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Ad-Hoc Query on 2023.34 Access to Education and Employment for Irregularly Staying Migrants

Requested by EMN Netherlands on 16 August 2023

Responses from Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Slovenia, Sweden (22 in Total)

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1. BACKGROUND INFORMATION

In the Netherlands, civil society organisations, several higher education institutions and municipalities are raising awareness about the irregularly staying adult migrants who want to enroll in higher education. These are currently not allowed to enroll to study in higher education or vocational training without a residence permit. The Netherlands is interested to learn more from other Member States' legal frameworks, policies and practices regarding these migrants' access to education.

As such, this ad-hoc query aims to gather information if and which steps Member States have taken to provide for or improve access to education for irregularly staying migrants. This includes for example persons with long-term irregular stay, young adults who previously stayed legally as an

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unaccompanied minor, persons whose asylum claim has been rejected, and those that fail to meet all the criteria for a resident permit (e.g. due to lack of documentation or financial means).

For the purpose of this ad-hoc query, 'irregular stay' is defined as 'The presence on the territory of an EU Member State, of a third-country national who does not fulfil, or no longer fulfils the conditions of entry as set out in Art. 5 of the Regulation (EU) 2016/399 (Schengen Borders Code) EN or other conditions for entry, stay or residence in that EU Member State.' (EMN Glossary)

We would like to ask the following questions:


1. In your (Member/Observer) State, is it possible for irregularly staying (young) adult migrants to enrol (or continue, if enrolment took place when the person was a minor or previously legally residing in your Member State) in higher education or vocational training regardless of the irregular stay? YES/NO If yes, approximately how many are enrolled and under which conditions are they granted access to higher education or vocational training (e.g. are there any age limits)?
 2. If yes to Q1, please also explain what perspective is provided to the irregularly staying migrant after the education or vocational training ends?
 3. If yes to Q1, are there any initiatives/good practices in your Member States aimed at removing obstacles in accessing higher education or vocational training for irregularly staying migrants? YES/NO If yes, please describe the initiative(s) and the target group(s) (e.g. long-term irregularly staying migrants, former UAMs, those that fail to meet the criteria for a resident permit, or persons who cannot be returned).
 4. In your Member/Observer state, is it possible for irregularly staying migrants to obtain a residence permit (i.e. legalise their stay) for the purpose of study? YES/NO If yes, approximately how many have obtained such a study residence permit and which conditions and procedures apply for issuing a residence permit for the purpose of study (e.g. should they submit the application from their country of origin)?
 5. Which challenges have been identified in your Member/Observer State regarding the access of irregularly staying migrants to obtaining a residence permit for study purposes?
 6. In your (Member/Observer) State, is it (legally) allowed for irregularly staying (young) adult migrants to work? Please explain
- We would very much appreciate your responses by 27 September 2023.

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2. RESPONSES



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		Wider Dissemination	
	EMN NCP Belgium	Yes	<p>1. Access to vocational training is not possible without a residence permit, as the registration conditions for vocational training include “proof of Belgian nationality or of legal residence”.</p> <p>Access to higher education is possible in theory, in the sense that the admission conditions do not require legal residence. However, legal residence is a condition for higher education institutions to receive subsidies for the education of the student in question. In practice, it is therefore up to the higher education institutions to decide whether to admit students without a residence permit. To our knowledge, this happens very rarely. However, because the higher education institutions each have their own policy on this matter, a more thorough analysis of each institution would be required in order to get a full picture of the practice in Belgium.</p> <p>2.</p> <p>3.</p> <p>4. No.</p> <p>5. Regularisation is only possible on medical or humanitarian grounds, not for the purpose of study.</p>

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

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			6. No. Article 5 of the Law of 30 April 1999 relating to the employment of foreign workers prescribes that in order to provide work services, the foreign worker must first have obtained a work permit from the competent authority (including in the case of self-employment). Working without a work permit constitutes illegal employment, which has important consequences on both the employer and the employee (risk of return to country of origin, penal sanction, fine, etc.).
	EMN NCP Bulgaria	Yes	<p>1. No, it isn't. Bulgaria hasn't taken measures directed to provide access to education for irregularly staying migrants. The application for residence permit should be accompanied by certificate of admission to study in the Republic of Bulgaria, issued by the Ministry of Education and Science, and certificate issued by the higher school stating that the foreigner will study in the respective year as well as a proof of paid fee for enrollment in the higher school, which is presented after the person enters the territory of the Republic of Bulgaria with a long – term visa ("D") . Thus, illegal stay cannot be regularised through enrolling in higher schools.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. No</p> <p>5. N/A</p> <p>6. No</p>
	EMN NCP Croatia	Yes	<p>1. For irregularly staying migrant minors in the Republic of Croatia it is possible to attend classes in primary education if:</p> <ul style="list-style-type: none"> - they are placed in the reception center for foreigners, - their forced removal was temporarily postponed or - they have been given a deadline to return, until the deadline.



