



ليبيا  
Foreigner

**IOM Libya**

# Regularization Feasibility Study on Migrant Regularization in Libya

RESEARCH REPORT

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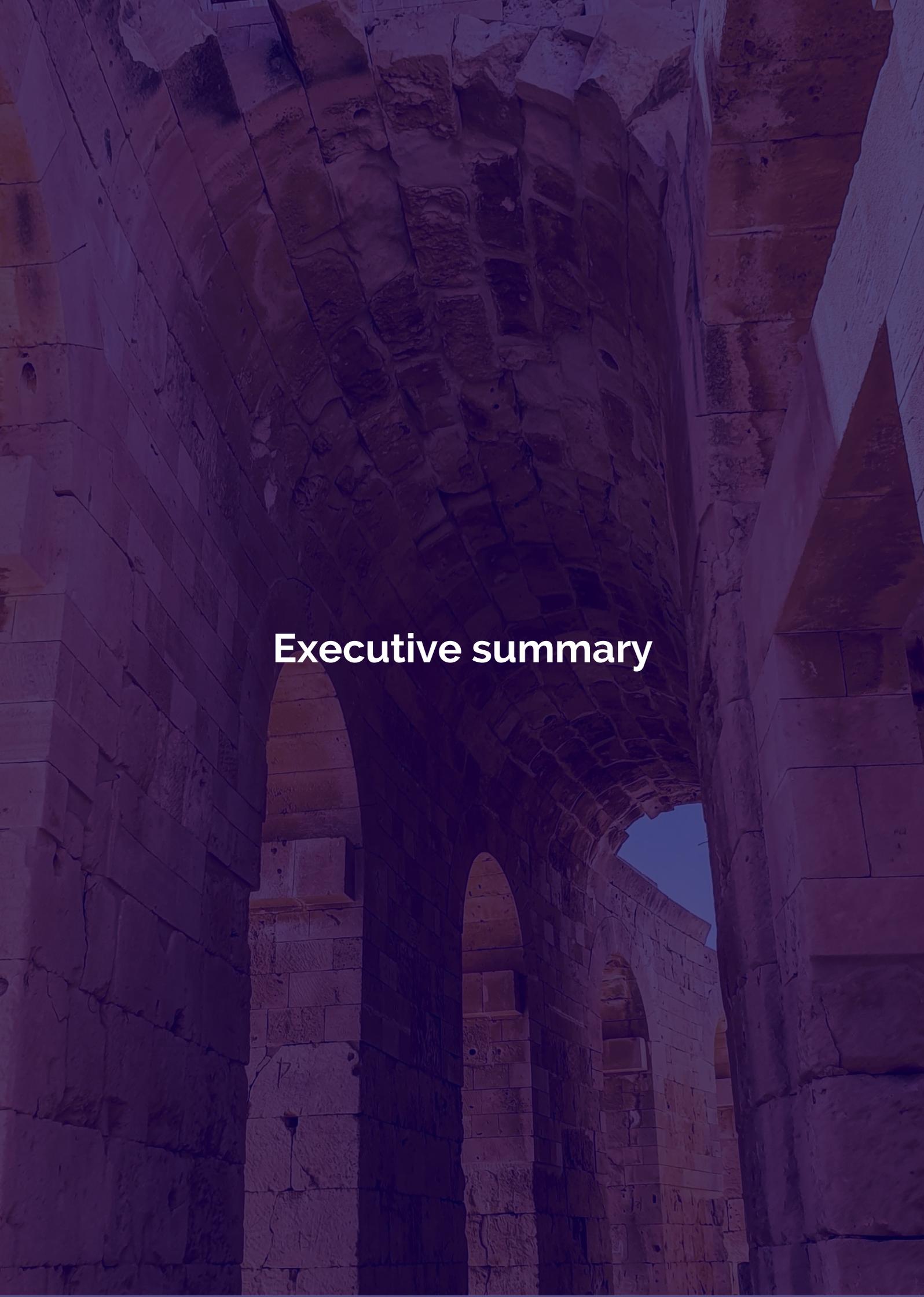
*IOM is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental organization, IOM acts with its partners in the international community to: assist in meeting the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants.*

## List of Acronyms

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|                |  |
|----------------|--|
| <b>AMDH</b>    | Moroccan Association on Human Rights ( <i>Association Marocaine des Droits Humains</i> )   |
| <b>ASCOMS</b>  | Platform of Sub-Saharan Associations and Communities in Morocco ( <i>Plateforme des Associations et Communautés Subsahariennes au Maroc</i> )                      |
| <b>BLMA</b>    | Bilateral Labour Migration Agreement   |
| <b>CATI</b>    | Computer-assisted telephone interviewing   |
| <b>CCOO</b>    | Labour Commissions (Comisiones Obreras)  |
| <b>CEOE</b>    | Spanish Confederation of Business Organization ( <i>Confederación Española de Organizaciones Empresariales</i> )   |
| <b>CNDH</b>    | National Council on Human Rights (Conseil Nationale des Driots de l'Homme)   |
| <b>CMSM</b>    | Council of Sub-Saharan Migrants in Morocco ( <i>Conseil des Migrants Subsahariens au Maroc</i> )   |
| <b>CSO</b>     | Civil Society Organization   |
| <b>DCIM</b>    | Directorate for Combatting Illegal Migration   |
| <b>DTM</b>     | Displacement Tracking Matrix   |
| <b>EEA</b>     | European Economic Area   |
| <b>EU</b>      | European Union   |
| <b>FGD</b>     | Focus Group Discussion   |
| <b>GADEM</b>   | Antiracist Group for the Defense and Support of Foreigners and Migrants ( <i>Groupe antiraciste de défense et d'accompagnement des étrangers et des migrants</i> ) |
| <b>GDP</b>     | Gross Domestic Product   |
| <b>ICMPD</b>   | International Centre for Migration Policy Development  |
| <b>IDI</b>     | In-depth Interview   |
| <b>ILO</b>     | International Labour Organization  |
| <b>IOM</b>     | International Organization for Migration   |
| <b>IRCA</b>    | Immigration Reform and Control Act   |
| <b>KI</b>      | Key Informant  |
| <b>KII</b>     | Key Informant Interview  |
| <b>MCMREAM</b> | Ministry of Foreign Affairs African Cooperation and Moroccan Expatriates   |
| <b>MOI</b>     | Ministry of Interior   |

|              |   |
|--------------|---|
| <b>NGO</b>   | Non-Governmental Organization   |
| <b>ODT-I</b> | Democratic Organization of Immigrant Workers in Morocco ( <i>Organisation Démocratique des Travailleurs Immigrés au Maroc</i> ) |
| <b>PSOE</b>  | Spanish Socialist Labour Party ( <i>Partido Socialista Obrero Español</i> )   |
| <b>PSS</b>   | Private Sector Survey   |
| <b>SME</b>   | Small and Medium-sized Enterprise   |
| <b>SNIA</b>  | National Strategy on Immigration and Asylum ( <i>Stratégie Nationale de l'Immigration et de l'Asile</i> )                       |
| <b>UGT</b>   | General Union of Workers ( <i>Unión General de Trabajadores</i> )   |
| <b>UNDP</b>  | United Nations Development Program  |



# Executive summary

## Executive summary

### Context overview

Despite the political and economic instability that has characterized Libya since the revolution in 2011, the country remains both a transit and a destination for migrants pursuing better economic opportunities and social conditions. According to the Displacement Tracking Matrix (DTM) conducted by IOM, there are 679,974 migrants in Libya as of August 2022 (IOM, 2022b). These men and women are vital contributors to the Libyan economy while often supporting their relatives in their home countries through remittances. Nevertheless, a majority do not hold regular status in Libya and therefore do not benefit from labour law regulations and protection.

On a national level, the Government of Libya has expressed its commitment to facilitating regular labour migration and protecting migrant workers. As an example, in November 2021, Libya and Niger signed a memorandum of understanding that seeks to protect migrant workers through issuing work visas and to better respond to Libya's labour market needs. This process took place as part of a wider discussion with other major countries of origin in the region to address concerns regarding irregular labour migration and the welfare of migrant workers (IOM News - Global, 2021). Registration or regularization of migrant workers could be a next step in line with these new policy shifts.

### Identified regularization scenarios



**REGISTRATION SCENARIO.** While not providing fully regularized status, registration allows an irregular migrant to register their presence with a local or national government entity to receive temporary social support and/or protection from detention and deportation. It can be a prerequisite for participation in other regularization measures.



**ONE-OFF PROGRAMME SCENARIO.** Regularization programs are procedures undertaken by governments to address large populations of irregular migrants. These one-off programs are (1) not part of a country's regular migration policy framework, (2) time-bound, and (3) may target certain groups in irregular situations.



**ONGOING MECHANISM SCENARIO.** Ongoing mechanisms are longer-term or permanent policies where the state grants regularized status to applicants on a case-by-case basis. These are generally smaller in scale, and objectives may be humanitarian or to target long-term residents.

### Key benefits and challenges of regularization for Libya



**Support the Libyan economy.** Regularizing migrants' status could positively impact the Libyan economy by addressing key labour gaps, and supporting the growth, formalization, and productivity of the private sector (thereby reducing the informal economy). Regularization also provides opportunities for these individuals to contribute to tax systems and increase revenues.



- **Tax disincentives for employers.** Tax contributions may disincentivize employers as, under current tax structures, Libyan employers are responsible for paying higher social security contributions than employees. The government may lack the capacity to enforce tax compliance.

- **Pushback from communities reliant on the informal economy.** Reducing the informal economy may result in pushback from communities that rely on it.



**Improve migration management.** Registration and regularization initiatives would support census-taking efforts, and help national authorities to better assess the number of migrants present in-country. Regularization could also help improve Libya's public image, which has faced international criticism for its migration practices, by signaling policy shifts. Furthermore, regularization will support the Libyan state to better protect the rights of migrants, which in turn will enable Libya to align with international and regional legal frameworks and commitments. Finally, greater rights protection will enable migrant workers to better integrate and thus contribute to the life of their communities.



- **Threat of violence.** While regularization may help limit criminal networks, there is the potential for violent resistance by armed groups financially connected to smuggling and detention centers.
- **Limited central government.** A constraint to implementing regularization is the limited existence of a centralized government in Libya.
- **Ensuring data protection.** As regularization/registration requires collecting and storing information on irregular migrants, a challenge would be to ensure that data protection is maintained, and that information is not co-opted for harmful purposes that may put irregular migrants at increased risk.



**Benefits for migrants.** For migrants, regularization is an opportunity to further integrate and contribute to society, as well as decrease their vulnerability and strengthen the protection of their rights. After formalizing their status, migrants could have better access to legal and medical support, workplace protections, and could move freely without fear of arrest, arbitrary detention, or deportation. Additionally, regularization could allow migrants to increase and improve their job prospects and with that their income tax and social security contributions.

## Key findings from CAPI surveys and FGDs

FGD participants emphasized **security and freedom of movement** as benefits to regularization

**86 per cent** of interviewed migrants would **participate** in a programme to receive a work permit

**82 per cent** of interviewed migrants would **register** with the municipality to receive basic services



### Voluntas' recommended regularization scenario for the Libyan case:

A **combined scenario approach** is recommended, where registration initiatives serve as a prerequisite to a one-off programme and ongoing mechanism. However, it is acknowledged that given Libya's volatile political and security environment, implementing such initiatives will be complex and challenging.

## Key implementation considerations

1. Internal **alignment on the key objectives** of the registration/regularization initiative.
2. Simplification and flexibility of **eligibility criteria and documentation required** so as to increase the number of beneficiaries.
3. Anticipation and strengthening of **administrative capacity** to process applications.

4. Communication and **outreach to migrant community**, including detailed information to increase awareness of registration/regularization process, in relevant languages.
5. **Engagement of all stakeholders**, including CSOs, employers, governmental ministries, international organizations, and trade unions.
6. Establishment of **grievance redressal mechanisms** for applicants.
7. Develop long-term strategy for migrants' integration into Libyan society.

# Methodology

## Analytical Framework

This study's analytical framework was structured around three phases. The **first phase** included a preliminary assessment of the Libyan context and the selection of three CoD case studies where regularization programs have previously been implemented. In the **second phase**, the legal frameworks for migrant regularization, including protection mechanisms, as well as conditions of employment and recruitment were studied in the selected CoDs and Libya, to the extent possible. For CoD case studies, the priority was understanding how recent regularization programs have been implemented and what lessons could be learned for the Libyan context. For Libya, analysis focused on assessing which regularization measures may be feasible considering the current context, and what conditions would need to be in place for these efforts to be successful. The **third phase** involved operationalizing key findings from phase II into recommendations that inform a scalable model for regularization in Libya.

## Data collection modes

This study employed primarily desk review and IDIs to inform both the CoD case studies and Libyan context. FGDs and CAPI surveys were also conducted within irregular migrant communities in Libya. The overall approaches to data collection in both CoD case studies and Libya are summarized in the figures below:

