



Office for Democratic Institutions and Human Rights

Regularization of Migrants in an Irregular Situation in the OSCE Region

Recent Developments, Points for Discussion and
Recommendations



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1. Introduction

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) provides assistance to OSCE participating States and civil society to promote democracy, rule of law, human rights and tolerance and non-discrimination. Among other areas of work, ODIHR provides expertise, delivers technical assistance and develops policies and good practices on the protection and promotion of the human rights of migrants and on the integration of migrants across the OSCE region. ODIHR commissioned this report as part of these activities on migration and in particular in view of addressing the human rights situation of irregular migrants through further examination of the topic of regularization mechanisms and programmes.

Status resolution is the most pressing priority for undocumented people, who currently have very few options for regularization. Despite the narratives opposing large-scale, temporary regularization programmes, the overwhelming majority of OSCE governments have carried out such programmes and/or established on-going regularization mechanisms at least once in the past twenty years, and many several times. However, since the “Regularisations in Europe (REGINE)” study¹ in 2009, there has been no comprehensive comparative study of regularization programmes and mechanisms in the OSCE region.

The purpose of this paper is to raise awareness of existing international standards and commitments related to regularization as well as to identify key trends and noteworthy practices, including recent practices in the context of the COVID-19 pandemic. The paper presents recommendations and points for further discussion among relevant stakeholders, particularly those who are responsible for designing and implementing regularization measures.

The scope of this paper covers measures to regularize status and to prevent irregularity identified across the OSCE region since 2007.² These measures cover all grounds that are not regulated and required by the transposition of international conventions (i.e. international protection [refugee and subsidiary protection]; statelessness recognition; special status for victims of trafficking or particularly exploitative working conditions [co-operation with criminal procedures]; and people with dependent status who experience domestic violence).

To inform the drafting of this paper, a desk study was carried out that aimed to map recent and current regularization programmes and mechanisms in all 57 OSCE participating States. It was possible to identify such measures in and to complete national mappings for 49 countries. Based on these national mappings, expert practitioners and civil society representing migrants across the OSCE region were consulted regarding the trends, relevant provisions of national legislation,³ noteworthy practices and recommendations discussed below.

¹ Martin Baldwin-Edwards and Albert Kraller, *REGINE Regularisations in Europe. Study on Practices in the Area of Regularisation of Illegally Staying Third Country Nationals in the Member States of the European Union* (Vienna: International Centre for Migration Policy Development, 2009).

² The time frame was selected to cover the period since the abovementioned REGINE study as well as to include an earlier programme implemented in Kazakhstan.

³ Annex II lists the national legislation identified and reviewed as part of the desk study.

2. Key definitions

For the purposes of this paper, the following definitions from the International Organization for Migration's *International Migration Law: Glossary on Migration*⁴ have been used:

Irregular migration: Movement of persons that takes place outside the laws, regulations, or international agreements governing the entry into, stay or exit from the State of origin, transit or destination.

Migrant in an irregular situation (irregular migrant; undocumented migrant): A person who moves or has moved across an international border and is not authorized to enter or to stay in a State pursuant to the law of that State and to international agreements to which that State is a party.

Regularization: Any process or programme by which the authorities of a State allow non-nationals in an irregular situation to stay lawfully in the country, by granting them a regular status.

The terms “regularization mechanism” and “regularization programme” have been used as in the International Centre for Migration and Policy Development’s “Regularisations in Europe (REGINE)” project:⁵

A regularization mechanism is part of the regular migration law and policy framework and is thus a permanent measure.

A regularization programme is a specific measure, not part of the regular policy framework, run for a limited period of time and typically targeting specific categories of non-nationals in an irregular situation.

The consultation for this paper also identified the implementation of initiatives in some countries, which could be defined as the following:

A regularization initiative is based on an existing mechanism in the legal or policy framework and aims to proactively put this mechanism into practice. It may be time-bound and is often undertaken by local or regional authorities in a specific city or region within a country. It is often accompanied by awareness raising campaigns, legal assistance and other supports targeting migrants in an irregular situation.

⁴ International Organization for Migration, *International Migration Law: Glossary on Migration*, (Geneva: IOM, 2019).

⁵ Materials from ICMPD’s REGINE project are available online at: <http://research.icmpd.org/projects/migration-governance/regine/>.

3. Selected international standards and commitments

There are a range of international standards and commitments that oblige governments to prevent irregular migration, to respect the human rights of migrants in an irregular situation and to seek solutions to resolve their irregular status. The list below is not comprehensive but serves to highlight some important international standards and commitments in this field with a focus on regularization.

OSCE commitments related to migration, migration management and the protection of the human rights of migrant workers include those made in the following documents:

Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 1990.

Decision No. 2/05 on Migration of the 13th OSCE Ministerial Council, Ljubljana, 5-6 December 2005.

Decision No. 5/09 on Migration Management of the 17th OSCE Ministerial Council, Athens, 1-2 December 2009.

Decision No.3/16, OSCE's Role in the Governance of Large Movements of Migrants and Refugees of the 23rd OSCE Ministerial Council, Hamburg, 8-9 December 2016.

OSCE commitments to **actively promote children's rights and interests** such as those made in the *Istanbul Summit Declaration (1999)* are also relevant for migrant children.

While the **Global Compact for Safe, Orderly and Regular Migration** is non-binding, it still presents a significant opportunity to improve the governance of migration, to address the challenges associated with today's migration, and to strengthen the contribution of migrants and migration to sustainable development. Objectives and commitments from the Global Compact that seek to address irregular migration and to promote regularization include:

Objective 7: Address and reduce vulnerabilities in migration

23. ... (h) Develop accessible and expedient procedures that facilitate transitions from one status to another and inform migrants of their rights and obligations, so as to prevent migrants from falling into an irregular status in the country of destination, to reduce precariousness of status and related vulnerabilities, as well as to enable individual status assessments for migrants, including for those who have fallen out of regular status, without fear of arbitrary expulsion;

(i) Build on existing practices to facilitate access for migrants in an irregular status to an individual assessment that may lead to regular status, on a case-by-case basis and with clear and transparent criteria, especially in cases where children, youth and families are involved, as an option for reducing vulnerabilities, as well as for States to

ascertain better knowledge of the resident population;

Objective 15: Provide access to basic services for migrants

31. (b) Ensure that cooperation between service providers and immigration authorities does not exacerbate vulnerabilities of irregular migrants by compromising their safe access to basic services or by unlawfully infringing upon the human rights to privacy, liberty and security of person at places of basic service delivery.

United Nations human rights treaties also set out important provisions concerning the human rights of all migrants, including those in an irregular situation. For example, the ***United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)*** requires States Parties to take appropriate measures to address the situation of migrants in an irregular situation and to consider the possibility of regularizing their situation. Specifically, Article 69 of the Convention states:

1. States Parties shall, when there are migrant workers and members of their families within their territory in an irregular situation, take appropriate measures to ensure that such a situation does not persist.

