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SUMMARY

Though contentious, regularization remains a frequently utilized policy tool to address the European Union's rising number of unauthorized immigrants. The methods — and aims — of offering regularization vary, as do the immigrant groups targeted. In simplest terms, regularization grants legal status to unauthorized immigrants living and working illegally in a particular country. Proponents say that it reduces crime by, in effect, regulating the “underground” or informal labor market, and that it provides a humanitarian safety valve to people otherwise stuck in limbo. Since 1996, over 5 million people have been regularized through a variety of methods, from mechanisms built into policy frameworks, to “one-off” programs focused on a discrete group of people or time period, to the granting of legal status on an individual, case-by-case basis.

While regularization policies were initially implemented by northern European countries (e.g., France, Belgium, and the Netherlands) to regulate underground labor markets and grant unauthorized workers legal status, in the past two decades the trends have shifted. Now northern European countries use regularization almost exclusively for humanitarian purposes, and southern European countries (Spain, Greece, and Italy in particular) have large-scale regularization programs that focus on migrant workers. Despite the policy tool's frequent use, regularization has been the subject of much debate, both in the court of public opinion and in the highest political bodies of the European Union (EU). In the past decade, the EU-level dialogues have highlighted the view that regularization negatively impacts neighbor states and, on a large scale, is not politically digestible. That said, since an EU-wide policy on the use of regularization promises to be unpopular, countries are likely to continue implementing it on a case-by-case basis within the context of their own political, economic, and social dynamics.

Regularizations in the European Union: The Contentious Policy Tool

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I. Introduction

In recent decades, many Member States of the European Union (EU) have looked to regularization¹ measures as a way of addressing the rising number of unauthorized immigrants within their borders. Since their emergence in the 1970s in France, Belgium, the Netherlands, and the United Kingdom, regularizations have been used as a corrective device — in the absence of comprehensive migration policies — to address the mismatch between the number of immigrants legally permitted entry and those who migrate regardless.² EU Member States use regularization policies to manage the informal economy and irregular employment and to achieve humanitarian goals by granting legal status to unauthorized immigrants — asylum seekers in particular — as an alternative to removal.

How is regularization defined? To what ends is it used? Who is eligible? These are as much political questions as they are sociological and economic ones. The terms and conditions of regularization seek to balance the need for unauthorized immigrants to be counted as legal and be accounted for against public pressures — both across the European Union and within its individual states — from those who do not view “amnesties” favorably.³ Reflecting this conflict, there is little coherent agreement within the European Union on the definition, conditions, and scope of regularization.

This inconsistency further reflects increasing controver-

sy over the implications of regularization and how it should be used. Proponents of regularization argue that it increases tax revenues, grants crucial legal status and rights to people who have been living and working in a given country for years (and are unlikely to leave), and regulates the underground economy. As such, it aids public security objectives by preventing worker exploitation and discouraging the unlawful activities that often occur in an unregulated labor market. Those opposed argue that regularization encourages illegal immigration by implying that not only are there no consequences for breaking the law, but that it is, in effect, rewarded.⁴

Controversy aside, the use of regularization measures has increased since they were first introduced, particularly in southern Europe. The majority of programs (73 percent) were implemented between 1998 and 2008 in 18 EU states; since 1996 over 5 million people have been regularized.⁵ This underscores the fact that the flow of irregular migrants has steadily increased since such measures were first implemented, and because of this, states continue to prioritize their own economic goals despite a complex political reality in which discourse on the EU level opposes such methods. As this Insight will show, there is a marked disparity between the EU-level dialogue focused on curbing regularization and the actual practice of EU Member States.

II. What is Regularization? Terms and Approaches

The goals and rationales underpinning regularization programs vary significantly across Europe. Different programs have different eligibility requirements (some are for entire immigrant groups, others only

for workers in a specific sector), political objectives, target populations (tolerated persons, migrant workers, children born into irregularity, etc.), and programmatic details (offering temporary versus permanent residence, for example). What is considered *regularization* in Italy may be *normalization* in Spain, and in Germany simply an *adjustment of status*. That said, all regularization systems have the same objective: to grant legal status to people who lack it.

A. Terms and Use

The term *regularization* encompasses a variety of routes to temporary or permanent legal status; potential beneficiaries may include not only unauthorized persons, but also people who are formally or informally “tolerated” by governments that have granted them temporary or transitional status. The process of adjusting status is labeled differently across EU states. While this Insight outlines several terms in use within the European Union, it does not offer an exhaustive or official taxonomy. Often third-country nationals who are legally residing in a nation under a temporary arrangement or tolerated status are regularized through *normalization*,⁶ by which they are given superior legal status through either a temporary or permanent permit.⁷ This differs from the traditional understanding of regularization, in which legal status is given to an unauthorized migrant who lacks official status altogether.⁸