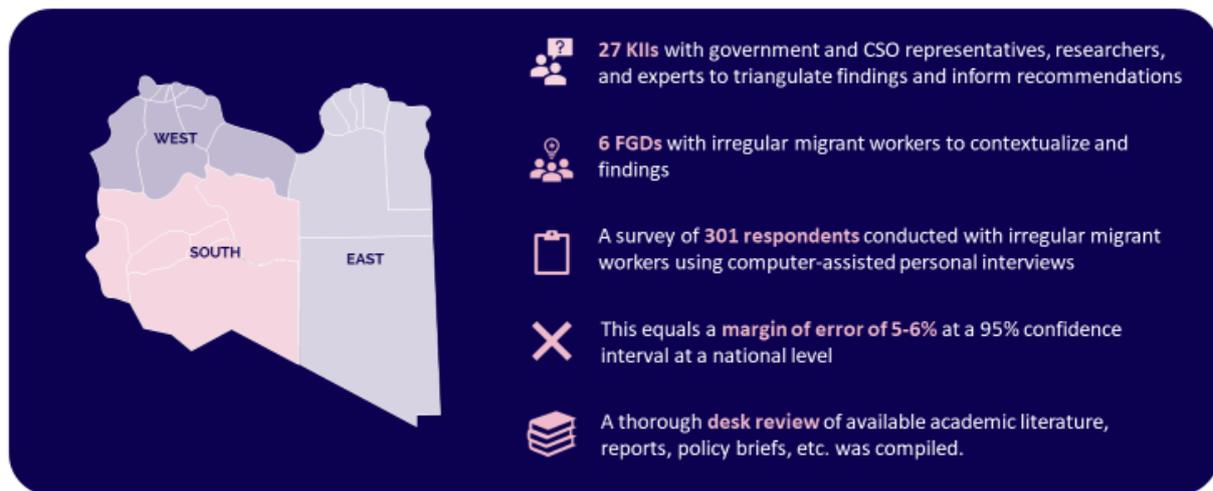
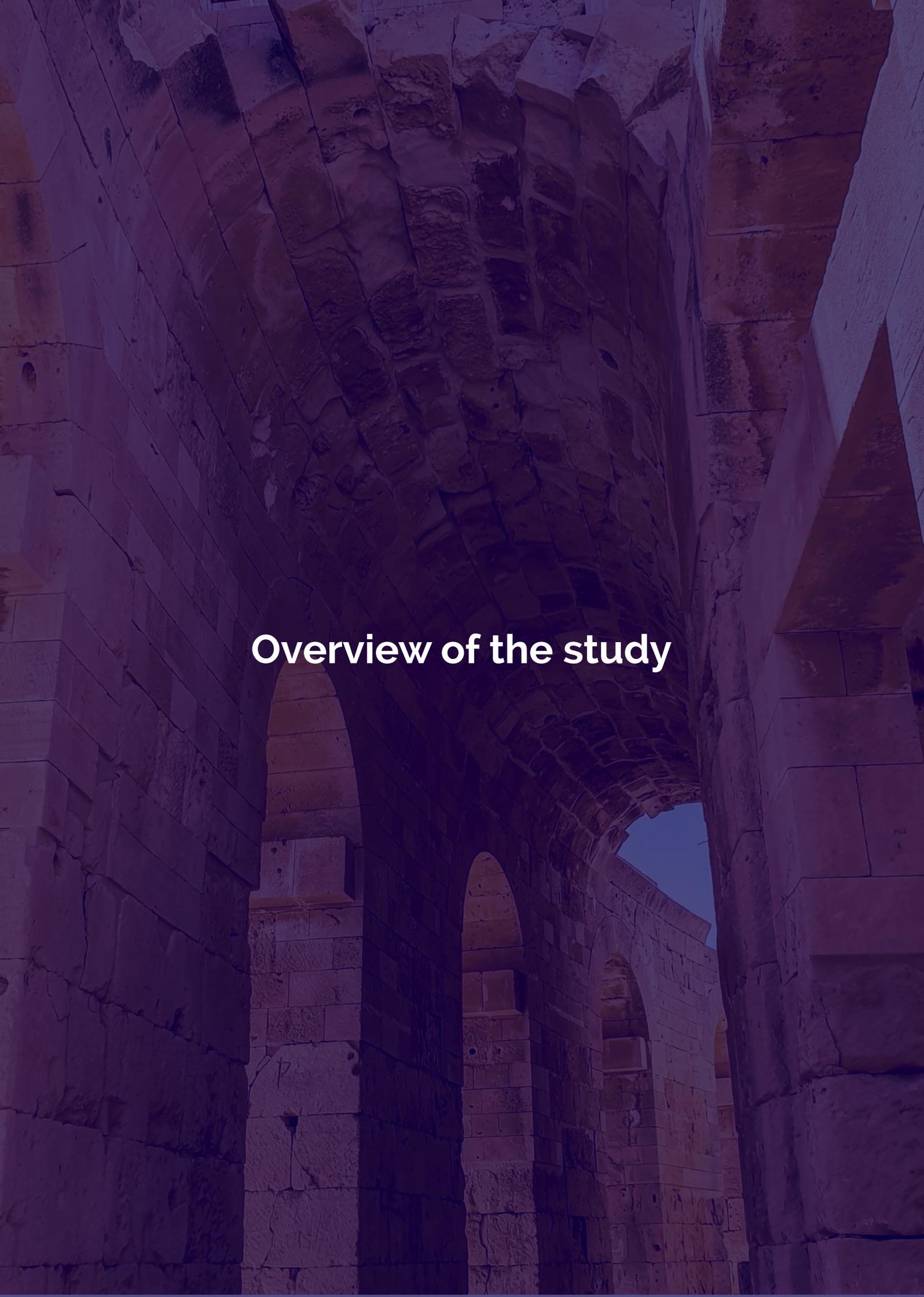


Figure 1. Data collection modes in Libya



Figure 2. Data collection modes in CoDs

Full information related to the analytical framework, data collection modes, rationale for case study selection, and key limitations and challenges are provided in the appendices.

The image shows a perspective view of a stone archway. The ceiling of the arch is covered in a grid-like pattern of small, square tiles or stones. The walls are made of large, rectangular stone blocks. The archway leads to a bright blue sky. The entire image is overlaid with a dark blue gradient.

# Overview of the study

## Migration context and legal framework

According to IOM's most recent Displacement Tracking Matrix (DTM) report (August 2022), there are over 670,000 migrants in Libya, both regular and irregular. While the exact number of regular migrants entering Libya is unknown, it is assumed that most migrants arrive in Libya irregularly (UNHCR et al., 2017). Migrants most commonly emigrate from neighbouring countries, with the top four countries of origin being Niger (24%), Egypt (21%), Sudan (19%), and Chad (13%). Migrants are present across all municipalities in Libya and in nearly every community (639 out of 667 communities) (IOM, 2022b). It should be noted that despite data collection and reporting efforts through international organizations, several key informants still consider that there is a lack of "official" or "reliable" figures on the number of migrants present in Libya (KII Libya Govt 3; KII Libya Govt 4; KII Libya Govt 11; KII Libya Govt 8; KII Libya Govt 6).

Migrants consider Libya as both a transit country and a country of destination. Interviewed migrants for the IOM DTM report most frequently identified economic reasons (89%) for choosing to migrate to Libya (IOM, 2022a). Commonly reported economic drivers included: insufficient income in home country (46%), goal of seeking employment abroad (22%), and few employment opportunities available at home (20%) (IOM, 2022a). This suggests Libya will continue to be viewed as a country of destination if suitable livelihood opportunities are available to migrants. While Libya certainly serves as a major point of departure for irregular migrants seeking to immigrate to Europe, data from IOM (2019) and REACH (2017) point to a sizeable portion (as much as 50%) of migrants who choose to stay in Libya for six months or more (IOM, 2019). Furthermore, an analysis of IOM labour market assessments in Libya suggests that migrants' length of stay is strongly correlated with finding employment (Borgnäs et al., 2020).

### Libya's economy and migrant workers

Largely owing to its oil wealth, Libya has historically maintained a large public sector. To fill productive sectors (e.g., construction and agriculture), foreign workers were, and remain, integral components of Libya's labour force (El Kamouni-Janssen et al., 2019). Post revolution, the oil industry still accounts for over 77 per cent of GDP and Libya's public sector has remained disproportionately large, employing 70 per cent of salaried positions (Borgnäs et al., 2020). The private sector has also remained small, constrained by prior "semi-socialist" policies and insecurity (UNDP, 2021), however, it is reportedly growing (Borgnäs et al., 2020). According to the OECD, roughly 60 per cent of small and medium-sized enterprises (SMEs) in Libya were created after 2011. As in the past, the private sector in Libya remains reliant on foreign labour (including undocumented labour) to fill labour needs (El Kamouni-Janssen et al., 2019).

Research suggests that migrants are typically willing to accept jobs that Libyans do not want to do, either because Libyans desire employment in the public sector and/or they are reluctant to take jobs requiring manual labour (Borgnäs et al., 2020; European Training Foundation, 2014; UNDP, 2021).

Libya also maintains a large informal economy, though its size is difficult to estimate. Figures from the African Development Bank in 2011 estimated that between 30 and 40 per cent of official GDP is generated by the informal sector and informal employment is about 40-60 per cent of total employment (European Training Foundation, 2014). Key sectors that employ informal workers are agriculture, construction, and retail trade sectors and those employed informally are mainly low-skilled workers (ibid). This aligns with the top sectors where migrant workers are employed (construction, agriculture, the care economy and food processing (IOM LMA, 2021). According to a UNDP study, "a distinction between formal and informal business is difficult to establish; many businesses have elements of

informality" (UNDP, 2021). Within this economic landscape of pervasive informality, migrant workers find opportunities for employment and most are employed with only an oral agreement protecting their employment (IOM LMA, 2021).

Of the migrants who travel to Libya for work, the intention of their stay varies. In a recent study involving over 1,200 interviewed migrants, 24 per cent reported that they intended to stay in Libya indefinitely, 56 per cent said they intended to stay sometime before returning home, and 13 per cent indicated that they would stay in Libya sometime before moving on to another destination (IOM, 2019).

In their review of past IOM reports, Borgnäs et al. finds that the "labour market has remained significantly large enough to absorb migrant workers and migrants have reported no challenges finding job opportunities" (2020). However, migrants have an unemployment rate of 23 per cent and less than half of migrants (46%) have a predictable source of income (from a permanent job), while 69 per cent of migrants have experienced difficulty finding work (IOM Libya, 2021). This suggests that while the labour market may be large enough for the population of migrant workers, other barriers to employment may exist. Furthermore, unemployment affects women more than men, with 36 per cent of female migrants reported to be jobless compared to 21 per cent of men. This is because daily wage labour is often physical in nature and therefore more often performed by men. Another possible explanation is also related to social norms that may limit women in their work choices (IOM Libya, 2021).

### **Political economy of migration in Libya**

A potential challenge to implementing regularization initiatives is the pervasiveness of Libya's illicit economy, which benefits from current migration policies. Key actors within this economy include smuggler/human trafficking networks and militia groups, with Libyan government and municipal authorities struggling to exert any control or leverage on the situation (Malakooti, 2019). Further to this, human trafficking and smuggling are livelihood opportunities for some Libyans and their communities during a time of economic crisis (Romanet Perroux, 2020). It is also reported that militias are financially involved in running unofficial detention centers – which can be distinguished from the Directorate for Combatting Illegal Migration (DCIM)-run detention centres although the line is at times unclear (Malakooti, 2019) This results in the monetization and commodification of migrants. Unofficial centers may engage in the following income-generating activities: "extortion, enforced labour, prostitution, selling migrants to Libyans who require labourers, selling migrants between centres, selling migrants to smugglers and armed groups using migrants in their own security or smuggling work" (Malakooti, 2019).

Any efforts to alter the current landscape of migration are very likely to experience significant push-back from those that benefit from this economy. It is therefore imperative that any such initiatives, particularly with respect to regularization, are approached with a high degree of awareness regarding any negative or destabilizing consequences that could result.

### **Overview of Libya's migration policies**

Libya's current migration policy can be characterized as restrictive and deterrence-focused, making regular migration into Libya a cumbersome process. Libya does not recognize the status of asylum seekers, and prosecutorial policies focus on containing illegal migration (Clingendael, 2019). According to Libyan legislation<sup>1</sup>, foreigners who fail to comply with entry and exit requirements are subject to penalties such as imprisonment,

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<sup>1</sup> Specific legislation applicable to the statement above includes Law No. 19 of 2010 on Combatting Illegal Migration, and Law No. 6 of 1987 on Organizing the Entry, Residence and Exit of Foreigners in Libya (ICMPD, 2020).

fines, deportation, and immigration detention (IOM, 2014). There is also a lack of clarity in the legal framework as many laws and policies are outdated and irrelevant even if still formally in force (Borgnäs et al., 2020). Additionally, according to one interviewee, these laws can at times be contradictory (KII Libya Govt 3).

This lack of clarity is the result of uncoordinated policy changes. In the 1990s, Gaddafi's regime implemented "pan-african" open migration policies encouraging foreign workers, especially from the Sahel and sub-Saharan African states, to come to Libya to fill key labour needs. However, policies shifted as Libya became a migration transit hub and the labour market became more fragmented. In 2007, Libya implemented a policy requiring all foreigners to obtain a visa except those from Arab countries. As a result, non-Arab migrants were left undocumented overnight and thus denied access to health, education, and other public services (Borgnäs et al., 2020; Di Bartolomeo et al., 2011). Migrants, employers, and employment agencies expressed concern about the cumbersome procedures and documentation required to obtain a visa (IOM, 2014). The limited number of visas granted each year was also reported as a barrier to regular entry into the country. It was argued that if everyone had to go through long and complicated visa procedures to enter Libya, then the absolute majority of migrants would automatically fall into irregularity (KII Libya expert 8). When examining migration policies in Libya, it is important to note that Arab migrants benefit from simplified procedures, as they can enter and work in Libya simply by presenting their identity cards and enjoy the same rights, duties, and residency benefits as Libyan nationals (ICMPD, 2020).

An ICMPD report from 2010 did state that a regularization initiative was implemented by Government Decree in 2009. Through this initiative, irregular migrants with a valid travel document and proof of a job offer could regularize their status and obtain a one-year work permit (ICMPD, 2010). However, it is unclear how effective this initiative was or how many migrants were able to regularize their status through this procedure. Additionally, a report by IOM references three instances of regularization initiatives in 2013, reported by Ministry of Labour staff, where employers were encouraged to hire irregular workers. This report states, "it is understood that these announcements resulted in the regularization of a significant number of irregular migrants" (IOM, 2014). Again, it is difficult to ascertain the extent to which these initiatives were successful. Furthermore, there appeared to be a lack of awareness from key informants on prior regularization efforts by the Libyan state. One exception was that some key informants mentioned the limitation card which was provided by municipalities, predominantly in the East.

### **Overview of current policies**

Under current laws<sup>2</sup>, work/residency visas are granted according to the work authorization or work contract. The visa may be granted for five years and then be extended according to the period stipulated in the renewed authorization or contract, as long as it does not extend beyond the validity of the travel document. A residence visa without a work permit is granted to family members of the foreign resident if they are dependents and reside with the worker. The length of the visa is equivalent to the residence permit granted to the person on whom they depend (ICMPD, 2020). The terms and conditions for granting residence visas are determined based on a decree issued by the Director of the General Directorate of Passports and Nationality. Entry visas for residence and work purposes are issued based on the issuance of a permit by the Ministry of Labour and Rehabilitation according to prescribed procedures. It is important to recognize, however, that these visas apply only to those entering Libya regularly and that the application of these procedures

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<sup>2</sup> Law No. 6 of 1987 on Organizing the Entry, Residence and Exit of Foreigners in Libya, Decree No. 125 of 2005 on the Executive Regulation of Law No. 6 of 1987 on Organizing the Entry, Residence and Exit of Foreigners in Libya, and the General People's Committee Decree No. 98 of 2007 on the Terms and Mechanisms Organizing Labour and Residency in Libya and Approving Other Provisions [referring to bilateral and regional agreements] (ICMPD, 2020).

may not be consistently applied across Libya. Furthermore, it is reportedly possible for irregular migrants in detention to regularize their status if an employer is willing to hire them and apply for a work permit on their behalf. If the work permit is issued by the relevant authorities, then theoretically that individual would be released and have their status regularized (IOM, 2014). However, it is not clear how effective this process is in practice.

Recently, some municipalities have enabled migrant workers to register with the municipality in exchange for a registration card and the potential to be matched with job opportunities based on their skills. This procedure is still limited to specific areas and is not widely accepted by Libyans and the authorities (KII Libya Govt 1 and 11).

In 2020, the Minister of Interior issued a resolution to form a special committee tasked with designing a more effective legislative framework for migrant workers. In June that year, the committee held a meeting with the Ministry of Labour and Rehabilitation in coordination with the General Department for Passports, Nationality, and Foreign Affairs to facilitate the recruitment of migrant workers. At the end of this meeting, the Ministry of the Interior stated that the committee would suggest mechanisms to develop and facilitate recruitment procedures. However, there have since been no further updates (Edoudi, 2021).

