

# Regularisation of unauthorised immigrants in Italy and Spain: determinants and effects

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## Abstract

In Southern European countries, the regularisations of irregular migrants have very frequently been used as *ex post* control policy measures. They have often been blamed by a large number of scholars for their incapacity to stop the reproduction of irregular migration systems. Nevertheless, the debate on the effectiveness of regularisation programmes still demonstrates a substantial contradiction between the criticism of regularisations and the lack of empirical evidence in favour of or against the execution of such processes. The aim of the present article is to analyze the effects of regularisations in Italy and Spain as the two countries that have regularised the largest number of migrants in Europe. The final goal of the article is not only to assess the efficiency of regularisations but also to discuss the future of such measures in the Mediterranean migration regimes.

**Key words:** irregular migration; regularisation processes; informal economy; Spain; Italy.

**Resum.** *La regularització d'immigrants irregulars a Espanya i a Itàlia: determinants i efectes*

Sovint, en els països del sud d'Europa, la regularització d'immigrants irregulars s'ha emprat com a política migratòria de control aplicada a posteriori. Molts investigadors ho critiquen per la incapacitat que manifesta de parar la reproducció de sistemes de migració irregular. Malgrat tot, el debat sobre l'efectivitat d'aquests programes segueix demostrant l'existència d'una contradicció fonamental entre aquestes crítiques i la manca d'evidències empíriques a favor o en contra dels processos de regularització. L'objectiu principal d'aquest article és analitzar els efectes de les regularitzacions a Itàlia i a Espanya, els països europeus on més immigrants s'han vist beneficiats per aquestes regularitzacions. La finalitat de l'article és avaluar l'eficàcia d'aquestes polítiques, però també plantejar quin futur té aquest tipus de mesures en els règims migratoris mediterranis.

**Paraules clau:** immigració irregular; procés de regularització; economia submergida; Espanya; Itàlia.

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**Resumen.** *La regularización de inmigrantes irregulares en España e Italia: determinantes y efectos*

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Con frecuencia, la regularización de inmigrantes irregulares ha sido usada en los países del sur de Europa como política migratoria de control aplicada a posteriori. Muchos investigadores las han criticado por su incapacidad de parar la reproducción de sistemas de migración irregular. Sin embargo, el debate sobre la efectividad de dichos programas sigue demostrando la existencia de una contradicción fundamental entre estas críticas y la falta de evidencias empíricas a favor o en contra de los procesos de regularización. El objetivo principal del presente artículo es analizar los efectos de las regularizaciones en Italia y España, los países europeos donde más inmigrantes se han visto beneficiados por ellas. La finalidad del artículo es evaluar la eficacia de estas políticas, pero también plantear qué futuro tiene este tipo de medidas en los regímenes migratorios mediterráneos.

**Palabras clave:** inmigración irregular; proceso de regularización; economía sumergida; España; Italia.

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**Résumé.** *La régularisation des immigrants irréguliers en Espagne et en Italie: causes et effets*

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La régularisation des immigrants irréguliers a fréquemment été utilisée par les pays du Sud de l'Europe comme politique migratoire de contrôle appliquée *a posteriori*. De nombreux chercheurs l'ont critiquée car elle est incapable de mettre un terme à la reproduction des systèmes migratoires irréguliers. Cependant, le débat incessant sur l'efficacité des programmes de régularisation montre qu'il existe une contradiction fondamentale entre ces critiques et l'absence de preuves empiriques qui confirment ou invalident ces programmes. Le principal objectif de cet article est d'analyser les effets de la régularisation en Espagne et en Italie car ce sont les deux pays européens qui ont le plus pratiqué ce type de politique. Le but de cet article n'est pas seulement d'évaluer l'efficacité de ces mesures, mais aussi d'exposer leur avenir dans les régimes migratoires méditerranéens.

**Mots clé:** immigration irrégulière; processus de régularisation; économie irrégulière; Espagne; Italie.

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### Summary

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Regularisations in Europe	as <i>ex-post</i> regulation tools
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### Introduction

Is the regularisation of irregular immigrants a reasonable policy tool? Since the 1990s, regularisations have been one of the most controversial policy measures in the political and scholarly debate on irregular migration. In the last 30 years, almost all European countries have carried out a regularisation processes (De Bruycker & Apap, 2000). However, the political background and the way they are implemented vary between countries. Although Southern European countries have regularised the largest number of immigrants in Europe, recent

research has highlighted that regularisations are not just a Southern European phenomenon. For instance, Northern European countries have regularised 'old' cases of asylum-seekers and refugees on an individual basis. In this case, applicants usually had to meet certain conditions such as having a secure financial income or, at least, the prospect of a job. In Southern Europe, by contrast, regularisations are usually carried out as mass processes in which immigrants without a residence permit are regularised. This type of regularisation has always been sharply criticised by Northern EU Member States since their frequency and dimension is taken as a further proof of Southern European's «public ambiguity» towards irregular migration, confirming their incapacity to control immigration flows (Brochmann, 1993; Baldwin-Edwards, 1999).