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		<p>As regards enrolment in higher education, it is not possible for young adult migrants to enrol in a study programme unless they have regulated their stay at the police department.</p> <p>For irregularly staying migrant minors in the Republic of Croatia it is possible to attend classes in primary education if:</p> <ul style="list-style-type: none"> - they are placed in the reception center for foreigners, - their forced removal was temporarily postponed or - they have been given a deadline to return, until the deadline. <p>As regards enrolment in higher education, it is not possible for young adult migrants to enrol in a study programme unless they have regulated their stay at the police department.</p> <p>2. n/a</p> <p>3. n/a</p> <p>4. No, an illegally staying third-country national cannot apply for temporary residence for studying in Croatia. Illegally staying TCN has to leave Croatia and can submit the application for temporary residence through the competent diplomatic mission or consular office of the Republic of Croatia. We do not have data on the number of illegally staying third-country nationals who have regulated their temporary stay for the purpose of temporary stay for study purposes.</p> <p>5. What has been observed in the Republic of Croatia through practice is that for illegally staying TCN the problem is mainly returning to the country of origin for applying for a temporary residence permit (most often they refer to high travel costs or health reasons).</p> <p>6. No. In the Republic of Croatia, a third-country national may work on the basis of an issued residence and work permit or a work registration certificate, in accordance with the Aliens Act.</p>
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	<p>EMN NCP Cyprus</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. No 2. N/A 3. N/A 4. No 5. N/A 6. No
	<p>EMN NCP Czech Republic</p>	<p>Yes</p>	<ol style="list-style-type: none"> 1. Yes. Applicants can be accepted to study at university but the refusal of a residence permit by the Ministry of the Interior effectively makes it impossible to enrol in a study program or to study at the university itself. In the event that a residence permit was granted to a student in the past and subsequently expired, neither the Ministry of Education, nor the University have the tools to check or immediately find out this fact. For that reason, we do not have information on the number of people who study at universities in the Czech Republic without a valid residence permit. There are no age limits for enrolling in studies. 2. Neither the Ministry of Education, nor the university itself have the tools to verify if the student's residence permit for the purpose of study expires. 3. No. 4. No. 5. N/A

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			6. No. Employment is possible only with a valid residence permit.
	EMN NCP Estonia	Yes	<p>1. No. In Estonia all children are required to attend school as of the moment when they are 7 years of age before 1 October of the current year until they complete basic education or turn 17. Adults irregularly staying migrants are not entitled to participate in educational programs (incl. higher education) and/or professional trainings.</p> <p>2. N/A.</p> <p>3. N/A.</p> <p>4. No. Irregularly staying person have to leave Estonia and submit their application for residence permit for study purposes in their country of origin.</p> <p>5. N/A.</p> <p>6. No. Irregularly staying migrants are not entitled to work.</p>
	EMN NCP Finland	Yes	<p>1. Yes, it is possible in some cases but barriers exist. In general, irregularly staying migrants have very limited access to services in Finland which also applies to access to education. In Finland, all children of mandatory school age have a legal right to free preschool and basic education regardless of their residence status. In general, a person needs a valid residence permit if they want to study in a higher education or vocational training institution in Finland where their studies lead to a degree or a vocational qualification. Long-term irregularly staying migrants have access to upper secondary education and vocational training despite their irregular status, however, there are certain conditions for granting admission. Applicants have to prove that they have the prerequisite qualifications and adequate Finnish or Swedish language skills in order to be admitted to an educational institution. If an irregularly staying migrant needs preparatory training to meet the</p>


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			<p>condition for enrolment, their irregular status will prevent them from receiving such training. Therefore, irregularly staying adult migrants might not be able to enroll to an educational institution due to this barrier. In addition, apprenticeship training is not accessible to irregularly staying migrants, because to gain access to such a training, one needs to have the right to work.</p> <p>However, irregular migrants might be able to enroll to liberal adult education at their own expense. Providers of liberal adult education are able to decide whether they take irregular migrants and how everything is organized.</p> <p>There are no official statistics on how many irregular migrants are enrolled at higher education in Finland. Ministry of Education and Culture coordinates the nationwide Supporting Immigrants in Higher Education in Finland (SIMHE) services, which aim to streamline the recognition and validation of prior learning of immigrants with different statuses, etc. These services are aimed at immigrants who live in Finland and have completed a higher education degree or wish to apply to a Finnish higher education institution. Generally, a residence permit is required to access these services, though.</p> <p>For further information, please see:</p> <ul style="list-style-type: none"> • EMN Study 2020 - Responses to long-term irregularly staying migrants: practices and challenges in EU member States and Norway. National Contribution from Finland • https://migri.fi/en/studying-in-finland • https://okm.fi/laittomasti-maassa-oleskelevien-sivistyspalvelut (in Finnish) <p>2. N/A</p> <p>3. No. At the moment, there are no specifically targeted initiatives/good practices in Finland.</p> <p>4. Yes, it is possible in some cases if they fulfill the conditions for a residence permit for studies. These conditions for granting a residence permit for studies are a) sufficient financial resources (550 euros/month) and b) a valid passport. It is not required for irregular migrants to travel back to their home country to submit the application, it is possible to submit the application in Finland. However, a long-term irregular stay in Finland can be an obstacle for granting the residence permit.</p>
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			<p>An irregularly staying migrant can legalize their stay in Finland and obtain a temporary residence permit, if they cannot be returned to their home country, based on the following: health-related reasons, ties to Finland or humanitarian grounds (Section 51-52 of the Aliens Act).</p> <p>5. It might be challenging for irregular migrants to fulfil the conditions for a residence permit e.g. having sufficient financial resources and a passport. For irregular migrants, who do not have access to legal labor market in Finland, it can be difficult to arrange 6720 euros for the first year of study. In addition, many of the irregular migrants do not have a passport with them or they have lost their passport.</p> <p>6. No, irregularly staying migrants do not have access to the legal labour market in Finland, a valid residence permit containing the right to work is required.</p>
	<p>EMN NCP France</p>	<p>Yes</p>	<p>1. YES for enrolment in higher education : it is possible for an illegally staying third country national to enrol in higher education (or to continue their studies) as it is outside the higher education establishments' remit to check the administrative situation of the students and the legality of their residence permit. NO for enrolment in professional training : to enrol in a professional training in France, the foreign national must fulfil several conditions. One of these conditions is that the third country national must hold a residence permit allowing to enrol in a professional training.</p> <p>2. N/A regarding professional training. Regarding higher education, the students can obtain their degree. It is however required that their administrative situation is regularised with regard to residence and access to the labour market if they wish to continue to stay and work in France. The regularisation of the situation of an illegally staying foreign national can occur on an exceptional basis, through the exceptional admission to stay procedure (Admission exceptionnelle au séjour, AES). More information on this procedure is available at Q4.</p> <p>3. Access to higher education : The possibility of applying for exceptional admission to stay as student for</p>