### **Bilateral Labour Migration Agreements**

Historically, Libya has implemented several bilateral labour migration agreements (BLMAs) with Niger (1971 and 1988), Tunisia (1973), Morocco (1983), Algeria (1987), and Jordan (1998) (Di Bartolomeo et al., 2011). In October 2019, IOM facilitated a regional dialogue to support Libyan authorities to engage government counterparts from 14 countries (Bangladesh, Burkina Faso, Cameroon, Chad, Ghana, Indonesia, Mali, Niger, Nigeria, Nepal, the Philippines, Pakistan, Sudan, and Tunisia) on potential avenues that could facilitate safe, orderly, and regular labour migration to Libya (IOM, 2019). In July 2021 the dialogue with Niger led to a signed Memorandum of Understanding of a BLMA between Libya and Niger. This can be seen as a first step to facilitate regular labour migration pathways to Libya while safeguarding migrants' rights (IOM Libya, 2021). Also in 2019, Libya signed an agreement with Egypt to regulate migration and ensure that Egyptians, who exceeded two million people in Libya prior to 2011, could return to work in Libya through the reopening of offices in the border cities of Sallum, Egypt, and Masaed, Libya (Aleem, 2019).

According to Article 11 of the General People's Committee Decree No. 98 of 2007, there is the possibility to have a 3-month permit for job search for migrants coming from countries with which Libya has bilateral and regional agreements. If the migrant finds a job, he/she must regularize his/her status according to the above-mentioned provisions. If he/she fails to find a job, he/she has to leave the country voluntarily (ICMPD, 2020).

Despite these efforts it appears that there is little systematic and structured cooperation between Libya and other countries regarding BLMAs, and where it does exist, it varies from partner country to partner country, particularly at land borders. It appears that Libya currently receives migrant workers on an ad hoc basis rather than under bilateral agreements. For countries serving as a key hub for migration, current international cooperation on migration in Libya does not seem to be adequate (IOM, 2014). During a workshop, several Libyan government representatives said that a major impediment to initiating BLMAs is also the responsiveness of countries of origin.<sup>3</sup>

### **International and Regional Frameworks and Conventions**

Of the 18 International Human Rights Treaties (nine core instruments and nine optional protocols), Libya has ratified 12 (eight core instruments and four optional protocols).

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<sup>3</sup> Please note that this finding was provided by the Libyan Delegation at an IOM-hosted workshop involving Libyan government representatives in December 2022.

Notable treaties concerning the social protection of foreign workers include the International Covenant on the Civil and Political Rights (ICCPR) (ratified in 1970), International Covenant on Economic, Social and Cultural Rights (ICESCR) (ratified in 1970), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) (ratified in 2004) (OHCHR, n.d.). The ICCPR states that every State Party must ensure all individuals within its territory/subject to its jurisdiction receive the rights recognized under the Covenant. Among other protections this includes that everyone is recognized as a person before the law, and they are entitled to freedom of movement if lawfully present in the country. Furthermore, any alien lawfully present in the territory, who is facing expulsion, is entitled to appeal this expulsion. The ICESCR indicates that State Parties must recognize the right of everyone to social security and that working mothers should be given paid leave or leave with adequate social benefits. Another important framework to note is the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), which states that migrant workers are entitled to treatment no less favorable than that applying to nationals (UNOHCHR, n.d.). Furthermore, Article 69 requires State Parties to "take appropriate measures" to ensure that migrants workers and their families present irregularly do not remain so, and to "consider the possibility of regularizing" those in irregular states in line with national laws (OSCE, 2021).

Of ILO's 11 fundamental conventions which define key rights at work (e.g., freedom of association, right to collective bargaining, eliminating forced labour, abolition of child labour, and discrimination in employment), Libya has ratified eight. Furthermore, Libya has ratified two of the four governance (priority) conventions which contribute to the functioning of the international labour standards system (i.e., Labor Inspection Convention and Employment Policy Convention (both ratified in 1971)). Additionally, in 1975 Libya ratified the Equality of Treatment (Social Security) Convention, which guarantees the accepted branches of social protection to both nationals and nationals of any other State Party (ILO, n.d.-b).<sup>4</sup>

Given Libya is a member of the African Union, the AU Agenda 2063 and Social Agenda 2063 are also relevant. Under these instruments, regional integration, free movement (of workers and families), as well as social protection of migrants are key issues. Furthermore, in 1986 Libya ratified the African Charter on Human and Peoples' Rights which, among other things, emphasizes the freedom of movement, right to asylum, and right to just and favorable conditions of work (African Union, n.d.-a). Additionally, the Joint Labour Migration Programme (JLMP) was validated in 2015 by the AU Heads of State, which also contains a focus on social security benefits. Ensuring social protection and harmonizing policies related to social security is also a component of the Revised Migration Policy Framework for Africa (MFPA) and its Plan of Action (2018-2030), AU Free Movement Protocol, and Social Policy Framework for Africa (SPF) (African Union, n.d.-b, 2008; ILO, n.d.-a).

Other relevant regional frameworks that focus on social protection for foreign workers include, the Arab Maghreb Union (AMU) convention on social security benefits (1991) and Common Market for Eastern and Southern Africa (COMESA) Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence (1998). The Arab Social Protection Declaration (2021), which covers the need for enhanced social protection coverage to ensure that no one is left behind, also advocates for reviewing

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<sup>4</sup> This section has also been informed by an IOM presentation from 2022 titled "Overview of the Respective International Human Rights and Labour Standards Libya is Party to As the Basis for Development of Social Protection System for Foreign Worker". This presentation was part of IOM's "Capacity-Development Workshop: Social protection for foreign workers in a regular situation in Libya and Libyan workers abroad, IOM".

efforts to extend social protection to all migrant workers and workers in the informal economies (IPC-IG, 2021).<sup>5</sup>

Finally, while not legally binding, the notion of regularization is underpinned by sustainable development goal (SDG) target 10.7 of the 2030 Agenda for Sustainable Development, which “calls on countries to facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies” (United Nations, n.d.). Additionally, the Global Compact for Safe, Orderly and Regular Migration (GCM) also calls for states to facilitate migrants in irregular status to access opportunities for their status to be assessed, to minimize vulnerabilities for those currently in irregular status, and to prevent lapses back into irregularity (see Objective 7. Address and reduce vulnerabilities in migration).

The below figure shows a list of key frameworks, agreements, and conventions - including Libya’s ratification status (if relevant) (ICMPD, 2020; KII Libya expert 10). It is noted that this list is not exhaustive. Furthermore, it is difficult obtain credible information on the extent of Libya’s implementation of these frameworks, agreements, and conventions. All protections are guaranteed. In addition, some of Libya’s domestic provisions are incompatible with international human rights law, to which Libya has subscribed, and which is directly applicable and does not require transformation into domestic law (Human Rights Watch, 2006, 2022; OHCHR, 2022; UN, 2023).

| International and regional conventions signed by Libya  |  |
|---|--|
| <p>International Human Rights Treaties:</p> <ul style="list-style-type: none"> <li>International Covenant on Civil and Political Rights (ICCPR) (and ICCPR-OP1)</li> <li>International Covenant on Economic, Social and Cultural Rights (ICESCR)</li> <li>International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)</li> <li>Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (and OP-CEDAW)</li> <li>Convention on the Rights of Persons with Disabilities (CRPD)</li> </ul> | <ul style="list-style-type: none"> <li>International Convention on the Protection of the Rights of Migrant Workers and Members of their Families (ICMW)</li> <li>Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)</li> <li>Convention on the Rights of the Child (CRC) (and OP-CRC-AC, OP-CRC-SC)</li> </ul> |
| <p>ILO Fundamental Conventions:</p> <ul style="list-style-type: none"> <li>C029 – Forced Labour Convention, 1930</li> <li>C087 – Freedom of Association and Protection of the Right to Organise Convention, 1948</li> <li>C098 – Right to Organise and Collective Bargaining Convention, 1949</li> <li>Others</li> </ul>  | <p>ILO Governance Priority Conventions:</p> <ul style="list-style-type: none"> <li>C081 – Labor Inspection Convention, 1947</li> <li>C122 – Employment Policy Convention, 1964</li> </ul> <p>ILO Technical Conventions</p> <ul style="list-style-type: none"> <li>C118 – Equal Treatment (Social Security) Convention, 196</li> <li>Others</li> </ul>      |
| <p>African Union</p> <ul style="list-style-type: none"> <li>African Charter on Human and Peoples' Rights</li> </ul>   |  |
| International and regional conventions NOT signed by Libya  |  |
| <p>Conventions related to refugees</p> <ul style="list-style-type: none"> <li>1951 Convention relating to the Status of Refugees</li> </ul>   | <ul style="list-style-type: none"> <li>1967 Protocol relating to the Status of Refugees</li> </ul>   |
| <p>International Human Rights Treaties:</p> <ul style="list-style-type: none"> <li>International Convention for the Protection of all Persons from Enforced Disappearance (CPED)</li> <li>OP-CRC-IC</li> </ul>  | <ul style="list-style-type: none"> <li>ICESCR-OP</li> <li>ICCPR-OP2</li> </ul>   |
| <p>ILO Fundamental Conventions:</p> <ul style="list-style-type: none"> <li>P029 – Protocol of 2014 to the Forced Labour Convention, 1930</li> <li>C155 – Occupational Safety and Health Convention, 1981</li> <li>C187 – Promotional Framework for Occupational Safety and Health Convention, 2006</li> </ul>   | <p>ILO Governance Priority Conventions:</p> <ul style="list-style-type: none"> <li>C129 – Labour Inspection (Agriculture) Convention, 1969</li> <li>C144 – Tripartite Consultation (International Labour Standards) Convention, 1976</li> </ul>  |
| International and regional frameworks relevant to regularization  |  |
| <p>The Global Compact Migration, 2018 (Libya has an observation status)</p>   |  |
| <p>SDG 10.7 of the 2030 Agenda for Sustainable Development</p>  |  |
| <p>New York Declaration for Refugees and Migrants, 2016</p>   |  |
| <p>Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in Which They Live, 1985</p>   |  |

Figure 3. Overview of key international and regional frameworks and conventions

<sup>5</sup> This section has also been informed by an IOM presentation from 2022 titled “Overview of the respective regional human rights and labour standards conventions Libya is part to as a basis for the development of social protection”. This presentation was part of IOM’s “Capacity-Development Workshop: Social protection for foreign workers in a regular situation in Libya and Libyan workers abroad, IOM”.

## Summary

While Libya does is a major point of departure for irregular migrants seeking to immigrate to Europe, data suggests that as many as half of migrants may choose to stay in Libya for a period of time (six months or more), with many citing economic drivers (i.e., finding a job) as a reason to migrate to Libya. Research suggests that migrants fill key labour needs, though often informally, and that the labour market is large enough to absorb migrant workers (Borgnäs et al. 2020). However, migrants experience high unemployment rates, difficulty finding work, and unpredictable income sources, which suggests that while the labour market may be large enough for the population of migrant workers, other barriers to employment may exist. (IOM Libya, 2021).

Additionally, the political economy of migration in Libya is tied to illicit economies surrounding smuggling, human trafficking, and detention which profit from the status quo of migration policies in Libya. Disrupting this status quo could prove to be a significant challenge to implementing regularization initiatives.

Libya's current migration framework is characterized as restrictive and deterrence-focused, with prosecutorial policies focusing on containing irregular migration. Further to this, Libya's migration framework lacks clarity on which laws are outdated and which are still in force. For periods under Gaddafi, migration policies encouraged foreign workers to come to Libya to fill key labour gaps. However, later-implemented visa requirements plus restrictive visa procedures meant that many migrants lapsed into irregularity and those seeking to immigrate to Libya had limited options to do so regularly. There have been a few noted regularization initiatives implemented in Libya in 2009 and 2013, both of which were employment-based. However, the effectiveness of these initiatives is unclear. One current notable registration initiative (i.e., "limitation card") is provided by some municipalities, especially in the East.

Another side of the discussion on regularizing migration is the use of bilateral labour migration agreements (BLMAs) to incentivize regular migration. Historically, Libya has implemented several BLMAs with African and MENA countries of origin, however, active BLMAs currently exist with Niger and Egypt. Libyan government officials highlight that a major barrier to initiating further BLMAs is the responsiveness of the countries of origin.

Finally, regularization as a policy is grounded and legitimized through a number of international frameworks, namely SDG indicator 10.7, the GCM (objective 7), and article 69 of the CWM. While Libya has signed or observed both the GCM and the CWM, these frameworks remain largely unimplemented.

## About the assessment

Within this context, IOM partnered with Voluntas and Diwan to conduct a *Research Project on Regularization Feasibility in Libya*, which examines the feasibility of regularization for irregular migrants present in the country. The overall objective of the study is to provide IOM with evidence-based information to deliver workable recommendations for Libya to formulate such a model and develop a strategic plan for implementation.

The study was implemented in two key phases. Firstly, a comprehensive analysis of migrant regularization programs was carried out in selected countries of destination (CoDs). The case studies (Italy, Spain, and Morocco) were selected based on these countries' experiences implementing regularization programs. Key findings and lessons learned were extracted from each case study for potential application to the Libyan context. Lastly, consolidated case study findings complemented primary data collection and desk research to assess the feasibility of implementing such a programme in Libya. Specific recommendations for the development of a scalable regularization model are provided at the end of this study.

Primary data collection was conducted in both CoDs and Libya. In-depth interviews (IDIs) were conducted in both CoDs and Libya with representatives from government ministries and academic experts, as well as CSOs and IOM. Furthermore, computer assisted personal interviewing (CAPI) surveys and focus group discussions (FGDs) were carried out with irregular migrants in the West, East, and South of Libya. Primary data collection has been triangulated with a thorough desk review of relevant literature, including legal documentation, academic research, and reports from international organizations.

|                      | Activities   | Outcomes   | Objectives  | Impact   |
|----------------------|--|--|---|--|
| Inception            | Hold inception meeting with IOM  | <ul style="list-style-type: none"> <li>• Identification and comparison of three CoDs from the Mediterranean region that previously implemented migrant regularization programs</li> <li>• Identification of the main stakeholders involved, benefits offered, as well as the challenges faced by migrants in the CoDs</li> <li>• Identification of protection mechanisms made safe to migrants in the CoDs including a review of relevant legislation</li> <li>• An enhanced understanding of the positive and negative impacts of regularization and identification of best practices</li> <li>• A mapping of relevant governmental and non-governmental organizations in CoDs with capacities to provide support to Libya in understanding the regularization process</li> <li>• A scalable regularization model applicable to the Libyan context</li> </ul> | <ul style="list-style-type: none"> <li>• Deliver practical and workable recommendations for Libya to formulate a modality for regularization of irregular migrants present in the country and the provision of a model strategic plan for the realization</li> <li>• Improve the understanding for the need for bilateral labor agreements (BLAs) between Libya as a CoD and major country of origin CoO</li> </ul> | Provide insights to feed into the development of a comprehensive migrant regularization process for Libya in the future. |
|                      | Conduct preliminary desk review  |  |   |  |
|                      | Develop methodology and data collection tools  |  |   |  |
| Data Collection      | Conduct desk review to better understand the legal framework and current status of migrant regularization in Libya and the countries of destination (CoDs) |  |   |  |
|                      | Conduct in-depth interviews with Libyan and CoD stakeholders   |  |   |  |
|                      | Gather quantitative data to triangulate findings   |  |   |  |
|                      | Map relevant stakeholders in CoDs  |  |   |  |
|                      | Hold focus group discussions   |  |   |  |
| Analysis & Reporting | Analyze the data collected   |  |   |  |
|                      | Draft final report   |  |   |  |
|                      | Prepare and hold validation workshop   |  |   |  |
|                      | Finalize final report  |  |   |  |
| Landing              | Potentially support the coordination of a study tour for senior Libyan government officials (TBD)  |  |   |  |

Figure 4. Our understanding of the assignment



# Conceptualizing regularization

## Defining regularization

Regularization is a process of granting “legal” or regular status to migrants present in a country irregularly (Kraler, 2019). While the terminology may vary; i.e., *legalization* in the US (Papademetriou et al., 2004), *normalization* in Spain (Brick, 2011), the idea is that regularization is a pathway to achieving regular or legal status. Furthermore, regularization is understood as a distinct process from asylum, and so should be considered as an alternative or complement to the asylum process (Baldwin-Edwards & Kraler, 2009; Kraler, 2019). It should be noted that regularization in different contexts may refer to either the provision of temporary or permanent regularized status (e.g., work permits, residency permits, etc.). Additionally, regularization processes may also be indirectly created from policies whose main intention is not regularization. For example, in Latin America, IOM identified that of 57 regularization initiatives, 24 were created explicitly to regularize those in irregular status, while the remaining initiatives allowed for irregular migrants to apply “but were not designed for [the] purposes of migratory regularization” (IOM, 2021).

