“This will benefit our society”¹

Regularisation and Employment in Poland

REGANE Assessment Report

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Introduction

This report is part of the REGANE study dealing with the impact of regularisation³ of third country nationals (TCNs) on their labour market trajectories in the European Union (EU). The study aims at implementing a survey among regularised immigrants in selected EU countries (Germany, France, Italy, the Netherlands, Poland, Spain and Sweden). As a first step the study collects background information on regularisation practices in the countries under study, assesses the feasibility and best possible research design for such a survey and collects information based on semi-structured qualitative interviews. This report presents the results from the collection of background information and qualitative interviews for Poland. The first section outlines the general migration situation and migration policy in the country with particular focus on irregular migration. The second section analyses regularisation policies and practices in the country. The third section provides preliminary results of the impact of regularisation on labour market performance based on existing literature and semi-

¹ Quoted after the Head of Office for Foreigners in his official letter introducing the regularization programme of 2012. The full sentence reads "This (the legalization of foreigners) will benefit our society by including the foreigners' talents and the effects of their work into the mainstream of the Polish social and economic life." Published in Polish, English, Russian, Vietnamese and Armenian. Accessed in August 2013 at: http://212.160.114.50/co-zyskujesz.html.

² This report was reviewed by Monika Szulecka (Centre of Migration Research). The author thanks for the valuable comments and input received. The responsibility for the content of this report and any errors and omissions solely lies with the author. The views expressed in this study are those of the author and do not necessarily reflect the point of view of the European Commission or ICMPD as an intergovernmental organisation.

³ Regularisation or legalisation of foreign citizens is defined as any state procedure by which third country nationals who are illegally residing, or who are otherwise in breach of national immigration rules, in their current country of residence are granted a legal status (cf. Baldwin-Edwards/ Kraler 2009: 9).
structured interviews conducted in the course of the study. The last section concludes the report.

Poland is a large country with a resident population of over 38 million people. Poland has 16 provinces called Voivodeships, the largest being the Masovian Voivodeship which includes the capital of Poland, Warsaw. The population of Warsaw has tripled since the mid-20\textsuperscript{th} century and counts some 1.7 million inhabitants in 2010.\textsuperscript{4} The number of foreign citizens living in Poland was estimated at some 57,450 in 2012 as reported by Eurostat\textsuperscript{5}, which makes Poland a country with a very small share of foreign citizens compared to other EU countries. Poland has consistently reported negative net migration over the past years. The majority of foreign citizens - around 39,000 - were third country nationals. In 2011 6,875 third country nationals were found to be illegally present.\textsuperscript{6} In the course of accessing the EU as well as joining the Schengen area and before adopting new migration legislation, Poland three regularisation programmes were carried out since 2003. The latest programme was conducted in 2012 with approx. 9,500 applicants. Poland’s pragmatic way of combating illegal migration and its implementation of migration policy presents an interesting case study for tackling irregular migration.

1. General context – migration history and policy

After the Second World War, Polish migration policy was marked by very restrictive entry and exit regulations, comparable to other countries of the Soviet Bloc. Considerable immigration occurred only after the dissolution of the Soviet Union in 1989, when traders and circular migrants from neighbouring countries, mainly Ukraine, Belarus and Russia, moved to Poland based on the 1979 agreement on non-visa movement. From 1989 until Poland’s accession to the EU in 2004, migration policy was rather reactive, in response to actual inflows of immigrants (including asylum seekers) and – more importantly – by preparations for the accession to the EU. The latter led to the introduction of visa-requirements for non-EU nationals from several important source countries in 2000 as well as in autumn 2003. Visa regulations were relatively liberal until Poland’s accession to the Schengen area in December 2007 (Iglicka \& Gmaj 2008: 5-6).


\textsuperscript{5} The numbers are somewhat different to what statistics on residence permit say. As of 30 June 2013 there were 117,314 valid residence cards possessed by foreigners in Poland. Almost 50,000 were issued for permanent residence, while approx. 56,700 residence cards were possessed by foreigners with fixed-term residence permits. \url{http://www.udsc.gov.pl/Dane.liczbowe.dytaczace.postepowan.prowadzonych.wobec.cudzoziemcow.w.pierwszej.polowie.2013.rgkru.2225.html} (accessed on 30.08.2013).

