PERILOUS PREGNANCIES

Barriers in Access to Affordable Maternal Health Care for Undocumented Migrant Women in the European Union

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RECOMMENDATIONS

Ensuring universal and equitable access to affordable, acceptable, and quality maternal health care throughout pregnancy - including antenatal care, emergency obstetric care, and skilled birth attendance - is imperative if European Union member states are to protect women's health and lives, comply with international public health guidelines, discharge their international human rights obligations, and reduce health system costs.

As a result, European Union member states must take steps to address and remove harmful barriers that prevent and impede undocumented migrant women's access to affordable and quality maternal health care throughout pregnancy. Below are key recommendations for action:

1. **Remove all cost barriers that impede undocumented migrant women's access to affordable maternal health care throughout pregnancy.**
    - Adopt laws and policies that provide for undocumented migrant women's access to affordable maternal health care throughout pregnancy and guarantee their access to maternal health care free of charge, or at a minimum, at subsidised rates based upon principles of equity.
    - Remove laws and policies that restrict undocumented migrant women's access to free or subsidised antenatal care throughout pregnancy.
    - Remove laws and policies that restrict undocumented migrant women's access to free or subsidised emergency obstetric care and skilled care during labour and childbirth.
    - Establish clear guidelines to provide legal certainty and enable health care providers' application of entitlements to, and eligibility requirements for, affordable maternal health care in an equitable manner that favours undocumented migrant women's access to affordable care.
    - Remove legal and policy requirements that prohibit health care providers from exercising discretion in favour of undocumented migrant women in the application of rules on charging for health care.

2. Establish and implement effective legal and policy measures to ensure that undocumented migrant women who seek access to affordable maternal health care throughout pregnancy are not reported to immigration or criminal justice authorities.

   - Remove laws and policies that directly or indirectly require health care providers, social welfare authorities, or any other public authorities involved in the provision of maternal health care or the administration of financing schemes, to share information about undocumented migrant women with immigration authorities.
   - Establish effective firewalls between the provision of affordable maternal health care and immigration control and enforcement, including by adopting explicit legal guarantees that prohibit health care providers or any public officials involved in the administration of health care or financing schemes, from sharing any personal information about undocumented migrant women for the purpose of immigration control or enforcement.
   - Ensure that immigration authorities do not carry out enforcement operations in, or near, health care institutions or premises.
   - Establish and implement effective information dissemination measures and awareness raising campaigns to ensure that undocumented migrant women, health care providers, and public authorities are informed of the existence of firewalls and prohibitions on reporting.
   - Monitor the implementation of firewall protections, provide regular training on their application for health care providers, relevant public officials, including immigration and criminal justice officials, and sanction serious incidents of non-compliance.

3. Ensure that entitlements to affordable maternal health care are accessible in practice by removing any legal, administrative, language, and cultural barriers that impede undocumented migrant women's access to affordable maternal health care.

   - Address and remove administrative and procedural barriers that impede undocumented migrant women's ability to access affordable maternal health care in practice.

- Adopt guidelines and ensure continuing education and training programmes for health care providers and state officials to ensure that the provision of maternal health care to undocumented migrant women meets human rights standards, is gender sensitive, and culturally and linguistically appropriate.
- Establish and implement effective awareness raising schemes to ensure that undocumented migrant women, health care providers, and public authorities are informed of undocumented migrant women's entitlements to affordable maternal health care.

4. Establish appropriate and effective systems that respect human rights standards for the collection of disaggregated data on undocumented migrant women's maternal health outcomes in order to assess the impact of relevant health care policies and programmes and adopt tailored responses.

5. Adopt effective data protection measures and ensure that they safeguard the privacy and confidentiality of undocumented migrant women's personal information.

6. Support civil society organisations that provide maternal health care services to undocumented migrant women and ensure a safe, accessible, and enabling environment for all individuals and organisations that work with undocumented migrants, including in the provision of health care.

7. Refrain from criminalising or otherwise penalising the provision of health care or other forms of support and assistance to undocumented migrants.

8. Ensure that all undocumented migrant women who face violations of their human rights to maternal health care have access to effective remedies, including reparations, and ensure that members of the judiciary, law enforcement authorities, and health care providers receive appropriate training on the human rights of undocumented migrant women.

1. INTRODUCTION

The imperative of ensuring women's access to affordable and quality maternal health care throughout pregnancy cannot be overstated. When pregnant women are unable to obtain maternal health care, including antenatal care, emergency obstetric care, and skilled birth attendance during labour and childbirth, their health and lives are placed at risk.

For this reason, international public health guidelines stipulate that reducing maternal mortality and morbidity requires states to guarantee universal and equitable access to affordable and quality maternal health care throughout pregnancy. International human rights law and standards specify that the failure to do so will violate a woman's human rights to life and health and to equality and non-discrimination.

Despite this, in most European Union (EU) member states, undocumented migrant women's access to affordable maternal health care throughout pregnancy is undermined or denied as a result of laws and policies that directly, or indirectly, prevent them from accessing free or subsidised care.

This report describes these laws and policies and sets out a series of concrete recommendations for member states. It examines the multiple impacts and grave forms of harm caused by these laws and policies. In particular, it details the manner in which these laws and policies may impede or prevent undocumented migrant women from accessing early, regular and appropriate antenatal care. This sharply increases the risk of poor maternal health outcomes, obstetric emergencies, and pregnancy-related complications during childbirth.

Enabling Access to Affordable Maternal Health Care Saves Lives

Ensuring women's access to maternal health care throughout pregnancy, including antenatal care, emergency obstetric care, and skilled birth attendance during labour and childbirth, is vital in protecting their health and lives. As a result, the rationale for law reform to ensure that undocumented migrant women can access affordable maternal health care throughout pregnancy, including antenatal care, is self-evident. Without access to quality maternal health care pregnant women may die or suffer health consequences that affect the long-term trajectory of their lives.

As a region, Europe has the lowest maternal mortality and morbidity rates in the world, and global data indicates that most EU member states are among the safest places in the world for women to give birth. However,

Who are Undocumented Migrant Women in the EU?

Undocumented migrants are migrants who do not have a legal right to stay in the country in which they live. They are not migrants with valid long-term or temporary residence permits. Nor are they current asylum seekers or refugees. Instead, their immigration status is irregular and their residence in the country in which they live is in breach of domestic immigration laws and policies. In most instances their lack of legal residence occurs because a previously valid residence or work permit expires or is invalidated. In many cases undocumented migrant women lose their legal residence status because of a breakdown in a relationship on which their legal residence is based.

Previous figures estimated that in 2008 there were between 1.9 and 3.8 million undocumented migrants living in the EU,[1] and it is possible that there has been an increase in this number in recent years.[2] Many of the undocumented migrants living in the EU are women of reproductive age.

The vast majority of these women live below the poverty line and in highly precarious conditions without stable accommodation and social support networks. In most contexts they have limited access to basic social services, and their daily lives are often crippled by fear of discovery by immigration authorities. Undocumented migrant women in the EU are also at heightened risk of sexual and gender-based violence, exploitation, and abuse.

This report focuses on entitlements to maternal health care that exist for undocumented migrant women originating from countries outside EU member states.[3] As such, the report does not examine the entitlements to health care for nationals from the EU or European Economic Area (EEA). Nor does it consider the specific protections that may exist in some member states for survivors of trafficking, migrants in detention or subject to a return decision, or girls under the age of 18, all of whom may enjoy increased entitlements to health care in some member states.

where evidence is available, it also points to considerable variations in maternal mortality and morbidity rates among different population groups within member states, often with significantly higher rates for migrant and ethnic minority women.[4] These discrepancies give rise to concerns that there are serious maternal health inequalities and inequities affecting undocumented migrant women, and inadequate access to maternal health care during pregnancy is likely one important factor leading to increased risks of maternal mortality and morbidity.

Enabling Access to Affordable Maternal Health Care is Required by International Human Rights Law

International human rights law and standards guarantee women's rights to affordable and good quality maternal health care throughout pregnancy. As outlined in Section 4, this means that states must ensure that all women can access affordable antenatal care throughout pregnancy, as well as maternal health care during labour, childbirth, and in obstetric emergencies.[5]

International human rights law and standards unequivocally affirm that human rights are universal and apply to everyone, including non-nationals, regardless of their nationality, residence, or immigration status. Although EU member states are entitled to determine who can legally enter and stay on their territory, and they are permitted to restrict certain political rights or freedom of movement, these prerogatives do not diminish the majority of their human rights obligations towards all persons in their territory and jurisdiction. In fact, international human rights law prohibits discrimination, including on grounds of race, ethnicity, nationality, and immigration status in the enjoyment of human rights. Therefore, as explained in Section 4, compliance with international human rights law requires member states to reform laws and policies that restrict undocumented migrant women's access to affordable and quality maternal health care throughout pregnancy and to remove any other barriers they may face.

Additionally, at the global level, all member states have made clear commitments in the context of the 2030 Agenda for Sustainable Development to ensure universal access to reproductive health care, including maternal health care, in order to improve gender equality and reduce maternal mortality and morbidity.[6] Furthermore, member states have also made commitments in the context of the World Health Organization to take a range of measures to guarantee maternal health.[7] Failure to ensure undocumented migrant women's access to affordable maternal health care throughout pregnancy prevents member states from meeting these commitments.

Enabling Access to Affordable Maternal Health Care is Cost Effective

Available evidence shows that laws and policies that exclude undocumented migrants from access to primary health care, including preventative care, ultimately lead to high health care costs for the state as it results in greater recourse to expensive emergency care.[8] Studies demonstrate that ensuring undocumented migrant women's access to free or subsidised antenatal care saves significant costs for health care systems.[9] Where pregnant women are able to access early, regular, and appropriate antenatal care this reduces the risks of obstetric emergencies or complications during childbirth, and antenatal care is of significantly lower cost to health systems than the provision of emergency obstetric care or care to treat complications during childbirth and any resulting long term health implications. As a result, enabling undocumented migrant women to access affordable antenatal care and skilled care during labour and childbirth will allow member states to reduce health systems costs.

Enabling Access to Affordable Maternal Health Care is Not a Pull Factor for Migration

Repressive and punitive migration control policies often provide the backdrop for laws and policies in those member states that do not enable undocumented migrant women's access to affordable maternal health care throughout pregnancy. Restricting access to basic social services, including health care, is often identified by European government officials and policy makers as an important corollary to migration control policies and a necessary disincentive for irregular migration and stay. However, evidence clearly demonstrates that there is no correlation between policies that enable equitable and affordable access to primary and emergency health care and increased irregular migration. Limiting undocumented migrant women's access to free or subsidised antenatal care, emergency obstetric care, or skilled birth attendance during labour and childbirth does not reduce irregular migration.[10]

Public Health Guidelines Regarding Access to Antenatal Care and Skilled Birth Attendance

International public health guidelines outline that health policies and programme interventions should provide universal, equitable, affordable, and acceptable access to good quality maternal health care free of discrimination.[11] They further stipulate that states should prioritise the provision of essential health services that encompasses a minimum service package for essential reproductive and maternal health care, including antenatal care, emergency obstetric services, skilled birth attendance, and postnatal care.[12]

According to the World Health Organization (WHO) "essential interventions" for maternal health include:

- Antenatal care, including screening for maternal illnesses, nutritional deficiencies, and complications;
- Counselling on family planning and birth and emergency preparedness;
- Prevention and management of HIV and malaria;
- Prevention and treatment of pre-eclampsia and eclampsia;
- The availability of antibiotics and corticosteroids as necessary;
- Active management and care during childbirth;
- Post-natal monitoring for anaemia, sepsis, and HIV management.[13]

These interventions have been identified as critical for reducing maternal mortality and morbidity and ensuring optimal pregnancy outcomes.

The Imperative of Antenatal Care

Antenatal care is critical for detecting and treating health conditions such as anaemia, hypertension, or bleeding, which, when left undetected, expose pregnant women to pregnancy-related complications and heightened risks of maternal mortality and morbidity, including severe disabilities or chronic illnesses.[14]

Insufficient or delayed access to antenatal care exposes women to higher risks of complications during pregnancy and childbirth, premature birth, miscarriage, and death.[15]

Antenatal care also serves to provide pregnant women with important health advice and information regarding healthy lifestyle, nutrition, and self-care; birth planning, including advice on danger signs and emergency preparedness; and family planning and contraceptives.