For the purpose of this study, regularization is defined as:<sup>6</sup>

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

### Scope of regularization

Regularization processes are a global phenomenon, employed in many different states as a strategy within the larger frameworks of migration policies. According to Papademetriou et al, the United States’s Immigration Reform and Control Act (IRCA) of 1986 was one of the largest and most-widely studied regularization programs (2004). Furthermore, an IOM study from 2021 found that in Mexico, Central America, and the Dominican Republic, 57 regularization programs were implemented since 2000 (IOM, 2021).

However, a large proportion of academic literature focuses on regularization processes implemented by European states (Baldwin-Edwards & Kraler, 2009; Brick, 2011; González Beilfuss & Koopmans, 2021; Kraler, 2019; Kraler et al., 2014; OSCE, 2021) As such the literature informing this section most heavily explores regularization in the European context.

### Why regularize?

At a theoretical level, the motives for governments to implement regularization processes are often characterized as either **humanitarian** or **employment-based**. Humanitarian motivations for regularization may be to extend legal status, and therefore social protections to those meeting certain vulnerability criteria (e.g., medical conditions, victims of trafficking, and undocumented children) (Kraler, 2012, 2019; OSCE, 2021). Employment-based regularization processes, meanwhile, prioritize the employability or labour benefits of certain groups of irregular migrants (Kraler, 2019). Regularization processes may not distinctly fall within either category; for example, employment may still be a component of humanitarian-based applications (Kraler, 2019).

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<sup>6</sup>The definition used here is informed by IOM’s International Migration Law glossary (Sironi et al., 2019, p.175), a document which provides definitions of migration-related terminology based on international standards.

In practice, however, research suggests that governments pursue regularization processes for three reasons: to (i) manage high numbers of irregular migrants, (ii) to counter the impact of failed migration policies, and (iii) as a response to labour market needs. This is evidenced in the following paragraphs.

In countries where large numbers of irregular migrants are present, implementing regularization processes can be a tool for governments to obtain information and an improved understanding of the communities of irregular migrants present in-country (Levinson, 2005). Yachoulti proposes that a potential policy benefit of regularization processes is that it can support governments in reducing the number of migrants present irregularly, and without costly expenditures such as detainment and refoulement (Yachoulti, 2015). Furthermore, the REGINE study<sup>7</sup> stated that "[regularization processes] resulted in small but permanent reductions in irregular residence/employment" (ICMPD, 2009). Public health is another consideration in the management of large populations of irregular migrants. Supporting migrants' access to health services through regularization could be a tactic to control the spread of communicable diseases, including as a response to COVID-19 (IOM, 2021; OSCE, 2021; Yachoulti, 2015).

Where migration policies, whether due to improper planning or restrictive conditions, have resulted in a large number of migrants falling into irregularity, regularization could present a possible solution. For example, where the asylum system faces policy failures or backlogs, regularization is an alternative to removal (ICMPD, 2009; OSCE, 2021). While labour is discussed below, regularization also serves as a solution where countries have failed to recruit and employ third country nationals through migration policies (Baldwin-Edwards & Kraler, 2009).

Outside of failed policies, regularization may also be implemented to respond to certain needs within a country's labour market. In reference to the German context, Kraler argued that regularization processes "accompanied by large-scale employment integration programs [could aim to activate] the dormant employment potentials of regularized migrants" (Kraler, 2019). A report by OSCE-ODIHR also argued that regularization processes are an avenue to help meet labour demands (OSCE, 2021). Available literature suggests that regularization processes also support combatting undeclared work (informal labour markets), ensuring compliance with tax and social security systems, and fighting social exclusion (ICMPD, 2009; Levinson, 2005; Papademetriou et al., 2004; Russian Federation & International Experience, 2009).

## **Benefits to migrants**

The opportunity to regularize one's status, either on a temporary or permanent basis, offers migrants several potential benefits. Most notably, regularization can foster social inclusion, improve employment opportunities, and expand access to social protection.

Kraler wrote that regularization serves to lift "legal obstacles to accessing basic social rights" (Kraler, 2019). Furthermore, irregularity can take the form of a "master status", a term originally coined by Everett Hughes (1945), that supersedes any other defining identity a person may have, dividing those who do or do not have the "right to have rights" (Kraler, 2019; quoting Arendt 1949). Overall, regularizing one's status can be attributed to strengthening a general sense of well-being, self-determination, and "social membership" (Kraler, 2019; Kraler et al., 2014).

Just as regularization processes may provide labour solutions to governments, participating migrants may also benefit from improved employment opportunities. Specifically, regularization can provide migrants with the opportunity to access increased and higher quality job choices than what was available in irregular situations (Kraler, 2019; Kraler et al.,

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<sup>7</sup> The full name of the REGINE study is "Regularisations in Europe (REGINE): Study on practices in the area of regularization of illegally staying third-country nationals in the Member States of the EU." The report uses the abbreviated name, REGINE, in reference to this study.

2014). Papademetriou et al argued that evidence from the 1986 IRCA in the US suggests that irregular status severely inhibits choice even for highly qualified migrants (Papademetriou et al., 2004). Furthermore, findings suggested that regularized migrants earned higher wages under a regularized status and had the ability to make educational investments in themselves, which contributes to upward skillset mobility (Papademetriou et al., 2004). Levinson also stated that regularization processes, if well organized, could have a "positive impact on the wages, occupational mobility, and integration of migrants" (Levinson, 2005). However, as the REGANE I<sup>8</sup> study qualifies, regularization processes that are connected to or conditional upon membership to certain job sectors constrain longer-term occupational mobility (Kraler et al., 2014).

Finally, regularization offers access to social protection which may not be within reach for those in irregular situations and ensures economic, civil, and cultural rights are guaranteed. This includes access to basic or improved labour rights (e.g., entitlements to sick leave or time-off, fair working hours, and welfare) (Kraler, 2019; Kraler et al., 2014). However, it should be noted that the level of social protection offered varies significantly between countries for both regularized migrants and local populations.

## Different forms of regularization

As discussed above, there is not a singular approach or pathway for the implementation of regularization processes. However, regularization processes can be classified into two groups: (i) one-off or extraordinary regularization programs and (ii) ongoing or regular regularization mechanisms. The key distinction between programs and mechanisms is that the former is time-bound and often linked to a particular cut-off date, while the latter is not (Brick, 2011; Kraler, 2019; Papademetriou et al., 2004).

For the purpose of this study, regularization programs are defined as a "procedure which (i) does not form part of the regular migration policy framework, (ii) runs for a limited period of time, and (iii) targets specific categories of non-nationals in irregular situations" (Baldwin-Edwards & Kraler, 2009).

In contrast, the REGINE study defines regularization mechanisms "as any procedure other than a specific regularization programme by which the state can grant legal status to illegally present third country nationals residing in its territory." These mechanisms, while typically considered long-term or permanent installations of a country's migration framework (ibid; OSCE, 2021), are often smaller in scale and regularize migrants on a case-by-case basis (Brick, 2011; Levinson, 2005). Regularization mechanisms are also typically based on humanitarian motives or target those who are longer-term residents (Brick, 2011).

## Benefits and downsides

In addition to the reasons why countries regularize and the benefits afforded to irregular migrants, regularization programs can enable shorter-term policy action to respond to labour shortages or stabilize workforces (González Beilfuss & Koopmans, 2021; OSCE, 2021). For ongoing mechanisms, regularizing on a case-by-case basis is often a less publicly visible policy and could therefore cause less controversy for implementing governments.

Downsides to regularization processes (programs or mechanisms) depend on how they are implemented and how restrictive the conditions are for participation. Related to employment

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<sup>8</sup> The full name of the REGANE I study is "Feasibility Study of the Labour Market Trajectories of Regularised Immigrants within the European Union (REGANE I). The report uses the abbreviated name, REGANE I, in reference to this study.

conditions, the REGANE I study argued that the design of regularization processes can impact how much a migrant's employment situation improves, or does not, through regularization. For example, highly restrictive work permits may affect a migrant's ability to change jobs or employers (occupational mobility) (Kraler et al., 2014). A downside specific to regularization programs is that they do not provide a "structural" or long-term response to why migrants exist in irregular situations. Beilfuss and Knoopmans attribute this to the strict eligibility criteria of programs, which migrants struggle to continue to meet and therefore risk lapsing back into irregularity. Additionally, the limited timeframes of regularization programs mean that only irregular populations currently present in-country are addressed, but there is no mechanism to respond to future inflows of irregular migrants (González Beilfuss & Koopmans, 2021).

## Challenges to regularization

Despite the benefits of regularization to both governments and migrants, key challenges must be carefully considered in the planning process. Challenges identified in the literature include, (i) unfavorable public opinion, (ii) contacting migrants, (iii) restrictive conditions and migrants lapsing into irregularity, and (iv) administrative implementation challenges.

### **In many countries, migration and irregular migrants are not viewed favorably by the public.**

Two key narratives that implementing governments typically need to counter are that regularizations are a pull-factor for more irregular migration and/or that irregular migrants are prioritized over local populations. Despite these public perceptions, researchers argue that there is little empirical evidence that there is a causal relationship between regularization processes and increased entry of irregular migrants (Baldwin-Edwards & Kraler, 2009; González Beilfuss & Koopmans, 2021; Larramona & Sanso-Navarro, 2016). Regarding fears that irregular migrants are prioritized over local populations, Papademetriou et al argue that this is particularly an issue for economies where a large portion of the local population experience high unemployment rates and are also employed irregularly (Papademetriou et al., 2004).

**Contacting migrants who are eligible to participate in regularization processes is also a challenge.** Publicity is a major component to a successful regularization process. For example, communication materials must be produced in the languages matching the targeted communities (IOM, 2021). As Levinson argues, insufficient publicity is also a reason why programs fail (Levinson, 2005). Further to this, irregular migrants are often not a publicly visible population making establishing contact with these communities challenging (KII key expert 2).

**Another reason why regularization programs may fail is if eligibility is based on restrictive conditions (Levinson, 2005).** This can exclude migrants from participating or make maintaining regular status too difficult. Kraler qualifies that these restrictive requirements may only allow for migrants that have reached a certain level of integration into society to participate, which contradicts the argument that regularization supports the integration of those in irregular status (2019). For example, regularization programs which require proof of an employment contract or offer exclude those in the informal sector who cannot provide evidence of formal employment (Papademetriou et al., 2004). Cost can be another exclusion factor, especially where migrants must pay for legal representation, fees, or fines (IOM, 2021). Where regularization processes operate with highly restrictive conditions, the threat that regularized migrants can lapse back into irregularity is very real. This is especially the case where regularized migrants must renew their temporary permits (González Beilfuss & Koopmans, 2021) and continue to prove they meet employment-based requirements (Kraler, 2019). Furthermore, the costs associated with renewals may not be sustainable (IOM, 2021). Lapsing back into irregularity may also be related to pressures to return to the informal sector, particularly where employers do not want to pay better wages or improve working conditions (Levinson, 2005).

**A key challenge to implementing governments may also be if the state has limited administrative capacities.** Levinson raises that governments, particularly in Mediterranean countries, struggled to process large numbers of applications which created backlogs. In

response, requirements often had to be modified mid-programming (Levinson, 2005). This was also validated by key informants covering the 2020 regularization programme in Italy, who reported that over one-third of applications are still pending despite the programme being implemented two years ago (KII Italy 1).

Finally, application fraud and corrupt bureaucratic officials are additional reasons for why regularization programs fail (Levinson, 2005). This is an issue that our case study on Italy will explore further.