2. Whenever States Parties concerned consider the possibility of regularizing the situation of such persons in accordance with applicable national legislation and bilateral or multilateral agreements, appropriate account shall be taken of the circumstances of their entry, the duration of their stay in the States of employment and other relevant considerations, in particular those relating to their family situation.

States Parties should also fully respect and realize the rights of all children as enshrined in the ***Convention on the Rights of the Child (CRC)***, including its guiding principles: the principle of non-discrimination, the best interests of the child, the right to be heard, and the right to life, survival and development. In their recent joint general comments, the Committees issued authoritative guidance specifically recommending that States Parties ensure that regularization procedures are clear and accessible for children and their families:

Joint General Comment No. 4 of the Committee on the CMW and No. 23 of the Committee on the CRC in the context of International Migration: States parties' obligations in particular with respect to countries of transit and destination

18. The Committees recognize the negative impacts on children's well-being of having an insecure and precarious migration status. The Committees therefore recommend that States ensure that there are clear and accessible status determination procedures for children to regularize their status on various grounds (such as length of residence).

Joint general comment No. 3 (2017) of the CMW and No. 22 (2017) of the CRC on the general principles regarding the human rights of children in the context of international migration

32. The Committees stress that States parties should: ...*(j) Develop and put into practice, with regard to unaccompanied children and children with families, a best-interests determination procedure aimed at identifying and applying comprehensive, secure and sustainable solutions, including further integration and settlement in the country of current residence, repatriation to the country of origin or resettlement in a third country. Such solutions may include medium-term options and ensuring that there are possibilities for children and families to gain access to secure residence status in the best interests of the child. Best-interest determination procedures should be guided by child protection authorities within child protection systems. Possible solutions and plans should be discussed and developed together with the child, in a child-friendly and sensitive manner, in accordance with Committee on the Rights of the Child general comment No. 12 (2009) on the right of the child to be heard.*

4. Noteworthy practices and issues identified

There are numerous grounds or criteria for regularization. Criteria are often linked to and include a combination of length and continuity of residence, employment, local social ties demonstrating integration or humanitarian reasons. Many governments have recognized the need to establish mechanisms in law to allow those in an irregular situation to seek to regularize their status. Most of these mechanisms – whether viewed as humanitarian, rights-based or labour-related – are based on international human rights law obligations (such as the right to private and family life, children’s rights, *non-refoulement* or the prohibition of inhuman and degrading treatment), but they are not necessarily framed that way. They often target the regularization of a particular group of the undocumented population, in some cases created through particular policy limitations, failures or changes.

4.1. Programmes

In the course of the desk study and the consultative process with expert practitioners and civil society representing migrants across the OSCE region, a variety of government regularization programmes were identified. Depending on the national context, such programmes were referred to by different names such as: amnesty, pathway, programme or scheme. The study identified 27 programmes in 13 countries across the OSCE region during the period between 2006–2020. The programme carried out in Kazakhstan in 2006, under which approximately 165,000 labour migrants from Commonwealth of Independent States (CIS) countries had their status regularized,⁶ was the only large-scale regularization programme identified in the CIS region. In Europe, a variety of targeted time-bound programmes were carried out in Austria, Belgium, Ireland, Italy, Luxembourg, Netherlands, Norway, Poland, Turkey and the United Kingdom. Recent programmes from Canada and the USA were also included in the mapping. The programmes identified can be categorized as outlined below.

⁶ Dr Yelena Sadovskaya, “Labour Migration in Central Asia”, OSCE Security Community Issue 1/2016, 4 July 2016, <https://www.osce.org/magazine/250386>.

COVID-19 pandemic-related legislative and policy measures including programmes

The impact of the global COVID-19 pandemic has led to a variety of immigration measures being adopted across the OSCE region. Firstly, the situation led many countries to apply quick-fix administrative measures to prevent migrants on their territory from becoming irregular, such as the extension of residence permits, visas or tolerated statuses as noted in the recent *EMN-OECD Inform*.⁷ Secondly, a few governments implemented measures to regularize migrants in response to specific labour market demands during the pandemic (see also section 4.3 below). Finally, governments considered other measures, not only to prevent or resolve irregularity, but also to acknowledge the efforts of frontline workers during the pandemic. A number of governments took action to secure their workforce and to increase stability for migrant workers. For example, France received over 8,000 applications from frontline workers (including health professionals, security and maintenance workers, child caregivers, cashiers, home help and garbage collectors) for facilitated accelerated naturalization (after only two years of residence rather than five) and granted citizenship to 2,009 foreigners (including 665 children) as of 5 May 2021.⁸ In the United Kingdom, there have been debates and an unsuccessful petition about offering indefinite leave to remain to healthcare workers and social workers fighting the pandemic⁹.

While the programme below is not a regularization programme per se, it is an interesting example of a government policy that facilitates a pathway from a precarious residence status (in this case, for asylum seekers) to a permanent residence status in the context of the COVID-19 pandemic.

Canada 2020 COVID-19 measure: Pathway to permanent residency for asylum claimants who are frontline workers (*information below from government press release*)¹⁰

Under this measure, asylum claimants across the country who are working on the front lines providing direct care to patients in health-care institutions will be able to apply for permanent residency if they meet the criteria. This approach recognizes those with precarious immigration status who are filling an urgent need and putting their own lives at risk to care for others in Canada.

As with all applicants for humanitarian and compassionate consideration, and in line with the government's commitment to family reunification, in-Canada family members of the principal applicant would be included in the application and granted permanent residency, if

⁷ European Migration Network and Organization for Economic Co-operation and Development, *Inform # 1 – EU and OECD Member States Responses to Managing Residence Permits and Migrant Unemployment during the COVID-19 Pandemic*, 2020.

⁸ French Ministry of Interior, “Communiqué de presse - Plus de 2 000 travailleurs étrangers en première ligne pendant la crise sanitaire naturalisés” 5 May 2021, <https://www.interieur.gouv.fr/Actualites/Communiqués/Plus-de-2-000-travailleurs-etrangers-en-premiere-ligne-pendant-la-crise-sanitaire-naturalises>

⁹ UK Government and Parliament, Petitions, “Offer Indefinite Leave to Remain to all NHS and social care workers,” Government Response, 17 February 2021, <https://petition.parliament.uk/petitions/563652>

¹⁰ Government of Canada, Pathway to permanent residency recognizes exceptional service of asylum claimants on front lines of COVID-19 pandemic, 14 August 2020, <https://www.canada.ca/en/immigration-refugees-citizenship/news/2020/08/pathway-to-permanent-residency-recognizes-exceptional-service-of-asylum-claimants-on-front-lines-of-covid-19-pandemic.html>

the application is approved. Those who have been found ineligible to make an asylum claim, or who have withdrawn or abandoned their claims, would be excluded from applying.