\textsuperscript{6} Eurostat, table migr_eipre (accessed June 2013)
Poland has been quite active in the area of migration policy since then, the Ministry of Interior being the most important actor and co-ordinator in the area of migration policy. Several acts regulating issues of entry, stay, protection, employment and access to citizenship of foreign citizens in Poland were adopted since the late 1990s. At the time of writing this report, the latest piece on migration legislation was in parliament. The new law sets Polish migration legislation on a new basis (most probably in force as of 2014).

In 2006 new regulations related to access to the labour market for foreign citizens was introduced. It allowed citizens of non-EU neighbouring countries (Ukraine, the Russian Federation and Belarus) to work in Poland without a work permit for three months within a period of six months in agriculture, cultivation and breeding. A year later this regulation was extended to other sectors of the economy. In 2008, the duration of employment without a work permit, which was permitted on the basis of a declaration of an employer's intention to hire a foreign citizen, was prolonged to six months with a period of 12 months (Anacka et al. 2010: 136). In 2009 the regulation was extended to citizens of Moldova and Georgia. This led to an increase in (documented) labour migration, mostly by Ukrainians in the sectors agriculture and construction, but is increasingly used in other sectors (see also Duszczyk et al. 2010: 71).

In 2012 Ukraine and Poland signed an agreement of social security in order to remove disadvantages for Ukrainians working in Poland and the other way round (OECD 2013: 284). Although migration between Ukraine and Poland is partly considered to be of temporary nature, in reality it is doubted that migrants always kept the limit of six months within 12 months and a significant number of immigrants were considered not to comply with residence requirement introduced during the 2000s. Especially after Poland's accession to the Schengen zone, at least some Ukrainian migrant workers decided to prolong their stay in Poland without authorisation, since problems with getting new visas for re-entering Poland after departure were feared. According to interviews with some practitioners and experts in Poland, the restricted visa regime worsened opportunities for temporary and return migration, particularly for Ukrainian citizens, due to problems with obtaining visas and risks of being refused entry at the border. It is however important to point out that there is significant amount of regular migration fully in line with existent legislation.7

According to data on temporary and permanent residence permits from 2004 to 2007, the most important groups of immigrants with legal residence status are from Ukraine, Belarus, Vietnam, Armenia and Russia (Iglicka & Gmaj 2008: 10-11). In 2011 Ukrainians were the

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7 This information is based on expert interviews carried out for the report in 2013.
most important group of foreign immigrants making up a quarter of all foreign immigrants. Other important groups of immigrants in Poland were from China, Belarus, Vietnam, Germany and Russia, each representing around five percent of total immigration inflow in 2011. For immigrants from outside the EU, the most important reason to stay in Poland is employment (OECD 2013: 285).

Citizens of Ukraine, Vietnam and Armenia most often find themselves in an irregular situation regarding their residence status in Poland compared to other groups of immigrants. Although numbers and estimates about the size of irregular migration to Poland remain contested and vary considerably (Iglicka & Gmaj 2008). The total number of migration related border apprehensions has decreased over the past decade in Poland with temporary increase after EU accession and after accession to the Schengen area, which might also be related to changes in the law rather than changes in the magnitude of irregular immigration (Figure 1).

Figure 1: Total number of migration related border apprehension in Poland, 1998 to 2010

![Graph showing the total number of migration related border apprehensions in Poland, 1998 to 2010.](source: ICMPD Yearbooks on illegal migration, human smuggling and trafficking in CEE)