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		<p>minors in the care of the social child and youth care service (ASE) between the age of 16 and 18 and who wish to continue their studies in France after they reach their majority enables them to regularise their situation. Access to professional training : N/A.</p> <p>4. YES It is possible in France to regularise, on an exceptional and case by case basis, the situation of third country nationals through the exceptional admission to stay procedure. However, third country nationals can only claim exceptional admission to stay for specific reasons, that they must prove :</p> <ul style="list-style-type: none"> • Reason relating to private and family life : length of time spent in France, private and family ties, child attending the French school system, victim of violence etc., • Reason relating to work : length of time spent in France and seniority at work in France, • Reason relating to exceptional talent or service to the community : cultural sporting, associative, civic or economic sectors. <p>An exceptional admission to stay is decided on a case by case basis, with regard to the specific individual situation of the foreign national. It is indeed possible to regularise a foreign national's situation for exceptional or humanitarian reasons, taking into account all aspects and elements of their personal situation. Therefore, an exceptional pathway, graduation and continued studies could amount to a reason supporting a regularisation claim.</p> <p>In addition, in 2021, 906 minors taken in the care of the social child and youth care services between the ages of 16 and 18 and who wished to continue their studies in France (and 1088 in 2022 – provisional data) benefited from the exceptional admission to stay procedure to regularise their situation and obtain a student residence permit.</p> <p>6. No, to work in France, third country nationals must hold a residence permit allowing them to work or a residence permit and a work permit. The employer must ensure that the third country national is legally staying (Article R5221-41 of the French Labour Code) and is legally allowed to work (article R5221-1 of the French Labour Code) before being hired.</p>
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	<p>EMN NCP Germany</p>	<p>Yes</p>	<p>1. Yes. The prerequisite is that the unlawfully residing third-country national is in possession of a temporary suspension of removal (“Duldung”) because the termination of residence cannot be enforced due to a legal or actual obstacle to departure.</p> <p>The foreigner must fulfil the educational requirements for vocational training (e.g. school-leaving certificate) or for higher (academic) education (e.g. university entrance qualification). In the case of vocational training, he/she must conclude a training contract with the educational institution or the training company. For higher education, admission by the educational institution to study is required, which is decided by the college or university itself. In the case of vocational training, the instrument of the “Ausbildungsduldung” (temporary suspension of removal for training purposes) was introduced to give the persons concerned, but especially the training companies, planning security for the duration of the training in the sense that no forced termination of residence will take place during this period, § 60 c Residence Act (AufenthG - available in English at https://www.gesetze-im-internet.de/englisch_aufenthg/index.html .</p> <p>Information on how many persons with a temporary suspension of removal complete vocational training or studies is not known to the NCP DE. There is no legal age limit for taking up vocational training or studying.</p> <p>2. After successful completion of vocational training or university studies, a residence permit for two years can be issued (instead of a temporary suspension of removal) for employment corresponding to the acquired vocational qualification (if further requirements are met) (section 19d paragraph 1a AufenthG). Since this residence permit can also be extended if the prerequisites continue to be met, this opens the way to regular residence for the purpose of gainful employment.</p> <p>Well-integrated adolescents and young adults who have been in possession of a temporary suspension of removal for twelve months are to be granted a residence permit - subject to further preconditions - if they have been undergoing or have successfully completed school or vocational training or university studies for three years (section 25a Residence Act).</p> <p>Due to an amendment to the law that has already been promulgated, from 1 March 2024 the regulation on the training toleration, which only suspends the enforcement of the termination of residence for the duration</p>
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			<p>of the training (see answer to question 1), will be replaced by a residence permit for vocational training for foreigners who are obliged to leave the country, which will already legalise the residence during the training period (section 16g of the Residence Act as amended on 1 March 2024).</p> <p>3. Yes. The legal regulation on the temporary suspension of removal for training purposes entered into force on 01.01.2020 in order to give persons with a temporary suspension of removal and their training companies planning security (§ 60c AufenthG, see answer to question 1). As a residence permit for vocational training can be issued (instead of the temporary suspension of removal for training purposes) from 01.03.2024, the right of residence of the persons concerned will be further improved (see answer to question 2).</p> <p>4. Yes. The persons concerned must voluntarily return to their home country and from there pursue the regular visa procedure that applies to all third-country nationals requiring a visa who wish to enter Germany to study.</p> <p>5. The persons concerned must, if they are not in possession of a travel document from their home country, seek to have one issued for their return there. They must depart voluntarily in order not to be subject to an entry and residence ban. After they have submitted an application for a residence visa to the German diplomatic mission in their home country, they must wait to see whether the application is granted. In order for this to happen, they must meet requirements such as proving that they will be able to support themselves from their own income during their studies and that they will be admitted to a university in Germany. Communicating to those affected and their supporters that this regular procedure, which first requires departure from Germany, must be adhered to in principle, often proves to be a challenge.</p> <p>6. Yes. Holders of a temporary suspension of removal (see answer to question 1) can be permitted by the competent foreigners' authority to pursue gainful employment, provided there are no grounds for exclusion, e.g. an unclear identity (cf. Sections 60a (6), 60b (5) sentence 2 AufenthG).</p>
	EMN NCP	Yes	1. NO