The WHO states that all women should undergo at least eight antenatal contacts throughout pregnancy with the first consultation taking place in the first trimester.[16] It underlines that antenatal care "reduces maternal and perinatal morbidity and mortality both directly, through detection and treatment of pregnancy-related complications, and indirectly, through the identification of women and girls at increased risk of developing complications during labour and delivery, thus ensuring referral to an appropriate level of care."[17]

A Snapshot of Laws and Policies Across the EU

As outlined in detail in Section 3, EU member states have taken different approaches to regulating undocumented migrant women's access to quality and affordable maternal health care throughout pregnancy.

Laws and policies in each member state regarding undocumented migrant women's access to free or subsidised maternal health care differ and diverge in numerous ways, just as health system structures, regulation, and financing rules also vary across jurisdictions.

However, despite this diversity, an analysis of member states' laws and policies reveals two distinctive approaches.

Laws and Policies Providing for Access to Affordable Maternal Health Care

As explained in Section 3.1, a number of EU member states have enacted laws and policies that seek to provide for undocumented migrant women's full access to affordable maternal health care throughout pregnancy by providing for their free or subsidised access to maternal health care, including both antenatal care and care during labour and childbirth.

In 11 member states, laws and policies provide for undocumented migrant women's access to maternal health care throughout pregnancy free of charge or for subsidised fees. The laws and policies in Belgium, Estonia, France, Germany, Greece, Italy, the Netherlands, Portugal, Romania, Spain, and Sweden all provide for undocumented migrant women's access to affordable maternal health care by providing free or subsidised access to all maternal health care, including both antenatal care and care during labour and childbirth.

Through the maintenance of these laws and policies, these member states have taken important steps towards the adoption of measures that seek to ensure universal and equitable access to affordable maternal health care, and thereby safeguarding undocumented migrant women's health and lives. However, as outlined in Sections

2.2 and 2.3, other legal and policy gaps and administrative barriers persist in some contexts and impede undocumented migrant women's access to affordable maternal health care even in these countries.

Laws and Policies Preventing Access to Affordable Maternal Health Care

The other 17 member states take a different approach, and instead maintain laws and policies that prevent or impede most undocumented migrant women from obtaining affordable maternal health care throughout pregnancy by requiring them to cover the costs of some, or in most cases all, of this care themselves.

As captured in Section 3.2, laws and policies in these member states do not provide for undocumented migrant women's full access to free or subsidised maternal health care throughout pregnancy. Instead, laws and policies in Austria, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Poland, Slovakia, Slovenia, and the United Kingdom require undocumented migrant women to cover the costs of some, or all, maternal health care themselves (although approaches differ across these jurisdictions).

The laws and policies in these member states thereby expose undocumented migrant women to serious risks to their health and lives, including increased risk of maternal mortality and morbidity.

2. BARRIERS IN ACCESS TO AFFORDABLE MATERNAL HEALTH CARE

As outlined above, when pregnant women are unable to access affordable and quality maternal health care, including antenatal care, emergency obstetric care, and skilled birth attendance during labour and childbirth, their health and lives are placed at risk, compliance with international human rights law and standards is undermined, and the financial cost to health systems increases.

However, despite this, a majority of EU member states maintain laws and policies that prevent or impede undocumented migrant women's access to affordable maternal health care throughout pregnancy.[18] In these jurisdictions undocumented migrant women must pay for antenatal care themselves. Moreover, although undocumented migrant women are unlikely to be turned away by health care providers when they seek care during labour or in an obstetric emergency, in a number of countries they will usually be billed for the full costs of this care.

The impact of these cost barriers on undocumented migrant women's access to maternal health care are many and varied, and they can often be severe. Although the specific nature of the barriers and their impacts on individual undocumented migrant women may differ by country and context, in general they often prevent or impede their access to good quality maternal health care throughout pregnancy.

The negative impacts of cost barriers are often compounded by a host of other barriers that hinder undocumented migrant women from accessing maternal health care. Of particular note are reporting requirements and a lack of effective separation - or "firewalls" - between health services and immigration controls and enforcement.

Moreover, even in those countries where harmful cost barriers do not apply, other legal and policy gaps and administrative barriers persist that can impede undocumented migrant women's access to free or subsidised care. These include lack of legal clarity and certainty as to the scope and remit of entitlements or eligibility criteria, lack of accessible information on the nature and extent of entitlements, and burdensome administrative requirements and procedures.

Each of these barriers, and their impact on undocumented migrant women's access to maternal health care throughout pregnancy and childbirth, are described in more detail below. In many cases,

undocumented migrant women will encounter these barriers as a series of extensive, cumulative, and compounding obstacles with a range of intersecting and harmful impacts.

2.1 The Impact of Cost Barriers on Women's Access to Care

As outlined in detail in Section 3.2, a majority of member states require most undocumented migrant women to cover the costs of any antenatal care they access during pregnancy. Of these, many member states also require most undocumented migrant women to pay the full costs of care during labour and childbirth. Such policies expose undocumented migrant women to a range of harmful and dangerous impacts.

A. Inadequate Antenatal Care

Access to early, regular, and appropriate antenatal care is critical for reducing maternal mortality and morbidity, reducing complications during pregnancy, and ensuring positive pregnancy outcomes. As explained above, insufficient or delayed access to antenatal care exposes women to higher risks of complications during pregnancy and childbirth, premature birth, miscarriage and death, and can lead to severe disabilities or chronic illnesses.[19] Available evidence indicates that migrant women in the EU have poorer pregnancy outcomes and are at significantly higher risk of maternal mortality and morbidity compared to the majority population.[20]

In member states that require undocumented migrant women to pay for antenatal care and do not provide any access to free or subsidised antenatal care, these women will usually be unable to obtain antenatal care from health care providers unless they can pay the fees out of pocket.[21] In some contexts, undocumented migrant women may only be able to seek some antenatal care from non-governmental organisations that provide free care to those excluded from entitlements to basic health care.

Cost barriers can have a range of harmful impacts on undocumented migrant women's ability to obtain adequate antenatal care:

- **Lack of access to antenatal care:** In member states that require undocumented migrant women to pay the full costs of antenatal care themselves, these costs are often prohibitive for undocumented migrant women, and many undocumented migrant women experience considerable fear and uncertainty about their ability to cover the costs of consulting a midwife or doctor.[22] As a result, undocumented migrant women often do not seek any antenatal care during pregnancy.[23] Giving birth without any prior antenatal care puts women's health

at serious risk. It leaves health care providers assisting at childbirth inadequately prepared to deliver quality assistance, leading to higher associated risks. For example, health care providers may not be aware of whether the pregnant woman is living with HIV/AIDS and will therefore not be able to take the necessary precautions to prevent mother-to-child transmission. Women who have had no antenatal care are also less likely to seek care during childbirth and yet would not have received any guidance on home delivery from health care providers.

- **Delayed access to antenatal care:** The requirement that undocumented migrant women cover the full cost of antenatal care themselves often means that they will attend their first consultation much later than advised by international public health guidelines, which specify that antenatal care should begin in the first 12 weeks of pregnancy.[24] For example, to reduce costs, undocumented migrant women may first attend antenatal care late in the second or third trimesters of pregnancy. Delayed access to antenatal care means that women do not receive timely information and advice on healthy lifestyle, nutrition, and self-care during pregnancy. The first trimester of pregnancy is particularly critical for foetal development, and poor health or inappropriate nutrition during this time can have negative impacts. Lack of early access to antenatal care also leaves little time for essential and otherwise effective interventions and means that certain risk factors, such as sexually transmitted infections and HIV, are detected late.
- **Insufficient access to antenatal care:** International public health standards also clearly specify that pregnant women should undergo at least eight antenatal contacts in the course of pregnancy.[25] However, in member states which require them to cover the full costs themselves, undocumented migrant women are unlikely to attend that many consultations because they cannot afford to do so.[26] As a result, they will often only attend very few antenatal consultations.[27]

B. Inadequate Quality of Care During Childbirth or Following Obstetric Emergencies

As explained in Section 3.2, some member states require most undocumented migrant women to pay the full cost of maternal health care during labour and childbirth and in obstetric emergencies. Although undocumented migrant women in these countries who seek care during labour or in an obstetric emergency are unlikely to be turned away by health care providers regardless of their ability to pay, they will usually

receive bills for the full costs. Such fees, which can amount to thousands of euros, greatly exceed most undocumented migrant women's financial means. Accessing care during childbirth thus imposes a debilitating financial burden on many of these women.[28] Moreover, the high costs involved often negatively impact the quality of care they are able to obtain. Suboptimal or poor quality maternal health care that fails to take into account the unique needs and circumstances of undocumented migrant women's health and disregards public health standards result in a multitude of deleterious health impacts.

- **Lack of medically necessary procedures:** Sometimes, even where medical indications point to the need for certain procedures or interventions, cost barriers may mean the most appropriate medical care is inaccessible for undocumented migrant women. For example, in some contexts there are reports that where a caesarean section is medically indicated, the high costs involved in the procedure may be prohibitive for undocumented migrant women, and thus they may not undergo the procedure.[29]
- **Early discharge:** After delivery, women will usually remain in hospital or health facilities until bleeding has ceased and their health situation is stable, but undocumented migrant women often leave care settings very quickly after giving birth to avoid incurring additional in-patient costs.[30] In some contexts, they may even be discharged earlier than usual from health care facilities because of concerns about their ability to pay the costs of a longer stay.[31] The WHO recommends that the minimum duration of stay in a health facility following childbirth is 24 hours, and undocumented migrant women's early discharge or departure can give rise to considerable concerns, not least because the risk of maternal death is highest in the 48 hours following childbirth.[32]
- **Lack of appropriate follow-up:** In some contexts, cost barriers and lack of full coverage for maternal health care mean that undocumented migrant women do not have access to appropriate care following an obstetric emergency or pregnancy-related complication. For example, sometimes medical staff may omit to schedule undocumented migrant women for follow-up consultations after treatment for a pregnancy-related emergency. Additionally, undocumented migrant women may simply not seek follow-up care due to their inability to cover the costs.[33] As a result, the ordinary continuum of care following a maternity-related complication or crisis is often severed for undocumented migrant women.[34]

- **Lack of skilled birth attendants:** Reports indicate that, although it is rare, there are instances where the costs of maternal health care during childbirth prevent undocumented migrant women from giving birth with the presence of a skilled birth attendant.[35] The risk that cost barriers may prevent some undocumented migrant women from seeking access to maternal health care during labour and childbirth gives rise to serious concerns. Indeed, studies indicate that skilled care during childbirth has the potential to reduce risks of maternal mortality and severe morbidity due to labour-related complications by 95%.[36] Most obstetric complications that are responsible for the majority of maternal deaths, such as obstructed labour, eclampsia, haemorrhage and sepsis, can be prevented or managed by ensuring skilled care during labour and childbirth. Such care is also critical for treating and managing health conditions that may be exacerbated by pregnancy, such as severe anaemia, tuberculosis, and HIV/AIDS.

2.2 Reporting Obligations and Lack of Effective Firewalls

In all EU member states irregular migration and stay is illegal, and in some it is also subject to criminal penalties. In most contexts, undocumented migrants who are brought to the attention of immigration authorities or criminal justice officials are detained and subsequently deported.[37] As a result, across the EU undocumented migrants' access to health care is undermined by a deep and persistent fear of being reported to immigration authorities.[38] Many will limit the time they spend in public spaces to the absolute minimum and will only seek medical assistance if their health situation is critical. In a small number of member states this fear derives from explicit legal and policy requirements regarding reporting to immigration authorities. In other jurisdictions, where laws do not impose reporting requirements, it is nonetheless exacerbated by the absence of clear and effective firewalls prohibiting such reporting in health care settings.

- **Duty to report:** Some member states impose explicit legal obligations on health care providers, social workers, and/or administrators to report undocumented migrants to immigration authorities. For example, laws in Portugal require health care providers to report undocumented migrants to immigration authorities.[39] Other countries, such as Germany, do not impose reporting requirements on health care providers but do require social workers and other public officials to report undocumented migrant women.[40]

- **Lack of clear and effective firewalls:** Even in those member states where laws and policies do not require health care providers or social workers to report personal information about undocumented migrants to immigration authorities, the lack of clear prohibitions on such reporting and explicit firewalls between medical and social services and immigration and criminal justice authorities can often give rise to confusion for both undocumented migrants and health care providers. For example, in some contexts, evidence indicates that many providers erroneously believe that they have a legal duty to report.[41] In other instances, although health care providers have professional duties of confidentiality, which implicitly prevent such reporting, undocumented migrants may not know of or understand the implications of these protections.

Reporting requirements or the failure to adopt legal firewalls clearly prohibiting reporting has a critical impact on undocumented migrant women's access to maternal health care throughout pregnancy, and to antenatal care in particular.

