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Policy Brief - SPAIN

CLANDESTINO PROJECT OVERVIEW

The project aims

The CLANDESTINO research project was designed to support policy makers in developing and implementing appropriate policies regarding undocumented migration. **The project aims** were to (a) provide an inventory of data and estimates on undocumented migration (stocks and flows) in selected EU countries, (b) analyse these data comparatively, (c) discuss the ethical and methodological issues involved in the collection of data, the elaboration of estimates and their use, (d) propose a new method for evaluating and classifying data/ estimates on undocumented migration in the EU.

The countries studied

The project covered twelve EU countries (Greece, Italy, France and Spain in southern Europe; Netherlands, UK, Germany and Austria in Western and Central Europe; Poland, Hungary, Slovakia and the Czech Republic in Central Eastern Europe) **and three non EU transit migration countries** (Turkey, Ukraine and Morocco) have been under study in this project.

Methods, Data and Period of Reference

Country reports. Individual country reports review all relevant data sources on irregular migration, assess the validity of the different estimates given and where appropriate produce a new estimate for the country studied. The country reports cover the period between 2000 and 2007. This quantitative analysis is complemented by a critical review of qualitative studies and by interviews with key informants with a view to exploring the pathways into and out of undocumented status in each country. It is noted that the non-registered nature of irregular migration makes any quantification difficult and always produces estimates rather than hard data.

Classification of data & estimates

The main output of the project is a **database** (<http://irregular-migration.hwwi.net/>) which presents and classifies (as low, medium or high quality) estimates and data on irregular migration in the European Union and in selected member states. The presentation is innovative in its consistent structuring and its carefully developed quality classification, which indicates whether estimates are more or less trustworthy. Quantitative information is accompanied by substantial background materials, both on issues of general concern and on the situation in individual countries. In addition, the database provides aggregate EU level estimates for the years 2002, 2005 and 2008.

Terminology

The terms irregular (with no regular/legal status), undocumented (without the appropriate papers) and unauthorized (without legal permission for entry, stay or work) migration denote different facets of the wider phenomenon of irregular migration. These terms are accepted and used by the Clandestino consortium as synonyms. The term illegal is accepted by the consortium when referring to a condition (e.g. illegal work or illegal entry) but not in relation to a person (illegal migrant).

Definitions

For this project, **irregular or undocumented residents** are defined as residents without any legal resident status in the country they are residing in, and those whose presence in the territory – if detected – may be subject to termination through an order to leave and/or an expulsion order because of their status. **Irregular entrants** are persons who cross an international border without the required valid documents, either un-inspected over land or sea, or over ports of entry. For more information see: <http://clandestino.eliamep.gr/category/irregular-migration-ethics-in-research/>

Trafficking & Asylum Seeking

The Clandestino project is not concerned with Trafficking in Human Beings because it considers this as a separate even if related phenomenon. But in some countries it touches upon asylum seeking and asylum processing issues as they are related to irregular migration issues.



IRREGULAR MIGRATION IN SPAIN

Background of migration situation in Spain

In a population of 46,158,000 people inhabiting in Spain in January 2008 according to the National Institute of Statistics (INE) there were 3,070,000 Third Country Nationals (TCNs) registered in the *Padrón* (local registers of inhabitants) and 2,433,000 with stay permits in force according to data obtained from the Ministry of Interior. To this last number one should add the stay permits that expired while in process of renovation, due to administrative delays. According to Ministry of Interior information, these amounted to 241,000. We have estimated that there were 354,000 irregular migrants present in Spain in early 2008. This is a substantial decrease from estimates pointing up to 1,232,000 irregular immigrants at the beginning of 2005.

Data sources used for estimating size & features of irregular migration

There are various sources that were combined so as to deduce an estimate on the number of irregular migrants in Spain: the *Padrón* (Municipal register of population), stay permit data, regularisation data, the periodic Labour Force Survey (LFS), expert surveys and polls conducted among immigrants.

Spain is the only European country that allows and fosters the register of irregular immigrants. It does so by offering the latter, in exchange of their registration to the *Padrón*, the right to free medical care and public education on the same basis as Spaniards or regular immigrants. The *Padrón* is published yearly, offering thus up-to-date information on resident immigrants (legal or irregular).