Criticisms to regularisation processes are strongly related to scepticism about their efficiency. For instance, it is generally agreed that regularisations fail to elicit the whole eligible population and that they trigger the expectation of a more or less imminent regularisation, attracting an increasing number of irregular migrants rather than limiting their numbers (OECD, 2000). In addition, it is assumed that regularised migrants usually fall back into irregularity once their residence permit has expired because they are unable to renew their residence permit in time (Reyneri, 1999). Finally, it is also generally assumed that a considerable number of regularised immigrants continue to work in the informal economy despite having obtained a regular residence permit through a regularisation process (Zincone, 2004). As Papademetriou et al. (2004: 31) argue, «evidence is meager and provides only spotty support for the beneficial labour market effects of regularisations.» At the European level, the EU Commission has repeatedly had a sceptical attitude towards such measures (COM/2004/412/def). In addition, some European countries clearly withdrew from regularisations in other Member States. After the 2002 Italian regularisation, representatives of certain Member States attempted to exclude regularised immigrants from the categories encompassed by the European directive on long-term residents from third-countries (2003/109/EC). Furthermore, in 2005, both the German and Dutch governments sharply criticised the decision by the Spanish government to carry out a mass regularisation of irregular immigrants. The same government was also blamed for not having informed its fellow EU Member States about the process in an adequate timeframe. In particular, German and Dutch criticism was fuelled by a widespread fear that regularised immigrants in Spain would invade other EU Member States, attracted by their generous welfare systems (*El País* 14/05/2005).

Other scholars, however, have pointed to some positive effects of regularisations, recognising that such processes can improve social security cash inflows and provide information on the scale of irregular and informal employment (Papadopoulou, 2005). In addition, the importance of regularisations as correction mechanisms in combination with other policy measures has also been highlighted (Pastore, 2004). In this respect, the European Commission has recently published a very comprehensive study on regularisations in the European Union, which aims to analyse the impact of such measures and their

relationship to other types of migration policies (Baldwin-Edwards & Kraler, 2009). Finally, it should be also underlined that Southern European countries have improved their 'bad reputation' in control matters. Firstly, they have strengthened their external control systems (Monzini et al., 2006; Carling, 2007). Secondly, it has been proven that differences on this issue, between Southern and Northern European countries do not lie on the existence or not of irregular flows but on the way they manage their presence (Finotelli, 2009). Thirdly, by signing the European Pact of Immigration of September 2008 where Member States agree «to use only case-by-case regularisations rather than generalised regularisations carried out nationally for humanitarian or economic reasons» (Doc. 13440/08)<sup>2</sup> Southern European migration regimes have formally given up the 'regularisation' strategy.

Despite this, evaluations of Mediterranean control regimes are still influenced by the stereotype on 'weak' Southern European migration regimes, in which chaotic and unplanned regulation mechanisms seem to dominate. In addition, the debate on the effectiveness of regularisation programmes shows that there still is a substantial contradiction between the evaluation (and criticism) of regularisations and the lack of empirical evidence in favour of or against such processes. It is this very lack of useful empirical data that often prevents us from supplying satisfactory answers to the question on whether or not regularisations are an effective policy measure against irregular migration. Have regularisations contributed to stabilise foreign populations and consolidating the residence status of immigrants? Are they effective against the informal economy? Can we speak of any remarkable pull effect? And can they still be considered hallmarks of Southern European migration policy regimes?

This paper intends to answer these questions using the Spanish and the Italian cases as comparative examples. Both countries have carried out several regularisation processes in the past twenty years. Since 1986, 1.2 and 1.4 million immigrants have respectively been regularised in Spain and Italy. Therefore, these countries can be considered relevant examples to answer the aforementioned questions due to size of these regularisation processes. In the first part of this paper, we analyse the results of the Italian and Spanish regularisation processes, as well as their effects on each country's foreign population. Since the 2005 Spanish regularisation and Italian 2002 regularisation, were the largest European mass regularisations ever, we will be particularly focusing on these in the second part of the paper. In the third section, we shall assess the effects and the future of regularisations as migration policy tools. In the process, we focus on a possible reduction of the irregularity rate, and on the so-called pull effect on further irregular flows. Finally, we insist on the role of regularisations in the analysed migration regimes and their control mechanisms. The paper's final goal is to assess their real control potential beyond sterile myths on migration dynamics and migration control policies in Europe.

2. This document is, however, not legally binding, so there are still no legal barriers to the execution of regularisation processes.

## Regularisations in Europe

### *The Italian case*

Italy became a 'new' immigration country between the 1970s and the 1980s, after having been an emigration country for decades. Immigration legislation was restrictive from the very beginning, since this was the price which the 'new' immigration country and future Schengen member had formally to pay for its European membership (see Table 1). However, Italian policymakers did not ignore the need for foreign workers and introduced labour recruitment strategies such as annual entry quotas. According to the law, foreign workers had to be recruited before they entered the country of destination and were only admitted if a previous labour market control had demonstrated the unavailability of natives or citizens from 'privileged' countries to do the offered job. Such labour market checks, however, turned recruitment procedures into cumbersome and inefficient processes. Moreover, the number of available entry slots included in the annual quotas ('decrees on flows') often underestimated the real labour market necessities.

Therefore, this inadequate immigration legislation, together with growing migration numbers and an expanding informal economy, stirred the increase in illegal migration (Finotelli & Sciortino, 2009). As a result, most employers started hiring foreign workers who were already living in the country as irregular immigrants. In the 1990s, Italian governments used 'decrees on flows' to regularise a given number of irregular immigrants every year, and thus to 'correct' the consequences of a dysfunctional migration regime (and a structural labour demand). In the same period, Italian governments carried out four mass regularisations, which were executed in parallel to national and European immigration regulations (Table 1). The fifth regularisation in twenty years was carried out in 2002 by the Italian government (2001-2006) chaired by Silvio Berlusconi. Interestingly, this regularisation, performed by a centre-right government, turned out to be the most successful one, with 702,000 applications and 634,728 residence permits issued.

