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POLICY BRIEF 4

Managing Irregular Migration

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Introduction

In the past two decades, the Member States of the European Union have seen their population of irregular immigrants grow at ever increasing rates. Visa-free entries, visa overstaying and a poorly managed asylum system are three of the most frequently used routes to unauthorized stay but unauthorized entries also result in many irregular immigrants. No Member State publishes official estimates of the size of its irregular immigration. Impressionistic accounts, however, partly based on the large number of persons who have participated in regularisation programmes, suggest that the population of unauthorized immigrants in the EU might start at about one percent of the population of the EU 25 (at about four million persons) and is growing at annual rates that are well into the lower hundreds of thousands.

Responding to this trend, Member States have, individually and collectively, developed a bundle of policy responses to migration generally and, by extension, to irregular migration. So far, these efforts have been slow in bearing fruit—an outcome that requires the evaluation of each of these responses and how they are used. One aspect requires particular attention, namely, how policy outcomes might be different if the various policy tools were to be used in consciously mutually-reinforcing ways—that is, within a more explicit strategic framework.

The “tools” used most frequently include more vigorous border controls and improved visa policy, interior enforcement measures and measures to prevent illegal employment, and as a distant last, the removal of unauthorized immigrants. (Commission, 2003, 2004) Not all Member States apply these policies with equal vigour, and few would argue that they have particularly successful with any one of them, let alone across all of them in recent years. Some of these tools have been used with the nominal cooperation of third countries.

Most of these measures have been the subject of debate, have been evaluated, and have become the focus of EU-level action. One measure, however, the regularisation of irregular immigrants, has received little such attention despite being one of the most used and earliest-developed tools for managing illegal migration. As a result, regularisation remains a blunt and problem-ridden policy option.

The Regularisation Option

Since 1973, when a French programme launched the modern age of European regularisations, nearly 4 million people have been regularised in countries now belonging to the European Union. Most Member States that have carried out major regularisation programmes have done so more than once a decade, on average, despite repeated vows that such programmes would be “one-time-only.” Most other Member States have quietly but continuously regularised migrants, one at a time, or on a small group basis. There is no indication that the rate of regularisations has slowed. If anything, the frequency and total numbers of beneficiaries have continued to increase; In fact, Spain has just announced that its intention to conduct another regularisation program later this year. Yet, regularisation today is a stopgap measure. It is both evidence of and the result of the continued failure of other immigration management and control policies.

This paper seeks to raise the bar. It makes the case that regularisation, thoughtfully employed within a broader strategy of migration management, can not only prevent the population of unauthorized immigrants from building to unacceptable levels, but also play an important role in making other migration management tactics more effective. This case is made as follows:

- By drawing out some of the strengths and limitations of regularisations and other migration management tools;
- By identifying ways in which previous regularisation efforts have failed and succeeded (and explaining some of the reasons for this success or failure), and;
- By suggesting ways in which the various components of regularisation programmes might be improved and become integrated into an overall migration management and illegal migration control strategy.

Discussion

It has become evident that single-faceted policy solutions are simply not sufficient to control illegal immigration. The more vigilant visa, border and interior controls applied with increasing tenacity since the early-to-mid 1990s have not lowered unauthorized entries to acceptable levels. In fact, with the fundamental reasons for irregular migration essentially unchanged (if not strengthened), greater control efforts have pushed migrants to more dangerous and more complicated ways of crossing borders and remaining illegally in countries of destination. This has increased the human cost, deepened the underground existence of irregular migrants, and fuelled their potential for engaging in criminal activities beyond those of illegal presence and employment. Furthermore, much greater controls have their own non-pecuniary costs, some of which can be perverse:

- Tighter visa policy can only do so much before inhibiting legitimate travel.
- Increased controls, by disrupting circular migration, can encourage unauthorized migrants to make longer stays in the European Union than might otherwise have been intended.
- Markedly tighter interior controls can disrupt the economy, overwhelm the court systems, and give rise to human rights and civil liberties issues.