### *Summary*

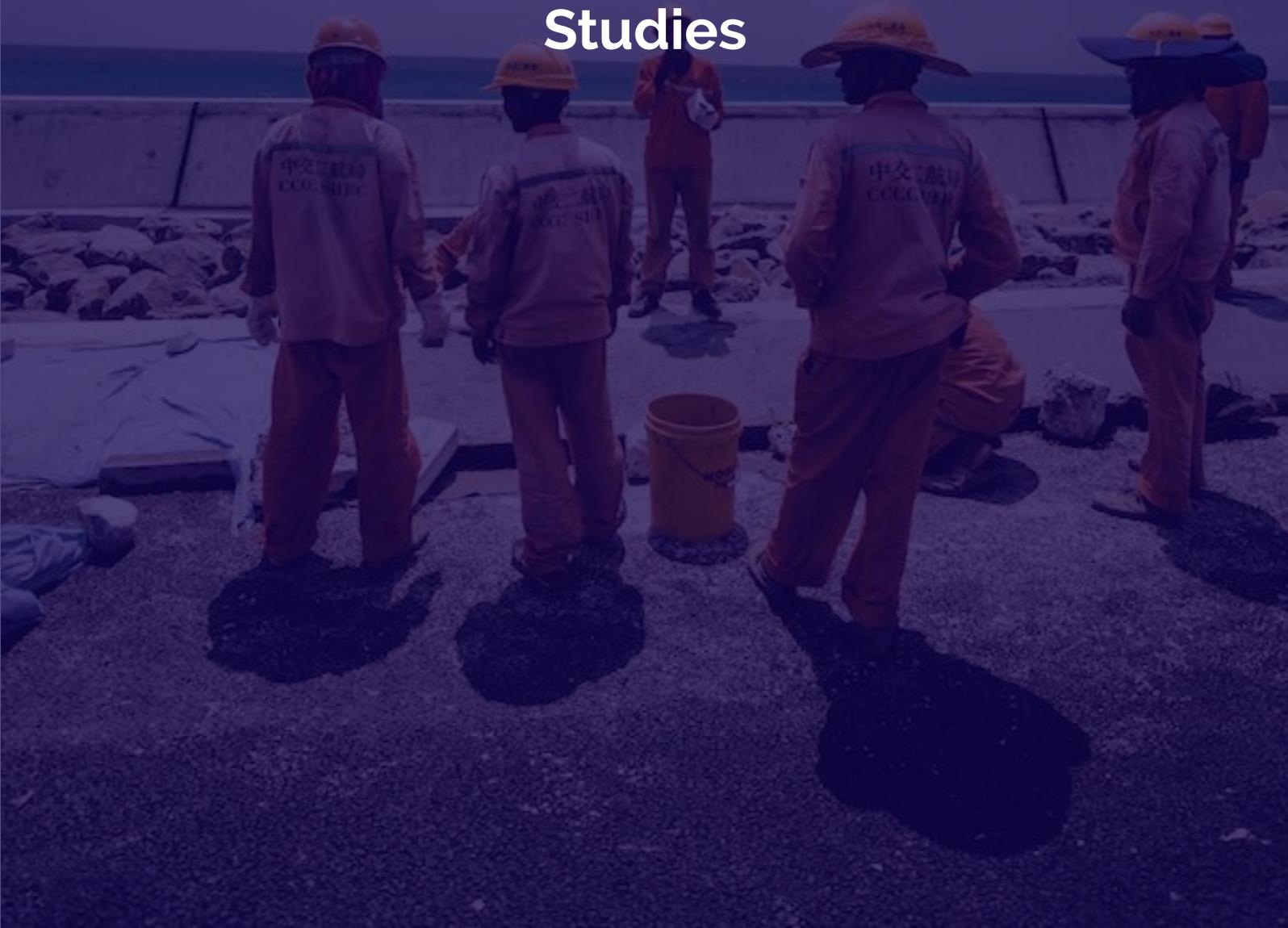
Regularization is defined as "any process or programme by which a state allows non-nationals in an irregular situation to stay lawfully in a country, by granting them a regular status" (Sironi et al., 2019, p.175). Regularization processes can be classified into two groups: (i) one-off or extraordinary regularization programs and (ii) ongoing or regular regularization mechanisms.

Regularization can be a tool for governments to obtain information and an improved understanding of the communities of irregular migrants present in-country (Levinson, 2005). It can also support governments in reducing the number of migrants present irregularly, without costly expenditures such as detainment and refoulement (Yachoulti, 2015). From a public health perspective, supporting migrants' access to health services through regularization could help control the spread of communicable diseases, including as a response to COVID-19 (IOM, 2021; OSCE, 2021; Yachoulti, 2015)

On the other hand, the opportunity to regularize one's status, either on a temporary or permanent basis, offers migrants several potential benefits. Most notably, regularization can foster social inclusion, improve employment opportunities, and expand access to social protection.

Despite these benefits to both governments and migrants, key challenges must be carefully considered in the planning process. These include (i) unfavorable public opinion, (ii) contacting migrants, (iii) restrictive conditions and migrants lapsing into irregularity, and (iv) administrative implementation challenges.

# Country of Destination CoD Case Studies



Similar to other countries in southern Europe, until the late 1970s, Italy was a country of emigration. However, owing to shifts in labour supply and demand, and in particular a demand for labour in sectors such as agriculture, domestic and personal care, and manufacturing and construction (European Commission, n.d.), immigrant arrivals grew significantly in the 1980s leading to Italy becoming a country of immigration (Colombo & Dalla Zuanna, 2019). Given its geographic position, today Italy is both a destination and transit country for migrants.

According to official Italian government figures, prior to the most recent regularization programme in 2020, there were approximately 5.6 million regular migrants in Italy (around 9% of Italy's total population) and an estimated 600,000 irregular migrants (Directorate general of immigration and integration policies, 2020). Inflows of irregular labour migrants are linked primarily to migrants who overstay their visas and those that work in the informal sector (Balwin- Edwards & Zampagni, 2014). Most irregular migrants come from Bangladesh, Côte d'Ivoire, Eritrea, Guinea, and Nigeria, with an increasing number of Algerians, Pakistanis, and Tunisians (Italian Ministry of Interior, 2021). Most irregular migrants are male, single, and young, with an average level of education. The majority work in Italy's informal, or "shadow" economy in sectors such as agriculture, and domestic and personal services (Talani, 2019). Many irregular workers, particularly in the agricultural sector, are subjected to widespread exploitation under the illegal *caporalato* system.<sup>9</sup> Widely viewed as a form of modern slavery, workers employed by *caporali* (gangmasters) live and work in difficult conditions and are reportedly paid as little as €3 per hour (Human Rights Watch, 2020).

## Regularization initiatives in Italy

Amid Italy's shift to a country of immigration, in 1986 the country passed its first law on immigration – Act 943 – which for the first time introduced a regularization initiative for irregular immigrants (Di Muzio, 2012). A more systematic law – legislative decree 286/1998 – was introduced in 1998 and represents the main legal framework on immigration and integration. This law has since been subject to several amendments, the most significant of which was the so-called *Legge Bossi-Fini* amendment – law 189/2002 –, which took a restrictive approach to legal and irregular migration (European Commission, n.d.).

Migration into Italy for non-EU nationals is controlled by the use of *Decreti flussi* (Flows Decrees). According to Law 39/1990, each year, the government sets a quota of the number of non-EU migrant workers who can come to Italy for work based on the needs of the labour market. In 2021, for example, the decree set a quota of 69,700, including 42,000 for seasonal labour, and 14,000 for agriculture (Prague Process, n.d.). This instrument has previously been used by employers who have illegally hired irregular migrants (Di Pasquale & Tronchin, 2022; Kill Italy 4). For example, the employer applies for an entry permit for the worker as if the worker was still abroad even though the worker is already in Italy. This practice has now been legally enabled by the latest amendment to the flow decree – Decree Law 7/2022 – which includes a provision for employers to do this (Di Pasquale & Tronchin, 2022).

In 2018, Italy introduced the so-called "Salvini Decrees" (law 132/2018),<sup>10</sup> abolishing the *permesso umanitario* (humanitarian protection status), which had previously enabled migrants

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<sup>9</sup> *Caporalato* is a form of recruiting whereby workers are hired through a network of intermediaries and therefore do not know their actual employer. Source: Italian Dictionary Treccani: <https://www.treccani.it/vocabolario/caporalato/> (accessed December 19, 2022).

<sup>10</sup> Named after Matteo Salvini, the then Minister of Interior, who was behind the new laws.

who were not eligible for refugee status or subsidiary protection the possibility of obtaining a residence permit for humanitarian reasons. At the time, Italy's national statistics office estimated that the new law would result in 130,000 migrants becoming irregular by 2020 (Tondo & Giuffrida, 2017). The decrees were amended in 2020 and a similar mechanism – *Protezione speciale* – was reintroduced, which grants a two-year residence permit to individuals who have "serious reasons, in particular of humanitarian nature or resulting from constitutional or international obligations of the Italian State" (Pugliese, 2020).

Since 1986, Italy has been one of the leading countries in Europe with respect to regularization, having regularized an estimated 1.5 million migrants between 1986 and 2012. In 2002, it carried out one of the world's largest initiatives, regularizing almost 650,000 people (Directorate general of immigration and integration policies, 2020). It has been argued, however, that the use of regularization campaigns, which are also known as amnesty policies, is a reflection of the absence of an adequate migration policy (Balwin- Edwards & Zampagni, 2014; Gonnelli, 2021, Kll Italy 2).

The table below outlines the regularization initiatives taken in Italy since 1986.

| Measure  | Ground | Scope   | Regularizations granted  | Additional observations   |
|--|--------|---|--|---|
| <b>Programme 2002</b>  | Labour | Workers in dependent employment   | 650,000  | The biggest regularization in Italy to-date   |
| <b>Programme 2009</b>  | Labour | Workers in personal and home care services (in dependent employment)  | 233,244  |   |
| <b>Programme 2012</b>  | Labour | Workers in dependent employment   | 105,000  |   |
| <b>Programme 2020</b>  | Labour | Workers in the agri-food, health care and domestic work sectors   | By March 2022, 104,948 migrants were regularized – almost 50% of the requests submitted  | Exact numbers to be determined as the process is still ongoing                                  |
| <b>Decree Flows which end up working as "mini amnesties". The latest one has been published in January 2022.</b> | Labour | These flow decrees are for admission of labour migrants, but they unofficially regularize already present migrant workers | 69,700 slots assigned with the last regularizations – official numbers are still pending | Given the ambiguity of the procedures, numbers of people regularized are difficult to determine |

Figure 5. Table of previous and ongoing regularizations

## Italy's 2020 extraordinary regularization program

The most recent regularization campaign in Italy was launched in May 2020 amid the COVID-19 pandemic and is still ongoing. Implemented through the legislative decree 34/2020, the rationale behind the programme was to "ensure adequate levels of individual and collective health protection" and to "facilitate the emergence of regular employment relationships"

(Mixed Migration Centre, 2020) – “to make the invisible, visible”, according to various government promotional materials (Directorate general of immigration and integration policies, 2020; Mixed Migration Centre, 2020). In reality, Italy was facing a severe labour shortage, particularly in the agricultural sector, where seasonal workers were unable or unwilling to travel owing to the pandemic (Mixed Migration Centre, 2020).

The programme was only open to irregular migrants who worked in the agri-food, domestic work, and healthcare sectors, and provided two possible paths to regularization:

- A migrant workers’ request for regularization could be submitted by their employer. Successful applicants would receive a work-related permit of stay for one or two years depending on the contract (Directorate general of immigration and integration policies, 2020)
- Non-EU nationals who had previously worked in these sectors could apply for a six-month temporary job seekers permit, which could be converted to a work-related permit following a job offer

As of August 2020, the government had received over 220,000 requests – around a third of Italy’s estimated irregular population. By the end of March 2022, only about 50 per cent of these had been processed (“Regolarizzazione, Rilasciati circa 60.000 Permessi Di Soggiorno: Solo Il 26% Delle Domande Presentate”, 2021).

## Eligibility and process

Depending on the route was available to them, eligible migrants needed to meet the following conditions:

| Employer-led track: steps to follow   | Migrant-led track: steps to follow   |
|---|--|
|  The employer offers the migrant a new job contract or the possibility to regularize a pre-existing and undeclared work relationship in the concerned economic sectors (agriculture, domestic or care sectors) |  Irregular non-EU migrants submit the request for a 6-month temporary permit to look for a job  |
|  The employer submits the request for the migrant and pays €500 lump sum   |  Migrants have to pay €160 when they submit the request   |
|  If the request is accepted, the migrant receives a work-related permit of stay. The length of this permit depends on the length of the contract offered, which can be fixed-term, open-ended or seasonal.     |  If the request is successful, they receive the temporary permit to look for a job, that can be turned into a work-related permit if a job is found |

Figure 6. Table of eligibility criteria for the 2020 regularization programme in Italy

For applications that were employer-led, the request for regularization had to be submitted online to a specific section of the online website of the Ministry of the Interior (<https://nullaostalavoro.dlci.interno.it/>). Once the application had been verified by the Sportello Unico per l’Immigrazione (the Single Desk for Immigration) at the prefecture,<sup>11</sup> it had to be authorized by both the police precinct and the labour inspectorate and the relevant documentation had to be presented in-person.

For applications that were migrant-led, the application had to be sent from the National Postal Service. If accepted, the applicant had to go to the prefecture with the required documentation (Italian Ministry of Interior, 2020).

<sup>11</sup> A body that represents the Ministry of Interior at the local level.

| Employer-led track: eligibility criteria   | Migrant-led track: eligibility criteria  |
|--|--|
|  Non-EU migrants must have arrived in Italy before March 8, 2020, and not have left the country since that date   |  Non-EU migrants, who have stayed in the country before March 8, 2020 and who hold a previous residence permit expired before October 31, 2019.   |
|  Asylum seekers can be included in this procedure. In case international protection is then recognized, they need to opt for one or the other permit.         |  Asylum seekers cannot follow this procedure. The only exception was for those who had an expired but renewable asylum residence permit, which is currently valid due to extensions granted for the Covid-19 emergency. |
|  The employer must have a minimum income of €30,000   |  Migrants need to show the proof of previous working experience in the agriculture, domestic or care sectors  |
|  Employers and workers condemned for serious crimes are excluded, as well as non-EU national workers that had received expulsion measures for serious reasons |  Migrants condemned for serious crimes are excluded, as well as non-EU national workers that had received expulsion measures for serious reasons  |

Figure 7. Table of steps to follow for the 2020 regularization programme in Italy

## Stakeholders and outreach

The Italian government engaged in various publicity activities to raise awareness of the campaign among both irregular migrants and employers. For example, the Ministry of Agriculture released a video that was broadcast on television and social media highlighting the benefits of regularization (Palazzo Chigi, 2020). The government also emphasized the importance of the programme with respect to improving sanitary conditions during the pandemic and fighting the *caporalato* and black market (Papa, 2021).

CSOs and advocacy groups also played an important role in the campaign. While they did not officially collaborate with the government, these groups were involved in monitoring the legislative processes and implementation of the campaign, as well as supporting migrants with their applications (Gonnelli, 2021). One such organization was Tavolo Asilo, an association of 32 national CSOs and NGOs monitoring and advocating for human rights.

| Ministries and key actors involved  |  |  |
|---|--|--|
| <b>Government</b><br>    | Ministry of Interior (Moi)   | These ministries collaborated to put together the legal frameworks behind the regularization campaigns.  |
|   | Ministry of Economy and Finance  |  |
|   | Ministry of Labour and Social Policy   |  |
|   | Ministry of Agricultural, Food and Forestry Policy   |  |
|   | Moi's local representations, namely the <i>Sportello Unico per l'Immigrazione</i> at the <i>Prefettura</i> , <i>Questura</i> , and the Territorial Labour Inspectorate | This organ contributed to the logistics and administrative processing of applications.   |
| <b>Civil Society</b><br> | Non-Governmental Organizations & Labour Unions   | <p>They provided implemented advocacy campaigns, monitored the legislative processes and the implementation of the program.</p> <p>They played an important role in mainstreaming the campaign and supporting undocumented migrants submit their applications.</p> |
| <b>Employers</b><br>    | Single employers working in the targeted sectors   | They were actively involved in the regularization of the migrant worker as they needed to provide the requested documentation for him/her and pay the lump sum.  |

Figure 8. Ministries and key actors involved in Italy's regularization campaigns

## Labour market impact

With almost half of the applications still pending, it is too early to determine the impact of the 2020 campaign on the labour market and wages. There have, however, been several attempts to ascertain the impact of previous campaigns in Italy. For example, following the 2002 campaign, Fondazione ISMU conducted a survey to determine the employment outcomes of regularized workers. The research showed that post-regularization, regularized workers had higher incomes than irregular migrants, but lower than migrants who were already regular (Balwin- Edwards & Zampagni, 2014).