To qualify, individuals must meet all of the following criteria:

- have claimed asylum before March 13, 2020
- were issued a work permit after they made a claim for asylum
- have worked in the health-care sector, in health institutions (for example, hospitals, long-term care homes, home care through an organization or agency, assisted living facilities)
- have worked in a designated occupation for no less than 120 hours between March 13, 2020 and August 14, 2020. The designated occupations that are included in this special measure are orderlies, nurses, nurses' aides and patient service associates, assistant orderlies and certain home support workers.
- demonstrate 6 months of experience in the designated occupation before being granted permanent residence. Applicants will have until August 31, 2021 to acquire this experience.
- have a Certificat de sélection du Québec (CSQ), if wishing to reside in Quebec
- meet existing admissibility requirements, including those related to criminality, security and health.

Broad, inclusive regularization programmes

The research also identified a few very broad, inclusive programmes, which had minimal requirements. The most inclusive programme identified took place in Poland in 2012.

Poland 2012 Regularization¹¹ - 1 January 2012 – 2 July 2012 (6 months)

While this programme was not open to all undocumented migrants residing in Poland at the time, it has still been viewed as inclusive as it was not restricted to workers in a specific sector or limited to those with a specific nationality. Additionally, the criteria were minimal and clearly set out. The granting of a two-year permit with possibility to work is also seen as good practice because it provides stability and opportunity for the individual concerned.

This programme was open to all persons who resided in Poland and who were residing at the time without a regular residence status, who had lived in Poland for at least 4 years and who could provide identification. Beneficiaries obtained a residence permit for two years and were allowed to work under an employment contract.

There were 9,559 applications to be regularized submitted within the 6-month period. Government statistics published in December 2014 confirmed that 4,697 positive decisions

¹¹ *The Act of 28 July 2011 on legalizing the stay of certain foreigners in the territory of the Republic of Poland* http://orka.sejm.gov.pl/proc6.nsf/ustawy/4394_u.htm; See also: Maciej Fagasiński, Marta Górczyńska, Marta Szczepanik, *Wychodząc z cienia: Badanie prawnych, politycznych i społecznych konsekwencji programu regularizacyjnego*, (Warsaw: Polish Helsinki Foundation, 2012).

had been granted. The final number of positive decisions was not available at that time, however, as not all proceedings conducted by the first and second instance authorities had been completed, and some cases were pending before the Supreme Administrative Court.

Regularizations of former asylum seekers / clearing of asylum backlog

In a few countries (including the Netherlands, Norway and the United Kingdom) there were programmes to deal with individuals who were former asylum seekers, particularly families with children. In some cases, such programmes have been recognized by some as addressing a system failure and a way of dealing with a backlog in the asylum system (e.g. in the United Kingdom¹²). In other cases, such as the Netherlands¹³ and Norway,¹⁴ there was a focus on the rights of long-staying children and the need to provide them and their families with a solution to their precarious situation.

Regularization of specific categories of workers

More common are programmes that target workers in specific sectors where there is a recognized demand for labour. Such programmes have regularly targeted domestic and care workers as well as agricultural workers. Examples of such programmes include Canada's efforts to regularize care workers¹⁵ and construction workers.¹⁶ In Ireland, the Atypical Working Scheme was first applied in 2016 as a regularization programme for undocumented migrants working in the fishing industry¹⁷ and has since been established as a labour migration pathway.¹⁸

Special schemes for students

Ireland has carried out two schemes¹⁹ in recent years that were specifically open for individuals who had entered lawfully under a student permission with a limited right to work. Both of these

¹² John Vine CBE QPM, Independent Chief Inspector of Borders and Immigration, *An inspection of the UK Border Agency's handling of legacy asylum and migration cases, March-July 2012*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/546576/UK-Border-Agency-s-handling-of-legacy-asylum-and-migration-cases-22.11.2012.pdf

¹³ Dutch Immigration and Naturalisation Service, *Children's Pardon*, <https://ind.nl/en/about-ind/Pages/All-about-the-Regulation-for-long-term-resident-children.aspx>

¹⁴ Norwegian Government, G-03/2014 Ikrafttredelse av ny § 8-13 i utlendingsforskriften – engangsløsning for lengeværende barn Rundskriv, 30.06.2014, <https://www.regjeringen.no/no/dokumenter/G-032014-Ikrafttredelse-av-ny--8-13-i-utlendingsforskriften--engangslosning-for-lengevarende-barn/id764826/>

¹⁵ Government of Canada, Interim Pathway for Caregivers, <https://www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides/guide-0103-interim-pathway-caregivers.html>

¹⁶ Government of Canada, Temporary public policy for out-of-status construction workers in the Greater Toronto Area, <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/permanent-residence-construction-workers-gta.html>

¹⁷ Samantha Arnold, Susan Whelan and Emma Quinn, *Illegal Employment of Non-EU National in Ireland* (Dublin: European Migration Network, 2017) https://ec.europa.eu/home-affairs/sites/default/files/14a_ireland_illegalemployment_final_en_0.pdf

¹⁸ Irish Department of Justice web site: <https://www.irishimmigration.ie/coming-to-work-in-ireland/what-are-my-work-visa-options/applying-for-a-long-stay-employment-visa/atypical-working-scheme/>

¹⁹ Irish Special Schemes for Students and <http://www.inis.gov.ie/en/INIS/Pages/special-scheme-for-non-eea-nationals-who-held-a-student-permission-in-the-state-during-the-period-1-january-2005-to-31-december-2010>; Student Probationary Scheme: <http://www.irishstatutebook.ie/eli/2015/si/133/made/en/print>

schemes were very narrow in the criteria set and had many exclusions. Additionally, the requirements in terms of documentation were very onerous for the applicants. Still, to date, these measures have allowed more than 4,700 former students to regularize their status.

4.2. Mechanisms based on humanitarian grounds

A wide variety of mechanisms were identified in the desk study and expert consultation that can be classified as based on humanitarian grounds. As noted in the introduction, statuses granted under refugee law and those granted to stateless persons were not included in the scope of this study. While such measures are often referred to as national protection statuses, it is important to note that they have been established both under asylum or international protection laws as well as under immigration laws. Whether enshrined in national asylum or immigration laws, such measures are usually based on commitments made under international human rights law. This is also reflected in the Eurostat definition of a person granted authorization to stay for humanitarian reasons under national law as including persons who are not eligible for international protection, but who are nonetheless protected against removal under the obligations that are imposed by international refugee or human rights instruments or on the basis of principles flowing from such instruments.²⁰ Examples of such categories include persons who are non-removable on ill health grounds and unaccompanied children.

Humanitarian grounds

The most widely spread mechanism is the possibility to regularize based on humanitarian grounds. Such provisions are available in many countries including Albania, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Finland, Greece, Ireland, Italy, Lithuania, Malta, Norway, Poland, Portugal, Slovak Republic, Spain, and Sweden. These measures cover a wide variety of grounds for granting a humanitarian residence permit.

National protection based on non-refoulement

Mechanisms based on the principle of *non-refoulement* are included in the national laws and policies of many countries such as Bosnia and Herzegovina, Cyprus, Czech Republic, Hungary, Italy, Kazakhstan, Norway, Poland, Slovenia, Spain, Turkey, Ukraine and the United Kingdom.