**Table 1.** Control policies in Italy and in Europe (1985-2002)

1985	1990	1995	1998	2002
First Schengen Agreement	Second Schengen Agreement	Schengen II enforcement (not in Italy)	Schengen II operative in Italy (01.04.98)	Continuation of the European restrictive course (Sevilla 2002)
Law 943/86	Law 39/90	Law 486/1995	Law 40/1998	Law 189/02
First Regularisation (105,000 migrants)	Second Regularisation (217,000 migrants)	Third Regularisation (244,000 migrants)	Fourth Regularisation (217,000 migrants)	Fifth Regularisation (634,000 migrants)

Source: Direct sources.

Regularisation processes in Italy were not a novelty. Indeed, they are deeply embedded in the political culture and organisational structure of the Italian state. Regularisations have often been carried out in several other fields, most of which were in the building sector or to reduce tax evasion. Nevertheless, we can also find them in other less important sectors, such as that of the illegal property of archaeological findings or of exotic animals (Colombo & Sciortino, 2004). Except for the 1990 regularisation, they depended on the immigrant's employment status, which meant that foreigners could regularise their stay if they could regularise their occupational status. However, the 2002 regularisation was the only one that depended on the existence of a regular work contract and, above all, the applicant's registration to the national Social Security System. Each regularisation was announced as an exceptional measure whose objective was to regularise as many immigrants as possible in order to solve the problem of irregular migration.

In general, regularisations in Italy were very burdensome processes. Their implementation were complemented by administrative memos adding details or changing requirements in the course of the on-going process. Successful applicants were usually issued with a renewable two-year residence permit. Nevertheless, the status of regularised immigrants remained very unstable. This was not only due to the short duration of the residence permits and precarious employment conditions but also to the discretionary power of the public officials who renew the permits. It can therefore be assumed that the prolonged renewal procedures, the precariousness of immigrants' employment sectors and the frequency of short-term labour contracts might have favoured regularised immigrants' 'return to irregularity'.

Nevertheless, research conducted on this topic has shown that regularisations in Italy also seem to have contributed to the stabilisation of foreign populations, at least up to 2002. According to recent research results, more than 50 per cent of migrants regularised between 1986 and 1998 still had a residence permit at the beginning of 2000. Moreover, the number of individuals that have applied to more than one regularisation programme -thus having reverted to an irregular status in the intervening years- is negligible (Carfagna, 2002). The number of residence permits issued between 1992 and 2000 increased from 649,000 to 1,341,000. More than 60 per cent of such permits were issued after the 1995 and 1998/1999 regularisations (Istat 2005). In addition, the spectacular increase in residence permits registered in 2004 (724,000 more than in 2003) was clearly due to the 2002 regularisation process (Table 2).

Similar results were also generated by the surveys of the *Osservatorio regionale per l'integrazione e la multiethnicità* (Regional Observatory for Integration and Multiethnicity) of the Region Lombardy, the Italian region with the highest migrant rate. According to their 2004 survey, 98 per cent of the migrants interviewed in Lombardy who had obtained their permit through a regularisation programme had never subsequently lost their legal status (Blangiardo, 2004). Finally, it can be observed that the largest foreign communities living in Italy are also those at the top of the regularisation statistics.

**Table 2.** Foreign residents and stay permits issued (2001-2009)

	Foreign residents	Stay permits
2001	—	1,379,749
2002	—	1,448,392
2003	1,549,373	1,503,286
2004	1,990,159	2,227,567
2005	2,402,157	2,245,548
2006	2,670,514	2,286,024
2007	2,938,922	2,414,972
2008	3,432,651	2,063,127
2009	3,891,295	—

Source: Istat.

**Table 3.** Regularised immigrants and foreign population (2007) with a valid residence permit

	Regularised migrants Main countries of origin (1986-2002)	Foreign population based on residence permits Main countries of origin 01/01/2004	Foreign population based on residence permits Main countries of origin 01/01/2007
Morocco	181,311	231,044	258,571
Romania	168,726	244,377	278,582
Albania	118,251	240,421	282,650
Ukraine	102,140	117,161	118,524
China	77,649	104,952	122,364
Philippines	59,592	76,099	76,413
Senegal	56,865	49,720	49,805
Tunisia	55,034	62,651	64,870
Ecuador	41,571	48,302	50,274
Serbia & Montenegro	36,094	—	55,701
Peru	35,831	48,827	52,133
Moldavia	30,121	—	50,308
Nigeria	26,417	—	28,074
Sri Lanka	27,507	—	44,957
Pakistan	27,711	—	52,133
India	27,124	49,157	57,220

Source: Based on Carfagna (2002) and Istat (2007) data.



In sum, and considering the restrictive and dysfunctional entry and residence rules in Italy since the 1990s, we can assume that regularisations represented a major stabilisation channel since the majority of the initial residence permits issued in Italy were supplied after a regularisation process. In this way, regularisations paved the way for family reunion, which represented a stable entry channel into Italy in the past 15 years (Einaudi, 2007).