Nevertheless, all migration data sources are problematic for different reasons: a) the *Padrón* includes many immigrants that have left the country or have never lived there while there always is a percentage that does not register, b) the published stay permit data are incomplete since they do not include the number of permits which have expired due to administrative delays, c) the elevation to absolute numbers from the percentages found in the LFS is based on the *Padrón*, so problems with the *Padrón* are transferred also to the LFS, d) most expert surveys have a limited geographical scope, and data resulting from polls underestimate the total of irregular migrant population as many undocumented residents are likely to conceal their irregular status to an unknown interviewer. Finally, data coming from past regularisations include only those irregular immigrants that fulfilled the criteria for application at the time. The apprehension data are not regarded as an important indicator of irregular migration: they refer almost exclusively to those caught when trying to enter illegally the country, while most would-be irregulars enter legally as false tourists.

Social and demographic features of irregular migration

Irregularity has been a common experience, a phase, in the life of most immigrants in Spain, as statistical data and polls show. As the National Poll on Immigrants showed, 40% of those arrived in Spain in 2006 were still irregulars at the end of that year, while the percentage of irregularity decreased as the time of stay increased. Hence the social and demographic features of irregular immigrants are similar to those of regular immigrants.

During the 1990s most irregular immigrants living in Spain originated from Morocco. However, since the beginning of the new century Latin-Americans lead the figures. Romanians' and Bulgarians' numbers had also been significant, but their countries' accession to the European Union in 2007 legalized automatically their stay. In 2008 Latin-Americans formed the biggest group of both irregular and regular immigrants in the country. The common language is the main reason for which Latin-Americans are attracted to Spain. The historical links between them is another factor. Interestingly, these have translated into legal privileges attracting Latin-Americans to Spain. The most important are a) the possibility to obtain nationalization after only two years of legal stay, compared with the ten years required from other nationalities, and b) the visa-free regime through which Latin-Americans travel to Spain.

At the beginning of 2008 immigrants from Argentina, Bolivia, Brazil, Chile, Colombia, Mexico, Paraguay, Uruguay and Venezuela constituted two thirds of the whole irregular immigrant population. Bolivia contributed with the highest number as two thirds of its 234,000 immigrants in Spain were estimated to be in an irregular situation at that date. In absolute terms, Argentina follows Bolivia, with 99,000 irregular immigrants. In relative terms, i.e., the weight of irregular immigrants as compared with the total number of immigrants from each region, Latin-Americans also come first.

International airports have been the main point of entry of irregular immigrants, who arrive as false tourists. Compared with this entry-point the irregular arrival by sea from African coast is a minor phenomenon in spite of the media and political attention the latter attracts. Arrivals by road were important in the years prior to the last EU enlargement, when some hundreds of thousands of Romanians and Bulgarians arrived having crossed the French-Spanish frontier.

	Padrón (A)	Residence permits (B)	Irregulars = (A) – (B)	% of irregularity
Bolivia	234,000	69,000	165,000	70
Argentina	195,000	96,000	99,000	51
Brazil	118,000	39,000	79,000	67
Paraguay	66,000	14,000	52,000	79
Uruguay	61,000	31,000	30,000	49
Venezuela	60,000	33,000	27,000	45
Colombia	280,000	254,000	26,000	9
Russia	44,000	30,000	14,000	32
Chile	48,000	25,000	13,000	27
Ukraine	74,000	62,000	12,000	16
Ecuador	408,000	396,000	12,000	3
Pakistan	46,000	36,000	10,000	22
Senegal	43,000	33,000	10,000	23
Cuba	52,000	45,000	7,000	13
Peru	122,000	116,000	6,000	5
Rep Dominic	76,000	71,000	5,000	7
Algeria	49,000	46,000	3,000	6

Main Pathways into and out of Irregular Status

Pathways into Irregular Status

- Most of the irregular migrant population of Spain consists of migrants that enter legally in the country, as tourists or students, and lapse into irregular status. The scarcity of internal controls has allowed irregular immigrants to stay and work.
- Another pathway into irregular status regards stay permit holder migrants that fail to renew their legal status due to the lack of a labour contract, as most of them work in sectors with high levels of informality, instability and seasonality (tourism, agriculture, construction and domestic work).
- Irregular frontier crossing was important as a pathway into irregular status in the 1990s, when a good part of Moroccans arrived illegally by boat. However, after the deploying of the SIVE (*Sistema Integrado de Vigilancia Exterior*), a sophisticated surveillance electronic mechanism, in the Southern coast of Spain and the Canary Islands, and the beginning of effective collaboration with Morocco regarding the return of its irregular migrants, Moroccan irregular migration to Spain almost stopped, as their boats were systematically detected and their passengers returned to Morocco.

The case is different with sub-Saharan Africans who crossed Moroccan territory to finally travel by boat to Spain. During some years Morocco did not accept the return of these migrants when they were caught in Spanish waters or coast line, but the pressure of the EU brought a change of attitude of Moroccan authorities since 2004.

