



*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

Estonia

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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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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>

## The General Migration Context

Estonia joined the EU in 2004 and is situated at the border of the Schengen Area on the border of Russia.

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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: Mari Amos, MEA, MPH, Adviser, Office of the Chancellor of Justice, Tallin, Estonia.

Estonia, first declared a republic in 1918, has a long history of both emigration and immigration which has coincided with periods of colonisation, independence and occupation<sup>3</sup> (Ruspini 2009:43). During the period of independence, from 1918 to 1940, Estonia was a multi-ethnic country with recognised Russian, Swedish, Jewish, German and Latvian minorities, which had almost completely disappeared by 1945 due to the acts of occupation regimes. Until the regaining of independence in 1991, there was immigration from different parts of the Soviet Union, including Russia, Belarus, Ukraine, Moldova, the Caucasus and Central Asia (ibid. with reference to Jäärats 2008<sup>4</sup>). During this period (1945-1988), about 500 000 foreigners settled in Estonia from the regions of the former Soviet Union, making up about 35 per cent of the population of Estonia in 1989 (ibid.).

Since independence, the immigration pressure from the Commonwealth Independent States (CIS)<sup>5</sup> has been constant and due to the accession of Estonia to the European Union, there is no reason to predict a decrease in this respect (Ruspini 2009:43). The Aliens Act establishes a fixed annual immigration quota, in terms of which aliens immigrating to Estonia should not exceed 0.1 per cent (in 2008) of the permanent population; this should be understood as a being a ceiling, rather than a “desirable quota” based on estimations of need (ibid.).

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

By 1 January 2010, the population in Estonia was 1 340 274 (Eurostat).<sup>6</sup> In 2006, the population comprised the following nationalities : Estonian (69%), Russian (26%), Ukrainian (2%), Finnish (1%), Byelorussian (1%), and other nationalities (1%). In 2006, 82% of the population were Estonian, 10% were aliens with undefined citizenship and 8% were citizens of other states (Ruspini 2009). By 1 January 2008, the number of foreign nationals was 229 000, which equalled 17.1 % of the population (Eurostat 94/2009).

Estonia had 15 asylum applications in 2008 (Eurostat 66/2009). The same year, 15 decisions were issued (in the first and second instance) and the rate of recognition was 33 % (5, in the first instance) (Eurostat 175/2009).

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<sup>3</sup> Soviet occupation (1940-1941), German occupation (1941-1944) and Soviet occupation (1944-1991).

<sup>4</sup> Jäärats, K. (2008), “Estonia”, in a Comparative Study of the Laws in the 27 EU Member States for Legal Immigration - including an assessment of the conditions and formalities imposed by each member state for newcomers, Brussels: European Parliament & IOM, pp. 207-223.

<sup>5</sup> They consist of what was previously the Soviet Union, including: Russia, Ukraine, Kazakhstan, Belarus, Azerbaijan, Uzbekistan, Turkmenistan, Georgia, Armenia, Tajikistan, Kyrgyzstan and Moldova.

<sup>6</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).

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

Estimates, of the number of undocumented migrants, range from between 5 000 to 10 000. This equals a medium level in relation to the total population, 0.6% (Baldwin-Edwards and Kraler 2009:41). Because of the geographical location, the vicinity of the Scandinavian welfare states and the number of illegal immigrants living in the Russian Federation, Estonia is believed to be a potential transit country for refugees coming from the south and east (Ruspini 2009).

In 2006, the Estonian Border Guard discovered 63 cases of illegal immigration and 109 illegal immigrants. The countries of origin of the undocumented migrants were Moldova (32), Kazakhstan (16), The Russian Federation (14), Ukraine (10), Byelorussia (4), stateless persons (28) and in addition, some individuals from African countries, Romania, Israel and Turkey (Ruspini 2009).

### **Categories of Undocumented Migrants**

In Estonia, the asylum process does not play a role in “producing” undocumented migrants (Baldwin-Edwards and Kraler 2009:41). The main pathway into irregular stays can be considered to be irregular entry.

## **Policies Regarding Undocumented Migrants**

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

No regularisation programmes have been implemented in Estonia. However, a special provision exists, for persons of Estonian origin and persons who had resided in Estonia before 1990 and continued to reside there permanently, which can be considered a programme rather than a mechanism (Ruspini 2009). This programme can be seen as an ‘adjustment’ of resident populations to the new post-Soviet order, and the creation of ‘illegal’ residents that resulted from political and territorial changes (Baldwin-Edwards and Kraler 2009:40). Regularisations are processed individually and on a case-by-case basis and aim at securing legal status for long-term residents (Ruspini 2009).