Other policy options have proven equally weak when used alone. Increased legal migration opportunities, implemented alone, are unlikely to substitute for illegal migration to a sufficient degree unless they are of a very large scale. Yet, very large flows are politically

unacceptable in any EU Member State. Furthermore, and as the Commission has noted in its communication on the topic, the link between legal and illegal migration flows is difficult to establish with any reasonable precision (Commission, 2004). In any event, since the early 1970s, legal labour migration in Europe has not been open at anywhere near the level at which one would be able to test any hypothetical linkage between the two processes. Efforts to control the irregular, or underground/informal, economy, while occasionally effective, are not a cure-all for illegal immigration. The presence of substantial numbers of unauthorized immigrants in countries with relatively small informal employment, such as France, is a strong demonstration of this point. Finally, the regularisation and expulsion of unauthorised immigrants are clearly only remedial measures that do not alter the fundamental dynamics—or realities—that drive unauthorized migration.

Taken together, each of the elements for controlling illegal immigration (and managing migration better) named above reinforces and increases the probability of success for the other. Here, we present a few important and frequently overlooked connections among many of the key elements of illegal migration control.

Expanded labour migration channels

Significantly expanded opportunities for labour migration have been thought of largely as a bargaining chip with which to secure the cooperation of countries of transit and origin. Concerns about adverse public reactions to that approach, however, have made this policy option very difficult to implement. It might be at least equally useful to think of labour migration programs as a way of giving domestic employers—whether factory owners, hospital administrators, elderly care facilities, personal and low-value added service providers, farmers, or homemakers and families—a reasonable alternative to hiring irregular workers.

For expanded labour migration to succeed in displacing illegal migration, several preparatory interventions are necessary. The most important are these are:

- First, the public must be prepared for the possibility of expanded labour migration, through public education and a reduction in domestic unemployment rates, particularly among minority and immigrant populations.
- Second, the existing unauthorised population must be minimized: if many immigrants remain in an irregular-status, some employers will be tempted to continue to employ them irregularly, perhaps continuing pre-existing relationships.
- Third, employers must be brought into the process of planning the migration programme at an early stage so that they can “buy-in” to the overall approach and cannot claim any incentive to continue to employ unauthorized migrants.
- Finally, illegal migration and irregular employment must not be allowed to continue to be attractive options for migrants or employers, making enhanced enforcement of immigration and labour law crucial.

These preparatory actions are justified by the logic that public support for expanding legal migration channels cannot be reasonably expected if the presence of unauthorised immigrants continues to be high.

An important element of the possible link between labour migration and illegal immigration is often overlooked. Labour migration openings can also be used as an “enforcement” tool. Firms and sectors that use legal migrant labour could be targeted for higher but less intrusive inspection for compliance with employment regulations (through audits and spot checks) and employers found employing unauthorized workers, or employing people off the books, could be denied access to migrant workers in the future. Additionally, expanded labour migration channels can serve as a “soft” regularisation tool of sorts, at least in the early years of the strategy’s implementation, by allowing illegally resident workers to apply for legal work with the assistance of their employer without leaving the host Member State. Several Member States already take variants of this approach to on-going regularisation.

Fighting irregular employment

A large proportion of Europe’s unauthorized immigrants live in EU Member States where employment in the underground economy is high among migrants and natives alike. Unauthorized migrants both fuel and are drawn to vibrant underground economies. Informal employment is thus a magnet for unauthorized immigration that is likely to overwhelm even the strongest controls—and often leads even authorised workers to work in the underground economy. The relationship works both ways, however. Just as the informal economy attracts irregular migrants, unauthorised immigrants make the informal economy more efficient, more profitable for both employers and consumers, and more durable. Workers who have few other employment options use ever-more creative ways of finding employment and continue to be a temptation to employers, making efforts to combat informal employment far more difficult. The existence of migrants who are determined to stay and survive (and who may fear returning to their country of origin because of conditions there, because they could be branded as “failures,” or because they may have to pay off debts associated with their travel and entry) can be problematic for other EU Member States *if employment options in the underground economy of the country of entry truly dry up*. If that becomes the case, these migrants may find movement to a more “hospitable” Member State or engagement in criminal activities to be their only options. For these reasons, removals and regularisation are intimately linked to other efforts to control the informal economy.