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	Greece		<p>According to the Ministry of Education, Religious Affairs and Sports, regarding the access to higher education of irregularly residing migrants, there are no special regulated monitoring procedures. However, foreign candidates, graduates of non-E.U. lyceums or graduates of lyceums or equivalent schools of member states of the E.U must have all the necessary documents during the submission of the application-entry form, which will be submitted along with the other documents to the secretariat of the university where they enter, which is responsible for checking the documents, in order to proceed to their registration. Indicatively, the documents required are the following:</p> <ul style="list-style-type: none"> • A legible photocopy from the certified copy from the original by a lawyer of the graduation certificate with his official translation by the official authorities. • passport or other official document with photograph, that certifies the candidate's identity. • a certificate of equivalence of prior studies (secondary education). <p>A condition for the registration of the successful candidates, apart from the above, is the knowledge of the Greek language.</p> <p>Finally, regarding the entry and residence of third country nationals in Greece for the purposes of studies, the Directive 2016/801 is implemented as transposed in the national legislation by l.4251/14, according to which for the entry and residence (issuance of a visa for studies and subsequently of a residence permit for the same purpose after the entry) of the person concerned a necessary precondition is that he/she has been accepted by a higher education institution to follow a course of study.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. Regarding the entry and residence of third country nationals in Greece for the purposes of studies, the Directive 2016/801 is implemented as transposed in the national legislation by l.4251/14, according to which the person concerned needs to enter the country as a holder of a visa for studies and after the entrance, he/she may apply for the granting of a residence permit for the same purpose, if all the preconditions are met. Moreover, third country nationals who are not holders of a valid residence permit but have attended Greek</p>
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			<p>schools and institutions and fulfil certain preconditions, may be granted, according to national legislation, the following categories of residence permits:</p> <ul style="list-style-type: none"> • a three (3) year residence permit (for exceptional reasons) may be granted, on an ad hoc basis, to third country nationals residing in Greece, provided that they prove with documents of a certain date that they have resided in the country for at least seven (7) consecutive years, prior to the submission of the application. Among the documents of a certain date that prove the seven-year continuous stay of the applicant in the country is included proof of attendance at public educational institutions in Greece (art.19 of l.4251/14). • a five-year residence permit, is granted to third country nationals who were born in Greece or who have successfully completed six grades of a Greek school in Greece, before reaching the age of 23 (art.108 of l.4251/2014). • Finally a new provision has been introduced in the new migration legislation (l.5038/2023), according to which adult third country nationals who entered Greece as unaccompanied minors and have successfully completed at least three (3) grades of secondary education at a Greek school in Greece before reaching the age of twenty-three (23) are granted a ten-year residence permit. <p>5. See answer in question 4.</p> <p>6. According to the Ministry of Labour and Social Security, all services provided by the Public Service for Employment (e.g. access to employment programmes, unemployment benefits or other benefits, as well as access to vocational schools of apprenticeship, vocational training institutes) are addressed exclusively to European citizens and third country nationals who reside legally in Greece.</p>
	<p>EMN NCP Hungary</p>	<p>Yes</p>	<p>1. No Regular stay is a precondition for participation in higher education.</p> <p>2. N/A</p>