Despite these positive effects, after 2002 the irregularity rate started to increase again (Ismu, 2007 & 2008). External observers ascribed this growth to the 'pull effect' of regularisations. In fact, some Italian scholars have referred to an increase in the activity of migrants' networks in concomitance with the 2002 regularisation (Ciafaloni, 2004; Pastore, 2004b; Semi, 2006). However, as Blangiardo & Tanturri (2004) suggested, 'pull effects' are quantitatively difficult to measure and, even though we cannot to a certain extent exclude such an effect, irregularity rate increases are often related to far more complex dynamics. In this particular case, such increase was probably due to Berlusconi's government decision to further reduce both the foreign workers' annual entry quotas and cooperation with sending countries (Ministero dell'Interno, 2007). In addition, lifting visa obligation for Romanian citizens favoured their free circulation within Europe and therefore the possibility they 'overstayed' as irregulars in countries with weak internal control systems, such as Italy. As a matter of fact, it was particularly the percentage of Romanian irregular residents, which increased between 2002 and 2007 (Sciortino, 2007).

In 2007, however, the irregularity rate dropped again, not least due to the fact that all Romanian and Bulgarian immigrants had become legal as a consequence of their European membership after 01/01/2007. In addition, in 2006 Berlusconi's government approved a so-called 'maxi-decree' on annual entry quotas, allowing the entry of 470,000 foreign workers. Nevertheless, the objective of the decree was not to allow 'new' workers to enter but to regularise irregular immigrants who were already living in Italy as overstayers. The maxi-decree was followed by two new bogus 'decrees on flows' in 2007 and 2008, whereas a 'more proper' regularisation process—though limited to domestic and care workers—was carried out in 2009. However, these measures seem to have been less successful than former ones, since they were not only accompanied by a remarkable decrease in the number of applications positively evaluated but also in the number of residence permits eventually issued. According to Colombo (2009), such trend seems to be triggered not only by the poor performance of the Italian bureaucracy but also by changes in the type and dynamics of migration systems in which Italy is involved. Certainly, the aforementioned trend reveals that in Italy regularisations seem to have lost their former stabilisation function. However, the execution of such processes also shows that Italian governments still consider regularisations to be useful policy measures, despite a *de facto* weakening of their efficiency. This confirms the «high degree of path dependency of migration policies» in Italy (Pastore, 2009) and poses the question on whether we are facing an Italian peculiarity or a persisting feature of the so-called 'Mediterranean immigration model'.



### *The spanish case*

The transition of Spain to an immigration country began between the 1980s and the 1990s. This transformation, however, was more a matter of rapidity than volume. Indeed, immigration grew rapidly but the volume of immigrants, at least in the 1990s, was modest, far from the immigration figures of traditional European receiving countries in the same period. It was only at the beginning of the 21<sup>st</sup> century that immigration experienced a spectacular upsurge, starting what has been coined as a 'prodigious decade' of immigration (Oliver, 2008). Within a very short period, the Spanish foreign population came to represent 10 per cent of the total population. Nevertheless, the growth of foreign population and, in particular, the increase in foreign workers, was not the result of an efficient immigration policy combining labour market demands and state policies. In fact, certain blindness towards the real Spanish labour market demands can be observed in Spanish legislation. From the beginning, Spain, like Italy, adopted a formally restrictive approach to the entry and residence of foreigners. And, like Italy, the inadequacy of its entry channels, together with a strong demand for foreign labour, created a mismatch between market demands and state regulations. In consequence, irregular migration was solidified as a structural component of the Spanish migration regime (Arango, 2000). In such a context, regularisations seemed to be the most useful way to «repair» the contradictions of the Spanish migration regime, in which irregularity and informality constantly fed each other.

Since 1985, Spain has carried out six regularisations. As in the Italian case, each of these programmes was presented as an exceptional «one-off» measure. The first regularisation took place in 1985/1986, and was followed by others in 1991, 1996, 2000, 2001 and 2005. Most processes have targeted irregular workers; however, they have sometimes been extended to other migrant categories such as relatives (1996, 2000 and 2001), asylum-seekers (2000) or specific nationalities, e.g. Ecuadorians (2001) (Arango & Finotelli, 2009). The requirements for application were not always clear. A general condition, common to all processes, was that applicants had to prove they had been living in Spain prior to a certain date (reference date). The lack of a criminal record was another essential condition for most processes. In some cases, requirements for application included previous employment as a desirable aspect, but the only one making the residence permit dependent on the existence of a work contract and the registration of the foreign worker to the Social Security System was the 2005 regularisation. In contrast to previous processes, it was therefore the employer who had to apply for the regularisation of his or her employees. Legalisation was only applicable if the worker had been registered to the Social Security System and the first month's dues had been paid. This is why the 2005 regularisation has been described by state officials as a «real» regularisation. Furthermore, applicants also had to prove that they had been in Spain for six months prior to the date the process started, i.e. before 8 August 2004, and the only acceptable proof was official registration to the municipal

population registry. On top of this, they had to produce a clean criminal record in their country, obtainable from their embassies or consulates.

Between 1986 and 2005, Spain regularised a total of almost 1.2 million immigrants. The 2005 regularisation was the most successful one, allowing the regularisation of 578,375 applicants. This considerably increased the size of the legal immigrant population in Spain. In fact, compared to 2004, the number of legal non-EU citizens increased by a total of 653,050. In addition, the number of foreign workers registered in the Social Security System increased to 1,757,081, that is to say, 616,655 more than in 2004.<sup>3</sup> The 2005 regularisation therefore seemed to affect a large proportion of irregular immigrants living in Spain, contributing to the foreign population's stabilisation.

