



Regularisation
mechanisms and programmes:
Why they matter and how
to design them

Acknowledgements

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Executive Summary

Migration cannot be disconnected from procedures: application procedures, permit renewal procedures, family reunification procedures, resettlement procedures, return procedures, etc. This report focusses on one type of procedure: regularisation mechanisms and programmes people with an irregular or insecure residence status must go through to secure a residence permit for the country they already live in.

What they look like is not universal, however. Procedures' design, how people experience them

and what hurdles they must overcome depends on their nationality, residence status, the grounds for stay invoked, the country they live in and/or migrate to and a person's age and family composition.

This report is written for both policy makers and government staff who design and/or implement residence procedures, whether they be time-bound regularisation programmes or ongoing regularisation mechanisms, and for civil society organisations who wish to evaluate the procedures that exist in their country and aim to change them.

'Regularisation' refers to any process or procedure through which someone can obtain a residence permit from a relevant government authority authorising – 'regularising' – their stay in the country they reside in. The person applies for these procedures from inside the country, including when residing irregularly, in contrast to residence and work permits which must be applied for from another country. While some benefit or target undocumented people, other measures target people with a temporary or restricted residence permit or a suspension of deportation (e.g., *Duldung* status).¹ Regularisation can also occur through changes in policy that exempt a particular nationality from the requirement to have a residence permit in the country.

Two main subsets of regularisations exist: **regularisation programmes**, which have a limited time period in which to apply, and ongoing **regularisation mechanisms**, with applications accepted on a rolling basis.

Some also identify a third group, **regularisation initiatives**. These time-bound schemes differ from programmes as they are based on an existing mechanism, which they aim *"to proactively put (...) into practice."*² 'Regularisation' is also the moment that an undocumented person obtains a regular residence status for the country they live in.

¹ Suspensions of deportations are not residence permits in the sense that the government has suspended the person's deportation order but not given them the right to reside in the country. The access to services and the labour market varies widely for these statuses, with German suspensions of deportation giving access to certain social rights and sometimes training and the labour market, and Greek suspensions of deportation not giving access to any.

² OSCE ODIHR, 2021, [Regularization of Migrants in an Irregular Situation in the OSCE Region. Recent Developments, Points for Discussion and Recommendations](#), p. 4. Where programmes are based on a separate legal instrument (law, decree, or ministerial decision), initiatives make use of a pre-existing legal basis.

Spread and grounds for stay

Regularisation is a commonly used tool by governments in their approach to migration. Both within³ and outside⁴ of the European Union, governments have routinely adopted regularisation mechanisms or rolled out time-bound programmes. A number of European countries have rolled programmes or initiatives more than once,⁵ and some have used a combination of mechanisms and programmes.

Regularisations have been used with different objectives in mind and often reflect the government’s broader approaches to equality, migration management or the economy. Regularisation has, for instance, been used both as a response to specific economic challenges and situations, and as a response to a failing of the wider migration system.

A wide range of grounds for stay have thus been recognized by governments. These include, but are not limited to: an existing labour relationship, current or past labour exploitation, private life, family life, family unity, having lived a certain number of years in the country, health or illness, the inability to return to the country of origin for practical reasons, *non-refoulement*, being the victim of crime, of domestic abuse, or of trafficking, training and education, the best interests of the child, being in the care of the state, having grown up in the country, etc. Mechanisms or programmes often cover more grounds than one.⁶

3 REGINE, the most comprehensive study on regularisations in Europe to date, shows that 24 of the 27 EU member states implemented regularisation programmes or mechanisms between 1996 and 2008. Research by OSCE ODIHR covering 2006 to 2020 identified 49 measures in the 57 OSCE participating states. Research by the European Migration Network found that 60 national protection procedures (as distinct from international protection, and most of which would be considered regularisation mechanisms) existed in the 24 EU Member States, the UK and Norway surveyed at the end of 2018. Sources: ICMPD, 2009, REGINE Regularisations in Europe. Study on practices in the area of regularisation of illegally staying third-country nationals in the Member States of the EU, final report; OSCE Office for Democratic Institutions and Human Rights, 2021, [Regularization of Migrants in an Irregular Situation in the OSCE Region. Recent Developments, Points for Discussion and Recommendation](#); European Migration Network, 2020, [Comparative overview of national protection statuses in the EU and Norway. EMN Synthesis report for the EMN study 2019](#)

4 Recent examples include Colombia, Morocco, and Thailand, while Ecuador and Canada are rolling out or considering new programmes at the time of writing.

5 For instance, Ireland had regularisation programmes in 2018 and 2022. Italy has implemented eight programmes in the last 30 years (source: European Migration Network, 2021, [Responses to long-term irregularly staying migrants: practices and challenges in the EU and Norway](#), study). Belgium had two regularisation campaigns (in 1999 and 2009).