Where laws or policies impose a reporting obligation on health care providers, social workers or others administering access to health care, they serve to undercut any legal entitlements to free or subsidised maternal health care that laws and policies may extend to undocumented migrant women. For example, in Germany public bodies have a legal duty to report undocumented migrants to the police or immigration authorities.[42] Although this does not apply to medical or health care professionals or authorities, it does apply to social welfare officials. In order to access free non-emergency health care, the law requires undocumented migrants to obtain prior authorisation from social welfare offices. As a result, undocumented migrant women must seek authorisation from social welfare officials before they will be able to obtain the free antenatal care to which they are entitled. However, as a result of reporting requirements on social welfare officials, undocumented migrant women will usually refrain from seeking authorisation for affordable antenatal care.[43]

In addition, even in contexts where laws do not impose reporting requirements, the lack of effective firewalls compounds the fear of reporting that cripples the everyday lives of many undocumented migrant women and often prevents them from seeking health care. Even where there is no legal reporting obligation on health care providers or others involved in administering access to health care, fear of reporting among undocumented migrant women is deep and pervasive.[44] They may often be unaware that in many countries health care providers have a duty to safeguard their medical confidentiality and not share their personal information with state

authorities.[45] Although some member states, such as Italy and Sweden, have adopted legal provisions specifying that undocumented migrants seeking health care will not be reported to immigration authorities, such clear and explicit firewalls are rare. As a result of their fear of discovery by state authorities, many undocumented migrant women will avoid or delay seeking maternal health care until their health situation demands it.[46] This means that many undocumented migrant women will delay seeking antenatal care until late in pregnancy or may often only seek medical assistance in obstetric emergencies or once labour has begun.[47]

2.3 Additional Legal and Policy Barriers

In addition to the multiple and grave impacts that cost barriers and reporting requirements have on undocumented migrant women's access to maternal health care, a range of other barriers can also arise.

Undocumented migrant women's access to maternal health care is often impeded by a host of practical barriers, such as the cost and duration of travel to health care providers and facilities, limited language skills and lack of interpretation services, and difficulties arranging time off work, among other practical difficulties. There can also be cultural diversities and barriers that complicate interactions with health care providers and impact undocumented migrant women's ability to receive appropriate care. In addition, for undocumented migrant women who are living in extremely precarious conditions, the daily search for shelter and food may mean that health care is a relatively low priority, even during pregnancy.[48]

Moreover, even in those member states that provide for free or subsidised access to maternal health care in general or for care during labour and childbirth specifically, additional legal and policy barriers can prevent or impede women's access to affordable care during pregnancy, and in particular to antenatal care.

A. Lack of Clarity and Certainty as to the Scope and Remit of Entitlements and Eligibility

In some contexts, laws and policies regulating undocumented migrant women's access to free or subsidised maternal health care are often obtuse, complex, convoluted, and contradictory. Relevant policy frameworks often lack legal clarity and give rise to significant legal uncertainty and unpredictability, not only for undocumented migrant women themselves, but also for health care providers and health system administrators who may struggle to identify and understand who is eligible and entitled to free or subsidised care and what forms of care are covered by these entitlements.

The most common challenge is that laws and policies lack sufficient legal clarity as to what aspects of maternal health care are encompassed within entitlements to affordable care. Not only does this make it particularly challenging for undocumented migrant women to know of and claim their rights but often the absence of relevant policy guidelines stymies the uniform and appropriate application of entitlements to care, as health care administrators and health care providers are left without guidance as to the remit of relevant laws and policies. The absence of guidelines can lead to arbitrary and restrictive interpretations to the detriment of undocumented migrant women and at times can give rise to discriminatory treatment and practices.

For example, in countries where health care providers must seek reimbursement of costs from state authorities for maternal health care provided to undocumented migrant women, a prevailing lack of legal clarity about whether antenatal care is eligible for reimbursement and thus can be provided free of charge sometimes makes providers reluctant to provide free preventative maternal health care to undocumented migrant women.

In other jurisdictions that only provide for undocumented migrant women's free or subsidised access to urgent or emergency care, the specific aspects of maternal health care encompassed within this category are not always clearly defined in law or policy. As a result, health care providers may not have guidance as to what care can be provided free of charge and may sometimes apply a very restrictive interpretation of relevant entitlements. For example, caesarean sections may not always be considered to constitute emergency care, and as a result, undocumented migrant women who require caesarean sections may encounter difficulties in finding hospitals willing to schedule the procedure, or they may be required to pay for the procedure even though maternal health care during labour and childbirth is generally free of charge.

Additionally, in a small number of member states significant legal uncertainty can arise due to the lack of laws and policies regulating entitlements to health care for undocumented migrants, both in general or specifically for undocumented migrant women who are pregnant. For example, in Malta, there are no clear laws on this topic and existing policies only address access to health care by irregular migrants who are held in detention facilities.

B. Lack of Accessible Information on the Nature and Extent of Entitlements

Additionally, in some of those member states which allow undocumented migrant women's access to free or subsidised maternal health care,

women may often assume they are not entitled to services because of the prevailing restrictive policies surrounding irregular migration and inadequate dissemination of accessible information on entitlements to affordable maternal health care by state authorities.[49]

As a result, undocumented migrant women may not seek access to maternal health care, and specifically antenatal care, even when they are legally entitled to affordable care.[50] Additionally, where health care providers lack information about laws and policies that provide for undocumented migrant women's access to free or subsidised maternal health care, evidence indicates that they may inadvertently deny care or charge for care that women are entitled to receive for free.[51]

C. Burdensome Administrative Requirements and Complex Procedures

In some member states, undocumented migrant women must fulfil complex administrative requirements in order to obtain free or subsidised maternal health care. Women not only face challenges in navigating what are often unique and complicated health system structures, but the relevant administrative procedures that must be followed in order to obtain authorisation to access free or subsidised care are often onerous and involve multiple steps that must be completed before accessing care. At times, such requirements and procedures can deter undocumented migrant women's access to antenatal care.[52]

Additionally, in some contexts it may be very difficult for undocumented migrant women to prove that they fulfil the relevant administrative criteria for access to free or subsidised care. For example, in some jurisdictions, residence in the municipality where care is sought is a necessary requirement for access to free or subsidised care. However often undocumented migrant women may have great difficulties demonstrating that they fulfil this prerequisite. They may not have stable accommodation or may be renting temporary accommodation. As a result, providing evidence of residence, such as utility bills or lease contracts, can be difficult for undocumented migrants.

Similarly, in some member states free or subsidised access to maternal health care is means tested for undocumented migrant women and will only be provided to those women whose earnings or financial means fall below a certain minimum level. Although in practice, most undocumented migrant women fulfil this requirement, it can often be very difficult for them to prove their lack of financial means.

3. LAWS AND POLICIES IN EU MEMBER STATES

Across the EU, member states have taken different approaches to regulating undocumented migrant women's access to affordable and quality maternal health care throughout pregnancy. Laws and policies in each member state regarding undocumented migrant women's access to free or subsidised maternal health care differ and diverge in numerous ways, just as health system structures, regulation, and financing rules also vary across jurisdictions.

However, despite this diversity an analysis of member states' laws and policies reveals two distinctive approaches:

- A first group of member states have enacted laws and policies that provide for undocumented migrant women's access to affordable maternal health care during pregnancy and childbirth by providing for their free or subsidised access to maternal health care, including both antenatal care and care during labour and childbirth.
- A second group of member states maintain laws and policies that prevent or impede most undocumented migrant women from obtaining affordable maternal health care throughout pregnancy and instead require them to cover the costs of some, or all, of this care themselves.

Sections 3.1 and 3.2 below describe these two approaches in more detail. Section 3.3 presents short country specific summaries of the applicable laws and policies in each member state.

3.1 Laws and Policies Providing for Access to Affordable Maternal Health Care

In 11 member states, laws and policies provide that many undocumented migrant women are entitled to obtain maternal health care throughout pregnancy free of charge or for low subsidised fees.

This means that laws and policies in Belgium, Estonia, France, Germany, Greece, Italy, the Netherlands, Portugal, Romania, Spain, and Sweden all provide for undocumented migrant women's access to affordable maternal health care by providing for their free or subsidised access to all maternal health care, including both antenatal care and care during labour and childbirth.

The ways in which these countries' laws and policies provide for undocumented migrant women's access to affordable maternal health care differ in several ways.

- **Entitlements:** Some member states, such as Belgium and the Netherlands, stipulate that, in general, undocumented migrants can access free or subsidised necessary or urgent health care and implicitly encompass maternal health care, including antenatal care, within this category. Others, such as France, Greece, Italy, Portugal, Romania, and Sweden, explicitly specify in laws and policies that entitlements to free or subsidised care apply to maternal health care. Some, like Spain, do not necessarily provide for free or subsidised access by undocumented migrants to health care in general but carve out specific exceptions that apply to pregnant women and maternal health care.
- **Eligibility:** In some of these member states, such as Belgium and France, undocumented migrant women's access to free or subsidised maternal health care is means tested. Other eligibility criteria also apply in some jurisdictions, such as a minimum period of residence in the country or relevant municipality.
- **Administrative procedures:** In most of these 11 member states, undocumented migrant women must follow particular administrative procedures in order to receive free or subsidised maternal health care.

As a group of member states with diverse population sizes, legal systems, Gross Domestic Product levels (GDP), political frameworks, and health system organisation and financing structures, these countries demonstrate that making provision for undocumented migrant women's access to affordable maternal health care throughout pregnancy is not contingent on national income levels, health system structures, or legal and political frameworks. For example, while Sweden's GDP is among the highest in the EU, Romania's GDP is the lowest of all EU member states.[53]

Although the regulatory frameworks and procedural requirements in place across these 11 jurisdictions differ, by enacting laws and policies which provide for undocumented migrant women's access to maternal health care, these member states have taken important steps towards adopting measures that seek to ensure universal and equitable access to affordable maternal health care and thereby safeguard women's health and lives without distinction as to nationality, residency, or immigration status. As a result, these policies represent important steps towards compliance with international human rights standards and international public health guidelines.[54] Moreover, they are cost effective. By providing for affordable

access to preventative and essential antenatal care, which offsets risks of pregnancy-related complications, these policies reduce women's need for recourse to expensive emergency care, thereby lowering costs incurred by health systems.[55] Nevertheless, it is important to underline, as captured in more detail in Sections 2.2 and 2.3, that the enjoyment of entitlements to maternal health care is often impacted and undermined by a host of legal and policy barriers, including, in particular, reporting requirements that render entitlements to care illusory.

3.2 Laws and Policies Preventing Access to Affordable Maternal Health Care

In the other 17 member states, laws and policies do not provide for undocumented migrant women's access to free or subsidised maternal health care throughout pregnancy. Instead, although approaches differ significantly across these jurisdictions, laws and policies in Austria, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Poland, Slovakia, Slovenia, and the United Kingdom require undocumented migrant women to cover the costs of some, or in most cases all, maternal health care themselves.

- **Antenatal care:** In all 17 countries, undocumented migrant women will usually have to cover the costs of antenatal care out of pocket. In many of these jurisdictions, undocumented migrant women will often be asked to cover the costs of any antenatal care they wish to access up front upon contact with health care providers. In other contexts, although they may be provided with antenatal care before payment, they will usually be billed after the fact. As outlined in Section 2.1, laws and policies that require undocumented migrant women to cover the costs of antenatal care themselves and do not provide access to free or subsidised antenatal care negatively impact undocumented migrant women's ability to access early, regular, and appropriate antenatal care.
- **Labour and childbirth:** Of these 17 countries, only Bulgaria, Cyprus, Denmark, Ireland, and Slovenia have enacted laws and policies that provide for undocumented migrant women's access to free or subsidised healthcare during labour, childbirth and/or in an obstetric emergency.[56] In the other 12 of these countries, undocumented migrant women are required to cover the full costs of care during labour and childbirth. This means that in Austria, Croatia, the Czech Republic, Finland, Hungary, Latvia, Lithuania, Luxembourg, Malta, Poland, Slovakia, and the United Kingdom, most undocumented migrant women do not have a legal entitlement to free or subsidised

health care during labour and childbirth. While nearly all of these countries require the provision of urgent or emergency care - including maternal health care for women during childbirth, to everyone who needs it - regardless of nationality, immigration status or ability to pay - laws and policies do not provide for undocumented migrant women's access to free or subsidised emergency care. As a result, although undocumented migrant women who seek care once they are in labour or in an obstetric emergency will not be turned away by health care providers, they will usually be charged the full costs of care. As explained in Section 2.1, such laws and policies have a range of harmful impacts on the quality of care undocumented migrant women are able to obtain during labour and childbirth or following an obstetric emergency.