According to interviewees, regularization is not considered to have a material impact on the local labour force because migrants tend to work in sectors where Italian workers are not normally present. However, they pointed to previous research which shows that regularization may lead to some pressure on the wages of regular migrants who are more established in Italy, but this impact is believed to be small. (KII Italy 4, KII Italy 7, KII Italy 8).

Some research suggests that regularization imposes minimum wages, which is particularly beneficial for workers in the agricultural sector where *caporalato* is widespread, though analysts are cautious about determining the impact of regularization campaigns on eliminating *caporalato* and labour exploitation given its scale and the fact that it does not only impact irregular migrant workers.

Overall, experts have highlighted that it is notoriously difficult to determine the economic and wage impact of regularization campaigns given the paucity of data and high number of potential variables (KII Italy 5). This is particularly the case in countries such as Italy and Spain,

which have also experienced severe economic crises making a full assessment of the economic impact of these initiatives very difficult (Pajares, 2009).

## **Implementation Challenges**

Italy's 2020 regularization campaign is largely regarded as a failure or, according to one interviewee, "a flop" (KII Italy 4). Experts and CSO representatives, including those interviewed for this study, have been very critical of the process, highlighting a number of challenges, which are detailed below.

### **Lack of administrative capacity to process applications**

The Italian government has faced numerous bureaucratic and administrative challenges, as evidenced by the fact that after two years, 50 per cent of applications have not been processed (Radicali Italiani et al., 2022). For example, while applications were submitted electronically, or via the post office, the administrative processes to grant the permit was done in-person. However, on-going restrictions of movement related to the COVID-19 pandemic meant this process was often delayed (PICUM, 2021). Furthermore, the prefectures faced chronic staff shortages, partly owing to the pandemic, but also because the renewal of workers' contracts is a political decision that is taken annually, making the process slower and less stable (KII Italy 1).

The delays in processing applications have also resulted in cases where migrants have received their residence permit shortly before its expiry date, or in some cases, after it has already expired. Furthermore, many of those who are still waiting for a response have said that the employers who had provisionally offered them a contract no longer have a need for them (Čizmić, 2021).

### **Lack of coordination between the ministries and poor communication regarding eligibility and process**

In addition to the Ministry of Interior, several other ministries were involved with the program, with division of responsibilities among them unclear resulting in misunderstandings and inefficiencies (KII Italy 4). For example, there was initially confusion as to whether asylum seekers were part of the process, with asylum seekers in Rome initially informed that if they applied, they would lose their request for asylum (KII Italy 1). The government then clarified that asylum seekers could apply for the employer led track of the programme, but not for the job seeker one, because asylum seekers were technically in Italy legally. Also, applying did not imply renouncing the asylum request, as the right to international protection is independent of the administrative dynamics and the timing of issuing a residence permit (Morlotti & De Franchi, 2021). A few weeks later, the government backtracked with regard to the second type of application, and declared that asylum seekers could apply for the job seeker track, but only those with an expired but renewable asylum residence permit, which was at that moment valid thanks to the extensions granted following the Covid-19 emergency (Ibid). Two days before the deadline for submitting the application, a further clarification was issued explaining to asylum seekers the steps to follow, in particular with regard to the employer-led track and its possible consequences on the asylum application request (Human Rights Watch, 2020).

The lack of clear guidelines from the government also resulted in prefectures interpreting the law differently, particularly regarding which documents would be accepted (PICUM, 2021). For example, some prefectures asked for a rental contract, while others did not (KII Italy 1).

### **Rigid and confusing eligibility criteria**

The application process itself has also been described as confusing (Čizmić, 2021; PICUM, 2021). One of the key criticisms is that the programme was limited to certain sectors, thus excluding a large number of undocumented migrants in sectors such as construction, hospitality, and logistics. The cut off dates were also considered arbitrary (Human Rights Watch, 2020).

Several interviewees said the requirements were too restrictive and confusing (KII Italy 3), with migrants struggling to understand and provide the extensive number of documents required (Mixed Migration Centre, 2020). Furthermore, applicants had to prove that they lived in suitable housing, yet a large number of undocumented migrants live in squalid conditions, so this was not realistic (PICUM, 2021). For those on the jobseeker track it was difficult to prove they had worked in one of the required sectors because the work they had done previously was undocumented (Palumbo, 2020).

Largely owing to the work of CSOs who were monitoring the process, the government published a frequently asked questions (FAQ) guide, but often it was too late, especially for applications that had already been sent. (KII Italy 1).

### **Short timeframe**

The programme opened on May 19 2020 and applications were accepted from June 1 to August 15 2020 leaving little time for irregular migrants to learn about the process and gather the necessary documentation (PICUM, 2021).

### **Involvement of employers**

There has been significant criticism of the need for employers to be involved because it left migrants with little ownership of the process and meant they were very much dependent on their employer. As discussed below, it also increased the risk of exploitation (PICUM, 2021).

Many employers were reluctant to participate in the process because they had to prove they had the financial resources to employ someone and feared it would lead to fiscal checks and fines (PICUM, 2021).

### **Created additional vulnerabilities**

Employers who had previously hired a migrant illegally were required to pay a €500 forfeit fee and many reportedly passed this cost onto migrants. There were also reports that employers used their role in the regularization process to blackmail workers, for example, by demanding money, or requiring them to work extra hours (Čizmić, 2021).

### **Reports of fraud**

Several interviewees said that the 2020 process led to a high level of abuse and fraud (KII Italy 6). Fictitious work contracts were reportedly being sold for up to €7,000 (Human Rights Watch, 2020), while the number of applicants for domestic work – particularly among males – is considered unusually high, suggesting workers and employers faked sectors in order to meet the eligibility criteria (KII Italy 6, Čizmić, 2021).

According to IOM, fraud was also a significant feature of both the 2009 and 2012 regularization programs (Human Rights Watch, 2020).

### **The campaign did not reach those it was supposed to benefit**

The Italian government touted the programme as a means for tackling the *caporalato* in the agricultural sector, however, the programme has been criticized for not reaching the agricultural workers it was supposed to benefit. By December 2020, only 15 per cent of the applications received were from agricultural workers, largely owing to the power of the *caporali* who were reluctant to regularize their workers – “it is an irregularity that does not want to become regular” (KII Italy 2). At the same time, the *caporali* were also allegedly involved in the fraudulent and exploitative practices surrounding the regularization, offering to find employers willing to sponsor agricultural workers in exchange for thousands of euros (Human Rights Watch, 2020).

## *Summary*

Since the 1980s, Italy has regularized over 1.5 million migrants. However, according to experts, its use of regularization initiatives is a reflection of an inadequate and highly restrictive migration policy that lacks regular labour migration pathways.

The majority of undocumented migrants in Italy work in the informal sector and many face exploitative working situations. While the 2020 programme was initially praised for attempting to provide security for undocumented migrants during a pandemic, it is now widely regarded as a failure. By restricting applications to those working in specific sectors, the programme is seen as exclusionary, with large numbers of undocumented migrants unable to apply. Furthermore, it has faced significant administrative and logistical implementation challenges, been subject to widespread allegations of fraud, and created additional vulnerabilities for migrants. As of March 2022, only around 50 per cent of applications have been processed and overall, it has done little to address the structural problems within Italy's migration system.

## Summary of regularization initiatives

The table below provides a summary of the 2020 regularization initiatives discussed in this case study.

|                         | Employer-led track  | Migrant-led track   |
|-------------------------|---|---|
| Legislative framework   | Article 103 of Legislative Decree 34/2020, as converted into Law no. 77 of July 17, 2020  |   |
| Timeframe               | Applications could be submitted <b>between June 1 to August 15, 2020</b>  |   |
| Eligibility criteria    | <ul style="list-style-type: none"> <li>• Non-EU migrants must have arrived in Italy before March 8, 2020, and not to have left the country since that date</li> <li>• Asylum seekers can be included in this procedure. In case international protection is then recognized, they need to opt for one or the other permit.</li> <li>• The employer must have a minimum income of €30,000</li> </ul> <p>Employers and workers condemned for serious crimes are excluded, as well as non-EU national workers that had received expulsion measures for serious reasons</p> | <ul style="list-style-type: none"> <li>• Non-EU migrants, who have stayed in the country before March 8, 2020 and who hold a previous residence permit expired before October 31, 2019</li> <li>• Migrants need to show the proof of previous working experience in the agriculture, domestic or care sectors</li> <li>• Migrants condemned for serious crimes are excluded, as well as non-EU national workers that had received expulsion measures for serious reasons</li> </ul> |
| Resolution and benefits | If the conditions were fulfilled, <b>the migrant receives a work-related permit of stay</b> . The length of this permit depends on the length of the contract offered, which can be fixed-term, open-ended or seasonal.   | If the conditions were met, <b>the migrant would receive a six-month temporary job seekers permit</b> , which could be converted to a work-related permit following a job offer   |

Figure 9. Summary of Italy regularization initiatives

Given its geographic location as a bridge between Europe and sub-Saharan Africa, Morocco has traditionally been considered a country of emigration as well as transit. Since the 1990s, however, Morocco has also become a country of destination, as a growing number of migrants settle in the country due to its relative political, economic, and security stability (IOM, n.d.).

According to official figures, 86,000 immigrants – roughly 0.2 per cent of the country's population – resided in Morocco in 2014 (Haut-Commissariat au Plan, 2021). As of 2022, around 19,000 migrants were registered as refugees or asylum seekers (UNHCR, 2022), although not all of them are recognized as such by the Moroccan authorities. Assessing the scale of irregular migration is much more complex, as there is an absence of official and reliable statistics (Haut-Commissariat au Plan, 2021). The latest estimates, from 2014, set their number between 25,000 and 40,000 (IOM, n.d.), but these figures have not been updated since the 2013-2014 and 2017 regularization programs.

Regarding the profile of forced migrants in Morocco (including those with a regular and irregular status), most come from West African countries.<sup>12</sup> Roughly 60 per cent are male and approximately 85 per cent are under 45 years of age (Haut-Commissariat au Plan, 2021). Their educational level varies, with some illiterate and others being university graduates (De Bel-Air, 2016). Migrants primarily reside in the major cities – namely, Casablanca, Fes, Rabat, and Tangier – and reportedly suffer dire living conditions (Yachoulti, 2015). Less than half (48%) of migrants exercise a professional activity, with commerce and the service sector being the main sectors of employment, followed by agriculture and industrial activities (Haut-Commissariat au Plan, 2021). For the rest, the main sources of income are reportedly begging, family support, or transfers from Moroccan or international NGOs and CSOs (Haut-Commissariat au Plan, 2021). One key limitation of this data is that although findings concern forced migrants (e.g., those having migrated due to insecurity, war, or persecution, among others) figures are not disaggregated by administrative status (i.e., regular or irregular), hindering an accurate profiling of undocumented migrants.

### Regularization initiatives in Morocco

Until recently, Morocco's migration legislation consisted of bilateral agreements on labour contracts with European or Arab countries. Mainly focused on setting the conditions for emigration to third countries, Morocco signed agreements with a number of countries including, Belgium (1964), France (1987), Germany (1963), Italy (2005), Jordan (1983), Libya (1983), the Netherlands (1969 and 2017), Portugal (2022), Qatar (1981), Spain (2001 and 2005) and the United Arab Emirates (1981) (IOM, 2017; Portuguese Republic, 2022).

The first law on immigration in Morocco was adopted in 2003 and outlined policies towards the entry and stay of foreigners in the country, as well as irregular and regular migration (Loi 02-03). The context in which the legal framework was adopted was one of securitization and a desire to manage irregular migration.

In 2013, the National Council for Human Rights prepared a report on the situation of migrants and refugees in Morocco entitled: "Foreigners and Human Rights in Morocco: For a radically new asylum and immigration policy". The report was submitted to King Mohammed VI, who

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<sup>12</sup> According to 2021 estimates, 16.7 per cent of migrants in Morocco come from Ivory Coast, 15.9 per cent from Senegal, 13.2 from Guinea, 10.1 per cent from DRC, 8.7 per cent from Cameroon, among other nationalities (Haut Commissariat au Plan, 2021).

instructed the government to develop a new migration policy based on "a humanitarian approach in line with Morocco's international engagements and respectful of migrants' rights" (Abourabi & Ferrié, 2019). Earlier in the year, migration association *Groupe antiraciste de défense et d'accompagnement des étrangers et des migrants* (GADEM) published a report on the status of migrants residing in Morocco, which was presented at the International Convention on the Protection of the Rights of All Migrant Workers and Members in Geneva proposing to improve the conditions of migrants in Morocco. The CNDH's interviews with several actors formed the basis for the better-known National Human Rights (CNDH) report on foreigners and human rights in Morocco,<sup>13</sup> which recommended the implementation of a regularization policy and is widely credited with having prompted the Kingdom to adopt a new migration and asylum strategy (Norman, 2016); KII Morocco 1-6).

The new National Strategy on Immigration and Asylum (SNIA, *Stratégie Nationale de l'Immigration et de l'Asile*), which was implemented during a period where Morocco was experiencing growing inflows of migrants following the post-2011 conflicts in Arab countries, had the strategic objective of facilitating the integration of regular migrants, updating the legislative framework on migration, and managing migration flows with respect to human rights. It also included 11 sectorial programs on integration in education, healthcare, housing, the labour market, and social assistance, among others (MCMREAM, 2016). As part of the new policy, the King also announced that Morocco would implement its first extraordinary regularization program, becoming the first country in the southern Mediterranean region to adopt a campaign to regularize undocumented migrants. The regularization programme was announced in a press conference and joint circular note prepared by the Ministry of Interior and the Ministry of Foreign Affairs African Cooperation and Moroccan Expatriates (MCMREAM) (FIDH & GADEM, 2015). With regards the legal framework, the regularization campaigns were implemented by royal instruction, and their directives were set by ministerial decisions or circular notes. In other words, the procedures were not permanently integrated in any new or existing legislative text (KII Morocco 6). A second campaign was later launched in 2017 and can be seen as a continuation of the first one.

The rationale behind the campaign was seen as linked to foreign policy objectives, as much as domestic considerations. Following the publication of the CNDH report, Morocco sought to bolster its public image at the international level. At the same time, Morocco was also keen to reposition itself as a regional leader in Africa (Benjelloun, 2020). The narrative surrounding the regularization campaigns was of a south-south solidarity campaign that portrayed Morocco as a country embracing a decent and humane treatment of African migrants (Abourabi & Ferrié, 2019). Indeed, when announcing the second round of regularization in 2017, which took place during a tour of sub-Saharan countries (The North Africa Post, 2016), King Mohamed VI spoke of Morocco's "exemplary" and "...integrated policy rooted in humanitarian values" (Kingdom of Morocco, 2016, para. 29).

Aside from the 2013-2014 and 2017 extraordinary campaigns, no ongoing regularization mechanisms exist in Morocco.<sup>14</sup> To obtain a residence permit, migrants must fulfil the conditions established by Law 02-03 on arrival to the country. Otherwise, only those migrants who were regularized during the previous campaigns can renew their status, as long as they still fulfill the requirements established by the law.