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

Contractual relations are regulated by the Law of Obligations Act, para. 271, in terms of which contracting parties must decide how the lessee will prove his/her identity. No criteria exists requiring persons signing a contract for accommodation not to be undocumented or migrants (Questionnaire Estonia).

Employment in Estonia, together with access to the related social security, requires a legal stay (i.e. citizenship, long term residence, working permit, etc).<sup>7</sup>

Undocumented children can access education. The right to education can be considered to be implicit (European Commission 2004:33). According to Article 37 of the Estonian Constitution,<sup>8</sup> all persons have the right to education. Education is compulsory for school-age children (7-17 years old) and is free of charge in public schools. According to The Education Act,<sup>9</sup> Article 4, para. 1, the state and local governments are responsible for ensuring such. Children of citizens of foreign states and of stateless persons resident in Estonia, except children of representatives of foreign states, are subject to the obligation to attend school.

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

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

The welfare system in Estonia is mainly publicly financed. Two thirds of the Estonian health care system is publicly funded through solidarity based health insurance contributions, under the stewardship of the Ministry of Social Affairs. The health insurance system is mandatory and covers approximately 95% of the population. Contributions are related to employment and paid in the form of earmarked social payroll tax. The share of non-contributing individuals (such as children, students and pensioners) represents almost half of the insured.<sup>10</sup> The Ministry of Social Affairs is responsible for financing emergency care for uninsured persons, as well as for ambulance services and public health programmes.

Private expenditure comprises approximately a quarter of all health expenditure, mostly in the form of co-payments for pharmaceuticals and dental care. The core purchaser of health care services for insured persons is the Estonian Health Insurance Fund (EHIF), an independent public body. The EHIF operates through four regional branches, each covering two to six counties, and its main responsibilities include pooling funds, contracting service providers, reimbursement of health services and pharmaceuticals and certain other

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<sup>7</sup> <http://www.politsei.ee/en/teenused/residence-permit/temporary-residence-permit/for-employment/index.dot> (16-02-2010).

<sup>8</sup> Available in English (an older version);  
<http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X0000K1&keel=en&pg=1&ptyyp=RT&tyyp=X&query=p%F5hiseadus> (16-02-2010).

<sup>9</sup> Available in English;  
<http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X70039K2&keel=en&pg=1&ptyyp=RT&tyyp=X&query=haridusseadus> (16-02-2010).

<sup>10</sup> The Estonian Health Insurance Fund provides a list of insured person and differentiates between those who contribute and those who do not. See <http://www.haigekassa.ee/eng/health-insurance> (20-02-2010).

responsibilities in respect of sick leave and maternity benefits (Koppel et al. 2008). Private health insurance plays a marginal role, covering less than 2% of the population. It covers those who are not eligible for EHIF coverage (mainly non-Estonian citizens in the process of applying for residency in Estonia) and provides faster access to a range of services (Thomson et al. 2009: 131).

All persons are covered regionally, on the basis of where they live and where they use health services and register a family doctor; a national identification card is used as proof of identity when seeking care (Koppel et al. 2008).

Insured persons and those covered by the state have universal access to health services. The health insurance pays for the health services and medical examinations, for example, visits to the doctor, diagnostic examinations, treatment procedures, preventive procedures and surgeries.<sup>11</sup>

Persons not insured and not covered by the state have the right to emergency care. This is according to the Health Services Organisation Act, para. 6 (2), which states that, "Every person in the territory of the Republic of Estonia has the right to receive emergency care." Furthermore, in terms of the Health Insurance Act, para. 86 (4), the cost is covered by the state, out of funds prescribed for such purposes, on the basis of a contract between the Minister of Social Affairs and the Estonian Health Insurance Fund.<sup>12</sup>

Health care in Estonia is fully provided by private providers (except prison health care) as health care provision is almost completely decentralised. Four types of health care are defined: primary care provided by family doctors, emergency medical care, specialised (secondary and tertiary) medical care and nursing care. Health care providers are autonomous and operate as private legal entities. Most hospitals are either limited liability companies owned by local governments, or foundations established by the state, municipalities or other public agencies and as such owned and managed as public institutions. All family doctors are private entrepreneurs or salaried employees of private companies (owned by family doctors). Most ambulatory providers are privately owned. In the public health sector, most organisations act as nongovernmental organisations (NGOs) or foundations and their activities are mostly project based. Many of these organisations provide similar services to similar groups of people (such as HIV/AIDS services) (Koppel 2008:30).

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<sup>11</sup> The Estonian Health Insurance Fund provides information at <http://www.haigekassa.ee/eng/service> (20-02-2010).

<sup>12</sup> The Health Services Organisation Act, 2001; <http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X40058K6&keel=en&pg=1&ptyyp=RT&tyyp=X&query=tervishoiuteenuste> (20-02-2010).

