



# Responses to long-term irregularly staying migrants: practices and challenges in EU Member States and Norway

## Common Template for EMN Study 2020

17 July 2020, Final Version

**Action:** EMN NCPs are asked to complete this template and submit their National Report by 2 November 2020

Further clarifications can be provided by directly contacting the EMN Service Provider (ICF) at [emn@icf.com](mailto:emn@icf.com); Sara Bagnato ([Sara.Bagnato@icf.com](mailto:Sara.Bagnato@icf.com)); Tatiana Kistruga ([Tatiana.Kistruga@icf.com](mailto:Tatiana.Kistruga@icf.com)); Norma Rose ([Norma.Rose@icf.com](mailto:Norma.Rose@icf.com)).

### BACKGROUND AND RATIONALE FOR THE STUDY

The purpose of this study is to provide an overview of Spain's responses to the phenomenon of irregular stay.

The Return Directive (Directive 2008/115/EC) sets the obligation for Member States to issue a return decision for third-country nationals once it has been established that they are not eligible for legal stay.<sup>1,2</sup>

However, in practice, a certain share of third-country nationals issued with a return decision do not leave the territory of Member States.

National authorities might be unable to proceed with removals due to either legal or practical obstacles:

\*Issuance of a return decision allows for a period of voluntary departure, however a third-country national could be unwilling to leave voluntarily.

\*Forced return may be impossible to enforce without some level of co-operation from the third-country national. In other cases, national authorities postpone return to respect the principle of non-refoulement, individual circumstances or other practical reasons impeding the enforcement of a return decision.<sup>3</sup> \*Additionally, there are cases of third-country nationals whose residence permits expire and

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<sup>1</sup> Article 6 of the Return Directive. The directive applies to all EU countries except Ireland, nevertheless the concepts covered by the study are also relevant to the Member State.

<sup>2</sup> European Commission, Return Handbook (section 1.2 'illegal stay').

For the purpose of this study, illegal stay and irregular stay (as used in the EMN Glossary) will be used interchangeably.

<sup>3</sup> According to Article 9 of the Return Directive, Member States should postpone removal where it would infringe the respect of the principle of non-refoulement or where the return decision is reviewed by a competent national authority. Member States may postpone return by taking into account the specific individual circumstances of the third-country national or for practical reasons impeding removal (lack of identification of the third-country nationals or transport capacity).

renewal is not secured, or who for other reasons do not or no longer fulfil conditions for legal stay, and who were not issued a return decision for a variety of administrative and practical reasons.

\*In some cases, third-country nationals may disappear from the supervision of the competent authorities involved. In other cases, migrant who entered illegally remained undetected by migration authorities.

While the reasons for issuing the return decision as well as the reasons for the return decision not being enforced or postponed could play a role in the measures implemented by national authorities, their examination does not fall within the scope of this study.

The Study covers the period from 2015 – October 2020.

## DEFINITIONS

There are several key terms used in this template. The definitions listed below are defined with help from the **EMN Glossary**,<sup>4</sup> version 6. Please see the table below.

Term	Definition
Entry ban	An administrative or judicial decision or act prohibiting entry into and stay in the territory of the EU Member States for a specified period, accompanying a return decision.
Family members	A third-country national, as specified in Article 4(1) of Directive 2003/86/EC (normally members of the nuclear family – i.e. the spouse and the minor children), who has entered the territory of the European Union for the purpose of family reunification
Forced return	The process of going back – whether in voluntary or enforced compliance with an obligation to return – to one’s country of origin, a country of transit in accordance with EU or bilateral readmission agreements or other arrangements; or another third country, to which the third-country national concerned voluntarily decides to return and in which they will be accepted (Article 3(3) of the Return Directive).
Illegal or irregular stay	The presence on the territory of a Member State, of a third-country national who does not fulfil, or no longer fulfils the conditions of entry as set out in Art. 5 of the Regulation (EU) 2016/399 (Schengen Borders Code) or other conditions for entry, stay or residence in that EU Member State.
Irregular migration	The movement of persons to a new place of residence or transit that takes place outside the regulatory norms of the sending, transit and receiving countries.
Non-refoulement	A core principle of international refugee and human rights law that prohibits States from returning individuals to a country where there is a real risk of being subjected to persecution, torture, inhuman or degrading treatment or any other human rights violation.
Overstayer	A person remaining in a country beyond the period for which entry was granted. In the EU context, a person who has legally entered an EU State, but who has stayed beyond the expiry of his/her visa and/or residence permit.
Regularisation	State procedure by which illegally staying third-country nationals are awarded a legal status.
Residence permit	An authorisation issued using the format laid down in Regulation (EC) No 1030/2002 entitling its holder to stay legally on the territory of a Member State.

<sup>4</sup> Available at: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_en](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_en).

Term	Definition
Return	The movement of a person going from a host country back to a country of origin, country of nationality or habitual residence usually after spending a significant period of time in the host country whether voluntary or forced, assisted or spontaneous.
Return decision	An administrative or judicial decision or act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return.
Social protection benefits	For the purpose of this study please refer to the definition of 'core benefits' as included in the Qualification and Long-Term Residents Directives which is understood as covering – as a minimum – income support, assistance in the case of illness, or pregnancy, and parental assistance.
Postponement of removal	(Temporary) suspension of removal of a third-country national who has received a return decision but whose removal is not possible either for humanitarian reasons (as their removal would violate the principle of non-refoulement or due to the third-country national's physical state or mental capacity) or for technical reasons (such as lack of transport capacity or failure of the removal due to lack of identification or the country of origin's refusal to accept the person) and for as long as a suspensory effect is granted in accordance with Art. 13(2) of Council Directive 2008/115/EC (Return Directive).
Third-country national	Any person who is not a citizen of the European Union within the meaning of Art. 20(1) of TFEU and who is not a person enjoying the Union right to free movement, as defined in Art. 2(5) of the Schengen Borders Code.
Trafficking in human beings	The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. <sup>5</sup>
Voluntary departure	Compliance with the obligation to return within the time limit fixed for that purpose in the return decision.
Vulnerable person	Minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of trafficking in human beings, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation (Art. 21 of Directive 2013/33/EU (Recast Reception Conditions Directive).

## 1 TEMPLATE FOR NATIONAL CONTRIBUTIONS

The template provided below outlines the information that should be included in the National Contributions of EMN NCPs to this Study. The indicative number of pages to be covered by each section is provided in the guidance note. For National Contributions, the total number of pages should not exceed 40 pages, including the questions and excluding the introduction of the study. A limit of 30 pages will also apply to the Synthesis Report, in order to ensure that it remains concise and accessible.

