# SPAIN'S LABOUR MIGRATION POLICIES IN THE AFTERMATH OF ECONOMIC CRISIS

By Kate Hooper

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# EXECUTIVE SUMMARY

Spain is a relatively new immigrant destination. A country of emigration for much of the 20th century, it introduced its first major immigration law in 1985 as a prerequisite for joining what is now the European Union. But this poorly crafted law offered limited opportunities for employers in a fast-growing economy to sponsor foreign workers or for labour migrants to maintain their legal status, resulting in a surge in the size of the unauthorised immigrant population as employers looked to hire from the informal economy. Curtailing irregular migration became a top priority in subsequent immigration reforms, as policymakers coupled efforts to crack down on the informal economy and illegal entry with the expansion of legal migration channels.

Spain has developed a demand-driven system for admitting low- and middle-skilled migrants that has enjoyed broad support from employers and business interests, trade unions, regional governments, and the public alike. Most migrants from outside the European Union enter through the General Regime, which enables employers to sponsor the workers they need for specific jobs. Spain has also developed the Collective Management System to recruit groups of workers, with government-led selection committees vetting and selecting workers for seasonal or short-term roles lasting up to nine months or for 'stable' jobs lasting up to two years. For foreign workers to participate in this system, their country's government generally needs to have signed a bilateral agreement with Spain to cooperate on migration issues.

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*As Spain's economy slowly recovers and demand picks up in sectors that have traditionally relied on foreign labour (such as construction and hospitality), policymakers may reactivate ... dormant migration channels.*

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The economic crisis that began in 2008 led the Spanish government to curtail migration channels for low- and middle-skilled migrants, including by suspending part of the Collective Management System and dramatically reducing the list of shortage occupations used in an expedited admissions process for in-demand sectors. As Spain's economy slowly recovers and demand picks up in sectors that have traditionally relied on foreign labour (such as construction and hospitality), policymakers may reactivate these dormant migration channels. And even as these remain paused, policymakers have in the past few years embarked on efforts to attract more high-skilled workers.

As the European Union pursues deeper cooperation with key sending and transit countries, Spain's approach to managing migration, and specifically its bilateral cooperation with third countries such as Morocco, have served as a model for the bloc. While Spain has not pursued new bilateral agreements since the onset of the economic crisis, it continues to invest in its extant partnerships and remains engaged in EU efforts to deepen cooperation on migration issues with African counterparts. More broadly, its efforts to curtail irregular migration by expanding legal migration opportunities may prove instructive. Spain has been reasonably successful in delivering on its legal migration pledges to key sending or transit countries (although falling demand in Spain for foreign labour may challenge its ability to offer opportunities for legal entry, as promised).

But Spain continues to grapple with irregular migration, fuelled both by visa overstays and by maritime arrivals from the Western Mediterranean. The political and economic turmoil in Venezuela, meanwhile, has led to a sharp increase in Venezuelan arrivals in Spain, with some entering and staying legally or applying for asylum, and others overstaying their visa-free travel period, creating a growing population in legal limbo. While Spain's unauthorised population is much smaller than it was in the mid-2000s, it remains quite dynamic, with new irregular arrivals and migrants falling out of legal status sustaining this population even as tens of thousands gain status each year. For now, Spain's population remain broadly supportive of migration; however, the ability of the government to review the country's immigration policies may hinge on the outcome of the Spring 2019 general election.

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# I. INTRODUCTION

Since the late 1980s, Spain has transformed from a major migrant-sending country into a major immigrant destination. For much of the 20th century, Spain was a country of emigration; approximately 6 million of its nationals moved to countries in the Americas and in North and Western Europe.[1] Between 1960 and 1973, around 100,000 Spanish nationals left for France, Germany, and Switzerland each year, working in unskilled or semi-skilled jobs in agriculture, manufacturing, mining, and other sectors.[2] But immigration to Spain started to grow in the 1980s, following the end of the Franco regime in 1975 and Spain's joining of the then-European Economic Community on 1 January 1986. By 2009, there were 4.79 million foreigners with resident permits living in Spain, up from 279,000 in 1990, alongside the significant unauthorised immigrant population living in the country throughout this period.[3]

> *Spain's relations with countries outside the European Union … feature prominently in its labour migration system.*

Reflecting its status as a relatively new immigrant destination, Spain's legal framework for admitting low- and middle-skilled immigrants dates from the late 1990s to mid-2000s. Employer sponsorship is at the heart of its labour migration system, which features the deep involvement of employers, trade unions, and regional governments. The Tripartite Labour Commission for Immigration, an advisory body comprised of representatives of the Secretary of State for Migration, business associations, and trade unions, helps determine a list of occupations experiencing shortages and set immigration quotas, drawing on input from regional governments.[4] Integration policy in Spain is highly devolved, with regional governments and municipalities taking the lead in setting integration plans and delivering services to immigrants. Spain's relations with countries outside the European Union also feature prominently in its labour migration system. For example, Spanish employers are able to recruit seasonal agricultural workers from third countries with which Spain has signed a bilateral agreement.

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1   Nieves Ortega Pérez, 'Spain: Forging an Immigration Policy', *Migration Information Source*, 1 February 2003, www.migrationpolicy.org/article/spain-forging-immigration-policy.

2   France, Germany, and Switzerland ended their guest worker programmes in the early 1970s, following the oil crisis of 1973 and the resulting recession. See Olympia Bover and Pilar Velilla, 'Migrations in Spain: Historical Background and Current Trends' (working paper 9909, Bank of Spain, Madrid, 1999), 13–14, www.bde.es/f/webbde/SES/Secciones/Publicaciones/PublicacionesSeriadas/DocumentosTrabajo/99/Fic/dt9909e.pdf.

3   This is the stock of all foreigners (EU/non-EU nationals) holding a residence permit by 31 December of that year, and excludes those residing in Spain illegally at the time, and some of those who regularised their status under the 2000 regularisation programme. See Secretary of State for Migration, 'Tabla 1. Evolución de extranjeros con certificado de registro o tarjeta de residencia en vigor según sexo y nacionalidad, 1999–2009', in *Extranjeros con certificado de registro o tarjeta de residencia en vigor*, 31 December 2009, http://extranjeros.mitramiss.gob.es/es/Estadisticas/operaciones/con-certificado/index2.html; Organisation for Economic Cooperation and Development (OECD), 'Table A.1. Stocks of Foreign Population in Selected OECD Countries (Thousands)', in *Trends in International Migration 1997* (Paris: OECD Publishing, 1997), 218, https://read.oecd-ilibrary.org/social-issues-migration-health/trends-in-international-migration-1997_migr_outlook-1997-en#page214.

4   The Tripartite Labour Commission was established in 2005 to serve as an advisory body to the Ministry of Labour, Migration, and Social Security, and to provide input on the shortage occupations list, annual quotas, management of migration flows, and related proposals. Headed by the Secretary of State for Migration, the commission also includes two vice presidents (one elected from trade unions and one from business associations); eight senior representatives from the Ministry of Labour, Migration, and Social Security (including the Secretary of State for Migration and other employment and social security bodies within the ministry); eight members from business associations; and eight members from trade unions. See Ministry of Labour, Migration, and Social Security, 'Orden TAS/1713/2005, de 3 de junio', *Boletín Oficial de Estado,* no. 138 (10 June 2005), www.mitramiss.gob.es/es/Guia/leyes/OTAS171305.htm.

But the economic crisis that began in 2008 and its ongoing effects have put a strain on Spain's migration system. The country's pervasive high unemployment rates, especially among young people, have prompted the suspension or curtailing of certain pathways for low- and middle-skilled immigrants. Among other austerity cuts, the national government suspended its fund for immigrant integration in 2012, leaving autonomous communities,[5] provinces, and municipalities to make up the shortfall.[6] More recently, a spike in unauthorised maritime arrivals to Spain from 2017 onwards may present new challenges as local communities integrate newcomers with potentially complex needs.

This report examines how Spain developed its migration policies for low- and middle-skilled migrants, exploring which non-EU migrants might qualify to move to Spain and on what terms. It takes stock of how these policies have changed in response to fluctuating domestic demand for immigrant labour, and how effective these policies have been. To this end, it considers both the profile of immigration flows to Spain and current policy priorities, such as responding to the ongoing effects of the economic crisis and curbing irregular migration.

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**Box 1.　　About the project**

This report is part of the research project 'Legal Migration for Work and Training: Mobility options to Europe for those not in need of protection', carried out by the Research Unit of the Expert Council of German Foundations on Integration and Migration in cooperation with the Migration Policy Institute Europe, funded by Stiftung Mercator.

Given the scale of irregular migration to Europe, this project asks what legal alternatives exist or could exist for third-country nationals who are not in need of humanitarian protection and who seek to move for education, training, or work. The research is based on five country case studies—France, Germany, Italy, and Sweden, in addition to the present study on Spain—as well as analysis of the European Union's external migration policy. It explores existing legal migration options and challenges in policy design and implementation, and reflects on opportunities to develop effective legal migration policies and programmes.

The case study on Germany (in German) is available here: www.svr-migration.de/publikationen/alternativen_zum_asyl/; an English summary is available here: www.svr-migration.de/en/publications/alternatives_to_asylum/. Further publications in English and German are scheduled for release in 2019.

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## II.　SPAIN'S MIGRATION CONTEXT: AN OVERVIEW

Spain's immigrant population grew dramatically during the 1990s and 2000s. Foreign nationals accounted for 2.9 per cent of the total population in 1998; a decade later, in 2008, they accounted for 13.4 per cent.[7] During

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5　Spain has 17 autonomous communities, or regions, with their own governments. The powers devolved to each autonomous community vary; for example, Navarre and the Basque country can collect their own taxes.

6　A Barcelona city official estimated that the national fund had previously provided about 4.4 million euros in funding for the city per year between 2006 and 2010; by comparison, they have received about 1.1 million euros in funding from Catalonia since 2012.

7　This total includes both Spanish and foreign citizens. See Instituto Nacional de Estadística (INE), 'Principales series de población desde 1998', Estadística del Padrón continua, accessed 1 April 2019, www.ine.es/dynt3/inebase/index.htm?type=pcaxis&path=/t20/e245/p08/&file=pcaxis.

this period, Spain became one of the top immigrant-receiving destinations in the Organisation for Economic Cooperation and Development (OECD).[8]

This dramatic increase in immigration to Spain was driven by several factors:

- *Rapid economic growth and job creation.* Spain experienced a prolonged period of economic growth, especially in the real estate sector, during the late 1990s and early 2000s.[9] This led to significant job creation in a number of low- and middle-skilled sectors, such as construction, hospitality, and domestic services.[10]

- *Shrinking native-born workforce.* At the same time, the native-born low- and middle-skilled workforce was shrinking. This reflected both Spain's ageing population and the growing share of Spaniards choosing to pursue tertiary education and more skilled work opportunities with better working conditions.[11]

- *Attractiveness as an immigrant destination.* Spain's appeal as a destination country was rooted not only in its booming economy and demand for foreign labour, but also in the relative ease of accessing the country. For example, strong economic prospects coupled with a common language and visa-free travel encouraged many Latin American migrants to move to Spain in the 1990s and early 2000s, often arriving as tourists but instead looking for work and staying beyond the three-month visa-free travel period.[12] Spain's relatively restrictive labour migration policies in this period, despite strong demand for foreign workers, coupled with lax immigration enforcement led to a surge in the unauthorised immigrant population.[13]

## A. Composition of Spain's immigrant population

Figure 1 illustrates both the rapid growth of Spain's immigrant population, and how its composition has changed over time. Between 1998 and 2008, the foreign-born population grew by almost six times. But as the economic crisis set in, unemployment rates soared, particularly among non-EU immigrants. Subsequently, the foreign-born population started to decline, falling from 6.6 million in 2010 to 6.2 million in 2018.[14]

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8  Between 2000 and 2008, Spain registered 5.2 million new foreign nationals. Among OECD members, this figure puts Spain behind only the United States and Germany, both of which have far larger populations. (In 2008, the U.S. population was 304 million, Germany's population was 82 million, and Spain's was 46 million). See OECD, 'Inflows of Foreign Population by Nationality', International Migration Database, accessed 11 November 2018, https://stats.oecd.org/Index.aspx?DataSetCode=MIG#; OECD, 'Population: Total, Millions', accessed 11 November 2018, https://data.oecd.org/pop/population.htm.

9  Between 1997 and 2004, the construction sector grew by an average of 6 per cent annually, rising from 11.5 per cent of gross domestic product (GDP) in 1997 to 16 per cent by 2004. See Javier Yaniz Igal, 'The Spanish Housing Market: Are We in for a Soft Landing?' *ECFIN Country Focus* 3, no. 1 (2006), http://ec.europa.eu/economy_finance/publications/pages/publication1347_en.pdf.

10  Núria Rodríguez-Planas and Natalia Nollenberger, *A Precarious Position? The Labor Market Integration of New Immigrants in Spain* (Washington, DC: Migration Policy Institute, 2014), 2–3, www.migrationpolicy.org/research/precarious-position-labor-market-integration-new-immigrants-spain.