6 For example, ten different grounds for stay can be invoked when applying for the Greek residence permit for humanitarian reasons, namely being: a victim of human trafficking; a victim or witness to a criminal act; a victim of domestic abuse; employed under particularly abusive working conditions or are working while underage; attending a legally approved ‘mental dependence treatment programme’; adults unable to take care of their affairs due to health reasons or children in need of protection and under the care of public institutions, if return to a ‘safe environment’ is impossible; a child placed in the care of a Greek or regularly residing family by a Greek or foreign court; being a victim of a work accident, for the duration of the treatment; a child staying in a boarding school; a patient with serious health problems. Article 19A, [law 4251/2014](#).

International and regional framework

Although the EU has not issued an explicit policy on regularisation, EU legislation includes several provisions setting conditions for access to residence permits for particular groups of people, and directly impacts people’s residence status through the migration management framework, including the extension or termination of permits.⁷

Internationally, the 2018 Global Compact for Safe, Orderly and Regular Migration⁸ and the 2022 Progress Declaration⁹ serve as important guides for governments as the Global Compact on Migration is the first-ever global agreement on migration

management. In them, governments commit to both “[building] on existing practices to facilitate access for migrants in an irregular status to an individual assessment that may lead to regular status”¹⁰ and “strengthen[ing] efforts to enhance and diversify the availability of pathways for safe, orderly and regular migration.”¹¹ The UN Network on Migration, which is tasked with supporting governments in the implementation and review of the Global Compact on Migration, published a guidance note on regular pathways, which underlines that regularisation mechanisms and programmes have a rightful place in any country’s approach to migration.¹²

7 Namely: the [Citizen’s Rights Directive](#) (art. 13), the [Family Reunification Directive](#) (art. 15), the [Residence Permit Directive](#), the [Employers’ Sanctions Directive](#) (art. 6.5 and 13.4), the [Return Directive](#) (art 6.4) and the [Long-term Residents Directive](#) (art 13).

8 UN General Assembly, 2018, [Global Compact on Safe, Orderly and Regular Migration](#) (2018), Resolution

9 UN General Assembly, 2022, [Progress Declaration of the International Migration Review Forum](#) (2022), Resolution

10 Under objective 7 ‘Address and reduce vulnerabilities in migration’, § 23(i).

11 UN General Assembly, 2022, [Progress Declaration of the International Migration Review Forum](#) (2022), Resolution, § 59.

12 UN Network on Migration, 2021, [Regular Pathways for Admission and Stay for Migrants in Situations of Vulnerability](#), Guidance Note. The network lists undocumented people as people who find themselves in a situation of vulnerability as “irregularity (...) increases exclusion and exposes migrants to greater risk of discrimination and other human rights violations, abuse and exploitation.”

Impact on people and society

Regularisation benefits both the people concerned and wider society. Once regularised, people can breathe, plan their lives, and build their future through regular work¹³ or study. They can also move to better homes,¹⁴ see their children grow up with secure status and see family members, if they were separated before.

Governments and wider society benefit as inequality and social exclusion are reduced because people are better able to participate in all the economic, social, and cultural facets of the society they live in. Stronger and more durable connections between people and the government are built as people engage more with entities,¹⁵ organisations and bodies¹⁶ become more representative, and labour relationships are regularised. Countries’ finances also benefit as people can start paying taxes.¹⁷

Key elements of regularisation programmes and mechanisms

For regularisation programmes, mechanisms, or initiatives to work well and be effective, quick, humane and fair, they must meet the necessary safeguards and have certain characteristics. Based

on PICUM and its members’ expertise, ten key elements are identified. The bulk of the report fleshes the elements out and includes examples of existing procedures from around the world.

13 Kossoudji, S.A. and Cobb-Clark, D.A, 2002, [Coming out of the Shadows: Learning about Legal Status and Wages from the Legalized Population](#), *Journal of Labor Economics*, 20 (3), pp. 598-628. Kossoudji and Cobb-Clark (2002) find for the US that the 1986 regularisation had a strong positive effect on employment opportunities and wages of regularised workers, with people securing better-paid jobs that better fit their credentials and skills. In ULB, and Centrum voor Sociaal Beleid Herman Deleeck and Centrum voor Gelijkheid van kansen en voor racismebestrijding, 2008, [“Before and after”, de sociale en economische positie van personen die geregulariseerd werden in de uitvoering van de wet van 22/12/1999](#).

