

HANDBOOK ON REGULARISATION POLICIES

PRACTICES, DEBATES
AND OUTCOMES



Edited by
Jill **AHRENS**
Albert **KRALER**
Imanol **LEGARDA**
Michele **LEVOY**

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info@irregularmigration.eu

<https://irregularmigration.eu/>



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Authors:

Jill Ahrens, Maristella Cacciapaglia, Franck Düvell, Abigail Goldfarb, Maegan Hendow, Jussi Jauhiainen, Albert Kraller, Imanol Legarda Díaz-Aguado, Jasmijn Sloopjes, Bernard Steiner and Anna Triandafyllidou.

Contributors:

Norbert Cyrus, Alan Desmond, Ruth Heylin, Michele LeVoy, Stephanos Stavros and Constança Urbano de Sousa.

Design and layout:

Chloé Bouvier and Imanol Legarda Díaz-Aguado.

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Executive Summary

Rather than an exceptional measure, regularisation is a frequent response to resolve situations of longer term, protracted irregularity. This handbook argues that regularisation should be considered a standard element of the migration policy toolbox, providing a structured route for irregular migrants to regularise their status when other options, such as return, are not feasible. Irregular migration should be understood as a structural feature of contemporary societies, arising from ongoing labour demand, family and social networks, individual migration aspirations, and restrictive entry and residence policies.

This handbook provides practical, evidence-based guidance on the design, implementation, and evaluation of regularisation policies, highlighting their impacts on labour markets, social cohesion, and migrant rights. Drawing on experiences from Europe, North America, and other world regions, it examines how different policy approaches operate, how key actors shape outcomes, and how procedural design affects accessibility, inclusivity, and legitimacy. It underscores that regularisation, when carefully implemented, can reduce informality, enhance integration, and strengthen fiscal and social contributions.

Purpose and audience

This handbook is intended for policymakers, migration authorities, civil society actors, and researchers involved in migration governance. Situating regularisation in a broader historical context and clarifying its scope, it provides:

- Evidence-based guidance on the design and evaluation of regularisation policies.
- Insights into the practical consequences of policy choices for migrants, institutions and societies.
- Examples of good practice from Europe, Canada and the United States and other countries.
- Tools to anticipate (un)intended effects, simplify administrative procedures, and manage trade-offs between humanitarian, legal, and socio-economic priorities.
- Resources to support public communication strategies and debate around regularisation.

Defining regularisation: Concepts and scope

Clear understanding and careful framing of regularisation is essential for effective policymaking.

- **Clear definition:** In this handbook, regularisation is understood as an official, state-defined process that grants a residence status to individuals who were previously in an irregular situation, including persons whose deportation order was temporarily suspended (such as *Duldung* in Germany) (Chapter 2).
- **Pragmatic tool:** Regularisation addresses long-term irregular stay, humanitarian needs, and social inclusion, especially when other policy options are not, or no longer, feasible or desirable (Chapter 1).
- **Diverse regularisation policies:** Regularisation encompasses temporary programmes, permanent mechanisms, and policies that may not officially carry the label of regularisation, all of which, if well-designed can achieve similar results.
- **Clear communication:** Transparent and consistent communication is essential to build trust among migrants and the public (see Chapter 2).

Rule of law and legal considerations for regularisation

Regularisation policies operate within legal frameworks, including fairness, equality and access to justice, emphasising the rule of law as a framework for protecting migrants rather than simply enforcing existing rules. Although the EU often states that it has no direct competence over regularisation, its institutions shape national choices through soft coordination, legal frameworks, and political discourse.

- **EU legal frameworks:** The 2008 Return Directive allows Member States to grant residence permits “on any grounds” (Art. 6(4)), while other directives mandate or enable issuance of residence permits for vulnerable groups, including survivors of violence, trafficking victims, and those exploited at work (see Chapter 4).
- **EU rulings:** Court of Justice of the European Union (CJEU) rulings have required states to grant residence rights or refrain from removal (see the rulings *Ruiz Zambrano* and [Metock and Others](#)) (see Chapter 1).
- **National courts:** Domestic rulings, such as in Ireland ([Luximon & Balchand](#) in 2018), show that courts can also shape targeted regularisation programmes.
- **Legal justification:** Measures such as firewalls, temporary suspensions of deportation, or time-limited regularisation schemes, enhance legal certainty and reduce exploitation (see Box 8.1 Rule of Law).

Policy variations: Regularisation programmes vs mechanisms

Regularisation takes different forms, from time-limited programmes designed to address specific needs or crises, to ongoing regularisation mechanisms embedded in legislation. Both approaches can be effective, depending on how they are designed and implemented.

- **Time-limited regularisation programmes can respond to specific situations.** Germany's 2022 *Chancen-Aufenthaltsrecht* provides a transitional 18-month residence permit to individuals with at least five years of *Duldung*, linking temporary regularisation to integration requirements like employment and language acquisition (see Chapter 2).
- **Continuous regularisation mechanisms create ongoing pathways for individuals with an irregular or precarious status.** Spain's permanent '*arraigo*' mechanism (first introduced in 2004 and then expanded) now offers multiple pathways to regularisation based on social, employment, family, educational, or prior-status criteria, providing long-term stability for irregular migrants (Chapter 7).
- **Design impact:** Policy design choices reflect broader political priorities and shape migrants' rights, administrative capacity, and the legitimacy of policies.

Stakeholder engagement and policy design

While regularisation remains primarily a national competence, effective regularisation relies on collaboration across multiple actors, including national authorities, EU institutions, trade unions, employers, civil society and migrant-leg groups.

- **National and local governments:** National authorities set the legal framework for regularisation, but cities often adopt more inclusive measures (such as 'sanctuary cities'), including access to services, municipal IDs, or support for applications. [These local initiatives](#) may diverge from national policy.
- **Civil society:** In Ireland's 2022 Regularisation of 'Long-Term Undocumented Migrants Scheme', civil society organisations played a crucial role in outreach and direct applicant support, ensuring accessibility for otherwise excluded groups (see Box 5.1).
- **Advocacy initiatives:** Migrant-led and faith-based movements have advocated for regularisation and also built political alliances. In Spain, [#RegularizaciónYA](#) initiated a Popular Legislative Initiative, collecting over 700,000 signatures by 2022 to push for a regularisation programme addressing workers in precarious sectors often excluded from existing pathways (see Chapter 4 and Box 7.5).

Impacts and outcomes

Regularisation has demonstrable social, economic, and legal effects, but outcomes depend on programme design and wider migration governance.

- **Limitations of conditional statuses:** Insecure, conditional or employer-dependent statuses can limit the effectiveness of regularisation, as seen in Italy's 2020 COVID-era regularisation which required applications via employers for agricultural and care workers, with strict conditions and documentation; reliance on employer sponsorship and short-term permits limited access and left many workers in precarious situations (see Chapter 5).
- **Need for monitoring:** Both intended and unintended consequences are crucial to monitor, including effects on labour markets, migrant rights, and integration trajectories, and adapt programmes accordingly. For instance, Canada's post-secondary student pathways illustrate unintended consequences, as changes to eligibility for certain study permits or post-graduate work permits in the 2020s increased the risk of students losing status, showing how policy gaps and administrative complexity can inadvertently produce irregularity even among compliant migrants (see Chapter 10).

Contextual and comparative perspectives

Regularisation policies operate within broader political, social, and international contexts that shape both their feasibility and outcomes.

- **Temporary protection regimes:** Short-term measures demonstrate how rapid responses can prevent irregularity, but carry risks when they are short-term or there are no pathways to other durable permits. In Türkiye, Syrians were channelled into temporary protection regimes as the main route to regular status and have remained with these statuses for the last 15 years (see Chapter 8 and Box 7.3). The activation of the Temporary Protection Directive (TPD) in the EU gave millions of Ukrainians immediate residence rights and access to services, showing how a coordinated regional mechanism can regularise large populations at scale, yet their protection is time-limited and was set to expire several times already (see Chapter 10).
- **Lesson from North America:** Experiences in regularisation measures and programmes from United States highlight practical lessons in design, accessibility, and civil society partnerships, offering valuable insights for European policymakers seeking to balance humanitarian obligations, labour market needs, and public legitimacy (see, for example, the Deferred Action for Childhood Arrivals (DACA) programme in Chapter 10).
- **Latin American experience:** [Over 100 regularisations](#) have been implemented in Latin America in the 21st century. Columbia, which currently hosts the largest population of Venezuelan migrants in the region, offers them temporary protection and a range of regularisation pathways. Both Latin America and Europe share in common the selective, conditional logic and bureaucratic complexity. But Europe emphasises integration and discretionary assessment, while Latin America often prioritises broader access and rights-based approaches (see Chapter 5).

Conclusions

The evidence presented in this handbook shows that while regularisation can provide essential pathways to regular residence status, practical access remains uneven. Bureaucratic complexity, documentation burdens, and conditional criteria often limit the benefits of otherwise inclusive policies. Policymakers need to recognise that formal eligibility does not always translate into effective protection or stability for migrants.

There still are policy gaps to be considered. Across regions, selective eligibility, temporary schemes, and dependency on employer sponsorship create persistent barriers. Strengthening implementation through clear procedures, adequate support services, and monitoring mechanisms is essential. Ensuring that policies account for diverse migrant situations—including employment, family ties, and prior irregularity—can enhance fairness and effectiveness.

Comparative experience suggests potential pathways forward: embedding rights-based principles, simplifying administrative requirements, and balancing discretionary assessments with clear entitlement rules. Policymakers can also learn from regional practices, such as human rights-based access in Latin America and integration-linked approaches in Europe, to develop flexible yet coherent frameworks that reduce irregularity while supporting social and economic inclusion.

Preface

By Albert Kraller, Jill Ahrens, Michele LeVoy and Imanol Legarda Diaz-Aguado

The aim of this handbook is to provide critical guidance on regularisation policies while also considering practices that may not officially be called regularisation policies. Geographically, the focus is on Europe, although it also considers some examples from North and Latin America. Regularisation is an important response to resolve situations of longer term, protracted irregularity providing irregular migrants with an option to leave irregularity when return is not feasible or not, or no longer an option. Far from being an exceptional situation, irregular migration needs to be considered a structural feature of contemporary societies. Individual aspirations for migration, persistent labour market demand and enduring family and social ties combined with restrictive entry and residence policies, mean that many people experience irregularity at some point in their migration journey. Regularisation – the granting of residence rights to those without status – has therefore emerged not as an exception, but as a recurrent and established tool of migration governance.

A central challenge is the at the very idea of ‘regularisation’ encompasses different objectives, practices, and outcomes. It is not a single policy instrument but usually involves a broad range of measures, designed and implemented in distinct ways across countries and over time. In this handbook we distinguish between *regularisation programmes* that are introduced as temporary initiatives in response to a specific situation, and ongoing *regularisation mechanisms* that are embedded within national legislation and policies. The design choices of regularisation policies – from eligibility criteria and required documentation to the stability of the rights granted – shapes not only the outcomes for individuals but also the effectiveness, legitimacy, and political reception of the policy.

Assessing regularisation policies is challenging for at least two reasons. First, there are a range of conflicting views about the benefits and drawbacks of regularisation, some of which are grounded in principled views, others, on empirical claims about the consequences of regularisation (Cyrus and Kraller 2025). Second, its consequences are not automatic:

there often is a gap between policies on paper and their implementation. For instance, rights *on paper* do not necessarily translate into rights *in practice*. Access depends on how measures are designed and implemented – whether they account for migrants lived realities, and whether stakeholders such as employers, trade unions, civil society, and migrant-led organisations are actively engaged.

The difficulty of understanding regularisation is therefore at once conceptual, political and practical. What is the rationale for adopting it in the first place? How should policy choices balance pragmatism, humanitarian considerations, labour market needs, and the rule of law? And, crucially, how do these choices translate into desired outcomes for migrants, for societies, and for states?

Despite these complexities, the key message of this handbook is that regularisation should be considered a pragmatic and often necessary tool of migration governance, providing a solution to protracted situations of irregularity. Far from being a one-off measure, it is a recurrent tool that can reduce informality, strengthen social cohesion, and increase fiscal contributions when designed with care and transparency. The contributions here highlight the range of evidence-based options available, the lessons that can be drawn from international experience, and the trade-offs that must be considered in policy design.

The aim of this handbook is to support that process. It does so through a series of focused chapters, complemented by short textboxes illustrating concrete examples from Europe, North America and South America. Together, these contributions offer a structured resource to navigate the multiple dimensions of regularisation – its practices, its debates and its effects.

The idea behind the Handbook

This handbook was developed as part of the project *'Measuring Irregular Migration and Related Policies' (MIrreM)*, a 3-year research project funded under the EU's Horizon Europe Programme for Research and Innovation. It is one of two handbooks produced by the project, the other focusing on quantitative measures of irregular migration (Kierans and Kraler 2025).

The MIrreM handbooks were inspired by other examples of reports based on both research and broad consultations of relevant experts and stakeholders, notably guidance developed by the Expert Group on Refugee, IDP and Statelessness Statistics (EGRISS) and two Handbooks on refugee statistics and statistics on internally displaced persons (European Commission and Eurostat, 2018; European Commission, Statistical Office of the European Union and United Nations Organisation, 2020).

Taking inspiration from this approach, MIrreM envisaged two dedicated working groups – one on irregular migration data and another on regularisation. In practice, more flexible collaboration proved most productive. For this handbook, the project engaged distinct stakeholders at various times, drawing in those whose perspectives and experiences were most relevant to each stage of development.

Stakeholders included academics analysing regularisation measures and their consequences, as well as civil society organisations and local governments with direct knowledge from practice. We also benefited from opportunities for exchanging with national governments, individual government officials as well as experts from the European Commission. Finally, we also greatly benefitted from exchanges with six other Horizon Europe funded projects focused on irregular migration.

Concrete work on this handbook began with a workshop in Brussels in May 2024, which gathered around 20 stakeholders to discuss and refine its scope and approach. Two further workshops were held in 2024, one in June 2024 focussed on Canadian experiences and co-organised by our project partner Toronto Metropolitan University and a second organised in November 2024, focused on the claim of the pull effect of regularisations. These workshops organised as events of the MIrreM Working

Group on Regularisation were complemented by a series of other exchanges, including discussions in panels dedicated to examining different aspects of regularisation at the [IMISCOE](#) annual conferences in Lisbon (2024) and Paris (2025), as well as at the IMISCOE Spring Conference 2025, which focused on irregular migration under the motto the *"Regularity of Irregularity"* and was hosted by the University of Continuing Education (Danube University) Krems. In addition, workshops with stakeholders in partner countries were organised.⁵ Insights were also gained from direct engagement with the *'City Initiative on Migrants with Irregular Status in Europe'* (C-MISE) network,⁶ a city-led knowledge-exchange programme that supports European cities in sharing practices and policies for responding to the presence of migrants with irregular status, and which also contributes guidance and expertise to broader policy debates.

For this handbook, the MIrreM team invited a wide range of experts to contribute chapters and textboxes. The strong response reflects a shared commitment to advancing discussions on regularisation policies, and to linking conceptual debates, practical design choices, and broader policy frameworks.

This handbook is structured into ten chapters, complemented by an executive summary, and a series of thematic textboxes. It moves from definitional and historical debates to policy design, implementation and outcomes, providing policymakers, researchers, and practitioners with a practical resource for navigating one of the most complex and contested areas of migration governance.

Below is a brief overview of the handbook by section:

Chapter 1: Migrants in an irregular situation and regularisation – a longstanding debate

Traces the historical debates around irregular migration in Europe, showing how restrictive entry policies reinforced irregularity. Discusses the evolution of regularisation from reactive measures to a recurrent policy tool, highlighting evidence of its potential to reduce informality, strengthen cohesion, and improve fiscal contributions when well designed.

Chapter 2: Regularisation as a policy tool: defining scope, purpose and limits

Examines regularisation as a core governance instrument responding to long-term irregular stay, humanitarian needs, and social integration. Explores how design choices affect inclusion and control, and how terminology shapes political acceptance and legitimacy.

Chapter 3: Overview of regularisation types – policy diversity and implications for migrant inclusion

Provides an overview of diverse national approaches to regularisation. Highlights the mixed outcomes for migrants, where pathways to stability often remain insecure or conditional, underscoring the importance of durable residence statuses and equal rights.

Chapter 4: Stakeholders: key actors in the debate, design, and implementation of regularisation measures

Explores the role of unions, employers, migrant-led groups, and civil society in strengthening the legitimacy and reach of regularisation measures. Considers the limits of EU competence, while recognising its indirect influence through legal frameworks and political discourse.

Chapter 5: Access to and implementation of migrant regularisations

Analyses the gap between rights in law and rights in practice. Stresses the importance of clear, transparent eligibility, accessible procedures, and affordable applications, while warning against short-term permits and over-reliance on employer sponsorship. Advocates for durable, inclusive statuses and predictable decision-making.

Chapter 6: Effects of regularisation

Outlines common objections raised against regularisation and discusses those making empirical claims about effects of regularisation, distinguishing between effects and effectiveness of policies and illustrating benefits of regularisation with experiences in the Portuguese case, highlighting regularisation as a condition for formal labour market participation, raising public revenues, restoring the dignity of irregular migrants and providing access to rights and full social membership.

Chapter 7: Navigating policy options: addressing the presence of long-term irregular migrant populations

Outlines the range of policy options available to address the presence of long-term irregular migrants, emphasising the importance of clarifying objectives and anticipating consequences. Encourages early planning for mitigation strategies and communication of positive impacts.

Chapter 8: Regularisation in today's political context

Investigates contemporary debates around regularisation, including contested claims about 'pull effects', its relationship with the rule of law, and the competing frames of politics, labour markets, and human rights. Explores how states manage visibility and legitimacy in politically sensitive contexts.

Chapter 9: Temporary protection of war-fleeing Ukrainians in the European Union

Analyses the EU's use of temporary protection as a rapid response to large-scale displacement, preventing irregularity in journeys and stay. Highlights both its potential to lead towards durable residence statuses and the risks of 'irregularisation' once temporary measures expire.

Chapter 10: Lessons from North America on regularisation

Reviews regularisation policies in Canada and the United States, noting how multi-step migration pathways have increased risks of status loss. Identifies lessons for effective regularisation, including simple criteria, multilingual information, civil society involvement, affordable fees, and protective firewalls between application data and enforcement.

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Chapter 1

Migrants in an irregular situation and regularisation - a longstanding debate

By Jill Ahrens (University for Continuing Education Krems and Radboud University)

and Albert Kraler (University for Continuing Education Krems)



Key take-aways

- **Irregular migration as a structural feature:** Irregular migration has deep historical roots but gained political salience in Europe from the 1970s onwards, shaped by restrictive policies that limited regular migration pathways and often unintentionally reinforced irregularity.
- **Regularisation becoming more common:** Regularisation has evolved from a reactive labour-market measure to a recurrent and sometimes legally required instrument of migration governance, used to protect rights, address humanitarian needs, and enhance labour market regulation.
- **Regularisation as a pragmatic response:** Evidence shows regularisation can reduce informality, increase fiscal contributions, and strengthen social cohesion, but success depends on administrative capacity, transparent communication, and embedding regularisation within wider migration reforms.