Removals and Regularisations

Both removals and regularisations are ways of reducing the stock of unauthorized immigrants. Yet, neither can really affect rates of irregular presence by itself. This reality challenges policy makers to understand better the important links between the size of the existing unauthorized immigrant population and policies intended to affect future inflows directly.

The two policy options have obviously different advantages and pitfalls. Large-scale removals are expensive, can be socially and economically disruptive, and may have serious humanitarian consequences, such as impacts on families with members of mixed legal statuses. Removals’ more benign cousin, voluntary return, does not seem to be applicable on a large scale, even when it is accompanied by financial incentives. Regularisation can be even more controversial as large proportions of the host population are likely to have a negative opinion of that option and may be willing to oppose it actively. Furthermore, regularisations operate under the cloud that they may encourage further illegal migration, possibly even by third country nationals residing in other Member States.

One of the most remarkable things about regularisation is that, despite its frequent use, there has been relatively little attention paid to improving it as a policy tool. The remainder

of this paper will be dedicated to exploring the virtues and limits of this tool, and to investigating ways in which it can be improved and be employed more strategically.

Selected Regularisation Types, Requirements, and Effects

Analytically, regularisations can be organized according to the administrative techniques employed; the criteria used to determine who can qualify and how; the programme's intent; and, the type of status granted.

The most frequently used regularisations are ones in which migrants must qualify within a limited period of time by satisfying a very small number of criteria. Almost invariably, the state claims that the proposed programme is "exceptional" and "one-time-only". The most commonly used criteria are employment-related, such as the requirement that applicants demonstrate that they have a steady formal sector job. In a frequent variation, applicants must also show that they have been employed for a certain amount of time, or have been resident since before a certain date. This last requirement is designed to avoid encouraging an influx of migrants in response to the regularisation.

General regularisations often involve large numbers of migrants and are sometimes sold politically as a way to "clean the slate." They are also a way to reduce social and economic marginalisation and, in today's environment of intense sensitivity to security, they are the most effective way to reduce dramatically the number of "unknown" residents and process them through the appropriate security screens. Yet, such regularisations can also become a *de facto* migration policy as some "one-time-only" programmes are repeated—often, again-and-again. This is the case in several Member States, most notably Italy, which has regularised more than 1.5 million immigrants on about half-a-dozen occasions since 1982.

At the other end of the spectrum are the less-known "continuous" or "permanent" regularisations. These are done on a case-by-case basis by administrative or judicial bodies, usually without much fanfare. To some degree, most advanced industrial societies rely on them, even those with no publicly acknowledged policy of regularisation.

The criteria used in such regularisations are generally similar to those that apply to overall migration. Economic need on the part of an employer, family connections to a legal resident (often justified by the fact that the regularised individual would qualify for immigration privileges had they not already entered the country), or humanitarian circumstances (usually, for people who have not qualified as refugees but face other humanitarian threats or health problems).

One of the most systematic—and large-scale—current examples of a continuous regularisation programme started in France under a May 11, 1998 law. The law broke with a French tradition of exceptional regularisations, and has survived a transition of government with widespread support. The law allows the following five categories of non-legal foreign residents who have strong links to France, or otherwise have strong reasons to stay, to petition the French immigration service for a permit.

- Foreigners who can prove they have been living in the country for ten years (three if they have children);
- Foreign parents of French children;
- Eighteen year old young adults who arrived in France before the age of 10;
- Family members of legal residents, whose immigration privileges are implied in Article 8 of the European Convention on Human Rights (ECHR); and
- Sick people who can prove that their deportation would prevent them from receiving the medical attention necessary to save their life.