14 ULB and Centrum voor Sociaal Beleid Herman Deleeck and Centrum voor Gelijkheid van kansen en voor racismebestrijding, 2008, [“Before and after”, de sociale en economische positie van personen die geregulariseerd werden in de uitvoering van de wet van 22/12/1999](#). For more on the impact of residence status on families’ housing situation, see: PICUM, 2021, [Navigating Irregularity: the Impact of Growing up Undocumented](#)

15 E.g., job centres, real estate agents, leisure facilities, socio-professional guidance services, etc

16 E.g., trade unions, school boards, patients’ organisations, civil society organisations, etc

17 By the time Operation Papyrus, a 2017-2018 regularisation initiative in Geneva, Switzerland, had regularised 1,663 adults and 727 children (about halfway through the programme), it had generated a benefit of at least 5.7 million Swiss francs (approximately 5.2 million euros) for the cantonal social insurances. The final contribution is higher, as 2,883 people were regularised through the initiative in the end. Source: République et Canton Genève Service communication et information, 2020, [Communiqué de presse conjoint du département de la sécurité, de l'emploi et de la santé et du département de la cohésion sociale «Opération Papyrus: Bilan final et perspectives »](#); Jackson, Y. Burton-Jeangros, C. Duvoisin, A., Consoli, L. & Fakhoury, J., 2022, [Living and working without legal status in Geneva. First findings of the Parchemins study](#), Sociograph Sociological Research Studies 57b, Université de Genève; additional information from PICUM member [CCSI](#) on 25 September 2022.

In focus: Digitised procedures and fees as barriers to integration

Two facets of regularisation measures can make it harder for people to regularize their stay: the extent to which procedures are digitised and how expensive procedures are. Fees and other costs are a common feature of regularisation measures but are prohibitively high in several countries. In addition, governments have been digitising their procedures, setting up portals and online payment methods, which create opportunities but also create challenges for the digitally excluded.

Digitalisation

Residence procedures and how migration is ‘managed’ are becoming more digitised.¹⁸ Where paper applications used to be the standard, several countries have now developed online portals where people can submit, renew, or follow up their application.¹⁹ For example, people could only apply for a 2022 regularisation programme in Ireland through a survey-like online portal. And, while such survey-like formats can – in theory – lead to quicker decision making, such automation has led to mistakes and dehumanizing experiences in other countries.²⁰

While there are benefits to online portals and payment methods, they also risk widening a digital divide and create new barriers to inclusion. Undocumented people may not have (affordable) access to the internet and/or digital devices to connect to the internet; lack basic digital skills needed to use the internet and scan documents; and/or little or no experience with navigating online portals. The latter is exacerbated when portals aren’t particularly user-friendly. Governments should not create additional obstacles when digitising residence procedures.

Fees and hidden costs

Administrative fees are currently a common policy in migration management and include application and renewal fees, translation fees, permit issuing fees, biometric data processing fees, etc. These fees come in addition to other costs, like paying for a lawyer²¹ and travel costs.

Given that undocumented migrants usually live in or at are risk of poverty, the cost of residence procedures must be taken into account when designing fair migration procedures. Procedures should be designed to make them accessible, including by making them affordable by reducing or eliminating fees and hidden costs. Where fees are levied, they should not be disproportionate, excessive, or pose a barrier to inclusion and should not exceed actual processing and issuing costs.²² Fee waiver policies should be rolled out for people living in poverty, children, and victims of crime.

18 For more on other aspects of digitisation of migration management and enforcement, see PICUM, 2022, [Digital technology, policing and migration – What does it mean for undocumented migrants?](#); PICUM, n.d., [Dismantling the use of big data to deport](#) and the [Migration and Tech Monitor](#)