Tolerated stay/unable to leave through no fault of their own

Similarly, some countries still use mechanisms that recognize that some migrants, while not qualifying for refugee status, are unable to leave through no fault of their own. These countries include Austria, Bulgaria, Czech Republic, Lithuania, the Netherlands and Switzerland. In

²⁰ Eurostat, Statistics Explained, "Glossary: Asylum Decision" online at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Asylum_decision

some cases, this only results in a tolerated stay, rather than in the granting of a regular residence status.²¹

Medical reasons

In several countries (including Belgium, Croatia, Greece, Italy, Luxembourg, the Netherlands, Slovenia, Spain and the United Kingdom), there are specific mechanisms to consider medical or health-related grounds. PICUM (Platform for International Cooperation on Undocumented Migrants) presented a detailed analysis of the requirements and procedures for some of these mechanisms in its 2009 report *Undocumented and Seriously Ill: Residence Permits for Medical Reasons in Europe*.²² PICUM stressed the importance of making reliable country of origin information publicly available, including details on medical data and healthcare systems so that applicants could more easily substantiate their claims.

4.3. Mechanisms based on social integration, education or employment

A second broad category of mechanisms that was also analyzed in earlier studies are those which allow regularization based on social integration, education or employment. Countries with labour market related mechanisms include Belgium, France, Greece, Italy, Kazakhstan, Spain, and Switzerland. Countries with social integration related mechanisms include Czech Republic, Spain, and Switzerland. Countries with education-related mechanisms include Germany and Switzerland.

Spanish “arraigo” system – three regularization mechanisms

The Spanish “arraigo” system²³ is recognized as a good practice because it allows the regularization of persons who have developed enduring roots through employment, social integration or family ties. A temporary residence and work permit can be authorized for those who meet the criteria below.

“Arraigo laboral”

- minimum of two years of residence
- no criminal record
- existence of past labour relations of a duration not less than six months

“Arraigo social”

²¹ OSCE/ ODIHR, *Meeting Report, Migrants in an Irregular Situation whose Return or Removal has been Postponed in Line with OSCE Commitments, International Legal Standards and Good Practices*, 2017. Available at <https://www.osce.org/odihr/319876>.

²² PICUM, *Undocumented and Seriously ill: Residence Permits for Medical Reasons in Europe*, 2009. Available at http://picum.org/Documents/Publi/2009/Undocumented_and_Seriously_Ill_Report_PICUM.pdf.

²³ For legal basis see: Ley Orgánica 4/2000, de 11 de enero, sobre Derechos y Libertades de los Extranjeros en España y su Integración Social (Aliens Law), Article 31.3; 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 (Aliens regulation) Article 124.

- minimum of three years of residence
- no criminal record
- labour contract proposal(s) for not less than 1 year
- family ties with other resident foreigners or a certificate attesting to their social integration, issued by the local municipality.

“Arraigo familiar”

- Parents of a child with Spanish nationality who are responsible for and cohabit with the child and are aware of parental obligations. Children whose parents were originally Spanish.

This system generally results in the regularization of the residence status of more than 30,000 people every year (2019: 40,005; 2018: 37,735; 2017: 30,579; 2016: 31,370).²⁴

Mechanisms for education, vocational training and apprenticeship

A significant advancement in recent years in a few countries (France, Germany, Italy, Switzerland) is the creation of pathways for former unaccompanied children and in some cases for undocumented youth to pursue education, vocational training or apprenticeships. These mechanisms contribute to preventing irregularity and, in some cases, to providing the possibility for undocumented youth to apply for a regular status.

Mechanisms creating a pathway out of tolerated stay

As mentioned above, some countries may grant only a tolerated stay to persons who have not been granted refugee status and who are not removable. In the case of Switzerland, a specific regularization mechanism provides a pathway for those who have been temporarily admitted in such a way so that they are able to apply for a more secure residence status. The vast majority of those whose status was regularized through so-called “hardship” procedures in Switzerland over the past decade, more than 20,000 people, transitioned from this temporarily admitted status.²⁵

4.4. Child rights-based mechanisms and child-specific mechanisms

Grounds for regularization may, depending on the circumstances of the individual child concerned, be based on children’s rights and best interests. Many countries have adopted mechanisms to better consider children’s rights and best interests²⁶ in regularization mechanisms, including Albania, Bosnia and Herzegovina, Belgium, Croatia, Czech Republic, Cyprus, France, Greece, Italy, Lithuania, Luxembourg, the Netherlands, Norway, Poland,

²⁴ For Spanish statistics see: <http://extranjeros.inclusion.gob.es/es/Estadisticas/operaciones/flujos-autorizacion/index2.html>

²⁵ Swiss State Secretariat for Migration, Statistics on hardship regularization cases are available at: <https://www.sem.admin.ch/sem/de/home/publiservice/statistik/auslaenderstatistik/haertefaelle.html>

²⁶ OSCE/ODIHR, *Meeting Report Migrant Children’s Rights in Regional Processes: What Next After the Chisinau Agreement?*, January 2021.

Portugal, Spain, Switzerland and the United Kingdom. Some of these measures are child-specific measures such as those concerning children born on the territory or those leaving state care. Other measures, while not being child-specific, are informed by children's rights and, for example, consider the best interests of the child concerned. PICUM explores some of these practices in its *Manual on Regularizations for Children, Young People and Families*.²⁷

4.5. Regularization initiatives

The 2009 Belgian regularization and the more recent Operation Papyrus of the Canton of Geneva in Switzerland are often referred to as programmes. However, while these measures were time-bound and the result of concerted efforts by government and civil society (including unions in the case of Geneva), these efforts could also be distinguished and referred to rather as regularization initiatives as they were based on existing mechanisms in national laws.

Operation Papyrus – Switzerland - February 2017 – 31 December 2018 - (23 months)

Operation Papyrus is an interesting example of a regularization initiative. In particular, it was welcomed and recognized as good practice because the criteria were very precise and the standards of evidence (e.g. for proof of residence) were also clearly listed in the guidance for applicants.

The authorities of the Canton of Geneva specified the following clear five criteria, which had to be met in order to submit an application under Operation Papyrus:

- having a job / being employed;
- full financial independence;
- five years of consecutive residence for families with children in school;
- or 10 years of consecutive residence for all other categories (families with children who are not in school, couples without children, or single persons);
- successful integration, demonstrated by having achieved the A2 level in French and, if applicable, regular school attendance by the children;
- absence of a criminal record.

These criteria were cumulative and had to be duly documented. The authorities examined each case individually. The guidance included a list of documents that candidates knew would be accepted as proof of residence in Geneva, reducing uncertainty for them and making the process less arbitrary. For more details see: Republic and Canton of Geneva, *'Opération Papyrus: Conditions et procédure pour le dépôt d'une demande de*

²⁷ PICUM, *Manual on Regularisation for Children, Young People and Families*, 2018.