In 2003, about 28,000 permits were issued on that basis, representing about 20 percent of all the permits issued to non-European foreign residents in France. The system is seen as a way to give residence rights to immigrants who have strong ties to France and to prevent the build-up of unauthorised immigrants without the political disruption surrounding exceptional regularisation programmes. Additionally, the gradual nature of the programme means that it is a relatively smooth administrative process, with the NGO community serving as a facilitator.

The status granted at regularisation also varies among states. Permanent or quasi-permanent status is granted relatively rarely in Europe, and usually only when the degree of integration and length of stay of the migrants is part of the qualification criteria. Temporary status—lasting the period of employment, the duration of the relevant humanitarian crisis, or a set number of months or years—is more common, although renewals and successive regularisations can make such stays anything but temporary.

Assessing Regularisation

One of the principal goals of regularisation is to reduce the number of people living in a country without the protections, privileges, and responsibilities of legal status. Today, this goal is joined by the need to reduce the number of people who are unknown to the security and intelligence services of a Member State. To the extent that these goals are thought to warrant a regularisation, its success must be evaluated in terms of the proportion of the potentially eligible unauthorized population that applies.

The very nature of illegal migration makes knowing the size of the illegally resident population impossible. That reality, in turn, makes estimating how many unauthorized immigrants will apply or qualify for regularisation equally impossible. Yet, it is clear that qualification criteria play a critical role. In the U.S. case, for example, the 1986 regularisation programme that granted legal status to nearly 2.8 million migrants included primarily those migrants who had been continuously resident in the United States since January 1, 1982. The final number who qualified was much larger than official estimates but about half of the undocumented population could not qualify because they had entered subsequent to that date.

In Spain's 1985 regularisation, the requirement that migrants be employed in the formal sector led about four out of ten migrants who applied only to seek a one-year residence permit that did not permit them to work. Presumably, many of these migrants were in fact working and/or intended to work, but because they could not show formal-sector employment they could not qualify for the full regularisation grant. Yet, stringent requirements do not always exclude large numbers of migrants from participation. In Italy's most recent regularisation, the requirements that employers pay fines for missed social contributions and that immigrants demonstrate that they had a formal-sector job offer did not prevent over 700,000 migrants—almost three times the number predicted by the government—from applying.

Criteria for regularisation, even if they do not exclude a large number of unauthorized residents up front, can create intense incentives for fraud. Criteria that require migrants to prove past behaviour that cannot be verified independently by public records do so most directly. For instance the residence requirement of the U.S. regularisation law created a significant industry surrounding the creation of false documents to demonstrate residence. So, too, can criteria that tread into areas where informality is the norm or that depend on promises about future behaviour. In one of Italy's regularisations, about 20 percent of inspected applications were found to have false information concerning the job offer and

many migrants were found to have paid their own fines (although in the name of their employer). Even legitimate employers who declared their intent to provide a job to applying migrants often did not end up employing the migrant at formal sector wage and social contribution rates. There are probably no qualification criteria for regularisation that can avoid such perverse incentives entirely. However, attention to the design of the criteria and solid investments in processing and investigations can contain the problem.

Beyond the level of participation and perverse incentives, regularisations must also be evaluated in terms of their success in allowing migrants to reach their full potential as workers, in ending social marginalisation, and in reducing informal employment. Despite the great number of regularisations conducted in Europe, evidence on the socio-economic effects of regularisations is sketchy, incomplete, and sometimes contradictory.

Labour market and social effects of regularisations

Evidence shows that regularisation can provide a critical opening in the workplace for regularised immigrants. In Italy, such immigrants have been able to move from street vending and other informal jobs in the south to manufacturing jobs in the north, while in the United States, regularisation allowed immigrants with higher skills to earn more than their lesser-skilled counterparts. In many more instances, regularisation also allows immigrants to access educational and training opportunities, join labour organizations and stand up against exploitation. Similarly, employers can view regularised immigrants as stable employees, which may entice employers to invest in them. In all these scenarios both immigrants and receiving societies benefit from regularisations.