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			<p>3. N/A</p> <p>4. No</p> <p>5. No challenges identified</p> <p>6. No. Legalisation of stay is necessary.</p>
	EMN NCP Ireland	Yes	<p>1. NO.</p> <p>There is no immigration scheme or specific pathway setting out conditions to allow irregular migrants access third level education.</p> <p>Students who have an immigration permission to pursue a course of study are required to renew their immigration permission each year and show proofs of continued enrolment and progression in order to have their immigration permission renewed.</p> <p>Former asylum applicants with a deportation order pending do not qualify for the scheme providing access to third level education for international protection applicants or those at leave to remain stage.</p> <p>It is possible for a person who has held a student immigration permission and is either refused registration on renewal or reached the end of the maximum period permitted as a student to apply for an extension of student conditions in exceptional circumstances. This option is only possible for persons residing in the State.[1]</p> <p>Former UAMs are eligible for full aftercare supports if they were in care for at least 12 months before turning 18. This includes support with access to further and higher education until they are 21 or 23 if they are in full-time education. However, UAMs transitioning to adulthood may not be irregular migrants, although they may not have a specific immigration status. In many cases, they will have an international protection application pending, or hold an immigration permission under the Children in the Care of the State scheme, where permissions are generally granted up to 21 years.</p> <p>While there is no specific pathway, the EMN Ireland study Response to irregularly staying migrants in Ireland found that irregularly staying migrants can access third level education, adult education, and professional</p>


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		<p>courses. However, they must pay international fees, their migration status may be checked upon enrolment and they need a Personal Public Services Number to receive a certificate. [2] In addition they cannot access supports such as grants from Student Universal Support Ireland.</p> <p>[1] https://www.irishimmigration.ie/wp-content/uploads/2023/09/Student-Appli... [2] Polakowski, M. and E. Quinn (2022) 'Responses to irregularly staying migrants in Ireland' (ESRI Research Series Number 140).</p> <p>2. Not applicable.</p> <p>3. No. As clarified under question 1, UAMs transitioning to adulthood are not irregular migrants, although they may not have a specific immigration status. In many cases, they will have an international protection application pending, or have an immigration permission under the Children in the Care of the State scheme, where permissions are generally granted up to 21 years. Former UAMs are eligible for full aftercare supports if they were in care for at least 12 months before turning 18. This includes support with access to further and higher education until they are 21 or 23 if they are in full-time education.</p> <p>4. No. Students are required to register for a course of study and pay the required fees before coming to Ireland. International students from visa required countries must make an application for a study visa which is applied for from outside the State, and which requires proofs of enrolment, payment of fees and of ability of the student to support themselves.[1] For students from non-visa required third countries, financial checks are conducted at registration of the immigration permission. Documentation may be assessed as part of the permission to land at the airport. It is possible for a person to leave the State and to apply to come to Ireland as a student in accordance with the normal rules.</p>
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			<p>It is in general not possible for students to change from an irregular status to a student immigration permission from within the State. However it may be possible to extend student conditions in exceptional circumstances (see question 1).</p> <p>[1] https://www.irishimmigration.ie/required-documents/#stamp2</p> <p>5. N/A.</p> <p>6. No.</p>
	EMN NCP Italy	Yes	<p>1. No, it is not. In Italy adult migrants cannot enroll in higher education or professional training courses without a residence permit.</p> <p>2. NA</p> <p>3. NA</p> <p>4. No, this is not possible for adult migrants. In order to obtain a study permit, an irregularly staying migrant in Italy must follow the same procedures as those entering Italy for study purposes and request the dedicated entry visa from the Italian diplomatic-consular Representation in his/her country of origin. On the other hand, foreign minors staying in the national territory have the right to education regardless of the regularity of their staying, in the form and manner provided for Italian citizens. The obligation to school enrolment is therefore not waived if the child's parents are irregularly present on Italian territory. Article 6, par. 2 of the Consolidated Text (Testo Unico sull'Immigrazione) specifies that the exhibition of the residence permit is excluded in the case of measures relating to compulsory schooling, among which is school enrolment. The minor's position is therefore independent with respect to that of his/her family members irregularly present in Italy and it does not prevent the exercise of the right of access to education at all levels, even in the case of pre-schooling.</p>


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			<p>An unaccompanied foreign minor who enters Italy is instead issued with a residence permit for minors, which can be requested directly by the minor or by the exercising parental authority, and it is valid until he/she comes of age. This permit, upon reaching the age of majority, may be converted into a residence permit for study, work or waiting for employment under Article 32 of Legislative Decree no. 286/98 where a number of requirements are met, among which are:</p> <p>a) the minor is in possession of a valid passport or equivalent document;</p> <p>b) the minor is in one of the following conditions:</p> <ul style="list-style-type: none"> - he/she has been in Italy for at least three years and has followed for at least two years a social and civil integration project managed by a public or private body with certain requirements - alternatively, he/she is subject to guardianship or is entrusted pursuant to Article 2 of Law 184/83 and has obtained, at the request of the municipal social worker in charge of the case, a positive opinion from the Directorate General for Immigration of the Ministry of Labour and Social Policies following a specific preliminary investigation that pays particular attention to the best interests of the minor. <p>c) the minor attends courses of study (in order to obtain a residence permit for study) or works (in order to obtain a residence permit for work); where the minor does not attend a course of study nor has a work contract, he/she may nevertheless obtain a residence permit for awaiting employment.</p> <p>5. NA</p> <p>6. NA</p>
	EMN NCP Latvia	Yes	<p>1. No. A third country national has to apply for residence permit and then he/she is entitled to enrol or continue in higher education or vocational training.</p> <p>2. N/a</p> <p>3. N/a</p>