Tolerated status most often refers to people whose removal order has been suspended, and is common practice in Germany and Austria, as well as Poland, Slovakia, and Romania.⁹ *Formal toleration* falls short of full regularization, as no official resi-

dence permit is granted.¹⁰ Those who are formally tolerated include asylum seekers whose applications have been rejected but whose lives would be at risk should they be returned to their country of origin. In Germany, tolerated status, or *Duldung*, does not provide for residence rights, allows for only limited welfare benefits, and prohibits regular employment and free movement within the country.¹¹ However, toleration led to normalization in Germany and Austria in the 1990s through a two-stage process in which tolerated persons were first offered short-term residence permits (Austria) or suspension of their expulsion orders (Germany), and then later permanent legal status (see Appendix 1).¹²

B. Approaches: Programs versus Mechanisms

One distinction useful in categorizing regularization measures is that between *programs* and *mechanisms*. Generally, programs (also known as “one-offs”) refer to one-time measures that respond to particular circumstances (such as a sudden increase in asylum applications) or restrictive policy changes that have created a large group of immigrants without status. Mechanisms, by contrast, are often part of a broader migration policy framework, and can be either permanent or open-ended.

1. Programs

Programs often target specific categories of people (rejected asylum seekers, families in irregular situations, and other cases of humanitarian concern), exist for a limited time, and are not part of a regular policy framework. Some programs have a humanitarian focus, some have an eco-

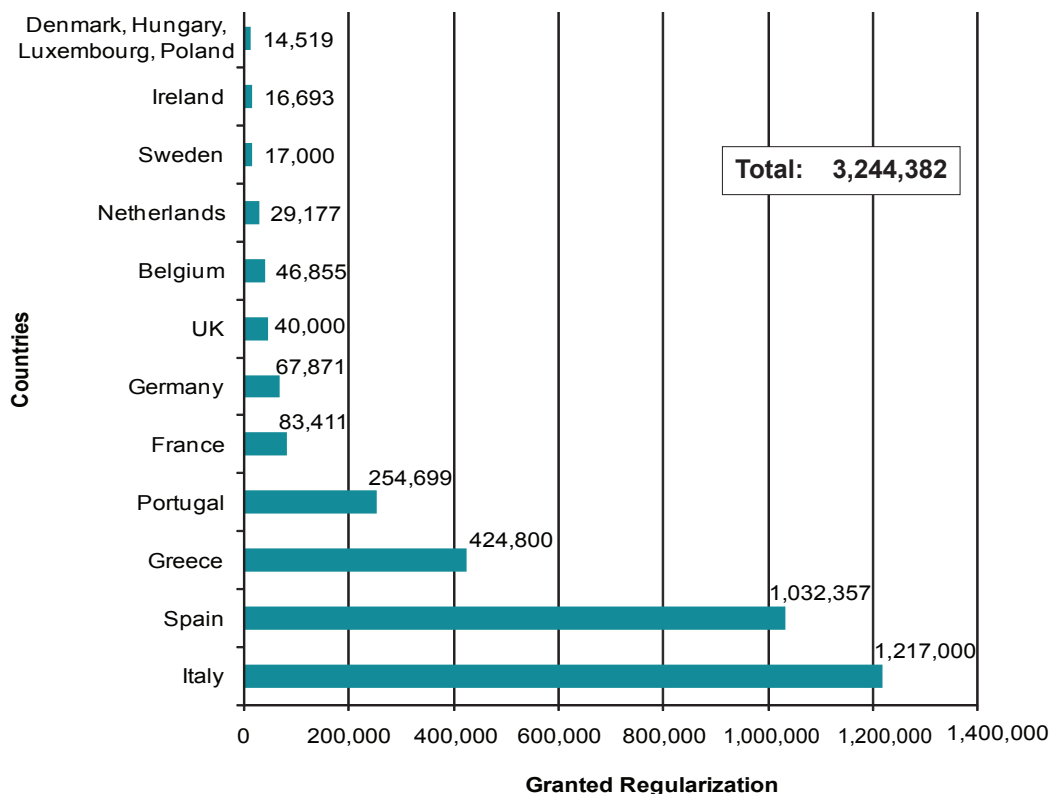
nomically rationale as well as a humanitarian one, and others are purely labor focused. Labor-focused regularization programs aim to retain workers who are considered economically beneficial or who work in occupations perceived to experience labor shortages.¹³ Italy’s passage of the *Martelli Law* in 1990 reflected dual economic and humanitarian purposes. Its goal was to value family unification, guarantee Geneva Convention protection of those from persecuted regions, and allow migrants to fulfill labor shortages.¹⁴

One-off programs can vary in their distribution. Some are for entire classes of people. For example, in France in 1997 and 1998, immigrants who had been in the country for seven years or longer, or who had significant family ties in France, were granted legal status in order to facilitate their economic and social integration. Other programs target specific sectors of the labor force (such as Italy’s 2009 law that regularized people who worked as home nurses or caregivers),¹⁵ and still others are applied on an individual or case-by-case basis. Most programs have been created through legislation, the main exceptions being France and a 2006 German program, adopted as a “common position” by the Council of Ministers.¹⁶ Between 1973 and 2008, 68 programs were implemented in Europe; a few targeted multiple groups of people, and over half were based on labor regulation. Of those people granted regularization during this period, 87 percent were unauthorized labor migrants.¹⁷

2. Mechanisms

Mechanisms became prominent in the 1990s in response to the “asylum crisis” that followed the dissolution of Yugoslavia. Typically, they are implemented on

Figure 1. Number of People Regularized through Programs, EU-27, 1996-2007



Note: Data missing for Greece (1997, 2001) and Lithuania.