In addition, lack of residence status is not the only reason for an irregular situation of immigrants in Poland. Foreign citizens are disproportionally often found to work in the shadow economy (Iglicka & Gmaj 2008). According to estimates, the shadow economy presents approximately a quarter of total Gross Domestic Product (GDP) in Poland in the past years (Schneider 2011). Generally rights regulating access to employment for TCNs are rather strict in Poland compared to the EU27 countries but similar to other 2004-accession countries (cf. MIPEX at [www.mipex.eu](http://www.mipex.eu)). Irregular employment appears to be a major problem in Poland and concerns third country nationals with and without legal residence...
status. Most notably working conditions of migrants in Poland are problematic, particularly regarding health and safety regulations. Often foreign citizens are not offered a work contract, which makes them vulnerable to exploitation. In 2012, Poland transposed the EU Directive 2009/52/EC on minimum standards on sanctions and measures against employers of illegally staying third-country nationals into national legislation. This law therefore only protects TCNs without residence status, but not those with legal residence. Critics highlight that the regulations will not suffice to combat exploitation and vulnerability of foreign workers in Poland (Klaus 2012). Regularisation policies in Poland only tackle irregular residence status but not irregular employment. The abovementioned policy regulations regarding the use an employer’s statement of intentions to employ a foreign citizen was supposed to legalise work of at least few groups of foreign citizens, mostly Ukrainians present in seasonal work in Poland.

Asylum migration to Poland has been low compared to other EU countries. There were a few peaks in the past years. Asylum applications have risen considerably during 2009 and again in May 2013, but according to the trend it can be assumed that the applications will drop again (see Figure 2). Most notably, Poland has been one of the five major EU destination countries for Chechen refugees in the past decade (Hofman & Reichel 2008). If not granted refugee status, asylum seekers in Poland have the chance to obtain a so called “toleration status”, which can be granted to rejected asylum seekers and illegally residing foreign citizens if the country of return is not considered to be safe, if family life or rights of the child are threatened due to deportation or because deportation is not feasible due to reasons beyond the control of authorities and the person concerned. Persons holding toleration status might be granted regular residence permit after 10 years. Rejected asylum seekers who applied several times for asylum as well as foreign citizens with a return or removal order are normally put into custody pending removal (Heegaard Bausager et al 2013: 295-307). In 2010 some 2,000 persons were detained, which is around half of the number of persons apprehended for residing illegally in the country and approx. a quarter of the number of deportation orders issued during the same year (Global Detention Project 2013).
2. Regularisation policies

Despite the comparably low level of immigration and the related low level of undocumented immigration, Poland has been active in tackling undocumented immigration amongst others through providing opportunities for access to legal residence. Clearly the issue of irregular migration has become a topic through efforts of regulating migration to Poland in the wake of Poland’s accession to the EU. The two important markers in the very recent history of Polish policy, accession to EU in 2004 and to the Schengen area in 2007, also led to the need of adjusting the reality of migration to the newly introduced laws required by the EU acquis. On the occasion of the adoption of the legislation in 2003 and regularisation programme was
carried out in 2003. Similarly in 2007 in the course of introducing new regulations and just before Poland joined the Schengen area, another programme was carried out. In 2012 Poland’s third regularisation programme was carried out before the new migration law has passed parliament, in force as of 2014.

Regularisation programmes 2003, 2007 and 2012

In order to provide legal residence status to foreign residents, who can prove de facto ties with the country, but could not access legal status, Poland carried out a programme to provide legal status to foreign citizens in 2003. This programme consisted of two possible ways of legalising the residence status. One was referred to as the Great Abolition and was implemented from 1 September 2003 to 31 December 2003 in the course of the Aliens Law of 13 June 2003. The programme should enable migrants to adjust their status to the newly introduced requirements (Iglicka et al 2005: 8). In addition, there was the so called Small Abolition, which is the possibility for migrants in an irregular situation to leave the country without legal consequences (persons could leave the country without receiving a return ban).

To obtain legal status under the 2003 programme, persons needed to fulfil the following criteria: 1) continuous residence in Poland since at least 1 January 1997, 2) submission of application for temporary residence permit to the authorities by 31 December 2003, 3) proof of legal accommodation, 4) a guarantee to obtain a work permit in Poland or an employer’s written declaration of the intention to employ the applicant or other situation that ensures that applicant can cover her or his living costs and medical treatment (including dependants), and 5) the regularisation does not constitute a threat to the state security and defence as well as to the public security and public policy, does not constitute a burden for the state finances, and is not in conflict with the “interest of the Republic of Poland”. Regularised persons could obtain a residence status for one year with opportunity for extension in case requirements are met (cf. Dzhengozova 2009: 410-411).