The laws and policies in these 17 countries do not operate uniformly, and it is important to highlight the distinctions in the various approaches:

- **Municipal divergence:** In some of these member states, although national laws require undocumented migrant women to cover the costs of maternal health care, including antenatal care and care during childbirth, municipalities are free to adopt divergent and more inclusive policies. For example, a number of municipal areas in Finland have adopted policies providing for undocumented migrant women's access to free or subsidised maternal health care.
- **Discretion to waive payment:** In some jurisdictions, such as Denmark, laws and policies specify that health authorities have the discretion to waive fees that would ordinarily be charged for non-emergency hospital care if they deem it reasonable. As a result, at times some undocumented migrant women may be able to obtain maternal health care during childbirth at term without being required to cover all of the costs themselves.[57]
- **State coverage where costs cannot be recovered:** In some instances, laws and policies specify that where a patient who is liable to cover the costs of health care cannot be found or is unable to pay the bill, the health care facility can recover the costs from state funds. In some situations, this may mean that health care providers or facilities do not pursue undocumented migrant women for debt collection when they fail to pay maternal health care bills.
- **Obligations to recover payment:** On the other hand, in some countries, such as the United Kingdom, laws and policies explicitly prohibit health care providers from exercising any discretion in the application of charging regulations and instead stipulate that they must impose charges on undocumented migrant women seeking maternal

health care and must initiate debt collection procedures when fees go unpaid. As a result, debt collection agencies may be employed to pursue payment of outstanding maternal health care fees.[58]

- **Coverage for care during childbirth and obstetric emergencies:** Although laws and policies in Bulgaria, Cyprus, and Slovenia do not provide for free or subsidised antenatal care for undocumented migrant women, they do not require undocumented migrant women to cover the costs of care in obstetric emergencies or during labour and childbirth.[59] This means, that in principle, most women can access care during labour and childbirth without being charged high costs because laws and policies provide that undocumented migrants can access emergency care free of charge or for a low fee, and this is usually understood to include maternal health care during labour. Meanwhile, in Denmark, while laws provide that undocumented migrants can access free emergency care, which includes care during childbirth, recent policy guidance circumscribes the application of this entitlement to apply only to maternal care during obstetric emergencies or when delivery takes place before 37 weeks of pregnancy or after 41 weeks. As a result, many undocumented migrant women in Denmark are likely to be confronted with bills for maternal health care during labour and childbirth.

3.3 Overview of EU Member States' Laws and Policies

This section provides a brief overview of the laws and policies in each of the 28 EU member states regarding undocumented migrant women's access to free or subsidised maternal health care throughout pregnancy. The focus of each country summary is on undocumented migrant women originating from countries outside the EU and EEA and the information provided does not address specific entitlements to free or subsidised health care that may exist in some member states for survivors of trafficking, undocumented migrants in detention or subject to a return decision, or girls under the age of 18. A number of the country summaries address undocumented migrant women's ability to contribute to public health insurance or social security schemes as a mechanism by which to access free or subsidised health care. However, they do not address whether or not undocumented migrant women can purchase private health or travel insurance in order to cover the costs of health care, including maternal health care, in EU member states.

Austria

Most undocumented migrants are ineligible to obtain statutory health insurance in Austria as legal residency is a prerequisite, and therefore they have no general legal entitlement to health care.[60] However, Austrian law stipulates that all individuals, including undocumented migrants, are entitled to emergency health care in situations that threaten their lives or where there is a risk of serious damage to their health.[61] The law explicitly specifies that pregnant women who are about to give birth are entitled to care. As a result, health care providers and institutions must provide health care to undocumented migrant women during labour and childbirth.

However, this entitlement to emergency care does not include cost coverage, and as a result, undocumented migrant women in Austria are not entitled to free or subsidised care during labour and childbirth. Additionally, there is no provision in law for subsidised access to primary and secondary care, such as ordinary antenatal care, and as a result undocumented migrant women who are pregnant must pay for antenatal care themselves.[62]

Belgium

Under Belgian law, undocumented migrants are entitled to urgent medical assistance, which includes both out-patient and in-patient services and preventative and curative care.[63] Although it is not explicitly stipulated, this is understood to include antenatal care and maternal health care during labour and childbirth.

Moreover, the law explicitly specifies that state authorities will cover the costs of urgent medical assistance for undocumented migrants without financial means,[64] and as a result, most undocumented migrant women in Belgium are generally entitled to access free maternal health care throughout pregnancy and childbirth, including antenatal care.

In order to benefit from these entitlements, undocumented migrants must meet certain eligibility criteria, including lack of financial means and residence in the relevant municipality.[65]

Bulgaria

Under Bulgarian law, all health care facilities are required to provide emergency care to anyone who requires immediate medical attention, regardless of their citizenship, residence or health insurance status.[66] The law clearly stipulates that this includes health care to prevent life threatening complications during childbirth.[67] As a result, undocumented migrant women who are pregnant are entitled to access maternal health care during labour and childbirth.

Although undocumented migrants are not eligible to contribute to the statutory health insurance scheme due to a lack of legal residency,[68] emergency care, including maternal health care during childbirth, is provided free of charge.[69] As a result, undocumented migrant women in Bulgaria can usually obtain maternal health care during labour and childbirth without being charged for the costs of care. However, such exemptions only apply to emergency care, and as a result, unless undocumented migrant women obtain private health insurance,[70] they will be required to pay the costs of all other health care themselves, including any antenatal care they seek during pregnancy.[71]

Croatia

Croatian law provides that migrants who are not legal residents in Croatia can access health care, and thus undocumented migrant women in Croatia are not prohibited from accessing maternal health care during pregnancy.[72]

However, under the law undocumented migrant women will be required to pay for all maternal health care they obtain during pregnancy, including antenatal care and care during labour and childbirth. Legal provisions specify that health care providers are required to charge anyone without legal residence for care before discharging the patient, and stipulate that the bill must be paid within a deadline of eight days. If the bill is not paid within the deadline, health care providers must transmit the patient's personal information to the ministry for internal affairs.[73]

Cyprus

Legal provisions in Cyprus specify that certain health care services will be provided free of charge or at very low cost to all individuals, regardless of their immigration status.[74] These encompass a range of health care services and although it is not explicitly stipulated it is generally understood that maternal health care during labour and childbirth or obstetric emergencies is included. This means that most undocumented migrant women in Cyprus can access free or subsidised maternal health care during labour and childbirth.[75]

Outside of such situations, entitlements to free or subsidised health care are based on citizenship and gross annual earnings below a minimum threshold.[76] As a result, most undocumented migrant women are not eligible to access free or subsidised antenatal care during pregnancy.[77]

Czech Republic

Czech law explicitly states that health care professionals must provide urgent medical care, including maternal health care during labour and childbirth,[78] to everyone who needs it. As a result, under Czech law medical practitioners are obliged to provide care to undocumented migrant women during labour and childbirth.

However, despite this obligation, and because most undocumented migrants in the Czech Republic are ineligible to contribute to the public health insurance system, they are required to cover the costs of all health care themselves, including urgent medical care. This means that most undocumented migrant women will be required to cover the full costs of care provided to them during labour and childbirth. They will also be required to pay out of pocket for any antenatal care they wish to obtain during pregnancy.[79]

Denmark

In Denmark general entitlements to health care are limited to those with legal residence in the country. However, legal provisions specify that individuals without legal residency are entitled to emergency medical treatment, in case of accident, sudden illness and birth, or worsening of chronic disease on the same basis as those with legal residency status.[80] In addition, other hospital treatment, which is not classified as emergency care, may be provided to those without legal residence when it is not considered reasonable to refer the person for treatment in his or her home country.[81]

Emergency care is provided free of charge to all persons, including those without legal residence, and as a result undocumented migrants in Denmark can usually access emergency care free of charge.[82] However, recent Ministry of Health guidance stipulates that when a woman gives birth at term (within 37-41 weeks of pregnancy) this is not an emergency.[83] As a result, undocumented migrant women who give birth at term do not qualify for free maternal health care during labour and childbirth.[84] Instead, because individuals without legal residence may be charged for all hospital treatment outside of emergency situations, when an undocumented migrant woman delivers at term she is likely to be charged for the full cost.[85] While hospitals may waive these charges if they deem it reasonable, this is discretionary,[86] and therefore only undocumented migrant women who give birth outside of term enjoy a legal exemption from charges. Undocumented migrant women are not entitled to any coverage for antenatal care and must pay the full cost of such care out of pocket.

Estonia

Access to free or subsidised public health care in Estonia is usually based on social insurance contributions, eligibility for which is generally based on legal residence. However, there are exceptions to this which may enable pregnant women to access some forms of free maternal health care regardless of residence or immigration status.[87]

First, under Estonian law everyone has the right to receive emergency care, and health care professionals are required to provide emergency care to everyone.[88] Emergency care is defined as care that is provided in situations where postponement or failure to provide care may cause loss of life or permanent damage to health.[89] Although it is not explicitly stipulated, emergency care is understood to encompass care for pregnant women during labour and childbirth, and as a result, undocumented migrant women are entitled to access care during childbirth.[90] The law specifies that the costs of emergency care for those who do not have public health insurance will be covered by the state.[91] As a result, in many cases undocumented migrant women will not be charged for the costs of health care during labour and childbirth.[92] However, this exception does not apply to antenatal care.[93]

Second, in addition to these entitlement to access health care during childbirth as a form of emergency care, Estonian law also provides that any pregnant woman in Estonia whose pregnancy has been confirmed by a doctor or midwife is entitled to file a pregnancy insurance application with the Estonian Health Insurance Fund. The law specifies that regardless of legal residency or insurance contributions she will thereafter qualify for free maternal health care throughout pregnancy, including antenatal

care.[94] This insurance coverage automatically ends three months after the estimated date of delivery.[95] This entitlement may enable undocumented migrant women to obtain free maternal health care throughout pregnancy and childbirth, including antenatal care. However, in practice procedural requirements regarding proof of identity may significantly impede their ability to do so.[96]

Finland

Most undocumented migrants in Finland do not qualify for national health insurance, which requires legal residency, and thus have no general legal entitlement to health care. However, Finnish law specifies that emergency health care and urgent specialised care shall be provided regardless of a person's country of residence.[97] As a result, undocumented migrant women are entitled to both emergency care and urgent specialised care, which encompasses care related to prevention, examination, care and treatment of diseases, pre-hospital emergency care, emergency care, and medical rehabilitation.[98] Guidelines clearly specify that this includes care for undocumented migrant women during childbirth.[99]

The law also specifies that those without legal residency in Finland can be charged medical fees for health care, which means that undocumented migrant women often must cover the costs of maternal health care, including care during labour and childbirth and any antenatal care they access in the course of pregnancy.[100] However, municipalities are free to adopt policies that provide maternal health care at reduced costs or for free.[101]

France

French law stipulates that all undocumented migrants who have resided in France for more than three months and have an annual income below a specified amount are entitled to state medical aid.[102] The law explicitly specifies that this applies to all health care that is required to address the risks and consequences of maternity, and includes full financial coverage for all medical, pharmaceutical, laboratory and hospital care, and services related to pregnancy and childbirth.[103] As a result, both antenatal care and care during labour and childbirth are provided free of charge. In order to obtain state medical aid, undocumented migrants must obtain authorisation from the relevant social security authority.

The law also outlines that even where undocumented migrants do not obtain such authorisation or do not meet the eligibility requirements for state medical aid, they are entitled to free urgent care.[104] This is defined as care necessary to prevent risks to life or serious deterioration of health, and again

regulatory guidelines explicitly stipulate that it includes antenatal care and care during labour and childbirth, and that all such maternal health care is free of charge.[105] As a result, most undocumented migrant women in France are entitled to access free maternal health care throughout pregnancy and childbirth, including antenatal care.

Germany

Under German law, undocumented migrant women are entitled to free maternal health care throughout pregnancy.[106] The law makes it clear that undocumented migrant women are entitled to free medical and nursing care, midwife assistance, medication, and bandages.[107] In principle all pregnancy tests, antenatal examinations, and any other medical treatment during pregnancy are covered by this entitlement to free maternal health care.[108]

Undocumented migrant women can access free care during labour and childbirth, which is understood to constitute a form of emergency care, directly from hospitals or medical professionals. However, in order to access financial coverage for any non-emergency care, such as ordinary antenatal care, they must obtain an authorisation certificate from social welfare offices prior to seeking medical assistance.[109] German law requires social welfare authorities to report all undocumented migrants to immigration officials. [110] As a result, despite their entitlement to free maternal health care throughout pregnancy, in practice undocumented migrant women in Germany may only be able to access free maternal health care during labour and childbirth without risk of reporting.[111]

Greece

Under Greek law, entitlements to health care are generally limited to those with health insurance or legal residence in the country. However, legislative provisions explicitly carve out exceptions to this general rule and stipulate that pregnant women are entitled to free health care and access to public health services, which includes free midwifery care, medical examinations, hospitalisation and medication.[112] This entitlement is specifically stated to apply to all women, regardless of their legal status, who may not have insurance or may not be otherwise entitled to health benefits.[113] As result of these policies, undocumented migrant women in Greece are entitled to access free maternal health care throughout pregnancy and childbirth, including antenatal care.