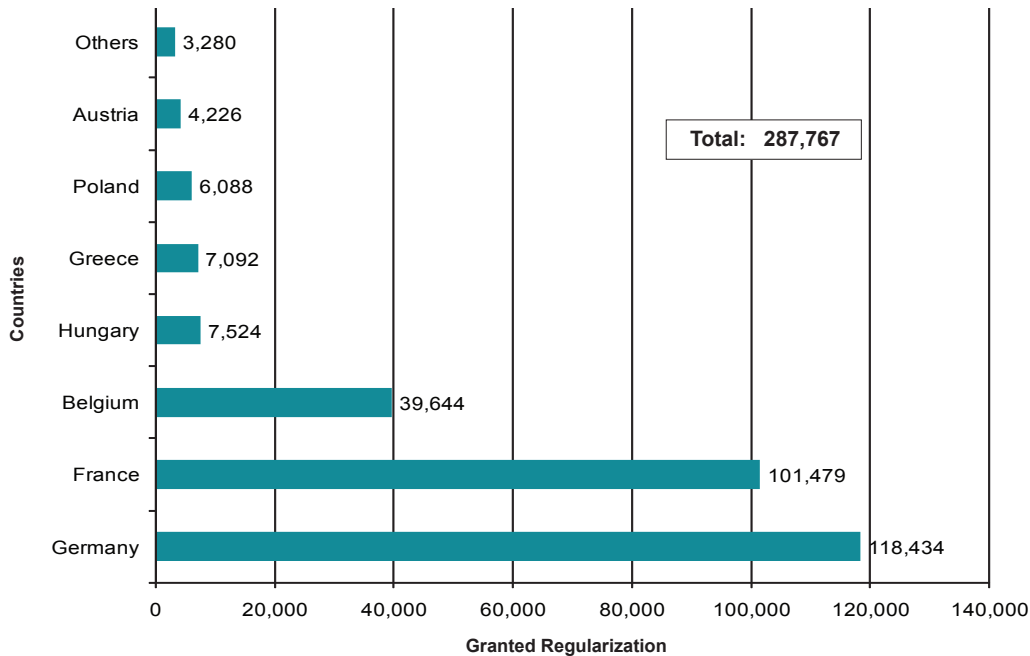
Source: Martin Baldwin-Edwards and Albert Kraler, *Regularisations in Europe: Study on Practices in the Area of Regularisation of Illegally Staying Third-Country Nationals in the Member States of the EU*, 31.

a smaller scale and involve “earned” legalization based on long-term residence or humanitarian considerations, such as in the case of asylum seekers whose applications have been rejected but who cannot be deported without risk to life and limb, immigrants with health issues, and people with binding family ties.¹⁸ As seen in Figure 2, France and Germany have utilized this method in the greatest numbers, but it should be noted that 21 of the 27 EU countries have used mechanisms, albeit often on a small scale.¹⁹ The United Kingdom, for example, has main-

tained an ongoing system of regularization that grants long-term residence to migrants who have been in the country continuously for 14 years, and to families with small children who have been in the country for seven consecutive years. Long-term residence grants migrants the same social and economic rights as British citizens.²⁰

The criteria of both regularization mechanisms and programs are similar, and often include requirements for the length and continuity of residence;

Figure 2. Number of People Regularized through Mechanisms, EU-27, 1996-2007



Note: This chart is based on information provided by 16 Member States on 28 mechanisms. These numbers should be taken as estimates, as the accuracy of government-provided data can be questionable.

Source: Baldwin-Edwards and Kraler, *Regularisations in Europe*, 35.

current employment or proof of future employment; and issues of humanitarian concern, such as the undue length of asylum procedures, inability to return to the country of origin, or health and family reasons. Some regularization systems take into account the immigrant's integration into the receiving society as well as nationality and academic or professional qualifications.²¹

The criterion most frequently emphasized in cases of economically focused regularization is proof of employment, either through employer sponsorship, documentation of continuous employment over a designated period, or a con-

tract for future employment. For some regularization programs in Spain and Italy (in Italy in 2002, for example),²² employers had to apply for regularization on behalf of the unauthorized immigrant. Meanwhile, the length of residency requirement varies. Often, programs focused on regularizing labor migrants require only that a person have been in the country prior to the enactment of the regularization.²³ Humanitarian programs, by contrast, are characterized by longer residency requirements. For example, France's *Chevenement Laws* stated that, to be considered for regularization, unauthorized immigrants must have lived continuously in France

for seven years. Subsequent French regularization mechanisms, focused on families and children, required fewer years of residency but included age and school enrollment stipulations.²⁴ Similarly, in the Netherlands in 2007, only those asylum seekers who had resided in that nation continuously since 2001 were eligible to receive a “general pardon.”²⁵