From then on, sub-Saharan African immigrants began a riskier travel to Spain, from Mauritania to the Canary Islands. When Spain attained Mauritania's collaboration in combating irregular migration, sub-Saharan Africans started their journey further south, in Senegal and even Ivory Coast.

Spanish law allows a maximum of 40 days of internment in the special detention centres for irregular migrants (CIEs, *Centros de Internamiento de Extranjeros*); if during this period the police, administrative and judicial system cannot identify the migrant, or if there is no readmission accord signed with the country of origin, he or she must be freed. Until 2006 this freedom was the destiny of most sub-Saharan Africans who arrived by boat.

The diplomatic offensive of the Spanish government in the Western African Coast during 2006-2008 has led to the signing of readmission agreements with Cape Verde, Mali, Guinea Conakry, Guinea Bissau and Nigeria and varied forms of cooperation with other states in the region. As a result, a notable decrease of irregular arrivals from Africa has been observed since.

Irregular entry through the sea constitutes the pathway into irregular status that gets most media attention despite the lower numbers that it involves. Between 5% and 10% of yearly inflows of irregular immigrants use this route.

Pathways Out of Irregularity

- Regularisations, whether ‘extraordinary’ or ‘continuous’, have been the main way out of irregularity: the first extraordinary regularisation was carried out in 1985-86 and mostly affected Moroccans in the Spanish North-African cities of Ceuta and Melilla. Over the past 24 years, five special regularisation programs have taken place, i.e., one every five years, the last one being conducted in 2005. In total, 1,100,000 immigrants have benefitted from regularisations in Spain, of which 52% did so in the last regularization. The high percentage of immigrants who applied in these processes over the total foreign population shows the central role that extraordinary regularisations have played in the Spanish migration management policy. In the regularization of 1991 the number of applicants was equivalent to the 90% of all TCN legal residents, 60% in the regularisation process of 2000, 73% in that of 2001 and 47% in 2005.
- The 2007 EU enlargement to the East regularized automatically the stay of 355,000 citizens from the new member states, mostly Romanians, who were previously non EU irregular migrants in the country. As Spain applied a two years moratorium to their free movement as workers, most of these immigrants were legal stayers yet irregular workers until January 2009, when the moratorium was lifted.
- Some migrants attempt to temporarily ‘legalize’ their stay by applying for asylum. This gives them a regular status for some months. But less than 5% of applicants receive refugee status and more than half of the applicants are rejected at the first degree of examination of their case by the Spanish Office on Asylum and Refuge. Only 4,500 people applied for asylum in 2008 and of those only 151 obtained refugee status.

Key Messages for Policy Makers

The requirement of visa has already proved to be an effective measure to reduce the arrival of false tourists and it should be extended to all new countries from which statistical evidence indicates high inflows, like Paraguay.

Internal controls should improve significantly: The number of Labour inspectors must increase as well as the resources devoted to specialized police bodies. New personnel and organizational resources must also be invested into the administrative services dealing with the issue or renewal of residence and work permits, since their present scarcity provokes ‘befallen irregularity’ for thousands of immigrants.

Measures should be adopted to avoid the local registration of immigrants without a suitable dwelling in the *Padron*. The initiatives of some Local Councils in this direction should be generalised. The present practice of many Local Councils which allow registration without any proof of real residence in the municipality should come to an end. It is necessary to unify the administrative local practices in this field so as to improve the accuracy of the *Padrón*.

There is also a need to sign new readmission agreements with sending and transit countries in Sub-Saharan Africa and to promote a more effective involvement of the European Union in the negotiation of such agreements.

Once the economy recovers from the present crisis and if new immigrants are needed, legal channels of migration should be improved, the procedures to receive foreign workers should be simplified and shortened, and the services devoted to the migration management in Spanish consulates strengthened.

Private agencies acting as intermediaries in the labour market should be incorporated to the process of estimating the foreign labour force needs, since the state services only intermediate in less than 10% of new contracts and their knowledge of the labour market is incomplete.

The SIVE must also be deployed in the Spanish southeast coast if the recent arrival of irregular immigrants by boat from Algeria continues.

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All Project Reports and Policy Briefs as well as the Database are available through the project’s web site <http://clandestino.eliamep.gr>. For more information on the case of Spain, please contact, the author of this Brief, Carmen González Enríquez, Assistant Professor in UNED and Senior Analyst in Real Instituto Elcano at: carmen-gonzalez@telefonica.net. For general information on the Project please contact Prof. Anna Triandafyllidou, Project Coordinator, at anna@eliamep.gr.



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