In general, the residence permits issued after a regularisation were valid for one year. This means that in Spain, as in Italy at the time, regularised immigrants had a precarious status, and were required to renew their permits regularly. In addition, the process excluded a sizeable number of eligible applicants because they lacked the necessary documents, such as the official certificate of their registration to the municipal registry (Arango & Jachimowitz, 2005). However, the large number of immigrants who participated and obtained a residence permit remains striking. Furthermore, available data suggests that most of them could also renew their residence permit in the subsequent years. According to Table 4, the number of residence permits renewed between 2005 and 2006 for the first time more than doubled (increasing from 300,454 to 844,857), while initial residence permits decreased considerably. Even though we do not know the exact number of regularised immigrants who managed to renew their residence permits one year after the process, these figures suggest that most of the initial residence permits issued after the regularisation were renewed in the subsequent years.

Certainly, regularised immigrants are often more exposed than others to the risk of losing their regular status (Sciortino, 2004; Domingo et al., 2010). However, table 4 data allow us to assume that a significant segment of regularised immigrants in Spain remained regular after their initial residence permit had expired. This also confirms that the 2005 regularisation as suggested

**Table 4.** Valid residence permits according to type of renewal

	2005	2006	2007	2008
<b>Initial</b>	768,768	257,541	324,918	263,826
<b>1st renewal</b>	300,454	844,857	873,425	407,865
<b>2nd renewal</b>	414,900	331,941	271,925	638,330

Source: Spanish Ministry of Labour and Immigration.

3. Data provided by the Spanish Ministry of Labour and Immigration for 2004 and 2005 (<http://extranjeros.mtin.es/InformacionEstadistica/Anuarios/>).

by other scholars in the past,<sup>4</sup> contributed to reduce the irregularity rate in the short-medium term. On the other hand, regularisation detractors point to the fact that having a residence permit does not prevent immigrants from working illegally if internal controls are weak and there is a high labour demand in the informal sector. After the 2005 regularisation, the Spanish Social Security Institute monitored the occupational careers of all migrants regularised that year. According to a government follow-up, 461,319 of the regularisation-related registrations were still valid in October 2006. This means that almost 80 per cent of the regularised immigrants were still working legally at least one year after the regularisation process. On the other hand, these data also indicate that not all immigrants were still working in the same sector. In particular, a year later, a non-specified sector, which interviewed state officials identified as the domestic sector, had lost 104,193 regularised workers to the advantage of other sectors. Similar effects have also been observed in agriculture. According to our interviews with COAG, an important farmers' association, only 10-20 per cent of regularised immigrants were still working in the agricultural sector at the end of 2007. This statement perfectly fits Spanish and Italian researchers' analyses identifying the domestic sector and agriculture as foreign workers' main port of entry, which immigrants leave as soon as they have stabilised their legal residence (Zucchetti, 2004; Pumares, 2006; Rubin et al., 2008).

Unfortunately, after 2006, there are no further follow-ups on regularised immigrants' labour market insertion. But observing the number of work permits yearly issued since 2005, and especially the high number of second renewals issued in 2008, it can be assumed that the regularisation also contributed to employment stabilisation of a substantial proportion of regularised immigrants, since some of those who applied for a second renewal in 2008 had obtained their first work permit after the 2005 regularisation (Table 5).

When the number of regular foreign residents in Spain is compared with the numbers of regularised immigrants in the past ten years, the function regularisations have as stabilisers becomes even clearer (Table 6).

**Table 5.** Working permits issued according to type of renewal<sup>1</sup>

	2005	2006	2007	2008
<b>Initial</b>	644,305	103,467	222,561	68,818
<b>1st renewal</b>	129,082	621,464	108,325	117,215
<b>2nd renewal</b>	193,048	79,258	100,281	399,436

1. Initial work permits are valid for one year, whereas first and second renewals are valid for two years.

Source: Spanish Ministry of Labour and Immigration.

4. See, for instance, Recaño & Domingo, 2005; Pajares, 2006; Cachón, 2007; Cebolla & Gonzalez, 2008.

Table 6 indicates that regularisations are likely to have permitted the legal inclusion and stabilisation of 43 per cent of the total foreign population, in spite of the precariousness of the residence permits issued. In the long-term, the «stabilisation» effect of regularisations will be strengthened by family reunion processes: permits issued for family reunion increased from 7 in 2000 to 128,161 in 2007. However, Table 6 also shows that the rate of regularised foreigners varies according to nationality. As a matter of fact, the percentage of regularised Bolivians, Romanians, Ecuadorians, and to a lesser extent, Colombians is fairly high. In contrast, the percentage of regularised Moroccans, Chinese and Peruvians is much lower. These differences might be explained by the fact that the most recent flows are always those most benefiting from regularisations. For instance, Moroccans, Dominicans and Peruvians commenced migrating much earlier than Ecuadorians or Bolivians. At present, they can rely on 'regular' entry channels and are, therefore, less represented in the 2000 to 2005 regularisation processes.

Additionally, such low figures might also be partially explained by contingent factors in the countries of origin reducing flows or by specific regulations favouring legal entries (e.g. Peruvians had been included in the group of privi-

**Table 6.** Foreign population and regularised immigrants in Spain (2000-2006)

	Regularised foreigners 2000-2001-2005	Regular Non-EU foreigners 31/12/2006	% of residents regularised
<b>Total</b>	<b>1,019,997</b>	<b>2,360,804</b>	43
Bolivia	43,197	52,587	82
Romania	127,586	211,325	60
Ecuador	199,152	376,233	52
Senegal	13,965	28,560	48
Ukraine	30,576	52,760	57
Pakistan	18,938	29,669	63
Bulgaria	31,469	60,174	52
Algeria	17,748	36,499	48
Colombia	101,474	225,504	44
Morocco	146,610	543,721	26
China	22,397	99,526	22
Dominican Republic	5,936	58,126	10
Peru	6,250	90,906	7