III. Regularization Trends in the European Union

Over the past few decades, there has been a regional shift in the purposes of regularization programs, and in the nations implementing them. What started decades ago as a policy tool used to accommodate and account for needed labor in northern Europe has become politically unviable in that region. Now the majority of economically focused regularization programs are to be found in southern Europe, where the number of unauthorized immigrants (most of them there to work) has increased exponentially in recent years.²⁶ Most northern European countries ceased to use large-scale regularization measures to regulate labor after the 1990s, when EU-level debates publicized opinion on their adverse effects on neighboring countries (citing, for example, additional inflows of people). By the end of that decade, political will to regularize was limited, and in some countries programs were implemented only in response to public pressure to address the living and working conditions of unauthorized migrants. It might be argued that France, Luxembourg, Belgium, and the United Kingdom put such programs in place in reaction to protests and

sustained public pressure.²⁷ These programs ranged from the very small and targeted — such as the United Kingdom’s Domestic Worker Regularisation Programme, which ran for ten years and regularized fewer than 200 people — to France’s 1998 Chevenement Laws, which regularized 87,000 people mostly for purposes of family reunification (see Appendix A).

Today, most northern European countries do not politically endorse the idea of regularization as a sound migration policy tool to address unauthorized labor migrants. Countries such as France, Ireland, Poland, Denmark, the Netherlands, Austria, and Germany have vocally opposed regularization, particularly large-scale one-offs, despite having used them in the past. France legalized over 100,000 people between 2000 and 2006 through mechanisms, but since 2007 has only maintained mechanisms for migrants in specific professions. Similarly, the Netherlands abolished the permanent regularization of unauthorized resident workers in 2003, after implementing it for over ten years.²⁸ Although the United Kingdom continues to regularize migrants on an ad hoc basis through its long-residence concession mechanism, policymakers oppose the idea of large-scale regularization programs, preferring to regularize immigrants on a case-by-case basis or through discrete, small-scale programs focused on extraordinary circumstances.²⁹

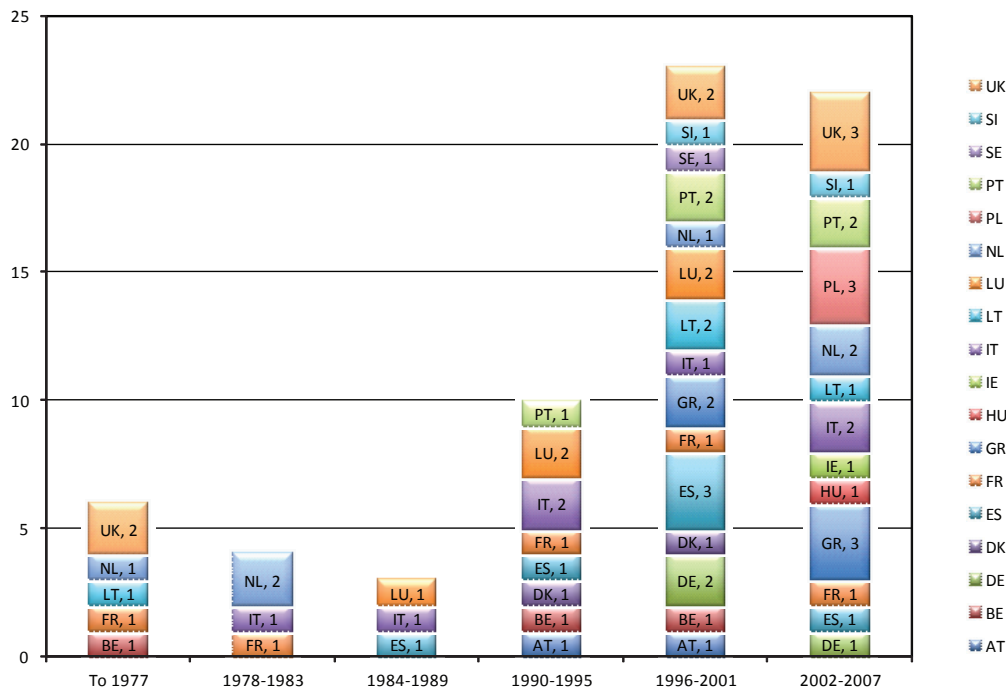
Sweden is also vehemently opposed to regularization, but for a different reason. Sweden has the most open labor migration policies in Europe, and opposes regularization on the basis that it should be unnecessary. This position

deviates from other northern EU countries that wish to restrict labor migration more generally, but continue to use regularization programs for humanitarian purposes. Belgium, Denmark, Finland, France, Germany, Luxembourg, the Netherlands, Sweden, and the United Kingdom have all implemented programs for hardship cases,³⁰ unsuccessful asylum seekers, and war refugees (see Appendix A).

Similarly, there are few regularization programs in Eastern Europe. Poland and Lithuania are the only eastern EU countries with official programs (which are very small).³¹ Mechanisms that exist in the other eastern countries are limited in scope and are primarily humanitar-

ian in nature. Bulgaria's *Law for Asylum and the Refugees*, as amended in 2005, provides for regularization mechanisms that grant asylum, humanitarian status, and temporary protection; Cyprus and Latvia only rarely grant temporary residence permits on humanitarian grounds (though since 2005, only 30 residence permits have been issued in Latvia); Malta grants humanitarian permits to asylum applicants and rejected asylum seekers; Romania offers extended residence permits and temporary toleration; and the Slovak Republic provides formal toleration though its 2002 *Act on the Stay of Aliens*.³² In 2002 Slovenia passed an *Amendment to the Law on Temporary Refuge*, allowing Bosnians to obtain permanent residence and other rights.