*normalization*²⁸ and related PICUM blog post²⁹ in English. According to the evaluation of Operation Papyrus, 2,390 people were able to regularize their situation.³⁰ The effectiveness of the initiative is also demonstrated, as reported by PICUM member Centre de Contact Suisses-Immigrés Genève, by the very high acceptance rate, with over 99% of the requests filed by support organisations and trade unions being successful.³¹

Cities and regions are often the most affected by the phenomenon of irregular migration as well as the most pragmatic and engaged with creating effective solutions. While most regions and cities do not have decision making power over regularization (in contrast to the Swiss example above), they can still influence how national laws are implemented in practice and contribute to resolving individual cases. For example, the City Initiative on Migrants with Irregular Status in Europe³² co-ordinated by the Centre on Migration, Policy, and Society at the University of Oxford has documented good practices taken by 11 European cities to make their communities more inclusive, including through the provision of free legal assistance and support for undocumented migrants seeking to regularize their status.

²⁸ Republic and Canton of Geneva, *Opération Papyrus: Conditions et procédure pour le dépôt d'une demande de normalization*, February 2017, http://cageneve.ch/CAL%20Tekste/Papyrus_depliant.pdf

²⁹ Marianne Halle, "Geneva: Operation Papyrus Regularised Thousands of Undocumented Workers", PICUM Blog, 2 April 2020, <https://picum.org/geneva-operation-papyrus-regularised-thousands-of-undocumented-workers/>

³⁰ Giovanni Ferro-Luzzi, Aline Duvoisin et Julien Fakhoury, Evaluation du projet pilote Papyrus relatif à la régularisation des travailleurs sans statut légal à Genève, (December 2019), <https://www.ge.ch/document/19689/telecharger>

³¹ Halle (note 19).

³² Centre on Migration, Policy, and Society (COMPAS) at the University of Oxford, City Initiative on Migrants with Irregular Status in Europe, project web site at: <https://www.compas.ox.ac.uk/project/city-initiative-on-irregular-migrants-in-europe-c-mise/>

5. Key observations and points for discussion

The key observations and trends below are based on a thorough analysis of the results of the desk study, review of recent comparative research reports (see Annex) and consultations with experts. These considerations are presented as points for further reflection and discussion.

Most governments have set up regularization mechanisms in law. Several governments have notably moved away from short-term ad-hoc programmes and replaced them with permanent mechanisms in law and policy. To improve migration management, respect human rights commitments and promote integration, most governments have adopted mechanisms in law. This may be, in part, because programmes were subsequently viewed as politically unfeasible to repeat. At the same time, programmes may have been applied as stop-gap measures to make adjustments to address situations caused by system failures, which have subsequently been remedied by legislative and systemic reforms. Several OSCE participating States (including France, Poland, Spain and Switzerland) have moved away from programmes over the years and adopted mechanisms in law.

However, regularization programmes and measures to prevent irregularity remain important policy tools, as was seen especially during the pandemic. The COVID-19 pandemic demonstrates the need to retain flexible approaches and the use of administrative measures and programmes to address exceptional situations and challenges. For example, when travel restrictions were imposed, visas and permits were extended in many countries for migrants who were unable to leave the country, in order to prevent situations of irregularity. Additionally, targeted time-bound programmes to allow essential workers (including those with a precarious status) to stay in the labour market, to regularize their status, or to have a pathway to a permanent or settled residence status (as seen recently in Canada and France) are clearly beneficial to society as a whole.

Mechanisms still tend to be based not only on humanitarian grounds but also on other rights-based grounds such as the right to health or the right to private life. Mechanisms based on humanitarian considerations have often been referred to as rights-based. However, a greater awareness is emerging now in some countries that so-called labour-based measures, which may be used to address shortcomings in labour migration policy, or those related to advanced integration, are also rights-based. The right to private life has been recognized both in law and in jurisprudence. It is important that, as governments reform their legislation and policies, they address the wide range of rights that may need to be assessed in different regularization mechanisms. When designed correctly, and grounded in law and jurisprudence, mechanisms may reduce or eliminate the need for the implementation of supplementary ad-hoc programmes.

There are now more child-specific and child rights-based mechanisms. There are a variety of new mechanisms that recognize the rights of children including unaccompanied children,

long-staying undocumented children in a family context, as well as children who are “ageing out” and leaving state care or the family household. Building on recent guidance from the Committee on the Rights of the Child, more governments are also taking measures to ensure that the principle of the best interests of the child is implemented as a justiciable right, rule of procedure and a legal interpretative tool. This has had implications not only for how cases involving children are handled and how they are decided, but also for how laws are being reformed.

Some governments have also adopted new pathways for integration and regularization through education and vocational training. In some countries, these mechanisms are targeted to support unaccompanied migrant children in their transition to adulthood, thus preventing irregularity. In other countries, mechanisms exist for undocumented children and other children in precarious situations (as in some countries children under 18 are never considered “undocumented”) to apply for an apprenticeship or vocational training and, if successful, to secure a regular residence status.

These developments are also reflected in the fact that **rights-based mechanisms are not only being established in the traditional sphere of asylum and international protection law but are also being incorporated in laws governing immigration and residence.** The desk study and consultation show that many States have already taken measures to respect and fulfil these international obligations in order to make regularization measures less discretionary and more clearly defined in line with international human rights obligations. This has led to reform of both asylum (e.g. respect for the principle on *non-refoulement*) and immigration laws (e.g. recognition of an individual’s “rootedness” in society and right to private life), as well as other measures in sector-specific legislation.

This has resulted in a wide variety of non-harmonized national protection statuses across the OSCE region. For example, such national protection statuses may be based on mechanisms that ensure respect for the principle of *non-refoulement* or that provide solutions for non-removable persons and those with special needs. A recent 2020 EMN study³³ identified a total of 60 non-harmonized national protection statuses in the 22 countries covered (select European Union Member States and Norway). While many of these measures are not viewed as regularization mechanisms per se (as applicants may be in the last stage of asylum procedures and regularly residing) the granting of such permits is arguably an **important measure for preventing irregularity.**

However, leaving persons in a “tolerated stay” remains highly problematic in a few national contexts. Such a practice is problematic when it is not a grant of regular residence status, but rather simply a tolerated stay leaving the individual in an irregular status where they are not able to exercise their fundamental rights. For example, they may lack freedom of

³³ European Migration Network, *Comparative Overview of National Protection Statuses in the EU and Norway*, 2020.

movement, the right to work, the right to family reunification and the right to access social welfare benefits.

Cities and regions have a vital role to play in facilitating regularization initiatives and demonstrating the potential for positive reforms. Inclusive cities that provide services to all residents have made progress in integrating migrants in their communities and resolving the precarious situation of many undocumented migrants. Some have also used their autonomy to allocate resources and to foster co-operation to carry out effective regularization initiatives. Their experience of piloting and evaluating mechanisms in practice has, in turn, informed debates on future national reforms.

“Firewalls” contribute to the effectiveness of regularization programmes and mechanisms. Firewalls prohibit reporting duties from being imposed on all those providing services (be they state authorities or private sector actors) in the areas of education, health care, housing, social security and assistance, labour protection, policing and criminal justice, regarding the immigration status of people who come before them. Practice demonstrates that firewalls are an important measure to allow undocumented migrants to access services such as legal aid. In this way, firewalls also help to ensure equal enjoyment of fundamental rights and contribute to the prevention of crime, trafficking and labour exploitation.

