children, pregnant women nor identified diseases (such as HIV or TB).

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<sup>6</sup> see <http://www.en.domavcr.cz/advice-for-living-in-the-czech-republic/health-and-healthcare> (21-01-2010).

## **Regional and Local Variations**

Entitlement in terms of legislation does not vary regionally or locally in the Czech Republic.

## **Obstacles to Implementation**

Given that there is no specific legislation on the right to health care, this is not a relevant topic. However, with respect to the prerequisite to purchase a private insurance, it has been estimated that among the regular migrants 25% of them are uninsured. There is no data in respect of undocumented migrants, but these can be assumed to be minimal (Questionnaire Czech Republic).

## **Obligation to Report**

There is no obligation on health care staff to report a patient to authorities such as the police in the Czech Republic. Based on qualitative research focused on health professionals' experience in providing health care to migrants, it can though be said to occur occasionally, since staff think that they are obliged to report.<sup>7</sup>

## **Providers and Actors**

### *Providers of Health Care*

Given the limited entitlement to care, the main providers can be found among the general hospitals' emergency units (Questionnaire Czech Republic).

The providers of care can thus be found in the main cities and there is no cooperation. (Questionnaire Czech Republic).

### *Advocacy Groups and Campaigns on Rights*

In the Czech Republic there are advocacy groups championing the rights of undocumented migrants found among non governmental organisations. For example, The Counselling Centre for Citizenship, Civil and Human Rights. <sup>8</sup>However, there have not been any particular information campaigns regarding the right to healthcare for undocumented migrants (Questionnaire Czech Republic).

### *Political Agenda*

There is not a widespread discussion concerning undocumented migrants within the political arena (Drbohlav and Medová ([2008]2009).

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<sup>7</sup> <http://www.migraceonline.cz/e-knihovna/?x=2210093> Study by Karolína Dobiášová. (20-01-2010).

<sup>8</sup> <http://www.poradna-prava.cz/en>

### *International Contacts*

Actors in the field of health care for undocumented migrants in the Czech Republic do not have international contacts through international organizations, apart from Caritas. Caritas<sup>9</sup> official profile does not however include undocumented migrants (Questionnaire Czech Republic). Caritas leads projects in Moldova and Ukraine, which are designed to prevent illegal migration to the Czech Republic.<sup>10</sup>

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<sup>9</sup> <http://www.charita.cz/default.asp?nLanguageID=2>

<sup>10</sup> <http://www.charita.cz/article.asp?nArticleID=1263&nDepartmentID=424&nLanguageID=2>  
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