The programme 2003 counted just over 3,500 applications, which was considered a rather small number. Reasons for the programme achieving only a smaller number of applications were amongst others difficulties to meet eligibility criteria, short period of programme and concerns by potential applicants to be expelled from the country (Dzhengozova 2009: 411-412) as well as the considerable long period of required stay in the country. In the end 3,460 decisions on applications were made. Of all decisions 78 percent were positive, granting legal residence to some 2,700 persons. 644 were rejected and 120 otherwise closed. The highest rates of regularisations were reported for the two main groups of applicants,
Vietnamese citizens (85.5%) and Armenian citizens (75.5%). These two groups of citizenship made up 85 percent of all regularisations in the programme 2003. Only 282 persons benefited from the so called *Small Abolition* in 2003 (leaving the country without receiving a return ban) (Lesińska, Stefańska, Szulecka 2011: 95).

Figure 3: Applications and decisions of Polish regularisation programmes 2003, 2007 and 2012

![Graph showing applications and decisions of Polish regularisation programmes](http://212.160.114.50/informacje/statystyki.html)

Source: Own compilation based on data from Office for Foreigners Poland, accessed in July 2013:

http://212.160.114.50/informacje/statystyki.html

Partly due to the low number of regularisations in the 2003 programme, a second regularisation programme was launched in 2007 in order to reach those who were eligible for the 2003 programme but did not manage to apply for regularisation. Consequently, the requirements were the same for the second programme, which means the persons had to reside in Poland since 1997 (thus for some ten years) in order to be regularised (Dzhengozova 2009: 412). Persons who applied in the first regularisation programme were not eligible. The second programme yielded lower numbers of applications than the first one.

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8 According to the expert interviews carried out in the framework of the project, Polish policy makers anticipated that these two national groups would benefit from the programme before introducing the first regularisation programme. Also NGO representatives confirmed that the law was designed especially for these two national groups, whose members often lived in Poland for many years but had never chance to legalise their stay.
and a slightly lower recognition rate. There were just over 2,000 applications, which resulted in 1,832 decisions of which 73.5 percent were positive (see Figure 2, below). Again the two major groups of applicants were Vietnamese (55%) and Armenian (29%) citizens accounting for over 80 percent of all applications. The overall rate of positive decisions was slightly lower than in 2003 at 73.5 percent. Vietnamese had a higher rate of positive decisions (80%) than Armenians (67.5%). The rates of positive decisions varied across Voivodeships, in 2007 more than in 2003. However, this higher variation of acceptance might also be explained by lower numbers of applications in 2007, but might also result from the distribution of different groups of immigrants across the country as well as different practices by the authorities. Figure 3, shows the rates of the 2003 and 2007 programme, including the total numbers of decisions (grey numbers). It clearly shows the concentration of decisions in the Masovian Voivodeship with an average rate of positive decisions compared to other regions.

Figure 4: Rates of positive decisions by Voivodeship in the programmes 2003 and 2007 (grey numbers are total numbers of decisions in 2003 and in 2007 total number of positive and negative decisions without cancelled applications and otherwise closed).

Source: Own compilation based on data from Office for Foreigners Poland, accessed in July 2013: [http://212.160.114.50/informacje/statystyki.html](http://212.160.114.50/informacje/statystyki.html)

After public discussions about irregular migration and before a new migration law was sent to Parliament, it was decided to carry out a third regularisation programme in 2012. The act was adopted on 28 July 2011, referred to as the “Amnesty Act”, and came into force on 1 January 2012 and lasted for six months. Since the purpose of this programme was to