<sup>5</sup> Article 2 par.1 of the Anti-trafficking Directive

## Common Template of EMN Study 2020

# Responses to long-term irregularly staying migrants: practices and challenges in EU Member States and Norway

### National Contribution from *Member State*<sup>6</sup>

*Disclaimer: The following information has been provided primarily for the purpose of contributing to a Synthesis Report for this EMN Study. The EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of the EMN NCPs' Member State.*

### Top-line factsheet [max. 1 page]

*The top-line factsheet will serve as a summary of the **national contribution** introducing the study and drawing out key facts and figures from across all sections, with a particular emphasis on elements that will be of relevance to (national) policy-makers. The top-line factsheet should be a stand-alone product. Please add any innovative or visual presentations that can carry through into the synthesis report as possible infographics and visual elements.*

The migratory phenomenon in Spain has evolved since we became a recipient country in the 90s. Migrants flows have been growing and at the present migrants represents 12% of the population.

As for irregular migration, in Spain it occurs mainly through the coasts of the Canary Islands, Ceuta and Melilla.

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<sup>6</sup> Replace highlighted text with your **Member State** name here.

## Section 1: National legal and policy framework

*This introductory section of the synthesis report will map the institutional, legal and political contexts on the issue of long-term irregular migrants and aims to provide an overview of main points of discussion in Member States and Norway.*

*The primary questions addressed in this section are:*

- *To what extent are central, regional and local authorities in your Member State confronted with the issue of long-term irregular migrants?*
- *What is the political and policy debate on the situation of long-term irregular migrants?*
- *What are the characteristics of the group of third-country nationals who remained in a protracted situation of illegal stay? What information is available on the size of the (sub)groups or categories?*

### SECTION 1.1: CATEGORIES OF LONG-TERM IRREGULAR MIGRANTS AT NATIONAL LEVEL

**Q1a.** Is there a distinction between ‘short-term’ irregular migrants and ‘long-term’ irregular migrants (as defined in the scope of this study) in your (Member) State?

Yes

No

*If yes, please explain how these are defined and where (policy, legislation and/or practice):*

There is no legal or statistical distinction, but it exists in practice. For persons who have been two continuous years in irregular stay, there are some mechanisms that allow, if some additional requirements are met, access to a residence permit (and work) for exceptional circumstances under the form of social rooting, but also for humanitarian reasons, through collaboration with the justice system, for international protection, for being in a situation of gender-based violence or trafficking with human beings. In all these cases, visas shall not be required [Article 31.3 of Organic Law 4/2000 of January 11<sup>th</sup> on the rights and freedoms of foreigners and their social integration (LOEX)].

In order to authorise the temporary residence of a foreigner on the basis of one of the above cases, it will be necessary to have no criminal record in Spain or in the previous countries of residence, for existing offences in the Spanish legal system and not to appear as rejectable in countries with which Spain has signed an agreement to that effect (Article 31.5.LOEX). In addition, the other requirements that each of these authorisations for exceptional circumstances establish must be complied.

Access pathways to a residence permit (and work) for persons in a long-term irregular situation:

Article 124 of the Aliens Regulations: Temporary residence permit for reasons of social rooting.

*When the following requirements are met:*

1.Labor roots: Foreigners who prove their continued stay in Spain for a period of at least two years may obtain an authorisation, provided that they do not have a criminal record in Spain and in their country of origin or in the country or countries in which they have resided during the last five years, and who demonstrate the existence of labour relations whose duration is not less than six months. For the purpose of certifying the employment relationship and its duration, the person concerned must submit a judicial decision recognising it or the

administrative decision confirming the act of infringement of the Labour and Social Security Inspectorate certifying it.

2.Social Roots: Foreigners who prove their continued stay in Spain for a period of at least three years may obtain an authorisation. In addition, the following criteria must be met cumulatively:

a) lack of criminal record in Spain and in its country of origin or in the country or countries in which it has resided for the past five years.

b) to have an employment contract signed by the worker and the employer at the time of application for a period not less than one year. Such recruitment must be based on the existence of a single contract, except in agriculture and activities in the same occupation, working partially and simultaneously for more than one employer

c) to have family ties with other resident foreigners or to submit a social rooting report attesting their social integration, issued by the Regional Administration in whose territory they have their habitual residence.

For this purpose, family ties shall be understood to refer exclusively to spouses or registered partners, ascendants and descendants in the first degree and direct line. On the other hand, the report, which must be issued and notified to the interested party within a maximum period of thirty days from the date of his or her application, shall include, among other root factors which may be established by the various competent authorities, the length of stay of the person concerned at his habitual domicile, in which he must be registered, the financial means available to him, the links with family members resident in Spain, and the integration efforts through the participation in socio-labour and cultural integration programmes. The Regional Administration may consult the City Council where the foreigner has his habitual residence on the information that it has available. The rooting report referred above may be issued by the local corporation in which the foreigner has his habitual residence, when so is established by the competent Regional Administration, provided that this has previously been brought to the attention of the Secretary of State for Migrations.

3.Family roots:

a) in case of the father or mother of a Spanish nationality minor, provided that the requesting parent is responsible for the minor and lives with the child or is aware of the parental obligations related with the child.

b) in case of children of a father or mother who were originally Spanish.

It should also keep in mind that foreigners seeking asylum are not in a situation of residence, nor regular or irregular, but rather in a situation of stay (which is different from that of residence) while the procedure is not resolved. If the asylum decision is rejected, but enough time has elapsed to apply for residence permit on the basis of rooting and the foreigner fulfil the rest of the above-mentioned requirements, he or she may have access to a residence permit.

**Q1b.** Are different categories of **long-term** irregular migrants (as defined in the scope of this study) – stemming from law or practice – present in your (Member) State?

Yes

No

**Q1c.** If yes to Q1b, are these:

irregular migrants subject to a return decision but the return cannot be enforced due to legal obstacles (e.g. non refoulement, medical or humanitarian reasons, etc)?

irregular migrants subject to a return decision but the return cannot be enforced due to practical obstacles (cooperation of the person concerned, problems with travel documents etc)?

former (rejected) applicants for international protection who absconded?

third-country nationals whose short-stay visa, residence permit expired and/or was not renewed?

other irregular migrants who were not (yet) detected by national migration authorities?

Other (e.g. long-term irregular migrants with a criminal record, dependant family members) (please describe in the box below)?

All these variations of irregularity occur in practice, although at present there are no statistics that allow a precise quantification.

**Q1d.** If yes to Q1b, please also provide, if possible, an **estimation** of the numbers of persons (for each category identified in Q1a, 1b and 1c, as relevant) in your (Member) State, annually since 2015.

*Please also indicate the relevant source of such estimate(s) and other relevant information if available (e.g. country of origin).*

By its very nature and characteristics of irregular migration, it is difficult to quantify it.