Introduction

Irregular migration, broadly defined as the movement or stay of individuals in contravention of a state's administrative and legal regulations governing entry or residence, is not a new phenomenon. Movement and stay outside of a regulatory framework have a longstanding history linked to the ascendance of nationality as a primary membership status in Western societies in the late 18th and in the 19th century, and the related emergence of migration policies regulating movement across international borders and migrants' residence in countries of immigration. However, it is only since the mid-20th century that irregular migration has gained prominence in political and public debates. In particular, from the 1960s and 1970s onwards, it became more widely labelled as 'illegal migration', reflecting heightened concerns about territorial sovereignty and border control.

More on terminology:

See Chapter 2

This issue intensified in the 1970s, following the termination of guestworker recruitment programmes in many Western European countries, a change largely driven by the economic downturn created by the 1973-1974 oil crisis, and marking a decisive turn towards more restrictive migration policies. In earlier decades, migration policies in Europe were primarily shaped by labour demand, economic cooperation, and historic ties with former colonies. However, by the 1990s, the policy discourse shifted firmly towards control and security. Governments both restricted regular migration pathways and strengthened enforcement measures to prevent irregular entry and stay. Evidence suggests these measures often had counter-productive effects, because with fewer regular migration pathways available, some migrants resorted to using unauthorised channels.

During this period, policy fragmentation also added further complexity to the governance of irregular migration. For instance, restrictive asylum reforms, such as the adoption of the principle of 'safe third

country' and fast-tracking of so-called 'manifestly unfounded' claims, resulted in lower recognition rates for those seeking international protection. At the same time, an increasing emphasis on return policies since the 1980s and 1990s started to signal a greater focus on enforcement and removal, which also inevitably led to many more non-deportable migrants living in legal limbo (Kraler and Rogoz, 2011). As a result, migrant irregularity increasingly arose due to unauthorised border crossing as well as from legal and administrative barriers to the renewal and acquisition of residence status.

Recent efforts to make sense of the complexity of migrant irregularity include the MIrreM project's classification, which aims to move beyond simple dichotomies (e.g. regular/irregular status, forced/voluntary migration, deserving/undeserving migrants, etc.) in order to capture the diversity of migrant population in irregular situations (Kraler and Ahrens 2023). This is highly relevant for policymakers, because simplified categories can obscure the diverse realities of migrants' residence situations, limiting the effectiveness of policy responses. The MIrreM classification builds on the model of 'demographic

balance', first applied by the Clandestino project (2007-2009) to gather data and produce estimates on the undocumented population in Europe. This model illustrates how the 'stock' of irregular migrants is shaped by various demographic, geographic and status-related in- and outflows that can affect the stock (Vogel and Jandl, 2008). Although not shown here for reasons of space, the MIrreM classification system allows us to unpack several pathways into and out of migration-related irregularity and to see how these flows directly shape the number of irregular migrants present in a given country.

We argue that regularisation should not be seen an exceptional or ad-hoc measure, but rather a recurring and often necessary feature of migration governance.

Regularisation as a Policy Tool



The debate on the regularisation of migrants in an irregular situation has been a persistent issue in migration governance, shaped by political, economic and social considerations. It has long been viewed as a 'technical' instrument – initially conceived as a corrective mechanism to address gaps and unintended outcomes in labour migration systems. International discussions on this topic gained traction in the 1970s, when many former guestworkers lost their regular residence status after these labour recruitment schemes were suspended. Regularisation was seen as a pragmatic response to the presence of

irregular migrants, because it improved labour market conditions and social integration.

Yet the debate has always been contested. Critics raised concerns about a potential 'pull factor' or 'magnet effect' (Böhning 1983), warning that expectations of future regularisations could encourage more irregular entries. Others questioned its fairness, arguing that regularisation could be perceived as rewarding unauthorised entry or stay, thereby disadvantaging those who comply with regulations. Still, others argued that the recurring need for regularisations actually

indicated a structural need for wider migration reform. Over time, regularisation has remained a recurring feature of migration governance, though its objectives and framing have evolved alongside shifting migration patterns and policy priorities.

Up until the 1970s, regularisation was primarily linked to labour migration policy and used to redress deficiencies of these policies. Many European countries recruited migrant workers through guest workers programmes in order to support the reconstruction efforts after 1945 and industrial expansion. However, spontaneous recruitment outside of the regulatory framework also formed part of these migration flows (see for France Hollifield

1986; and for Germany Karakayali 2015). The oil crisis in 1974 led to the suspension of guestworker admissions in some countries while other countries continued recruiting (Hollifield 1986), thus creating considerable uncertainty both about the continuation of the programmes and about the futures of the guest workers already present. Some governments introduced targeted regularisation measures to retain migrant workers in essential industries, though these were often small-scale and reactive initiatives. These early measures reflected a reluctance to institutionalise regularisation as a long-term strategy.

Legal Considerations

The debate over regularisation is affected by broader tensions in migration governance, balancing migration control with economic and social interests, as well as compliance with legal and human rights obligations. In some cases, regularisation measures have been introduced not only for policy reasons but have been mandated by law. For example:

- The Court of Justice of the European Union (CJEU) rulings, as seen in [Ruiz Zambrano](#) and [Metock and Others](#), clarified that, under EU law, residence rights must sometimes be granted to protect EU citizens' rights or family unity.
- The European Court of Human Rights has held that Articles 3 (prohibition of inhuman treatment) and Article 8 (right to family and private life) of the European Convention on Human Rights may require states to refrain from removal in specific cases.

- In Ireland, for example, several court rulings have influenced the introduction of targeted regularisation programmes (see for example [Luximon & Balchand](#) in 2018).

Thus, regularisation is not only a discretionary policy tool but, at times, a legal necessity. This reinforces the need for policymakers to view regularisation not as optional concession but also as part of a state's legal and institutional obligations.



Box 1.1: Pathways out of Migrant Irregularity

Pathways out of irregularity encompass a range of legal, administrative, and political responses. Regularisation is one option, typically differentiated by pathways: either as one-off *programmes* introduced in response to political, social, or economic pressures, or as ongoing *mechanisms* embedded in national law and practice. Importantly, regularisation is not only justified by the outcome of providing a residence status but often framed as a means of safeguarding other rights or entitlements, such as access to healthcare, education, or labour protections.

A simplified typology distinguishes six principal pathways through which irregular migrants may move towards regular status or exit irregularity:

- **Regularisation programmes and mechanisms:** Regularisation of residence status for individuals already in an irregular situation, through either extraordinary time-limited programmes or continuous mechanisms integrated into law and policies.
- **Available admission pathways:** Access to standard regular migration channels (e.g. work, study, family), provided that in-country applications are permitted and irregular residence does not automatically exclude eligibility.
- **International protection:** Refugee status under the 1951 Convention, subsidiary protection under EU law, or national complementary protection for individuals unable to return safely to their countries of origin.
- **Conditional statuses (potentially leading to regularisation):** Temporary, 'tolerated', or discretionary statuses (e.g. suspended deportation, humanitarian leave to remain) that may evolve into more secure residence if conditions are met.
- **Return:** Departure to the country of origin, whether voluntary, assisted, or through enforced return measures.
- **Onward migration:** Relocation to another country, sometimes through secondary movements within the EU, though often constrained by legal and policy restrictions.



Recent drivers and impacts of regularisation

The effects of regularisations extend beyond the individual migrants, as regularisations also influence labour markets, public finances and social cohesion. By regularising migrant workers, governments can reduce informal employment, increase tax revenues, and improve working conditions (Gordon et al. 2009).

Research on Spain's 2005 regularisation programme found that it led to increased social security contributions (Finotelli and Arango 2011) and more recent research on Spain's various ongoing *arraigo* regularisation programmes also highlighted that the duration migrants stayed in an irregular situation decreased (OPI 2025).

For detailed stats on types of valid arraigo permits since 2013, and cross-links this data with social security, data showing labour force participation:

Check the [dashboard on valid arraigo permits under the Observatorio Permanente de la Inmigración \(OPI\)](#) on the Spanish Ministry website. You can also [create user defined results tables](#).

Nevertheless, policymakers also need to consider other aspects, such as planning for adequate administrative capacity necessary to process applications and adopting communication strategies that build public understanding and support. This is important given that regularisation measures are not inherently costly or unpopular, when well explained and well managed.

Recent developments in migration governance continue to bring regularisation into focus. The Covid-19 pandemic, for instance, illustrated the reliance on irregular migrants in essential sectors. This prompted Italy to introduce temporary regularisation measures for the agricultural, domestic and care work sectors. Other states, such as Greece, Ireland, Italy, France, Luxembourg, Poland, Slovakia and Finland, put in place measures to avoid that people would become undocumented by extending residence permits during lockdowns (PICUM 2020). Portugal went further, temporarily regularising all migrants with pending applications during the pandemic to ensure universal access to testing and vaccinations for all residents.

These cases demonstrate how regularisations can function as one policy option to respond to evolving economic and humanitarian needs, but they also demonstrate how regularisations are often implemented in response to perceived 'crises'.

Conclusion

Regularisation thus remains both a pragmatic and sometimes legally required instrument within a broader migration management strategy. Its design, implementation and long-term outcomes should be closely examined and embedded in broader migration reforms, with careful consideration of societal wellbeing, economic needs, administrative feasibility.

As the historical debate, legal frameworks, and recent pandemic responses demonstrate, regularisation is neither exceptional nor temporary but an integral part of migration governance. Best practices show that well-managed, regularisation can contribute to predictable, fair and sustainable migration systems, while upholding states' legal and human rights obligations.

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Chapter 2

Regularisation as a policy tool: defining scope, purpose and limits

By Jill Ahrens (University for Continuing Education Krems and Radboud University)

and Albert Kraler (University for Continuing Education Krems)



Key take-aways

- **Regularisation is a core migration governance tool.** Far from being an exceptional or lenient measure, regularisation provides a structured response to the realities of long-term irregular residence, humanitarian need, and social embeddedness of migrants with precarious residence status.
- **Design choices matter.** The balance between time-limited programmes and continuous mechanisms reflects wider political priorities about inclusion, stability, and control, with significant consequences for migrants' rights and state capacity.
- **Terminology shapes perception.** Framing regularisation as a pragmatic governance tool rather than an 'amnesty' or 'legalisation' can reduce political resistance and build public legitimacy, but still need to be attentive to underlying power dynamics and exclusionary criteria.

Introduction

Migration governance presents states with complex challenges, especially when managing the presence of populations with a precarious migration status. Among policy instruments available to respond to such challenges, regularisation plays a key role. This chapter provides a practical and precise definition of regularisation, while also considering other ways of obtaining a residence status beyond explicit regularisation policies. We also clarify the scope and contours of regularisation as a policy tool, in order to distinguish it from related processes.



Migrants with a precarious residence status

Migrants with an irregular residence status are individuals residing in a country without formal authorisation required under the national legal framework. Their status may be the result of a variety of circumstances, such as unauthorised entry, overstaying a visa, rejection of an asylum application, family breakdown, or being born to undocumented parents, etc. Others may fall into a grey zone, including individuals awaiting an asylum decision or those unable to return to their origin country for various reasons, due to lack of safety in the origin country, travel restrictions, or absence of valid travel documents.

In some countries, return decisions can be formally suspended, with migrants issued documents confirming this suspension, protecting them from deportation and detention, as well as providing

access to other rights. We consider both categories of migrants – migrants without formal authorisation to stay and other migrants provisionally staying – as part of the population of migrants with a precarious residence status. Importantly, regularisation policies often target both categories.

Despite lacking a stable residence status, many such migrants are embedded in societies through work, family ties, community participation, or long-term residence. Yet, their precarious status means that they face considerable vulnerabilities, such as restricted access to rights and services, heightened risk of exploitation, and limited ability to participate fully in society.

Defining regularisation

Regularisation is an official, state-defined process that grants a residence status to individuals who were previously in an irregular situation. Often regularisation also extends to other persons with a precarious residence status, such as rejected but non-removable asylum seekers or migrants with temporarily suspended return orders (such as *Duldung* in Germany). In essence, it represents a transition from precarious to a regular status, incorporating an individual into the legal and administrative framework of immigration governance.

Regularisation is best understood as a form of status adjustment that provides a regular residence status. Yet, some see it as conceptually distinct from other forms of status transitions that result, for example, from a successful asylum claim or collective changes of the residence status of specific groups, such as temporary protection in the case of Ukrainians (see chapter 11), residence rights acquired through family ties, such as marriage to an EU citizen, or through accession of a country to the EU.



Box 2.1
What's in a Name?
By Jill Ahrens

The terminology surrounding regularisation reflects broader debates on migration policy and public perception. Different terms –such as ‘amnesty’, ‘legalisation’, ‘regularisation’, or ‘status adjustment’– carry distinct legal and political implications. ‘Amnesty’ implies a one-time, large-scale measure that forgives previous irregularity, whereas ‘legalisation’ suggests a more systematic process linked to specific conditions. Some of these terms are also used in other contexts and carry connotations from these other contexts. For example, amnesty is often used for programmes allowing to settle unpaid taxes and implies a common interest of bringing an irregular situation back into the legal and institutional framework. Similarly, regularisation is used in administrative law to refer to the correction of procedural irregularities. In contrast, ‘status adjustment’ or ‘pathways to regularity’ emphasise a gradual transition rather than a singular policy intervention.

The choice of terminology can influence public debate and political perception. For example, while ‘amnesty’ has been criticised for suggesting leniency, ‘regularisation’ is often perceived as a pragmatic governance tool. It is also worth noting that the use and public perception of terms differs across languages, while legalisation is widely understood across linguistic boundaries, the meaning of regularisation and amnesties is often more restricted to policy circles. In the USA, debates over immigration reform have shown how terminology shapes policy debates, with ‘earned legalisation’ framed as a merit-based approaches to status adjustment. Similarly, in European contexts, ‘exceptional leave to remain’ or ‘discretionary regularisation’ are sometimes used to describe case-by-case decisions without explicitly acknowledging it as a policy mechanism. These linguistic distinctions underscore the importance of clear and consistent messaging in migration policymaking.

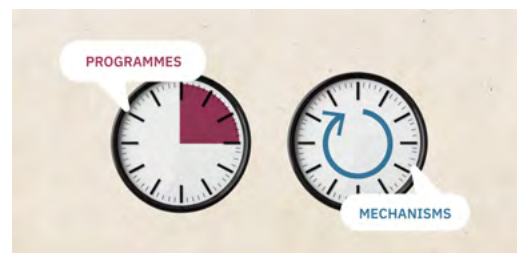
Regularisation refers to any state-initiated administrative procedure through which third-country nationals who are residing irregularly within a country without required permissions are granted a residence status.

According to the REGINE project (Baldwin-Edwards & Kraller, 2009), regularisation can take two main forms:

- **Regularisation mechanisms**, which are ongoing or embedded in national legislation, allowing for case-by-case decisions (typically on humanitarian, medical, employment, or family grounds).
- **Regularisation programmes**, which are exceptional, large-scale or time-limited initiatives targeting specific groups of irregular migrants, often as a response to pressing socio-political or economic considerations.

Two modes of regularisation: Time-limited programmes vs continuous mechanisms

While the definition captures the key features of regularisation, it is essential to distinguish between primary modalities of regularisation, i.e. one-off regularisation programmes and continuous regularisation mechanisms.



Time-limited regularisation programmes

One-off regularisation programmes are ‘exceptional’, temporary policies that are usually introduced through legislative or executive orders. They are often framed as extraordinary legal tools, and are usually designed to address specific political, humanitarian, public health or administrative interests – such as the presence of a large population in an irregular situation, a national crisis or the need to meet specific goals of migration governance.

Regularisation programmes are characterised by their limited time and scope, often including clear eligibility criteria such as a minimum period of residence, ties to a specific economic sector, social integration indicators, or particular humanitarian situations. Politically, programmes represent a deliberate, time-

limited departure from the ordinary immigration policy, designed to bring a defined group of migrants into regular residence.

During the COVID-19 pandemic several states used one-off regularisation programmes. For example:

- **Italy** introduced temporary regularisations to address labour shortages in essential sectors such as agriculture and domestic work.
- **Portugal** initially granted temporary regular status to all irregular migrants with pending residence applications to ensure access to healthcare during the COVID-19 pandemic, later extending this measure to all irregular migrants in the country.



Box 2.2

Various designs of regularisation

By Albert Kraler

Regularisation policies differ significantly across national contexts in terms of their legal framing, eligibility criteria, and target populations. These variations reflect broader differences in migration governance, policy objectives, and institutional capacity. Examples include:

Narrow framing of regularisation for specific target groups in Italy:

Regularising and regulating domestic work remains a critical challenge in labour and migration policy. In Italy, the 2009 and 2012 regularisation programmes specifically targeted migrant domestic workers and regularised 233,244 and 105,000 people respectively (see [Caritas Europa 2021 Demystifying the regularisation of undocumented migrants](#)).

A broader, relatively open definition in the Irish case:

Ireland's 2022 **Regularisation of Long-Term Undocumented Migrants Scheme** adopted a broad and inclusive regularisation framework, applying to most undocumented migrants who had been living in the country for four years or more (or three years for families with children). The programme also included a specific track for asylum seekers under the international protection process who had been awaiting a decision for at least two years. This dual-track approach combined humanitarian and administrative rationales, enabling both long-term residents and protection applicants to transition to legal residence.

A very wide definition under Germany's 'Chancen-Aufenthaltsrecht' (Chances Opportunity Act):

Introduced in 2022, the first stage of Germany's **Chancen-Aufenthaltsrecht** offers a broad regularisation path to individuals who had been living in the country with a Duldung (suspension of deportation) for at least five years by October 31, 2022. This approach provides a temporary 18-month residence permit during which applicants must meet integration benchmarks (e.g., securing employment, acquiring language skills, etc.) to qualify for more permanent residence. Unlike traditional regularisation, the Act is framed as a transitional regularisation tool promoting long-term integration and stability for individuals with a longer stay in Germany but who still lack secure status.

Continuous regularisation mechanisms

In contrast, continuous regularisation mechanisms are embedded features of a state's immigration system, offering ongoing pathways for individuals with an irregular or precarious status to regularise their stay under specific conditions. Unlike one-off programmes, continuous mechanisms do not depend on ad-hoc political decisions, but are institutionalised as part of legal and administrative regulations and are accessible on a rolling basis to eligible applicants.

Although often presented as exceptional, such regularisation mechanisms are regularly used in practice, because they provide a stable and predictable approach to addressing migrant irregularity.