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9 The full title was Act of 28 July 2011 on legalisation 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. Journal of Laws of 2011 No. 191, item 1133.
eradicate undocumented migration as effectively as possible, there were almost no requirements except that persons who resided in Poland without legal residence status on first January 2012 had to live in the country since at least 20 December 2007 without interruption. This was the last day before EU-internal border controls were lifted at the land and sea borders of Poland (and eight other EU member states). Persons had to provide a valid passport, but if the persons could prove that this was impossible or if the necessary steps were taken to obtain a passport, other means of identification were allowed as well. All cases were assessed individually and the burden of proof regarding the residence requirement lay with the authorities. Uninterrupted or continuous stay means that a person had to stay in the country without any absences exceeding 6 months at once or 10 months altogether, unless there were particular reasons for absences longer than indicated.\footnote{Continuous residence was defined according to Article 64 (4) in the Law of Aliens of 2003: 4. The residence of an alien on the territory of the Republic of Poland shall be regarded as continuous if an alien has not been absent from the territory of the Republic of Poland for a period exceeding 6 months or 10 months jointly during the periods referred to in sec. 1 p. 2 or 3, unless the reason of his / her absence was: 1) performance of occupational obligations or work on the basis of a contract concluded with an employer whose seat is placed in the territory of the Republic of Poland; 2) accompanying of a spouse performing his / her occupational obligations or work in circumstances referred to in p.1; 3) the need to obtain a travel document; 4) medical treatment.}

Moreover, rejected asylum seekers had a chance to obtain legal status in the 2012 programme, if they were illegally residing in the country on the day the amnesty came into force, were staying in Poland since 1 January 2010 and received a final rejection of their asylum claim along with an expulsion order before that date. A third group of persons addressed in the amnesty were foreign citizens against whom proceedings were being carried out on 1 January 2010 due to repeated applications for asylum.

Persons could lodge applications from 1 January 2012 until 2 July 2013 at the respective Voivoide according to their place of residence. Decisions on applications could be appealed to the head of the Office for Foreigners.

In case of positive decisions on the application for regularisation, persons obtained a residence permit for two years and were allowed to work under an employment contract without obligation to possess a work permit. However, if they worked under civil contracts, they would still need to have a work permit, if it is required\footnote{In some cases, such as teaching foreign languages as native speaker or performing seasonal jobs by citizens of non-EU neighbouring countries, no work permit was needed. The law regulating access to the labour market is the Act on promotion of employment and labour market institutions (promocji zatrudnienia i instytucjach rynku pracy) of 20 April 2004, Journal of Law 2008, No. 69, item 415, as amended.}.

If a person submitted an application for regularisation in the 2012 programme, residence in Poland was deemed legal until the final decision regarding the application was made.
introduced indirectly sort of a ‘small regularisation’, which was the possibility to leave Poland without receiving a return ban (which would usually be the case for persons found being illegally in the country).12

Compared to the other two programmes, the third programme reached a much higher number of applications. According to the statistics provided by the Office for Foreigners from July 201313, there were 9,555 applications for legalisation submitted. The vast majority of applications – over 98 percent (9,407) – were submitted under point 1 of article 1, which means residence in Poland since 20 December 2007 and only very few applications concern rejected (84) or repeated asylum seekers (64). By far most applications were lodged in the Masovian Voivoidship (over 75%), which includes Warsaw. At the time of writing this report, information on 7,665 decisions on applications was available.14 Of those 60.3 percent were positive decisions granting legal residence to 4,623 persons. In the third programme Vietnamese citizens constituted the largest group of applicants (23%), closely followed by Ukrainians (21%). Ukrainians also received the highest percentage of positive decisions of 78 percent, while 71 percent of Vietnamese citizens were granted residence status. The third most important group of applicants were citizens of Pakistan representing 15 percent of all applicants. However, out of 918 decisions on applications by Pakistanis only 32 or 3.5 percent received a positive decision. The main reason for the high rate of rejections for Pakistanis was that the authorities could prove that the persons did not reside in Poland. The same applies for the group of citizens of Bangladesh with a very low rate of positive decisions (20 positive decisions out of 357 decisions issued, against 766 applications submitted). The number of applications by Armenian citizens was 711 and therefore only 7 percent of all applications. About 75 percent of Armenian applicants (538 persons) received a positive decision.