Yet, regularisation is no magic bullet. For the least skilled immigrants who occupy the worst jobs, or in countries where the informal economy is large and employs both natives and authorized immigrants, regularisation may lead neither to upward mobility nor to formal-sector employment. In Greece's regularisations in the late 1990s and early 2000s, it is estimated that as many as 40 percent of regularised migrants failed to emerge from the informal sector. For better-skilled irregular migrants the lack of (relevant) language skills, the absence of adequate procedures to recognize foreign qualifications, and the relatively low value assigned by European employers to foreign work experience may leave immigrants working at levels far below those of citizens with similar skill-sets—even after regularisation. The conclusion is plain to see: in many cases regularisation is necessary, but not sufficient, for upward mobility.

The weak effect of regularisation on upward economic (and some social) mobility is also related to the fact that regularised immigrants often fall back into unauthorised status. Where the residence permit is temporary and its renewal depends on evidence of formal and stable employment, migrants often lapse into unauthorised status, initiating a vicious cycle that traps migrants in the informal labour market. However, such cycles are very much dependent on the depth of unwillingness by employers to hire foreign workers on the books—and can be disrupted by granting permanent, rather than temporary or conditional residence permission.

In France and the United States, for example, irregular employment is not as pervasive as it is in much of Southern Europe and regularisations have typically granted permanent residence permission. Although this correlation does not imply causality, it is important to note that surveys in both countries have found low rates of informal employment post-regularisation.

There is even less evidence on the effect of regularisation on social inclusion than there is about economic advancement. Yet, the less tangible effects of regularisation may be the most significant. Regularisation opens the doors to many crucial public services for those who are in many ways well integrated and have no intention of returning to their country of origin. The most important effect of such an opening may be on the second generation of mixed work status immigrant families and its value may be both psychological and measured in greater economic independence. Evidence in the U.S., for example, finds that the children of unauthorized migrants are less likely to seek social benefits to which they may be entitled than are the children of authorized immigrants. (Both groups may use public benefits at rates lower than those of eligible citizens and natives.) Finally, regularisation can open the door to dialogue and acceptance by the general population of the host country. Repeated regularizations, however, can undermine confidence in immigration—and in extreme cases, governance as a whole.

Selected critiques of regularisations

Regularisations are often criticised on the grounds that they tend to create artificial pressures for more unauthorised immigrants to seek entry into the country that uses them. The draw is thought to be the prospect of participating in the ongoing regularisation or the general impression that if one survives long enough as an unauthorised immigrant, one will eventually be regularised. These movements could be either secondary movements from within the EU or direct entries from third countries. This view finds some support in the literature. Some of that support takes the form of surveys of apprehended immigrants in which they refer to regularisation programmes as a reason for their attempt to enter illegally. Other support relies on correlations that “match” the top destinations of unauthorised immigrants and the countries that have performed the most regularisations—a correlation whose causality could run either way.

Such evidence does not make a conclusive case. In Southern European countries, where the risk of apprehension is particularly low, informal job opportunities abundant, and prospects for formal sector employment uncertain (at best), the prospect of regularisation is probably a far less important draw factor than is the general availability of work for unauthorized migrants. However, the possible signalling effect of repeated mass regularisations must not be dismissed.

A second point of concern is that immigrants might leave their state of residence following a regularisation. In the absence of internal frontiers, people can move virtually at will. Furthermore, that right (but not the right to work) is now available to all legally resident persons in the EU for up to three months. In fact, the Directive concerning the status of third-country nationals who are long-term residents raises the possibility that, at some future time, regularised immigrants, depending on the status they receive, could receive more broad employment and settlement rights in other Member States.