Box 2.3

Regularisation mechanisms in practice

By Jill Ahrens and Norbert Cyrus

Effectiveness of regularisations in Spain: Spain's 2005 'normalisation' programme was one of the largest regularisations in Europe, regularising circa 580,000 migrants (Finotelli and Arango 2011). Subsequent regularisation mechanisms, like the 'arraigo social' (2006 onwards) had higher rejection rates and many migrants were unable to renew their residence permit. In order to reduce the number of migrants falling back into irregularity due to problems with renewing their residence permit, reforms were introduced in 2022 (see research; Finotelli et al. 2024).

Portugal's regularisation mechanism: In February 2025, Portugal enacted Law No. 9/2025, amending its Foreigners' Law to facilitate residency for nationals from the Community of Portuguese Speaking Countries (CPLP). This law allows CPLP nationals entering Portugal with a short-stay visa or through legal entry to apply for a temporary residence permit without the need for prior employment contracts or exiting the country.

Germany's regularisation mechanism: With the introduction of a new Residence Act in 2005, the German legislator provided tolerated third country nationals some pathways towards residence permits, in particular in case of impossibility to leave (§ 25 (5)) and humanitarian, personal or public interest (§ 25 (4)) (Stiegeler, 2005).

Pursuant to Section 25 (5) of the Residence Act, a residence permit may be issued to a person who is forcibly obliged to leave the country if **departure is impossible for legal or factual reasons** and the removal of the obstacles to departure is not to be expected in the foreseeable future. According to this regulation, the immigration authority can therefore issue a residence permit instead of a temporary suspension of deportation from the outset if there are long-term reasons for toleration. The residence permit is granted in (dutiful) discretion. If the removal has been suspended for 18 months, the **residence permit should be issued**, i.e. it must be issued unless there are specific reasons against it in the individual case. This residence permit is **initially only granted for six months** and is not extended if the obstacle to leaving the country has ceased to exist (Section 26 (1) sentence 1 and (2) of the Residence Act). According to information from Federal Government, the number of annually newly issued permits for the period 2021 – 2023 ranges between 6,700 and 5,800 people.

Situating regularisation alongside other pathways to regularity

Regularisation should be conceptually distinguished from other transitions to a regular residence status. States often provide a variety of structured routes to move from one residence status to another, for example, to switch from a temporary student visa

to a work visa, or from a temporary to a permanent residence permit. These transitions operate under formal rules and as part of standard status trajectories. While irregular migrants rarely benefit from such mechanisms, they are important in preventing

individuals with regular residence from falling into irregularity. The central aim of international protection is to safeguard refugees and provide them a secure regular residence that enables them to live, work and build a new life. Admission to an asylum procedure obviously also has a regularising effect on third-country nationals who initially entered a country without the required authorisation.

In the context of EU enlargement, the accession of new Member states has sometimes been described as an incidental form of ‘mass regularisation’, because in these cases regularisation was more the consequence of changing the legal framework than an explicit policy goal.

By contrast, the activation of the EU Temporary Protection Directive (see chapter 11), used for

Ukrainians in 2022, represents an intentional form of regularisation. Its express objective is to grant immediate access to regular residence status, thereby ensuring protection for those displaced while also relieving national administrations from processing large numbers of individual residence applications.

Regularisation should therefore not be understood as a measure reserved only for those unable to access ‘standard’ residence pathways. Nor should it be seen as an inferior or exceptional alternative to asylum or return. Rather, regularisation reflects a state’s policy choice to grant residence on grounds it considers legitimate – whether linked to work, potential employment, studies, health needs, family unity, protection against refoulement, statelessness, or other humanitarian considerations.

Key characteristics of regularisations

To summarise the definitional contours of regularisation, several key features can be identified:

- **State-initiated:** Regularisation is a policy tool, implemented through administrative or legislative authority.
- **Status transitions:** It enables migrants to transition from irregular or precarious to a regular residence status.
- **Targeted eligibility:** It typically targets a specific group of migrants who can be subsumed under certain criteria, e.g. existing or future employment, enrolment in studies or school attendance, impossibility to return (for practical or non-refoulement reasons), best interests of the child, school attendance, medical grounds, integration, family unity, ‘humanitarian reasons’, statelessness, national, international or temporary protection, etc.
- **Additional exclusionary conditions:** Access is typically linked to having a clean police record, and paying an application or issuing fee.
- **Variable temporality:** It can take the form of one-off programmes or continuous mechanisms.

Conclusion

Regularisations are neither an unusual policy tool nor an exceptional gesture of leniency: regularisation is a core instrument of migration governance. By clarifying its scope and distinguishing it from other status transitions, this chapter has shown how regularisation functions as a structured response to the realities of long-term residence, embeddedness, and humanitarian needs of individuals in an irregular situation. The choice between time-limited

programmes and continuous mechanisms reflects not only legal design but also broader political priorities concerning inclusion, stability, and social cohesion. Ultimately, how states utilise regularisation reveals much about the balance they strike between control and protection, and about their willingness to align governance with lived realities on the ground.

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Chapter 3

Overview of regularisation types - policy diversity and implications for migrant inclusion

By Jill Ahrens (University for Continuing Education Krems and Radboud University)

and Albert Kraler (University for Continuing Education Krems)



Key take-aways

- **Policy diversity.** Regularisation remains a politically sensitive yet essential tool, shaped by divergent national approaches ranging from one-off programmes to ongoing mechanisms, with no harmonised EU framework.
- **Migrant outcomes.** Despite being framed as a route to stability and inclusion, regularisation can also result in insecure or conditional statuses, highlighting the need for long-term security, equal rights, and inclusion measures.

Different types of regularisation options in Europe and North America

Regularisation is a key, though often politically sensitive, element of migration policy. It refers to the legal processes through which individuals without a residence status gain the right to remain, usually with access to work and social protection (Baldwin-Edwards and Kraler 2009, 9). While the specific policies differ across contexts, regularisations can be broadly grouped into two main formats: time-limited programmes, typically introduced in response to political, social or economic pressures, and permanent or continuous mechanisms embedded in national legal and administrative regulations. This distinction is central to understanding how different countries manage irregular migration and the institutional pathways they provide for long-term inclusion.

In addition to design, regularisation measures vary according to their underlying rationale – whether grounded in labour market needs, humanitarian concerns, protection obligations, or long-term migrant inclusion – and by the type of status transition they facilitate. Individuals may move from full irregularity, tolerated stay, or temporary residence to more stable regular status, and in some cases towards permanent residence or even citizenship. While a comprehensive typology requires attention to these multiple axes, the programme - versus - mechanism distinction, combined with the stated policy rationales, offers a clear framework for comparing practices across countries.

Grey areas and conceptual ambiguities: What counts as regularisation

Regularisation remains a contested and variably interpreted policy domain across European states. It is marked by conceptual ambiguities and definitional inconsistencies. While it generally refers to legal mechanisms that confer regular residence permits to individuals, there is no common legal or institutional understanding of what ‘regularisation’ constitutes. Some states apply the term narrowly, limiting it to exceptional, time-bound programmes (for example, [Spain’s 2024 draft Royal Decree on extraordinary authorisations](#)). Others include ongoing administrative practices such as case-by-case humanitarian decisions, tolerated stay, or sector-specific schemes.

As a result, the approaches in the policy landscape remain fragmented. Similar administrative outcomes – such as temporary residence, work authorisation, or de facto protection – may be classified differently depending on national legal traditions, migration priorities, and political sensitivities.

A recent MİRreM report (Hendow et al. 2024) notes that these ‘grey zones’ are both legal and operational. In particular, the report notes that states often engage in functional regularisations without naming them as such. In the Netherlands, for instance, localised mechanisms like the LVV (*Landelijke Vreemdelingen Voorzieningen*) pilot project resulted in regular residence status for some long-term irregular migrants (see Hajer et al. 2024), though the process is discretionary and after the termination of national funding the mechanism now relies on municipal-level efforts to maintain support. Similarly, Portugal’s former ‘Expression of Interest’ (*Manifestação de Interesse*) regime allowed irregular migrants who were employed or self-employed to access residence, despite not being labelled a regularisation policy.

Germany’s *Duldung* (a temporary suspension of a deportation order) illustrates this conceptual fluidity. While not technically a form of regularisation, *Duldung* suspends deportation and allows for temporary stay, sometimes for several years, under defined but insecure conditions. Holders may eventually access secure status through pathways such as §25a or §25b of the Residence Act. The 2022–2025 ‘*Chancen-Aufenthaltsrecht*’ (Opportunity Residence Act) also offers a transitional permit to those with long-term suspension of deportation. Yet these routes remain conditional, bureaucratically demanding, and reversible. They show how *Duldung* may evolve into a form of de facto regularisation without the legal clarity or permanence usually associated with the term.

In contrast, countries such as Italy, Spain, and Ireland have repeatedly enacted time-limited regularisation programmes. These are often tied to labour market needs or humanitarian concerns. Such programmes usually result in a recognised residence permit with work rights and the potential for renewal or permanence. However, even in these cases, the criteria and permanence of status can vary widely. Access is often subject to political negotiation as well as administrative capacity. MİRreM research conducted on the topic of regularisation, underscores that ‘regularisation’ should be understood not only as a legal-institutional process but also as a political act. It reflects how states interpret, tolerate, or manage irregularity in practice, often simultaneously using a mix of different policy responses. Consequently, the boundary between regularisation, toleration, and exclusion remains blurred, reinforcing the need for more precise comparative frameworks.

Comparative patterns of regularisation policies

Across Europe, the use of regularisation varies not only in its legal form but also in its temporal structure. Some countries have relied on one-off, extraordinary programmes, typically implemented during specific political windows or crises. Others have built continuous or structural regularisation mechanisms into their migration governance systems. This temporal variation significantly influences both the inclusiveness and long-term impact of regularisation as a policy tool.

- **Spain** and **Italy** have conducted multiple larger-scale regularisations since the 1990s responding to demographic, economic, and political pressures. Spain's 2005 programme was notable for its scale and employment-based criteria. Italy's 2020 sectoral regularisation, launched during the COVID-19 pandemic, focused on care and agricultural workers.
- **Portugal** stands out as a partial exception. It has institutionalised mechanisms that allow migrants with pending applications to access rights, such as healthcare and employment, even before formal residence is granted. Nonetheless, more restrictive measures were introduced after the new centre-right government came to power in 2024.
- **France** and **Belgium** maintain ongoing, case-by-case systems. These are typically based on factors such as length of residence, family ties, employment history, or humanitarian need. France's 'Circulaire Valls' (2012) and subsequent guidance empowered prefects to use discretion when granting residence permits under broad criteria. However, the lack of transparency and consistency in these decisions often leads to legal uncertainty and perceptions of arbitrariness.

- **Germany:** A hybrid model combining restrictive statuses such as *Duldung* with formal legal pathways to regularisation under certain conditions. Examples include §25a and §25b of the Residence Act and the 2022 '*Chancen-Aufenthaltsrecht*'.

This fragmented landscape reflects regional patterns. Southern European countries have historically embraced larger scale regularisation initiatives, while Northern and Central European states tend to favour individualised, integration-based approaches. This has contributed to fragmentation of regularisation policies in the countries covered by MIRreM. Each country uses different legal tools and policy rationales, producing highly uneven outcomes.

At the EU level, there is no harmonised framework for regularisation. National discretion remains the guiding principle. The EU's Return Directive (2008/115/EC) allows Member States to grant residence permits on humanitarian or other grounds, but it does not promote regularisation as a common objective. These divergences complicate comparative analysis and make policy coordination at the EU level more difficult. They also reflect deeply rooted national ideologies and institutional legacies in migration governance.





Perceived vs actual experience of regularisation

For many irregular migrants, regularisation is perceived as a pathway to stability, regularity and inclusion. Public messaging, media coverage, and civil society campaigns often present regularisation as a major turning point – from a life of precarity to legal recognition. However, the actual experience of regularisation frequently falls short of this promise. There is often a clear gap between a formal change in residence status and the reality of social and economic inclusion. Migrants who obtain residence permits may still face barriers to secure housing, stable employment, welfare benefits, and full participation in society. This is particularly true when the status granted is short-term, conditional, or difficult to renew.

- Spain's 2005 programme illustrates this disconnect. Many migrants who were regularised continued to struggle with access to the formal labour market.
- In Italy's 2020 regularisation, applicants and migrant rights advocates reported problems, such as complex procedures, dependency on employers, and high rejection rates. As a result, many individuals remained undocumented despite meeting the stated eligibility criteria.
- Even in systems with ongoing regularisation routes, such as France's discretionary

humanitarian permits, local implementation may still be inconsistent. Applicants in similar situations may receive different outcomes depending on where and by whom their case is processed.

Once regularised, many migrants remain in a state of limbo and may experience 'befallen irregularity' (González-Enríquez 2009). Statuses such as Germany's *Duldung* or Italy's temporary residence permits provide limited security and often depend on maintaining employment, family ties, or other eligibility factors. Regularisation renewal procedures can also be complex and uncertain. This creates what researchers have described as 'liminal legality' (Menjívar 2006) where migrants may have a temporary or conditional residence status that allows some rights and protections but remains fragile and uncertain. Similarly, the term 'semi-legality' (Ahrens 2013; Kubal 2013) highlights how migrants can occupy in-between legal statuses, because they may fulfil de facto regularisation conditions without formal de jure recognition (e.g. due to administrative backlogs; etc.). This also limits their ability to plan for the future, invest in education or housing, and participate in society.

Conclusion

Ultimately, the idea of regularisation as a clear and permanent solution is often at odds with the lived experiences of those it affects. While regularisation is an essential component of managing irregular migration, it should not be seen as an endpoint. Effective regularisation policies must be accompanied

by pathways to long-term security, equal rights, and support for migrant inclusion. Without these elements, regularisation risks reinforcing cycles of insecurity rather than resolving them.

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Chapter 4

Stakeholders: key actors in the debate, design and implementation of regularisation measures

By Imanol Legarda Díaz-Aguado (PICUM)



Key take-aways

- **Benefits of involving different actors.** Engaging unions, civil society, migrant-led organisations, and employers improves policy efficiency, legitimacy, and outreach, helping regularisation programmes operate more effectively.
- **No direct EU competence?** While regularisation is primarily a national competence, EU institutions can influence national choices through legal frameworks and political discourse, shaping protections and procedural approaches for migrants.

Introduction

Regularisation policies do not emerge in a vacuum. They are the result of complex interactions between institutional, political, and social stakeholders at different levels of governance. From EU institutions and national authorities to employers, trade unions, civil society, migrant-led organisations and public opinion, each actor plays a role in shaping the trajectory and feasibility of regularisation schemes.

While regularisation remains primarily a national competence, external pressures and supranational dynamics also influence national decisions. Understanding these layered interactions is key to designing and advocating for effective and inclusive regularisation schemes.

Key actors

Political parties

Broad political consensus is often necessary to determine whether regularisation succeeds. In some contexts, like Portugal, [cross-party agreement](#) facilitated the embedding of regularisation

mechanisms over time. In more polarised settings, such as Spain, centre-right actors have also shown openness to regularisation under specific conditions, including humanitarian or economic justifications.

Civil society, faith-based and migrant organisations

When parliamentary consensus is lacking, intermediary actors often step in. In Spain, for example, the [Citizen Legislative Initiative \(ILP\)](#) to regularise 500,000 undocumented migrants gained traction with strong support from Catholic faith-based and migrant-led organisations, and the [Spanish Episcopal Conference](#), traditionally aligned with the conservative majority party Partido Popular, reached them directly advocating for the regularisation.

Civil society actors, including faith-based actors, migrant and refugee-led associations, in many contexts play a key role in the design, implementation and evaluation of regularisation schemes. Research has demonstrated that their participation improves policy legitimacy, targeting, and reach, overall elevating the efficiency of the policy measures.

- **Switzerland**, *Operation Papyrus, 2017*: Civil society organisations in Geneva played a key role in designing and implementing the regularisation programme. They participated in technical and political committees, maintaining regular dialogue with authorities.

- **Spain**, Forum for the Social Integration of Immigrants: The Spanish government is required to consult a civil society forum when reforming migration law. This forum, along with open public consultations, allows organisations to contribute to policy on regularisation and broader migration issues.
- **Ireland**, 2022 Regularisation Scheme: After deciding to launch a regularisation programme, the Irish government consulted civil society to define details like eligibility and application procedures, incorporating feedback into the final scheme.

The trust, proximity, and service experience of some migrant-led organisations can make them essential channels for outreach and policy feedback. Their involvement can also mitigate barriers to access such as language, literacy, digitalisation, disinformation or fear of deportation.

For more on this, check

[Regularisation mechanisms and programmes: Why they matter and how to design them](#) - Laetitia Van der Venet (PICUM, 2022)

Employers

Employers have played a notable role in advocating for regularisation programmes or mechanisms in various countries, particularly when facing labour shortages or seeking to protect essential workers.

- **Italy**, 2020 Regularisation (COVID-19): Employers, especially in the agricultural and domestic work sectors, pushed the government to regularise undocumented workers after labour shortages became critical as borders closed. Their demands were central to the government's justification of the measure.
- **Canada**, Guardian Angels Program, 2020 (COVID-19): Canadian hospitals and care institutions advocated for pathways to regularisation for undocumented healthcare workers. In Québec, this led to the 'Guardian Angels' initiative to grant permanent residence to some healthcare workers. Employers framed

regularisation as recognition of essential work and a pragmatic response to labour market needs.

- **The Netherlands:** Dutch temp agencies played a role in the legal procedures to improve labour market access for asylum seekers.

For more on the role of employers in the Netherlands:

[Eerlijke kansen. Doel en nuttig effect van het recht van asielzoekers op toegang tot de arbeidsmarkt. De lange weg naar opheffing van de Nederlandse 24-wekeneis](#) – Lange and Oers, 2024

[Labour market participation by beneficiaries of temporary protection in the Netherlands. A natural pilot for policy change](#) – Geertsema, Lange and Oers, 2024.

Trade Unions

Labour unions can play a decisive role in pushing for sectoral or broader regularisations, especially when labour shortages or exploitation become visible.

- **Italy**, 2020 Regularisation (COVID-19): The FLAI (Agro Industry Workers Federation), part of the CGIL, facilitated regularisation outreach among seasonal workers during COVID-19 collaborating with cultural mediators in key languages spoken by many targeted agricultural migrant workers.
- **Canada**, Ontario's agricultural migrant workers during COVID-19: Trade unions such as the Canadian Labour Congress (CLC) and several sectoral unions have been instrumental in advocating for the regularisation and better labour protections of migrant workers, particularly Temporary Foreign Workers in agriculture. During the pandemic, unions [pushed federal and provincial governments](#) to regularise the status of migrant workers on temporary permits facing precarious conditions and barriers to permanent residency, collaborating with migrant rights groups to document

exploitation, highlight labour shortages, and lobby for policy changes, which contributed to expanded pathways to permanent residency for many seasonal agricultural workers and other essential migrants through programs like the Agri-Food Immigration Pilot and temporary COVID-specific immigration measures.