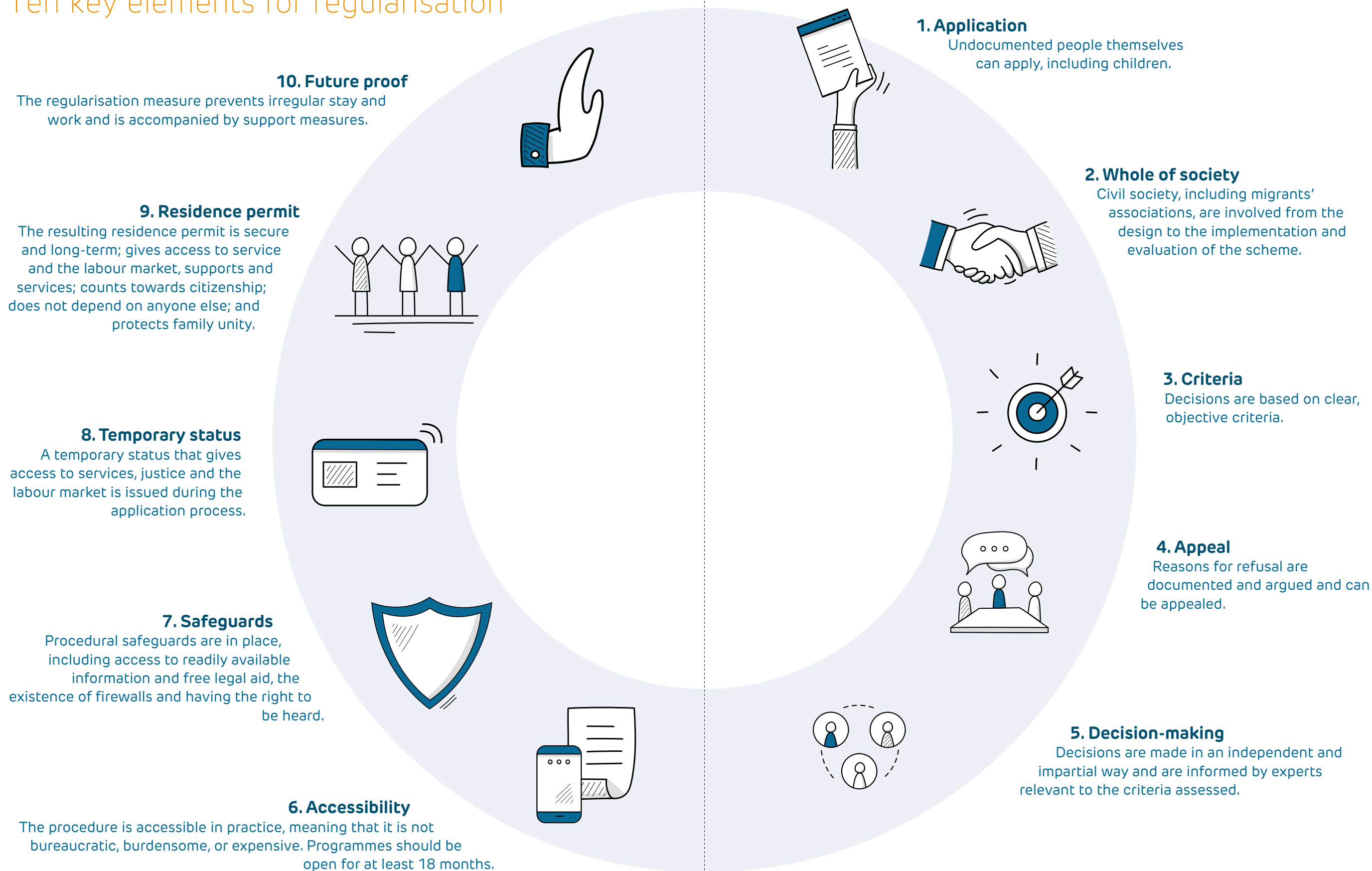
19 For instance, [Finland](#), [France](#) (offline at time of writing), [Greece](#), [Hungary](#) (for Schengen visas), and [Spain](#) (only to follow up on applications).

20 E.g., in Canada, see Canadian Immigration Lawyers Association, 23 March 2022, [User experience is an afterthought: Vulnerable refugees and others forced to troubleshoot IRCC’s experimental online portals](#) [checked on 2 September 2022]; Molnar, P. and Gill, L., 2018, [Bots at the gate. A human rights analysis of automated decision-making in Canada’s immigration and refugee system](#), The Citizen Lab and University of Toronto

21 Not all residence procedures/regularisation measures require a lawyer, although people may not know this or may feel more secure when they are assisted by a lawyer.

22 Linked to this, the Commission’s 2022 proposal for the recasting of the Single Permit Directive requires fees to be proportionate and based on the services “actually provided” to process applications and issue permits (article 10). Source: European Commission, 2022, [Proposal for a Directive 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 \(recast\)](#)

Ten key elements for regularisation



Additional PICUM resources on regularisation

2022 - [FAQ Regularisation and access to a secure residence status](#)

2022 - [Turning 18 and undocumented: Supporting children in their transition into adulthood](#).
In-depth descriptions of regularisation mechanisms and programmes open to children and young people in Belgium, Germany, Greece, Spain, Sweden, and the UK

2022 - [Barriers to return: Protection in international, EU and national frameworks](#).
Descriptions of residence permits for people with barriers to return in Cyprus, France, Germany, Greece, Italy, the Netherlands, Poland, and Spain.

2020 - [Insecure Justice? Residence permits for victims of crime in Europe](#).
In-depth descriptions of regularisation mechanisms and programmes for victims of crime in Belgium, France, Germany, Greece, the Netherlands, Italy, Poland, Spain, Switzerland, and the United Kingdom.

2018 - [Manual on regularisations for children, young people and families](#).
Descriptions of regularisation schemes available to children, families or youth in Belgium, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, Norway, Spain, and the United Kingdom. The manual also includes methods for change and policy recommendations.

2018 - [Talking points to argue for the regularisation of children, young people and families](#)



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