It often remains a challenge to get the full picture of statistics on regularization programmes, mechanisms and initiatives for several reasons. In some countries, no statistics are publicly available, while in others little disaggregated data is shared by the authorities. It can also be difficult to monitor, particularly large programmes such as those carried out in Italy, when it often takes time to track outcomes because of appeals that may be pending. For some programmes, for example, it can be possible to find the number of applications, but not of decisions (e.g. Italy 2012 programme³⁴).

³⁴ Italian Ministry of the Interior, Dichiarazione di Emersione 2012, 17 October 2012
https://www1.interno.gov.it/mininterno/export/sites/default/it/assets/files/24/2012_10_17_Emersione_2012_-_Report_conclusivo.pdf

6. Recommendations for stakeholders

OSCE participating States should consider implementing international standards and commitments in this field as well as the recommendations formulated during the ODIHR-organized meetings on:

- *Migrants in an Irregular Situation whose Return or Removal has been Postponed in Line with OSCE Commitments, International Legal Standards and Good Practices*, March 2017;³⁵
- *Migrant Children's Rights in Regional Processes: What Next After the Chisinau Agreement?* December 2020.³⁶

With a view to protecting and fulfilling human rights and implementing the OSCE human dimension commitments, governments of the OSCE participating States are also recommended to:

6.1. Strengthen and clarify the legal and regulatory framework

- ❖ *States should establish rights-based regularization mechanisms in law*

Governments should take steps to strengthen the legal framework for the protection of all migrants. In line with international human rights standards, when there are migrants within their territory in an irregular situation, States should take appropriate measures towards regularizing the situation of such people, taking into account such factors as the duration of their stay and their family situation. Progress in this area may also require **legislative review and reform at the national level** to establish and refine regularization mechanisms and to ensure access to legal aid for such procedures. This may include **ratification of relevant international standards**, including the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*.

States should **review and reform national legislation** in order to better fulfil international human rights law obligations (e.g. the principle of *non-refoulement*, the right to private life, and the best interests of the child), which may give rise to an entitlement to regularization.

Participating States can seek the assistance of the OSCE/ODIHR in reviewing existing laws as well as proposals for new policies, programmes and draft legislation.

- ❖ *States should adopt robust child rights-based regularization mechanisms*

As all OSCE participating States except for the United States have ratified the *Convention on the Right of the Child*, these governments should take steps to **implement the Convention in line with the authoritative guidance** issued by the Committee on the Rights of the Child including the *Joint General Comment No. 4 of the CMW and No. 23 of the CRC in the context*

³⁵ The meeting report is available at: <https://www.osce.org/odihr/319876>.

³⁶ The meeting report is available at: <https://www.osce.org/odihr/482676>.

of International Migration: States parties' obligations in particular with respect to countries of transit and destination (as cited above). Governments should recognize the particular need for **multi-disciplinary engagement**, especially when dealing with cases concerning children. Governments should ensure in law and practice that the **best interests of the child** are made a primary consideration in decisions affecting migrant children in an irregular situation.

- ❖ *States should enact laws and policies that provide for solutions, which foster stability, respect family unity and promote integration*

Governments should reform laws to **replace forms of tolerated stay or temporary admission (where these are an irregular status) with a national protection status**, which would allow the individual concerned to exercise their rights and be ensured equitable treatment on par with other immigrants. In the short-term, governments should ensure that those with tolerated status are able to access a pathway out of this status (a regularization mechanism should be open to them) and that interim measures are taken to ensure their fundamental rights such as the right to healthcare.

Those who fulfil the criteria for regularization should be guaranteed a **regular residence status**, of a reasonable duration, preferably at least two years, which allows them to exercise their fundamental rights and which provides a **pathway for integration and permanency**. In practice this will entail the possibility to renew temporary permits as well as to convert temporary permits into long-term permits.

Governments should respect and realize **the principle of family unity and the right to family life** in laws and policies related to regularization. In practice, this will mean that when one family member is granted a regular status, the other family members should be granted the same status. While children are often granted a derivative status based on their parent's status, it is important that parents and other family members are assured their right to family unity and entitled to a secure regular residence status when the regularization decision is based on child rights grounds. Those individuals granted a regular residence status should also have the **right to family reunification** and governments should deal with applications for family reunification in a positive, humane and expeditious manner (in line with the UNCRC Article 10).

Government **integration policies and programmes** promoting and supporting the inclusion of migrants should include undocumented migrants and provide resources for the integration of those whose status has been regularized.

6.2. Create an enabling environment and promote good practices

- ❖ *States should ensure engagement of all relevant actors and co-operation with civil society*

Governments should plan and allocate **adequate financial resources** to ensure sufficient capacity to run awareness raising campaigns, process applications, consider appeals and support integration or return. Those responsible for processing applications should receive **specialised training** and be provided with **practical tools** such as guidelines and checklists to ensure a consistent application of the law and policies. As promoted in international law, governments should develop frameworks and procedures which encourage state authorities to **co-operate with civil society** through strategic partnerships. **Civil society partners** can play a key role in the design of regularization measures as well as support the implementation of measures through activities such as **outreach campaigns**, the provision of **free legal assistance**, and participating in **multi-disciplinary decision-making committees**.

- ❖ *All stakeholders should prevent discrimination against undocumented migrants and ensure access to services, protection and justice*

All OSCE participating States (not only those that are Council of Europe Member States) are encouraged to take measures to implement *ECRI General Policy Recommendation No 16 on Safeguarding Irregularly Present Migrants from Discrimination*,³⁷ including the adoption of legislative, policy and practical measures to **establish effective firewalls**. Governments should provide funding for low threshold legal counselling centres that assist migrants to access justice and to seek solutions such as regularization, special protection status for trafficked persons or assisted voluntary return.

- ❖ *All stakeholders should improve regularization mechanisms in policy and practice while ensuring access to justice*

Governments should enact laws and policies with **clear, simple and objective criteria** for regularization such as a specific residence period. Responsible authorities should also issue guidance regarding **standards of evidence** and regarding how such evidence will be assessed, which will create more confidence in the system. Finally, the responsible authorities should clearly state from the outset the residence status that successful applicants will receive, any exclusionary elements and the entitlements that accompany the status.

With regards to decision making, authorities should generally try to **limit discretion** and to clearly define criteria in policies. It is recommended to create decision making bodies that are **interagency and multi-disciplinary** in order to be able to assess the different elements of claims. For example, child protection authorities should be involved in decision making concerning children and their rights. Whether the decision is positive or negative, the applicant should receive a **written reasoned decision**, which should be explained to them in a language that they understand. Applicants should have the **right to appeal** decisions and **free legal assistance** to ensure their access to an effective remedy. Any appeal should have a **suspensive effect** against a return or removal order.