Effective implementation also depends on local actors' capacity to communicate with migrant communities – highlighting the importance of outreach workers who understand the cultural, linguistic, and legal barriers migrants face.

States

The EU often claims that it has no direct competence over regularisation policies, but its institutions can influence national choices through soft coordination, legal frameworks, and political discourse.

Legal frameworks. The 2008 Return Directive explicitly states that Member States are free to grant a residence permit “on any grounds” (Art. 6(4)). Furthermore, several EU directives enable or mandate Member States to grant residence permits in specific situations, particularly for victims of crime and vulnerable groups:

- Citizens’ Rights Directive (2004/38/EC) and Family Reunification Directive (2003/86/EC): mandate residence permits for survivors of conjugal violence with dependent status
- Anti-Trafficking Directive (2009/52/EC): mandates residence permits for victims of human trafficking who cooperate with authorities
- Employer Sanctions Directive: allows permits on a case-by-case basis for victims of labour exploitation.

In some cases, EU legislation is prescriptive, requiring that permits be available under certain circumstances, such as Art. 15(3) of the Family Reunification Directive and Art. 13(2)(c) of the Citizens’ Rights Directive. Others are more permissive, such as Article 13(4) of the Employer Sanctions Directive, which requires Member States to establish under national law the rules under which they may grant on a case-by-case basis a permit for victims of certain crimes.

On legal supranational legal framework:

[Insecure justice? Residence Permits for victims of crime in Europe](#) - Alyna C. Smith and Michele Levoy, PICUM, 2020

On the idea of a EU level regularisation Directive:

[An EU Regularization Directive. An effective solution to the enforcement deficit in returning irregularly staying migrants](#) - Kevin Fredy Hinterberger, 2019

Transnational political pressure. Although regularisation remains a national competence, EU Member States have often tried to influence each other’s policies. In the early 2000s, [several countries](#) strongly criticised large-scale regularisations in Spain and Italy. Germany and the Netherlands [openly questioned](#) the effectiveness of the so-called “Great Regularisation” (Italy, 2002; Spain, 2005) and shared concerns for [potential-side effects and secondary movements](#), especially after the [Long-Term Residents Directive](#) was adopted in 2003.

In 2008, France went further under their presidency [aiming to prohibit](#) generalised regularisation programmes under the [European Pact on Immigration and Asylum](#), but the ban was never adopted after facing a strong opposition by Spain. A [compromise agreement](#) was adopted on states using only case-by-case regularisation under national law, but this tendency changed during COVID.

More on development of EU policy on irregular migration:

[EU Policy Framework on irregular migrants](#) - Wagner, Desmond and Kraler, 2024

On regularisations during the COVID-19 pandemic:

[Resurrecting taboo policies? Explaining the return of collective regularisations for unauthorised immigrants during the Covid-19 pandemic in Southern Europe](#) – Piccoli, Kyriazi and Mendes, 2023

During the 2015–2016 refugee arrivals, several EU Member States [raised worries](#) about the capacity of frontline countries like Greece and Italy to process asylum applications effectively. During the negotiations on the 2024 Pact on Migration and Asylum, the [Visegrád Group](#) (Hungary, Poland, Czechia, and Slovakia) pushed to restrict permits granted on grounds other than international protection.

More on EU responses to regularisation:

[Legal pathways to regularisation of illegally staying migrants in EU Member States](#) – Markus Gonzalez-Beilfuss and Julia Koopmans, 2021

Concerns have been usually focused on the scale of regularisation programmes, and their impact on Schengen and potential secondary movements within the EU. However, the impact of regularisation on Schengen is largely political, driven by fears of losing border control or encouraging migration. In reality, legal effects are limited as regularisation leads to national permits that do not automatically allow EU-wide (labour) mobility.

For more on secondary migration

[Migration responses to non-enforcement](#) – Mathias Czaika, Jiancheng Gu, Albert Kraler and Lydia Rössl (FAiR, 2024)

Public Opinion

Media framing plays a crucial role in shaping popular support for and thus the political viability of regularisation. Research shows that migration debates are often dominated by emotional or polarising narratives, rather than factual or pragmatic ones, with dis- and misinformation playing a key role in amplifying negative perceptions.

Various studies indicate that while most citizens hold moderate views on migration, polarised positions receive greater media visibility in traditional outlets and on social media, and negative opinions towards migration are often overrepresented in political decision-making. One of the reasons for this could be errors in the very measurement of the public opinion through surveys which risk falling into false dichotomies or problematic, biased framings. Policymakers should therefore exercise caution when interpreting survey results in categorical terms.



On the role of disinformation, discourse construction and media impact on migration, see:

[FEPS Publications on Narratives & Disinformation on Migration](#)

[EU Science, Research and Innovation: Independent expert report on mis- and disinformation on migration in Europe](#) - Alberto-Horst Neidhardt, 2025

[Cross-country comparisons of the media impact on anti-immigrant attitudes](#) - David De Coninck, Stefan Mertens, & Leen d'Haenens, (HumMingBird, 2022)

[A report on legacy media coverage of migrants](#) - Stefan Mertens, David De Coninck & Leen d'Haenens, (HumMingBird, 2021)

[Discourses about irregularised migrants at the EU level](#) – Davide Colombi (I-Claim, 2023)

For effective framing strategies, see:

[New ways of telling migration narratives: A toolkit](#) - Fundación PorCausa (Bridges, 2023)

[Ten pointers towards an alternative narrative on migration](#) - Blanca Garcés (CIDOB, 2025)



Conclusion

Understanding the role of EU institutions, member state dynamics, national political contexts, and civil society actors provides a roadmap of both obstacles and entry points for pragmatic and rights-based regularisation policies.

Policymakers and advocates must remain attentive to who frames the debate, how policies are implemented, and what alliances can make regularisation a feasible and fair solution.

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Chapter 5

Access to and implementation of migrant regularisations

By Maristella Cacciapaglia (University of Milan)



Key take-aways

- **Promote inclusive, rights-based access to regularisation.** Set objective, transparent eligibility (e.g. residence, work, family ties) and curb administrative discretion to avoid arbitrary outcomes across individuals and communities (regions, sectors and nationalities); standardise guidance and timelines.
- **Convert rights on paper into real uptake.** Lower documentation and cost barriers; accept diverse proofs; allow self-applications; and provide multilingual guidance and community clinics so eligible people can actually apply.
- **Prioritise durable status and limit gatekeeping.** Avoid short, insecure and conditional permits; build pathways to long-term residence and formal citizenship; reduce reliance on employer sponsorship to prevent exploitation; and ensure timely, predictable decisions.

Introduction

Regularisation can be a selective process: access to it, and thus the acquisition of residence status, depends on meeting specific eligibility criteria that reflect normative ideas about merit and legitimate forms of belonging.

States typically require evidence such as stable employment, long-term residence, family connections, or a clean criminal record, all of which contribute to constructing hierarchies of 'worthiness'. These criteria reinforce social and cultural assumptions about who deserves to hold regular residence status, shaped by factors such as gender, age, or migration history.

Equally, political and economic priorities play a decisive role. Governments can decide who is 'deserving' based not only on ideas of integration or social contribution, but also on whether an individual meets specific functional needs. For instance, regularisation programmes are frequently used to respond to labour market demands in sectors where there is a structural dependence on irregular migrant labour.

At the same time, regularisation processes are typically embedded in complex and demanding bureaucratic systems. They involve extensive documentation, strict deadlines, and a high degree of administrative discretion, effectively operating as 'internal borders'. Access may be denied even when individuals meet the formal requirements on paper, if they cannot overcome practical hurdles.

Indeed, the 'shadow land' of implementation creates a dual reality: in practice, some migrants with irregular or precarious status find pathways towards inclusion, while others face persistent marginalisation and exclusion, with broad implications for social cohesion and economic participation.

Bringing access and implementation into a single analytical frame is essential for understanding the differentiated outcomes of regularisation. Laws that appear inclusive may, in practice, produce exclusionary effects if unevenly implemented. Equally, it highlights how well-designed and effectively implemented policies can create meaningful pathways out of irregularity.

Conditional access

Regularisation policies across Europe, North America and South America are shaped by a combination of legal, humanitarian, and political logics, with eligibility criteria reflecting both prevailing notions of deservingness as well as practical constraints.

Criminal records constitute a near-universal exclusion criterion. Across all examined countries in Europe and the Americas applicants are required to have a clean criminal record. This functions both as a normative threshold of deservingness and as a risk-management tool within migration governance.

Beyond this, some eligibility rules also distinguish between migrants' mode of entry and compliance with immigration procedures. In Ireland, until 2022, there was an implicit distinction between those who entered regularly and overstayed versus those who entered irregularly. The rationale was that an initial act of compliance (or at least the absence of an overt act of irregular entry) makes a person more worthy of consideration and thus eligible. A similar distinction exists in Latin America as well, especially in Argentina, where those who have entered the country irregularly cannot initiate regularisation.

Duration of stay is a widely used criterion. Spain's ongoing system of regularisation requires continuous residence for two to three years, depending on the type of application: *arraigo social* requires three years, while *arraigo laboral* and *arraigo para la formación* require two. Greece sets one of the most demanding thresholds, requiring applicants to demonstrate at least seven years of irregular residence proven through official documents—an inherently difficult demand given the undocumented nature of such stay. In Germany, the 2022 *Chancen-Aufenthaltsrecht* introduced a time-based pathway granting an 18-month permit to migrants who have held *Duldung* (a temporary suspension of deportation) for at least five years, contingent on meeting integration benchmarks. Italy's 2020 COVID-era regularisation mandated proof of presence in the country prior to March 2020. Portugal's approach, prior to its 2024 reform, required only 12 months of social security contributions, effectively implying a minimum duration of residence. El Salvador's 2019 extraordinary regularisation programme required at least 10 years residence.

Employment remains another key axis of eligibility. Canada's regularisation efforts have been highly targeted and sectoral. The *Guardian Angels* initiative, launched during the COVID-19 pandemic, granted status exclusively to out-of-status asylum seekers working in healthcare roles, while explicitly excluding other categories of vulnerable workers such as those employed in the food sector, despite their comparable exposure to risk. A similar Canadian pilot programme extended residence status opportunities to a limited number of construction workers in Toronto. Italy's 2020 regularisation scheme in response to the COVID-19 pandemic, limited primarily to agriculture and care work, required applications via employers, who had to meet strict conditions including income thresholds and proof of accommodation. France requires a stable work history with employer sponsorship. Spain's *arraigo laboral* demands six months' work—whether formal or informal—within a two-year residence period. Portugal's Law No. 59/2017 recognised employment or self-employment combined with 12 months of social security contributions. In Latin America, Peru and Ecuador's 2007 bilateral agreement regularised agricultural, construction, and domestic workers in border areas; Mexico's 2003 regularisation similarly targeted migrants holding job offers or with close family ties within the country.

Family ties and social rootedness play an equally significant role across various national frameworks. France's family-based regularisation is contingent on deep personal ties, such as parenting a French citizen or having long-term residence with school-aged children. Belgium considers factors such as long-term residence and schooling as indicators of integration, often within humanitarian or medical grounds. In Spain, *arraigo social* allows regularisation through either family ties or employment, following a three-year period of residence. These criteria underscore a broader emphasis on demonstrating embeddedness in the host society. Comparable family-focused criteria can be observed in Latin America and the Caribbean: countries such as Argentina, Barbados, and Mexico include explicit procedures to facilitate regularisation for foreigners with family members residing regularly in the country.

Integration requirements such as language proficiency, civic orientation, or societal participation are increasingly prevalent in Europe. Germany's recent policies, including Chancen-Aufenthaltsrecht, link regularisation to the achievement of specific integration benchmarks. Belgium also considers indicators of schooling or length of residence. Though not always formally codified, such indicators function as proxies for presumed willingness and capacity to integrate. In the Latin American context, by contrast, integration conditions, such as language proficiency, civic knowledge, or societal participation, are rarely applied at the regularisation stage, though they are more common for naturalisation.

National origin or geopolitical context further shape access to regularisation. In the United States, Temporary Protected Status (TPS) is limited to nationals of designated unsafe countries and offers only temporary protection and without a permanent pathway to regular residence status. The U.S. approach remains fragmented and restrictive globally, relying on narrowly defined, exceptional mechanisms. By contrast, Latin American frameworks analysed tend to be broader and more inclusive, also reflecting regional commitments. For example, the Andean Migration Statute facilitates a regularisation for nationals of Bolivia, Colombia, Ecuador, and Peru, through simplified procedures without reliance on specific humanitarian or emergency conditions.

A key distinction can be made between **discretionary and rights-based systems**. France and Belgium rely on heavily discretionary systems, where humanitarian need, integration indicators, or medical conditions may justify residence status being granted. Portugal's 2017 legal reform moved to an entitlement-based model, granting status to applicants meeting objective criteria (such as employment and social security contributions) and limiting administrative discretion. Similarly, Spain's ongoing *arraigo* framework applies standardised, time-bound eligibility conditions that reduce case-by-case arbitrariness. In Latin America, Bolivia continues to rely on broad administrative discretion, whereas countries like Argentina, Brazil, and Mexico have adopted more rights-based procedures, allowing migrants who meet specific conditions to initiate regularisation procedures as an enforceable right.

Overall, regularisation policies across countries reveal significant variation in scope, accessibility, and underlying rationale. While some frameworks are framed around humanitarian need or long-term presence, others prioritise economic utility, social cohesion, or state sovereignty. Despite these differences, most systems share a selective logic, offering regular status only to those migrants who meet tightly defined and often difficult-to-verify criteria.

Complex implementation

Even when migrants formally meet the eligibility criteria, regularisation often remains complex and difficult to access in practice: legal entitlement does not necessarily ensure effective access to rights. While the cases analysed in this study highlight the existence of promising practices, they also underscore the many

persistent limitations that still need to be addressed in order to realise more inclusive and mutually beneficial outcomes.

One of the most pervasive issues is **bureaucratic delay** and overload. In many countries, the wait for a

decision can be agonisingly long, leaving applicants in legal limbo. For example, Italy's 2020 regularisation quickly became mired in administrative delays. By late 2023, many applicants were still unable to work regularly, travel, or access services. Bureaucratic delays are a common challenge in Belgium as well, often linked to the extensive documentation requirements, which civil society organisations have criticised as excessively complex. This pattern of delay is also evident in the Caribbean, where countries such as Suriname (2017) and Trinidad and Tobago (2019) launched their first extraordinary regularisation schemes only after significant postponement—highlighting the region's slower institutional response to irregular migration.

Another widespread obstacle is in fact the heavy **documentation burden**. Migrants often lack formal records yet are required to present extensive proof. In Belgium, Article 9bis demands identity documents, evidence of continuous stay (such as school or medical records), and signs of integration (language certificates, letters of support). In Canada, procedural complexity similarly limited the impact of a programme for undocumented construction workers. Despite aiming to regularise hundreds, strict requirements—such as proof of employment and support from a union or employer sponsorship—narrowed access. Comparable challenges were evident in the 2005 bilateral agreement between Bolivia and Argentina, which required Bolivian nationals residing irregularly in Argentina to submit complete documentation within a strict 365-day window in order to benefit from regularisation—placing significant administrative pressure on applicants.

Cost also poses a major barrier. While not exorbitantly priced, Spain's *arraigo* application process includes fees and sometimes requires proof of financial means. For those living hand-to-mouth, expenses related to documents, translations, notarisation, or legal help can be prohibitive. In Germany, while initial applications under the “opportunity residence” may not involve high fees, moving toward long-term status often entails hidden costs—such as language exams, integration courses, and certified documentation. When the financial or documentary bar is set too high, many eligible migrants are effectively excluded, defeating the policy's purpose. This concern is mirrored in Bolivia, where the 2013 extraordinary regularisation decree (DS 1800) waived accumulated overstay fines in order to facilitate access to regular status—demonstrating that financial penalties can otherwise deter eligible individuals from applying.

Discretionary decision-making adds another layer of uncertainty. In France, where prefectures exercise significant autonomy, the application of national guidelines varies widely. Similar cases can receive different outcomes especially depending on the region, creating what NGOs call a “postcode lottery.” Conversely, Portugal's Law 102/2017 limited the discretionary power of border authorities to reject regularisation requests under certain conditions. This measure aimed to facilitate the granting of residence permits to the growing number of undocumented migrants attracted by renewed economic opportunities. In Bolivia, by contrast, regularisation is granted entirely at the discretion of the General Directorate for Migration, which possesses the legal authority to approve temporary or permanent stays without the applicant possessing a formal entitlement—highlighting the potential insecurity inherent in discretionary regimes.

In many systems, migrants also **depend on third parties** whose cooperation can make or break an application. Italy's regularisation has long been tied to employer sponsorship, giving them disproportionate power. While some acted in good faith, others saw this as an opportunity to blackmail and abuse migrants. By contrast, as further discussed in the text box that follows, Ireland's 2022 scheme allowed migrants to apply independently, removing a major barrier and reducing the risk of exploitation. A similar dependency was institutionalised in Mexico's 2003 regularisation initiative, which only applied to migrants able to demonstrate either an offer of formal employment or close family ties—rendering access highly contingent on the support of third parties.

Even after approval, **challenges persist**. Germany's opportunity residence grants temporary status for 18 months, during which migrants must meet integration goals or risk falling back into *Duldung* (a temporary suspension of a deportation order). High renewal costs and legal uncertainty further reduce the scheme's effectiveness. Similarly, in the U.S., programmes like DACA and TPS offer only temporary protection, with strict criteria and no path to permanent status. Frequent legal battles have left many in prolonged insecurity, showing that without long-term stability, regularisation remains fragile. This dynamic is also present in Trinidad and Tobago, where the 2019 extraordinary regularisation initiative granted only a one-year residence permit—thus perpetuating insecurity by offering temporary protection without a stable long-term horizon.



Box 5.1

The Case of Ireland

By Alan Desmond and Ruth Heylin

The 2022 Regularisation of Long-Term Undocumented Migrants Scheme is the most far-reaching regularisation scheme undertaken by the Irish state. The scheme was open for online applications from individuals and family units from 31 January – 31 July 2022. In 2022, the population of the Republic of Ireland was 5.1 million, while the state's undocumented population was estimated to be between 15,000 and 17,000, including up to 3,000 children.