However, there are two ways to estimate irregular people who belong to each of these categories, as flow or as stock. The second option –stock – is always more complicated than the first one. Related with the flow of people who fall into irregularity each year, there are categories of those listed in Q.1.c easier to identify than others. For example, the flow of people who fall into irregularity due to non-renewal of their initial residence permit (category 4) is information available but not officially published. However, it is not possible to know how many of those who receive a voluntary abandonment order from the country, fulfil it. In the same way, we do not know either the origin of the irregularities when an expulsion has been carried out for irregular stay in the territory.

The report of the Ombudsman in 2019 included a statistical annex containing the expulsions carried out in 2018 (4,181 out of 8,286) on legal grounds. Of the 4,181, 1,978 were expulsions for irregular stay (Article 53.1 LOEX), but this is no further specified. Therefore, we can't calculate how many people in the long-term irregular persons stock are in this situation because of the non-renewal of their authorizations.

[https://www.defensordelpueblo.es/wp-content/uploads/2019/09/ANEXO\\_2\\_datos\\_estadistica\\_media\\_duracion.pdf](https://www.defensordelpueblo.es/wp-content/uploads/2019/09/ANEXO_2_datos_estadistica_media_duracion.pdf) – Table 7

**Q2.** If a third-country national is subject to a return decision but there are **legal obstacles to return** (i.e. for non-refoulement reasons, medical reasons, etc), can they receive:

*Tick as many boxes as applicable in your (Member) State and use the box below to briefly describe the situation (e.g. procedure followed, conditions of application).*

*For instance, please indicate if the option ticked is based on i) an administrative practice (please explain the practice); ii) legislation (please legislation); iii) case law (indicate case law reference and a short summary), or iv) other (e.g. policy).*

*Please briefly describe also indicating estimations of the scale/numbers per year between January 2015-October 2020, if available.*

Written confirmation of postponement of return (please briefly explain the procedure, conditions below):

No written confirmation of postponement is given

Temporary/tolerated stay (please briefly explain the conditions, application procedure below):

Provisional authorization for temporary residence and work may be granted to foreign women who are victims of gender-based violence. It shall be provisional until there is a judgment (Article 133 of RD 557/2011).

In addition, there is the possibility of applying for temporary residence and work for exceptional circumstances when foreigners are victims of human trafficking (Article 142 et seq. of RD 557/2011).

Residence permit (please briefly explain the conditions, application procedure, duration of status below):

The conditions already set out in Q1a relating to residence permits based on social, labor or family roots.

In addition, there is the possibility of granting temporary residence permits for humanitarian reasons when the foreigner has been the victim of certain crimes, proves to have a serious illness or when the transfer endangers his or her family's health (Article 126 of RD 557/2011).

Extension of the short-stay visa

It is not possible, being in an irregular situation, to extend a short-stay (with or without a visa), it is essential to request the extension of the stay before the expiration of the authorized period.

Extension of the voluntary departure period

Prior to its completion, the period of voluntary execution of the expulsion order may be extended in the light of some circumstances in each particular case, such as the length of the stay, having minors in school or the existence of other family and social ties.

In the event that the foreigner has minors in school, the expulsion penalty shall not be carried out until the end of the academic year unless the other parent is resident in Spain and can take care of them (Article 246.2 of RD 557/2011).

No return decision issued (for administrative or other reasons including non-refoulement)

Other (e.g. no other form of certificate/tolerated stay/residence permit granted)

**Q3.** If a third-country national is subject to a return decision but there are **practical obstacles to return** (i.e. lack of means of transportation, lack of identification or travel documents, lack of cooperation of the third-country national, absconding etc.), can they receive:

*Tick as many boxes as applicable in your (Member) State and use the box below to briefly describe the situation (e.g. procedure followed, conditions of application).*

*For instance, please indicate if the option ticked is based on **i)** an administrative practice (please explain the practice); **ii)** legislation (please legislation); **iii)** case law (indicate case law reference and a short summary), or **iv)** other (e.g. policy).*

*Please briefly describe also indicating estimations of the scale/numbers per year can be provided for the years 2015–October 2020), if available.*

*For clarifications on categories below, please refer to section 2*

- A written confirmation of postponement of return (please briefly explain the procedure, conditions below):

The answer is the same as in question Q2. There are no differences between whether these are practical or legal obstacles.

- A temporary/tolerated stay (please briefly explain the conditions, application procedure):

The answer is the same as in question Q2. There are no differences between whether these are practical or legal obstacles.

- A residence permit (please briefly explain the conditions, application procedure, duration of status below):

The answer is the same as in question Q2. There are no differences between whether these are practical or legal obstacles.

- An extension of the short-stay visa

The answer is the same as in question Q2. There are no differences between whether these are practical or legal obstacles.

- No return decision issued (for administrative or other reasons including non-refoulement)

- Other (e.g. no other form of certificate/tolerated stay/residence permit granted)

## SECTION 1.2: PRIORITIES AND DEBATES AT A NATIONAL LEVEL

**Q4a.** Has the issue of long-term irregular migrants been subject to **policy or legislative debate** (i.e. discussions) in your (Member) State since 2015?

Yes

No

If yes, (i) what was the debate about and (ii) how has the debate evolved since 2015 (include debates related to Covid-19)?

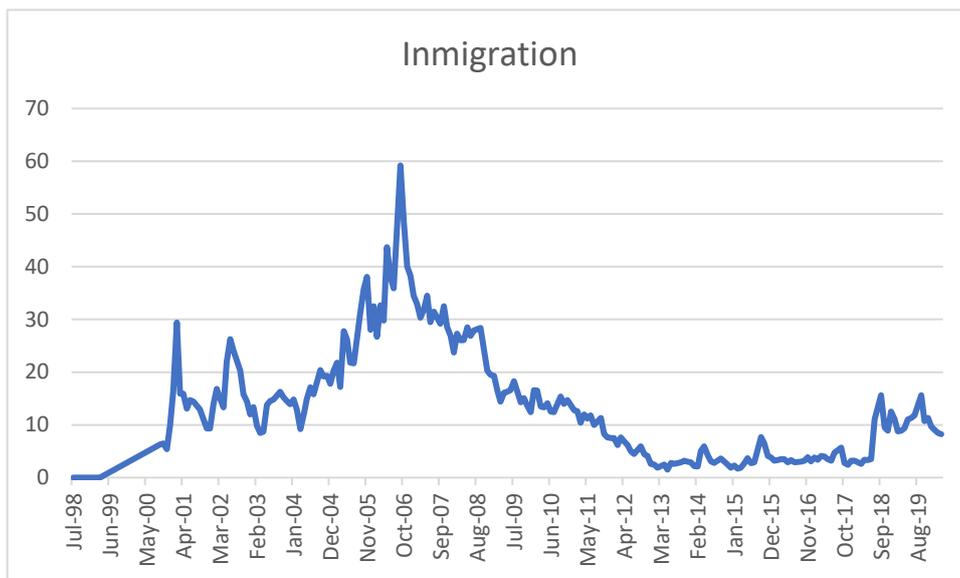
*Please provide a brief explanation of the main focus (i.e. main aspects discussed) and the evolution since 2015.*