Figure 3. Number of Programs Implemented by EU Countries, 1973-2008 (68 in total)



Source: Kraler, "Regularisation: A Misguided Option," 20.

While economically based regularization became unpopular in northern Europe, it increased in both magnitude and scope in southern Europe in the face of increasing migration flows from North and sub-Saharan Africa. Governments in southern Europe advertised it to the public as a means of controlling the illegal employment of large numbers of immigrant workers, and thus curbing the informal market.³³ Regularization measures implemented in Italy, Spain, and Greece accounted for 84 percent of known applications to EU regularization programs between 1997 and 2007.³⁴ Italy regularized the highest number of people, followed by Spain and Greece. Meanwhile, in Portugal over 200,000 people were regularized between 2001 and 2004.

Southern Europe's regularization measures are not occurring in a political vacuum; countries here are highly sensitive to the surrounding debate, both at the state and EU levels. To that end, the language used to describe these measures is carefully crafted. Italy and Spain, the European Union's top "regularizers," have come to refer to their recent actions as *de facto*. Such actions include Italy's 2006 measures and Spain's 2005 program, which granted legal status to over 570,000 immigrants who had lived there for two years or more.³⁵ Facing EU-level criticism, Spain in 2006 announced that it would no longer implement major one-off regularization programs, an action distancing it from the much-criticized large-scale "amnesties" for which southern Europe (and Spain in particular) had become known.

IV. Conclusion

The debate over the merits and shortcomings of regularization systems shows no signs of abating. Those opposed claim that not only do such systems reward illegal immigration, but they have not always been successful in meeting their purported aims. In some cases (particularly in southern Europe) implementation has been poorly managed, restrictive requirements have led to under-enrollment and the falsification of documents, and temporary residence permits have lapsed, leaving migrants in unauthorized limbo once again.

These and other concerns are reflected in the European Union's increasingly more conservative stance on regularization. Overall, there has been a shift away from general amnesties through large-scale programs, as was seen in earlier decades, to the targeted regularization of specific groups of people (for humanitarian or strategic economic reasons) through mechanisms.³⁶ Meanwhile, there have been repeated EU-level proposals to limit Member States' freedom to implement regularization programs. These are driven by the belief that one Member State's regularization policies affect its neighbors, as the immigrants regularized are then free to move about the entire European Union. The Council Decision 2006/688 required members inform the EU Commission of planned regularization policies that could potentially impact other states.³⁷ Subsequently, in 2008, the French Presidency included a provision banning mass regularization in its draft of the *European Pact on Immigration and*

Asylum. Ultimately, this provision was removed to secure necessary support from Spain, but the general consensus was in its favor, and the final language of the pact allowed for only case-by-case — not general — regularization.³⁸

Despite overall EU support for limiting the use of regularization, the fact that Italy and Belgium both implemented large-scale regularization measures in 2009 demonstrates that EU rhetoric may not reflect the reality on the ground. It seems that, at the state level, governments will continue to act in their own best interests. This divergence with EU-level proposals may be even more pronounced at the local level. Several cities have publicly favored regularization — notably London, where all mayoral candidates in 2008 advocated it. There is growing unrest within city governments faced with large unauthorized populations resulting from national policies

over which they have no control (some cities and regions such as in Germany and France have discretion over these types of policies, but most do not).

At the same time, both individual Member States and the European Union have emphasized the importance of recognizing humanitarian cases. The *Return Directive*, a recent EU policy, contains rules governing when Member States can grant immigrants the right to stay — for example, on grounds of compassion or humanitarianism, but only as an exceptional measure.³⁹ According to a survey undertaken by the International Center for Migration Policy Development, however, EU governments are not in favor of a uniform EU policy on regularization.⁴⁰ Further divergence can be expected as each country uses regularization as a policy tool to reduce its stock of unauthorized migrants.

Appendix

Appendix A. Regularization by Country, Year, and Total Number of Programs, 1973–2008⁴¹

	Program Year	Total Number Applications	Total Number Regularizations Granted	Type and Permit Offered	Targeted Population
Austria	1990	30,000	30,000	Program (E) ^a	Illegally employed workers
	1998	85,000	85,000	Normalization Program (H) ^{b,c} (permanent residence)	Bosnian war refugees under temporary protection
Total		115,000	115,000		
Belgium	1973–75	8,420	7,448	Program (E)	Unauthorized migrants
	1995–99	6,137	6,137	Program (H)	Long-term asylum seekers; nondeportable aliens; other humanitarian cases
	2000	55,000	37,900	Program (H) (long-term residence)	Long-term asylum seekers; nondeportable aliens; other humanitarian cases/persons with substantial ties
Total		69, 557	51,485		
Denmark	1992–2002	4,989	4,989	Program (H)	War refugees from the former Yugoslavia
	2000	3,000	3,000	Program (H)	Kosovar refugees