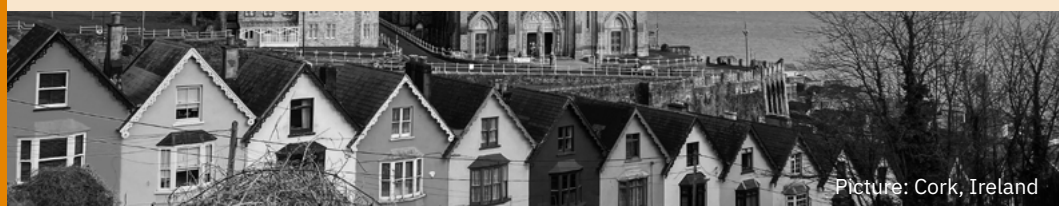
Accessibility: The target group was long-term undocumented migrants in Ireland, without distinction as to national origin or labour market profile. The residence requirement, the primary eligibility criterion, was the chief barrier to access: individual applicants had to demonstrate four years of continuous undocumented residence immediately prior to 31 January 2022. Applicants would satisfy the continuous residence requirement, even if they had been absent from the state for up to a combined maximum total of 60 days. Where a family unit application was made, the main applicant's family members (spouse, de facto partner, civil partner, children aged 18-23), were required to meet a two-year residence requirement. Where an applicant had a child under 18, the residence requirement was reduced to three years for the main applicant, as long as the child had been resident in the state and living with the main applicant immediately prior to the date of publication of the scheme. Applicants also had to meet a good character and conduct requirement.

The minimum age requirement for an individual applicant was 18, meaning that children under 18 were precluded from applying except as members of a family unit. Similarly, the requirement that applicants' continuous residence for the purposes of the scheme had to have been unlawful precluded otherwise eligible applicants. For example, an individual who had been lawfully resident in Ireland for four years as a student, but only six months unlawfully resident prior to the opening of the 2022 Scheme, was precluded from applying.

FAQ documents were provided in multiple languages, as well as applicant guides and a demonstration video on how to apply. A wide range of documentation was accepted as proof of identification and proof of each year of undocumented residence. Applicants could prove their identity by submitting, for example, a valid or expired passport, travel document or Irish-issued drivers' licence. Applicants could prove their residence in Ireland by submitting, for example, previous Irish Residence Permit cards; utility bills (from electricity, phone, gas, cable television, or broadband providers); letters from doctors or hospitals in Ireland; COVID-19 vaccination cards issued in Ireland; proof of money transfers between the applicant and a third party, carried out at a money transfer facility in the state such as Western Union.

Application fees were €550 for an individual applicant and €700 for a family unit application. The application fees, which could only be paid using a bank card, and the possibility to submit applications online only, could have prevented otherwise eligible migrants from applying to the scheme, were it not for the support provided to applicants by civil society organisations such as Migrant Rights Centre Ireland (MRCI).

Implementation: Civil society played a key role in raising awareness about the scheme, building the confidence of irregular migrants to submit an application, supporting applicants to make the online application, and providing financial support to applicants unable to cover the cost of the application fee. MRCI ran 19 application support clinics in Dublin city centre and supported Nasc, a migrant-rights CSO, in running an application support clinic in Cork city. There were cases of commercial agents charging an increased rate for vulnerable individuals for whom it was not clear whether their application to the scheme would be successful.



Picture: Cork, Ireland

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Chapter 6

Effects of regularisation

By Albert Kraler (University for Continuing Education Krems)



Key take-aways

- Regularisations have effects that can be studied and evaluated.
- Not all arguments for or against regularisation involve empirical claims about the implications of regularisations.
- It is helpful to translate contested issues, often based on conflicting values, into practical questions that can be addressed in policy design.

This chapter explores different effects or impacts of regularisation, outlines different types of effects, and illustrates the discussion with some examples

from available studies. The chapter is complemented by a textbox on the benefits of regularisation in the Portuguese case (Box 6.1, below).

Not all arguments for or against regularisation involve empirical claims about the implications of regularisations.

To start with, it is useful to reflect on the meaning of the potential ‘effects’ of regularisation. Objections raised against regularisation in public and policy debates are often based on principled arguments – for example,

that regularisation rewards non-compliance with immigration rules and that it therefore undermines the rule of law, or that regularisation disadvantages ‘law abiding’ immigrants, allowing irregular migrants to

‘jump the queue’ (Song & Bloemraad, 2022). While such concerns need to be addressed, the reasoning of these arguments is largely normative rather than empirical, grounded in ethical considerations or (political) value judgements (see Song & Bloemraad, 2022, see also responses to this article compiled in Bauböck et al., 2024).

As a result, arguments in favour of or against regularisation often depart from moral or political positions, rather than observable or measurable facts. This said, often there is an empirical dimension that can be empirically assessed. For instance, a central aspect in debates about the rule of law involve the legitimacy – of the legal system in general but also specific pieces of legislation – which can be studied through public support and opinion surveys. Similarly, arguments referring to fairness can be linked to concrete (measurable) dimensions. For instance, one strategy is to evaluate the legal and actual accessibility of different admission pathways compared with regularisation measures (see Chapter 5). This allows for an empirical analysis of whether claims of ‘queue jumping’ hold in

practice. Nonetheless, issues such as ‘justice’ and ‘rule of law’ inevitably involve value conflicts and ethical dilemmas that cannot be resolved by empirical evidence alone (Bauböck et al., 2022).

Transforming contested political issues into issues of technical feasibility can, however, be a useful strategy to shift the focus away from irresolvable value conflicts and turn them into solvable practical issues. In this approach, objections to regularisations are taken seriously and addressed through policy design. In the MIRreM project, we call this approach ‘critique guided design’ (Cyrus, 2023). While not framed in this way, several regularisation initiatives in the past have been based on such an approach, translating ethical considerations into practical measures that could then be empirically assessed. A good example are the discussions leading to the Immigration Reform and Control Act (IRCA) of 1986 in the United States in the U.S. Select Commission on Immigration and Refugee Policy (SCIRP) (Martin, 2022).

Empirical effects of regularisation policies

Beyond value-based arguments, many debates focus on observable effects. Opponents of regularisation frequently claim that regularisation incentivises irregular migration and that it creates a ‘pull-effect’ (see Chapter 8). Others argue that regularisation undermines law enforcement against irregular migration and return policies (Ince Beqo et al., 2025). Yet evidence from Germany (see Box 7.2 in Chapter 7) suggests that regularisation should not be conceived as an alternative to return but rather can also be a pathway out of irregularity when return is no longer a feasible or desirable option. Research from the Netherlands further highlights that the lack of return often reflects social ties, notably the presence of family ties in the country of residence, but also fears about individuals’ safety

(Leerkes & Kox, 2017), or non-cooperation of countries of origin (Van Houte et al., 2021). In such contexts, regularisation is not an incentive to resist return but offers an exit option when it is already clear that return does not materialise (Cyrus & Kraler, 2025).

Another objection against regularisation is that migrants may fall back into irregularity, as seen in Spain (Sabater & Domingo, 2012). While this objection raises a valid point, it is essentially a question of how regularisation policies are designed and thus can – in principle – be addressed by designing policies in a way that the risk of regularised migrants falling back into irregularity is minimised, for example by ensuring people can change jobs without losing their residence permit, or including

income and other criteria that allow the renewal of residence permits (see also Chapter 5).

There is also a fear that regularisation leads to higher public service costs because regularised people would have access to benefits and other services they were previously excluded from. However, estimates show that the impact would be minimal, at least at first, as undocumented people already use publicly funded services, like public transport, and would also be able to access less expensive services once regularised, like general medical practitioners instead of emergency health care services (Portes & Ventura-Arrieta, 2022). Use of benefits and other supports is linked to the concrete profiles of regularised migrants which in turn is related to the overall conditions for irregular migrants in a particular country. Arguably, ‘thick enforcement’ regimes (Leerkes and Van Houte, 2020) keep irregular migrants and especially those already identified and in principle obliged to leave - at bay from the labour market, while providing access to some minimal social benefits, or ‘poor relief’ as Leerkes (2016) calls these policies (see on the Netherlands Van Meeteren et al., 2015). Welfare dependency of a certain share of regularised migrants in this context can thus be seen as a consequence of particular institutional settings, amounting to what Täubig refers to as ‘organised disintegration’ (Täubig 2019).

A recent study on Germany shows that ‘tolerated’ migrants show similar employment trajectories as refugees (Stache, 2024), reflecting similar institutional

settings for both groups. The main difference been persons who are under an ‘obligation to leave’ (i.e. persons with ‘tolerated’ status) relates to their well-being and life-satisfaction – which is low in the case of ‘tolerated’ migrants, highlighting how important a residence status is as a basis for well-being. In a similar vein, other research (for example Jackson et al., 2019; Kraler, 2019) has also highlighted the importance of security of stay and access to services, notably health as an important consequence of regularisation. In countries characterised by a ‘thin’ enforcement regime (Leerkes & Van Houte, 2020) labour force participation of irregular migrants is much higher and remains high after regularisation, as [data available for Spain](#) on the number of regularised migrants who are contributing to the social security system shows.

Whether regularisation has macro-level effects – for example on labour force participation, wage levels or unemployment in general - depends on a variety of factors (see Kossoudji, 2016), in particular on the scale of regularisation. In most European contexts, the scale of regularisations is too limited to have measurable effects on the macro-level. This is different in countries like Portugal or Spain where regularisation provides a major de facto pathway for labour migration and impacts on tax revenues or wages are significant (See Box 7.1). Thus, studies found a positive impact on the country’s GDP and income through taxes, as well as labour mobility, wages and well-being (PICUM, forthcoming).

Effects vs. effectiveness of regularisation policies

It is important to distinguish between policy effects and effectiveness. Policy effects refer to any consequences of a policy intervention, that is any kind of change to a situation that can be linked to a policy change (Czaika & de Haas, 2013). These changes may involve intended as well as unintended effects. In addition, policies not

specifically about irregular migrants, for example the overall regulatory framework for employment and the type of labour market regime, may impact the situation of migrants in a situation of ‘protracted irregularity’ and thus also shape the context for regularisation – as the examples discussed earlier in this chapter show.

Effectiveness, by contrast, is about the intended consequences of a policy. Whether policies are effective depends on a variety of elements. In regard to regularisation a number of elements of effectiveness – such as accessibility, selectivity or complexity of the bureaucratic process - have already been discussed (see Chapter 5). Reaching target groups requires effective

communication and involvement of civil society and collaboration with community groups. Finally, whether it is possible to attain longer-term goals, such as addressing labour shortages or fostering sustainable integration of migrants, depends on both the design of the measure and contextual factors like the of the overall economy, and is ultimately a question for monitoring



Box 6.1

The benefits of regularisation: Insights from Portugal
By Constança Urbano de Sousa

In many countries, a range of economic sectors such as agriculture, construction, hospitality, and elderly care – face a shortage of local labour. Immigrants often fill these vacancies and are essential to the functioning and sustainability of strategic sectors. This is the case of the Portuguese economy, which has been performing well since 2017 (GDP growth of more than 2% per year) and has created jobs that are often only filled by immigrants, having benefited from the process of permanent regularisation of immigrant workers that was in force until June 2024. Therefore, the regularisation of immigrants is a public policy with positive effects, four of which stand out.

1. The existence of immigrants in an irregular situation often fuels sectors of the informal economy, where there is less supervision, wages below the legal minimum, absence of labour contracts and violations of labour rights. By regularising immigrants' status, the state provides the conditions for these workers to formally enter the labour market, reducing informality and improving the enforcement of labour laws. Regularisation allows these workers to perform their jobs in a dignified and regular manner, with greater stability, thus contributing to the productivity and competitiveness of the economy. Regularisation also favours employers who wish to comply with the law, avoiding unfair competition from companies that hire undeclared workers. It is, therefore, an essential step towards transparency and fairness in the labour market. For example, until June 2024, a Portuguese regularisation mechanism enabled the granting of residence permits to those already integrated into the formal labour market and, from 2019 onwards, waiving the requirement of regular entry (under a short term or under a visa waiver regime) for immigrants who had contributed to social security for twelve months (Sousa, 2025). This allowed a very significant number of immigrants to be integrated into the formal labour market.

2. When immigrants are in an irregular situation, they are usually unable to contribute to social security and don't pay income tax. By regularising their status, they begin to pay income tax and social security contributions, which increases public revenue and helps finance pensions, healthcare, and other social services. This contribution is particularly relevant in countries with ageing populations, where the base of contributors is shrinking. Working-age immigrants can help balance the welfare system, ensuring its sustainability in the medium and long term. For example, in 2024, immigrants contributed €3.6 billion to the Portuguese social security system, an increase of 30 per cent (Dantas, 2025), which had a highly positive impact on its sustainability.

3. Regularisation is a measure that restores the dignity of these individuals, allowing them to access their fundamental rights and participate fully in society. Irregular status places immigrants in a situation of extreme vulnerability: fear of deportation, exploitation at work, lack of access to healthcare, education, or adequate housing. Moreover, regularisation reduces the risk of marginalisation and social exclusion – factors which can generate tension and insecurity for both immigrants and host communities.

4. Regularisation is crucial step in facilitating access to language education, vocational training, culture, and eventually, citizenship. By promoting regularisation and integration, states create the conditions for building more cohesive, safe and inclusive communities, based on mutual respect and valuing diversity.

However, regularisation processes may also have inadvertent negative effects, especially if the state lacks the administrative capacity to respond and faces a sudden and significant increase in immigrant communities, without adequate preparation from public services or the host society.



Conclusion

This chapter has reviewed the existing knowledge on the effects of regularisations. While regularisation policies have empirical effects that can be studied, they also carry ethical, political or legal implications. It is important to consider these implications, which are shaped by value judgements rather than empirical evidence. Therefore, it is helpful to translate these contested issues into practical design questions that can be addressed in policy frameworks. Evidence shows

that regularisation positive impacts in several cases, but the concrete effects of regularisation are highly context dependent, influenced by the nature of the migration and enforcement regimes, and broader factors, such as labour market characteristics. Across different contexts, however, a consistent finding is the positive impact of regularisation on migrants' well-being, underscoring the importance of a durable residence statuses for stability and social cohesion.

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Chapter 7

Navigating policy options: addressing the presence of long-term irregular migrant populations

By Maegan Hendow (ICMPD)

and Albert Kraler (University for Continuing Education Krems)



Key take-aways

- **Understand what you want to achieve with the policy choice.** There are a range of options available for policymakers in response to the presence of long-term present irregular migrants, each of which achieve different –migration-related or broader–policy goals.
- **Prepare for your policy choice.** Each policy approach has different potential consequences for migrants, for politicians and policymakers, for the labour market and for society as a whole. Policymakers should reflect, already in the planning phase, on mitigation strategies, as well as counter-narratives on positive outcomes and achievements.

Introduction

In this chapter, we outline policy options that states implement to address the long-term presence of irregular migrants, defined here as individuals who have had an irregular residence status for more than two years. The increase in the number of irregular migrants with long-term status could be related to a wide range of factors, such as practical or legal barriers to return, backlogs in the processing of asylum claims or of residence permits, or other reasons.

While a wide range of possible responses exist, many EU Member States focus predominantly on return. However, recent research has highlighted that most return happens within the first year after a return decision is issued to an irregular migrant (many within the first six months) and that the likelihood of return is low after two years of irregular stay, following the return decision (See Box 1). This evidence raises questions about whether return is indeed the most feasible and effective policy option for irregular migrants who have been present for many years.

This chapter draws on two MIrreM Working Papers (Hendow, Bilger, et al., 2024; Hendow, Qaisrani, et al., 2024)



Box 7.1
The temporality of policy responses
 By Albert Kraler

In the M_{Irre}M typology of policy responses to the presence of irregular migrants (Hendow, Bilger, et al., 2024) seven different types of state responses are positioned along a continuum ranging from inclusionary policies providing a ‘stable’ residence permit and access to more rights, to exclusionary measures focusing on deterrence and removal (see Figure 7.1).

Importantly, these options are not mutually exclusive and may be applied at different stages of a migrant’s stay. Time is an important factor here: in the initial stage of irregular migrants’ stay exclusionary policies will dominate, with few – if any – opportunities for regularisation and most policy efforts directed at return. Regularisation generally targets migrants with a certain duration of stay. That said, historically, regularisation upon or shortly after entry has been a dominant mode of admitting labour migrants during the guest worker period (Kraler et al., 2025). The short eligibility periods for regularisation available in Portugal until recently, and the comparatively low waiting period for benefitting from regularisation in Spain points at a similar logic.



Figure 7.1:

Policy Responses

The relevance of different policy options changes over time. At all stages,

states can turn a blind eye to the presence of irregular migrants, ‘tolerating’ their presence. In ‘thick enforcement regimes’ (Leerkes & Van Houte, 2020) the focus will be on enforcement and returning migrants detected irregularly staying, whereas in ‘thin’ enforcement regimes, limited detection and enforcement capacity often result in greater toleration of irregular migrants. Irrespective of the overall nature of the enforcement regimes, however, the likelihood of return as major pathway out of irregularity decreases. A recent German study on pathways out of irregularity, or more precisely, out of a status of an obligation to leave of rejected asylum seekers conducted in Germany shows that (voluntary) return is most likely within the first two years after the rejection of the asylum application. After this period, the likelihood of voluntary departure remains almost stable, only increasing minimally (see figure 7.2, below). Deportation (i.e. forced return) typically occurs with some delay, in line with the prioritisation of voluntary return. Yet it also the likelihood of forced return remains relatively stable over time.

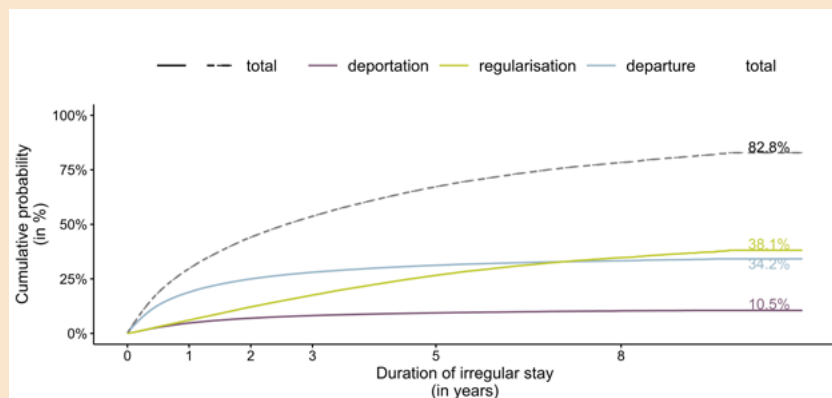


Figure 7.2:

Cumulative incidence of competing pathways out of irregular status. Source: Peitz (2025).

A key take-away from this finding is that regularisation needs to be considered and planned for as a pragmatic response to protracted situation of irregularity, once a certain turning point is reached and it becomes increasingly unlikely that return will take place. When exactly this point is reached will differ for different categories of people and may look different for persons without a history in the asylum system. In addition, there may also be contextual differences between countries.

In practical terms, this means that it is necessary to anticipate that a certain – substantial – share of migrants found to be in an irregular situation are likely to stay. Therefore, a strategy to provide pathways out of protracted irregularity needs to be developed. A second conclusion is that efforts focused on returning irregular migrants are most effective in the initial period of irregular migrants' stay. As other research has shown (for example Leerkes & Kox, 2017), the use of (more) coercion does not, or only to a very limited extent, change the likelihood of return.