*Please indicate the main stakeholders involved. Please provide qualitative evidence to support your answer (e.g. national parliamentary debates, strategies, other policy documents).*

The existence of migrants in an irregular situation who remain so in the long term in our territory is an issue that has had some political relevance, although it should be said that in the general debate on migration processes it is not the one with the greatest weight. In this way, parliamentary groups, on both sides of the political spectrum, tend to focus their efforts on the situation at the borders. Most parliamentary debates have been along this line since 2015 and thereafter. The arrival of “patera” boats or the so-called “hot returns” are the issues that most space have occupied in the media.

According to CIS data, the concern among the population for immigration has grown significantly since July 2018, being the importance citizens given to it higher than in 2015.

Graph extracted from CIS Barometer with % of respondents who mention immigration as one of the country's three main problems.



Finally, mention that the pandemic has led to the adoption of measures to make the application of the current legislation more flexible and to prevent migrants integrated into Spanish society, as a result of the economic crisis caused by the covid19, could fall into irregularity as will be seen in Q6.

**Q5a.** Has the issue of long-term irregular migrants been subject to **inter-institutional debate** between local (municipal, regional, federal) and central level authorities, in your (Member) State since 2015?

Yes

No

If yes, please indicate the main stakeholders involved in your answer and qualitative evidence (e.g. public debates, policy documents).

Irregular immigration is a matter for an ongoing debate, involving a wide range of stakeholders, some emphasizing voluntary and forced return measures and, others, easing the measures that would lead to their regularization, as seen in Q4a. The fact is that there are different legal pathways, as seen in previous responses, which encourage the regularization of immigrants that meet the established requirements, and that there is a guarantee for immigrants in an irregular situation to certain rights, such as health care, as will be seen below, which are not the central focus of the political debate. The condition of the pandemic prompted the presentation of the non-law proposal for regularization cited in Q4a, which was not approved, although in the course of 2020 the flexibilization measures in Q6 were adopted to mitigate the incidence of this pandemic in immigrants.

**Q5b.** If yes to Q5a, (i) what was the debate about and (ii) how has it evolved since 2015?

*Please provide a brief explanation of the main focus (i.e. main aspects discussed) and the evolution since 2015.*

**Q6.** If yes to Q4a and/or Q5a, has the debate influenced **policy or legislative measures** (e.g. national strategies or plans, legislative framework, etc.)?

Yes

No

If yes, please indicate the policy or legislative measures adopted:

The Government adopted Royal Decree-Law No. 13/2020 of 7 April, which includes the following measures:

- The work permit for migrant workers was automatically extended to work in the agricultural sector (as long as they lived near the workplace).
- young people between the ages of 18 and 21 in a regular situation but without authorisation to work (UNAMs, students, asylum seekers), whose residence permits expired between 15 March and 30 June, were authorised to work in the agricultural sector without the need for any migration procedure.

The period of validity of these measures was extended to 30 September.

A residence and work permit was granted to young foreigners between the ages of 18 and 21 in a regular situation who had been employed in the agricultural sector. This authorisation shall be valid for two years, renewable for two years, and shall be valid throughout the national territory, without limitation by occupation or sector of activity and without application of the national employment situation. These young people may apply for this authorisation from 30 September.

**Q7a.** Has the issue of long-term irregular migrants been subject to **public debate** (i.e. media/NGOs) in your (Member) State since 2015?

Yes

No

**Q7b.** If yes to Q7a, (i) please indicate the main stakeholders involved (ii) the main circumstances of the debate and (iii) if there has been any change in the debate since 2015?

*Please provide a brief explanation of the main focus (i.e. main aspects discussed) and the evolution since 2015.*

*Please provide qualitative evidence to support your answer (e.g. reliable media reports, statements or reports of NGO/civil society organisations or International Organisations (IOs), research studies, official surveys, barometers, other policy documents).*

*The debate on the situation of immigrants in an irregular situation periodically arises in the media and is promoted by different actors of the civil society (NGOs, associations, etc.) in many cases, in direct contact with these people, whom they support to the extent of their possibilities and whose situation they report regularly (difficulties of access to work, poverty...). The incidence of the pandemic has reopened this debate.*

**Q8.** Has the issue of long-term irregularly staying migrants been subject to **policy or public debate** in your (Member) State specifically in connection with the measures taken in responses to **COVID-19** and their impacts?

Reference is made to questions Q6 and Q7

**Q9.** Are there any **planned changes** in law/policy/practice regarding long-term irregular migrants in your (Member) State?

Yes, there are planned changes in law. Please explain below:

Yes, there are planned changes in policy. Please explain below:

Yes, there are planned changes in practice. Please explain below:

No.

## Section 2: National policies and approaches regarding long-term irregularly staying migrants

This section aims to provide an overview of national policy in (Member) States and Norway on the way States address long-term irregularity. It will address the following research questions:

- Which rights and public services are long-term irregularly staying migrants provided access to?
- What is the role of central, regional and local authorities in dealing with this group of migrants?
- To what extent are regional and local authorities involved and cooperate with the central government?
- What is the role of civil society organisations or other entities regarding the access to public services for long-term irregularly staying migrants?
- What measures (e.g. policies, practical tools, guidance) were implemented regarding the access to public services for long-term irregularly staying migrants?
- Were there any studies or research published on the effectiveness of these measures?

### SECTION 2.1: RIGHTS AND ACCESS TO SERVICES OF LONG-TERM IRREGULAR MIGRANTS

This section aims to understand the rights and services accessible to long-term irregular migrants, which central, regional and local authorities are involved in the provision of services, as well as the role of civil society organisations.

**Q10.** What services are accessible to long-term irregular migrants who were issued a return decision, but return cannot be implemented for legal or practical obstacles?