The regularisation programme was carried out and planned in close cooperation with civil society including several NGOs. Still there is some criticism of the programme. It is assumed that persons might not easily find a job under an employment contract, which is difficult to obtain because many people in Poland work under a civil contract. Civil contracts are common in Poland and are particularly common for employment of foreign citizens. To what extent the programme managed to sustainably reduce illegal migration and how many persons can hold their status will be seen in the near future. Some expert interview partners assume that there will be problems with maintaining legal status for many regularised

12 Information based on input from interviews with researchers and practitioners.
13 Information about regularisation outcomes one year after the end of the programme published by the Office for Foreigners: [http://www.udsc.gov.pl/Rok_po_abolicii_dla_cudzoziemcow_2223.html](http://www.udsc.gov.pl/Rok_po_abolicii_dla_cudzoziemcow_2223.html) (last accessed on 30 August 2013).
14 Information obtained from the Office for Foreigners as of 30 September 2013.
persons. The most serious barrier for obtaining another residence permit may be undeclared work.

Regularisation mechanisms

In the Act on granting protection to aliens of 2003\(^{15}\), Poland introduced a form of subsidiary protection called ‘residence permit for tolerated stay’. According to article 97 of this law, a residence permit for tolerated stay shall be granted to a foreign citizen if her or his deportation cannot be executed because (in a wider sense):

1. return constitutes a threat to the person’s health and liberty,
2. return would violate the right to family life, or
3. is unenforceable due to reasons beyond the power of the person concerned.

This status is referred to as Tolerated Stay (pobyt tolerowany) and allows beneficiaries to access the labour market in Poland. After ten years of continuous stay under this status, persons have the opportunity to obtain permanent residence permit\(^{16}\) (PL EMN NCP 2011: 39-40; Heegaard Bausager et al 2013: 295-307). As of 30 June 2013 there were 1,425 persons with the status of tolerated stay. In the first half of 2013, 43 persons were granted the permit for tolerated stay in the course of removal procedures, while toleration statuses were granted to asylum seekers\(^{17}\).

Moreover, there is an opportunity to obtain a visa for up to three months for exceptional circumstances for foreign citizens upon application. This visa is granted according to article 33 of the 2003 Act on Foreigners (1) if the persons has to appear before court, (2) because the person needs to stay in Poland for medical treatment, which is not available in another country, (3) because of an exceptional personal situation, which requires presence in the country, (4) it is in the “interest of Poland” or (5) if there is the reason that the person is a victim of trafficking. Finally, the 2003 law includes the opportunity to access legal status for persons married to Polish citizens (Dzhengozova 2009: 413-414).

At the time of writing, the new law on aliens is processed in the Polish parliament\(^{18}\). The law is supposed to be in force in mid 2014. It implements the majority of EU directives regarding immigrants. The act includes a residence permit for tolerated stay and a residence permit based on humanitarian reasons (chapter 3 of the law). According to article 349 of this law, a

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\(^{15}\) Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland (Journal of Laws of 2003, No 128, item 1176).

\(^{16}\) Art. 64 (3) of the Act on Foreigners of 13 June 2003 (Journal of Laws of 2003, No 128, it. 1175).


\(^{18}\) The draft Law on Foreigners was sent to the Parliament on 3 July 2013. On 23 October 2013 the parliamentary commission for internal affairs published their report on the proceedings as well as the draft law including amendments, stemming mostly from the voices raised by social organisations and the Commissioner for Human Right in the process of consultations.
foreign citizen may be granted a humanitarian residence permit, if the return order issued to him or her:
1) may be executed only to a country, in which his or her human rights (to life, freedom and personal security) would be threatened or he or she could be subjected to tortures or inhuman and humiliating treatment or punishment, or he or she would be subjected to forced labour, or he or she would be deprived of right to fair trial or be punished without legal basis;
2) would violate his or her rights to family life or children's rights in the extent importantly affecting the child's psychological development.

According to the draft law, the abovementioned permit cannot be issued to a person who is suspected of or punished for war crimes, crimes against peace or humanity or other crimes stated in the Polish law or laws of other countries, or constitutes a threat to security and defence of a state and public order. Such a permit will be issued for 3 months and there will be no possibility to prolong the legal stay on the basis of having this permit.