Hungary

Hungarian law stipulates that everyone is entitled to receive emergency medical care, and clearly specifies that medical providers are obliged to provide medical and lifesaving care during labour and childbirth, and where necessary, to treat complications related to pregnancy.[114]

However, despite this entitlement to access emergency care, because undocumented migrants in Hungary are ineligible to obtain compulsory social health insurance, undocumented migrant women will usually be billed for the costs of care during labour and childbirth.[115] Undocumented migrant women must also cover the costs of any antenatal care during pregnancy.[116]

Ireland

In general in Ireland access to free or subsidised health care through the public health system, requires "ordinary residency" in Ireland. In most cases undocumented migrants will not meet the criteria for "ordinary residence" under Irish law and as a result, in many situations they will be unable to access free or subsidised care.

However, Irish law stipulates that there are a number of exemptions to these requirements, one of which provides that charges will not be payable in respect of in-patient and out-patient services (including emergency services) where the services are, "provided to a woman in respect of motherhood."[117] In accordance with these provisions undocumented migrant women in Ireland will not be charged for maternal health care during labour and childbirth or in the course of an obstetric emergency.

As antenatal care is generally not categorised as in-patient and out-patient care this is not covered by the exceptions, and as a result, undocumented migrant women in Ireland will usually have to pay the full costs of any such care themselves.

Italy

Italian law stipulates that all undocumented migrants are entitled to urgent or essential health care in both out-patient and hospital settings, as well as to preventative and continuing treatment for diseases and injuries.[118] Italian law states that health care providers may not report undocumented migrants to the immigration authorities for seeking health care. The law explicitly specifies that urgent and essential care includes health care for women during pregnancy and maternity and that maternal health care, including antenatal care, is provided on the same basis as to Italian citizens, and as such, is free of charge.[119]

As a result, most undocumented migrant women in Italy are entitled to free maternal health care throughout pregnancy and childbirth, including antenatal care. In order to avail of these entitlements, undocumented migrant women must fulfil certain administrative requirements.[120]

Latvia

Latvian law specifies that everyone has the right to receive urgent medical assistance and medical providers may not refuse to provide urgent medical care.[121] Although it is not explicitly stipulated, it is understood that this includes care during labour and childbirth, and as a result, undocumented migrant women are entitled to access maternal health care during childbirth.

While the law also stipulates that the state provides funding for emergency care and maternal health care,[122] it expressly defines the categories of persons who may receive such state funded health care and it is clear that undocumented migrants without legal residence status in Latvia do not qualify for state-funded care and instead will be charged fees for medical services, including in-patient care in hospitals or other health care facilities.[123] As a result, undocumented migrant women will usually be billed for the costs of maternal health care during labour and childbirth. They must also cover the full cost of any antenatal care they seek during pregnancy.

Lithuania

Under Lithuanian law everyone has the right to receive emergency care,[124] but this is not interpreted as including maternal health care for women during labour and childbirth. However, laws also stipulate that although necessary maternal health care during childbirth is not a form of emergency care, medical providers are obliged to provide it.[125] As a result, undocumented migrant women in Lithuania are entitled to access maternal health care during labour and childbirth.

Under Lithuanian law, because most undocumented migrants will be ineligible for compulsory health insurance, they will usually be required to pay the costs of health care themselves.[126] As a result, undocumented migrant women will be billed for the costs of maternal health care during labour and childbirth. They will also be required to cover the costs of antenatal care during pregnancy.[127]

Although those without insurance can obtain free emergency care this exception is only applicable to legal permanent residents.[128]

Luxembourg

In Luxembourg legal residence is generally required in order to access free or subsidised health care, which is provided by the state on the basis of social security contributions or other forms of registration with the national health insurance system. Health care costs are regulated by law, and the health care system is based on reimbursements, meaning that patients must pay the medical costs upfront and then send a reimbursement request to the state insurance system.

Due to their lack of legal residence status, undocumented migrants in Luxembourg are usually ineligible to make social security contributions or register with the national health insurance system. As a result, undocumented migrant women who access maternal health care during pregnancy or childbirth will usually be invoiced for any care they seek and will be ineligible for any reimbursement. This means they will have to cover the costs of both antenatal care or maternal health care during labour and childbirth.

Malta

In Malta, laws and policies entitle citizens and legal residents to free health care. However, there are no legal provisions that address entitlements to care for undocumented migrants who are not living in detention facilities. Reports indicate that the Ministry of Health has stated that undocumented migrants are entitled to core health services and that this includes necessary and lifesaving care as well as care that affects quality of life, based on the assessment of a doctor.[129] However it appears that they will have to cover the costs of any such care themselves. As a result, although undocumented migrant women may be able to obtain maternal health care during labour and childbirth, they will usually have to cover the costs of this care themselves, as well as the cost of any antenatal care they may seek during pregnancy.

Netherlands

Although under Dutch law, entitlements to coverage for health care are generally limited to those with legal residence in the country, legal exceptions have been stipulated in relation to care that is medically necessary.[130] As a result, undocumented migrants are entitled to access necessary medical care, and official policies specify that medical providers have a professional responsibility to provide it. Legal provisions specify that at the very least such care includes maternal health care during pregnancy and childbirth, including antenatal care.[131]

In principle, undocumented migrants are required to pay the cost of any medical care.[132] However, Dutch laws also stipulate that health care providers can be reimbursed for the costs of providing necessary medical care to undocumented migrants who are unable to pay[133] and make it clear that they will be fully reimbursed for the costs related to antenatal care and care during labour and childbirth.[134] As a result, undocumented migrant women in the Netherlands who are unable to cover the costs of care themselves will often be able to obtain maternal health care throughout pregnancy and childbirth free of charge, including antenatal care.[135]

Poland

Under Polish law, no one, including undocumented migrants, can be refused emergency health care that is necessary to avert risks to their life or health,[136] and medical professionals must provide this care.[137] Although it is not explicitly stipulated, it is generally understood that emergency care encompasses maternal health care for pregnant women during childbirth.[138] As a result, undocumented migrant women appear to be entitled to access care during labour and childbirth.

Most undocumented migrants in Poland are ineligible to obtain public health insurance coverage, which is usually required in order to access free or subsidised health care, and as a result they will have to cover the costs of most forms of health care themselves.[139] Accordingly, undocumented migrant women are likely to be required to cover the costs of care during labour and childbirth. Furthermore, undocumented migrant women must cover the costs of any antenatal care they seek during pregnancy.[140]

Portugal

Official policies specify that undocumented migrants in Portugal are entitled to access certain forms of health care services, including urgent and vital health care and all forms of maternal and reproductive health care, including antenatal care and care during labour and childbirth.[141] These forms of health care are exempt from any charges which might usually be imposed.[142] As a result, undocumented migrant women in Portugal can access free maternal health care during pregnancy and childbirth, including antenatal care. In order to avail of these entitlements, undocumented migrant women must fulfil a range of administrative requirements.[143]

Romania

Although under Romanian law, access to health care is generally guaranteed through contributions to compulsory health insurance schemes, even those who have not made insurance contributions are entitled to receive emergency medical care.[144] Moreover the law explicitly

stipulates that pregnant women who have not made insurance contributions are still covered by insurance and can access free basic care, which includes health care and medicines in medical emergencies, as well as throughout pregnancy and the postpartum period.[145] As a result, undocumented migrant women in Romania are entitled to access antenatal care during pregnancy as well as health care during labour and childbirth or in obstetric emergencies free of charge.

Slovakia

Under Slovak law, everyone is entitled to access health care and medical professionals are obliged to provide assistance to any person whose life or health is in danger.[146] As a result, undocumented migrant women are entitled to access emergency health care, which is understood to encompass care during labour and childbirth.

Most undocumented migrants in Slovakia do not meet conditions for participating in the public health insurance system, and as a result, they will have to cover the costs of all health care, including emergency care, themselves. As a result, most undocumented migrant women will be billed for the costs of care during labour and childbirth. Similarly, they will also be required to cover the full costs of any antenatal care that they seek during pregnancy.

Slovenia

In most instances, undocumented migrants in Slovenia will not qualify for health care coverage under the compulsory social insurance scheme. However, Slovenian law stipulates that individuals without insurance coverage are entitled to free emergency health care.[147] This is defined as medical care related to health conditions that are life threatening or could lead to life threatening situations or severe health consequences,[148] and although not explicitly specified, it is understood to encompass health care for women during labour and childbirth. As a result, undocumented migrant women in Slovenia are entitled to free maternal health care during labour and childbirth.[149] However they will be required to pay for any antenatal care they seek during pregnancy.[150]

Spain

Spanish law grants access to emergency care due to serious illness or in accident situations to foreigners who are not registered or authorised residents in Spain.[151] It also explicitly provides that undocumented migrant women will receive medical assistance throughout pregnancy, during childbirth, and postpartum free of charge.[152]

Sweden

Under Swedish law, undocumented migrants must be provided with health care that cannot be delayed, maternal health care, abortion care, and contraception counselling.[153] Although in general undocumented migrants must pay a very small flat fee for consulting a doctor and for prescription medicines,[154] undocumented migrant women are not required to pay any fees for antenatal care at primary care levels or for maternal health care during labour and childbirth.[155] As a result, undocumented migrant women have access to free maternal health care, including antenatal care and care during labour and childbirth.

United Kingdom

Laws in the UK clearly specify that everyone, regardless of their immigration status, must be provided with health care when it is immediately necessary.[156] Legal provisions stipulate that this includes any treatment which a patient needs promptly to save their life, prevent a condition from becoming immediately life-threatening, or prevent permanent serious damage from occurring.[157] Under relevant laws, all forms of maternal health care, including all ordinary antenatal and postnatal care, as well as all care during labour and childbirth, must always be treated as being immediately necessary.[158]

However, although the law clearly specifies that providers must always provide maternal health care, and explicitly stipulates that no one must ever be denied maternity services, it simultaneously requires providers to charge and pursue undocumented migrant women for the costs of all maternal health care.[159] Although laws specify that certain individuals may be exempt from these charging rules, most undocumented migrant women will not fall within the relevant exemptions.[160] As a result under the law, health care providers are obliged to charge most undocumented migrant women for all aspects of maternal health care, including all antenatal care as well as any in-patient hospital care during labour and childbirth.[161]

In addition, the law specifies that undocumented migrant women can access accident and emergency care, as well as care from General Practitioners free of charge.[162] However, this will usually not include maternal health care.

4. INTERNATIONAL HUMAN RIGHTS LAW AND STANDARDS

Article 12, Convention on the Elimination of All Forms of Discrimination Against Women

1. *States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.*
2. *… States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.*

International human rights law and standards require states to guarantee that all pregnant women have access to affordable and good quality maternal health care throughout pregnancy.[163] This means that under international law, state authorities must ensure that all women can access affordable antenatal care throughout pregnancy, as well as skilled care during labour and childbirth, obstetric emergency care, and prevention of mother to child transmission of HIV/AIDS, in line with the WHO list of "essential interventions" for maternal health and other guidance.[164]

States are specifically required to address and remove obstacles, including cost barriers, reporting requirements, and other legal and policy barriers, that prevent or impede access to affordable maternal health care by certain groups of women, including undocumented migrant women.

EU member states' obligations to give effect to these requirements derive from a range of international human rights treaties which have been ratified by all member states. In particular, Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) place exigent obligations on all member states to guarantee

women's enjoyment of the right to the highest attainable standard of health, and specifically and explicitly, to ensure all women have access to affordable and quality maternal health care throughout pregnancy and childbirth.[165] In addition, Article 6 of the International Covenant on Civil and Political Rights (ICCPR) protects the right to life and obliges member states to take effective measures to protect all pregnant women from life threatening risks arising from inadequate access to maternal health care.[166]

4.1 States' Human Rights Obligations to Ensure Access to Affordable Maternal Health Care for Undocumented Migrant Women

Policy makers and government officials often argue that because of their lack of legal residence status, or because they have entered or remained in a country in breach of domestic immigration laws and policies, undocumented migrant women do not enjoy the same human rights to health, and specifically to affordable maternal health care throughout pregnancy, as other women with citizenship or regular immigration status.