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We also know that states may choose to implement no specific policy or status for long-term irregularly present migrants – a *de facto* ‘do nothing’ or ‘laissez-faire’ approach. In doing so, governments may use this strategy to avoid politically sensitive debates about regularisation or return and to avoid potential backlash from parts of the electorate.

In practice, however, avoidance leads to a number of negative outcomes, including:

- Concrete and wide-ranging negative impacts in terms of integration, social cohesion and equality for the irregular migrant population;
- Increased risks of exploitation and poor health outcomes for irregular migrants;
- Potential for generating political scandals, particularly concerning non-enforcement or children growing up undocumented;
- Low participation of irregular migrants in the formal labour market, reducing tax and social security contributions;

- Persistent risks of exploitation in the informal labour market;
- Risk of rising negative public concerns about the effectiveness of migration governance systems and policies, especially where it intersects with labour market regulation, education and social policies.

For these reasons, we focus on alternative policy options available to states for addressing the long-term irregularly present, including but not limited to forms of regularisation. Drawing on findings from the MIRreM research, we identify the **rationales** that are associated with policymakers' choices across the short-, medium-, and/or long-term, as well as the **specific potential outcomes and consequences**. This includes rationales and outcomes that are relevant for policymakers, for migrants, for employers and for the broader society or public opinion. These rationales and outcomes are not mutually exclusive and can apply differently to the various stakeholder groups.

The policy options considered here have been identified in the MIrreM research and analysed according to the following criteria:

- **Access to rights** in line with international and regional human rights frameworks.
- **Effectiveness**, in terms of impact on the size and composition of the irregular migrant population.
- **Knock-on effects** on related policy domains and public opinion.
- **Labour market implications** for both migrants and host societies.

Based on [the typology of policy responses to the presence of irregular migrants](#), we focus on policy options that states implement in response to a situation of long-term irregularly present migrants.

These policy options are not mutually exclusive; states may use one or more at the same time. In practice, a number of states use most or all of the following policy options to varying degrees concurrently:

1. Ensuring access to services and justice through **firewalls**.
2. Granting a **conditional residence permit**.
3. Granting residence permit through a time-bound **regularisation programme**.
4. Granting residence permit through a permanent **regularisation mechanism**.



Policy Options

1. Firewalls: Ensuring access to services and justice by prohibiting the sharing of personal data of irregular migrants between immigration authorities and service providers and justice officials

Under this approach, states establish ‘firewalls’ that safeguard access to essential services while separating service provision from immigration enforcement. This is designed to facilitate access to education, healthcare and other essential services and to mitigate the negative societal and individual consequences of exclusion.

In most cases, firewalls prioritise access to education and healthcare, though they may also encompass other areas such as access to legal aid, integration-related opportunities, civic services, municipal registration, as well as structures that protect irregular migrants. A core element is the prohibition or restriction on data sharing (e.g., through firewalls), between service providers and

immigration enforcement authorities, preventing access to services from leading to detection, detention or deportation.

National, regional and local governments may develop firewalls for both pragmatic and strategic reasons. Gaining knowledge about the size and composition of the entire resident population (including irregular migrants) allows for more accurate planning of service delivery (e.g. health, housing, education), without legal obligations. In recent years, the COVID-19 pandemic led to the development of firewalls as a response allowing access to health and housing services to control the spread of the virus.

Rationale	Potential negative outcomes
<ul style="list-style-type: none"> • Enable more accurate design and planning of health, housing and education systems, preventing overburdening and overcrowding. • Facilitate access to health, housing and education (public goods) for all residents. • Respond to specific health or other urgent public service-related needs (e.g. pandemic control). 	<ul style="list-style-type: none"> • Firewalls themselves do not grant residence status. As such, they do not address the number or presence of irregular migrants, who remain with continued legal precarity, with potential negative impacts on integration, social cohesion and equality.



Box 7.2
Where do firewalls policies exist?
By PICUM

In most countries that grant legal entitlements to irregular migrants to access some form of services or justice, people can access public education and health services without their data being shared with immigration enforcement. However, even if reporting is not required, it may still occur in practice. To prevent this, laws and policies need clear safeguards. These should prohibit data sharing between public services and immigration enforcement ('firewalls') and prevent the use of personal data collected through service provision for enforcement purposes.

Examples of explicit firewall policies include (Source: [PICUM 2025](#))

Belgium: [A 2003 circular](#) from the Flemish education administration clarified that undocumented children should not be reported to the police or immigration authorities when enrolling in or attending school.

Netherlands: The national "[free in, free out](#)" policy (2015) allows undocumented people to report abuse to the police without fear of immigration enforcement.

Spain: Undocumented people can report [gender-based violence](#) to the police without risking immigration enforcement. They can also [register at the town hall](#) (*empadronamiento*) to access healthcare and education, with a strict firewall ensuring their data is not shared with immigration authorities.

Germany is one of few countries which requires specific public service providers to denounce irregular migrants to the immigration authorities, enshrined in paragraph 87 of the Residence Act, first introduced in the 1990s. Yet, in response to the advocacy work of an alliance of human rights organisations, churches, welfare associations, trade unions and employer associations, a specific firewall mechanism was introduced in 2011 to protect the rights of children of undocumented parents through an amendment of the Residence Act. The amendment prohibits employees of schools and other educational institutions from transferring knowledge on the presence of enrolled children without residence rights to police or foreigners' offices. (Source: Cyrus 2017, [PICUM 2024](#))

2. Conditional Permits: Grant residence permits to irregular migrants through a regularisation mechanism (either existing or newly established), providing temporary permits with additional conditions applied related to protection or obstacles to deportation.

All types of residence permits are tied to specific criteria and may be revoked should those criteria no longer be met (e.g. termination of employment, dissolution of marriage, etc). However, many states grant conditional permits based on specific humanitarian or state-level factors, which the state considers temporary in nature (e.g. whether a country of origin cooperates in

a return procedure; if the destination country decides the conditions in the country of origin situation have improved; if the person's medical situation resolves; if the child reaches the age of majority, etc).

Examples of conditional permits for longer-term irregular migrants include: Temporary Protection

regimes; humanitarian protection permits; permits for unaccompanied children whose asylum claim has been rejected but who still remain protected from expulsion; temporary suspensions of deportation (such as the German *Duldung*); and permits granted for those requiring urgent or ongoing medical treatment unavailable in the country of origin.

States may issue conditional permits to long-term present irregular migrants who cannot return, due to practical obstacles (e.g. non-cooperation of the country of origin in return procedures). Legal reasons are also a key justification for granting conditional permits (e.g. the principle of non-refoulement or the rights of children under EU or international law). Some states may

consider labour market needs when issuing temporary permits or suspending deportation should the person have specific skills for shortage sectors (e.g. *Duldung* in Germany provided for those who are in vocational training in specific occupational fields). Temporary statuses related to protection may also be provided for humanitarian reasons, geopolitical or practical (e.g. to avoid overburdening the asylum system).

In practice, conditional statuses can be granted to individuals or to entire groups in particular situations (e.g. people fleeing natural disasters or conflict). While conditional permits can provide temporary stability, they do not necessarily lead to long-term residence and often leave recipients in a state of legal uncertainty.

Rationale	Potential negative outcomes
<ul style="list-style-type: none"> • Depending on design, temporarily regularise subset of irregular migrant community. • Facilitate access to more stable status after a period of residence, where national law allows (e.g. to spousal permit or permanent residency after 5 years of regular stay). • Facilitate participation in the labour market broadly (links with tax revenue) and/or for specific sectors. • Fulfil obligations under international law and regional human rights law, including <i>non-refoulement</i>. • For protection-related status, ease pressure on asylum systems by providing alternative forms of protection. • Once integrated in law, reduce vulnerability to political changes • Enable administrations to develop sustainable capacity, procedures and expertise. 	<ul style="list-style-type: none"> • High potential for the community to fall back into irregularity, through revocation of status. • Depending on criteria selected (e.g. if nationality-based), risks highly differentiated trajectories for groups in a similar situation. • Continued experience of precarity by migrants (through temporality and revocability), potential negative impact on integration and social cohesion. • Limited uptake of conditional status processes by irregular migrants, due to fears of revocation of status leading to return (e.g. policy changes revoking a temporary status at large or for specific nationalities). • Risk of public backlash, including claims of encouraging irregular migration.





Picture: Istanbul, Türkiye

Box 7.3

Conditional statuses: Temporary protection in Türkiye and toleration status in Germany

In the [EU](#) and [Türkiye](#), respectively, **Temporary Protection** regulations are explicitly designed as temporary, tied to protection concerns in a specific country and in situations of mass influx. Temporary protection status in each context is also designed to ensure against overburdening of the asylum system*.

Temporary protection remains indeed temporary in nature, although it can persist for a long period of time: in Türkiye, Syrians have had this status for nearly 15 years. In both respective contexts, it can also be revoked by a host governmental decision, even in situations where safe, voluntary and durable return is still uncertain. In the EU, an EU Council decision can end temporary protection should it decide the situation in the country of origin allows for return in line with human rights.

In the German context, **Duldung** offers a temporary suspension of deportation. Traditionally, a toleration permit is issued when an irregular migrant with a return order cannot depart or be removed, for practical reasons or for reasons of *non-refoulement*. Yet in the German context, toleration is also granted for the purpose of training under specific vocational training programmes, as well as for the purpose of employment (under certain criteria). Recently, a specific regularisation programme was implemented to provide a residence permit to those with toleration status for more than five years (*Chancen-Aufenthaltsrecht*).

Recent research (Schütze, 2023) has demonstrated that this toleration status can also persist for years, where irregular migrants and their families remain in a limbo status, with limited rights and entitlements, without a time limit. Moreover, the administrative burdens on both the state and the migrant to maintain this limbo status are heavy: renewals are required every one to six months, together with updated required documents.

* In the EU's Directive this is explicit, whereas in the Turkish Regulation it is framed as triggered when international protection requests cannot be assessed individually, due to the mass influx.



Picture: Berlin, Germany

3. Regularisation programme: Grant residence permits directly to irregular migrants through a time-bound regularisation programme, offering permits for work or stay without the conditions of temporary permits noted above.

Regularisation programmes are based on a new or revised legal instrument and operate within a limited time period in which those seeking regularisation may apply. Although often described as ‘one-off’ measures, [MIRreM research](#) indicates that many states have implemented regularisation programmes multiple times. This repetition is potentially related to the effectiveness of the programme (i.e. to reach a broader target group than initially achieved) or the greater

political acceptability of time-limited programmes as compared to permanent mechanisms.

States may launch regularisation programmes for various reasons, including to meet labour market needs by providing status to individuals with specific in-demand skills and to address the situation of long-term irregular migrants facing insurmountable obstacles to return.

Rationale	Potential negative outcomes
<ul style="list-style-type: none"> Regularise a defined subset of irregular migrant population (depending on eligibility criteria). Address specific policy needs through tailored programme (i.e., timeliness, flexibility, effectiveness) Reduce relative potential for migrants to fall back into irregularity (depending on length of validity and conditions of renewal). Depending on design, collect information on status trajectories and entry routes to better understand irregular migration dynamics in-country. Facilitate migrants’ participation in society more broadly, with stability. Reduce risk of exploitation among the population addressed. Facilitate economic and labour market participation if residence permit gives (unrestricted) access to the labour market. Align skills and labour market needs if given (unrestricted) access to the labour market. Depending on design, clear migration management system-related backlogs. Support family cohesion and child development. 	<ul style="list-style-type: none"> Depending on design, a limited scope or scale risks limited reach, potential need for additional efforts to reach policy goal. Potential for politicisation and negative public perception: ‘incentivising’ irregular migration or increased labour market competition. Potential for delays in processing some individual regularisations related to legal or administrative challenges.





Box 7.4

**Regularisation Programmes:
The case of the 2022 Irish regularisation scheme**

In 2022, Ireland implemented two parallel regularisation programmes: the Irish International Protection Process Regularisation Scheme and the Regularisation of Long-Term Undocumented Migrants Scheme. The former was open to applications for regularisation from all those who were in the international protection determination process for at least two years (i.e., commencing before or on 7 February 2020) and still awaiting a first instance decision. The second granted regular status to applicants who could demonstrate four years of continuous irregular residence prior to 31 January 2022, or two years residence demonstrated for a whole family unit, or three years for the main applicant who has a child under the age of 18, as long as the child was resident since 31 January as well.

With this two-fold regularisation approach, the government aimed to both clear the backlog of asylum cases accrued during the pandemic, and also to address the protracted situation of long-term irregularly present. The scheme itself, while emerging as a political priority during the pandemic, was also the culmination of decades of civil society advocacy, also in terms of design and criteria selected.

For the Regularisation of Long-Term Undocumented Migrants Scheme, 6,548 applications were submitted, in respect of 8,311 individuals (5,654 single applications and 894 family applications). As of 3 July 2023, 87% of applications have been processed: 4,617 (almost 71%) applications have been granted, 1,002 (15%) applications have been refused, and 118 (almost 2%) applications have been withdrawn by the applicants for various reasons (Dáil Éireann debate 2023).


For the International Protection Process Regularisation Scheme, as of 1 June 2023, 3,244 applications were made, with 1,585 applicants granted permission under the scheme. During the scheme, a further 1,102 applicants were granted an equivalent, or higher, immigration permission. This means that, by 1 June 2023, some 2,687 persons who made an application under the scheme, or more than 82% of all scheme applicants, had been granted a two-year renewable permission that allows holders to work without an employment permit and is reckonable as residence for applications for citizenship. 472 applicants (14%) were unsuccessful, and 84 applications still remained to be determined (MIrreM Country Profile 2023). During the regularisation application process, Ireland also collected information on entry routes, to better understand irregular pathways.

4. Regularisation mechanism: Grant residence permits directly to irregular migrants through a permanent mechanism (existing or new), offering residence permits for work and residence, without conditions applied related to protection needs or obstacles to return.

Unlike time-limited regularisation programmes, regularisation mechanisms accept applications for regularisation on an ongoing basis. These are typically established under law, enabling irregular migrants to apply for a residence permit if they meet defined criteria. Other forms may rely on discretionary powers of state authorities such as ministers, commissions or judges, as well as official guidance for the issuance of permits (such as the Valls Circular, in France).

States grant residence permits through mechanisms for a range of reasons. As with regularisation programmes, the mechanism design may address situational needs (e.g. long-term irregular migrants

without return options) or strategic priorities (e.g. labour market shortages for specific in-demand skills). In some cases, however, permanent mechanisms are used to grant resident permits where required under EU and/or national law – for instance, to parents of EU citizen children (in line with the EU Charter of Fundamental Rights and CJEU case law), or to victims of crime or trafficking (as mandated by EU Directive 2004/81/EC). While broader mechanisms such as those in Spain are well established and have been running for several decades, smaller scale mechanisms are also common and may be framed as granting residence permits under a case by case basis or due to ‘exceptional circumstances.’

Rationale	Potential negative outcomes
<ul style="list-style-type: none"> • Regularise part of irregular migrant community on an ongoing basis. • Reduce relative potential for some irregular migrants to fall back into irregularity (depending on length of validity and renewability of permit). • Promote migrants’ participation in society more broadly, with stability and lower risk of exploitation. • Facilitate economic contribution through labour market participation, tax revenue and other systems (e.g. social security) can also be linked to regularisation process. • Depending on design, reduce pressure on other migration systems (e.g. asylum procedures). • Strengthen family cohesion and support child development. • Facilitate employers’ continued access to needed labour. • Embed regularisation within law, reducing reliance on shifting political landscape. • Enable administrations to develop sustainable capacity, procedures and expertise. 	<ul style="list-style-type: none"> • Potential for politicisation and negative public perception, including claims of ‘incentivising’ irregular migration or increased labour market competition. • Potential for administrative backlogs if resources are constrained or low. • In the longer-term, potential for secondary movement within the EU. 



Box 7.5

Permanent mechanisms – the case of ‘*arraigo*’ in Spain

In Spain, a permanent regularisation mechanism (*‘arraigo’*) was introduced in 2005, which has been revised and expanded several times, most recently with the Foreigners Law reform in May 2025, which reduced required periods of stay and introduced the new ‘second chance’ *arraigo*. Currently, there are five main types of eligibility domains for the *arraigo* mechanism:

i) Social *arraigo* – this applies to those who can demonstrate social integration through proof of staying in Spain continuously for a minimum period of two years; have family ties with other resident foreigners, or present a report showing their social integration level; and have an employer contract signed by the worker and the employer.

ii) Employment-based *arraigo* – this is eligible for those who have stayed continuously for a minimum of two years and who can prove continuous employment for at least six months.

iii) Family *arraigo* – this offers a pathway to regularisation for parents or guardians of Spanish minors; those who provide support to a Spanish person with a disability or who require support measures for the exercise of his or her legal capacity; the spouse or accredited unmarried partner of a Spanish citizen, an ascendant over 65 years of age or under 65 years of age, a descendant under 21 years of age or over 21 years of age of a Spanish citizen, or of his/her spouse or unmarried partner; children of a father or mother who were originally Spanish.

iv) Socio-educational *arraigo* – this applies to those who have been in Spain for a minimum of 2 years and are enrolled in training courses by the Public Employment Service, aimed at addressing the labour market needs.

v) Second-chance *arraigo* – this applies to those who previously held a residence permit that was not renewed (except for reasons of public order or safety), with the aim to facilitate reintegration of those who lost their status without committing serious offenses.

Spain is also considering a regularisation programme to address those irregular migrants in the country unable to access these mechanisms. The migrant-led movement [#RegularizaciónYA](#) highlights the persistent irregularity of workers in precarious sectors – such as domestic work, *manteros* (street vending), sex work, hospitality and agricultural workers – who are often excluded from *arraigo* eligibility. In 2021, a Popular Legislative Initiative was launched, requiring 500,000 signatures from citizens with regular status. By late 2022, over 700,000 signatures had been collected, and the proposal was admitted for debate in Congress.

By June 2025, the Spanish government acknowledged that even after recent reforms to broaden eligibility under *arraigo*, particularly vulnerable groups and those with pending asylum claims may still be unable to regularise their status after years in the country and thus showed public support for the Popular Legislative Initiative. Ongoing parliamentary negotiations suggest that an expanded programme could benefit more than half a million people, but no final decision has been made.

Conclusion

For long-term irregular migrants in a country, policymakers have several policy options at their disposal to respond – yet they are unequal in terms of both scale and outcome. From the above, one can observe the wide range of policy rationales that can be employed in support of specific policy options, as well as the potential negative consequences for which policymakers should prepare.

Policymakers' decisions on policy options to employ (and for which target group) can be based on broader policy goals and contextual factors; yet there are specific rationales employed and potential consequences for migrants, for politicians and policymakers, for the labour market and for society as a whole. With this chapter, we have aimed to provide an overview of these potential implications, for which policymakers should prepare as they consider their policy response options.

Going forward, policymakers may use this chapter to reflect on the following questions in preparation of a policy response to situations of longer-term irregularly present migrants:

- What policy rationales resonate within the national political and social context?
- How can potential negative outcomes be mitigated, and where may mitigation prove challenging?
- What methods can be used to effectively track and communicate positive potential outcomes in relation to policy goals?