11  Joaquín Arango, *Exceptional in Europe? Spain's Experience with Immigration and Integration* (Washington, DC: Migration Policy Institute, 2013), 3, www.migrationpolicy.org/research/exceptional-europe-spains-experience-immigration-and-integration; author interview with University of Barcelona academic, Barcelona, 3 October 2018.

12  Similarly, Romanian migrants may have been drawn by the relative ease of learning Spanish, another Romance language.

13  Claudia Finotelli and Joaquín Arango, 'Regularisation of Unauthorised Immigrants in Italy and Spain: Determinants and Effects', *Documents d'Anàlisi Geogràfica* 57, no. 3 (2011): 503.

14  Non-EU nationals are required to renew their registration in the municipal register (Padrón) every two years in order to access public services (e.g., health care and children's education), which can lead to a lag between when people leave Spain and when their departure is reflected in the data. Spanish and EU citizens, and non-EU-citizen permanent residents, are required to renew their registration every five years.

**Figure 1. Foreign-born persons registered in Spain, by region of birth, 1998–2018**
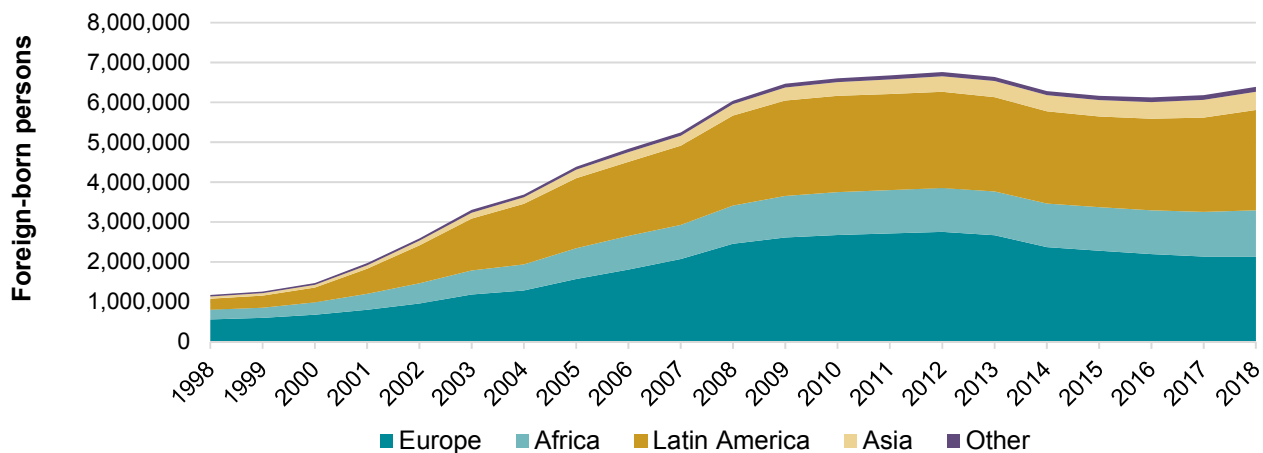


*Note:* These data cover Spain's foreign-born population and include both foreign nationals and naturalised Spanish citizens. 'Latin America' combines data for the Caribbean and Central America with data for South America; 'Other' combines data for North America and Oceania.
*Source:* Instituto Nacional de Estadística (INE), 'Principales series de población desde 1998', Estadística del Padrón continua, accessed April 1, 2019, www.ine.es/dynt3/inebase/index.htm?type=pcaxis&path=/t20/e245/p08/&file=pcaxis.

The non-European immigrant population in Spain has grown particularly rapidly, as illustrated in Figure 1 and Table 1. While Europeans accounted for about half of the foreign-born population in 1998, this share fell to one-third by the early 2000s, as immigration from other regions, notably Latin America and Africa, soared.[15]

**Table 1. Top countries of origin for Spain's foreign-born population, 1998 and 2018**

| 1998 | | | 2018 | | |
|---|---|---|---|---|---|
| **Country of origin** | **Foreign-born persons** | **Share of total foreign-born population (%)** | **Country of origin** | **Foreign-born persons** | **Share of total foreign-born population (%)** |
| **Morocco** | 190,000 | 16 | **Morocco** | 826,000 | 13 |
| **France** | 143,000 | 12 | **Romania** | 594,000 | 9 |
| **Germany** | 115,000 | 10 | **Ecuador** | 404,000 | 6 |
| **United Kingdom** | 88,000 | 7 | **Colombia** | 394,000 | 6 |
| **Argentina** | 61,000 | 5 | **Argentina** | 256,000 | 4 |
| **Portugal** | 51,000 | 4 | **Venezuela** | 255,000 | 4 |
| **Switzerland** | 47,000 | 4 | **United Kingdom** | 249,000 | 4 |
| **Venezuela** | 46,000 | 4 | **France** | 204,000 | 3 |
| **Cuba** | 31,000 | 3 | **Peru** | 202,000 | 3 |
| **Peru** | 27,000 | 2 | **China** | 195,000 | 3 |

*Note:* Data rounded to nearest thousand.
*Source:* INE, 'Principales series de población desde 1998'.

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15   In turn, while the share of people from Western European countries, such as France, Germany, and the United Kingdom fell, the share of people from Eastern European countries, notably Romania, rose significantly.

In 2018, one-third of Spain's foreign-born population came from four countries: Morocco (13 per cent), Romania (9 per cent), Ecuador (6 per cent), and Colombia (6 per cent). Hundreds of thousands of migrants from Ecuador and Colombia moved to Spain starting in the mid-1990s. Many of these arrived as tourists and then stayed and worked in the country as irregular migrants, or made use of laws that granted citizenship by descent (see Box 1).[16] Moroccans started coming to Spain in large numbers in the mid-1980s to work in low-skilled jobs in agriculture and construction; after Spain introduced visa requirements in 1991, more people stayed on a permanent basis while others entered the country illegally.[17]

*Moroccans started coming to Spain in large numbers in the mid-1980s to work in low-skilled jobs in agriculture and construction.*

The composition of recent immigration varies by country of origin, as shown in Table 2. For example, permits issued for family reasons accounted for about three-quarters of all permits issued to Moroccan and Venezuelan nationals in 2017, but only one-third of those issued to Chinese nationals. Permits issued for educational reasons, meanwhile, accounted for about one-third of all permits issued to Colombian, Chilean, and Ecuadorian nationals, but only 2 per cent of permits issued to Moroccan nationals.

**Table 2. First residence permits issued to nationals of top non-EU origin countries, by reason, 2017**

| Permit type | Morocco | Colombia | China | Venezuela | Ecuador |
|---|---|---|---|---|---|
| **Employment** | 8,400 | 800 | 600 | 1,400 | 600 |
| **Family** | 32,700 | 8,400 | 4,800 | 8,300 | 4,800 |
| **Education** | 900 | 4,700 | 4,900 | 1,100 | 2,700 |
| **Other** | 2,600 | 1,600 | 1,500 | 1,400 | 700 |
| **Total** | **44,600** | **14,700** | **14,200** | **11,600** | **8,900** |

*Note:* Data rounded to nearest hundred.
*Source:* Eurostat, 'First Permits by Reason, Length of Validity and Citizenship [migr_resfirst]', updated 19 January 2019, https://ec.europa.eu/eurostat/web/products-datasets/product?code=migr_resfirst.

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16  Arrivals fell after Spain introduced visa requirements for Ecuador (2003) and Colombia (2001). Regularisation drives between 2000 and 2005 provided legal status to 101,474 Colombians and 199,152 Ecuadorians. See Finotelli and Arango, 'Regularisation of Unauthorised Immigrants in Italy and Spain', 506–07.
17  Hein de Haas, 'Morocco: Setting the Stage for Becoming a Migration Transition Country?' *Migration Information Source*, 19 March 2014, www.migrationpolicy.org/article/morocco-setting-stage-becoming-migration-transition-country.

**Box 2.     Spain's nationality laws for residents**

Spanish law requires foreigners to reside legally in Spain for ten years before they can apply for naturalisation, with the following exceptions:

- People holding refugee status can apply after five years.

- Nationals of Ibero-American countries, Andorra, Equatorial Guinea, the Philippines, and Portugal, and people of Sephardic origin can apply after two years.

- People born in Spanish territory, married to a Spanish national, or born outside Spain but with a Spanish-national parent or grandparent can apply after one year.

These laws create significant discrepancies in access to citizenship among some of the largest immigrant groups in Spain, with preferential treatment for the Spanish diaspora (and nationals of former Spanish colonies). For example, while a Moroccan national would only be eligible to apply to become a Spanish citizen after ten years in the country, an Ecuadorian national would be eligible to apply after two years (or even one, if he or she has a Spanish parent or grandparent).

*Note:* This preferential treatment of nationals of countries with Spanish colonial ties excludes Morocco, the north of which was a Spanish protectorate between 1912 and 1956.
*Source:* Ministry of Foreign Affairs and Cooperation, 'Spanish Nationality', updated 14 May 2018, www.exteriores. gob.es/Portal/en/ServiciosAlCiudadano/InformacionParaExtranjeros/Paginas/Nacionalidad.aspx.

## B. Irregular migration

Irregular migration has been a prominent feature of both Spain's labour market and its immigration policy writ large. Spain has a sizeable informal economy (estimated at around 25 per cent of gross domestic product, or GDP), which has long seen immigrants employed in unskilled or semi-skilled sectors such as agriculture and domestic care.[18] Spain's efforts to regulate its immigration system has had the unintended consequence of pushing large numbers of immigrants into irregular status. By 2004, the unauthorised immigrant population in Spain was estimated at 1 million people, although a combination of regularisation campaigns and the start of the economic downturn meant this number had fallen to around 390,000 by 2009.[19]

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18  Estimates from Leandro Medina and Friedrich Schneider, 'Shadow Economies around the World: What Did We Learn over the Last 20 Years?' (IMF Working Paper WP/18/17, International Monetary Fund, Washington, DC, January 2018), www. imf.org/en/Publications/WP/Issues/2018/01/25/Shadow-Economies-Around-the-World-What-Did-We-Learn-Over-the-Last-20-Years-45583.

19  Arango, *Exceptional in Europe.*

Today, a comparison of municipal registration data and residence permit data suggests that the unauthorised immigrant population numbers around 576,000.[20] Most unauthorised immigrants enter Spain legally—as tourists, for example—and overstay their terms of stay.[21] Interviews conducted with Spanish government officials as part of this study also highlight that Venezuelan nationals fleeing economic and political turmoil in that country have added to the unauthorised immigrant population.[22]

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*Most unauthorised immigrants enter Spain legally—as tourists, for example—and overstay their terms of stay.*

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Other factors that have contributed to Spain's unauthorised population include people losing their legal status (e.g., by being unable to renew their residence permit) and people crossing into Spanish territory illegally, whether by sea to the Canary Islands or mainland Spain, or by entering Spain's two enclaves in North Africa—Ceuta and Melilla. Over the course of 2018, Spain recorded 58,569 arrivals by sea, primarily in mainland Andalucía, comprised mostly of nationals from North and West Africa (e.g., Morocco, Guinea, Mali, Algeria, Côte d'Ivoire, and the Gambia).[23] Maritime migration to Spain is not a new phenomenon. During the 'cayuco' crisis, named after the fishing vessels used to transport West African migrants to the Canary Islands, 39,180 maritime arrivals were recorded in 2006—up from 11,781 in 2005.[24] Nonetheless, maritime arrivals in 2018 set a new record.[25]

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20   This method compares registrations in Spain's Padrón (municipal register) with government data on the number of people holding residence permits. Registration in the Padrón provides access to health care, education, and other municipal services, and unlike in other countries (such as Germany) is not linked to immigration enforcement. The Padrón recorded 2,726,326 non-EU/European Economic Area (EEA) foreign-born, non-Spanish nationals living in Spain in 2018, while the Ministry of Labour, Migration, and Social Security recorded 2,149,927 non-EU/EEA nationals holding residence permits in Spain (excluding students, asylum seekers, and those in the process of renewing their expired permits). This gap of 576,399 people provides a rough estimate of the size of the unauthorised population, albeit with the caveat that since non-EU migrants are required to update their registration in the Padrón every two years, there may be a time lag between their departure and when it is reflected in the data. See INE, 'Main Series of Population since 1998—Population (Spaniards/Foreigners) by Country of Birth, Sex and Year', Continuous Register of Population, accessed 1 April 2019, www.ine.es/dynt3/inebase/en/index.htm?type=pcaxis&path=/t20/e245/p08/&file=pcaxis&dh=0&capsel=0; Secretary of State for Migration, 'Extranjeros con certificado de registro o tarjeta de residencia en vigor: Resultos Detallados', updated 19 February 2019, http://extranjeros.mitramiss.gob.es/es/Estadisticas/operaciones/con-certificado/index2.html.
21   Carmen González-Enríquez, 'Irregular Migration in Spain—Counting the Uncountable: Data and Trends across Europe' (policy brief, CLANDESTINO Research Project, n.p., July 2009), http://irregular-migration.net/typo3_upload/groups/31/4.Background_Information/4.2.Policy_Briefs_EN/Spain_PolicyBrief_Clandestino_Nov09_2.pdf.
22   Author interview with Barcelona City Council official, Barcelona, 3 October 2018.
23   Exceptions include Syrian nationals (who accounted for 2.4 per cent of land and sea arrivals in Spain between 1 January and 31 December 2018), Palestinian nationals (0.9 per cent), Yemeni nationals (0.7 per cent), and Bangladeshi nationals (0.7 per cent). See United Nations High Commissioner for Refugees (UNHCR), 'Mediterranean Situation: Spain', accessed 1 February 2019, https://data2.unhcr.org/en/situations/mediterranean/location/5226.
24   In 2006, 31,678 maritime arrivals were recorded on the Canary Islands (comprising about 81 per cent); other arrivals were recorded on mainland Spain and the Balearic Islands. Arrivals on the Canary Islands subsequently fell to 12,478 in 2007, and 9,181 in 2008. See Ministry of the Interior, *Seguridad y Ciudadanía: Revista del Ministerio del Interior, Enero-Junio 2009* (Madrid: Ministry of the Interior, 2009), 166–76, www.interior.gob.es/documents/642317/1203831/Seguridad+y+ciudadan%C3%ADa.+N.+1+%282009%29.pdf/ce71e2ed-562a-4a44-8d57-ca803db35c2e.
25   International Organisation for Migration (IOM), 'Mediterranean Migrant Arrivals Reach 88,049 in 2018; Deaths Reach 1,783' (press release, 12 October 2018), www.iom.int/news/mediterranean-migrant-arrivals-reach-88049-2018-deaths-reach-1783.