Source: Spanish Ministry of Labour and Immigration.

leged aliens due to a Dual Nationality Convention between Spain and Peru. This exempted Peruvian labour immigrants from the labour market check and reduced the attractiveness of irregular migration for this community). Apparently, visa regulations also played a very important role in 'selecting' flows over the years. The introduction in 1992 of visa obligation for Cuban, Peruvian and Dominican immigrants hampered irregular flows from these countries, and might explain why all three communities almost disappeared from the regularisation statistics up to 2000. The type of visa regulations, might explain the high presence of Romanian and Ecuadorian immigrants in the 2005 regularisation. Figure 1 shows the relationship between visa regulations and the number of immigrants who register for the first time in a municipality per year (*variaciones residenciales*).

As can be seen in Figure 1, Romanians were the most favoured by visa regulations - their population rapidly rose after the 2002 abolition of visa obligation for Romanians citizens. Conversely, up to 2003 Ecuadorian annual inflows are very high, then, after the introduction of the visa obligation, they drop off abruptly. Similarly, Colombian immigrant inflows decreased after the introduction of visa obligation in 2001. Moroccan annual inflows, one of the oldest and largest foreign communities in Spain, do not show relevant variations in Spain, up to 2003. The improvement of diplomatic relations between Morocco and Spain may have, however, favoured the relaxation of the visa policy and an increase in new entries from 2003/2004 onwards. Figures show how, at the beginning of the 21<sup>st</sup> century, weak (or inexistent) visa regulations favoured huge immigration flows, especially from Latin America, and later on from

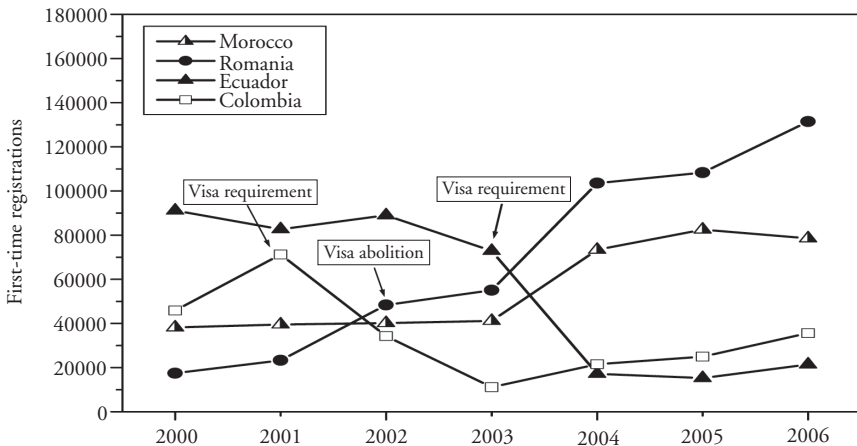


Figure 1. Evolution of first-time registrations in the *Padrón* (2000-2006).  
Source: Spanish National Statistical Institute.

Romania. Most of these ‘new’ immigrants remained in Spain irregularly until the regularisation of 2005, the outcome of which clearly reflects the ‘Latin Americanisation’ of the foreign population.

A closer look at the relationship between *variaciones residenciales* and visa policy may also help to assess the relevance of the so-called pull effect of regularisations. Table 7 provides a more detailed overview of the foreigners who registered for the first time in the *Padrón* after their arrival to Spain.

As it can be observed, registrations by Colombians decreased considerably after the introduction of the 2001 visa obligation. The number of Ecuadorians also remains very high until 2003, after which it falls. On the one hand, these high figures, around the 2000/2001 regularisations, may suggest a ‘pull effect’. In both cases, however, the increase in registrations just before the introduction of a visa obligation might be more related to the upcoming visa obligation than to an expectation of being regularised. Similarly, the increase in registrations of Bolivian citizens between 2005 and 2006 might suggest a ‘pull effect’ of the 2005 regularisation. Here again, however, the rise may have more to do with the upcoming —April 2007— visa obligation. Indeed, between 2006 and 2007 we observe a remarkable decrease in Bolivian citizens registration.

As far as Morocco is concerned, there is slight increase in Moroccan registrations after 2004. In this case, the ‘rumour’ of a regularisation might have increased the activity of Moroccan networks and favoured new entries, as occurred in Italy prior to the 2002 regularisation (Semi, 2004). Finally, the increase in Romanians after 2002 is a generalised phenomenon that cannot

Table 7. First-time registration of foreigners in the *Padrón* (2001-2007)

	2001	2002	2003	2004	2005	2006	2007
<b>Bulgaria</b>	11,771	15,872	13,691	20,997	18,337	21,748	31,331
<b>Romania</b>	23,295	48,330	55,046	103,532	108,294	131,457	197,642
<b>Ukraine</b>	10,987	10,847	9,158	11,851	10,015	10,736	11,144
<b>Morocco</b>	39,517	40,172	41,171	73,380	82,519	78,512	84,978
<b>Mali</b>	725	844	1,391	4,803	3,278	4,300	3,378
<b>Senegal</b>	1,912	2,048	2,855	6,878	6,908	6,795	11,602
<b>Ecuador</b>	82,639	88,967	72,839	17,202	15,234	21,387	30,162
<b>Peru</b>	7,121	7,955	17,735	17,735	19,946	21,691	27,372
<b>Colombia</b>	71,220	34,235	11,121	21,502	24,945	35,621	41,725
<b>Bolivia</b>	4,863	10,625	18,226	44,049	44,895	77,755	51,797
<b>China</b>	5,231	5,692	20,296	20,296	18,406	16,882	20,394
<b>Pakistan</b>	1,789	1,782	9,351	9,351	12,439	8,222	10,645