*Please complete the table below for each type or authorisation to stay or statuses indicated Q2 and Q3 (i.e. written confirmation of postponement of return, temporary or tolerated stay, residence permit, only return decision).*

*Please complete the below table for each relevant status. If two or more types of authorisations to stay give the same access to services, please fill the table only once.*

Table 1: Rights and services available to long-term irregularly staying migrants who have been issued a return decision			
Type of stay or status as identified in Q2 and/or Q3: [ _____ ]			
Type of service	Service provided? (Y/N)	Is the provision of service mandatory or discretionary? <sup>7</sup>	Brief description Please consider for each type of services the long-term irregular migrants are entitled or have access to:  i. Does this access stem from national law or practice? If not, does it stem from local (regional, municipal) rules or regulations? ii. Which authorities are competent to provide access to these services? Please indicate if access is provided by third-party entities (NGO, charities, private entities, etc) as service providers on behalf of the national or local authorities.
<b>Accommodation</b>			
Accommodation <i>If yes, please briefly describe</i>	YES		<i>For example, NGOs such as the Red Cross have programmes with housing</i>

<sup>7</sup> For example, in some cases a service can be accessed but the costs must be met by the individual rather than the State/national authorities.

<p><b>Special accommodation facilities (i.e. shelter for victims of violence, children etc.)</b></p> <p><i>If yes, please briefly describe</i></p>	<p>YES</p>		<p><i>For example, entities such as CEAR have some programmes provide assistance to persons in an irregular situation who are in situations of extreme vulnerability.</i></p>
<p><b>Other forms of accommodation or shelter or specialised centre</b></p>			
<p><b>Healthcare</b></p>			
<p><b>Emergency healthcare</b></p> <p><i>If yes please describe, as this notion can be understood in a large or restrictive way</i></p>	<p>YES</p>		<p><i>The current wording of Law 16/2003, of 28 May, cohesion and reform of the National Health System, in its article 3 ter. allows access to healthcare for foreign persons who are in Spain do not have legal residence in Spanish territory, in the following terms:</i></p> <p><i>1.Foreign persons not registered or authorised as resident in Spain do not have the right to health protection and healthcare under the conditions as persons with Spanish nationality, as set out in article 3.1.</i></p> <p><i>2.This assistance shall be financed from the public funds of the competent administrations provided that such persons fulfil the following requirements:</i></p> <ul style="list-style-type: none"> <li><i>- do not have the obligation to prove compulsory coverage of health insurance by any other means, under the provisions of European Union bilateral conventions and other applicable legislation.</i></li> <li><i>- be unable to export the right to health coverage from the country of origin or provenance.</i></li> <li><i>- there is no third party obliged to pay.</i></li> </ul> <p><i>2.The healthcare referred to in this Article does not create a right to health care coverage outside the Spanish territory financed from public funds of the competent administrations, without prejudice to the provisions of the applicable international social security standards.</i></p> <p><i>3.The Autonomous Communities, within the scope of their competences shall lay down the procedure for the application and issuance of a document certifying foreign persons in order to receive the assistance referred to in this Article.</i></p> <p><i>In cases where foreign nationals are temporarily staying in Spain, in accordance with the provisions of LOEX a favorable preliminary report from the competent social services of the Autonomous Communities shall be required.</i></p> <p><i>4.The Autonomous Communities shall communicate to the Health, Consumption and Social Welfare, in accordance with the procedure to be determined, the certifying documents in accordance with the provisions of this article.</i></p>
<p><b>Basic medical care</b></p> <p><i>If yes, please briefly describe</i></p>	<p>YES</p>		<p><i>Universal healthcare, on the basis of what has already been mentioned</i></p>

<b>Specialised care</b> <i>If yes, please briefly describe</i>	YES		<i>Universal healthcare, on the basis of what has already been mentioned</i>
<b>Other healthcare services</b> <i>If yes, please briefly describe</i>	NO		
<b>Social assistance</b>			
<b>Are long-term irregularly staying migrants entitled to receive social benefits?<sup>8</sup></b> <i>If yes, please briefly describe what these benefits are</i>	YES		<i>According to Article 14 of L.O. 4/2000 (LOEX):</i> <i>1. Resident foreigners have the right to access social security and services under the same conditions as Spaniards.</i> <i>2. Resident foreigners are entitled to social services and benefits general and basic and specific, under the same conditions as Spaniards. In any case, foreigners with disabilities, under eighteen, who have their habitual residence in Spain, shall have the right to receive the treatment, services and special care required by their physical or mental condition.</i> <i>3. Foreigners, regardless of their administrative status, are entitled to basic social services and benefits.</i>
<b>Employment</b>			
<b>Are there circumstances in your MS where long-term irregularly staying migrants are entitled to access to the labour market?</b> <i>If yes, please describe any specific conditions attached to their employment.</i>	NO		<i>Article 10 of Act No. 4/2000 (LOEX) does not provide for the right of access to work as employee or self-employed and to the social security system for persons in an irregular situation, only for foreign residents who meet the requirements laid down by the law and in the provisions that develop it.</i> <i>On the basis of article 37 of Royal Legislative Decree 5/2000 of August approving the consolidated text of the Law on Offences and Sanctions in the Social Order, are very serious offences:</i> <i>Article 37. Infractions.</i> <i>The following shall be considered very serious infringements:</i> <i>1. Employers who use foreign workers without having previously obtained the required work permit or renewal thereof, incurring an offence for each of the foreign workers they have occupied.</i> <i>2. Foreigners who exercise in Spain any lucrative, work or professional activity, on their own account, without having obtained the mandatory work permit, or not renewing it.</i> <i>3. Natural or legal persons who promote, measure or practice the work of foreigners in Spain without the mandatory work permit.</i>
<b>Education</b>			

<sup>8</sup> Please consider the definition of 'core benefits' as included in the Qualification and Long-Term Residents Directives which is understood as covering – as a minimum – income support, assistance in the case of illness, or pregnancy, and parental assistance.

