


HOW DO MEMBER STATES AND NORWAY RESPOND TO LONG-TERM IRREGULARLY STAYING MIGRANTS?

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Introduction to the EMN study: Responses to long-term irregularly staying migrants: practices and challenges in EU Member States and Norway

Background


Member States are required to deal with third-country nationals who no longer or never fulfilled the conditions of stay, who were denied a residence permit, or who have exhausted all legal options against the enforcement of their return decision. However, national policies on how to treat this group of third-country nationals and the responses to end long-term irregularity differ widely, and Member States and Norway face a variety of challenges.



How do national, regional and local authorities respond to migrants in a situation of protracted irregular stay? To which rights and public services are they provided access? Which measures are implemented to bring protracted situations of irregular stay to an end?

At a glance, the main research findings are introduced below.

Key trends and findings

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- **The status of third-country nationals who cannot be returned due to legal or practical obstacles varies within and across the Member States** as it does not rely on a harmonisation at EU level and usually depends on individual circumstances. Migrants who abscond or who were never detected by the authorities have no written documentation of any sort. This creates a potentially confusing situation for both migrants and service providers to navigate.
 - **Services provided to long-term irregular migrants with some form of status/authorisation are limited compared to those provided to regular migrants**, often discretionary, and difficult to access, especially concerning social protection benefits and employment. Services available to undetected migrants with no authorisation to stay are even more limited and essentially rely on the application of standards set out in international human rights law. Access to services may be limited still further by migrants' concerns about detection and apprehension.
 - The **main service providers for long-term irregular migrants are national authorities and municipalities, with non-governmental organisations (NGOs) providing complementary and/or autonomous services**. Cooperation mechanisms for service provision between national and local authorities are mostly ad hoc, and do not have a focus on the issue of long-term irregular migrants, but rather irregular migrants more generally.
 - In order to end irregular stay in general, not only focusing on long-term specifically, **(voluntary) return is prioritised in the Member States, whereas regularisation is only marginally addressed in policy**. Good practices identified in the study focused on encouraging return through return counselling and on discouraging illegal stay by restricting certain rights while balancing the need to provide humane treatment for all persons, irrespective of their legal status.
 - The **COVID-19 pandemic has highlighted the situation of migrants who cannot be returned or who remain undetected by the authorities, due to the urgency in ensuring universal access to medical care**. In a limited number of cases, labour market shortages in essential sectors due to border closures led to regularisation of workers with skills in shortage areas. The majority of Member States face cases where forced returns could not take place because of irregular migrants' refusal to undertake a PCR test or other medical examination required by their country of origin; the scale of this issue is however limited.

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