## C. Impact of the economic crisis

The onset of the economic recession and continuing high unemployment rates prompted a dramatic decrease in the size of Spain's foreign-born population. Almost 2 million foreign-born persons left Spain between 2008 and 2013.[26] The municipal register data in Figure 1 illustrate how between 2010 and 2018, the largest drop was in the European immigrant population, which shrank by more than half a million, followed by the Latin American immigrant population, which fell by 136,000 between 2010 and 2015 (before gaining another 237,000 people between 2015 and 2018).

Before the crisis, immigrants were more likely to work in low- and middle-skilled sectors on temporary (fixed-term) contracts—areas where job loss was ultimately concentrated.[27] For example, the collapse of the real estate market led employment in the sector to fall by 65 per cent between 2008 and 2014, from 2.68 million jobs to 942,000 jobs,[28] curtailing a key source of work for (predominantly male) migrants.[29] In turn, falling household spending led to many (predominantly female) migrants losing their jobs in the domestic sector.[30]

As Figure 2 illustrates, the unemployment rate among non-EU migrants tripled between 2007 and 2013. Throughout this period, the unemployment rate among non-EU migrants was higher than among EU migrants and the native born. In 2007, non-EU migrants had an unemployment rate (12 per cent) that was 4 percentage points higher than that of the native born and 11 percentage points higher than that of EU migrants; by 2013, their unemployment rate had risen to 38 per cent, and was 14 and 8 percentage points higher than the native born and EU migrants, respectively.[31]

**Figure 2. Unemployment rates in Spain for non-EU and EU migrants and Spanish nationals, 2007–17**
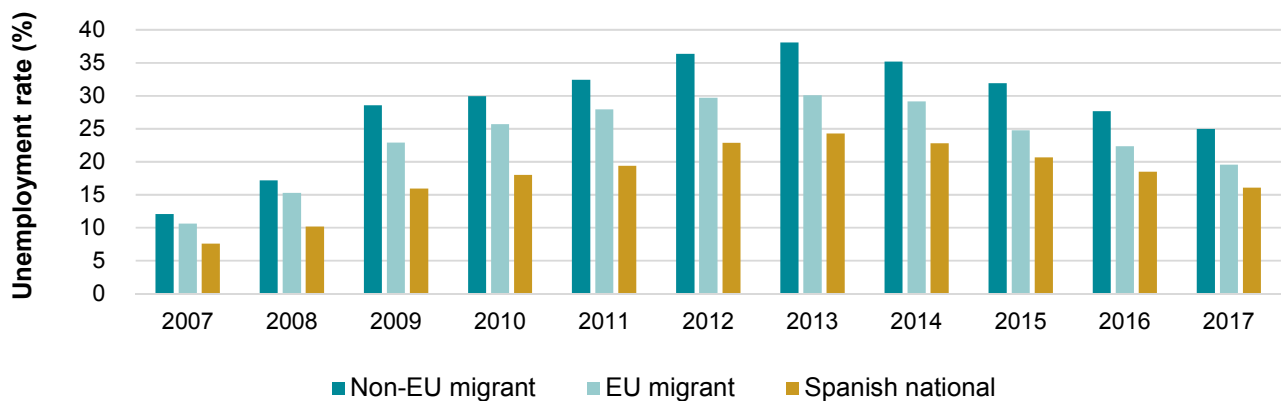


*Source:* Eurostat, 'Population by Sex, Age, Country of Birth and Labour Status [lfsa_pgacws]', updated 11 March 2019, http://ec.europa.eu/eurostat/web/products-datasets/-/lfsa_pgacws.

26  Official data show 2.165 million people leaving Spain between 2008 and 2013, of whom 201,000 were native-born Spanish citizens. See Joaquín Arango, *Spain: New Emigration Policies Needed for an Emerging Diaspora* (Washington, DC: Migration Policy Institute, 2016), 4, www.migrationpolicy.org/research/spain-new-emigration-policies-needed-emerging-diaspora.
27  Sixty per cent of job destruction occurred in temporary employment. See Maite Blázquez Cuesta and Ainhoa Herrarte Sánchez, *Inmigración y mercado de trabajo: Informe 2016* (Madrid: Ministry of Labour, Migration, and Social Security, 2017), 28, http://extranjeros.mitramiss.gob.es/es/ObservatorioPermanenteInmigracion/Publicaciones/fichas/archivos/OPI_32_Inmigracion_Mercado_Trabajo.pdf; Rodríguez-Planas and Nollenberger, *A Precarious Position?* 11.
28  Compares Q1 2008, Q1 2014, and Q1 2018 data. See INE, 'Employed by Nationality, Sex and Economic Sector (Thousands Persons)', accessed 1 February 2019, www.ine.es/jaxiT3/Datos.htm?t=4133.
29  About 25 per cent of the construction workforce was foreign born in 2007. See Blázquez Cuesta and Herrarte Sánchez, *Inmigración y mercado de trabajo.*
30  Author interview with University of Barcelona academic.
31  Eurostat, 'Population by Sex, Age, Country of Birth and Labour Status [lfsa_pgacws]', updated 11 March 2019, http://ec.europa.eu/eurostat/web/products-datasets/-/lfsa_pgacws.

Some migrant groups were harder hit than others, reflecting the sectors in which they were concentrated. By the second quarter of 2010, unemployment rates among African immigrants (primarily Moroccans), who generally worked in agriculture, construction, and low-skilled service sector jobs, had reached around 50 per cent.[32] By comparison, the unemployment rates of Latin American immigrants, who generally worked in domestic services, were around 25 to 30 per cent, while those of migrants from Asia and Oceania, who generally worked in hospitality and retail, were lower than those of the native born.[33]

As of 2017, the number of residence permits issued annually remained far below pre-crisis levels. And while the years immediately preceding saw an increase in the number of first residence permits issued for family, education, and other (e.g., humanitarian) reasons, the number issued for employment reasons has remained steady.

# III. THE LEGAL FRAMEWORK FOR ADMITTING THIRD-COUNTRY NATIONALS

Since the turn of the century, Spain has developed an immigration system that hinges on the participation both of regional governments and of employers and trade unions. Today, Spain has two main pathways to admit low- and middle-skilled immigrants: the General Regime, which allows employers to sponsor migrants for a specific job, and the Collective Management of Hiring in Countries of Origin (hereafter, the Collective Management System), which allows employers to recruit groups of workers (primarily for seasonal agricultural roles) from countries with which Spain has signed a bilateral agreement.

## A. Evolution of Spanish immigration laws from 1985 to the present

Spain introduced its first immigration law in 1985 as part of legal reforms to meet the requirements for joining the then-European Economic Community (EEC). The 1985 law emphasised border controls—reflecting Spain's new role as a 'gatekeeper' for the EEC's southern border—criminalised unauthorised presence in Spain, and did not recognise immigrants' rights to family reunification.[34] The law established the General Regime (see Section III.B.) for employers to sponsor foreign workers, provided they could demonstrate that no unemployed Spanish workers could fill the role—but this restriction was interpreted very broadly, with the result that very few applications were approved and employers instead looked to the informal economy.[35]

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32  Data from the Economically Active Population Survey, cited in Francisco Javier Moreno Fuentes and María Bruquetas Callejo, *Immigration and the Welfare State in Spain* (Barcelona: 'la Caixa' Welfare Projects, n.d.), 44–45, http://lastradainternational.org/lsidocs/immigration%20and%20welfare%20in%20spain.pdf.

33  Ibid.

34  Francisco Javier Moreno, 'The Evolution of Immigration Policies in Spain between External Constraints and Domestic Demand for Unskilled Labour' (working paper 2004/211, Centro de Estudios Avanzados en Ciencias Sociales, December 2004), 12, http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.531.9718&rep=rep1&type=pdf.

35  The authorities tended to look at the general unemployment situation, instead of the number of local workers willing to work in these jobs. See Blanca Garcés-Mascareñas, *Labour Migration in Malaysia and Spain: Market, Citizenship and Rights* (Amsterdam: Amsterdam University Press, 2012), 123–25.

In turn, the law made it difficult for migrants to access or renew their temporary work and residence permits, leading to many losing their legal status.[36] Spain also introduced new visa requirements for countries with high numbers of visa overstayers, including Morocco and Tunisia in 1991 (just before Spain entered the Schengen Agreement) and later Colombia and Ecuador.[37] Aspects of the 1985 law were reformed during the 1990s—for example, a 1996 amendment included family reunification and created a permanent resident category, while a quota system was introduced in 1993—until the law was substantially overhauled in 2000.

Spain's immigration policies struggled to keep up with rising demand for workers in fast-growing sectors such as construction, hospitality, and agriculture. Many of these low-skilled, often low-paid jobs were difficult to fill with Spanish workers, but hiring non-EU workers through regular channels could be a slow and bureaucratic process.[38] The restrictive legal migration policies put in place by the 1985 law made it difficult for foreign nationals to acquire or renew their work and residence permits, while the quota system first put in place in 1993 remained small in scale during this period and overly bureaucratic, with many employers continuing to rely on workers in the informal economy.[39] The quota system was often used to regularise immigrants already in Spain instead of recruiting new immigrants from overseas.[40] Excessively bureaucratic legal immigration channels, lax enforcement of immigration laws, and Spain's sizeable informal economy created clear incentives for employers to hire foreign workers 'under the table'.

*The restrictive legal migration policies put in place by the 1985 law made it difficult for foreign nationals to acquire or renew their work and residence permits.*

As a result, many of the low- or middle-skilled workers who moved to Spain came through other channels—through family reunification, Spanish ancestry ties, or by entering on tourist visas and staying in the country after they have expired. (Far more have overstayed visas than come via maritime migration, for example.[41]) Spain's unauthorised population grew significantly during the 1980s, 1990s, and early 2000s, fuelled both by new arrivals and people losing their legal status, and by 2004, it peaked at around 1 million people. During this period, the government launched several regularisation programmes,[42] which collectively provided legal status to nearly 1.2 million people between 1986 and 2005 (about half of this number in the 2005 programme alone).[43]

Against this backdrop, Spanish policymakers' priorities centred on providing legal status to qualifying unauthorised immigrants and encouraging people to enter Spain through legal channels by creating a more flexible recruitment system.[44] Curbing irregular migration was also a top policy priority, and efforts toward this end

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36  Ortega Pérez, 'Spain: Forging an Immigration Policy'.
37  Moreno, 'The Evolution of Immigration Policies in Spain'.
38  Raúl Ramos, *Turning a Corner? How Spain Can Help Immigrants Find Middle-Skilled Work* (Washington, DC: Migration Policy Institute, 2014), 3, www.migrationpolicy.org/research/turning-corner-how-spain-can-help-immigrants-find-middle-skilled-work.
39  Even during the early 2000s, the quota system offered only about 30,000 places per year.
40  The quota system was intended to distribute work permits to new immigrants through Spanish embassies and consulates, but in practice, it was used predominantly to obtain legal status for immigrants already working in Spain. Those with jobs in qualifying occupations could apply for a work permit and then obtain a residence permit from their country of origin or a neighbouring country and re-enter legally (or in some cases, even apply for a visa exemption, and thus not have to leave Spain). See Garcés-Mascareñas, *Labour Migration in Malaysia and Spain*, 148–49.
41  González-Enríquez, 'Irregular Migration in Spain'.
42  Regularisation programmes targeting unauthorised migrants took place in 1985–86, 1991, 1996, 2000, 2001, and 2005. To qualify, immigrants were required to prove that they did not have a criminal record and had been residing in Spain for a set period of time—and in the case of the 2005 programme, that they had an employment offer and had registered with the social security system. See Finotelli and Arango, 'Regularisation of Unauthorised Immigrants in Italy and Spain', 503.
43  Ibid., 504.
44  Ramos, *Turning a Corner?*, 3.

were conducted in close cooperation with sending and transit countries in Africa, and by cracking down on Spanish employers who hired unauthorised immigrants in Spain.[45]

In 2000, Spain introduced a new law that would become the basis of its current legal migration framework, accompanied by another mass regularisation process to try to eliminate the unauthorised immigrant population as the new law came into effect.[46] The Organic Law of 4/2000 was significant for several reasons:[47]

- First, it acknowledged that immigration was a permanent phenomenon and extended a number of rights to immigrants as a result, including family reunification.[48] The new law also provided all migrants (regardless of legal status) with access to health care, housing, legal aid, and other services on the same terms as Spanish nationals, provided they registered with their local municipality.