However, this is wholly untrue. Although under international human rights law and standards EU member states are entitled to determine who can legally enter and stay on their territory, and while they are permitted to restrict certain political rights or freedom of movement on this basis, such prerogatives do not diminish the vast majority of their human rights obligations towards all persons on their territory. Under international law, human rights are universal and apply to everyone on a state's territory, including non-nationals, regardless of their legal status or documentation.[167] International human rights law also prohibits discrimination, including on grounds of race, ethnicity, nationality and immigration status, in the enjoyment of human rights.[168]

As a result, the enjoyment of human rights may not be circumscribed because an individual has entered or resided in a country in breach of domestic immigration laws and policies, and undocumented migrant women's access to affordable and good quality maternal health care must be guaranteed.

As such, international human rights law and standards require all EU member states to take a range of measures to ensure that undocumented migrant women can access affordable and good quality maternal health care throughout pregnancy, including antenatal care and care during labour and childbirth. These include:

- Ensure that all undocumented migrant women are entitled to receive primary and emergency medical care, including by reforming laws and policies that deny or limit their access to care.[169]
- Ensure that maternal health care is provided at no cost or based on the principle of equity so that undocumented migrant women are not disproportionately burdened with health expenses.[170]
- Take effective measures to guarantee access in practice for all undocumented migrant women to quality maternal health care and remove any legal, administrative, linguistic, and cultural barriers that may hamper their access to care.[171]
- Remove reporting requirements and ensure that medical professionals, social workers, and others involved in the administration of health care do not share undocumented migrant women's personal information with authorities for the purpose of immigration control or enforcement.[172]

4.2 Right to the Highest Attainable Standard of Health

Although member states' obligations to guarantee undocumented migrant women's access to affordable maternal health care throughout pregnancy derive from a number of human rights, the right to the highest attainable standard of health is particularly relevant in this context. The right to health requires member states to adopt a range of comprehensive measures to give effect to undocumented migrant women's right to affordable and quality maternal health care.[173]

The right to health requires states to ensure that all individuals are able to enjoy unhindered access to a full range of health care facilities, goods, and services. In the area of maternal health, these entitlements require access to a range of interventions and forms of health care that are vital for the prevention of maternal mortality and morbidity, including early, regular, and appropriate antenatal care; skilled birth attendance; and emergency obstetric care.[174]

A. Availability, Accessibility, Acceptability, and Quality

International human rights law obliges states to ensure that maternal health care, goods, and facilities meet four standards; they must be available, accessible, acceptable, and of good quality.[175]

Availability: State authorities must ensure that there are an adequate number of functioning health care facilities, services, goods, and programmes related to maternal health care as well as trained providers throughout the country.

Accessibility: Maternal health care services must be accessible to women without discrimination, both in law and in practice. This means that states must ensure both the physical and financial accessibility of maternal health care throughout pregnancy, in particular for women belonging to disadvantaged and marginalised groups.

Acceptability: Maternity health facilities, goods, information, and services must respect principles of confidentiality and informed consent, be culturally appropriate, and take into account the interests and needs of marginalised groups, including racial and ethnic minorities, as well as different age groups.

Quality: Maternity health facilities, goods, information, and services must be of good quality. This means that they must be "evidence-based and scientifically and medically appropriate and up-to-date."[176]

B. Minimum Core Obligations

Under the International Covenant on Economic, Social and Cultural Rights, states are obliged to ensure, at the very least, minimum essential levels of the right to health.[177] Such 'minimum core obligations' impose duties of immediate effect on states and are not subject to the principle of progressive realisation. They entail duties to ensure the minimum core content of the right to health to everyone, at all times and without exception, and include a range of duties of particular relevance to undocumented migrant women's access to affordable maternal health care throughout pregnancy.[178]

To give effect to these minimum obligations member states must:

- Guarantee universal and equitable access to affordable, acceptable, and quality maternal health services, goods and facilities, particularly for disadvantaged and marginalised groups.[179]
- Ensure the right of access to maternal health facilities, goods and services on a non-discriminatory basis, especially for disadvantaged or marginalised groups.[180]
- Repeal and eliminate laws, policies, and practices that criminalise, obstruct, or undermine access by individuals or a particular group to maternal health care facilities, services, goods, and information.[181]

- Refrain from denying or limiting equal access for all persons, including undocumented migrants, to preventive, curative, and palliative health services.[182]
- Adopt tailored measures to address the distinct needs of undocumented migrant women and eliminate barriers they face in accessing maternal health care.[183]

As a result, member states are required to ensure that all undocumented migrant women can access affordable and quality maternal health care throughout pregnancy. State failures to ensure access to affordable maternal health care, including antenatal care, violate minimum core obligations to ensure the right to the highest attainable standard of health.[184]

C. Affordability

As outlined above, member states are obliged to ensure that health care is affordable for all persons, including undocumented migrant women.[185] International human rights mechanisms have called on states to reform laws and policies to ensure access to affordable maternal health care for undocumented migrant women.[186] They have underlined that undocumented migrant women are often unable to access affordable maternal health services because they are not eligible for free or subsidised care, and are unable to affiliate with public insurance or national health schemes.[187] They have stressed that this lack of access exposes these women to serious health risks.[188]

International human rights mechanisms have outlined that the obligation to ensure affordable health care means that "essential goods and services […] must be provided at no cost or based on the principle of equity to ensure that individuals and families are not disproportionately burdened with health expenses. States must adopt positive measures to enable persons with limited means to enjoy the right to health.[189] As such, persons without sufficient means should be provided with the support necessary to cover the costs of health insurance and access to health facilities providing maternal health information, goods, and services.[190]

The duty to ensure the affordability of maternal health care applies regardless of whether states have established public, private, or mixed health insurance systems.[191] States must ensure that health care systems are adequately funded so that all persons, and in particular those that are marginalised, can enjoy the right to health.[192] Insufficient expenditure or misallocation of public resources that results in the exclusion of individuals or groups from the enjoyment of the right to health breaches this obligation. Furthermore, states may not restrict access to basic health care, including maternal health care, on the basis that they lack necessary resources.[193]

Collection of Disaggregated Data

Human rights mechanisms systematically recommend that states collect disaggregated health data in order to measure the impact of their policies, identify shortcomings, and address disparities and inequalities affecting certain population groups. They have specifically recommended collection of disaggregated data on maternal mortality.[194]

Human rights standards outline that data collection be carried out based on a number of human rights principles, including data disaggregation based on key characteristics identified in international human rights law, namely sex, gender, race, nationality, ethnicity, and immigration status. Furthermore, the collection of data related to marginalised groups must respect privacy in accordance with international standards of data protection and be done in a sensitive manner and in close consultation with the affected group to reduce any accompanying risks.

However, despite this, the vast majority of EU member states fail to collect data and evidence on maternal health disaggregated by nationality, ethnicity, and immigration status, as well as information on health status, needs, and knowledge among migrant populations.[195] This is a serious shortcoming and concern.

In the context of the 2030 Agenda, all states have committed to improved and more systematic data disaggregation to enhance the assessment of whether states have met their commitments to universal health care coverage, leaving no one behind and reaching those furthest behind first. The assessment of progress should be based on evidence and data disaggregated, among other factors, by "income, gender, age, race, ethnicity, migratory status, (and) disability."[196] It is critical that EU member states take urgent action, in line with human rights principles, to ensure the collection of disaggregated data on maternal health, including data on maternal health outcomes and needs of undocumented migrant women.

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63 Loi organique des centres publics d'action sociale/Organieke wet betreffende de openbare centra voor maatschappelijk welzijn [Law on Public Social Welfare Centers] of July 8, 1976, Moniteur Belge [M.B.] [Official Gazette of Belgium], July 25, 2006, 36499, art. 57(2)(1) *available at* https://bit.ly/2PNQE9S; Arrêté royal relatif à l'aide médicale urgente octroyée par les centres publics d'aide sociale aux étrangers qui séjournent illégalement dans le Royaume/Koninklijk besluit betreffende de dringende medische hulp die door de openbare centra voor maatschappelijk welzijn wordt verstrekt aan de vreemdelingen die onwettig in het Rijk verblijven [Royal Decree on urgent medical aid provided by public social welfare centres to foreigners staying illegally in the Kingdom] of Dec. 12, 1996, Moniteur Belge [M.B.] [Official Gazette of Belgium], Dec. 31, 1996, art. 57(2), *available at* https://bit.ly/2PN7Zzq.

64 Royal Decree on urgent medical aid provided by public social welfare centres to foreigners staying illegally in the Kingdom of Dec. 12, 1996, Moniteur Belge [M.B.] [Official Gazette of Belgium], Dec. 31, 1996, art. 2.

65 Law on Public Social Welfare Centers of July 8, 1976, Moniteur Belge [M.B.] [Official Gazette of Belgium], July 25, 2006, 36499, art. 60 (they must also fulfil a number of administrative requirements by first obtaining a medical certificate from a doctor attesting to the urgency of the medical needs and then by obtaining permission for free care from social welfare authorities who will verify their residence in the relevant municipality and lack of financial means. In some municipalities free public antenatal clinics have also been established which women can attend without first receiving permission from the social welfare services).

66 Закон за здравето [Health Act] of Aug. 10, 2004, arts. 99(2) & 100(2), *available at* https://bit.ly/2KINott; Наредба № 2 от 1 юли 2005 г. за условията и реда за оказване на медицинска помощ на чужденците, които не се ползват с правата на българските граждани [Regulation No. 2 on the terms and procedure of rendering medical assistance to foreigners who do not enjoy the rights of Bulgarian citizens] of July 1, 2005, art. 22(2).

67 Health Act of Aug. 10, 2004, arts. 99(3).

68 Закон за здравното осигуряване [Law on Health Insurance] of Dec. 18, 2009, art. 33, *available at* https://bit.ly/2PkQk0X.

69 Health Act of Aug. 10, 2004, arts. 99(1); Наредба № 25 от 4 ноември 1999 г. за оказване на спешна медицинска помощ [Regulation No. 25 of 4 November 1999 on Emergency Medical Assistance] *available at* https://bit.ly/2PNxbpy.

70 Law on Health Insurance of Dec. 18, 2009, art. 82.

71 Regulation No. 2 on the terms and procedure of rendering medical assistance to foreigners who do not enjoy the rights of Bulgarian citizens of July 1, 2005.

72 Zakon o obveznom zdravstvenom osiguranju i zdravstvenoj zaštiti stranaca u Republici Hrvatskoj [Law on Compulsory Health Insurance and Health Care for Foreigners in the Republic of Croatia] of June 24, 2013, Narodne novine [Official Gazette] No. 80/13, 15/18, arts. 16(2) & 17, *available at* https://bit.ly/2wp7ALH & https://bit.ly/2uzuZLN.

73 *Id.*

74 Άτυπη ενοποίηση των περί Κυβερνητικών Ιατρικών Ιδρυμάτων και Υπηρεσιών Γενικών Κανονισμών (ΚΔΠ 225/2000, ΚΔΠ 660/2002, ΚΔΠ 455/2004, ΚΔΠ 364/2005, 629/2007 [Republic of Cyprus, Government Medical Institutions and Services General Regulations of 2000 *as amended,* Regulation 8], *available at* https://bit.ly/2tPAQdl.

75 However, they must pay the cost of any additional postpartum hospitalisation; *see* Republic of Cyprus, Government Medical Institutions and Services General Regulations of 2000 *as amended,* Regulation 8.

76 Government Medical Institutions and Services General Regulations of 2000 as amended, Regulations 7 and 9.

77 Cyprus is introducing a new national health system in 2020. This may give rise to changes in relation to undocumented migrant women's access to maternal health care during pregnancy. *See, Cyprus: New National Health Insurance System will transform public health care* (2017), *available at* https://bit.ly/2KPfJgL.

78 Zákon o zdravotních službách a podmínkách jejich poskytování [Act on Healthcare Services], Zákon č. 372/2011 Sb. (Czech), sec. 48(3), *available at* https://bit.ly/2IMdQR9.

79 *Id.*, sec. 30(1).

80 Sundhedsloven [Healthcare Act], L.B.K. nr 913 af 13/07/2010, art. 8(1), (Dk.), *available at* https://bit.ly/2oj9BVe; Bekendtgørelse om ret til sygehusbehandling m.v. [Executive Order on the right

to hospital treatment], art. 5(1), *available at* https://bit.ly/2MDXNH6.

81 *Id.* Under the Aliens Act necessary health care, which is considered urgent, can be provided and covered by the Immigration Service (Udlændingestyrelsen). However, this is contingent on the person's residence being known to the authorities. As a result, most undocumented migrants will not be able to seek health care under the Aliens Act.