Total		7,989	7,989		
France	1973	40,000	40,000	Program (E)	Unauthorized migrants (employment)
	1981–82	150,000	130,000	Program (E) (permanent residence)	Unauthorized migrants (employment)
	1991	50,000	15,000	Program (H)	Long-term asylum seekers who entered before 1989
	1997–98	135,000	87,000	Chevenement Laws Program (H) (permanent residence)	Family members; foreigners without dependents; refused asylum seekers and de facto refugees; ill persons
	2006	33,538	6,924	Program (H)	Families with 1 or more children in school
Total		408,538	278,924		
Germany ^d	1996	7,856	7,856	Program (H) (residence permit)	Asylum seekers who entered before 1990 and had more than 8 years residency
	1999	18,258	18,258	Program (H)	Rejected asylum seekers who entered before 1993
	2006	71,857	49,613	Program (H)	Long-term tolerated persons
Total		97,971	75,727		

Greece	1997	371,641	N/A	Program (E) (six-month permit)	Unauthorized migrants
	1998–2000	228,200	219,000	Program (E) ("green card": 1–3 years renewable residence and work permit)	Unauthorized migrants
	2001	367,500	341,300	Program (E) (6-month work and residence permit) ^e	Unauthorized migrants
	2005	90,000	90,000	Program (E)	Persons with expired permits
	2005	96,400	95,800	Program (E)	Unauthorized migrants
	2007	20,000	20,000	Program (E)	Subcategories of unauthorized migrants ^f
Total		1,173,741	N/A		
Hungary	2004	1,540	1,194	Program (E/H)	Unauthorized migrants (workers and family)
Ireland	2005	17,900	16,683	Program (H)	Parents of Irish children
Total		19,440	17,877		

Italy	1982	12,000	12,000	Program (E)	Unauthorized migrants
	1986–88	118,700	118,700	Program (E) (temporary work permit)	Unauthorized migrants
	1990	234,841	234,841	Martelli Law Program (E) (2-year residence)	Unauthorized migrants (workers and students)
	1995–96	256,000	238,000	Program (E) (1- or 2-year residence)	Unauthorized migrants (workers and students)
	1998	308,000	193,200	Program (E) (temporary work permit)	Unauthorized migrants
	2002	702,156	650,000	Bossi-Fini Law Program (E) (temporary 1-year permit)	Unauthorized migrants (caretakers and domestic workers)
	2006	500,000	350,000	Program (E)	Unauthorized migrants
Total		2,131,697	1,796,741		
Lithuania	1996	54	51	Program	Residents who arrived after immigration law and did not meet requirements
	1999	385	157	Program (E)	Unauthorized migrants
	2004	103	77	Program (E)	Unauthorized migrants
Total		542	285		

Luxembourg	1986	1,100	1,100	Program (E)	Unauthorized workers (Spanish and Portuguese)
	1994	470	470	Program (H)	War refugees from the former Yugoslavia
	1995	996	996	Program (H)	War refugees from the former Yugoslavia
	1996	1,500	1,500	Program (H)	War refugees from the former Yugoslavia
	2001	2,882	1,839	Program (H) (6-month residence permit to find employment, after which longer-term residence permit possible)	Rejected asylum seekers; other unauthorized migrants
Total		6,948	5,905		
Netherlands	1975	18,000	15,000	Program (E)	Unauthorized migrants
	1978	180	180	Program (E)	Cases rejected under previous measures
	1979	1,800	1,800	Program (E)	Unauthorized migrants
	1999	7,604	1,877	Program (E)	Unauthorized migrants
	2004	2,300	2,300	Program (H)	Long-term asylum seekers
	2007	30,000	25,000	Program (H)	Long-term asylum seekers
Total		59,884	46,157		

Poland	2003	3,508	2,747	Program (E)	Unauthorized migrants
	2003	282	282	Program (E)	Unauthorized migrants wishing to leave Poland
	2007–08	2,022	177	Program (E)	Unauthorized migrants
Total		5,812	3,206		
Portugal	1992–93	80,000	38,364	Program (E) (temporary residence)	Unauthorized migrants
	1996	35,000	31,000	Program (E)	Unauthorized migrants
	2001	185,000	185,000	Program (E) (1-year residency permit with possibility of renewal up to 4 times; after 5 years, applicant automatically eligible for permanent residence)	Unauthorized migrants
	2003	19,408	19,408	Program (E)	Brazilian unauthorized workers (Lula agreement)
	2004	40,000	19,261	Program (E)	Unauthorized migrants
Total		359,408	293,033		
Sweden	2006–06	31,000	17,000	Program (H)	Rejected asylum seekers
Total		31,000	17,000		

Slovenia	1999	12,000	12,000	Program (H)	Erased persons ⁹
	2002	2,400	2,200	Program (H)	Bosnian refugees under temporary protection
Total		14,400	14,200		
Spain	1985	38,181	34,832	Program (E) (1-year renewable residence and work permit)	Unauthorized migrants
	1991	130,406	109,135	Program (E & H) (3-year residence)	Unauthorized migrants (workers and family members)
	1996	25,128	21,382	Program (E & H) (5-year residence)	Unauthorized migrants (workers and family members)
	2000	247,598	199,926	Program (E) (1-year temporary residence/ work)	Unauthorized migrants
	2001	351,629	232,674	Program (E) (1-year temporary residence)	Unauthorized migrants
	2005	691,655	578,375	Program (E) (1-year renewable residence)	Unauthorized migrants
Total		1,484,597	1,176,324		