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			<p>4. No, application should be submitted in the country of origin.</p> <p>5. As it was mentioned in previous answer – they have to leave Latvia and submit application for residence permit in their country of origin.</p> <p>6. No, irregularly staying third country nationals are not allowed to work. Third country nationals have to apply for work permit.</p>
	EMN NCP Lithuania	Yes	<p>1. NO. According to Article 32 of the Law on the Legal Status of Foreigners, <u>unaccompanied minors</u>, regardless of the legality of their stay on the territory of Lithuania, have the right to enroll in pre-school, pre-primary, general education, or formal vocational training programs. This right must be guaranteed not later than within 3 months from the detection of the minor's presence in Lithuania. Article 24 of the Law on Education states that foreigners who have the right to live in Lithuania permanently or temporarily also have the right to study and acquire education and qualifications. These two legal provisions cover all foreign minors – one way or another, all minors have the right to education. However, once minors reach the age of majority, they either become illegally staying and subject to expulsion or they obtain a residence permit (e.g. if it is not possible to return them to the state of origin for some reason) and are no longer irregular. In the latter case, the conditions of access to higher education or vocational training are the same as for any other third-country national.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. NO.</p> <p>5. N/A</p>


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			<p>6. There is no discrimination among irregularly staying migrants based on age. According to Article 64 of the Law on the Legal Status of Foreigners, both paid and unpaid work is illegal if a foreigner works without a work permit and/or without a work contract and a temporary residence permit or a visa, when these are required. Given that irregularly staying migrants have no way of obtaining a work permit or signing a work contract and, by definition, do not have a residence permit or a visa, <u>any kind of work by irregularly staying migrants (young or old) would be illegal.</u></p> <p>It should be noted that illegally staying migrants are subject to expulsion or return. However, if it is not possible to implement expulsion or return for some reason, articles 130 and 130¹ of the Law on the Legal Status of Foreigners provide a possibility to issue such foreigners a temporary residence permit, which is valid for one year and during the validity of which they have the right to work.</p>
	<p>EMN NCP Luxembourg</p>	<p>Yes</p>	<p>1. NO: In Luxembourg, any individual between the age of 4 and 16 years of age has access to compulsory education independent of its resident status. Although education for minors is compulsory in Luxembourg, regardless of their migratory status, their access may be hampered by the parents who do not want to be detected by the authorities. However, after the age of compulsory education and after they become adults it is impossible to access vocational training or higher education without a residence permit.</p> <p>Nevertheless, the law foresees several possibilities to regularise these individuals who already have been scholarised. For example,</p> <p>Article 89 (1) 2 of the amended law of 29 August 2008 on free movement of persons (Immigration Law) allows the regularisation of a minor who has continuously and successfully attended school for at least four years in an educational establishment in the Grand Duchy of Luxembourg and submits their request before the age of twenty-one, justifying having sufficient resources to cover their own needs. However, the Council of State has indicated that the meaning of a child following “their education, continuously, in an educational establishment” can only cover primary and secondary schooling, excluding any other form of teaching or care. Other conditions for regularization are that her/his presence is not likely to constitute a danger to public order, public security or public health; that s/he has not used false or misleading information relating to his identity; demonstrating a genuine desire for integration and not having evaded a removal order.</p> <p>According to a recent amendment to article 78 (3) of the Immigration Law the Minister in charge of</p>

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			<p>immigration may grant a residence permit for private reasons on exceptional grounds in the case of third-country nationals who, as a result of a prolonged stay in Luxembourg, have such close ties with the country that removal from the territory would be a disproportionate blow to their personal and family situation. Applications must be submitted from Luxembourg territory, otherwise they will be inadmissible.</p> <p>2. N/A.</p> <p>3. No.</p> <p>4. NO.The only possibilities stated by the Immigration Law are the regularisations mentioned in the answer to question 1.</p> <p>5. N/A.</p> <p>6. No.</p>
	EMN NCP Netherlands	Yes	<p>1. It is not possible for irregularly staying (young) adult migrants to enrol in higher education or vocational training. However, if the irregularly staying migrant is a minor, he or she is allowed to enrol in higher education or vocational training and is allowed to continue and finish the program they are enrolled in, in the event the minor reaches the adult age of 18. However he/she is not entitled to start a new study program. In the school year of 2020/2021 the Dutch Minister for Migration indicated that roughly 15.250 minors without a citizen service number (bsn) were enrolled in education in the Netherlands. However, this group does not only include irregularly staying minors as other groups of children could also be without a citizen service number (bsn) and it is not possible to make a distinction between the two groups. It is estimated that the number of irregularly staying minors in education is lower than the total number here given. [1]</p> <p>[1] Government (overheid), Parliamentary questions " Vragen van de leden Ceder (ChristenUnie), Jasper van Dijk (SP), Piri (PvdA) en Simons (BIJ1) aan de Staatssecretaris van Justitie en Veiligheid over het rapport «Onzichtbaar» van de Amsterdamse Ombudsman en het WODC-onderzoek naar mensen zonder rechtmatig</p>