³⁷ European Commission against Racism and Intolerance, *General Policy Recommendation No 16 on Safeguarding Irregularly Present Migrants from Discrimination*, 16 March 2016, <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.16>

Services such as **information counselling, free legal aid and interpretation services** should be available to undocumented migrants to support them with the necessary procedures. Unaccompanied children should be appointed an **independent guardian** to support them in addition to being provided with legal assistance and representation when necessary.

Finally, those who have made an application for regularization should be provided a **residence status during the application process** – also referred to as a “safe passage” – with access to the labour market and services.

❖ *All stakeholders should learn from the good practices of cities and regions*

Governments should **encourage and empower cities and regions** to take the initiative and to foster inclusive communities. For example, some cities promote **urban citizenship** and the use of **city cards** to reduce discrimination and increase access to services. When cities and regions have the legal competence to lead **regularization initiatives**, these should be well-resourced and the lessons learned should be evaluated and shared. Governments should **document good practices at the city and regional level** to inform nationwide reforms as well as international exchanges.

❖ *States should enhance options for human rights compliant return*

Governments should ensure that applicants have the possibility to access properly resourced **assisted voluntary return** to their country of origin (or where they may hold a valid residence permit and in no circumstance to a transit country where they may be placed at risk of human rights violations) at every stage of the application process, including after refusal. Those assisting returning migrants should provide pre-departure counselling including the development of an individual **reintegration plan** and the identification of supports in the country of origin. Governments should conclude **bilateral readmission agreements**, which ensure respect for human rights and children’s rights. Authorities should allow **National Preventive Mechanisms** (established under the *Optional Protocol to the Convention Against Torture*) to accompany and monitor returns. Ideally, there should also be **independent monitoring and evaluation of sustainable reintegration measures** following return.

Laws and policies should ensure that if it is not possible to implement a return decision in a timely manner, the decision should be **reopened and reassessed** in order to ensure that the individual can live in the community with a regular status. Finally, if a removal order is **postponed** because of exceptional circumstances (such as travel restrictions caused by the global pandemic), States should take measures to ensure that the individuals concerned are granted a regular residence status and that they are able to access services and supports pending their repatriation.

6.3. Monitor, innovate and respond to exceptional situations

- ❖ *States should continue to use ad-hoc programmes to proactively address exceptional situations and legacy issues following policy changes*

Governments should also **maintain the flexibility to carry out programmes when necessary**, for example, to address asylum backlogs or the situation of non-removable migrants with only a tolerated stay, who are unable to exercise their fundamental rights. Furthermore, **measures to allow governments to better respond to challenges, such as those caused by the global pandemic**, in a timely, humane and pragmatic way are essential to preventing irregularity, protecting human rights and ensuring the effective functioning of asylum and immigration systems.

- ❖ *States should collect data, and monitor and evaluate the effectiveness of regularization practices in order to inform future reforms*

Finally, governments need to improve the collection of **disaggregated data, including gender-disaggregated data**, related to the situation of undocumented migrants including concerning regularization applications and the outcomes from such decisions, in full respect of data protection standards. Government **statistics should be regularly produced and made publicly available**. Furthermore, States should monitor and evaluate the effectiveness of regularization measures in place and any programmes carried out through routine **quality assurance** exercises and **evaluations**. In collaboration with academics and civil society, evaluations should also include **participatory assessments** with undocumented migrants to better understand the barriers and challenges they face, as well as their views and recommendations on possible **future reforms**.

Annex I: Selected bibliography of regional and comparative studies

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Annex II: Selected national legislation

This legislation was identified through research and consultation with national experts. English translations of legislation can be found on Refworld.org and Legislationline.org.

Albania	<i>Law on Foreigners, No. 108/2013 Law No. 10/2021 on Asylum in the Republic of Albania</i>
Armenia	<i>Law No. HO-211-N of 2008 on Refugees and Asylum as amended in December 2015 Law on HO-47-N of 2006 Foreigners as amended in June 2019</i>
Austria	<i>Federal Act Concerning the Granting of Asylum 2005 Aliens Police Act 2018 Settlement and Residence Act 2019</i>
Belarus	<i>Law of the Republic of Belarus dated 23.06.2008 No. 354-3 on Granting of Refugee Status, Complementary Protection, Asylum and Temporary Protection</i>
Belgium	<i>Loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers (Immigration Act)</i>
Bosnia and Herzegovina	<i>Law on Aliens, OG 88-2015 Law on Asylum, 11/2016</i>
Bulgaria	<i>Law for the Foreigners in the Republic of Bulgaria as amended Law on Asylum and Refugees as amended 2015</i>
Canada	<i>Immigration and Refugee Protection Act, last amended 1 July 2015</i>
Croatia	<i>The Foreigners Act 2011, amended 2013</i>
Czech Republic	<i>Act No. 325/1999 Coll. on Asylum Act No. 326/1999 Coll., on the Residence of Foreign Nationals in the Territory of the Czech Republic</i>
Cyprus	<i>Aliens and Immigration Law 2012</i>
Denmark	<i>Aliens Act of 2003 as amended 2013</i>
Estonia	<i>Obligation to Leave and Prohibition on Entry Act 1998 amended 2002 Aliens Act 2009</i>
Finland	<i>Act No. 301/2004 of 2004, Aliens Act as amended</i>
France	<i>Code on Entry and Residence of Foreigners and Right of Asylum Loi N° 2007 - 1631 du Novembre 2007 relative à la maîtrise de l'immigration, à l'intégration et à l'asile</i>
Germany	<i>Act on the Implementation of Residence and Asylum-Related Directives of the European Union of 19 August 2007 <u>Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory (Residence Act of 2008) as amended 2013</u> Law on Tolerated Stay for Education and Employment of 8 July 2019</i>

Greece	<p><i>Law No. 3907 of 2011 on the establishment of an Asylum Service and a First Reception Service, transposition into Greek legislation of Directive 2008/115/EC "on common standards and procedures in Member States for returning illegally staying third country nationals" and other provisions.</i></p> <p><i>Law 4332, Amendment of the provisions of the Greek Nationality Code – Amendment of Law 4521/2014 to transpose to Greek law Directive 2011/98/EU of the European Parliament and of the Council "on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third- country workers legally residing in a Member State" and Directive 2014/36/EU "on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers" and other provisions</i></p> <p><i>Law No. 4251, G.G. A' 80 of 2014, Code for Migration and Social Integration and other provisions</i></p> <p><i>Law 4384/2016 on Agricultural Cooperatives, forms of collective organization of rural areas and other provisions</i></p>
Hungary	<p><i>Act LXXX of 2007 on Asylum amended in 2016</i></p> <p><i>Act II on the Admission and Right of Residence of Third-Country Nationals, last amended 27 July 2019</i></p>
Iceland	<p><i>The Foreign Nationals Act No. 80/2016</i></p>
Ireland	<p><i>Immigration Act 2003</i></p> <p><i>Employment Permits (Amendment) Act 2014</i></p> <p><i>International Protection Act 2015</i></p>
Italy	<p><i>Law No. 40 of 1998, Provisions Governing Immigration and Regulations Concerning the Status of Foreigners</i></p> <p><i>Legislative Decree No. 25 of 25 January 2008, on minimum standards on procedures in Member States for granting and withdrawing international protection (implementation of Council Directive 2005/85/EC and of Directive 2013/32/EU of the European Parliament and of the Council), as lastly modified by Law Decree No. 113 of 4 October 2018 converted into Law No. 132 of 1 December 2018 and by Law Decree No. 130 of 21 October 2020 converted into Law No. 173 of 18 December 2020</i></p> <p><i>Law No. 47 of 7 April 2017 on Provisions on Protective Measures for Unaccompanied Foreign Minors (Law No. 47/2017)</i></p> <p><i>Decreto-Legge 21 ottobre 2020, n. 130 Disposizioni urgenti in materia di immigrazione, protezione internazionale e complementare, modifiche agli articoli 131-bis, 391-bis, 391-ter e 588 del codice penale, nonche' misure</i></p>