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Chapter 8

Regularisation in today's political context

By Imanol Legarda Díaz-Aguado - PICUM



Key take-aways

- **A ‘pull effect’?** Regularisation is often portrayed as a ‘pull factor’ for migration, but evidence shows that irregular migration flows are mainly driven by economic demand and social networks. The narrative persists in politics, shaping restrictive policies despite limited empirical evidence.
- **Rule of Law.** While some argue regularisation rewards unlawful behaviour, others think that regularisation can also reinforce the rule of law by reducing legal ambiguity, preventing exploitation, and building trust in institutions and fair procedures.
- **Competing perspective and visibility dilemma.** Regularisation debates are shaped by political, economic, and human rights frames. States can balance public opinion and pragmatic needs by using low-profile policies.

Introduction

Regularisation of migrants with irregular status is central to migration policy debates, yet these debates are often shaped more by public opinion and electoral considerations than by empirical evidence or pragmatic policy analysis.

Although widely implemented across Europe, regularisation remains politically sensitive and inconsistently applied. Since 2000, Latin American countries have conducted more than [100 regularisations](#), while the United States has operated multiple regularisation mechanisms, even though there is [a shift](#) limiting migration policy almost entirely to border control. The repeated use of regularisation underlines its role as a de facto policy tool. If designed in a transparent, consistent, and applicant-friendly manner, regularisation could more effectively address the long-term presence of irregular migrants.

Migration control measures, by contrast, have shown limited effectiveness in reducing irregular migration. They often serve rhetorical or symbolic purposes rather than delivering sustainable solutions. At both national and EU levels, the policy discourse continues to prioritise deterrence and return. However, the actual outcomes of return policies show [modest results](#) in reducing irregular migrant populations, while increasing vulnerability and irregularity.

Moreover, policy proposals in the area of return often are not grounded in empirical evidence. This reflects a [lack of systematic transfer](#) from the vast publicly-funded research on return to the policy decisions, creating inconsistencies between migration governance and socioeconomic needs. Regularisation therefore offers a response for long-term residents who are already contributing socially and economically.

For more on US and Canada:

Chapter 10

A ‘pull effect’?

Opponents of regularisation often refer to a potential ‘pull effect’, arguing that regularisation may encourage further irregular migration. However, [case studies](#) in Southern Europe and the United States suggest that migration flows are shaped primarily by economic conditions and social networks, rather than by the availability of regularisation policies.

Migration policies, including regularisation, can indeed [serve as tools](#) for attracting specific migrant workers to meet national needs. However, for regularisation to constitute a significant ‘pull factor’, it must align with broader socio-economic contexts.

The analysis of regularisation as a ‘pull factor’ is complex and needs to be considered alongside other contextual factors in origin and destination countries and as well as personal choices, making their precise impact difficult to measure. Data remains limited,

and restrictive policies often produce [unintended consequences](#), such as increasing the number of undocumented migrants. Despite these uncertainties, the ‘pull effect’ argument is frequently presented as a data-driven fact shaping migration debates, despite [lacking conclusive empirical support](#).

Since 2015, EU authorities and agencies have increasingly adopted the ‘pull effect’ framing, even in the absence of clear evidence of this effect. [Some authors](#) point out that it is the result of the plausibility of this narrative, amplified through its repetition in political and public discourse. This narrative, often grounded in anecdotal claims, is prevalent at both national and supranational levels and mirrors the logic of other alleged ‘pull factors’—such as search and rescue operations in the Mediterranean—claims that [have been debunked](#).

Box 8.1

Lessons from Portugal

[Portugal](#) illustrates this tension. For years, the country used employment-related regularisation to address labour shortages, considering it as a beneficial policy. In 2024, the government abolished the main employment-related mechanism, citing it as a [potential pull effect](#), despite limited evidence to support this claim. Labour shortages in sectors like agriculture and hospitality persist, so the [labour demand continued](#) with dramatically fewer regular pathways, increasing undeclared and precarious employment and elevating risk of exploitation.

The need for a subsequent [corrective policy in 2025](#) to remedy the consequences of terminating a regularisation pathway suggests that the initial decision did not adequately weigh up its economic and social impacts, raising questions about how to balance political narratives with economic realities, especially in sectors facing persistent labour shortages.



Picture: Lisbon, Portugal

The rule of law

The rule of law is sometimes invoked to justify restrictive migration policies, with critics arguing that regularisation rewards unlawful behaviour. The language used reflects these framings: some states, such as Spain, focus on the ties to society (*arraigo*), while others, such as Italy, emphasise the irregular stay as unlawful behaviour (by employing terms such as *amnesty*).

For more on this:

Box 2.1 “What’s in the name” in Chapter 2

The argument can be inverted: regularisation strengthens the rule of law by reducing legal ambiguity and exploitation and increasing trust in institutions.



Box 8.2 The meaning of rule of law By Stephanos Stavros

The rule of law is sometimes invoked to express deep scepticism vis-à-vis regularisation schemes, which are portrayed as rewarding unlawful behaviour. This is based on a wrong understanding of the rule of law. The understanding in question focuses on the strict execution of the laws; according to it, law is conceived as an instrument of power rather than a value to be respected. And the rule of law becomes rule by law.

This is not what the rule of law was meant to be. Historically, this concept has been associated with the need for constraints on the arbitrary exercise of power, as well as equality and even fairness. Today, the emphasis is on the quality of the rules and increasingly on trust in institutions and their processes.

Several definitions have been put forward. However, everyone concurs that the rule of law requires state authorities to treat everyone with dignity, equality and rationality and in accordance with the law. Those subject to state power should also have the opportunity to challenge decisions affecting them before independent and impartial courts for their unlawfulness, where they are accorded fair procedures.

This has wide-ranging practical implications for migration policy and the manner in which the challenges of irregular migration are responded to. The rule of law would most certainly justify firewalls (e.g. formal separation between immigration enforcement and access to services and justice). These make it practically possible for migrants in an irregular situation to exercise those basic social rights they already have. Firewalls also enable migrants in an irregular situation to access justice. The migrants in question are not, however, granted any specific status.

The rule of law may also be invoked as the theoretical underpinning of *Duldung* (suspension of deportation) policies, which give migrants some legal presence and temporary legal certainty. This is, however, often coupled with increased powers for the authorities to track presence of migrants with a suspension of deportation.

It would also not be counterintuitive for the rule of law to be used as an argument in favour of time-bound or permanent regularisation schemes, as the most effective means of combating exploitation and, broadly speaking, corruption. These schemes increase everyone’s trust in institutions capable of managing complex issues under conditions that do not foment arbitrariness, without having recourse to questionable (from the point of view of legality) privacy-compromising measures.

Competing perspectives and contrasting approaches to regularisation

Regularisation policies vary widely and often blend different rationales, and a critical question is: Who frames these debates? Media, political actors, and interest groups shape public perception, sometimes prioritising political narratives over empirical evidence.

For more info on comparative discourses on irregular migration between the domains of media, politics and civil society,

I-Claim country reports:

[\(EU | DE | FI | IT | NL | PL | UK\)](#)

National approaches also [are influenced](#) by predominant discourses from the United States despite significant differences with the European contexts. Similarly, individual Member States in the EU influence regularisation debates in neighbouring countries. The EU also is [not silent](#) when it comes to Member States' policies on regularisation (and at one point even held discussion about potentially banning it).

For more on the tensions between Member States regarding neighbouring countries regularisations:

Chapter 4

In this context of heterogeneous actors and discourses which are constantly interacting at many levels, governments frame regularisation policies strategically in a variety of ways. The following approaches usually appear in various combinations within the same country. This division does not categorize policies based on the grounds to become regularised, but instead the rationales behind. For example, progressive approaches are motivated at least in part by human rights concerns, whereas pragmatic approaches are more concerned with economic considerations, but it is worth noting that policies often have mixed motivations.

Progressive Approaches

For further information, check **MIRreM's National Reports** by clicking on the country

- **Spain:** Historically, large-scale regularisation programmes were held in 2000, 2001, and 2005 primarily to address labour market needs. Since then, a key priority in the evolution of the Spanish migration regime has been the embedding of regularisation mechanisms (the arraigo regulations), allowing migrants in an irregular situation to get a residence permit if they are able to demonstrate either a pre-existing labour history or their social integration, after two years of irregular residence. The [latest reform](#) that came into force in May 2025 streamlines and combines pre-existing pathways. The government has also announced a [regularisation programme](#) for undocumented migrants affected by the 2024 Dana floods in the region of Valencia.
- **Portugal:** Portugal decided in 2007 to incorporate a regularisation mechanism introduced by the centre-left government to remove the need for one-off programmes. A nationality law reform in 2006 also allowed second-generation migrants born in Portugal to acquire nationality independently of their parents' status, addressing the issue of children growing up stateless or undocumented, and guaranteed access to healthcare during COVID-19 by temporarily regularising all undocumented migrants who had pending residence permit applications before March 18, 2020. Three months later, health services were extended to all undocumented migrants. However, the centre-right coalition in power since April 2024 shifted to a deterrence-based migration policy approach.
- **Ireland:** Since the early 2000s, Ireland has undertaken targeted regularisation programmes for specific categories of irregular migrants. In

2022, Ireland implemented the Regularisation of Long-Term Undocumented Migrants Scheme, a regularisation programme focused on undocumented migrants who had lived in the country for four years or longer and related measures for individuals who had been in the international protection process for at least two years prior (the objective of the latter was to resolve an asylum backlog).

- **Morocco:** Integrates regularisation into a broader rights-based discourse, the [Human rights based approach to migration](#). Its unofficial practices, such as documented [desert dumps](#) with EU support, suggest a disconnect between discourse and implementation. However, the significance and impact of a consistent institutional narrative emphasising a humanitarian perspective on migrants (mainly from sub-Saharan Africa) should not be underestimated. In terms of regularisation, this approach first materialised with the 2014 programme. Later, in 2017, Morocco appeared to have drawn [lessons from the earlier experience](#), designing a more flexible and longer-lasting programme.

Some countries highlight the need to regularise specific nationalities when specific reasons lead to higher undocumented populations (Syrians in [Türkiye](#), Ukrainians and Belarussians in [Poland](#)) in a narrative that links regularisation to international protection. In some cases, such as [Serbia](#), application for international protection becomes the only available route to a regular status.

Pragmatic Approaches

- **Economic Cost-Benefit Analysis:** In [Canada](#), there is an economic argument that supports a re-prioritisation of federal investment from deterrence and controls to the formulation of a more encompassing and sustainable regularisation policy.
- **Labour Market Needs:** Regularisation in many countries including [Portugal](#), [Canada](#) and [Greece](#) address shortages in their labour markets, and, in some cases ([Italy](#), [Canada](#)), respond to [employer demands](#).
- **Demographic Sustainability:** [Portugal](#) integrated regularisation into long-term strategies, supporting welfare and social security.

- **Reducing the Stock of Undocumented Migrants:** [Germany](#) uses regularisation to lower the number of people in the country who have been subject to repeated suspensions of deportation (called '*Duldung*' in Germany).
- **Impact on Asylum Applications:** Regularisation can address backlogs in international applications. In 2022, [Ireland](#) offered a special regularisation for international protection applicants waiting over two years for a decision. It excluded those with rejected claims and allowed applicants to keep their asylum process open. This was part of broader reforms to reduce backlogs. However, in [Spain](#), certain aspects of the 2025 policy reform of regularisations appear designed to discourage potential asylum applicants to proceed, in line with policymakers' the initial [intention](#).

Rhetoric vs Implementation

[Some scholars](#) highlight how governments frame regularisation differently in political discourse versus policy implementation. While public narratives emphasise control, policy realities show regularisation as an ongoing necessity. Despite political resistance, many countries use de facto regularisation under different labels to avoid public controversy.

For cases of suspension of deportation, in [Germany](#), *Duldung* (temporary suspension of deportation) is preferred over explicit regularisation, as it is more politically acceptable. Policymakers can maintain a restrictive stance while still allowing some regular presence for migrants. However, *Duldung* in Germany and [Austria](#) is not equivalent to regularisation. While it provides temporary protections, it does not grant full residence status and depending on the country it may not grant access to employment and social benefits. Suspension of deportation often leaves migrants in prolonged limbo, making them vulnerable to deportation and limiting their rights. This highlights how suspension of deportation policies perpetuate precariousness rather than offering a long-term solution.

To learn more about the differences between regularisation and suspension of deportation, see:

[Policy responses to the presence of irregular migrants: A typology](#)

In Germany, *Duldung* functions as an obligatory detour rather than a direct pathway to regularisation. Migrants may eventually gain regular residence, but only through a lengthy, uncertain process. This system prolongs insecurity and reinforces exclusion before any possibility of integration.

Other countries opt for low profile regularisation programmes or mechanisms, trying to minimize the presence in the public debate. This would be a way to address irregularity without facing a potential electoral loss for political parties with an anti-migration discourse.

Hostile Discourses and Their Consequences

Several countries, including [the Netherlands](#) and [Finland](#) have adopted restrictive stances, where anti-migrant rhetoric fosters discrimination, violence, and exclusionary policies. Such discourse fuels xenophobia, complicating migrant integration. In some cases, as seen in [Tunisia](#) and [Cyprus](#), these narratives [lead to direct](#) threats and violence against migrant communities and civil society.

Hostile discourses also shape policymaking, reinforcing punitive approaches that limit pathways to regularisation. By framing migration as a threat, political actors create an exclusionary climate, further marginalising undocumented migrants.

In [the Netherlands](#), restrictive migration narratives impact key sectors such as agriculture, where labour shortages highlight the contradictions between political rhetoric and economic needs. Employers, as seen in the project [DignityFIRM](#), may ultimately push for pragmatic migration solutions despite official hostility.

The visibility of regularisation policies that respond to the needs of a given territory emerges as a dilemma in contexts where public debate not grounded in scientific evidence may entail a political cost. In such cases, the strategic implementation of regularisation with limited visibility may constitute a solution.

Conclusion

Given its frequent and widespread use, regularisation deserves to be recognised as a legitimate policy instrument when applied in a more consistent and applicant-friendly manner. This also raises broader questions, as regularisation responds to restrictive migration policies misaligned with the reality of demand for migrant workers.

For further information,

[BRIDGE key findings on the production impact of migration narratives](#)

[CIDOB's decalogue on alternative narratives on migration.](#)

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Suggested practices and projects:

[Public preferences for policies vis-à-vis irregular migrants in Europe: the roles of policy design and context](#) from PRIME

[Understanding and Reframing Migration Narratives: Towards an Evidence-based Policy Discourse in Europe](#) from I-CLAIM

[Comparative analysis of migration narratives in political debate and policymaking](#) from BRIDGES

Chapter 9

Temporary protection of war-fleeing Ukrainians in the European Union

By Franck Düvell (Osnabrück University)

and Jussi Jauhiainen (University of Turku)



Key take-aways

- Temporary protection in forced migration situations is an exceptional swift and unbureaucratic measure to prevent large-scale irregularity of journeys, entry and stay to and in the EU.
- Temporary protection can be a step towards long-term or permanent regular stays but also a precursor to large-scale return.
- On the other hand, because it is only temporary, it also inherently involves the risk of irregularisation once it expires.

Introduction

Russia's large-scale military invasion of Ukraine on 24 February 2022 triggered one of the largest and fastest forced displacements in recent European history. Millions of Ukrainians fled their homes, either independently—often by car—or through organised evacuations. The Ukrainian state railway service alone facilitated the swift evacuation of approximately four million individuals—around one-third of all displaced persons—from northern, eastern, southern, and central Ukraine, the main regions under direct attack. Some sought safety within Ukraine while others fled abroad.

The European Union (EU) responded swiftly. On the day of the invasion, the Council of the European Union publicly condemned Russia's aggression and began preparing the activation of legal and financial mechanisms to support those fleeing the war. Within a week, over one million Ukrainians had entered the EU under the pre-existing visa-free regime, mainly through Poland, followed

by Slovakia and Hungary, and via Moldova into Romania. Subsequently, Ukrainians fleeing the war reached all EU member states, as well as other parts of Europe, Turkey and North America.

On 4 March 2022, the Council unanimously activated Council Directive 2001/55/EC—commonly known as the Temporary Protection Directive (TPD)—for the first time ever. This mechanism was originally adopted in 2001 to respond to large-scale, sudden inflows of displaced persons (Dalkiran & Lipman, 2025). The TPD grants displaced Ukrainians (and certain third-country nationals or stateless persons with permanent residence permits in Ukraine and who cannot safely return to their country of origin) temporary residence rights, access to essential services, and temporary protection across the EU and European Economic Area. The EU's policy response was shaped by moral, historical, and political obligations toward a neighbouring state (Düvell, 2025). As the war persisted, the Directive

was extended several times and is currently set to remain in effect until at least 4 March 2027.

The scale and pace of displacement from Ukraine have been exceptional. By June 2025, approximately 7 million Ukrainians remained abroad due to the war, with around 4.3 million holding temporary protection status in the EU (Eurostat, 2025). This far surpasses earlier displacement episodes, such as the refugees from former Yugoslavia caused by four wars between 1991 and 2001 (Slovenia, Croatia, Bosnia, Kosovo) where over one decade around 700,000 people sought protection in EU member states (Duijzings 2019). Or the 2.4 million arrivals during the 2015–2016 large-scale migration of asylum seekers of 20 different nationalities, with Syrians being the single-largest nationality—only half of whom qualified for international protection. Notably, two-thirds of the Ukrainian arrivals occurred within just six months following the invasion.

As of early 2025, over one million Ukrainians had returned from the EU to Ukraine, including several hundred thousand who entered the EU during the early phase of the war but did not apply for protection and returned within months as the situation stabilised. Cross-border mobility remains high, facilitated in part

by the TPD's provision allowing temporary return visits to Ukraine. Throughout the war, monthly border crossings to and from Ukraine have consistently exceeded one million.

The TPD, among other measures, has provided a crucial legal framework for war-fleeing individuals: granting temporary residence permits, access to work, health care, education and social support—serving as a cornerstone for regularising the status of displaced Ukrainians in the EU and EEA (European Economic Area). It also extends protection to third-country nationals and stateless persons who had permanent residence in Ukraine at the time of the invasion, and who cannot safely return to their country of origin.

As an inherently temporary measure, the TPD is a form of regularisation by operation of law with the expectation that beneficiaries will eventually return once protection is no longer required. However, given the continuation of war into 2025, several member states (e.g. Austria, Czech Republic, Italy and Poland) have introduced alternative residence pathways (e.g. work permit and long-term residence permits) to facilitate regular stay beyond the TPD's expiry date (Wagner and Grama 2025).



