



THE NGO PARTNERSHIP ON HIV AND AIDS IN EUROPE AND CENTRAL ASIA

## Irregular migrants and access to healthcare: what does the law say?

Results of a survey in five European countries



### The process

- Interest in developing a European network to inform each other on HIV and legal issues.
- Identify as a topic for a pilot, irregular migrants and healthcare access, given developments in England, Spain, and current economic crisis.
- Five countries participate – England, Hungary, Italy, Netherlands, Switzerland. Collaborate in developing survey questions.
- Each country has a policy focal point and a legal focal point who gather information and respond.



### The right to health?

Does your country have a legal document which guarantees the right to health?

- Italy, Hungary - yes
- England and Netherlands – no (though UK mentions that ECHR will always apply to the extent it impacts on a health question)
- Switzerland – a number of provisions including mandatory health insurance, fundamental right to minimum subsistence in tribunal case, right to 'basic' healthcare (Art 12 of Const)



### Estimated number of irregular migrants?

- England – central estimate 618,000 (range 417,000 to 863,000)
- Hungary – Unknown
- Italy – 400,000 (though one respondent to focal points said 1-2 million!)
- Netherlands – 97,000 (2009 estimate)
- Switzerland – 90,000 (another response gave range between 80,000 and 150,000)



### Estimated number of irregular migrants living with HIV?

- Most responses state that this is simply not known
- Two attempts at estimating (with lots of limitations/reservations!)
- Italy – one estimate estimated 10,000 to 15,000, assuming 40,000 to 45,000 migrants living with HIV in Italy of which one third were irregular
- England – extrapolating from a robust 2004 clinic survey estimated just over 1,000



### How is healthcare funded for nationals/citizens?

- England – National Health Service funded by direct taxation
- Hungary – National Healthcare Fund – compulsory state health insurance
- Italy – National Health Service from taxation
- Netherlands – Social insurance system
- Switzerland – Compulsory Health Insurance system



## How is healthcare funded for lawfully resident non-nationals?

- All countries provide healthcare for lawfully resident non-nationals on the same basis and through the same means as for resident nationals.
- Hungary notes that to receive residential status or long-term stay visa you have to complete a medical declaration which asks about HIV status and about other infectious diseases. It is unclear what impact having HIV has on residency/visa applications.



## How is healthcare funded for irregular migrants?

- England – Some services funded free of charge on NHS; for most hospital services, however, they are billed a fee
- Hungary – Only funded for medical emergencies, life-saving interventions and for public health reasons
- Italy – Funding is from National Health Service plus funds from Ministry of Internal Affairs and other specific funds; access varies between regions; funding for essential/urgent care and for some conditions including pregnancy, HIV
- Netherlands – Healthcare providers can apply for compensation for unpaid medical costs of necessary care for irregular migrants
- Switzerland – Social insurance as for nationals and lawfully resident



## Specific service access

Free access to the following healthcare services for nationals/lawfully resident (given required insurance /'ticket' payments in relevant countries):

- HIV testing
- HIV treatment
- STI (other than HIV testing)
- STI (other than HIV) treatment
- Acute medical conditions in hospital
- Chronic medical conditions (other than HIV) in hospital
- Medical emergencies
- Primary care



## Specific service access for irregular migrants

- Italy and Switzerland state same access as for nationals for all services.
- England – free HIV testing and treatment, free STI testing and treatment and emergency care and primary care: but charges for most acute and chronic hospital care.
- Hungary – only some acute medical admissions, medical emergencies and HIV testing are free of charge; all else including HIV treatment not free.
- Netherlands – if no private insurance, have to pay for care; if can't, some providers can get compensation of costs from Government fund.



## Further points

- Switzerland – though in theory health insurance accessible to irregular migrants on same basis as anyone else, because they usually are in dire financial straits about 80% of undocumented migrants are uninsured and so not able to access health services.
- Switzerland – HIV testing in medical setting on a named basis covered by health insurance; also some anonymous testing with a fee (c.CHF 50).
- England – note even before HIV treatment became free, it had always to be provided to irregular migrants, even if charged for, on human rights grounds (Art 3 ECHR).
- England – primary care free for irregular migrants but GPs have discretion as to whether to register the irregular migrant with their practice.



## Children

Is there any difference in the access of children of irregular migrants to healthcare compared with adults who are irregular migrants?

- All countries say no difference apart from Hungary (no response) and England states all healthcare free for unaccompanied children who are irregular migrants.



### Other services for irregular migrants

- Legal aid? – England, Netherlands, Switzerland, it is available; Italy and Hungary only from NGOs
- Mental health services free of charge? – most countries say no, though different responses from Italian respondents
- Education? – England, Italy, Netherlands yes to 18; Hungary no response; Switzerland?



### Some conclusions?

- Knowledge of numbers of irregular migrants poor.
- In countries with strong regional system some complexity in getting a national picture.
- National respondents do not always give consistent answers to the focal points!
- Insurance-based systems seem to mean at least in practice less access to free HIV treatment.
- Irregular migrants do seem consistently to have access to life-saving and emergency care.
- England and Italy with health services funded from direct taxation appear to have at present good access to HIV treatment for irregular migrants.