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<sup>13</sup> Etrangers et droits de l'Homme au Maroc: pour une politique d'asile et d'immigration radicalement nouvelle", <https://www.cndh.org.ma/fr/rapports-thematiques/conclusions-et-recommandations-du-rapport-etrange-et-droits-de-lhomme-au>

<sup>14</sup> This report understands that "ongoing regularization mechanism" refers to any procedure other than a specific regularization program by which the state can grant legal status to illegally present third country nationals residing in its territory.

| Overview of previous extraordinary regularizations in Morocco |  |  |   |
|---|--|--|---|
|   | Legislative framework  | Summary and scope  | Regularizations granted                 |
| <b>2014</b>   | 2013 joint <b>Circular governing the exceptional operation of regularization of the residence situation of foreigners</b> , from the Ministry of the Interior and the Ministry in Charge of Moroccans Residing Abroad and of Migration Affairs.* | The first regularization campaign in Morocco was approved after critical reports from civil society denounced the situation of migrants in the country. It was part of a new governmental Strategy on Migration and Asylum. This campaign had an acceptance rate of 83%. | <b>23,096 (out of 27,649 submitted)</b> |
| <b>2017</b>   | No new circular or regulating document was issued.   | The second campaign followed the same eligibility criteria and administrative processes as in 2014.  | <b>14,000**</b>                         |

*Figure 30. Overview of previous extraordinary regularizations in Morocco*

\*The cited Ministry in Charge of Moroccans Residing Abroad and of Migration Affairs was subsequently renamed (after the regularization campaigns) as Ministry of Foreign Affairs, African Cooperation and Moroccan Expatriates.

\*\*Estimation. No official figures are available from the second campaign.

Source: Ministère Chargé des Marocains Résidant à l'Étranger et des Affaires de la Migration (2016); The North Africa Post (2018).

## Morocco's 2013-2014 and 2017 regularization programs

Irregular migrants whose regularization application was accepted received a one-year renewable residence permit. During the second round in 2017, there were ministerial instructions to extend residence permits to three years, but in practice these extensions were only granted exceptionally to migrants who were perceived as being well integrated in the country, such as foreign students who were now employed (KII Morocco 6). The campaigns did not include any pathways to permanent residency or naturalization.

Together with the one-year residence permits, migrants whose status was regularized after the campaigns received some other benefits. Among others, migrants were granted freedom of movement (i.e., to travel to their countries of origin) and the right to study and legally work in Morocco. The principle of national preference when hiring was also lifted (KII Morocco 4; KII Morocco 5; KII Morocco 6).

While the legal framework governing migration is still unchanged, other rights have been granted in the meantime via circular notes. The right to access public education for children of migrants – regardless of their administrative status – was for example guaranteed by a circular note addressed at school principals in 2013 (IOM, 2017, KII Morocco 5).

## Eligibility and process

The extraordinary regularization campaigns were not open to all irregular migrants and included strict eligibility criteria.

The initial criteria set for the 2013-2014 process by the Ministry of Interior and the Ministry in Charge of Moroccans Abroad and Migration Issues limited the process to six groups of migrants:



Figure 41. Initial eligibility criteria for the 2014 regularization in Morocco

During the campaign and following the recommendations of CSOs within the National Monitoring and Appeals Commission (*Commission Nationale de Suivi et de Recours*)<sup>15</sup>, these criteria were loosened to include the following groups.



<sup>15</sup>The *brevet de collège* (*Diplôme Nationale du Brevet*) is a certificate obtained after secondary school, when students are around 14 or 15 years old.

Figure 12. Updated eligibility criteria for the 2014 regularization campaign

These changes enabled the relevant authorities to accept 92 per cent<sup>16</sup> of submitted applications (CNDH, 2015).

When announcing the second round of the second regularization campaign in 2016, the government declared that the same “reasonable and equitable” eligibility criteria from 2014 would be in place (CNDH, 2016). During the second campaign, the criteria was again loosened and in addition to the modifications adopted in the first round, the National Monitoring and Appeals Commission decided to regularize foreigners married to Moroccan nationals or to

<sup>15</sup> National Monitoring and Appeals Commission (*Commission Nationale de Suivi et de Recours*) was the body tasked with reexamining the applications rejected by provincial committees, examining the grievances of applicants, and suggesting improvements to the overall process (CNDH, n.d.).

<sup>16</sup> As mentioned, the Ministry in Charge of Moroccans Abroad and of Migration Affairs claimed instead that the final acceptance rate was 83 per cent. Therefore, official figures about the regularization campaigns should be treated with caution.

foreigners with a regular administrative status regardless of duration of the marriage (CNDH, 2018).

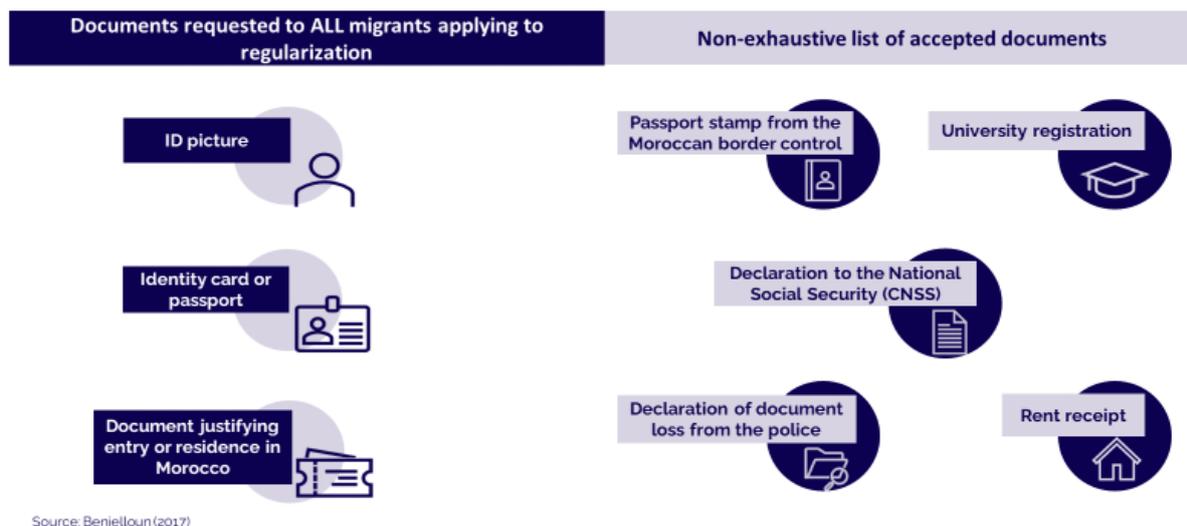


Figure 53. Documents requested during the regularizations in Morocco.

Migrants who were eligible for regularization were required to provide various documentation as part of their application. A non-exhaustive list of dated documents delivered by an administration, and a public or private establishment was accepted:

Other supporting documents were requested for each of the categories of eligible migrants:

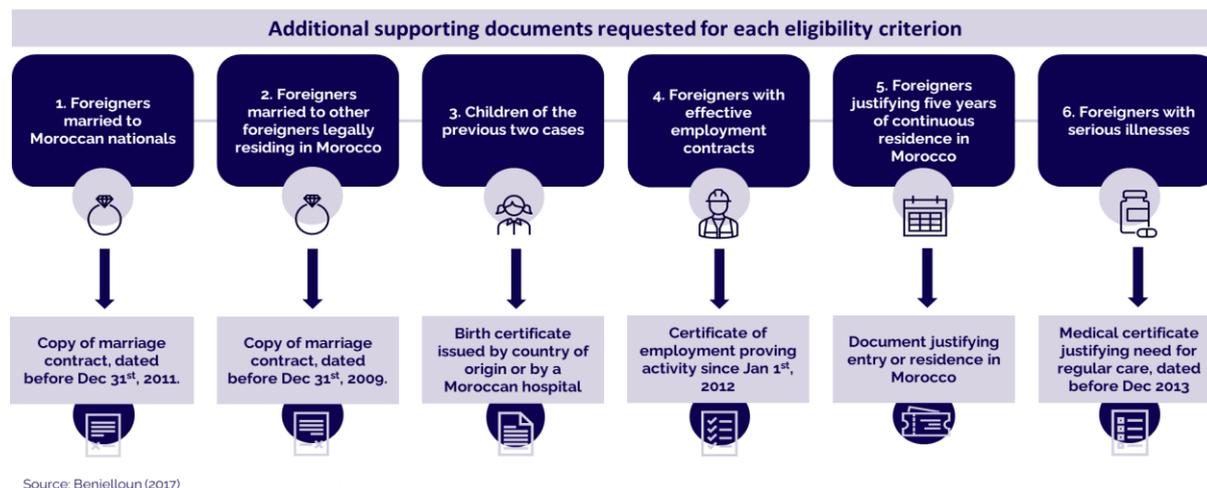


Figure 14. Additional supporting documents requested for each eligibility criteria.

Many eligible migrants struggled to provide the necessary documents and so CSOs working on migration and human rights engaged with Moroccan institutions to make conditions more flexible. For example, CNDH and relevant Moroccan associations such as Moroccan Organization for human rights negotiated with authorities for migrants without a passport to instead present an ID or consular card delivered by the embassy of their country of origin (KII Morocco 1). Similarly, some certificates (*attestation*) issued by CSOs recommended by CNDH were accepted by the majority of offices as proof of stay in the country (KII Morocco 5).

To manage the implementation of the regularization campaign, 83 foreign offices (*bureaux des étrangers*) were opened in all the regions of Morocco from January 2014 to manage applications. 3000 officials were also mobilized to support the operation, and software was

installed in the foreign offices to allow the Ministry of Interior to monitor the campaign's progress (Benjelloun, 2017).

Migrants wishing to have their administrative status regularized could submit their applications to these foreign offices. Subsequently, a provincial or prefectural commission reviewed their file, and a decision was made within a period of two months. Migrants who received a favorable decision were then directed to the department of foreigners in the police services to complete the formalities necessary for the issuance of their residence permit.

The provincial and prefectural commissions were composed of local authorities, and two local association representatives (FIDH & GADEM, 2015). Despite the participatory approach intended for these commissions (CNDH, 2016), they were allegedly dominated by security sector representatives, most of whom were high officials from the Ministry of Interior (Benjelloun, 2017).

In June 2014, the government established a National Monitoring and Appeals Commission (FIDH & GADEM, 2015) composed of ministry representatives and civil society actors. Migrants who received an unfavorable decision were directed to this Commission (FIDH & GADEM, 2015), which was tasked with reexamining the applications rejected by provincial committees, examining the grievances of applicants, and suggesting improvements to the overall process (CNDH, n.d.). As discussed above, following advocacy by CSOs working on migration, the Commission recommended loosening the eligibility criteria.

The MCMREAM claimed that out of 27,649 applicants, 23,096 (83%) received a registration card as part of the first round of the regularization campaign in 2013-2014 (MCMREAM, 2016). While grievance mechanisms such as the National Monitoring and Appeals Commission were available, it was reported that some foreign offices did not inform migrants about the procedures to appeal (Benjelloun, 2017).

## Stakeholders and outreach

*"My country has, without any arrogance, pomposity or discrimination, regularized the situation of migrants using fair and reasonable standards".*

**King Mohammed VI in August 2016**

Migrants were initially reluctant to interact with the Moroccan authorities and submit personal data to them owing to fear of arrests. In order to encourage eligible migrants to apply, the government therefore engaged Moroccan associations and advocacy groups (i.e., the CNDH) to disseminate official information and encourage migrants to participate (KII Morocco 2).

As discussed above, CSOs played an important role in the inception, implementation, and aftermath of the two regularization campaigns. Prior to 2013, migration and human rights associations advocated for the regularization of migrants residing in Morocco (KII Morocco 1; KII Morocco 4). When the King announced the campaign, CSOs were also consulted by relevant ministries to ensure they could participate in the process and engage in outreach to the migrant population (FIDH & GADEM, 2015).

While CSOs have welcomed the campaign and the authorities' efforts, their approach was to follow the processes closely. CSOs therefore continuously advocated for loosening criteria and making the process more flexible so that as many migrants as possible – if not all – could

benefit (KII Morocco 1). In addition to raising awareness among migrants who were reluctant to participate, CSOs also supported migrants during the process, by, for example, accompanying them to the foreign offices and assisting them when submitting the required documents.

The efforts of civil society were officially recognized by Moroccan institutions, as CSOs and their representatives were offered some positions in the National Monitoring and Appeals Commission and in the local commissions charged with reviewing applications. Moreover, as a result of the regularization campaigns, CSO members and representatives were able to have their status regularized, opening the door to formalizing their associations (i.e., by completing the administrative procedures) and receiving funding from other institutions (KII Morocco 3).

The figure below provides an overview of stakeholders involved in both the 2013-2014 and 2017 regularization campaigns.

| Ministries and key actors involved  |  |  |
|---|--|--|
| <b>Government</b><br><br>     | Ministry of Interior   | Charged with the maintenance of public order.  |
|   | Ministry of Foreign Affairs and Cooperation (now Ministry of Foreign Affairs, African Cooperation, and Moroccan Expatriates)   | Tasked with coordinating Morocco's diplomatic action, international negotiations, and relevant migration agreements.   |
|   | Ministry in Charge of Moroccans Abroad and of Migration Affairs  | Prepared and followed-up governmental policies on migration and integration of migrants and asylum seekers.  |
| <b>Civil society</b><br><br> | National Council for Human Rights ( <i>Conseil National des Droits de l'Homme</i> or CNDH)   | Elaborated reports about the situation of migrants in Morocco and submitted them to relevant authorities with policy recommendations.  |
|   | Migrants' associations and human rights groups: <ul style="list-style-type: none"> <li>• <i>Conseil des Migrants Subsahariens au Maroc</i> (CMSM)</li> <li>• <i>Association Marocaine des Droits Humains (AMDH)/Groupe Antiraciste de Défense et d'Accompagnement des Étrangers et des Migrants</i> (GADEM)</li> <li>• <i>Plateforme des Associations et Communautés Subsahariennes au Maroc</i> (ASCOMS)</li> <li>• <i>Organisation Démocratique de Travailleurs Immigrés au Maroc</i> (ODT-I).</li> <li>• Fondation Orient-Occident</li> <li>• Caritas</li> <li>•</li> </ul> | They were actively engaged in the inception of the regularization policies, in the subsequent loosening of eligibility criteria, and in awareness-raising and advocacy campaigns targeting migrants, public institutions, and the Moroccan population. |

|  |  |   |
|--|--|---|
| <p><b>Other actors</b></p>  | <p>National Monitoring and Appeals Commission (<i>Commission Nationale de Suivi et de Recours</i>)</p> | <p>Tasked with reexamining the applications rejected by provincial committees and with suggesting improvement proposals and examining the grievances of applicants. Chaired by the CNDH, the Commission was composed of ministry and civil society representatives.</p> |
|--|--|---|

Source: Harrami and Lamrani (2017); CNDH (n.d.)