82 Executive Order on the right to hospital treatment, art. 5(1).

83 *See* Ministeriet for Sundhed og Forebyggelse, Sundhedsydelser til uregistrerede migranter [Ministry of Health and Prevention, Healthcare for Unregistered Migrants], *available at* https://bit.ly/2IN8vc0; Executive Order on the right to hospital treatment, art. 5(1), (delivery at term is considered from week 37 to week 41 +6).

84 *See* Institut for Menneskerettigheder, Uregistrerede migranters sundhedsrettigheder: Fokus på gravide og børn, [Danish Institute for Human Rights, Unregistered migrants' health rights: focus on pregnant women and children], 64 (2016), *available at* https://bit.ly/2wzEmZG.

85 *See* Ministeriet for Sundhed og Forebyggelse, Sundhedsydelser til uregistrerede migranter [Ministry of Health and Prevention, Healthcare for Unregistered Migrants], 6 (in a case concerning a pregnant Serbian woman who is married to a Danish man and who was seeking family reunification at the time of giving birth, the Patient Safety Board held that the regional authority's charging of costs for the delivery, which took place at term, was reasonable under the circumstances. The Board considered that since the delivery occurred at term the hospital treatment was not urgent, and that the needed care could have been anticipated by the woman and her husband. It also considered that there was nothing to indicate that the woman could not have travelled to Serbia to deliver. The Board also found that the decision to charge for the cost did not breach administrative principles of equal treatment. *See* https://bit.ly/2PLGsyw).

86 Executive Order on the right to hospital treatment, art. 5(1).

87 Ravikindlustuse seadus [Health Insurance Act], RT I 2002, art. 5(4)(1), *available at* https://bit.ly/2onS9yI.

88 Tervishoiuteenuste korraldamiseseadus [Health Services Organisation Act] of 9 May 2001 as amended in 2015, art. 6(1), *available at* https://bit.ly/2NtYYK7; Võlaõigusseadus [Law of Obligations Act] of 26 September 2001 as amended in 2011, art. 766.

89 Health Services Organisation Act of 9 May 2001 as amended in 2015, arts. 5 & 6(1).

90 *Estonian Health Insurance Fund and Tallinn University 2007 joint study on emergency care provided to uninsured women (15% of emergency related to pregnancy and childbirth), available at* https://bit.ly/2wl0Pui; Estonian hospitals operate 24-hours-a-day available emergency departments for pregnant women (*see e.g.,* East-Tallinn Central Hospital, https://bit.ly/2MxnZI1; Idu-Viru Central Hospital, https://bit.ly/2BVS1Pq); Tallinn City Regulation in effect between 2001 and 2012 expressly recognised childbirth assistance as emergency care (note that this was a broad regulation addressing the city's duties to uninsured people and the new regulation does not expressly address the definition of emergency care, pregnancy, or childbirth).

91 Health Services Organisation Act of 9 May 2001 as amended in 2015, art. 6(4).

92 *Id.*, art. 26.

93 *Id.*, art. 11(2).

94 *See* Ravikindlustuse seadus [Health Insurance Act], RT I 2002, art. 71(2), *available at* https://bit.ly/2onS9yI. *See also* Estonian Health Insurance Fund website, *available at* https://bit.ly/2MzZmdz (in order to file the application with the Health Insurance Fund undocumented migrant women will usually be required to provide their personal identification code).

95 Ravikindlustuse seadus [Health Insurance Act], RT I 2002, art. 12(1), *available at* https://bit.ly/2onS9yI..

96 However, in order to confirm the pregnancy undocumented migrant women must consult a doctor or midwife who will usually require them to provide personal identifation documents which can pose a problem for many undocumented women.

97 1326/2010 Terveydenhuoltolaki/Hälso- och sjukvårdslag [Health Care Act], chapter 6, sec. 50, *available at* https://bit.ly/2NvEJfa; 1062/1989 Erikoissairaanhoitolaki/Lagen om specialiserad sjukvård [Act on Specialised Medical Care], sec. 3, *available at* https://bit.ly/2wx4Yuf.

98 Health Care Act, sec. 3.

99 Sosilaali-Ja Tereveysminsteriö Kuntainfo, 4/2017 *Maahanmuuttajataustaisten lasten ja raskaana olevien naisten oikeus terveydenhuollon palveluihin Suomessa* [The Ministry of Social Affairs and Health, *The right of immigrant children and pregnant women to receive health care services in Finland*], *available at* https://bit.ly/2N1F985.

100 3.8.1992/734 Laki sosiaali- ja terveydenhuollon asiakasmaksuista/Lag om klientavgifter inom social- och hälsovården [Act on Client Fees for Social Welfare and Health Care], sec. 13; 9.10.1992/912 Förordning om klientavgifter inom social- och hälsovården [Regulation on client fees in social and health care].

101 Sosilaali-Ja Tereveysminsteriö Kuntainfo, 4/2017 *Maahanmuuttajataustaisten lasten ja raskaana olevien naisten oikeus terveydenhuollon palveluihin Suomessa* [The Ministry of Social Affairs and Health, *The right of immigrant children and pregnant women to receive health care services in Finland*], *available at* https://bit.ly/2N1F985 (for example, reports indicate that the cities of Espoo, Helsinki, and Turku all provide maternal health care to undocumented migrant women on the same basis as for legal residents, including the provision of free antenatal care).

102 Code de l'action sociale et des familles [CASF] [Code of Social Action and Families], art. L251-1 (Fr.), *available*

at https://bit.ly/2okAFDJ, (the current ceiling is 8,810 euros for a single person).

103 Code of Social Action and Families, art. L251-3 (Fr.); Social Security Code, art. L160-9 (Fr.).

104 Code of Social Action and Families, art. L254-1 (Fr.).

105 DHOS/DSS/DGAS no 2005-141, Circulaire relative à la prise en charge des soins urgents délivrés à des étrangers résidant en France de manière irrégulière et non bénéficiaires de l'aide médicale de l'Etat (16 mars 2005) [DHOS/DSS/DGAS no. 2005-141, Circular on the coverage of urgent care delivered to foreigners residing in France in an irregular manner and not beneficiaries of medical aid from the State (16 March 2005)], *available at* https://bit.ly/2woPNEb.

106 Asylbewerberleistungsgesetz [AsylbLG] [Asylum Seekers Benefit Act], Nov. 1, 1993, BGBl. I at 2022, §4 (Ger.), *available at* https://bit.ly/2NxeFjS.

107 *Id.*

108 Christian Grube ET AL., Sozialhilfe mit Asylbewerberleistungsgesetz [Social assistance with Asylum Seekers Benefit Act], 6 SGB XII 4, 47 (2018).

109 MEDECINS DU MONDE, FINAL LEGAL REPORT ON ACCESS TO HEALTH CARE IN 16 EUROPEAN COUNTRIES, 44 (2017).

110 Aufenthaltsgesetz [AufenthG] [Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory] BGBl I at 162, §87 (Ger.).

111 Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory, BGBl I at 162, §87(2) & §60(a) (Ger.), *in connection with* GRUNDGESETZ [GG] [Constitution] arts. 1 & 2 (F.R.G.); *see also* MEDECINS DU MONDE, FINAL LEGAL REPORT ON ACCESS TO HEALTH CARE IN 16 EUROPEAN COUNTRIES, 45 (2017). In addition, undocumented migrant women who are pregnant could obtain a toleration permit (*duldung*), which protects them against deportation six weeks prior to and eight weeks following childbirth. With such a permit, undocumented migrant women are able to receive antenatal care free of charge. After the relevant time frame passes they could be subject to removal.

112 ΝΟΜΟΣ ΥΠ' ΑΡΙΘ. 4368 Μέτρα για την επιτάχυνση του κυβερνητικού έργου και άλλες διατάξεις [Law No. 4368/2016 Measures to speed up government work and other provisions] arts. 33(1) & (2)(c)(ii), *available at* https://bit.ly/2wp5mvA.

113 Law No. 4368/2016 Measures to speed up government work and other provisions, arts. 33(1) & (2)(c)(ii).

114 évi CLIV. törvény az egészségügyről [Act no. CLIV of 1997 on Healthcare], 15 December 1997, secs. 6, 94, & 142, *available at* https://bit.ly/2wsntkC; EüM rendelet a sürgös szükség körébe tartozó egyes egészégügyi szolgáltatásakról [Regulation on Diseases and Conditions included in Emergency Care Services], 52/2006 (XII.28), 10.

115 Korm. rendelet az egészségügyi szolgáltatások Egészségbiztosítási Alapból történő finanszírozásának részletes szabályairól [Regulation 43/1999. (III. 3.) on the Detailed Rules of Financing Health Care Services from the Health Insurance Fund] sec. 4(10). EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS, FUNDAMENTAL RIGHTS OF IRREGULAR MIGRANTS TO HEALTHCARE, 23 (2011) (only if the woman is unable to pay the bill and the fees cannot be obtained from another source can the provider seek reimbursement from state authorities).

116 ESzCsM rendelet a Magyar Köztársaság területén tartózkodó, egészségügyi szolgáltatásra a társadalombiztosítás keretében nem jogosult személyek egészségügyi ellátásának egyes szabályairól 87/2004, X.4 [Regulation 87/2004 (X. 4.) On the Rules of Health Care Service in the Territory of the Republic of Hungary for Persons Not Entitled to Social Security 87/2004], *available at* https://bit.ly/2NxphPL. *See also* EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS, HEALTHCARE ENTITLEMENTS OF MIGRANTS IN AN IRREGULAR SITUATION: ACCESS TO HEALTHCARE IN 10 EUROPEAN UNION MEMBER STATES, 23 (2010).

117 Health Act 1970, sec. 53 (as amended by Section 4 of the Health (Amendment Act) 2005), *available at* https://bit.ly/2PhGH3a; Health (Out-Patient Charges) Regulations 2013, (Regulation (3) (b)), S.I. 45 of 2013, *available at* https://bit.ly/2w7OIOj.

118 Decreto Legislativo 25 luglio 1998, n.286, Testo Unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero [Consolidated act of provisions concerning regulations on immigration and rules about the condition of aliens], G.U. Aug. 18, 1998, n. 191, art. 35(3) (It.), *available at* https://bit.ly/2NuBk0f.

119 Consolidated act of provisions concerning regulations on immigration and rules about the condition of aliens, G.U. Aug. 18, 1998, n. 191, art. 35(3) (It.); Decreto Ministeriale 10 settembre 1998, Aggiornamento del Decreto Ministeriale 6 marzo 1995 concernente l'aggiornamento del Decreto Ministeriale concernente l'aggiornamento del Decreto Ministeriale 14 aprile 1984 recante protocolli di accesso agli esami di laboratorio e di diagnostica strumentale per le donne in stato di gravidanza ed a tutela della maternità [Ministerial Decree of 10 September 1998 Update of the Ministerial Decree of 6 March 1995 concerning the updating of the Ministerial Decree of 14 April 1984 containing access protocols for laboratory tests and instrumental diagnostics for pregnant women and maternity protection], G.U. Oct. 20, 1998, n.245, art. 1 (It.).

120 Decreto Presidente della Repubblica 31 agosto 1999, n. 394, Regolamento recante norme di attuazione del testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero [Regulation containing norms on the implementation of the consolidated act of provisions governing immigration and the status of aliens], G.U. Mar. 11, 1999, n. 258, art. 43(3) (It.), *available at* https://bit.ly/2MXTU3L; *See also* Circular of the Ministry of Health No. 5 of 24 March 2000, Indicazione applicative del Decreto Legislativo 25 luglio 1998, n.286, Testo Unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero - Dispozioni in materia di assistenzia sanitaria [Application indications of the legislative decree no. 286 of 25 July 1998 "Consolidated act of provisions

concerning regulations on immigration and rules about the condition of aliens- Provisions on health care."], G.U. Aug. 18, 1998, n. 191, art. 35(3) (It.), *available at* https://bit.ly/2NuTQFw.

121 Veselības aprūpes finansēšanas likums [Health Care Financing Law], sec. 7, *available at* https://bit.ly/2tQ4miW.

122 *Id.*, sec. 8.

123 *Id.*, sec. 9(1).

124 Sveikatos apsaugos ministro įsakymas dėl būtinosios medicinos pagalbos ir būtinosios medicinos pagalbos paslaugų teikimo tvarkos bei masto patvirtinimo [Order of the Minister of Health on the Approval of the Order and Scope of Providing Basic Health Care and Basic Health Care Services] of April 2004, para. 7, available at https://bit.ly/2NxdWz5.

125 *Id.*, para. 4.