- Second, it overhauled the existing quota system, establishing a consultation process with trade unions and employer associations. The quota system was intended to be at the heart of Spain's immigration system, with the government playing a central role in determining the job market's needs and selecting foreign workers.[49]

- And third, it included sanctions, including for illegal entry, employing unauthorised immigrants, and migrant trafficking. A change in government in late 2000 resulted in some of these provisions being amended. A new law passed in November 2000 introduced tougher sanctions against unauthorised immigrants (including the possibility of immediate expulsion, instead of fines) and restricted the rights of unauthorised immigrants, with the exception of their access to health care and primary and secondary education.[50] However, there was somewhat limited capacity to enforce these stricter measures: in 2007, Spain had 1,600 inspectors to monitor an informal economy that amounted to about 22 per cent of GDP.[51]

From 2000, Spain also embarked on a series of bilateral agreements with countries of origin or transit on migration management and related issues, with preferential recruitment in Spain's labour migration system as a key feature. A surge in maritime arrivals to the Canary Islands from West Africa in 2006, coupled with a spike in the number of people attempting to cross into Spain's North African territories, Ceuta and Melilla, led the

45    Government of Spain, *Annual Policy Report on Migration and Asylum: Spain, 2007* (Madrid: European Migration Network, 2007), 26–27, http://extranjeros.mitramiss.gob.es/es/redeuropeamigracion/Informe_Anual_Politicas_Inmigracion_Asilo/ficheros/EMN-ES_Annual_Policy_Report_2007.pdf.

46    This framework included setting out the permits available for people with an employment offer, seasonal workers, and intracompany transfers. Garcés-Mascareñas describes the regularisation process as an effort to 'wipe the slate clean' by trying to reduce the unauthorised population to zero, and offering legal status to those whose status had lapsed and those whose initial applications for permits had been rejected. See Garcés-Mascareñas, *Labour Migration in Malaysia and Spain*, 150–51.

47    Organic laws must be approved by an absolute majority of Congress, and pertain to key issues such as fundamental rights, civil liberties, the electoral system, or Statutes of Autonomy. Royal decrees are issued by the executive and set out rules (essentially serving as implementing regulations). See Ministry of the Presidency, 'Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social', *Boletín Oficial del Estado*, no. 10 (12 January 2000), www.boe.es/buscar/pdf/2000/BOE-A-2000-544-consolidado.pdf; European e-Justice, 'Member State Law—Spain', updated 22 January 2018, https://e-justice.europa.eu/content_member_state_law-6-es-en.do?member=1.

48    OECD, *Trends in International Migration 2000* (Paris: OECD Publishing, 2001), 74, www.oecd-ilibrary.org/social-issues-migration-health/trends-in-international-migration-2000_migr_outlook-2000-en.

49    Garcés-Mascareñas, *Labour Migration in Malaysia and Spain*, 125–26.

50    Ministry of the Presidency, 'Ley Orgánica 8/2000, de 22 de diciembre, de reforma de la Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social', *Boletín Oficial del Estado*, no. 307 (23 December 2000): 45508–22, www.boe.es/eli/es/lo/2000/12/22/8.

51    For comparison, Germany had around 7,500 inspectors to monitor an informal economy that amounted to about 16.5 per cent of GDP. Author interview with Complutense University of Madrid official, Madrid, 4 October 2018; Arango, *Exceptional in Europe*, 4.

government to sign new bilateral agreements with several Sub-Saharan countries.[52] While Spain's previous bilateral agreements had linked cooperation on immigration, including border management and returns, with labour migration opportunities, these 'second-generation' agreements also linked cooperation on immigration to development assistance.[53] For example, Spain's 2008 framework agreement with Mali outlined both opportunities for Malian nationals to migrate to Spain through the Collective Management System (see Section III.B.) and a wide array of development assistance efforts, ranging from job creation and predeparture training for migrants, to diaspora engagement and supporting the productive use of remittances.[54] At the European level, Spain pushed for efforts to tackle the informal economy (e.g., sanctions against employers hiring unauthorised immigrant workers), closer coordination on borders (e.g., through Frontex), and cooperation with African countries on migration, such as the Rabat Process.[55]

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*While Spain's previous bilateral agreements had linked cooperation on immigration … with labour migration opportunities, these 'second-generation' agreements also linked cooperation on immigration to development assistance.*

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Spain also created an Africa Plan for 2006–08, which identified cooperation on migration as a key priority.[56] The plan proposed opening new embassies in Mali and Cape Verde, expanding embassies in several other countries of origin or transit (Cameroon, Côte d'Ivoire, Ghana, Nigeria, and Senegal), and increasing development aid for the West Africa region. Spanish officials also worked with counterparts in countries of origin to improve the rates at which migrants returned home after completing their stint in a seasonal worker programme. For example, return rates among female seasonal workers recruited to pick strawberries in the Spanish province of Huelva were initially low (at about 40 per cent). Spanish and Moroccan authorities then adopted an agreement to focus on recruiting women with rural work experience who had dependents (whether children or elderly family members) living in Morocco, which reportedly helped improve return rates.[57]

In 2004, Spain's new Socialist government overhauled the governance of its migration system. The aim of these reforms was to create a system that could better meet labour-market needs—and in doing so, potentially reduce the incentives for illegal immigration.[58] Whereas the system introduced in 2000 had relied primarily on the quota system, the 2004 reforms recognised the role the General Regime played in meeting employer needs. To speed up the recruitment process under the General Regime, a 2004 royal decree created a shortage occupation list (the Catalogue of Hard-to-Fill Occupations) for each autonomous community, which was to be updated on a quarterly basis. Employers were allowed to bypass labour-market tests for the in-demand

52  Bilateral agreements signed in this period include those with the Gambia, Guinea, Cape Verde, Mali, Niger, Guinea-Bissau, and Mauritania. See Secretary of State for Migration, 'Convenios marcos de cooperación en materia de inmigración', accessed 1 February 2019, http://extranjeros.mitramiss.gob.es/es/normativa/internacional/marco_cooperacion/index.html; Secretary of State for Migration, 'Convenios de flujos migratorios laborales', accessed 1 February 2019, http://extranjeros.mitramiss.gob.es/es/normativa/internacional/flujos_migratorios/index.html.

53  Gemma Pinyol, 'Spain's Immigration Policy as a New Instrument of External Action', in *Spain in Europe 2004–2008*, ed. Esther Barbé (Barcelona: Institut Universitari d'Estudis Europeus, 2008), https://ddd.uab.cat/pub/estudis/2008/hdl_2072_204386/9.pdf.

54  Ministry of Foreign Affairs and Cooperation, 'Acuerdo Marco de Cooperación en Materia de Inmigración entre el Reino de España y la República de Mali, hecho en Madrid el 23 de enero de 2007', *Boletín Oficial del Estado*, no. 135 (4 June 2008): 25633–36, www.boe.es/boe/dias/2008/06/04/pdfs/A25633-25636.pdf.

55  Pinyol, 'Spain's Immigration Policy as a New Instrument of External Action'. The Euro-African Dialogue on Migration and Development, also known as the Rabat Process, was established in 2006 by France, Spain, Morocco, and Senegal.

56  Ministry of Foreign Affairs and Cooperation, *Plan África 2006–2008* (Madrid: Dirección General de Communicación Exterior, 2006), www.crea-africa.org/mediaresources/files/Documentos/LIBROPLANAFRICA.pdf.

57  Carmen González-Enríquez, 'Temporary Migration between Morocco and Spain', Elcano Royal Institute, 21 July 2011, www.realinstitutoelcano.org/wps/portal/rielcano_en/contenido?WCM_GLOBAL_CONTEXT=/elcano/elcano_in/zonas_in/ARI111-2011.

58  Claudia Finotelli, 'Labour Migration Governance in Contemporary Europe: The Case of Spain' (FIERI working paper, April 2012), 12–13, http://labmiggov.fieri.it/wp-content/uploads/2012/04/LABMIGOV_WP1_SPAIN_Final-report.pdf.

occupations included in this list (e.g., in the health-care sector), and thus recruit people more quickly. The Tripartite Labour Commission for Immigration was to provide input both on the list and on setting quotas.[59] The 2004 decree established the Collective Management System, described in detail in Section III.B., creating provisions for admitting people with 'stable' jobs and for issuing job-search visas.

The 2004 decree also established a mechanism (the *arraigo*) for regularising the status of immigrants on a rolling basis. Under this provision, unauthorised immigrants without a criminal record could qualify to gain legal status if they met one of two criteria:

1. They had been living in Spain for two years and had already been working illegally for at least six months (reduced from one year by a 2011 decree), as officially documented by the Department of Labour Inspection and Social Security.[60]

2. They had been living in Spain for three years and could submit proof of a job offer that would provide them with employment for at least a year, and can prove either family ties in Spain (including spouses, children or grandchildren, or parents or grandparents)[61] or provide a report from their municipality in Spain documenting their social integration.

The 2011 decree also introduced a third scenario for relatives of Spanish nationals. Under this rule, the parent of a Spanish-citizen child or the child of a Spanish citizen could apply for *arraigo*, without a minimum period of residence.[62]

This mechanism for regularising people's status came as Spain carried out its last mass regularisation in 2005. While there was broad domestic support for the 2005 regularisation process, other EU Member States (notably, Germany and the Netherlands) opposed it, citing concerns that regularised migrants would move onward to other EU destinations and that such regularisation schemes may have a pull effect, encouraging future irregular migration.[63] In 2008, all Member States signed the European Pact on Immigration that included a clause committing to only regularise immigrants' status on a case-by-case basis.[64]

The creation of the *arraigo*, meanwhile, provided a means for unauthorised migrants to step out of the shadows and gain legal status on an ongoing basis. As Figure 3 shows, tens of thousands of people have gained legal status through the *arraigo* each year—although numbers have fallen by about half since 2011. Many of those who gained legal status subsequently renewed their residence permit. And in 2007, the entry of Romania and Bulgaria into the European Union enabled nationals of those countries to easily access legal status.[65] The unauthorised population in Spain is thus a dynamic one, with people moving in and out of this population.

59  Ministry of the Presidency, 'Real Decreto 2393/2004, de 30 de diciembre, por el que se aprueba el Reglamento de la Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social', *Boletín Oficial del Estado*, no. 6 (7 January 2015): 485–539, www.boe.es/diario_boe/txt.php?id=BOE-A-2005-323#analisis.

60  This requires documenting the illegal employment (which can be challenging in the absence of formal documentation) and either denouncing the employer for employing them illegally or suing them in court. As a result, *arraigo social* is more common than *arraigo laboral*. See Garcés-Mascareñas, *Labour Migration in Malaysia and Spain*, 250

61  The decree refers to their 'ascendants' or 'descendants'.

62  Secretary of State for Migration, 'Autorización residencia temporal por circunstancias excepcionales. Arraigo familiar,' updated January 2016, http://extranjeros.mitramiss.gob.es/es/InformacionInteres/InformacionProcedimientos/Ciudadanosnocomunitarios/hoja037/index.html.

63  Another example is the response of other Member States to Italy's 2002 regularisation programme, which included efforts to change the status of regularised migrants under EU law. See Finotelli and Arango, 'Regularisation of Unauthorised Immigrants in Italy and Spain', 497–98.

64  Council of the European Union, 'European Pact on Immigration and Asylum' (working document, 13440/08, Brussels, 24 September 2008), http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2013440%202008%20INIT.

65  Finotelli and Arango, 'Regularisation of Unauthorised Immigrants in Italy and Spain', 504; González-Enríquez, 'Irregular Migration in Spain'.