United Kingdom	1974–78	1,809	1,809	Program	Citizens of Commonwealth and former colonies
	1977	462	462	Program	Citizens of Commonwealth and former colonies
	1999	12,415	11,140	Program (H)	Long-term asylum seekers (backlogs)
	2000	11,660	10,235	Program (H)	Long-term asylum seekers (backlogs)
	2004	9,235	9,235	Program (H)	Long-term asylum seekers (families)
	2005	11,245	11,245	Program (H)	Long-term asylum seekers (families)
	2006	5,000	5,000	Program (H)	Long-term asylum seekers (families)
Total		51,826	49,126		
EU Total		20,654,071	4,062,279 ^h		

Notes:

^a “E” indicates employment-based or labor-market-oriented programs. It should be noted that “E” programs did not necessarily require proof of employment, but rather are aimed at regularizing those without authorization for purposes of the labor market.

^b “H” indicates humanitarian-based programs.

^c Baldwin-Edwards and Kraler, Appendix B, 7.

^d It should be noted that Germany implemented ten regularization programs for tolerated migrants between 1991 and 2005 that are not included above. For more information on these programs, see Baldwin-Edwards and Kraler, Appendix B, 54.

^e The initial permit was only for six months but was extended four times; therefore in reality it lasted for two years.

^f Subcategories included those who had received Greek schooling as pupils, parents of pupils, and claimants of Greek ethnicity who had been rejected. See Baldwin-Edwards and Kraler, Appendix A, 59.

^g “Erased persons” refers to former permanent residents from Yugoslavia’s successor states who failed to obtain permanent residence after independence.

^h This number does not reflect the total, since figures for Greece’s 1997 regularization were not available.

All regularization numbers come from Kraler, “Regularisation: A Misguided Option,” but details on the various programs come from the above sources. It should be mentioned that figures on regularizations varied across the Kraler report, the European Parliament briefing, the Baldwin-Edwards/Kraler REGINE report, and the Levinson study. This table reflects the numbers found by Kraler, unless otherwise noted.

Source: Kraler, “Regularisation: A Misguided Option,” 37–38; European Parliament, “Trends on Regularisation of Third Country Nationals, 8; Levinson, *The Regularisation of Unauthorized Migrants*; Rijpma and Pastore, “Review of Current International Approaches.”

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For more on the Transatlantic Council on Migration, please visit:
www.migrationpolicy.org/transatlantic.

Endnotes

- 1 *Regularization* is the term most frequently used in European policy circles; in the United States, the term *legalization* is typically used.
- 2 Albert Kraler, “Regularisation: A Misguided Option or Part and Parcel of a Comprehensive Policy Response to Irregular Migration?” (IMISCOE Working Paper no. 24, International Centre for Migration Policy Development, February 2009), <http://dare.uva.nl/document/138178>.
- 3 In Spain, for example, the massive 2005 regularization was termed a *normalización* (or “normalization”) to avoid the negative connotations associated with the term “regularization.” See European Parliament, “Trends on Regularisation of Third Country Nationals in Irregular Situation of Stay across the European Union,” Civil Liberties, Justice and Home Affairs Briefing Paper, European Parliament, January 2008, 38.
- 4 Kraler, “Regularisation: A Misguided Option,” 13.
- 5 Martin Baldwin-Edwards and Albert Kraler, *Regularisations in Europe: Study on Practices in the Area of Regularisation of Illegally Staying Third-Country Nationals in the Member States of the EU*. REGINE (Vienna: ICMPD, 2009), 30–1; Kraler, “Regularisation: A Misguided Option,” 20.
- 6 The term *normalization* should not be confused with Spain’s use of *normalización* to describe the regularization that took place in 2005, when over 570,000 unauthorized migrants were regularized and given temporary residence permits that could be renewed. This term was coined by Kraler and Baldwin-Edwards. See Kraler, “Regularisation: A Misguided Option,” 37; European Parliament, “Trends on Regularisation of Third Country Nationals,” 37.
- 7 Kraler, “Regularisation: A Misguided Option,” 15.
- 8 This paper will consider the normalization of tolerated persons as regularization, even though individual governments may not consider it as such. This follows the Baldwin-Edwards conceptualization of regularization, which includes the adjustment of status from tolerated to temporary or permanent legal residency; see Baldwin-Edwards and Kraler, *Regularisations in Europe*, 7.
- 9 Kraler, “Regularisation: A Misguided Option,” 24.
- 10 Those who have been granted formal toleration receive a document stating that removal has been suspended and that they may provisionally stay until a certain date. *Ibid.*; Baldwin-Edwards and Kraler, *Regularisations in Europe*, Appendix B: Country Profiles of 22 EU Member States and the USA, 53.
- 11 Jorrit Jelle Rijpma and Ferruccio Pastore, “Review of Current International Approaches with Regard to Regularization and Disincentives for the Employment of Irregular Migrant Workers,” in *Regularization and Employer Sanctions as Means towards the Effective Governance of Labour Migration: Russian Federation and International Experience* (Moscow: International Labor Organization, 2009), 70, www.ilo.org/public/english/region/eurpro/moscow/info/publ/regularization_en.pdf.
- 12 In Germany there are mechanisms to regularize tolerated persons who have been in limbo for many years. See also Kraler, “Regularisation: A Misguided Option,” 8.
- 13 *Ibid.*, 22.
- 14 Patrick Weil, “All or Nothing? What the United States Can Learn from Europe as it Contemplates Circular Migration and Legalization for Undocumented Immigrants” (Immigration Paper Series 2010, The German Marshall Fund of the United States, Washington, DC).