126 Lietuvos Respublikos sveikatos draudimo įstatymas [Law on Health Insurance of the Republic of Lithuania] of 21 May 1996 (last amended on 21 December 2017), art. 8(5), *available at* https://bit.ly/2PjPr8W.

127 Sveikatos apsaugos ministro įsakymas Nr. V-794 dėl pakeitimo Sveikatos apsaugos ministro įsakymo Nr. 357 dėl mokamų asmens sveikatos priežiūros paslaugų sąrašo, kainų nustatymo ir jų indeksavimo tvarkos bei šių paslaugų teikimo ir apmokėjimo tvarkos [Order of the Minister of Health No. V-794 on Amendment to the Order of the Minister of Health No. 357 on Approval of the List of Paid Health Care Services, Determination of Prices and the Order for their Indexation, Provision and Payment of these Services] of 11 July 2014, para. 5, *available at* https://bit.ly/2LG86tk.

128 Lietuvos Respublikos sveikatos draudimo įstatymas [Law on Health Insurance of the Republic of Lithuania] of 21 May 1996 (last amended on 21 December 2017), art. 8(5).

129 European Union Agency for Fundamental Rights, Healthcare entitlements of migrants in an irregular situation in the EU-28, *available at* https://bit.ly/2IKxvAR.

130 Zorgverzekeringswet 2006 [Health Insurance Act] art. 122(a)1(b), *available at* https://bit.ly/2PipIh4.

131 *Id.,* art. 122(a)4(a). *See also* Wijziging van de Zorgverzekeringswet in verband met de verstrekking van bijdragen aan zorgaanbieders die inkomsten derven ten gevolge van het verlenen van medisch noodzakelijke zorg aan bepaalde groepen vreemdelingen en van de Algemene Wet Bijzondere Ziektekosten met het oog op verzekering van bepaalde groepen minderjarige vreemdelingen [Amendment of the Healthcare Insurance Act in connection with the provision of contributions to care providers who lose income as a result of providing medically necessary care to certain groups of foreign nationals and of the Exceptional Medical Expenses Act with a view to insuring certain groups of foreign minors], Kamerstuk 31249 no. 3 (2007).

132 Health Insurance Act, art. 122a sub 3(a) read with Vreemdelingenwet 2000 [Aliens Act], art. 10.

133 Health Insurance Act, art. 122a sub 3(a), read with Vreemdelingenwet 2000 [Aliens Act], art. 10.

134 Health Insurance Act, art. 122a sub 1, read with Vreemdelingenwet 2000 [Aliens Act], art. 10.

135 *See also* Wijziging van de Zorgverzekeringswet in verband met de verstrekking van bijdragen aan zorgaanbieders die inkomsten derven ten gevolge van het verlenen van medisch noodzakelijke zorg aan bepaalde groepen vreemdelingen en van de Algemene Wet Bijzondere Ziektekosten met het oog op verzekering van bepaalde groepen minderjarige vreemdelingen [Amendment of the Healthcare Insurance Act in connection with the provision of contributions to care providers who lose income as a result of providing medically necessary care to certain groups of foreign nationals and of the Exceptional Medical Expenses Act with a view to insuring certain groups of foreign minors], Kamerstuk 31249 no. 3 (2007).

136 Ustawa z dnia 15 kwietnia 2011 r. o działalności leczniczej [Healthcare Activities Act of 15 April 2011] (Dz.U. 2011 nr 112 poz. 654), art. 15, *available at* https://bit.ly/2wvflz1.

137 Ustawa z dnia 5 grudnia 1996 r. o zawodach lekarza i lekarza dentysty [Act on Physicians and Dentists of 5 December 1996] (Dz.U. 1997 nr 28 poz. 152), art. 30, *available at* https://bit.ly/2Pfa5qO.

138 A. Baran, *Finansowanie* świadczeń *opieki zdrowotnej udzielonych w stanach nagłych nieubezpieczonym,* Studia Prawno-Ekonomiczne [A. Baran, *Financing health care services provided in emergency situations to uninsured,* Legal and Economic Studies] (2016); *See also* Narodowy Fundusz Zdrowia [National Health Fund], *available at* https://bit.ly/2z7m0DP; European Union Agency for Fundamental Rights, Healthcare entitlements of migrants in an irregular situation: Access to healthcare in 10 European Union Member States, 23 (2010).

139 Wyrock [judgment] SN [Supreme Court] z [of] July 8, 2007, CSK 125/07 (LEX 333609) (it appears that exceptions in relation to cost coverage apply to some forms of emergency care, and hospitals or ambulatory services may seek reimbursement of these costs from the National Health Fund).

140 Ustawa z dnia 27 sierpnia 2004 r. o świadczeniach opieki zdrowotnej finansowanych ze środków publicznych [Act on Healthcare Services Financed by the Public of 27 August 2004] (Dz.U. 2004 nr 210 poz. 2135 z późn. zm.), art. 4, *available at* https://bit.ly/2MHcmOZ.

141 Information Circular 12/DQS/DMD of the Directorate-General for Health, clarifying the contents of Dispatch 25.360/2001 of the Cabinet of the Minister of Health (7 May 2009), numbers 6 and 7, *available at* https://bit.ly/2N3T1GT.

142 *Id.*, number 8.

143 *Id.*, number 6 (health care professionals are required to send undocumented migrant women who do not hold a document certifying residence in Portugal for more than 90 days to a National Immigrant Support Center with a view to regularising their status).

144 Legea nr. 95/2006 privind reforma in domeniul sănătății [Law No. 95/2006 on Health Care Reform], O.G. No. 372 of 28 April 2006 (as amended in 2018), art. 105(7) (Rou.).

145 *Id*., arts. 221(1)(d), 232(1), & 224(1)(f).

146 Zákon č. 576/2004 Z.z. o zdravotnej starostlivosti, službách súvisiacich s poskytovaním zdravotnej starostlivosti a o zmene a doplnení niektorých zákonov v znení neskorších predpisov [Act No. 576/2004 Coll. on Health Care and Health Care-Related Services, and Amending and Supplementing Certain Acts as Amended], sec. 11, *available at* https://bit.ly/2wrXvh7; Zákon č. 578/2004 Z.z. o poskytovateľoch zdravotnej starostlivosti, zdravotníckych pracovníkoch, stavovských organizáciách v zdravotníctve a o zmene a doplnení niektorých zákonov [Act No. 578/2004 Coll. on Health Care Providers, Health Professionals, Professional Organisations in Healthcare and on Amendments to Certain Acts, as Amended], sec. 80, *available at* https://bit.ly/2wwbpxJ.

147 Zakon o zdravstvenem varstvu in zdravstvenem zavarovanju (ZZVZZ) [Health Care and Insurance Act], Uradni list Republike Slovenije no. 9/1992 [Official Gazette of the Republic of Slovenia no. 9/1992], art. 7, *available at* https://bit.ly/2wtW3uq.

148 Pravilnik o službi nujne medicinske pomoči [Rules on emergency medical service], Uradni list Republike Slovenije no. 81/15 & 93/15 [Official Gazette of the Republic of Slovenia no. 81/15 & 93/15].

149 Zakon o tujcih (ZTuj-2) [Aliens Act], Uradni list Republike Slovenije no. 1/18 [Official Gazette of the Republic of Slovenia no. 1/18].

150 Pravila obveznega zdravstvenega zavarovanja [Rules on Compulsory Health Insurance], Uradni list Republike Slovenije no. 79/94 [Official Gazette of the Republic of Slovenia, no. 79/94].

151 Real Decreto-ley 16/2003 de 16 de mayo, de cohesión y calidad del Sistema Nacional de Salud [Royal Decree-law 16/2003 of May 28 2003, on cohesion and quality of the National Health System], B.O.E. 2003, 128 (Es.), as amended by Real Decreto-ley 16/2012 de 20 de abril, Medidas urgentes para garantizar la sostenibilidad del Sistema Nacional de Salud y mejorar la calidad y seguridad de sus prestaciones [Royal Decree-law 16/2012 of 20 April 2012, Regulating urgent measures to guarantee the sustainability of the National Health System and to improve the quality and safety of its services], B.O.E. 2012, 98 art. 3 (Es.), *available at* https://bit.ly/2BWORfO.

152 Royal Decree-law 16/2003 of May 28 2003, on cohesion and quality of the National Health System, B.O.E. 2003, 128 (Es.), as amended by Royal Decree-law 16/2012 of 20 April 2012, Regulating urgent measures to guarantee the sustainability of the National Health System and to improve the quality and safety of its services, B.O.E. 2012, 98, art. 3 (Es.).

153 Law (2013:407): Health and Medical Care for Certain Foreigners Residing in Sweden without Proper Documentation Act, art. 7; (Lag om hälso- och sjukvård till vissa utlänningar som vistas i Sverige utan nödvändiga tillstånd; SFS 2013:407), *available at* https://bit.ly/2MGdvq0.

154 Förordning 2013:412 om vårdavgifter m.m. för utlänningar som vistas i Sverige utan nödvändiga tillstånd [Regulation 2013:412 on Care fees, etc. for foreigners staying in Sweden without the necessary permission], art. 6 (Swed.), *available at* https://bit.ly/2MCKkEd.

155 *Id*.

156 United Kingdom Department of Health, Guidance on implementing the overseas visitor hospital charging regulations 2018, 53 (2018), *available at* https://bit.ly/1mU47FG.

157 *Id*., 64.

158 *Id*. ("Due to the severe health risks associated with conditions such as eclampsia and pre-eclampsia, and in order to protect the lives of both mother and unborn baby, all maternity services must be treated as being immediately necessary. Maternity services include all antenatal, intrapartum and postnatal services provided to a pregnant person, a person who has recently given birth or a baby. No one must ever be denied, or have delayed, maternity services due to charging issues."). *See also* United Kingdom Department of Health, Guidance on implementing the overseas visitor hospital charging regulations 2009, 9 (2009).

159 National Health Service (Charges to Overseas Visitors) Regulations 2015 (2015 No. 238), Regulation 3; National Health Service (Charges to Overseas Visitors) Regulations 1989 (1989 No. 306), as amended by National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2009, Regulation 2; National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 (1989 No. 364), Regulation 2; Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015 (2015 No.27), Regulation 3.

160 National Health Service (Charges to Overseas Visitors) Regulations 2015 (2015 No. 238), Regulations 10-25 and Schedule 2; The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2008 (SI No. 2008/2251); National Health Service (Charges to Overseas Visitors) Regulations 1989 (1989 No. 306), Regulation 4-6 and Schedule 2; National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 (1989 No. 364 (S.40)), Regulations 3-6 and Schedule 2; Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015 (2015 No.27), Regulations 3-23 and Schedule 2.

161 National Health Service (Charges to Overseas Visitors) Regulations 2015 (2015 No. 238), Regulation 3; National Health Service (Charges to Overseas Visitors) Regulations 1989 (1989 No. 306), as amended by The National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2009, Regulation 2; National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 (1989 No. 364 (S.40)), Regulation 2; Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland)

2015 (2015 No.27), Regulation 3. United Kingdom Department of Health, Guidance on implementing the overseas visitor hospital charging regulations 2018, 3 (2018), *available at* https://bit.ly/1mU47FG; United Kingdom Department of Health, Guidance on implementing the overseas visitor hospital charging regulations 2018, 20 & 64 (2018), *available at* https://bit.ly/1mU47FG; Scottish Government, Overseas visitors' liability to pay charges for NHS care and services: a guide for healthcare providers in Scotland, 3 (2010), *available at* https://bit.ly/2MGhtyP; (while Guidelines direct providers to "be especially careful to inform pregnant patients that further maternity healthcare will not be withheld, regardless of their ability to pay," they simultaneously oblige them to levy fees and take all reasonable measures to recover charges and stipulates that "there is no option, nor is there the authority, to waive the charge").

162 National Health Service (Charges to Overseas Visitors) Regulations 2015 (2015 No. 238), Regulation 9; National Health Service (Charges to Overseas Visitors) Regulations 1989 (1989 No. 306) (Wales), Regulation 3(a); National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 (1989 No. 364 (S.40)), Regulation 3(a); Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015 (2015 No.27), Regulations 4(1)(a) and 24.

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164 See text box on p. 16-17.

165 Committee on Economic, Social and Cultural Rights, *General Comment No. 14: The right to the highest attainable standard of health (Art. 12)*, (22nd Sess., 2000), U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008); Committee on Economic, Social and Cultural Rights, *General Comment No. 22: On the right to sexual and reproductive health (Art. 12),* U.N. Doc. E/C.12/GC/22 (2016); Committee on the Elimination of Discrimination against Women, *General Recommendation No. 24: Article 12 of the Convention (women and health)*, (20th Sess., 1999), para. 26, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).

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