A final point of tension with regard to regularisations is the relationship between expulsion (removal) and regularisations. In some ways, these two options are substitutes and are difficult to deploy jointly. Most obviously, a regularisation programme in which not all applicants qualify, or in which some regularised immigrants later lose legal status, raises the question of what to do with those now-identified unauthorised migrants. There will always be a temptation to use the application process as an opportunity to identify and expel those who do not qualify for regularisation or those whose status later lapses. On the other hand, using regularisations to enable expulsion discourages migrants from applying, undermines goals such as reducing informal employment and social exclusion, risks being unable to check on as many people as possible against security criteria, and is likely to motivate civil society to stand firmly against the government.

Putting in place robust controls and increasing enforcement first, however, *and then following with a very broad and “generous” regularisation* (rather than vice-versa), is a superior way to deploy governmental resources. Together with strong incentives for all to participate in an effort akin to a “national project”, the government may in fact also win civil society support for a “post-regularisation” increase in enforcement.

New concepts in regularization: “earned” regularisation

The chief problems with regularisation programmes so far may be as follows:

- (a) They take little account of the behaviour and needs of migrants;
- (b) A single policy is expected to meet too many goals;
- (c) There has been remarkably little evaluation of and even less experimentation with that programme; and
- (d) Regularisations have been too infrequently deployed *jointly* with the other measures that one finds in the full migration management toolbox.

The requirement that a migrant should demonstrate formal sector employment in order to receive or maintain legal status, for example, has not been shown to be an effective measure in drawing migrants out of vibrant informal labour markets. An alternative, and as yet formally untested, approach might be to grant regularised migrants unconditional work permits and then target the sectors and companies in which they worked for greater enforcement of labour and migration laws.

Another example of an area where too little experimentation has taken place is the duration of residence permits. Most regularisations have assumed either that all unauthorised migrants would decide to return home within a few years or that all migrants desired and “deserved” to live permanently in the host country. Both assumptions are partially false, and the results can be seen in migrants who drop out of legal status yet stay on, and in political anxiety about granting the very important privilege of permanent residence too readily to people who have entered or stayed illegally.

The concept of “earned” regularisation addresses some of these problems. Earned regularisation has received most attention in the United States but has also entered the policy discussion in the United Kingdom. In such a programme, unauthorised migrants would enter a tiered regularisation process. In the first tier, applicants would qualify for temporary residence and work permission by registering with the government and submitting to full background checks. The important security concern would thus be satisfied first.

After a reasonable length of time, migrants would be able to apply for permanent residence and work permission, based on meeting criteria such as having a record of stable formal sector employment, paying taxes, passing a basic language skills test, engaging in the life of the community of which they are part, etc. Migrants would be awarded “credits” or “points” for meeting those and other reasonable requirements, and would earn permanent status if they gain enough points. Of course, the criteria for qualifying for each tier and the exact privileges, rights, and responsibilities awarded at that tier can vary without altering the basic concept. **An example of such a criteria set is included in Appendix Two.**

Earned regularisation appears to have the following strengths.

- First, by setting the bar for gaining temporary legal status relatively low, it can pull the largest possible number of unauthorized migrants out of the pool of unknown population and, hopefully, and with time, out of the informal economy.
- Second, it takes into account, without prejudging the fact that unauthorized migration is not an exclusively temporary activity, that many migrants may want to stay and work towards earning permanent status—and that they could be an asset to Europe if they were allowed to do so. In fact, a well-designed earned regularisation programme would grant settlement rights only to those migrants that demonstrate the prospect and the desire to succeed economically and integrate socially.
- Finally, a well-designed earned regularisation programme would place most of the burden of evidence on criteria that are a matter of public record, and thus less prone to fraud (e.g., tax receipts), are otherwise easily proven (e.g., language skills), and create incentives for ongoing positive behaviours.

Concluding Thoughts and Issues for Further Reflection

The regularisation of unauthorised immigrants, while controversial and complicated, is a public policy challenge that no country can ignore forever or, for that matter, ever perfect. Still, there remain a host of ways that regularisation can be made into a better policy tool. Some of the ways have to do with understanding better both conditions at the countries of origin (and, wherever appropriate, intervening thoughtfully) and migrant behaviour—such as the complex array of factors that drives a migrant to stay or leave his place of residence.