<p>Do (long-term irregular migrant) children have access to compulsory education? <i>If yes, please briefly describe access.</i></p>	<p>YES</p>		<p><i>On this issue, the Spanish Supreme Court of Justice ruled Judgment 236/2007 stating that children under 16 years can and must have access to basic, free and compulsory education regardless of their administrative situation.</i></p> <p><i>Article 9 of LO 4/2000 (LOEX) guarantees foreign children under the age of 16 the right and duty to education, including access to basic, free and compulsory education.</i></p>
<p>Are adult long-term irregularly staying migrants entitled to participate in educational programmes and/or professional training? <i>If yes, what types of education and under which conditions?</i></p>	<p>YES</p>		<p><i>According to the same article, children under the age of 18 are entitled to post-compulsory education, with access to the possibility of scholarships and grants under the same conditions as Spanish citizens.</i></p> <p><i>And foreigners over the age of 18 who are in Spain have access to education in accordance with educational legislation. In accordance with the law, foreigners will be encouraged to receive education for their benefit and social integration.</i></p>
<p><b>Legal aid or assistance</b></p>			
<p>Do long-term irregular migrants have access to legal aid or assistance type of services? <i>If yes, please briefly enumerate and explain</i></p>	<p>YES</p>		<p><i>Article 22 of L.O. 4/2000 (LOEX) states the following:</i></p> <p><i>1.Foreigners in Spain are entitled to free legal assistance in the proceedings to which they are part, regardless of the jurisdiction in which they are followed, under the same conditions as Spanish citizens.</i></p> <p><i>2.Foreigners in Spain have the right to legal aid in administrative proceedings that may lead to their refusal of entry, return or expulsion from Spanish territory and in all proceedings relating to international protection, as well as the assistance of an interpreter if they do not understand or speak the official language used. Such assistance shall be free of charge if they lack sufficient financial resources in accordance with the criteria laid down in the rules governing access to free legal aid.</i></p> <p><i>3.In litigation-administrative proceedings against decisions taken in administrative proceedings concerning refusal of entry, return or expulsion, the recognition of the right to free legal assistance shall require the timely application made in accordance with the provisions of the rules governing free legal assistance. Express evidence of willingness to file the corresponding appeal or action must be provided in accordance with the provisions of Act No. 1/2000 of 7 January 2000 on the Procedure, or in the case that the foreigner could be deprived of liberty, in the manner and before the public official determining the measure.</i></p> <p><i>For the purposes provided in this paragraph, when the foreigner is entitled to free legal assistance and is outside Spain, the request for such assistance and, if appropriate, the expression of the intention to appeal, may be made to the diplomatic mission or consular post of the country concerned.</i></p>
<p><b>Other?</b></p>			
<p>Are any other rights relevant to mention here? Please describe</p>			

**Q11.** What services are accessible to other long-term irregular migrants who were **not issued a return decision**, and remained unknown to migration authorities (see answer to **Q1**)?

**Table 2: Services available to long-term irregularly staying migrants who were unknown to migration authorities**

<i>Type of stay or status as identified in Q2 and/or Q3: [ _____ ]</i>			
Type of service	Service provided? (Y/N)	Is the provision of service <b>mandatory or discretionary</b> ? <sup>9</sup>	Brief description  Please consider for each type of services the long-term irregular migrants who were unknown to migration authorities entitled or have access to:  i. Does this access stem from national law or practice? ii. Which authorities are competent to provide access to the service? Please indicate if access is provided by other entities (e.g. charities, private entities, etc) as service providers on behalf of the national or local authorities?
<b>Accommodation</b>			
<b>Accommodation</b> <i>If yes, please briefly describe</i>			<i>Same as in question Q10</i>
<b>Special accommodation facilities (i.e. shelter for victims of violence, children etc.)</b> <i>If yes, please briefly describe</i>			<i>Same as in question Q10</i>
<b>Other forms of accommodation or shelter or specialised centre</b>			<i>Same as in question Q10</i>
<b>Healthcare</b>			
<b>Emergency healthcare</b> <i>If yes please describe, as this notion can be understood in a large or restrictive way</i>			<i>Same as in question Q10</i>
<b>Basic medical care</b> <i>If yes, please briefly describe</i>			<i>Same as in question Q10</i>
<b>Specialised care</b> <i>If yes, please briefly describe</i>			<i>Same as in question Q10</i>
<b>Other healthcare services</b> <i>If yes, please briefly describe</i>			<i>Same as in question Q10</i>
<b>Social assistance</b>			

<sup>9</sup> For example, in some cases a service can be accessed but the costs must be met by the individual rather than the State/national authorities.

<p><b>Are long-term irregularly staying migrants entitled to receive social benefits?<sup>10</sup></b></p> <p><i>If yes, please briefly describe what these benefits are</i></p>			<i>Same as in question Q10</i>
<b>Employment</b>			
<p><b>Are there circumstances in your MS where long-term irregularly staying migrants are entitled to access to the labour market?</b></p> <p><i>If yes, please describe any specific conditions attached to their employment.</i></p>			<i>Same as in question Q10</i>
<b>Education</b>			
<p><b>Do (long-term irregular migrant) children have access to compulsory education?</b></p> <p><i>If yes, please briefly describe access.</i></p>			<i>Same as in question Q10</i>
<p><b>Are adult long-term irregularly staying migrants entitled to participate in educational programmes and/or professional training?</b></p> <p><i>If yes, what types of education and under which conditions?</i></p>			<i>Same as in question Q10</i>
<b>Legal aid or assistance</b>			
<p><b>Do long-term irregular migrants have access to legal aid or assistance type of services?</b></p> <p><i>If yes, please briefly enumerate and explain</i></p>			<i>Same as in question Q10</i>
<b>Other?</b>			
<p>Are any other rights relevant to mention here? Please describe</p>			<i>Same as in question Q10</i>

<sup>10</sup> Please consider the definition of ‘core benefits’ as included in the Qualification and Long-Term Residents Directives which is understood as covering – as a minimum - income support, assistance in the case of illness, or pregnancy, and parental assistance.

**Q12.** Do **authorities** (at central or local level) need to **check the migration status** (or the lack thereof) **before providing access to a service** (e.g. accommodation, healthcare, education), or are there 'firewall provisions' allowing persons concerned to access services without fear of being apprehended?

**Q13.** Is **cooperation to return to the country of origin an obligation** if one of the services are provided (under Q10 and Q11) to the long-term irregularly staying migrant?

Yes

No

If yes, please explain the applicable procedures and how it is carried out.

**Q14.** Are there **any specific projects and/or (ad-hoc) programmes** implemented at **local level** (by municipalities, regions, etc) in your (Member) State specifically targeting the access to services for long-term irregularly staying migrants?

Yes

No

*If yes, please provide examples (e.g. which stakeholders are involved in the design, implementation and effects of the projects or programmes, any evaluations conducted on the projects or programmes and any key learning points identified)*

As has been said, under current legislation, immigrants are entitled to **basic social services and benefits**, which provide municipalities and autonomous communities for situations of **social emergency**. These are basic social benefits for primary social care, home care, canteen care, social emergency assistance, etc.

An irregular person may register in a municipality and thus have access to **health care or schooling**. Some Autonomous Communities, are allowed access to certain financial aids through canteen or school supplies grants

**Q15a.** With the exception of organisations acting as a service provider for public authorities (Q10 and Q11), are **other entities or organisations** (e.g. NGOs, charities, other private entities) involved in providing or facilitating access to services for long term irregularly staying migrants?

Yes

No

*If yes, please specify which entities, what type of involvement and service (e.g. accommodation, health care, counselling) are they involved in and, which type of funding used to support their activities.*

Some associations and NGOs provide, as has already been said, varied services such as counselling, basic help, or accommodation, with their own funds.

**Q15b.** Do these **entities or organisations** need to **report on the migration status** (or the lack thereof) **before providing access to a service** (e.g. accommodation, healthcare, education), or are there 'firewall provisions' allowing persons concerned to access services without fear of being apprehended?