- 15 Organization for Economic Cooperation and Development (OECD), *International Migration Outlook*, Paris SOPEMI, 2010); 70, www.oecd-ilibrary.org/social-issues-migration-health/international-migration-outlook-2010_migr_outlook-2010-en.
- 16 Rijpma and Pastore, "Review of Current International Approaches," 75; Baldwin-Edwards and Kraler, *Regularisations in Europe*, Appendix B, 54.
- 17 Kraler, "Regularisation: A Misguided Option," 23.
- 18 Baldwin-Edwards and Kraler, *Regularisations in Europe*, 9.
- 19 The six countries that do not use mechanisms are Bulgaria, Cyprus, Italy, Romania, Slovenia, and Slovakia. It should be noted that the Netherlands stopped using mechanisms in 2003. Kraler, "Regularisation: A Misguided Option," 26.
- 20 Amanda Levinson, *The Regularisation of Unauthorized Migrants: Literature Survey and Country Case Studies* (Oxford: Centre on Migration, Policy and Society, University of Oxford, 2005), www.compas.ox.ac.uk/fileadmin/files/Publications/Reports/Regularisation%20Report.pdf.
- 21 Baldwin-Edwards and Kraler, *Regularisations in Europe*, 21.
- 22 Ibid.
- 23 See Table 1 in Levinson, *The Regularisation of Unauthorized Migrants*, 76-84.
- 24 France's mechanisms for exceptional regularization on a case-by-case basis continue, and the criteria have changed with subsequent laws in 2006 and 2007. For more information see Baldwin-Edwards and Kraler, *Regularisations in Europe*, Appendix A: Country Studies, 10-4.
- 25 OECD, *International Migration Outlook*, 71.
- 26 See Christal Morehouse, *Irregular Migration in Europe* (Washington, DC: Migration Policy Institute, 2011).
- 27 Levinson, *The Regularisation of Unauthorized Migrants*, 5.
- 28 Ibid., 27.
- 29 Ibid., 31.
- 30 Hardship cases refer to circumstances where a migrant would be faced with significant hardship if deported. This is usually in reference to separation of children from their parents or severe health problems.
- 31 More recently, in August 2011, a new regularization program was signed into law in Poland. It gives unauthorized migrants a six-month period to submit an application (beginning January 1, 2012), with successful applicants granted a two-year residence permit and entitled to work without requiring additional authorization.
- 32 See Baldwin-Edwards and Kraler, *Regularisations in Europe*, Appendix B: Bulgaria, 27; Cyprus, 31; Latvia, 78; Lithuania, 88; Malta, 95; Romania, 124; and Slovenia, 134.
- 33 Amanda Levinson, "Why Countries Continue to Consider Regularization," *Migration Information Source*, Migration Policy Institute, September 2005, www.migrationinformation.org/Feature/display.cfm?id=330.
- 34 Kraler, "Regularisation: A Misguided Option," 31.
- 35 Baldwin-Edwards and Kraler, *Regularisations in Europe*, 41; European Parliament, "Trends on Regularisation of Third Country Nationals," 37.
- 36 These mechanisms have run parallel to programs in Spain and Greece, and have replaced programs in

- Belgium, France, and the United Kingdom. See Baldwin-Edwards and Kraler, *Regularisations in Europe*, 44.
- 37 Council of the European Union, “Council Decision 2006/688/EC of 5 October 2006, article (2)(1)(OJ L 283/40 of 14.10.2006),” <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:283:0040:0043:EN:PDF>.
- 38 Euractiv, “The European Pact on Immigration and Asylum,” www.euractiv.com/en/socialeurope/european-pact-immigration-asylum/article-175489; Council of the European Union, “European Pact on Immigration and Asylum,” September 2008, <http://register.consilium.europa.eu/pdf/en/08/st13/st13440.en08.pdf>.
- 39 European Commission, “Proposal for a Directive of the European Parliament and of the Council on Common Standards and Procedures in Member States for Returning Illegally Staying Third Country Nationals,” COM (2005) 391 final, Brussels quoted in Kraler; 5.
- 40 International Center for Migration Policy Development (ICMPD), *Regularisations in Europe: Study on Practices in the Area of Regularisation of Illegally Staying Third-Country Nationals in the Member States of the European Union* (Vienna: ICMPD Policy Brief, February 2009), 6.
- 41 This table reflects only the number of people regularized through official programs. It does not include regularization through mechanisms or informal means.

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