Picture: Kyiv, Ukraine

Temporary Protection Directive (TPD)



The escalation of the war in Ukraine in February 2022 tested the EU's capacity to respond to mass displacement. Anticipating such scenarios, the EU had adopted the TPD in 2001 to provide a subsidiary form of protection in exceptional circumstances involving large-scale inflows of displaced persons (Council of the European Union, 2001).

According to Article 2(a), the TPD constitutes “a procedure of exceptional character”, intended to offer immediate and temporary protection to third-country nationals who cannot safely return to their country of origin, especially when asylum systems risk becoming overwhelmed. It obliges Member States to uphold the principles of non-refoulement and equitable burden-sharing, while ensuring beneficiaries have access to housing, healthcare, education for children, work, social support, and a residence permit for the entire duration of protection (Council of the European Union, 2001; European Commission, 2022).

Additional rights include access to information, eligibility for asylum procedures, basic banking services (e.g. the right to open a bank account), and family reunification in specific cases. Beneficiaries may travel freely for up to 90 days within a 180-day period across EU Member States after receiving residence status. Individuals cannot be returned to a Member State where they were previously granted protection, thereby preventing forced secondary movements and promoting responsibility-sharing.

Implementation of the TPD was delegated to individual member states, resulting in significant variation. Nevertheless, the process fostered a multi-level governance framework involving EU institutions, national authorities, local governments, NGOs, and, in some cases, private actors (Jauhainen & Erbsen, 2023). This required sustained coordination, shared objectives, and iterative feedback.

The TPD applies primarily to Ukrainian citizens and their family members who fled Ukraine following the Russian invasion on 24 February 2022. It also covers certain non-Ukrainians, including stateless persons and third-country nationals with international protection or permanent residence in Ukraine at the time of the invasion (European Commission, 2022). In principle, it can cover all third-country nationals with permanent residence in Ukraine who are unable to return safely. In practice, implementation has been inconsistent—especially in relation to Russian nationals. Nevertheless, by October 2024, beneficiaries included 12,300 Russians, 5,000 Nigerians, and 4,200 Azerbaijanis (IOM, 2024).

In 2021, before the escalated war, 1.57 million Ukrainian citizens, primarily labour migrants, were authorised to stay at the EU (Eurostat 2022). Though not in principle covered by the TPD, many received support through national-level mechanisms. The TPD, unintendedly, also enabled regularisation of pre-existing irregular statuses and provided a subsequent status to expired visas, particularly for those unable to return to Ukraine. According to the European Union Agency for Asylum estimates, a proportion of TPD beneficiaries were already in the EU prior to the invasion.

Exclusions from TPD protection are only justified on exceptional grounds. These include individuals implicated in war crimes, crimes against humanity, serious non-political crimes, acts against the UN Charter, or where individuals pose national security threats or are convicted of serious crimes (Council of the European Union, 2001).

A key limitation in the TPD is the lack of participatory governance: beneficiaries are treated as passive recipients of services, with little input in decisions affecting their lives. While designed as a short-term instrument, the protracted nature of displacement has exposed a mismatch between the TPD's minimum standards and the growing need for integration, especially in work, education, and language acquisition.

Some Member States have responded with targeted integration measures, revealing the evolving function of the TPD in promoting long-term social cohesion (Jauhiainen & Erbsen, 2023). Sandberg et al. (2025) view the TPD as emblematic of a broader “temporary turn” in EU migration and asylum governance—where protection is framed in restrictive, time-bound terms. While it offers security, it also limits pathways to long-term regularisation through integration.

Conclusion

The TPD was implemented for the first time in the EU in 2022, and provided a rapid, temporary regularisation for millions of war-fleeing individuals from Ukraine. Its successful implementation comprised several enabling factors. These included Ukrainians' regular entry into the EU and initial stay there, as it had been agreed between the EU and Ukraine already in the 2010s, protection for war-fleeing individuals with the TPD facilitating their rapid access to residence, essential services and employment, a broadly supportive socio-physical environment, and the possibility for temporary return visits to Ukraine while under protection.

However, as the war in Ukraine continues and the TPD in the EU remains in effect, the long-term outcomes of the TPD and temporary regularisation still remain uncertain. Key issues include:

- how many Ukrainian TPD beneficiaries will return to Ukraine during or after the war
- the degree of their long-term settlement in destination countries abroad
- potential post-war out migration from Ukraine especially by Ukrainian men seeking family reunification or work
- the risk of irregularisation of Ukrainians once the TPD expires.

Despite these uncertainties, the TPD proved an efficient framework for both temporary protection and regularisation for millions of war-fleeing residents of Ukraine in a challenging wartime context.

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Chapter 10

Lessons from North America on regularisation

*By Abigail Goldfarb, Jasmijn Slootjes, Bertrand Steiner (MPI Europe)
and Anna Triandafyllidou (CERC in Migration and Integration of Toronto
Metropolitan University)*



Key take-aways

- During the last decade, Canada has shifted away from its traditional system of one-step economic immigration (where people apply from overseas as economic immigrants and receive permanent residence as soon as they arrive in Canada), to increased reliance on two – or multi-step immigration (where people enter initially as temporary workers or international students and have restricted access to the next step(s) which may lead to permanent residence). This has multiplied the risk of slipping inadvertently out of status.
- Positive elements in past regularization experiences in Canada include: defining clear and simple criteria, provide information in multiple languages and modalities; assign trusted civil society organizations to provide information and support to applicants; provide multiple modalities for the submission of applications; require affordable fees; and establish firewalls so as to reassure applicants that providing their data for the application will not lead to their detention or deportation.

Introduction

Over the past decades, the United States and Canada have implemented a variety of regularisation initiatives reflecting different political contexts and policy goals. Since the 1986 Immigration Reform and Control Act (IRCA)—the last major U.S. legislation to provide broad-based regularisation for irregular migrants—the country has relied on ad hoc programmes as well as temporary relief measures, most prominently the Deferred Action for Childhood Arrivals (DACA). Canada, in contrast, has pursued numerically small, and highly targeted approaches, related to specific labour market sectors, humanitarian grounds, or community ties.

This chapter reviews the design, implementation, and outcomes of regularisation initiatives in both countries. It highlights key lessons—on political feasibility, administrative capacity, and long-term integration—that are relevant for EU and North American policymakers, as both continents can learn from one another.



Picture: Toronto, Canada

Regularisation programmes in Canada

Recent estimates produced by the MIrreM team suggest that there are between 600,000 and 800,000 migrants in Canada without residence status in the country, distributed across provinces with a higher incidence in Ontario and Quebec (approx. 200,000 'out of status' residents each) and with an over-representation of migrants without status in the city of Montreal.

Irregular residence status in Canada is usually the outcome of a failed transition from a temporary status (e.g. work permit or study permit) to another (e.g. from study permit to post-graduate work permit) or from temporary status to permanent residence status. Indeed, several current immigration policies and practices create ['gaps' in law or in implementation that increase the incidence of loss of status](#).

Since the 2010s, Canada has shifted away from its traditional system of 'one-step' economic immigration (where people apply from overseas as economic migrants and receive permanent residence as soon as they arrive in Canada), to increased reliance on a 'two-step' or 'multi-step' immigration model (where people enter initially as temporary workers or international students and have restricted access to the next step(s) which may lead to permanent residence). This has multiplied the risk of slipping inadvertently out of status. For example, an individual may enter Canada with an international study permit and apply for a post graduate work permit after they graduate from

their course of study. If they wish to stay permanently in Canada, they then have to apply for permanent residence – a process that is competitive and where applicants accumulate points (based on qualifications, age, professional experience, job offer, knowledge of the two official languages) through a Provincial Nominee Program or through the more general Express Entry system. Each of these steps requires a candidate to meet criteria and submit an application, and time for civil servants to process, approve and issue documents before the existing status expires and the person 'loses' status. The competitive nature of the process means that only a limited number of permanent residents are approved each year, hence applicants compete against one another, and those with highest points are accepted. This structure heightens the risk of status loss if documents are delayed, or quotas filled.

Further compounding factors that have increased the incidence of irregular status include:

- **Increased reliance on lower-skilled temporary migrant workers** in the post-Covid 19 period, who have limited pathways to permanent residence because of the skill-based character of the selection system;
- **Employer-tied work permits and poorly regulated sectors** – such as agriculture or live-in care – create dependence on employers and

heighten the risk of exploitation;

- **Programmatic or regulatory changes**, including the termination of the Live-in Caregiver Program or the 2024 restrictions on eligibility for several post-secondary education programmes, have

reduced the opportunities for many workers and students respectively to transition to permanent residency.

Previous Canadian regularisation models

During the past 65 years, Canada has implemented ten regularisation programmes targeting specific, small groups of people based on nationality or other reasons. Such programmes had stringent eligibility criteria and application processes, and each used different policy instruments to achieve its objective.

- 1960-1972: Chinese Adjustment Statement program (approx. 12,000 regularised)
- 1986-1973: Amendment to the Immigration Appeal Board Act (approx. 13,000 regularised)
- 1973: Adjustment of Status Program (approx. 39,000 regularised)
- 1981: Special Regularization Program for Haitians Residing in Quebec (approx. 4,000 regularised)
- 1983-1985: Minister's Review Committee (approx. 1,000 regularised)
- 1994-1998: Deferred Removal Order Class (approx. 3,000 regularised)
- 2002: Special Regularization Procedure for Algerians Residing in Quebec (approx. 900 regularised)
- 2004 - ongoing: Humanitarian and Compassionate Applications (applications ranging between 8,000 and 11,000 each year, and those accepted ranging between 3,000 and 5,000 annually, in the period 2016-2020)
- 2019-2024: [Temporary Public Policy for Out of Status Construction Workers in GTA](#) (approx.

452 workers and family members regularised in 2019-2023; modified because of low uptake, and extended to end of 2024 with total target of up to 1,000)

- 2020-2021: [Temporary Public Policy for Pending and Failed Asylum Seekers working in Direct Patient Health Care during COVID](#) (Quebec and Rest of Canada) (of 3,115 approved in principle, only 380 received Permanent Resident status as of May 2021).

Most of the previous Canadian regularisation models have included minimum residency requirements, inadmissibility based on security and serious criminality, provisions to include family members, and the attainment of permanent resident status as the final outcome of the regularisation process. The number of people regularised in each of the models mentioned above is small, ranging from 900 (2002 Algerians in Quebec) to 39,000 (1973 Adjustment of Status Program).

Typically, such programmes were open to people from specific countries of origin, those employed in certain sectors, those living in particular parts of the country, or refused asylum seekers who could not be deported. Some programmes have required evidence of 'good moral character' or 'integration' or 'economic stability' or 'humanitarian and compassionate reasons' but these criteria have generally been vague, loosely defined and open to interpretation and discretion by immigration personnel.

Positive elements and pitfalls of previous regularisation programmes

The federal government – notably the former Prime Minister Justin Trudeau - recognised in 2021 the vulnerability of residents without regular status, as well as the contributions that they make to Canadian economy and society and asked the then Minister of Immigration to ‘build on existing pilot programmes to further explore ways of regularizing status for undocumented workers who are contributing to Canadian communities.’ Despite related planning and stakeholder consultations, such a programme was not eventually implemented during the period 2021-2024 while the Trudeau government was in power and is unlikely to be implemented currently under the Marc Carney government.

It is important though to draw some lessons from past programmes considering the increased number of people without status that live in Canada. These lessons include some pitfalls to avoid such as: defining very restrictive criteria that reduce eligibility; requiring

extensive documentation that should be completed by employers or other third parties (that are likely not to come forward with such documentation); defining complex and discretionary criteria that render the process excessively bureaucratic, expensive and slow.

Positive elements in past regularisation experiences in Canada include: defining clear criteria, that are simple, broad and can be assessed objectively; provide information in multiple languages and modalities so as to reach a broad and diversified audience; assign trusted civil society organisations to provide information and support to applicants; provide multiple modalities including not only online but also by mail for the submission of applications; require affordable fees; and last but not most important establishing firewalls so as to reassure applicants that providing their data for the application will not lead to their detention or deportation by the police.





Picture: NYC, United States

Regularisation in the United States

The United States hosts one of the world's largest populations of irregular migrants. After rising steeply during the 1990s and early 2000s, the unauthorised population peaked at 12.3 million in 2007 and has [since stabilised at around 11 million people](#), with the highest

concentrations in California, Texas, New York, and Florida. Political polarisation and legislative gridlock have left only ad hoc, time-limited mechanisms for status resolution, creating a patchwork of protections that expand or contract with each administration.

Federal regularisation initiatives over time

Over the past four decades, the United States has relied on a succession of discrete programmes to transition segments of its irregular population into regular residence status. These initiatives unfold in waves that reflect shifting economic conditions and partisan alignments: broad regularisation in the 1980s, targeted humanitarian measures in the 1990s, and a trend towards narrowly tailored actions for specific target groups in recent years. The subsections below trace this evolution chronologically, identifying how design choices on eligibility, renewal, and convertibility have shaped both uptake and long-term outcomes.

IRCA 1986 – the high-water mark

The **Immigration Reform and Control Act (IRCA)** offered regularisation to migrants proving continuous residence since 1 January 1982; approximately 2.7 million secured permanent residence, the largest regularisation in U.S. history. Employer sanctions and increased border security were intended as trade-offs but proved hard to enforce, and no mechanisms adjusted visa quotas to labour demand, limiting deterrent effects.

Temporary Protected Status (TPS) – humanitarian but temporary

Created by **the Immigration Act of 1990**, TPS lets nationals already in the U.S. remain when their countries face armed conflict or disasters. Renewals occur every 6–18 months at executive discretion and confer work authorisation, but no pathway to permanent residence. As of mid-2024, approximately 1.2 million people from 16 countries hold TPS, led by Venezuela, El Salvador, and Haiti.

Post-IRCA legislative stalemate and attempts to regularise

The 1990s and early 2000s saw a series of legislative attempts to expand pathways to regular status for irregular migrants, but most proposals failed to gain sufficient support in Congress. For instance, the **DREAM Act** (2001) was introduced to provide regular status to young irregular immigrants brought to the U.S. as children but failed to gain adequate support. The September 11 attacks marked a turning point in U.S. immigration policymaking, as an agenda focused on national security concerns overshadowed public support for comprehensive reform.

Deferred Action for Childhood Arrivals (DACA) – executive stop-gap

Established by executive memorandum in 2012, **DACA** grants renewable two-year protection and work permits to eligible individuals who were brought to the U.S. before age 16. Court injunctions now bar new entrants, but roughly 530,000 retain active status.

Recent proposals and legislative developments

- **The Deferred Action for Parents of Americans** (DAPA, 2014) would have covered 3.3 million migrants but was blocked by the courts.
- **The Liberian Refugee Immigration Fairness Act** (2020) granted green cards to an estimated 10,000 to 12,000 Liberians resident since 2014.
- **The Farm Workforce Modernization Act** (2019) and **America’s CHILDREN Act** (2023) illustrate the turn to narrowly-tailored bills, yet both stalled in the Senate.

Design features and outstanding gaps

Federal regularisation initiatives in the United States share four core design traits that decisively shape their results. **First, they are highly selective and require extensive documentation.** Most require fixed ‘presence-since’ dates, a clean criminal record, application and renewal fees, and extensive documentation that many irregular migrants cannot readily assemble. As a result, only a fraction of the irregular population ultimately applies.

Second, most statuses created since 1990 are deliberately temporary. They grant work authorisation, Social Security numbers and protection from deportation, but offer no pathway to permanent residence. TPS illustrates the dilemma: over one

million people are living in the U.S.—many whom have resided there for decades—with a status that can be rescinded by executive action. DACA recipients find themselves in similar limbo as they age into adulthood, unable to adjust status or petition relatives.

Third, despite this fragility, temporary programmes yield significant economic dividends. For instance, DACA recipients earned more than 27 billion US dollars in annual wages as employees and employers and [contributed more than 2 billion US dollars to Social Security and Medicare](#). Moreover, DACA and TPS recipients contribute to local economics across the U.S., filling roles in high-demand sectors such as construction, healthcare, and hospitality.

Finally, all post-IRCA mechanisms suffer from policy volatility rooted in executive discretion and litigation. A change of administration, or a court ruling, can freeze new DACA applications, terminate a TPS designation, or expand it overnight. This stop-and-go

environment perpetuates a gap between the promise of regularisation and its lived reality, leaving millions ‘provisionally included’ but permanently uncertain.

Lessons learned – patterns and pitfalls

Nearly four decades of regularisation policy developments in the U.S. reveal several consistent patterns. First, **regularisations can succeed administratively only when paired with broader strategies to manage labour flows and enforce workplace standards.** IRCA demonstrated that mass regularisation is operationally feasible, but weak employer sanctions and visa quotas misaligned with labour demand allowed irregular migration to persist.

Moreover, **programmes that confer merely temporary protection—no matter how generous the work rights—tend to entrench precarity when renewal is uncertain or capped.** Two decades of Temporary Protected Status and a decade of DACA show that indefinite extension without a conversion pathway leave families in legal limbo and perpetuate inter-generational vulnerability.

Additionally, **eligibility dates that are frozen in time steadily erode coverage as the years pass.** Because programmes rarely reset their continuous-presence requirements, the pool of potential beneficiaries shrinks annually. By 2025, most undocumented youth arrived after DACA’s 15 June 2007 entry cut-off, leaving them without relief even when they meet all other criteria. Stagnant dates thus transform initially broad reforms into increasingly selective instruments.

Finally, **public attitude is generally permissive toward conditional regularisation, yet political and legislative gridlock continue to block systemic reform.** For instance, surveys indicate that [roughly three-quarters of Americans support offering regular status to irregular migrants](#) brought to the U.S. as children, but polarised politics within the Senate and House of Representatives prevent comprehensive legislative reform.

Conclusion – Lessons for the EU from North America

The experiences of the United States and Canada offer important, if cautionary, lessons for EU policymakers considering regularisation. In the U.S., repeated large-scale programmes have provided relief but failed to embed long-term, structural solutions. Temporary measures like DACA and TPS offer protection but lack the permanence needed for true social and economic integration. The absence of a systemic pathway since 1986 highlights the risks of relying on ad-hoc responses without broader legislative reform. Canada's more selective approach has shown promise in some areas, particularly where programmes were

simple, transparent, and supported by civil society. Yet, even with strong political signals, efforts to regularise undocumented workers stalled due to overly restrictive criteria, bureaucratic complexity, and lack of sustained political will. Together, these cases underscore the importance of designing regularisation programmes that are inclusive, transparent, and accessible – backed by political commitment and institutional support.

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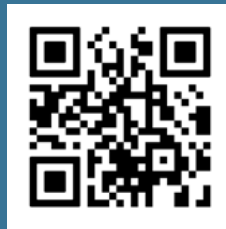
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This Handbook demonstrates that migrant regularisation is not an exceptional measure but a core policy tool of migration governance. It examines policy designs, actors, and implementation challenges, highlighting impacts on labour markets, rights and social cohesion. Drawing on evidence from Europe and other world regions, it equips policymakers with practical options to address the presence of irregular migrants effectively and sustainably.



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