No

**Q16.** If a long-term irregular migrant is a **victim of or witness to an offence** (e.g. labour exploitation, domestic violence, etc), are there any available '**safe reporting**'<sup>11</sup> channels between the TCN concerned and public authorities to report the incident without divulging their situation of illegal stay?

Yes

No

If yes, please briefly describe the channel/reporting mechanism:

The migrant will have the possibility to obtain a residence permit. See Q2

**Q17.** Are there any **assisted voluntary return (AVR) projects or programmes** implemented in your (Member) State that also specifically foresee support to access to services (in the host (Member) State, thus before departure) for long-term irregular migrants?

Yes

No

If yes, please describe (e.g. please consider any specific conditions to access the service(s)):

The Ministry of Inclusion, Social Security and Migration, through the Secretariat of State for Migration and the General Directorate for Inclusion and Humanitarian Care, funds projects for the voluntary return of foreigners who have been co-financed since 2015 by the new Asylum, Migration and Integration Fund.

- The management of these projects is entrusted to non-governmental organisations and international organisations specialising in the care of immigrants.

<sup>11</sup> <https://www.compas.ox.ac.uk/project/safe-reporting-of-crime-for-victims-and-witnesses-with-irregular-migration-status-in-the-usa-and-europe/>

- The voluntary return project offers the possibility to return voluntarily to their countries of origin for those third-country nationals who meet the requirements laid down by each annual call for grants.

See [https://extranjeros.inclusion.gob.es/es/Retorno\\_voluntario/index.html](https://extranjeros.inclusion.gob.es/es/Retorno_voluntario/index.html)

**Q18.** Please provide if applicable **illustrative (and anonymised) case(s)** of measures adopted by authorities (a) at central, (b) regional and (c) local level (e.g. municipalities) to provide access to services (e.g. accommodation, health, etc) – up to two examples.

**Example: National Immigration Facilities in Groningen, The Netherlands (Landelijke Vreemdelingenvoorzieningen)** **We do not have information**

#### Background

The Ministry of Justice and Security reached an agreement on 28 November 2018 with the Dutch Association of Dutch Municipalities (VNG) on the development of National Immigration Facilities (LVVs). The LVVs are intended for migrants who are not entitled to stay and who have not left the Netherlands voluntarily or by force, including long-term irregularly staying migrants. Municipalities are often confronted with the impact of illegal residence, and therefore the LVVs will be set up, where this specific group of migrants can be accommodated temporarily and under certain conditions.

#### Process

New guests usually register themselves. The group that applies for a National Immigration Facility ranges a lot: from a mother and her adult son, of whom he does and she certainly does not want to return to the country of origin, to a man who has been in the Netherlands for almost twenty years but who was just outside of the pardon schemes and whose return has never been successful. Uncertainty about family ties, nationality and identity often plays a role. This hinders both lawful residence in the Netherlands and return to the country of origin.

First, it is tested whether they really have nowhere else to go, whether they have an identification number for third country nationals (the so-called 'V-number') and whether there is any connection to the region where they apply for stay. Those who qualify for residence sign an agreement. By doing so, he or she agrees to work on his or her future (e.g. towards return), collaborates with representatives from the organizations working together in the Dutch migration process and to respect any house rules at the facilities.

**Q19.** Did any change happen in relation to access of long-term irregular migrants to social services as described above, as consequence of measures taken in response to the COVID-19 pandemic?

Yes

No

If yes, please describe by referring to all relevant aspects and services covered in **Q10-Q17**.

**Q20.** Is there any research available in your (Member) State on irregular migrants accessing rights and services listed above (conducted by relevant authorities, academics, NGOs, etc.)?

Yes

No

If yes, please describe the main findings and conclusions of such research and provide a full reference to the source.

## SECTION 2.2: COOPERATION MECHANISMS BETWEEN CENTRAL, REGIONAL AND LOCAL AUTHORITIES

*This section will focus on the cooperation between central authorities and, regional authorities as well as municipalities in the implementation of national policies on long-term irregular migration.*

**Q21.** Were specific measures (legislative, administrative, practices) implemented by central authorities to help regional and local authorities to anticipate and/or to respond to the situation of long-term irregular migrants in their territories?

Monitoring and follow-up approaches of long-term irregularly staying migrants

*Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)*

No

Information exchange between central and local authorities about long-term irregularly staying migrants

*Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)*

No

Guidance or any other form of established practice made available to regional and local authorities on how to assist long-term irregularly staying migrants (e.g. training sessions, guidance (e.g. written instructions or guidelines), other)

*Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)*

Other measure(s)

*Please provide a short description of the (i) measure(s); (ii) proposed effects and (iii) involved organisations (national stakeholders, cities, professionals, etcetera)*

The Aliens Regulation provides the possibility of submitting 4 types of reports that fall under the competence of the Autonomous Communities and in two of them (report of rooting and report on the provision of adequate housing) can be issued by local authorities (which happens in most cases).

**Q22.** Do local authorities in your Member State participate in **horizontal cooperation networks** (of local authorities) to develop good practices and/or programmes to address the situation of long-term irregular migrants?

Yes

No

If yes, please provide examples.

**Q23.** Were there any studies or research published on the effectiveness of any of the measures mentioned in Q21?

Yes

No

If yes, please mention references and brief description of the studies or piece of research:

### SECTION 2.3: GOOD PRACTICES

**Q24.** What are **good practices** regarding policy measures concerning long-term irregularly staying migrants?

*For each good practice mentioned, please describe **a)** for whom it is a good practice (policy-maker, organisation, other stakeholders), **b)** why it is considered a good practice and **c)** whether the assessment that this is a good practice is based on input from experts (and if so, which experts), surveys, evaluation reports, focus groups or from other sources (please indicate which ones).*

Providing services (housing, health care, other measures)

Please provide a brief explanation:

As stated in Q2, irregular immigrants who meet the established requirements have access to public health care

Exchanging information between national and local authorities on long-term irregularly staying migrants

Please provide a brief explanation:

Exchanging information between Member States?

Please provide a brief explanation:

Other good practices

Please provide a brief explanation:

### Section 3: Responses to end long term irregular stay

*This section will focus on policies and good practices implemented in finding approaches to address (and end) the issue of long-term irregularity. This section aims to research the following:*

- *What measures (e.g. policies, practical tools, guidance) were implemented to bring protracted situations of illegal stay to an end?*
- *Were there any studies or research published on the effectiveness of these measures?*
- *What are the key challenges and good practices in terms of policy regarding long-term irregularly staying migrants?*

**Q25.** What options are available in your Member State to end long-term illegal stay of third-country nationals (e.g. return, legalisation of stay, other)? Which are prioritized?

Forced return, voluntary return, and legalisation. Voluntary return is prioritized.