Source: Spanish National Statistical Institute.

only be explained by the ‘rumour’ of a regularisation process since it is clearly related to new visa provisions. However, news about an upcoming regularisation may well have been a magnet factor in certain cases<sup>5</sup>. Migration flows to Spain since 2000 show that the alleged ‘pull effect’ regularisations supposedly have is only one of a complex combination of factors that could contribute to the reproduction of irregular migration systems. Therefore, the persistence of a certain rate of irregularity after 2005 (and the recent moderate increase in the case of Bolivian citizens) might be related to the persistence of ‘open’ visa regulations and to the fact that some immigrants might have also lost their residence permit due to crisis-driven unemployment. However, such an effect, may be less likely than in Italy, since when it comes to the renewal of residence permits for unemployed foreigners the Italian law is far more restrictive than the Spanish one.

### Explaining the function of regularisations as *ex-post* regulation tools

Regularisations as ‘crisis management’ policy tools must, first of all, be considered as embedded in the dysfunctional mechanisms that have characterised the Spanish and Italian migration regimes in the past 20 years. Due to inadequate recruitment procedures, an extended inefficient economy and inefficient controls, irregular migration became a constitutive factor of Southern European migration regimes. Regularisations were, however, a key tool to readjust the balance between ineffective state regulations and large flows of immigrants.

Similar timing and implementation designs<sup>6</sup> of Southern European regularisation programmes and in particular the existence of a policy-transfer effect from Italy to Spain, suggests the existence of imitation mechanisms between the countries.<sup>7</sup> However, similarities go far beyond mere imitation. Indeed, regularisations turned out to be one of the most important mechanisms to ‘repair’ the inconsistencies in both migration regimes. Firstly, they enabled to regain control over the presence of irregular foreigners. Therefore, in systems where work place controls are traditionally weak, regularisations have come to represent an instrument of internal control (Sciortino, 1999). Secondly, they have contributed to stabilise foreign populations, since a large number of the regularised immigrants were subsequently able to keep the residence permit they obtained through regularisation. Finally, regularisations have permitted

5. A recent study on migration mechanisms in the two Romanian communities of Luncavita and Feldru highlighted that regularisation processes indeed had a «pull effect». Most of the community members who moved to Spain were attracted by the ongoing regularisation —supported by strong social networks and, of course, an open visa policy (Elrick and Ciobanu, 2009).
6. Only a few formal differences regarding the requirement conditions can be observed. Compared to the Italian ones, the first Spanish regularisations were also addressed to asylum seekers and irregular family members. Nevertheless, their quantitative impact should have been limited as, at the beginning of the new century, both the number of asylum seekers and family reunion processes were still low.
7. For an analysis of the policy transfer effect between Italy and Spain also see Pastore (2008).



unwanted immigrants, the so-called 'wanted but not welcome' (Zolberg, 1987) immigrants, to become integrated in formal labour market structures. In spite of the absence of adequate migration programmes, regularisations have contributed to meet the structural needs of the respective national economies, providing *a posteriori* necessary foreign labour when official admission policies failed. Obtaining a residence permit therefore favoured the mobility of immigrants from less to more attractive economic sectors. As formerly pointed out and both Italian and Spanish scholars have shown that domestic service and the agricultural sectors are the two main 'ports of entry' for immigrants who often change their type of employment as soon as they gain better residence conditions. In sum, as Christian Joppke (2005: 109) puts it for the case of France, regularisations clearly «stand for the primacy of the market over the state in controlling immigration flows».

In terms of political legitimation, regularisations had minor political and budgetary costs for both the Italian and Spanish governments. And yet, and in contrast to the events in Northern European countries, public acceptance of regularisations in Southern Europe was deeply embedded in the economic legitimation of immigration (Finotelli & Sciortino, 2009). In addition, the possibility that regularised immigrants become unemployed does not pose a threat to Italian or Spanish welfare regimes, as their unemployment benefits are rather low or short-term fixed and universal social assistance is almost non-existent. Unemployment structure was another factor that might have favoured the acceptance of such processes usually affecting unskilled foreign workers. In fact, especially in Italy, the rate of unskilled or low-skilled workers in the unemployment statistics was quite low for years, since unemployment often affected well-educated young people awaiting better opportunities in the labour market.

However, regularisations are still a Janus-faced policy measure. Firstly, regularisations never clean the slate of irregular immigrants completely because some of them are always left outside the process. Secondly, even though it is impossible to prove that there is an overall 'pull effect' between a given regularisation and irregular flow increases, it cannot be excluded that the periodic implementation of regularisation affected immigrants' perceptions and contributed to the development of certain expectations on the functioning mechanisms of Southern European migration regimes. In other words, in migration regimes characterised by periodic regularisations irregular immigrants probably expect to be regularised sooner or later. Finally, it is still unclear whether regularisations affect the way irregular and regular immigrants perceive the attractiveness of informal economy. The Romanian community living in Spain, for instance, might provide a useful example. The number of Romanians registered in the foreign population statistics of the Spanish Ministry of Immigration reached 715,750 in 2008, due to the E.U. enlargement. This figure is considerably higher than that of Romanians registered at the Social Security (227,690) at the end of the same year. This mismatch might be due to the fact that not all Romanian residents need to be registered

in the Social Security System. Unemployed immigrants or immigrant children, for instance, are not included in the former group. Furthermore, the gap may also be due to the high degree of circularity affecting Romanian migration systems. Despite having returned to Romania or moved on to another European country, Romanian immigrants might be still registered in Spain. In addition, the end of the limitation of free movement of workers from Romania and Bulgaria, lifted at the beginning of 2009, should also be taken into account to evaluate these figures. On the other hand, the mismatch could also portray a situation of 'semi-compliance'<sup>8</sup> of part of the Romanian community combining legal residence with irregular work. If we bear in mind that the number of Romanians officially registered in the Social Security System (274,082) in 2009 was lower than figures on Romanians who, according to the Spanish Statistical Institute (445,490), declared to have a job, the former consideration seems to be pointing in the right direction.