By considering such issues more carefully, the incentives that are built into regularisation programmes can be more carefully shaped, moving beyond the overly simplistic observation that regularisation engenders further irregular migration. Such observation leads to a policy dead-end—as do such pronouncements as that temporary labour migration programmes quickly become permanent. Part of creating better regularisation (or temporary labour) programmes will be not only better design, but better administration, with increased attention to verifying the information offered by applicants and to following more closely regularised (and temporary labour) migrants afterwards. Regularisation programmes must thus be allowed to become what they have the potential to become: investments in more orderly labour markets, in the rule of law, and in social inclusion and stability.

Beyond better-designed regularisation programs, however, lies the issue of how regularisation is to be coordinated within the broader context of managing migration better—much better—than is the case today. Clearly, regularisation is not an effective migration management tool in the absence of its full coordination with other measures, and may even be counterproductive in some cases. Yet regularisation can be an important stop-gap measure and a useful policy tool—as long as one does not expect it to be either the “last” one and/or to somehow end unauthorized migration. What may perhaps be more important is that regularisations be part of a larger strategy for managing migration, so that each regularisation is carried out in a society where illegal residence and its most troublesome corollaries—namely, lawless behaviour of several types and employment in the underground economy—are less pronounced than the last time a regularisation was carried out.

Challenges for Policymakers

1. Coordination among regularisation programmes, interior enforcement and border control efforts, relations with third countries and sustained efforts to formalise labour markets are all essential elements in the struggle to manage illegal migration. Existing national, and, gradually, Union-wide, methods of coordination across inter-

related policy domains should be examined more systematically, and, where appropriate, strengthened. In doing so, however, Member States and all relevant European institutions must think through and decide on the role of selected immigration in their future economic growth and social evolution and place irregular immigration controls in that broader context.

2. The Commission, in its communication on the links between legal and illegal migration, suggested that the regularisation programmes of one Member State could affect the interests of other Member States adversely. It then suggested consultation between Member States on regularisation, and, eventually, the possibility of agreement on "common criteria". Freedom of movement certainly raises the possibility of both shared benefits and consequences. This issue clearly requires further reflection.
3. In some Member States, regularisations have now become a near permanent feature of their migration "management" repertoire. Hence, it is important to draw out good practice and lessons from recurring regularisation programmes in Member States that have traditionally relied on them and begin to construct both an inventory and a "clearinghouse" for each practice. The policy objective in this regard would be to move beyond relying on regularisations merely as a tool for reducing the size of the irregular migration pool and move toward more comprehensive migration management approaches—of which regularisations are but one tool.
4. How to address the inherent tension between removals and regularisations has yet to be explored directly. Special attention must be devoted to the issues of applicants who do not qualify for regularisation or who later lose legal status. The potential of financial incentives for voluntary return could also be explored but only as part of a multifaceted policy architecture whose different parts reinforce the policy's overall objective.
5. Most European societies are now undeniably recipients of large-scale and ongoing permanent settlement by migrants, including unauthorised migrants. Illegal or otherwise precarious legal statuses appear to have a particularly strong negative effect on the second generation of immigrant families. Discussions about regularisation should take this fact into account.
6. The fact that migration is now a permanent phenomenon is widely accepted—and recent Council directives and conclusions attest to that. This means that more migrants will be settling in European societies. Earned regularisation programmes could become an additional way in which some prospective immigrants are "selected" and made full participants in these societies. Of course, such a policy decision will probably have to overcome public scepticism and can be only an adjunct to, rather than principal means of, selecting immigrants.
7. Regularisation programmes work best when incentives for participation are balanced to include migrants, employers, and the State. Disincentives, in turn, must be focused first and foremost on employers and new would-be irregular migrants. Thorough examination of the incentives created by past regularisation programmes and their effectiveness, as well as attention to creating "out-of-the-box" incentives for positive behaviour, are essential for all the main actors in regularisation efforts.

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