**Figure 3. Residence permits granted through the *arraigo*, by recipient's region of birth, 2009–16**
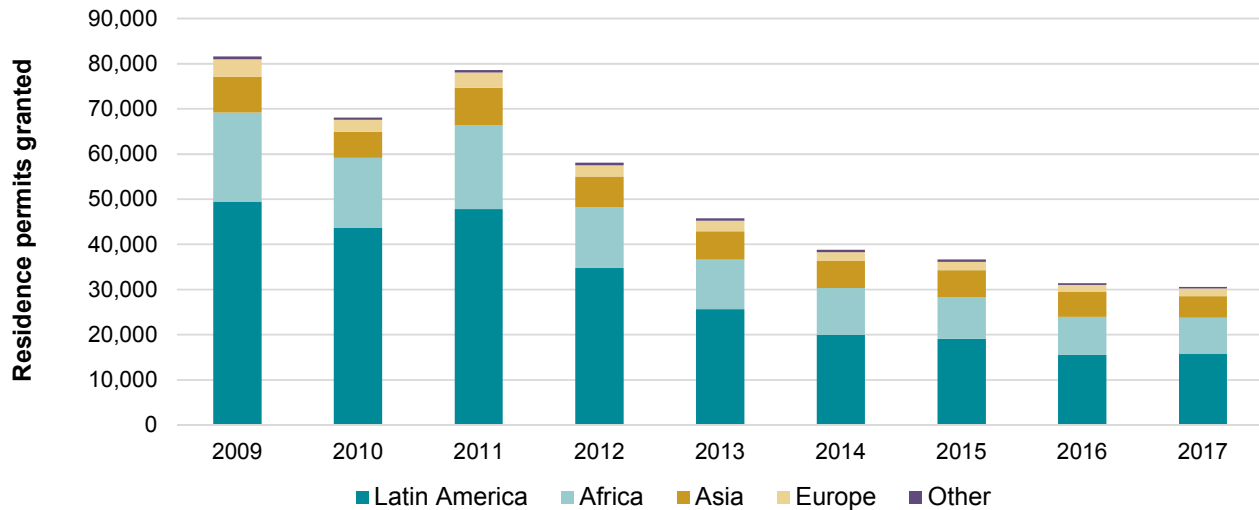


*Note:* 'Other' includes North America, Oceania, and cases where the immigrant's origin was not stated.
*Source:* Ministry for Labour, Migration, and Social Security, 'Flujo de autorizaciones de residencia concedidas a extranjeros: Resultados detallados', updated 15 November 2018, http://extranjeros.mitramiss.gob.es/es/Estadisticas/operaciones/flujos-autorizacion/index2.html.

Other reforms to Spain's legal framework set up procedures for recognising foreign credentials in line with EU policy (Royal Decree 1224/2009),[66] and regulations for transposing EU directives into Spanish law.[67] For example, a 2011 regulation transposed EU directives on the Blue Card (for highly qualified professionals) and on researchers into Spanish law, updated the process for developing the Catalogue of Hard-to-Fill Occupations, and required labour migrants renewing their permits to present a report documenting their integration efforts.[68] In 2013, Spain introduced a law that created a fast-track work and residence permit for migrant entrepreneurs, investors, and several other small categories, with migrant entrepreneurs required to present a business plan that must then be endorsed by the Spanish government.[69]

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66   Ministry of the Presidency, 'Real Decreto 1224/2009, de 17 de julio, de reconocimiento de las competencias profesionales adquiridas por experiencia laboral', *Boletín Oficial del Estado*, no. 205 (25 August 2009), www.boe.es/buscar/doc.php?id=BOE-A-2009-13781.

67   Examples include EU directives on family reunification, students and researchers, intracorporate transfers, sanctions on employers, and returns. In the case of the EU directive on seasonal workers (2014/36/EU), Spain's laws already incorporated these provisions so it did not have to update its law. See Government of Spain, *Annual Immigration and Asylum Policy Report* (Madrid: European Migration Network, 2015), 10, http://extranjeros.mitramiss.gob.es/es/redeuropeamigracion/Informe_Anual_Politicas_Inmigracion_Asilo/doc_2015/APR_2015_EN_con_Portada_y_NIPO.pdf.

68   Ministry of the Presidency, 'Real Decreto 557/2011, de 20 de abril, por el que se aprueba el Reglamento de la Ley Orgánica 4/2000, sobre derechos y libertades de los extranjeros en España y su integración social, tras su reforma por Ley Orgánica 2/2009', *Boletin Oficial del Estado*, no. 103 (30 April 2011): 43821–4006, www.boe.es/buscar/act.php?id=BOE-A-2011-7703.

69   Other categories include highly qualified professionals, researchers, and intracorporate transfers. See Ministry of the Presidency, 'Ley 14/2013, de 27 de septiembre, de apoyo a los emprendedores y su internacionalización', *Boletín Oficial del Estado*, no. 233 (28 September 2013): 78787–882, www.boe.es/diario_boe/txt.php?id=BOE-A-2013-10074.

## B. Spain's legal framework for low- and middle-skilled immigration

Employer sponsorship is at the heart of Spain's processes for admitting low- and middle-skilled workers. Under current immigration laws, there are two main systems for admitting non-EU labour migrants: the General Regime and the Collective Management System.[70] The General Regime allows employers to sponsor a specific migrant for a specific job. The Collective Management System, on the other hand, allows employers to apply for (unknown) qualified foreign workers to fill temporary jobs (e.g., in seasonal agriculture), with government-run selection committees identifying and vetting potential immigrants in countries of origin.[71] Spain's Ministry of Labour, Migration, and Social Security takes the lead in managing and implementing these systems, including initiatives to recruit workers from overseas.

### 1.   The General Regime

Most employers wishing to hire a foreign worker will go through the General Regime, which requires the local public employment office to carry out a labour-market check to verify that no Spanish or EU national can fill the post.[72] Some would-be immigrants are exempt from labour-market checks, such as Chilean and Peruvian citizens and the (grand)children and parents of Spanish citizens.[73] In turn, employers hiring workers for jobs listed in the Catalogue of Hard-to-Fill Occupations are also exempt. To recruit all other foreign nationals, employers must undergo a labour-market check.[74]

Initial residence and work permits, which last one year, are usually restricted to a specific region or occupation, except when the permit is exempt from labour-market testing.[75] Permit holders can then renew their visas in two-year increments, becoming eligible for permanent residence after five years. While the national government usually issues initial work and residence permits, since 2005 the law has allowed autonomous communities to issue initial work permits instead (although the federal government retains the right to issue residence permits). Catalonia had pushed for this power on the grounds that it plays a key role in providing

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70   The Collective Management of Hiring in Countries of Origin was formerly known as the Contingente, until Royal Decree 557/2011.

71   This is sometimes referred to as 'anonymous hiring'; see, for example, OECD, *International Migration Outlook 2009* (Paris: OECD Publishing, 2009), 148–49, www.oecd-ilibrary.org/social-issues-migration-health/international-migration-outlook-2009_migr_outlook-2009-en.

72   See Ministry of the Presidency, 'Real Decreto 557/2011, de 20 de abril', Article 65.

73   The list of those exempt from labour-market checks includes: (1) relatives of a foreigner resident in Spain, a nationalised Spanish citizen, or a resident EU national; (2) foreigners who have 'ascendants' (i.e., parents or grandparents) or descendants who are Spanish nationals; (3) people who are the children or grandchildren of Spanish citizens; (4) seasonal workers who have worked in Spain for two calendar years and met return requirements; and (5) Peruvian or Chilean citizens. See Secretary of State for Migration, 'Supuestos en los que la situación nacional de empleo permite la contratación de ciudadanos extranjeros no residentes en España', updated January 2016, http://extranjeros.mitramiss.gob.es/es/InformacionInteres/InformacionProcedimientos/Ciudadanosnocomunitarios/hoja096/index.html.

74   First, employers must share a job posting with the public employment office, which advertises the vacancy through its networks for at least 15 days. After 25 days, the employer is required to update the public employment office on the number of candidates identified for the role and their outcomes. The public employment office then produces a certificate on the employer and the job vacancy, which includes the candidates identified for the role and its judgement on whether jobseekers could be trained to fill the role. The certificate goes to the Secretary of State for Migration, which then issues a final decision on whether the employer can proceed with sponsoring a foreign worker.

75   Ministry of the Presidency, 'Real Decreto 557/2011, de 20 de abril', Article 63.1.

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integration services to immigrants, and subsequently integrated this into regional statutes in 2006.[76] Andalucía had also expressed interest in taking on this authority prior to the onset of the crisis.[77]

Spain's legal framework includes a Catalogue of Hard-to-Fill Occupations for each autonomous community (and Ceuta and Melilla), which is updated every three months by the Tripartite Labour Commission for Immigration. The commission assesses the national employment situation using employment and unemployment data submitted by the public employment offices of the autonomous communities, before reviewing a draft list of shortage occupations proposed by the national public employment service.[78] Examples of occupations on the list have included doctors, nurses, engineers, and deckhands, illustrating how the catalogue can be used for all skills levels. But since the onset of the recession, the number of occupations included on this list has been curtailed dramatically.[79]

## 2. The Collective Management System

Employers wishing to hire several temporary workers for certain occupations, such as seasonal agricultural work, can alternatively use the Collective Management System.[80] Under this system, recruitment is generally possible only from countries with which Spain has signed a bilateral agreement.[81] This list includes Argentina, Cape Verde, Colombia, the Dominican Republic, Ecuador, El Salvador, the Gambia, Guinea, Guinea-Bissau, Honduras, Mali, Mauritania, Mexico, Morocco, Niger, Paraguay, the Philippines, Senegal, and Ukraine.[82] These bilateral agreements are seen as a way to involve countries of origin in the selection process, and to extend protections to migrant workers and limit opportunities for abuse or exploitation.

Spanish law establishes three pathways under this system:[83]

- ▪ ***Temporary jobs.*** These usually involve seasonal agricultural work, lasting up to nine months in a one-year period.[84] Participants are required to return to their country of origin at the end of their contract, which is verified by registering with the Spanish consulate in the home country after return. If they do not comply, migrants face a three-year bar from working in Spain. After two years of seasonal work with the same employer, the employer can access an expedited hiring process to rehire the same workers.

76  Finotelli, 'Labour Migration Governance in Contemporary Europe'; Parlament de Catalunya, *Organic Act 6/2006 of the 19th July, on the Reform of the Statute of Autonomy of Catalonia*, 19 July 2006, www.parlament.cat/document/cataleg/150259. pdf.
77  Author interview with Government of Catalonia official, Barcelona, 3 October 2018.
78  Author interview with Workers' Commissions official, Madrid, 1 October 2018.
79  Currently, the list is limited to merchant shipping roles and professional athletes. See Servicio Público de Empleo Estatal (SEPE), 'Catálogo de Ocupaciones de Difícil Cobertura, 1er Trimestre de 2019', *Boletín Oficial del Estado,* no. 22, sec. III (25 January 2019): 6848, www.boe.es/boe/dias/2019/01/25/pdfs/BOE-A-2019-928.pdf.
80  This system is usually restricted to employers wishing to hire ten or more workers, although in some cases this can be reduced to five workers. In turn, agricultural employer associations can circumvent this requirement for temporary jobs by grouping together contracts from different farmers. See Secretary of State for Migration, 'Autorización de residencia y trabajo. Gestión colectiva de contrataciones en origen (GECCO 2013). Temporada o campaña,' updated January 2015, http://extranjeros.mitramiss.gob.es/es/InformacionInteres/InformacionProcedimientos/Ciudadanosnocomunitarios/ hoja054/index.html; OECD, *International Migration Outlook 2009*, 148–49.
81  Exceptions to this include occupations that cannot be filled by nationals from the signatory countries (e.g., pilots of firefighting helicopters and sheepshearers have both been exempt in the past). See Finotelli, 'Labour Migration Governance in Contemporary Europe'.
82  Secretary of State for Migration, 'Gestión colectiva de contrataciones en origen,' updated January 2014, http://extranjeros. mitramiss.gob.es/es/InformacionInteres/InformacionProcedimientos/Ciudadanosnocomunitarios/hoja052/index.html.
83  Ministry of Labour and Immigration, 'Hiring Non-EU Foreign Workers in Spain through Collective Management of Hiring in Countries of Origin', updated 2011, http://extranjeros.mitramiss.gob.es/es/InformacionInteres/FolletosInformativos/ archivos/triptico_gecco_eng.pdf.
84  Temporary jobs can also include contract work for up to one year on a specific project (e.g., construction or equipment maintenance), but in practice seasonal workers are the primary focus.

- ▪ ***Stable jobs.*** Work permits for in-demand sectors are granted for a duration of at least one year, with the opportunity to renew. Qualifying occupations and a provisional quota are established in annual ministerial orders issued by the Ministry of Labour, Migration, and Social Security. This quota is developed by the Secretary of State for Migration, in consultation with the Tripartite Labour Commission, drawing both on data from the public employment service and proposals from autonomous communities (that reflect requests and input from employers and trade unions), and it can be revised during the year according to needs.[85] Sectors of focus include construction and hospitality. Most jobs are low to medium skilled, although in theory the quota could apply to jobs at any skill level.[86]

- ▪ ***Three-month job-search visas.*** These are available to children or grandchildren of Spanish nationals, and to people seeking work in specific in-demand occupations or in regions experiencing labour shortages. An annual ministerial order sets a provisional quota for the number of job-search visas available, based on requests from autonomous communities.