## **Basis of Entitlement**

The basis of entitlement is affiliation to insurance, as only those who are insured or have the same status as insured persons are entitled to full care (Health Insurance Act, para.5)<sup>13</sup>. However, the entitlement to be covered by health insurance is based on legal residency. The only group excluded from coverage is the prison population, whose health care is organised and paid for by the Ministry of Justice (Koppel et al. 2008). According to § 58 of the Health Services Organisation Act, military personnels'health care is funded by the Ministry of Defence.

## **Special Requirements for Migrants**

The European Health Insurance Card is required in the case of EU member state nationals.<sup>14</sup> As regards migrants, they are insured if they have permanent residency or are living in Estonia by virtue of a temporary residence permit or in terms of a right to permanent residency, pay their own social taxes or are required to pay social tax.<sup>15</sup>

Asylum seekers' entitlement to care is regulated by the Act on Granting International Protection to Aliens. In paragraph 12 (1[3]), emergency care and medical examinations are listed as services which the initial reception centre and subsequent reception centres are required to arrange.<sup>16</sup>

## **Difference Sensitivity**

In Estonia, systematic adaptive structures for migrants within the field of health care cannot be found. However, some of the educational establishments for health care workers provide a short overview of the different needs of persons with different backgrounds, including cultural, linguistic and national backgrounds (Questionnaire Estonia).

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<sup>13</sup> Health Insurance Act 1992;

<http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X60043K3&keel=en&pg=1&ptyyp=RT&tyyp=X&query=ravikindlustuse> (22-02-2010).

<sup>14</sup> See The Estonian Health Insurance Fund regarding the EU, <http://www.haigekassa.ee/eng/eu> (22-02-2010).

<sup>15</sup> See The Estonian Health Insurance Fund, <http://www.haigekassa.ee/eng/health-insurance> (22-02-2010).

<sup>16</sup> See

<http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=XX00013&keel=en&pg=1&ptyyp=RT&tyyp=X&query=v%E4lismaalasele> (15-02-2010).

## Health Care for Undocumented Migrants

### Relevant Laws and Regulations

There is no specific legislation regarding access to health care for undocumented migrants. Within the general legal framework the following acts are relevant:

The Health Services Organisation Act, para. 6 (2), according to which every person inside Estonian territory has the right to receive emergency care.<sup>17</sup>

The Health Insurance Act, para. 86 (4), which states that the cost of emergency care provided to uninsured persons is covered by the state.<sup>18</sup>

### Access to Different Types of Health Care

According to the Health Services Organisation Act, by virtue of being inside Estonian territory, undocumented migrants may access emergency care free of charge. Access to primary care and anything beyond emergency care is available only for insured persons and if the full costs are paid.

### Costs of Care

Emergency care is free of charge for the patient and the cost is covered by the state, as is the case for all other persons without insurance. For services over and above emergency care, undocumented migrants are charged the full costs (Questionnaire Estonia).

### Specific Entitlements

There are no specific entitlements in terms of identified groups or diseases.

### 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.

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<sup>17</sup> The Health Services Organisation Act, 2001;

<http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X40058K6&keel=en&pg=1&ptyyp=RT&tyyp=X&query=tervishoiuteenuste> (15-02-2010)

<sup>18</sup> Health Insurance Act 1992;

<http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X60043K3&keel=en&pg=1&ptyyp=RT&tyyp=X&query=ravikindlustuse> (15-02-2010).

## **Obligation to Report**

Health care staff are not obliged to report undocumented migrants to the police or other authorities. This is in line with the rules in respect of professional confidentiality, as regulated by the Law of Obligation (Questionnaire Estonia).

## **Providers and Actors**

### *Providers of Health Care*

Providers of emergency care are found at the hospitals' accident and emergency departments (Koppel et al. 2008). Undocumented migrants can also, in principle, access care from other providers, such as hospitals and general practitioners, by paying the full costs (Questionnaire Estonia).

Accident and emergency departments can be found all over the country, since there are emergency care units in every hospital and all of the counties in Estonia (15) have at least one hospital. Care at other levels, for which patients must pay the full cost, is even more widely and commonly available. There are over 800 primary care providers (family medicine) distributed all over Estonia. The providers which encounter undocumented migrants are not coordinated (Questionnaire Estonia).

### *Advocacy Groups and Campaigns on Rights*

There are no advocacy groups for undocumented migrants active in Estonia (Questionnaire Estonia).

### *Political Agenda*

Neither undocumented migrants nor regularisation are salient topics on the political agenda (Questionnaire Estonia, Ruspini 2009:46).

### *International Contacts*

The actors in the field of health care for undocumented migrants do not currently have international contacts (Questionnaire Estonia).

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