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			<p>verblijf (ingezonden 15 april 2021)”, available at: https://zoek.officielebekendmakingen.nl/ah-tk-20202021-3837.html, last accessed: 10 august 2023.</p> <p>2. The Dutch government’s main position is that irregularly staying migrants must leave the Netherlands and is therefore reluctant to facilitate additional services/facilities for this group. However, through, for instance, a program called ‘Landelijke Vreemdelingenvoorzieningen (LVV)’ translated ‘National Immigration Facilities’, an irregularly staying migrant is supported in working on a permanent solution for their situation, be that legalizing their stay or a return to their country of origin. A condition for participation in this program is that the irregularly staying migrant is prepared to leave the Netherlands if there is no opportunity for legal residence.</p> <p>3. Yes, there are some private and local initiatives aimed at securing legal residence through, for instance, helping the migrant to obtain a residence permit for the purpose of study. These initiatives are aimed at irregularly staying young adult migrants. These migrants are supported in obtaining proof of nationality and identity, with which they can apply for a visa and legal entry into the Netherlands from their country of origin.</p> <p>4. Yes, however the migrant will have to submit their application from their country of origin. The same procedures apply as compared to other applicants for obtaining a residence permit for the purpose of study. Data on the amount of irregularly staying migrants who manage to legalize their stay through a study residence permit is not available.</p> <p>5. The main identified challenge for irregularly staying migrants is obtaining travel documents that prove their identity and nationality. A second challenge is having to travel to their country of origin to apply for an entry visa, then having to travel back to the Netherlands when the Immigration and Naturalisation Service (IND) has taken a positive decision.</p> <p>6. In the Netherlands an employer is not allowed to employ an illegally residing third country national (of any age).</p>
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	<p>EMN NCP Poland</p>	<p>Yes</p>	<p>1. The admission of students coming from abroad is regulated at the level statutory. Legal basis for the student's stay in Poland (e.g. residence permit temporary residence permit, long-term resident permit European Union, residence permit for humanitarian reasons or obtaining status refugee or subsidiary protection) is irrelevant to the possibility of admission public school and possible forms of learning support.</p> <p>2. Not available.</p> <p>3. Not available.</p> <p>4. NO.</p> <p>The issues of admitting third-country nationals for the purpose of studies are regulated at the EU level by Directive 801/2016, which in Art. 7 the general conditions of admission, requires that if the application is submitted in the territory of a given country, the basis for the foreigner's legal stay should be a valid residence permit or a valid long-term visa. By way of derogation, the Member State may provide, in accordance with national law, the possibility of submitting an application, also in the situation that the third-country national does not have a valid residence permit or long-term visa, but resides legally on its territory.</p> <p>This Directive is without prejudice to the right of Member States to adopt or maintain provisions that are more favorable to nationals of third countries to which this Directive applies in relation to Article. 10 section 2 letter a) and art. 18, 22, 23, 24, 25, 26, 34 and 35. Furthermore, the Member State may provide for more favorable provisions only if this results from agreements concluded between the Union or the Union and its Member States and one or more third countries; or bilateral or multilateral agreements concluded between one or more Member States and one or more third countries.</p> <p>Pursuant to the Act on Foreigners, which provides for the possibility of granting a residence permit for the purpose of study, a foreigner is refused a temporary residence permit if he or she submitted an application during an illegal stay in the territory of the Republic of Poland or stays in this territory illegally. Only in exceptional cases specified in the provisions of the Act, it is possible to grant a temporary residence permit</p>
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			<p>despite illegal stay in Poland, and the intention to undertake or continue studies does not constitute such a basis.</p> <p>At the same time, the Migration of Law Department at the Office for Foreigners has no knowledge of the conclusion of bilateral or multilateral agreements by Poland or the EU that would oblige them to issue residence permits for study purposes in the event of an unregulated residence situation.</p> <p>5. Not available.</p> <p>6. Not available.</p>
	EMN NCP Portugal	Yes	<p>1. Yes. All children, whatever their situation under the laws of the host country, have full access to education and, therefore, every right to attend school and enjoy everything like any other child. All minor foreign citizens, legalized or not, aged between 6 and 18, have access to Education with the same rights that the law attributes to minors in a regular situation in the national territory. Portugal has specific legislation to register minor foreign citizens in an illegal situation, regulated through DL nº 67/2004, of March 25, allowing them access to education, in the same way as minors in a regular situation in the national territory.</p> <p>2. In Portugal it is not allowed to study in higher education or vocational training without a residence permit.</p> <p>3. NO.</p> <p>4. Yes, as a Secondary or Higher Education student can apply for a residence permit, as long as you meet the necessary conditions. To grant a temporary RP to a higher education student, the applicant must satisfy the following special conditions, in addition to general conditions necessary to obtain a previous study visa:• Present proof of enrollment and payment of fees required by the establishment;• Have means of subsistence;• Be covered by the National Health Service (SNS) or have health insurance;• Possession of a residence visa for secondary educationThe residence permit is valid for a period of one year and is renewable for equal periods. If the duration of the study program is less than one year, the residence permit has the duration necessary to</p>