In turn, a permit for tolerated stay may be issued to a person, if the return order issued to him or her:
- may be executed only to a country, in which his or her human rights (to life, freedom and personal security) would be threatened or he or she could be subjected to tortures or inhuman and humiliating treatment or punishment, or he or she would be subjected to forced labour, or he or she would be deprived of right to fair trial or be punished without legal basis, and there prerequisites to refuse granting the permit for stay due to humanitarian reasons; or
- is unenforceable due to reasons beyond the competence of the authorities; or
- may be executed only to a country, to which readmission is unacceptable due to court decisions or minister's of justice decision. Similarly to the first permit described, the permit for tolerated stay should not be granted to persons constituting a threat to the state security and public order.

The decisions on granting a permit for tolerated stay or stay due to humanitarian reasons are only valid until the day:
- when the person is granted a refugee status or subsidiary protection,
- when the person acquires Polish citizenship,
- when the person informs the Border Guard that he or she disclaims the right to benefit from the permit for stay due to humanitarian reasons or permit for tolerated stay,
- when the person is granted permanent residence permit.19

19 All information on the new law was provided by the country partner.
Thus, the proposed new law includes regularisation mechanisms for persons in particular circumstances. However, there is also critique on these regulations from NGOs, claiming that the new regulations are not far reaching enough in order to tackle irregular migration in Poland.

3. Impact of regularisations on labour market outcomes of regularised immigrants

3.1. Review of existing studies

There is not so much known about the impact of regularisation policy in Poland and its relation to labour market performance of beneficiaries. So far one study has been published by the Department for Migration Policy within the Ministry of Interior, which investigated the sustainability of the 2003 programme on the basis of an analysis of administrative data derived from the programme. It shows that a relatively large percentage of foreign citizens who were regularised in 2003 still held a legal status in 2010. The percentage varies across groups between 50 percent of Armenian citizens and around 65 percent of Vietnamese and Ukrainian citizens. Among those who maintained legal status a high rate of persons with long term residence permits was observed (between 53% Armenians, 76% Vietnamese and 82% Ukrainians). The low numbers were not surprising according to the Ministry given that there were many requirements in the 2003 (and 2007) programme (MSW 2012). So far there are no results on the impact on labour market trajectories of regularised persons beyond anecdotal evidence.

The Information Centre for Foreigners at the Association for Legal Intervention (Stowarzyszenie Interwencji Prawnej20) published a study on compliance of Polish employers with migrant workers rights. This study highlights the difficulties of immigrants in accessing the formal labour market and problems with unfair treatment by employers (Klaus 2012). The meaning of a legal status in relation to labour market performance was also studied by researchers from the Centre of Migration Research at the University of Warsaw. Results point out that improvement of legal status does not necessarily improve labour market position as well. However, there were cases were regularisation influenced independence and occupational mobility of migrant workers (Stefańska/ Szulecka 2013).

20 NGO engaged in providing legal counseling services to, among others, foreign citizens in Poland.
In the aftermath of the latest regularisation programme, the question of sustainability of regularisation was already discussed among government agencies, researchers and the civil society. There were some concerns whether regularised persons could maintain their status due to difficulties in finding regular employment. It was announced by the Ministry of Interior that further analysis should be carried out in order to assess the results and impact of the regularisation programmes.\textsuperscript{21}

3.2. Results from the feasibility study

In the framework of this study, 11 semi-structured qualitative interviews were carried out in order to test accessibility of the target population and to examine major issues related to irregular residence status and labour market inclusion. Under supervision of Monika Szulecka (Centre of Migration Research) 11 interviews were conducted with nine regularised immigrants (five Ukrainian citizen, three Armenian citizens and one Vietnamese citizen) and two persons without regular residence status (one citizen of Ukraine, who was not known to the authorities and one citizen of Armenian, who was known to the authorities). The following section outlines a few general observations from the interviews, which was provided with support by Monika Szulecka. The following describes selected situations found in the interviews in order to highlight some important aspects related to irregular status and employment.\textsuperscript{22}

Interviewees from Ukraine report that they often moved between Poland and Ukraine, first under the visa free regime and later on the basis of visas. However, even when circulating between Ukraine and Poland was more easy, before changes in the laws and introduction of stricter visa requirements, interviewees also report having overstayed their visas because the needed to keep their work in Poland in order to support their children.