While Spain's Ministry of Foreign Affairs, the European Union, and Cooperation is responsible for negotiating bilateral agreements with third countries, the Ministry of Labour, Migration, and Social Security retains the lead in recruiting through the Collective Management System. After employers (or employer associations) file a request for workers with the Secretary of State for Migration, the Secretary of State works with authorities in the country of origin to identify and vet prospective workers.[87] The employment agency in the partner country advertises the jobs and draws up a shortlist of candidates, which is then reviewed by a selection commission. This selection commission is comprised of representatives from the partner country's employment agency; Spain's Ministry of Labour, Migration, and Social Security; and potentially the employer or employer association if either wishes to participate. Employers are responsible for providing workers with housing and covering half of their travel costs.

The legal framework establishing this system also notes the possibility of providing training courses for new hires or shortlisted candidates either in the country of origin or in Spain, with costs shared between employers and Spain's public employment service. Some employers recruiting workers for 'stable' jobs have used this provision. After an agreement with Senegal was signed, the International Labour Organisation (ILO) helped establish a centre in Dakar to process applications and provide training subsidised by the Spanish government. For example, a construction company worked with the Spanish government to train recruits in Senegal for cleaning and facility services roles.[88]

## C. Governance of immigration and integration policy

While immigration policy remains the prerogative of the national government, Spain's laws offer opportunities to involve regional governments and employers and trade unions, including in the issuance of initial work permits, as described in the previous section. One example is the recruitment of seasonal workers through the Collective Management System. As has been noted, employers (or employer associations) and trade unions can participate in selection commissions in countries of origin, while the salaries set out in the employment contracts are based on collective agreements between employers and trade unions. Over the years, coopera-

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85   Ministry of the Presidency, 'Real Decreto 557/2011, de 20 de abril', Title VIII, Article 168.
86   OECD, *International Migration Outlook 2009*, 148–49.
87   Employers may state a preference for which country they would like to recruit from, often opting for countries neighbouring the European Union (e.g., Morocco) to reduce travel costs. See Ana López-Sala, 'Induced Circularity for Selective Workers: The Case of Seasonal Labor Mobility Schemes in the Spanish Agriculture', *Arbor Ciencia, Pensamiento y Cultura* 192, no. 777 (2016): a287.
88   Government of Spain, *Temporary and Circular Migration: Empirical Evidence, Current Policy Practice, and Future Options in Spain* (Madrid: European Migration Network, 2010), 35, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/circular-migration/es_20111020_emn_es_circular_migration_en.pdf; OECD, *International Migration Outlook 2009*, 149.

tion between local employer associations and government agencies in countries of origin led to the creation of circular migration projects to recruit seasonal workers from Colombia and Morocco to work in Catalonia and Huelva, respectively, although the economic crisis brought these projects to a close.[89] Regional governments have also participated in the selection process. In the early 2000s, Catalan authorities opened offices in key sending countries (such as Poland, before its accession to the European Union in 2004) to help enterprises recruit people and coordinate training with local authorities, but the recession similarly led to the closure of these offices.[90]

More broadly, Spain's legal framework sets up consultation procedures both with regional governments and with employers and trade unions, including:

- The Tripartite Labour Commission for Immigration, whose key responsibilities are to provide input on the Catalogue of Hard-to-Fill Occupations, on the provisional quotas for the Collective Management System, and on seasonal workers (when needed), as well as to stay informed regarding Spanish migration trends and developments.[91]

- The Forum for the Social Integration of Immigrants, first established in 1994, which convenes national, regional, and municipal government representatives with representatives from employer associations, trade unions, and nongovernmental organisations (NGOs) and other civil-society actors working with immigrants. This body publishes an annual report on the social integration outcomes of immigrants and refugees, and it weighs in on all national and state programs and proposals that pertain to social integration, including providing input on all immigration and integration legislation before it goes to Parliament.[92]

Integration policy is largely devolved to the autonomous communities, provinces, and municipalities, along with public services such as education, health care, and employment support.[93] The national government plays a broad coordinating role, and before the recession, the government provided funding to regions and municipalities for integration efforts.[94] Trade unions also play an important role in delivering services to immigrants. For example, the Workers' Commissions set up a network of centres around Spain (Centros de Información al Trabajador/a Extranjero/a, or Foreign Worker Information Centres, also known as CITE) in 1989 to provide free advisory services to foreign workers on topics such as navigating the migration process and employment rights.[95] Some of these centres offer language training and even tailored vocational training courses, as per funding and requests from autonomous communities.[96]

89  Ana López-Sala et al., 'Seasonal Immigrant Workers and Programs in UK, France, Spain and Italy' (TEMPER Working Paper Series, WP 1, Temporary versus Permanent Migration, 2016), 31, www.temperproject.eu/wp-content/uploads/2015/06/Working-Paper-1-DF2.pdf.
90  Author interview with Government of Catalonia official.
91  Ministry of the Presidency, 'Real Decreto 2393/2004, de 30 de diciembre', 485–539.
92  Foro para la Integración Social de los Inmigrantes, 'Funciones', accessed 1 February 2019, www.foroinmigracion.es/es/Funciones/index.htm; Arango, *Exceptional in Europe*, 5.
93  Autonomous communities develop their own regional integration plans, with municipalities working with civil-society actors to deliver services. As one of the first regions to start receiving large numbers of immigrants, Catalonia was on the vanguard of developing institutions and measures to manage migration and integration; for example, it set up a commission for monitoring and coordinating immigration measures in 1992, and an Interdepartmental Immigration Plan in 1993 to coordinate services for immigrants. Author interview with Government of Catalonia official.
94  Established by 2004 royal decree, the Fund for Immigrant Integration (which previously had a 67-million-euro budget) was axed in 2012 amid austerity cuts, although reports suggest the Socialist government might restore the fund in 2019. See EFE, 'El Gobierno anuncia que recuperá el fondo para la acogida de migrantes eliminado por el PP', *El Diario*, 12 July 2018, www.eldiario.es/desalambre/Gobierno-recuperara-acogida-integracion-inmigrantes_0_791271928.html.
95  Author interview with Workers' Commissions official.
96  Ibid.

# IV. HOW EFFECTIVE HAVE THESE POLICIES BEEN IN PRACTICE?

Reforms to Spain's immigration policies during the early 2000s created a demand-driven system that enabled employers to recruit foreign workers for fast-growing industries, such as construction, and that enjoyed broad buy-in from regions, employers and trade unions, and the public. The consultation procedures built into the system provided opportunities for subnational and nongovernmental actors to weigh in frequently on the direction and priorities of Spanish immigration policy.[97]

The economic crisis served as something of a watershed moment for Spain's legal migration policies. As the recession took hold and unemployment soared, Spain suspended or scaled back many of its policies to recruit non-EU migrants, with admissions falling precipitously since 2008 (see Figure 4). Currently, employers have limited avenues to recruit low- and middle-skilled migrants, although the Spanish government has taken steps to expand legal channels for high-skilled migrants.

## A. How effective was the Spanish legal migration system before the economic crisis?

One of the key considerations in Spain's immigration system has been how to meet fast-growing employer needs—and in doing so, lessen the incentives to hire from the informal economy. Before the onset of the crisis, most immigrants entered through the General Regime, which appeared to be working well at the time. As with other systems that include labour-market tests, the process for demonstrating that no Spanish worker can fill a vacancy is fairly bureaucratic and time consuming, but not unusually so.[98] The General Regime also offered exemptions to the labour-market test, including through the Catalogue of Hard-to-Fill Occupations and its Unit for Large Companies and Strategic Collectives, established in 2007 to provide an expedited avenue for hiring high-skilled workers in certain industries.

*The system in place means that Spain has the ability to respond quickly to changing labour-market needs.*

The design of the catalogue allows policymakers to update the system on a quarterly basis in line with local labour-market needs, using data and other input from public employment services to update shortage occupation lists for each autonomous community. Ultimately, drawing up a shortage occupation list is a political process, requiring policymakers to weigh the quantitative and qualitative information on hand and make a judgement call. But the system in place means that Spain has the ability to respond quickly to changing labour-market

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97  There remains broad public support in Spain for non-EU immigration to date, despite protracted high unemployment. As of March 2018, 77 per cent of Spanish survey respondents were very or fairly positive about immigration from other EU Member States, and 63 per cent were very or fairly positive about non-EU immigration. See European Commission, 'Standard Eurobarometer 89', updated June 2018, http://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/STANDARD/surveyKy/2180.

98  A 2013 European Migration Network (EMN) publication indicated that labour-market tests could take between ten days and three months in different European countries. See European Commission, 'Approaches and Tools Used by Member States to Identify Labour Market Needs' (EMN Inform, European Commission, Brussels, December 2013), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn-informs/emn_inform_on_labour_market_tests_5dec2013_final.pdf.

needs, as illustrated during the economic crisis. As unemployment rose, the government reduced the occupations listed in the catalogue, from 488 at the start of 2008 to 98 by the end of 2009.[99] Health occupations were initially left on the list, but in 2012, the government whittled the list down to professional athletes and positions in the merchant navy. As of early 2019, the catalogue was still restricted to these niche occupations.[100]

While comprising a smaller part of Spain's immigration system, the Collective Management System also functioned well before the crisis. It provided a key avenue for hiring seasonal workers from outside the European Union, and it provided employers looking to hire several workers for roles in hospitality and construction, among other sectors, a way to do so efficiently. One of its strengths was the ability to tailor programmes to meet employers' needs, for example, by offering predeparture training to new hires. As with the General Regime, regions, employers, and trade unions could help manage the programme, both through setting quotas and providing input in the selection process.

The design of the Collective Management System—whereby employers essentially hire vetted workers, sight unseen—lends itself more easily to some sectors than others. Employers use it for seasonal agriculture, for example, with individual farmers represented on selection committees by agricultural employer associations. While some companies have used the 'stable' jobs pathway for roles in hospitality or construction, for example, the system was less helpful for occupations that place a premium on soft skills (such as domestic work) that can be assessed only on a case-by-case basis. The government introduced the job-seeking visa as a way to bridge this gap, by allowing people to come to Spain for three months to seek work. But in practice, it was hardly used (about 500 visas apiece were offered in the domestic sector and for descendants of Spaniards in 2007), not least because it was unclear how to choose who to admit or how to return people if they did not find jobs within three months.[101]

*Spain's strategy of working closely with third countries on migration issues has worked well, although some agreements have been more successful than others.*

Like the General Regime, the Collective Management System can be tweaked to respond to changing needs. As unemployment levels rose, the government suspended the stable jobs and job-search visa components of the Collective Management System in 2012.[102] This followed deep cuts to the provisional quotas for non-seasonal workers, from 15,731 in 2008 to 901 in 2009; in turn, no autonomous community has requested job-search visas since 2007. As a result, the Collective Management System currently only recruits seasonal workers for agricultural jobs, and the vast majority come from Morocco. In part, this reflects the ongoing—if reduced—need to recruit foreign labour for roles such as fruit-picking. Work authorisations under the system fell precipitously during the course of the economic crisis, from a high of 42,719 in 2008 to 14,615 in 2011 (even before the suspension of the stable jobs component), before falling to 2,767 in 2015.[103]

The government has emphasised the importance of the circular migration enabled under the Collective Management System, and its role in bolstering relations with countries of origin.[104] Spain's strategy of working

99  Government of Spain, *Annual Policy Report on Migration and Asylum: Spain, 2009* (Madrid: EMN, 2010), 29, http://extranjeros.mitramiss.gob.es/es/redeuropeamigracion/Informe_Anual_Politicas_Inmigracion_Asilo/ficheros/EMN-ES_Annual_Policy_Report2009.pdf.

100 This is reportedly linked to an agreement with the shipping industry. Author interview with Complutense University of Madrid official; SEPE, 'Catálogo de Ocupaciones de Difícil Cobertura, 1er Trimestre de 2019'.

101 Garcés-Mascareñas, *Labour Migration in Malaysia and Spain,* 130–31.

102 OECD, *International Migration Outlook 2009*, 21–22.

103 Ministry of Labour, Migration, and Social Security, 'PTE-22. Autorizaciones de trabajo a extranjeros concedidas a través de la gestión colectiva de contrataciones en origen, según sexo, por continente', in *Avance Anuario de Estadísticas 2017*, www.mitramiss.gob.es/es/estadisticas/anuarios/2017/index.htm.

104 Ministry of Labour, Migration, and Social Security, 'Orden ESS/1309/2017, de 28 de diciembre, por la que se prorroga la vigencia de la Orden ESS/1/2012, de 5 de enero, por la que se regula la gestión colectiva de contrataciones en origen para 2012', *Boletín Oficial de Estado*, no. 317 (30 December 2017): 130804–05, www.boe.es/diario_boe/txt.php?id=BOE-A-2017-15849.

closely with third countries on migration issues has worked well, although some agreements have been more successful than others, especially on the issue of returns. In the realm of legal migration, Spain's cooperation with Morocco helped build the latter's capacity to manage migration and has resulted in a steady flow of Moroccans moving legally to Spain to work in sectors such as agriculture. But Spain's efforts to establish a similar channel with Senegal in 2007 proved unsuccessful, impeded both by a lack of capacity on the part of Senegalese authorities to select qualified agricultural workers and by a high incidence of visa overstays, although Spain and Senegal have cooperated successfully on other migration-management and security issues.[105] An ongoing challenge is managing these relationships in light of changing political priorities. While Spain and Morocco continue to cooperate on a range of migration issues, periodic tensions in relations can have a knock-on effect, leading to spikes in irregular migration.[106] More recently, falling demand in Spain for foreign labour has made it harder to deliver on the legal migration pathways outlined by these agreements.