Are then regularisations effective policy tools? Empirical evidence shows that they are neither a panacea against irregular migration nor an inefficient policy tool. By contrast, it may be argued that they are positive measures if they are carried out efficiently and on an exceptional basis. But more importantly, they should be accompanied by reforms aimed at hampering the development of irregular migration systems in the long term. In order to avoid the periodic need for mass regularisation processes, nation-states should, consequently, increase their capacity to act directly on the «equation of irregularity» variables. No government can tackle irregular migration without seriously improving its migration policies. As we have seen, both the Italian and Spanish immigration laws recognised from the very beginning of their immigration experience a certain need for low-skilled foreign workers. But attempts to develop new forms of active recruitment by breaking with the rigid country-of-origin principle were only made at beginning of the new century. The Italian government started new 'experimental' forms of labour recruitment, such as the so-called sponsorship, whereby an Italian or a legally residing foreigner could be financed by regions, local administrations or unions. Such a 'formal' improvement was accompanied by an actual increase in the entry slots offered each year and an intensification of bilateral cooperation with major sending countries, turning Italy into a kind of 'laboratory' (Pastore, 2008) for immigration policies.

The Spanish government has also recently taken important steps towards establishing an efficient control system. The 2005 mass regularisation was part of a general legal framework to reduce irregular migration through new forms of legal recruitment. No. 2393/2004 regulation introduced more efficient recruitment tools, such as 'shortage lists', and also used more effective quotas. This legislative reform was further supported by a general improve-

8. According to Ruhs and Anderson (2006:2), 'semi-compliance indicates a situation where a migrant is legally resident but working in violation of some of the conditions attached to the migrant's immigrant status'.

ment in border controls and labour market controls to combat the most important magnet for irregular migration – the informal economy. However, at the same time, the government recognised that it had little chances of achieving zero irregular migration. Therefore, this new Regulation introduces a presently on-going regularisation formula, such as *arraigo*, ‘correcting’ irregularity on an individual basis. The implementation of the reform did benefit from a spectacular economic growth that did not only legitimate the largest ever regularisation carried out in Spain but also led to new recruitment schemes for foreign workers. Without doubt, what remains unclear is whether the Spanish migration regime can also be stabilised in times of economic crisis. In 2008, as a consequence of the crisis, the Spanish government reduced the slots provided by the *contingente* and the types of jobs included in the ‘shortage lists’. In fact, the Spanish government did not reform the existing labour entry channels, but merely reduced the annual available slots.

In this respect, we can determine a major difference between the Spanish and the Italian cases. The 2002 Italian mass regularisation was not part of a ‘positive’ reform of the immigration law. In fact, the Bossi-Fini law, which restricted the access to legal entry channels, accompanied its implementation. Restrictiveness in this case was a political issue and the result of a highly polarised public debate on immigration (Pastore, 2010). As a consequence, ‘new’ irregular migration systems, that needed to be corrected by ‘hidden’ regularisations, developed. In this respect, and in contrast to Spain, the Italian government took a big step back to the past by returning to old ex-post strategies where each annual entry ceiling slots are adapted to the number of applications received from existing irregular immigrants. Spain, however, maintains its ‘third’ way by individually correcting irregularity through *arraigo*, which is a novelty in the Southern European panorama. Even if the number of residence permits issued through *arraigo* has been increasing year on year<sup>9</sup>, their effect, at least until 2009, was rather limited in comparison to the ‘generous’ flow decrees approved by the Italian government since 2006. For the moment, it seems that the reform, together with control increases, have had positive effects on irregularity reduction.<sup>10</sup> Nevertheless, irregularity may deteriorate due to the economic crisis. Some observers actually fear that, as residence permits cannot be renewed without proving the existence of a job, most recent immigrants could lose them (Domingo et al., 2010). This could particularly affect those immigrants with initial residence permits or first renewal ones. It is still however impossible to forecast the extent to which the irregularity rate will increase and how governments will react to it. The fact is that the crisis will not last forever, and that both Italy and Spain have a clear structural need

9. According to the most recent data from the Ministry of Labour and Immigration the number of permits issued through *arraigo* increased from about 7,200 in 2006 to 56,000 in 2008.

10. In this respect, see recent estimates provided by Gonzalez-Enriquez, 2009 and Echeverria, 2010.

for foreign workers, particularly in the service sector. New forms of labour recruitment that render the use of ex-post regulations unnecessary are therefore required. Nonetheless, the search for a suitable labour recruitment model is not an easy task, particularly with regard to its implementation within the present European migration context. From this perspective, the main issue does no longer seem to be whether or not regularisations are effective tools, but whether Southern European migration regimes will be able to implement more efficient labour immigration policies in the time to come.

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