There is a general lack of knowledge about the legal situation found in some interviews. Some interview partners that sought support from counselling services lacked basic knowledge of their rights, which also led to difficulties in the interview about the legal situation. Insufficient knowledge also might lead to problems with maintaining legal status, since some interviewees mentioned not having any plans or idea how to prolong their legal status. One women with Ukrainian citizenship lived irregularly in Poland since the beginning

\textsuperscript{21} Information from expert interviews.
\textsuperscript{22} A more thorough analysis of all interviews carried out in the framework of the REGANE study can be found in the final report of the study at http://research.icmpd.org/2335.html.
of the 2000s, but had not heard about the previous two regularisation programmes (2003 and 2007), but only about the 2012 programme on television.

In many cases employment played a crucial role in the person’s opportunity to legalise and consequently to maintain legal status. Precarious and informal work hampers opportunities to maintain legal status. For instance, the women mentioned before works as a child carer partly with contract partly without. At the time she regularised in 2012 she had a work contract, but lost it due to the fact that the mother of the child she was taking care of gave birth to another child and stays at home herself at the moment. She will continue to be employed but only without a contract. Consequently, she anticipates not being able to prolong her legal status. Another interviewee, a man from Armenia, lived irregularly in Poland during the 1990s and worked in trade (informal trade) and later became a musician. He could regularise in 2003 (despite his informal work) and could renew his residence permit several times, but lost legal status again in 2006. He managed to legalise again in 2012, but is not sure to maintain his status, because he simply does not find legal employment. He does not see any prospects of regular work, neither as employee, as musician nor as trader. The same applies for the women presented before working as a caregiver. Although she sometimes works with a contract, prospects are not good. Some years ago this woman actually had the opportunity to work as an interpreter, but needed to proof her qualifications (she worked as a teacher in Ukraine). However, due to her illegal status, she could not go back and organise the certificate, which is why she did not get this job.

An important problem arising from informal work is lack of social security. This problem is highlighted by one interviewee who had a work accident and his employer left him alone. Several interviewees who work in the informal sector are afraid of getting old, because they have no right to any pension and social security. In those cases, being stuck in informal labour is the main challenge and not legal status. The interviewees report that job offers were refused due to their legal status, but this was not always the case.

The importance of employment for legal status is highlighted in one case of a Ukrainian women working as a tailor. She used to work informally. But her current employer helped her with the regularisation in 2012 and offered her formal work after legalising her stay. Though the net income appears to remain the same, she now also has social insurance and the opportunity to earn more in the future since she is now able to work with customers more openly due to her legal residence status.
Besides issues related to employment, the feeling of security is a major issue highlighted by the interviewees. One woman reports that she felt very much ashamed for not having regular status and several interviewees point out that their subjective feeling of security increased considerably due to regularisation.

4. Conclusions

The government of Poland was very active in the area of migration policy since the end of the 1990s, which was triggered by the need to adjust policy to the EU acquis. So far three regularisation programmes were carried out since 2003 resulting in regularisation of over 8,400 persons. Although this number is low compared to regularisations in Southern European countries, the number makes up a fair share of the total number of foreign citizens living in Poland. The case of Poland is a good example of pragmatically dealing with irregular migration and is worth studying as an example for other EU member states.

A high percentage of persons regularised in 2003 could maintain their legal status, which highlights sustainability of the policy to some extent. The eligibility criteria were much stricter in the 2003 and 2007 programmes. In 2012 there were no conditions on income or employment for regularisation. Therefore the programme was much more far reaching.

Future studies on the impact of the 2012 programme will provide valuable insights into the full potential of regularisation as a tool to counteract irregular migration and possible prevention of informal and precarious work. The latter is often related to risks of exploitation. In general, the impact of regularisation on labour market participation still needs to be explored further. Other studies indicate that foreign citizens in Poland might not have the chance to choose between formal or informal employment, due to employer not offering regular contracts. However, the opportunities to find legal employment will be crucial to obtain and retain legal status. Still, the strong informal labour market in Poland might be an obstacle for immigrants to hold their residence status.
5. References


Interview partners (not responsible for content of the report):
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