Spain's cooperation with countries in North and West Africa has long received financial backing from the European Union, and in the wake of the 2015–16 European migration and refugee crisis, it has served as a model for EU efforts to address irregular migration through a combination of efforts to manage migration, provide development assistance, and offer legal migration opportunities.[107] Spain has been an active participant in EU efforts to cooperate with third countries, including the EU Mobility Partnerships with Cape Verde, Jordan, Morocco, and Tunisia; it played a founding role in the Rabat Process; and it has led several EU migration management initiatives, including Operation Seahorse and various Frontex operations in the Western Mediterranean, and security operations in the Sahel.[108] Since the economic crisis began, Spain has not embarked on any new bilateral agreements, but it continues to be deeply involved in efforts to build closer ties with Europe's neighbourhood to manage migration flows, particularly with Morocco. Spain has contributed to the EU Trust Fund for Africa, and it participates in several projects under its aegis, including efforts to build migration-management capacity in Niger and a number of projects to create livelihood opportunities and improve services for prospective migrants and recent returnees. Spain is involved in the European Union's proposed pilot projects with third countries unveiled under the European Agenda on Migration in September 2017, with discussions ongoing about a pilot project to provide Moroccan experts with relevant Spanish work experience and training in areas such as agriculture and water management.[109]

## B. How did the crisis reshape Spanish immigration priorities and processes?

Immigration to Spain dropped significantly after the onset of the economic crisis. Between 2008 and 2013, the number of first resident permits issued to non-EU citizens fell by half (see Figure 4).

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105 Carmen González-Enríquez, Patrícia Lisa, Asli Selin Okyay, and Anja Palm, 'Italian and Spanish Approaches to External Migration Management in the Sahel: Venues for Cooperation and Coherence' (working paper 13/2018, Elcano Royal Institute, 20 June 2018), 17–19, www.iai.it/sites/default/files/2018_elcano-iai.pdf.

106 Author interview with Ministry of Foreign Affairs official, Madrid, 28 September 2018.

107 González-Enríquez, Lisa, Selin Okyay, and Palm, 'Italian and Spanish Approaches to External Migration Management'.

108 Operation Seahorse established satellite communication channels between Spain and Portugal and Cape Verde, the Gambia, Guinea Bissau, Mauritania, Morocco, and Senegal to coordinate maritime patrols. Spain has also participated in several joint Frontex operations to enforce Spain's sea borders, including Operations Hera, Indalo, and Minerva. See ibid.; Frontex, 'Main Operations: Operations Minerva, Indalo (Spain)', accessed 1 February 2019, https://frontex.europa.eu/along-eu-borders/main-operations/operations-minerva-indalo-spain-/.

109 European Commission, 'EU Emergency Trust Fund for Africa—Spanish Agency for International Development Cooperation', accessed 1 February 2019, https://ec.europa.eu/trustfundforafrica/partner/spanish-agency-international-development-cooperation; author interview with European Commission official, Brussels, 27 September 2018.

**Figure 4. First residence permits issued to non-EU citizens, by reason, and as share of total, 2008–17**
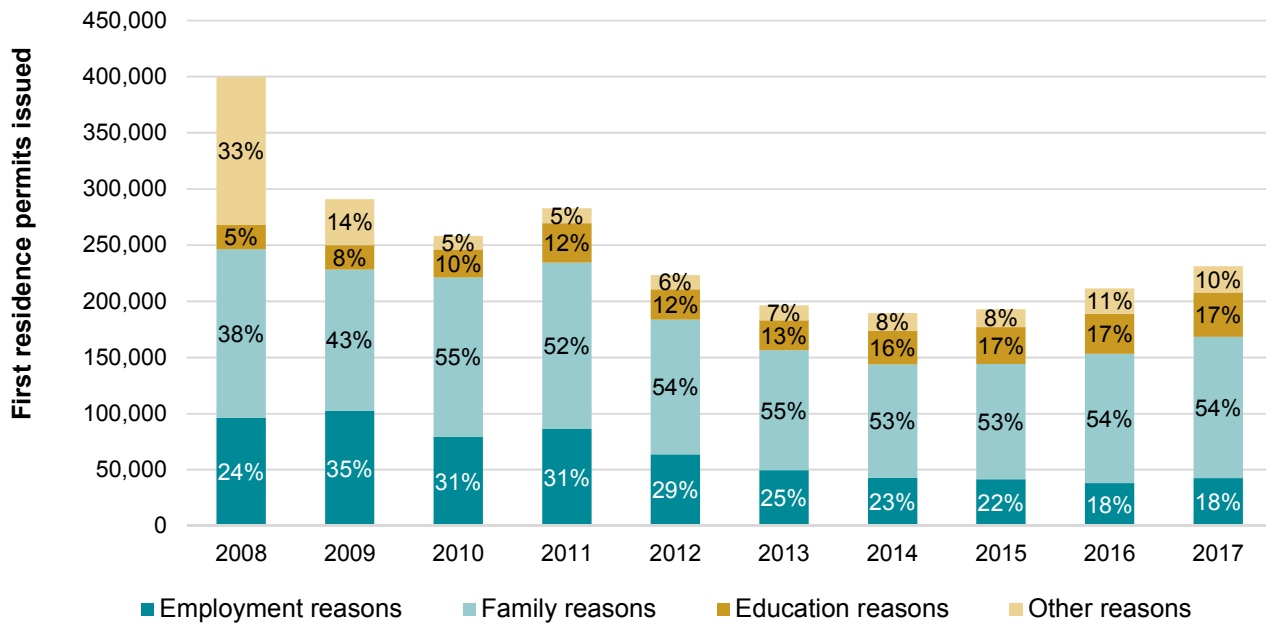


*Note:* 'Other reasons' include permits issued to persons with refugee status or subsidiary protection, to unaccompanied minors, to victims of human trafficking, or for humanitarian reasons.
*Source:* Eurostat, 'First Permits by Reason, Length of Validity and Citizenship [migr_resfirst]'.

The decline in residence permits issued for employment reasons illustrates the demand-driven nature of Spain's legal migration system, especially in highly cyclical sectors such as construction. Experts have suggested the system was working well before the crisis essentially halted much of its operations, while also emphasising how demand to sponsor non-EU workers has fallen dramatically since the onset of the crisis.[110] In 2016, Spain issued 91,000 residence permits for employment reasons through its General Regime; this figure, which includes many renewals of status, is less than one-third of the number issued in 2009.[111]

The crisis has also had lasting effects on where migrants are employed. For example, while construction was a key source of employment before the crisis, the foreign-born workforce is now more concentrated in the hospitality, commerce, and domestic services sectors.[112] As of 2018, the number of jobs in Spain had yet to recover to their 2008 levels.[113] But there are some signs of recovery; in 2018, jobs in the service sector outpaced those available in 2008, and the employment situation in the construction sector was slowly improving.[114] Demand for foreign workers in parts of the informal economy (such as care services and hospitality) is reportedly also growing, with arrivals coming from Latin America (including Venezuela, Colombia, and Honduras) and several Eastern European and Asian countries with visa-free travel arrangements.

High unemployment rates, coupled with the government's austerity drive after the onset of the crisis, have had far-reaching implications for Spanish migration policies. One consequence of curbing labour migration channels has been to reduce the input of various actors, such as regional governments, employers, and trade unions,

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110 Author interview with Complutense University of Madrid official; author interview with University of Barcelona academic.
111 Ministry for Labour, Migration, and Social Security, 'Flujo de autorizaciones de residencia concedidas a extranjeros según sexo, nacionalidad y motivo de concesión. Serie 2009–2016', updated 15 November 2018, http://extranjeros.mitramiss.gob.es/es/Estadisticas/operaciones/flujos-autorizacion/index2.html.
112 INE, 'Employed by Nationality, Sex and Economic Sector (Thousands Persons)'; Blázquez Cuesta and Herrarte Sánchez, *Inmigración y mercado de trabajo*, 116.
113 In Q1 2008, there were 20.62 million employed people; in Q1 2018, there were 18.87 million employed people. See INE, 'Employed by Nationality, Sex and Economic Sector (Thousands Persons)'.
114 In Q1 2008, there were 13.7 million employed people in the services sector; in Q1 2018, there were 14.2 million. As of Q1 2018, there were 1.15 million jobs in the construction sector. See ibid.

in the immigration system.[115] The Tripartite Labour Commission for Immigration still convenes quarterly and reviews the Catalogue of Hard-to-Fill Occupations, although the list has remained largely static for the past few years. The suspension of parts of the Collective Management System has blocked other avenues for input. Meanwhile, the suspension of the Immigrant Integration Fund in 2012 has placed more pressure on autonomous communities and provinces and municipalities to fund integration services.

As the economic crisis took hold, the government focused its attention on tackling high unemployment levels among the native-born and immigrant populations. As unemployment rose, it became more difficult for migrants to renew their permits, apply for the *arraigo* (which relies on holding a job or employment offer), or sponsor their family members for admission.[116] Legal migrants who lost their jobs were eligible for some protections, such as unemployment benefits, although the amount they could receive hinged on their prior contributions.[117] However, unauthorised migrants and those working in the informal economy were ineligible for unemployment benefits. Unauthorised migrants also lost their access to free health care in April 2012, although the government restored this access in late 2018.[118]

*As unemployment rose, it became more difficult for migrants to renew their permits, apply for the arraigo, ... or sponsor their family members for admission.*

Spain has taken steps to help its immigrant population navigate the economic downturn and re-enter the workforce. One of the challenges immigrants faced as the crisis hit was maintaining their legal status if they lost their job; similarly, not holding a job largely closed off opportunities for family reunification and, for unauthorised immigrants, for gaining legal status.[119] In response, the government introduced some protections in 2011 to ensure that legal immigrants who had lost their jobs and were receiving unemployment benefits, or whose partner could support them, could renew their residence permits.[120] The government's PREPARA plan targeted people who had used up their unemployment benefits, providing them with a tailored plan to find work, including options to requalify, and up to six months of financial support.[121] This assistance may help explain why some immigrants chose to stay in Spain and wait out the recession.[122]

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115 Author interview with Barcelona City Council official.

116 OECD, *International Migration Outlook 2012* (Paris: OECD Publishing, 2012), 296, www.oecd-ilibrary.org/social-issues-migration-health/international-migration-outlook-2012_migr_outlook-2012-en.

117 For example, the Moroccan-national share of persons receiving unemployment benefits almost doubled between 2006 and 2009. Data from the Economically Active Population Survey, cited in Moreno Fuentes and Callejo, *Immigration and the Welfare State in Spain*, 56.

118 The 2012 decree restricted their access to the public health-care system, although this decree did not cover children and pregnant women, and later emergency health care. In response, several regional governments expanded health-care services for this population. In September 2018, the Spanish Congress of Deputies passed a law that removed requirements for people to be registered with a municipality and to hold a social security card (linked to holding a labour contract). (The latter had also affected unemployed Spanish citizens.) See Emilio de Benito, 'Healthcare Ban on Non-Resident Immigrants Sparks Madrid Protest', *El País*, 3 September 2012, https://elpais.com/elpais/2012/09/03/inenglish/1346673415_323041.html; Emilio de Benito, "Los migrantes tendrán sanidad desde el primer día sin necesidad de padrón," *El País*, 17 July 2018, https://elpais.com/politica/2018/07/16/actualidad/1531764444_944908.html; EFE, 'El Congreso da luz verde al decreto que recupera la sanidad universal', *El Confidencial*, 6 September 2018, www.elconfidencial.com/espana/2018-09-06/el-congreso-luz-verde-universalizacion-sanidad_1612374/.

119 OECD, *International Migration Outlook 2012*, 296.

120 Government of Spain, *Practical Measures to Reduce Irregular Migration: Spain* (Madrid: EMN, 2011), 28–29, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/irregular-migration/es_20120329_irregularmigration_final_en_version_en.pdf.

121 The PREPARA plan is a programme for the professional requalification of people who have used up their unemployment protection. See Government of Spain, *Annual Report on Migration and Asylum Policy: Spain, 2012* (Madrid: EMN, 2012), 18, http://extranjeros.mitramiss.gob.es/es/redeuropeamigracion/Informe_Anual_Politicas_Inmigracion_Asilo/ficheros/Annual_Policy_Report_on_Migration_and_Asylum_2012_EN.pdf.