	<i>in materia di divieto di accesso agli esercizi pubblici ed ai locali di pubblico trattenimento, di contrasto all'utilizzo distorto del web e di disciplina del Garante nazionale dei diritti delle persone private della liberta' personale.</i>
Kazakhstan	<p><i>Law No. 149 – III ZRK dated July 2006 “On Amnesty due to Legalization of Illegal Migrant Workers”</i></p> <p><i>Law of the Republic of Kazakhstan dated December 10, 2013 No. 153-V "On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on Labor Migration"</i></p> <p><i>Order of the Minister of Internal Affairs of the Republic of Kazakhstan dated February 8, 2014 No. 76 On the approval of the Rules for the issuance, renewal and revocation of a permit to a labor immigrant, as well as the formation and maintenance of dacta and photo records of labor immigrants. Registered with the Ministry of Justice of the Republic of Kazakhstan dated March 11, 2014 No. 9200.</i></p> <p><i>Law 216-IV ZRK, Law on Refugees as amended 2014</i></p>
Kyrgyzstan	<i>Law No. 44 of 2002 on Refugees</i>
Latvia	<p><i>Immigration Law as amended 2014</i></p> <p><i>Asylum Law 2015</i></p>
Liechtenstein	<p><i>Foreign Nationals Act of 17 September 2008</i></p> <p><i>Ordinance of 16 December 2008 concerning the Entry and Stay of Foreigners</i></p> <p><i>Asylum Law of 14 December 2011</i></p> <p><i>Asylum Regulation of 29 May 2012</i></p>
Lithuania	<i>Law No. IX-2206 of 2004 on the Legal Status of Aliens as amended 2011</i>
Luxembourg	<p><i>Amended Law of 29 August 2008 on free movement of persons and immigration</i></p> <p><i>Règlement grand-ducal du 4 novembre 2020 relatif à la composition et au fonctionnement de la commission consultative d'évaluation de l'intérêt supérieur</i></p>
Malta	<i>International Protection Act</i>
Moldova	<p><i>Law No. 270-XVI of 2008 on Asylum in the Republic of Moldova</i></p> <p><i>Law No. 200 of 2010 on Foreigners</i></p>
Montenegro	<p><i>Law on International and Temporary Protection of Foreigners (Asylum Law) as amended in 2018</i></p> <p><i>Law on Foreigners 2018</i></p>
The Netherlands	<p><i>Aliens Act 2000</i></p> <p><i>Aliens Act - Implementation Guidelines 2000 (Status B)</i></p>

North Macedonia	<i>Law on International and Temporary Protection 2018</i> <i>Law on Foreigners 2019</i>
Norway	<i>Act 2008-05-15-35, Act Relating to the Admission of Foreign Nationals into the Realm and Their Stay Here (Immigration Act)</i> <i>Regulations on the Entry of Foreign Nationals into the Kingdom of Norway and Their Stay in the Realm (Immigration Regulations)</i>
Poland	<i>Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland</i> <i>The Act of 28 July 2011 on legalization of stay of some foreigners in the territory of the Republic of Poland and on amendments to the Act on granting protection to foreigners in the territory of the Republic of Poland and to the Act on Foreigners</i> <i>Act on Foreigners of 12 December 2013</i>
Portugal	<i>Act No. 23/2007 of 2007, Legal framework of entry, permanence, exit and removal of foreigners into and out of national territory</i> <i>Act 27/2008 of June 30, Asylum Act</i>
Romania	<i>Government Emergency Ordinance no. 194/2002 on the legal status of aliens in Romania</i> <i>Law No. 306 of 2005 Related to the Approval of Government Emergency Ordinance No. 113/2005 to Amend and Complete Government Emergency Ordinance No. 194/2002 Related to the Regime of Aliens in Romania</i> <i>Law No. 122/2006 on Asylum in Romania</i>
Russian Federation	<i>Federal Law No. N 4528-1 of 1993 on Refugees as amended 2013</i>
Serbia	<i>Law of 2008 on Foreigners</i> <i>Law on Asylum and Temporary Protection 2018</i>
Slovak Republic	<i>Act n° 480/2002 Coll. on Asylum</i> <i>Act No. 404/2011 Coll. on Residence of Foreigners</i>
Slovenia	<i>Law of 2008 on International Protection as amended 2013</i> <i>Aliens Act 2011 as amended 2014</i>
Spain	<i>Ley 30/1992, de 26 de noviembre, de Régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común.</i> <i>Ley 39/2015, de 1 de octubre</i> <i>Ley Orgánica 4/2000, de 11 de enero, sobre Derechos y Libertades de los Extranjeros en España y su Integración Social (Aliens Law)</i> <i>Real Decreto 240/2007, de 16 de febrero, sobre entrada, libre circulación y residencia en España de ciudadanos de los Estados miembros de la</i>

	<p><i>Unión Europea y de otros Estados parte en el Acuerdo sobre el Espacio Económico Europeo.</i></p> <p><i>Ley 12/2009, de 30 de octubre, reguladora del derecho de asilo y de la protección subsidiaria (Asylum Law)</i></p> <p><i>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 (Aliens regulation)</i></p> <p><i>Ley 12/2012, de 26 de diciembre, de medidas urgentes de liberalización del comercio y de determinados servicios.</i></p>
Sweden	<i>Act Amending the Aliens Act (2005:716)</i>
Switzerland	<p><i>Federal Act on Foreign Nationals and Integration SR 142.20</i></p> <p><i>Asylum Act SR 142.31</i></p> <p><i>Ordinance on admission, residence and employment SR 142.201</i></p>
Turkey	<i>Law no. 6458 of 2013 on Foreigners and International Protection as amended 29 October 2016</i>
Ukraine	<p><i>Law of Ukraine "On Border Control" from 05.11.2009 № 1710-VI</i></p> <p><i>Law of Ukraine on Refugees and Persons in Need of Subsidiary or Temporary Protection from 08.07.2011 No 3671-VI</i></p> <p><i>Law of Ukraine on the Legal Status of Foreigners and Stateless Persons last amended 29 April 2018 No 3930-XII</i></p>