#### SECTION 3.1. MEASURES TO PROMOTE RETURN OR DISCOURAGE ILLEGAL STAY

**Q26.** What measures to **promote return or discourage illegal stay** are in place in your Member (State) specifically for long term irregular migrants (as identified in this study)?

*e.g. restricted access to mainstream services or specific programmes geared towards third-country nationals in a prolonged situation of irregular stay, specific cooperation measures between national, regional and local authorities.*

*Please note that various measures directly related to the enforcement of a return decision such as AVR programmes or other incentives to return were already captured in numerous other EMN studies and discussions at expert group level and are not the primary focus of this study.*

**Q27a.** What are the **good practices as identified in your Member States to promote return or discourage illegal stay** for long term irregular migrants identified in your (Member) State?

*For each good practice mentioned, please describe a) for whom it is a good practice (policy-maker, organisation, migrant, other stakeholders), b) why it is considered a good practice and c) what is the source of the statement – e.g. based on input from experts, surveys, evaluation reports or from other sources (please indicate which ones).*

**Q27b.** Is there any research available in your (Member) State on **promotion of return or the discouragement illegal stay** (conducted by relevant authorities, academics, NGOs, etc.)?

Yes

No

If yes, please describe the main findings and conclusions of such research and provide a full reference to the source.

**Q28.** Please provide **illustrative example(s)** of responses and/or good practices to **promote return or discourage illegal stay** adopted by authorities (a) at central level, (b) regional and/or (c) at local level (e.g. municipalities) – up to two examples, in the form of anonymised case studies of individual long-term irregularly staying migrants):

## SECTION 3.2: LEGALISATION OF STAY OPEN SPECIFICALLY TO LONG-TERM IRREGULAR MIGRANTS

**Q29.** Are **options for legalisation of stay** open specifically to long-term irregular migrants in your Member (State)?

*E.g. a specific status/residence permit for legalising the stay of long-term irregularly staying migrants (see section 1)? specific schemes established at national level for legalising the stay of long-term irregular migrants? Or do such options form part of the system of residence permits available to all migrants?*

If yes, please briefly explain the criteria considered (e.g. integration in labour market, length of stay, language skills, absence of criminal record, social and family ties, having entered the country as a minor):

[See information Q1 and Q2](#)

**Q30a.** What are the **good practices as identified in your Member States with regards to legalisation of stay** identified in your (Member) State?

*For each good practice mentioned, please describe a) for whom it is a good practice (policy-maker, national or local authority, organisation, migrant, other stakeholders), b) why it is considered a good practice and c) what is the source of the statement – e.g. based on input from experts, surveys, evaluation reports or from other sources (please indicate which ones).*

**Q30b.** Is there any research available in your (Member) State on **practices with regards to options for legalisation of stay** available specifically to irregular migrants (conducted by relevant authorities, academics, NGOs, etc.)?

Yes

No

If yes, please describe the main findings and conclusions of such research and provide a full reference to the source.

**Q31.** Please provide **illustrative example(s)** of responses and good practices related to the **legalisation of stay measures** adopted by authorities (a) at central level, (b) regional and/or (c) at local level (e.g. municipalities) – up to two examples, in the form of anonymised case studies of individual long-term irregularly staying migrants):

### SECTION 3.3.: MEASURES TAKEN IN RESPONSE TO THE COVID-19 PANDEMIC

**Q32.** Were measures taken to end the situation of long-term irregular migrants specifically in connection to the responses to and **impacts of the COVID-19** (e.g. legalisation of migrant workers employed in specific sectors)? Please describe.

Reference has already been made to the measures taken in question Q6

### Section 4: Challenges and future actions

**Q33.** What are the challenges regarding **policy measures** concerning long-term irregularly staying migrants?

*For each challenge mentioned, please describe a) for whom it is a challenge (policy-maker, organisation, other stakeholders), b) why it is considered a challenge and c) whether the assessment that this is a challenge is based on input from experts (and if so, which experts), surveys, evaluation reports, focus groups or from other sources (please indicate which ones).*

Providing services (e.g. housing, health care, etc)

Please provide a brief explanation:

Challenges exchanging information and/or cooperation between national and local authorities on long-term irregularly staying migrants

Please provide a brief explanation:

Challenges exchanging information between Member States?

Please provide a brief explanation:

Other challenges (e.g. other measures mentioned in section 3) Please provide a brief explanation:

**Q34.** What are the challenges regarding **policy measures** concerning long-term irregularly staying migrants specifically linked to the reposes to and impacts of the **COVID-19 pandemic**?

**Q35.** What are the challenges of **promoting return or discouraging illegal stay** concerning long-term irregularly staying migrants? Please describe any additional challenges specifically linked to the reposes to and impacts of the **COVID-19 pandemic**?

**Q36.** What are the challenges regarding the **options for legalisation of stay** available to long-term irregularly staying migrants? Please describe any additional challenges specifically linked to the reposes to and impacts of the **COVID-19 pandemic**?

**Q37.** According to (central and/or local) stakeholders in your (Member) State, what actions could be taken **at EU level** to support (Member) States to effectively cooperate and overcome the challenges faced in relation to long-term irregularly staying migrants?

*For each suggested improvement mentioned, please describe a) for whom it is a suggestion (policy-maker, organisation, other stakeholders), b) why it is considered a suggestion and c) whether the assessment that this is a suggested improvement based on input from experts (and if so, which experts), surveys, evaluation reports, focus groups or from other sources (please indicate which ones).*

## Section 5: Conclusions

*This section of the Synthesis Report will draw conclusions as to the Member States' existing policies, practices and case law related to long-term irregularly staying migrants.*

**Q38.** With regard to the aims of this study (policy responses to long-term irregular migrants), what conclusions would you draw from your findings reached in elaborating your national contribution?

With reference to the primary research question, please elaborate your conclusions highlighting the relevance of your findings to (national and/or EU level) policy-makers. You may cover the following points:

- The size of the problem of long-term irregular migrants in your country
- the most topical issues raised in the political and policy debate on the situation of long-term irregularly staying migrants
- The main concerns and issues related to providing access to public services to long-term irregularly staying migrants

- The main concerns and issues related to implementing measures to bring protracted situations of illegal stay to an end

The information provided describes policies and measures adopted in Spain towards immigrants in an irregular situation. Legally, the Spanish legislation does not distinguish from the time spent in an irregular situation, although it is also true that this factor is taken into account, along with others, in order to access, by certain legally established pathways, to a situation of regularity. In addition, as a result of the pandemic we are experiencing, measures have been adopted to make it more flexible to maintain regularity for certain groups of immigrants.

As has been seen, irregular immigrants may have access to a battery of rights if they meet the established requirements, such as health care, education, or basic social services and benefits.