122 Author interview with University of Barcelona academic.

Spain also launched a voluntary return programme for unemployed migrants with valid work and residence permits in November 2008, which would cover their travel expenses back to their countries of origin and pay out their accrued unemployment benefits in two instalments.[123] Participants in the programme were required to return their work and residence permits and other Spanish documents (such as their national identity number card) after receiving the first instalment, and they would then be barred from returning to work in Spain for three years. But uptake of this programme, especially among Moroccan nationals, was far below expectations.[124]

Recent policy reforms have focused more on attracting high-skilled workers, even as opportunities for low- and middle-skilled migration have contracted. Between 2015 and 2016, the government introduced fast-track processes for sponsoring highly qualified workers and intracorporate transferees in certain sectors.[125] Spain has also taken steps to attract foreign entrepreneurs. A 2013 law introduced new pathways for highly qualified professionals, investors, entrepreneurs, researchers, and intracompany transferees, and the Rising Startup Pilot Project aims to support foreign entrepreneurs.

# V. OUTLOOK FOR THE FUTURE

Spain's legal migration system was working well before the crisis, enabling employers to recruit workers for low- and middle-skilled roles in fast-growing sectors such as construction. The demand-driven nature of this system has meant that since the onset of the crisis, there has been a sharp curtailing of opportunities for low- and middle-skilled migration, although the government has embarked on a number of initiatives to encourage high-skilled migration.

While Spain's General Regime accounts for most non-EU migration to Spain, the Collective Management System is an interesting model for cooperation with third countries on migration issues. This system offers a mechanism for admitting migrants from countries with which Spain has signed a bilateral agreement, allowing Spain to deliver on its legal migration pledges to key sending and transit countries—although in practice, this has hinged on the capacity of partner countries to manage migration effectively. Falling demand for foreign labour in Spain, however, risks complicating these relationships.

Expanding legal migration opportunities has contributed to Spain's close working relationships with key sending or transit countries, such as Morocco. But irregular migration continues to be an issue in Spain. Since the cayuco crisis of 2005–06, Spain has worked closely with North and West African countries to build their capacity to curb irregular maritime migration, yet it continues, reaching 59,000 sea arrivals in 2018, primarily

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123 People who had already used up their unemployment benefits were ineligible for the APRE (Plan de Abono anticipado de Prestación a Extranjeros) programme. See Kristen McCabe, Serena Yi-Ying Lin, Hiroyuki Tanaka, and Piotr Plewa, 'Pay to Go: Countries Offer Cash to Immigrants Willing to Pack Their Bags', *Migration Information Source*, 5 November 2009, www.migrationpolicy.org/article/pay-go-countries-offer-cash-immigrants-willing-pack-their-bags.

124 The government initially expected 130,000 participants, but by the end of May 2010, only 7,087 people had applied (with 5,396 applications approved). Of this number, none were Moroccan nationals. One issue was that the programme offered accrued unemployment benefits—thus excluding those who were ineligible for unemployment benefits, and potentially deterring those who had already used up some of their unemployment benefits (and would thus receive a smaller lump sum on return). See McCabe, Lin, Tanaka, and Plewa, 'Pay to Go'; Piotr Plewa, 'The Effects of Voluntary Return Programmes on Migration Flows in the Context of the 1973/74 and 2008/09 Economic Crises', *Comparative Population Studies* 37, no. 1–2 (2012): 147–76.

125 European Commission, 'Country Factsheet: Spain 2015' (fact sheet, EMN, Brussels, 2016), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/country-factsheets/26a_spain_country_factsheet_2015.pdf; European Commission, 'Country Factsheet: Spain 2016' (fact sheet, EMN, Brussels, 2017), https://ec.europa.eu/home-affairs/sites/homeaffairs/files/26a_spain_country_factsheet_2016_en.pdf.

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to mainland Andalucía.[126] As new arrivals have settled across the country, municipalities are grappling with how to meet their specific needs; many are unlikely to qualify for asylum, but return rates remain low.[127]

Spain has managed to return some failed asylum seekers and other migrants without legal status to countries with which it has readmission agreements, such as Algeria, Mali, and Morocco, but returns to Sub-Saharan African countries have generally proved difficult to carry out. Morocco continues to be a key partner in efforts to curb irregular migration and to process readmissions, with Spain recently in negotiations with Morocco regarding efforts to repatriate unauthorised migrants, and advocating for the European Union to provide more financial support to Morocco on border controls.[128] Spain has also pursued further cooperation with other key sending countries; for example, it signed a security agreement with Guinea (which was the second-largest country of origin of irregular arrivals by land and sea in 2018).[129]

The outcome of the general election in April 2019 may shape Spain's migration policies going forward. Reports had suggested that Spain's Socialist-led government, which came into office in June 2018, planned to review its legal migration policies in 2019[130]—but this will now hinge on the Socialist party gaining enough seats in the 350-seat Congress (or winning sufficient support from other parties) to introduce new legislation.

After taking office in June 2018, the Sánchez government initially indicated a relatively welcoming attitude toward migrants. Examples include its high-profile decision to admit the Aquarius, an NGO rescue ship carrying refugees and migrants, into its territorial waters and its decision to reinstate access to free health care for unauthorised migrants.[131] However, amid ongoing pressure from irregular sea and land arrivals, the government has revised its initial approach. For example, the government is now enforcing the pushback policy it had previously criticised, returning hundreds of people from its North African territories, Ceuta and Melilla, to Morocco, and it has proposed a plan to start repatriating unaccompanied minors to Morocco and other sending countries.[132] As of early 2019, it had stopped issuing departure permits to rescue ships, and has started declining admission to migrants picked up by rescue ships in the Central Mediterranean, citing the lack of sol-

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126 Spain received 58,569 sea arrivals in 2018, and 22,103 sea arrivals in 2017. Spain had also received 6,814 land arrivals in 2018, and 6,246 land arrivals in 2017. See UNHCR, 'Mediterranean Situation: Spain'.

127 For example, in 2017, Spain returned 10,785 third-country nationals, while issuing orders to leave to 27,340 third-country nationals that same year. See Eurostat, 'Third Country Nationals Returned Following an Order to Leave—Annual Data (Rounded) [migr_eirtn]', updated 21 August 2018 https://ec.europa.eu/eurostat/web/products-datasets/product?code=migr_eirtn; Eurostat, 'Third Country Nationals Ordered to Leave—Annual Data (Rounded) [migr_eiord]', updated 23 May 2018, https://ec.europa.eu/eurostat/web/products-datasets/-/migr_eiord.

128 Francisco Peregil and Miguel González, 'Sánchez pedirá a Mohamed VI reforzar la lucha contra la inmigración ilegal', El País, 19 November 2018, https://elpais.com/politica/2018/11/18/actualidad/1542544859_816214.html.

129 Between 1 January and 31 December 2018, nationals of Guinea comprised 20 per cent of arrivals by sea or to Ceuta and Melilla, with 13,350 arrivals recorded. See UNHCR, 'Refugees & Migrants Arrivals to Europe in 2018 (Mediterranean)' (fact sheet, UNHCR, Geneva, n.d.), https://data2.unhcr.org/en/documents/download/68006.

130 Author interview with Workers' Commissions official; El País, 'Socialists Set to Win Spain's Snap Election but Fall Short of Majority: Poll', El País, 25 March 2019, https://elpais.com/elpais/2019/03/25/inenglish/1553501050_742045.html.

131 Reuters, 'Spain Brings Back Free Healthcare for Illegal Migrants', Reuters, 15 June 2018, www.reuters.com/article/us-spain-politics-health/spain-brings-back-free-healthcare-for-illegal-migrants-idUSKBN1JB1PY; Al Jazeera, 'Spain, Portugal to Accept More Rejected Aquarius Refugees', Al Jazeera, 14 August 2018, www.aljazeera.com/news/2018/08/spain-portugal-accept-rejected-aquarius-refugees-180814133148909.html.

132 For example, Spain returned 116 nationals of Sub-Saharan countries to Morocco in late August 2018, and 55 in late October 2018. The 1992 readmission agreement between Spain and Morocco allows for the return of third-country nationals per formal requests from the Spanish government, but reportedly has rarely been used. See Óscar López-Fonseca and Jesús A. Cañas, 'Government Sends 116 Migrants Who Jumped Fence back to Morocco', El País, 23 August 2018, https://elpais.com/elpais/2018/08/23/inenglish/1535032545_735013.html; Agence France-Presse, 'Spain Returns Migrants to Morocco after Storming of Melilla Enclave', Euractiv, 23 October 2018, www.euractiv.com/section/global-europe/news/spain-returns-migrants-to-morocco-after-storming-of-melilla-enclave/; María Martín, 'The Children Spain Doesn't Want', El País, 16 January 2019, https://elpais.com/elpais/2019/01/15/inenglish/1547558458_554213.html.

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idarity from other European countries.[133] Spain also struck a deal with Morocco in February 2019 that would allow Spanish sea rescue services to return rescued migrants to Moroccan ports in certain circumstances.[134]

Meanwhile, Spain is also dealing with rising numbers of Venezuelan arrivals fleeing a collapsing economy, shortages of food and medical supplies, and political strife in their country of origin. Prior to the mid-2010s, many Venezuelans had entered Spain on a European passport or via familial links in the country, or in pursuit of higher education, and they tended to be highly skilled. Since 2016, however, a growing share of Venezuelan arrivals have not had these options and thus lacked a clear legal path to stay in Spain, instead entering and filing for asylum or simply overstaying their visa-free travel period as a way to escape the crisis in Venezuela.[135] Between 2015 and 2018, the Venezuela-born population registered in Spain increased by 57 per cent.[136] Recognition rates for Venezuelan asylum seekers remain low, but carrying out returns of those who fail to secure asylum is impractical, leading Spain to announce in March 2019 that it would introduce renewable one-year residence permits on humanitarian grounds for Venezuelans whose asylum applications were rejected after 1 January 2014.[137]

*When demand for unskilled or semi-skilled workers does start to grow, challenges will include ensuring adequate protections for labour migrants.*

As Spain's economy recovers, with growth in sectors such as construction that have relied on a largely foreign-born workforce, the government may start to increase its quotas for admitting non-EU workers. Policy priorities such as measures to promote the recognition of middle-skilled credentials, which were quietly dropped as the crisis took hold, may be picked up once more.[138] When demand for unskilled or semi-skilled workers does start to grow, challenges will include ensuring adequate protections for labour migrants, particularly those working in the informal economy. Demand for low-skilled foreign workers is in part decided by Spanish nationals' unwilling to work in jobs with low pay or poor working conditions. For example, agricultural producers have relied increasingly on foreign labour since the 1990s, as Spanish nationals sought out jobs in other sectors that would offer better working conditions.[139] In a demand-driven system such as Spain's, policymakers will need to weigh employer requests for foreign labour against efforts to ensure suitable labour-market conditions and wages for all workers.

133 Lucía Abellán, 'With No EU Policy Forthcoming, Spain Gets Tougher on Immigration', *El País*, 28 January 2019, https://elpais.com/elpais/2019/01/28/inenglish/1548672833_325170.html.

134 Under the terms of the agreement, this would apply in scenarios when Spain's sea rescue services are assisting the Moroccan Coast Guard and the nearest safe harbour is in Morocco. Previously, all migrants rescued by Spain's rescue services were taken to Spanish ports, even when close to the Moroccan coast. See María Martín and Lucía Abellán, 'Spain and Morocco Reach Deal to Curb Irregular Migration Flows,' *El País,* 21 February 2019, https://elpais.com/elpais/2019/02/21/inenglish/1550736538_089908.html.

135 See Katrien Dekocker, 'La comunidad venezolana en España. De una estrategia migratoria de reproducción social a una creciente pobreza emergente,' in *El Éxodo Venezolano: Entre el Exilio y la Emigración*, eds. José Koechlin and Joaquín Eguren (Lima and Madrid: Universidad Antonio Ruiz de Montoya, Konrad Adenauer Stiftung, Organización Internacional para las Migraciones, and Observatorio Iberoamericano sobre Movilidad Humana, Migraciones y Desarrollo, 2018), www.comillas.edu/Documentos/OBIMID/Exodo_Venezolano_Entre_Exilio_Emigracion.pdf.

136 INE, 'Principales series de población desde 1998—Población (españoles/extranjeros) por País de Nacimiento, sexo y año'.

137 In 2018, Spain issued 11,875 first instance decisions for Venezuelan nationals, of which 24 per cent (2,895) were positive. See UNHCR, 'ACNUR da la bienvenida a la residencia por razones humanitarias para venezolanos con solicitudes de asilo rechazadas en España' (press release, 1 March 2019), www.acnur.org/es-es/noticias/press/2019/3/5c794bee4/acnur-da-la-bienvenida-a-la-residencia-por-razones-humanitarias-para-venezolanos.html; Eurostat, 'First Instance Decisions on Applications by Citizenship, Age and Sex. Annual Aggregated Data (Rounded) [migr_asydcfsta]', updated 2 April 2019, https://ec.europa.eu/eurostat/web/products-datasets/-/migr_asydcfsta.

138 Author interview with University of Barcelona academic.

139 López-Sala, 'Induced Circularity for Selective Workers'.

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