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			<p>cover the study period. To be granted a temporary residence permit, the applicant must satisfy the following special conditions, in addition to in addition to general conditions necessary to obtain a previous study visa:</p> <ul style="list-style-type: none"> • Be enrolled in a secondary education establishment; • Be covered by the National Health Service (SNS) or have health insurance; <p>The validity of the residence permit cannot exceed one year and is renewable for equal periods, as long as the conditions for granting it are maintained; As a general rule, the procedure for applying for a visa to study in Portugal is divided into two stages. The first step must be carried out in the applicant's country of residence, more specifically at the local Portuguese Consulate. The second phase will only be carried out after the Visa has been granted (which will be stamped in your passport), and must take place directly in Portugal, at the Portuguese Immigration and Borders Service's offices.</p> <p>5. As mentioned before, residence permits for study purposes can only be issued if the applicant already has a study visa. If that study visa was issued, migrants would not be irregularly staying. This comes both from the Portuguese Law and school entities. So, this makes studying while irregularly staying virtually impossible.</p> <p>6. NO.</p>
	<p>EMN NCP Slovakia</p>	<p>Yes</p>	<p>1. In accordance with Article 146 par. 2 of Act no. 245/2008 on education and training (Education Act), education and training, accommodation and meals in schools are provided to children of foreigners with permitted residence in the territory of the Slovak Republic. If the child does not have legal residence in the territory of the Slovak Republic, the education legislation does not apply to him/her. The court would have to rule on the question of the right to education of a child who is present in the territory of the Slovak Republic without a residence permit.</p> <p>In practice, however, it may be the case that the child started compulsory school attendance at a time when the parent(s) were legally in the territory of the Slovak Republic. If their legal residence expired during the school year, it is questionable whether the school will immediately find out about this fact. (Response source: EMN study 2020: Responses to long-term irregular staying migrants: practices and challenges)</p> <p>2. NA</p>



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			<p>3. NA</p> <p>4. No. An application for temporary residence may be submitted by a foreigner based on Article 31 (1) of the Act on the Residence of Foreigners at the Embassy and based on Article 31 (3) a foreigner may submit an application in person at the Police Department in the territory of the Slovak Republic if he/she resides in the territory of the Slovak Republic on the basis of a valid residence permit, granted tolerated residence pursuant to Article 58 (1) (a) to (c) or (2), a national visa issued pursuant to Article 15 or in the case of a third-country national for whom a visa is not required.</p> <p>5. NA</p> <p>6. No. According to Article 21 par. 1 of Act no. 5/2004 Coll. on employment services, an employer may only employ a third-country national who (a) holds a European Union Blue Card ('Blue Card'); b) is granted temporary residence for the purpose of employment on the basis of a confirmation of the possibility of filling a vacancy, c) has been granted a work permit and granted temporary residence for the purpose of employment, unless a special regulation provides otherwise, (d) has been granted a work permit and temporary residence for the purpose of family reunification; e) is granted a work permit and temporary residence of a third-country national who is granted long-term resident status in a Member State of the European Union, unless a special regulation provides otherwise, f) who fulfils the conditions under Article 23a, i.e. for whose employment of a third-country national does not require confirmation on the possibility to fill a vacancy corresponding to highly qualified employment, confirmation on the possibility to fill a vacancy and a work permit (e.g. the following categories of third-country nationals: is granted permanent residence in the territory of the Slovak Republic, is granted temporary residence for the purpose of family reunification, is granted temporary residence for the purpose of study, unless a special regulation provides otherwise, and the performance of his/her work does not exceed 10 hours per week for all employers or 20 hours per week if he/she is a university student, or the corresponding number of days or months per year, he was granted asylum, he was granted subsidiary protection, he was granted temporary protection, etc.).</p>
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	<p>EMN NCP Slovenia</p>	<p>Yes</p>	<p>1. If education has already started, the Police may grant an extension of the voluntary departure period until completion of the current year. No statistics available.</p> <p>2. The police may, at the request of the foreigner, which must be made before the expiry of the period for voluntary departure, taking into account the circumstances of the individual case, extend the period for voluntary departure by a decision for the time necessary for the completion of the class or year of education attended by the minor foreigner, but not longer than until the end of the school year in which the foreigner is at the time of the decision on return.</p> <p>3. No.</p> <p>4. No.</p> <p>5. N/A</p> <p>6. No.</p>
	<p>EMN NCP Sweden</p>	<p>Yes</p>	<p>1. No. There is no entitlement to adult education or vocational training (Education Act (2010:800) chap. 29, section 3) for irregularly staying adult migrants. Upper secondary school is only provided for those who started the schooling in Sweden before the age of 18 and to those who have or have had extended residence permits according to the Temporary Law (2016:752). This law will however gradually expire between 2023 and 2025.</p> <p>2. N/A</p> <p>3. NA/</p> <p>4. No, a residence permit is required to study at a university, university college, higher vocational education or folk high school at the post-secondary level in Sweden and the permit must be issued before arrival in</p>

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			<p>Sweden.</p> <p>5. Access to education for irregularly-staying migrants is not an item on the political agenda in Sweden. The challenges are for this reason not identified or not known.</p> <p>6. No, however adults with a return decision who have been working while they were asylum seekers and have been exempted from the requirement to obtain a work permit, given that they are cooperating with the Swedish Migration Agency and preparing to return, have access to the labour market. (Aliens Act Ordinance chap. 5 section 4).</p>
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