Figure 15. Ministries and key actors involved in Morocco's regularization campaigns

## Labour market impact

To-date, there is little empirical research on the impact of Morocco's extraordinary regularization campaigns on the labour market. Figures published by the Ministry of Labour and Professional Integration show that in 2017 – after the first regularization round – 8,982 work contracts involving foreign workers were officially registered in Morocco. However, less than half of them concerned nationalities affected by the regularization campaign (Ministère du Travail et de l'Insertion Professionnelle, 2018). Bearing in mind that the first campaign regularized around 23,000 people, these figures therefore suggest that most migrants were not immediately integrated into the formal labour market.

Similarly, according to some CSO representatives interviewed, the campaigns did not have an impact on the local labour force nor on migrants' living conditions and employability prospects. They attributed this to the difficulty migrants face finding a job in the formal sector despite their regular status, either due to discrimination – particularly for sub-Saharan African communities – or labour market dynamics – e.g., employers preferring irregular workers. Jobs commonly occupied by irregular migrants include agriculture, construction, or small trade professions (i.e., hairdressing for women). Typically, these are jobs that do not significantly change their economic or social situation (KII Morocco 1; KII Morocco 4). In other words, according to interviewees, despite the legal possibility to work with a formal contract, in practice very few regularized migrants were able to do so, and their situation is still marked by precariousness and vulnerability (KII Morocco 4). Those who did manage to secure formal jobs following regularization thanks to prior training and qualifications, benefitted from wage increases linked to receiving the minimum salary established by the law<sup>17</sup> (KII Morocco 3).

All in all, existing research suggest that newly regularized migrants did not have a significant negative impact on the Moroccan labour force (i.e., neither by displacing national workers from jobs, nor by putting downwards pressure on wages). The positive impact of the regularization campaigns on migrants' labour conditions, however, appears limited as well.

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<sup>17</sup> The minimum salary (SMIG) was fixed by decree after state discussions with the relevant stakeholders and was subsequently published in the Bulletin Officiel du Royaume du Maroc.

## Implementation Challenges

### Reluctance of migrants to participate in the campaigns

As mentioned above, the government initially had difficulties reaching the targeted community owing to migrants' general mistrust in Moroccan authorities (KII Morocco 4). This initial mistrust led some migrants to file their applications in erroneous or incomplete ways, for instance by giving fake addresses (Benjelloun, 2017). Again, CSOs acted as facilitators, conducting information campaigns to inform migrants about the benefits of regularization (KII Morocco 5), and accompanying migrants to foreign offices to help them submit their applications (Benjelloun, 2017).

### Strict eligibility criteria and applicants struggled to provide the required documents

While the eligibility criteria were later loosened, many potential applicants were unable to benefit from the process owing to difficulty obtaining the necessary documents. Many migrants, for example, had lost their documentation during their journeys (KII Morocco 3). Some interviewees, however, noted that the Moroccan authorities showed some flexibility with regards documentation and occasionally accepted certificates provided by CSOs, a practice that was eventually stopped due to blatant falsifications (KII Morocco 5). Other observers claimed that Moroccan authorities had a fixation with regularizing as many migrants as possible and so accepted obviously falsified documents just to increase the number of regularizations granted, under the logic that "a regularized migrant is an identified migrant" (Benjelloun, 2017; KII Morocco 6). Some observers noted that application templates were not available in the three main languages spoken by the migrant population in Morocco (Arabic, English, French), thus making the application process more difficult for certain groups (Benjelloun, 2017).

### Wide discretion for authorities and lack of homogeneity between foreign offices and reviewing commissions

The criteria set in the circular notes allowed Moroccan authorities wide discretion in interpretation and deliberation of the regularization process (DLA Piper & OHCHR, 2018). Several interviewees said there were disparities in implementation between the different foreign offices and commissions receiving and reviewing applications, noting that some were more flexible than others in interpreting criteria and accepting documents (FIDH & GADEM, 2015). One example was the requirement that migrants must have been present in Morocco for five years. Some offices determined that any exit within this period restarted the five-year count, while others accepted the initial date of arrival as the starting point (Benjelloun, 2017).

### Lack of integration strategies

Another challenge faced by migrants who succeeded in being regularized was the lack of proper operationalized strategies for integration into the country. While there is an official strategy to support integration in Morocco, the National Immigration and Asylum Strategy (SNIA), there is still a need to operationalize SNIA at the national level and mobilizing funding from international and regional donors to ensure the integration of migrants. Once again, observers and human rights defenders raised concerns that minimum rights were still not respected after the operations (e.g., equitable access to healthcare, education, and housing) (KII Morocco 4). It is noted that while "first level" care is guaranteed for all migrants, progress could be made regarding equitable access to healthcare, education, and housing.

Similarly, interviewees also raised that workers in certain sectors, such as healthcare (first level) and education, had little previous experience dealing with the migrant population, leading

CSOs to engage in awareness-raising actions aimed at mediating and facilitating the encounters between migrants and the Moroccan service-provision sector (KII Morocco 5).

### **Difficulties in renewing permits and lapses into irregularity**

In recent years, the momentum surrounding the regularization programs has faded and several CSO representatives and researchers have argued that Morocco has taken some steps backwards in migrants' rights and protection. While interviewees agreed that after 2013 human rights violations and persecution of migrants decreased, they note that the situation has deteriorated again since 2018 (KII Morocco 5). An example of this deterioration is the reluctance of Moroccan authorities to renew residence permits and they have become less flexible with the criteria and documentation than in previous years (KII Morocco 6). Difficulties in renewing the permits granted during both regularization campaigns has entailed a return to irregularity for many migrants who stayed in Morocco after the regularization rounds (KII Morocco 2). Civil society members blame the strict conditions needed to renew permits, namely the need to provide proof of employment, something especially difficult for sub-Saharan African migrants (KII Morocco 1; KII Morocco 4).

### **The campaign also regularized asylum seekers**

Many of those who benefited from regularization campaigns came from countries in conflict or affected by other crises (e.g., Syria and Yemen), making them eligible to receive asylum protection in Morocco (MCMREAM, 2016). In practice, however, Morocco does not offer such status and it does not recognize UNHCR's asylum receipts (KII Morocco 4). One of the criticisms from CSOs was that the main beneficiaries from regularization campaigns were either people who fell under the categories of asylum seekers or students, who should have received residence permits via ordinary means (FIDH & GADEM, 2015). For observers, Morocco's strategy was hence to grant them documentation and certain basic rights via extraordinary campaigns without recognizing their asylum seeker status legally (KII Morocco 6).

## Summary

One of the main successes of Morocco's regularization programmes mentioned by human rights activists, researchers, and migrants interviewed was that following the programs, the number of CSOs working on migration related topics grew significantly. Members and representatives of CSOs who themselves were irregular migrants were regularized by the authorities in the early stages of the campaigns, allowing them to formalize and legalize their associations under Moroccan law (KII Morocco 3; KII Morocco 5). This also enabled these organizations to receive funding from the EU (KII Morocco 6).

Another positive outcome was the political capital that Morocco gained within the international community. For example, it received support from other African nations to join the African Union and host the headquarters of the African observatory for migration (KII Morocco 5). It also improved its image among EU states, encouraging foreign investments and funds into the country (Yachoulti, 2015).

Regarding regularization's labour market implications, research suggests that the campaigns did not have a significant impact on the Moroccan labour force nor on migrants' labour conditions, given that most of them did not integrate into the formal labour market.

However, as outlined above, the programmes faced a number of challenges. It was also not accompanied by a long-term strategy on migration and asylum. The legal framework on migration was not updated as initially promised by the National Strategy on Migration and Asylum, and the Law 02-03 is still in force.

## Summary of regularization initiatives

The table below provides a summary of the regularization initiatives discussed in this case study.

|                         | First regularization round: 2014  | Second regularization round: 2016-2017   |
|-------------------------|---|--|
| Legislative framework   | <b>Circulaire</b> du 16 Décembre 2013 "régissant l'opération exceptionnelle de régularisation de la situation de séjour des étrangers".   | No new legislative framework was adopted.  |
| Timeframe               | Applications had to be submitted from <b>January 2<sup>nd</sup> to December 31<sup>st</sup>, 2014.</b>  | The second regularization campaign was open from <b>December 2016 until 2018.</b>  |
| Eligibility criteria    | <p>The initial criteria to obtain a regular status were the following:</p> <ul style="list-style-type: none"> <li>• Foreigners married to Moroccan nationals</li> <li>• Foreigners married to other foreigners legally residing in Morocco</li> <li>• Children of the two above-mentioned cases</li> <li>• Foreigners with effective work contracts</li> <li>• Foreigners with 5 years of continuous residence in Morocco</li> <li>• Foreigners with chronic illnesses.</li> </ul> <p>Following CSO advocacy, some criteria were loosened to include:</p> <ul style="list-style-type: none"> <li>• All women, regardless of whether they met eligibility criteria</li> <li>• Foreigners who can demonstrate that they have a professional activity, but do not have a work contract</li> <li>• Foreigners who have claimed to have resided in Morocco for more than 5 years, but have not been able to prove it</li> <li>• Foreigners who have an education level equivalent or superior to the <i>"brevet des collèges"</i></li> </ul> | The same eligibility criteria and conditions as in the 2014 campaign.  |
| Resolution and benefits | Migrants whose applications were accepted received a <b>one-year renewable residence permit.</b>  | Migrants whose applications were accepted received a <b>one-year renewable residence permit.</b><br><br><b>Three-year residence permits</b> were granted very occasionally to specific groups of migrants (e.g., Syrians). |

Figure 16. Summary of regularization initiatives in Morocco

# Spain

Until the 1980s, Spain was primarily a country of emigration. However, owing to a combination of democratic transition, economic growth, and entry into the European Union (EU), by the early 2000s, Spain had predominantly become a country of immigration (Recaño-Valverde & Domingo, 2005).

While it is difficult to quantify the exact numbers of irregular migrants in Spain, recent estimates based on figures from the Municipal Registry suggest they number between 390,000 and 470,000, or roughly 0.8 per cent of Spain's total population. In 2005, at the peak of irregular entries and before the last extraordinary regularization process, there were an estimated 1.2 million irregular migrants in the country (Fanjul & Gálvez-Iniesta, 2020).

As illustrated in the graph below, influxes of irregular migrants generally track economic trends. For example, arrivals increased significantly during the economic expansion of the early 2000s, but fell sharply during the 2008 crisis, before increasing again after 2015.

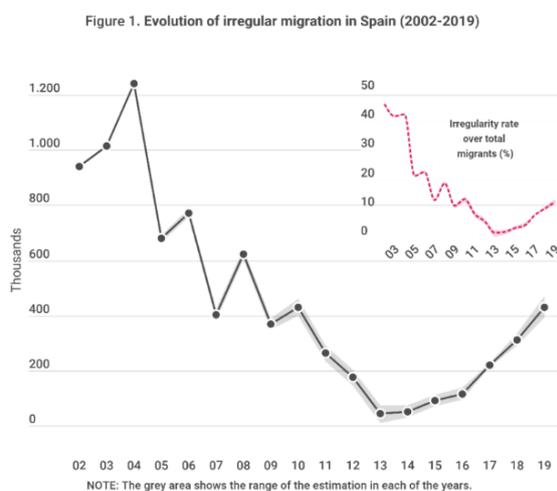


Figure 17. Evolution of irregular migration in Spain (2002-2019). Source: Fanjul and Gálvez-Iniesta, 2020

The majority of undocumented migrants in Spain (roughly 77%) come from Central and South America, mainly from Colombia, Honduras, and Venezuela. A minority (9.2%) come from Africa, with Morocco, Nigeria, and Senegal being the main countries of origin (Fanjul & Gálvez-Iniesta, 2020). Roughly 80 per cent of undocumented migrants are under the age of 40 and women account for 55 per cent of arrivals.

Given the difficulty accessing formal employment without a valid work permit, the majority of irregular migrants in Spain work in the informal economy. The main economic sectors in which they are employed are agriculture, construction, domestic service, hospitality, and manufacturing (Fanjul & Gálvez-Iniesta, 2020).

## Regularization initiatives in Spain

As Spain became a country of destination for international migration in the 1980s, in 1985, the government approved Spain's first legislative framework on migration. The new legislation contained a provision in the text to allow for "insufficiently documented" migrants already present in the country the possibility of regularizing their administrative status (Aguilera Izquierdo, 2006) (Second Transitional Provision of the 7/1985 Organic Law). Since then, Spain has undertaken several extraordinary regularization processes of varying scope, with the last in 2005. The driving factors behind these campaigns ranged from EU entry requirements (Aguilera Izquierdo, 2006) to high levels of irregular migrants (KII Spain 3), and sociopolitical phenomena such as changes in government and social movements advocating for regularization (Santi Pereyra, 2018).

In 2000, the Spanish government also introduced an ongoing ordinary regularization mechanism, which consists of granting residence and work permits to applicants on the basis of their "arraigo", or rootedness. Introduced by Article 31 of the 4/2000 Organic Law and recently updated by the 629/2022 Royal Decree, the mechanism provides several pathways for regularization on the basis of migrants' education, labour, or social rootedness. Since 2005,

this ongoing mechanism is the only available pathway for undocumented migrants in Spain to regularize their status.

In parallel to these legal procedures, all migrants, regardless of their administrative status, can register in the Municipal Registry, which serves as a statistical record of municipality inhabitants in order to plan for service provision (Fanjul & Gálvez-Iniesta, 2020; Resolución de 29 de Abril de 2020, 2020). Migrants who are registered with their municipality, regardless of their administrative status, are provided with access to basic rights, such as healthcare, justice, and education for their children. It is important to note, however, that the level of services depend on the migrant's administrative status. For example, irregular migrants who are registered in the Municipal Registry can access health care, but only for urgent treatments (KII Spain 1). When registering, migrants must present a valid passport and proof of residency in the municipality (e.g., rental contract, water, or electricity bills). The law states, however, that municipal registrations of non-EU foreigners without a permanent residence permit (*"extranjeros no comunitarios sin autorización de residencia permanente"*) – i.e., irregular migrants – need to be renewed after two years. The certificate of registration in the Municipal Registry has been accepted as proof of residency for migrants applying to both extraordinary and ordinary regularization programs. Therefore, registering in their municipality has generally become a first step for migrants wishing to have their situation regularized in the future through the ongoing rootedness procedure.

The tables below outline the regularization initiatives taken in Spain since the mid-1980s.

| Overview of previous extraordinary regularizations in Spain |  |   |                         |
|---|--|---|-------------------------|
|   | Legislative framework  | Summary and scope   | Regularizations granted |
| 1986  | <b>Second transitional provision</b> of the <b>7/1985 Organic Law</b> , of July the 1 <sup>st</sup> , on the rights and freedoms of foreigners in Spain  | First regularization campaign implemented by Spain. It was part of the country's new migration legislation, adopted some months before joining the EU.  | <b>38,181</b>           |
| 1991  | <b>Resolution of June 7, 1991</b> , of the Undersecretariat, providing for the publication of the Agreement of the Council of Ministers of June 7, 1991 on the regularization of foreign workers ( <b>BOE-S-1991-137</b> ).  | The second campaign was implemented after Parliamentary discussions regarding the situation of foreigners in Spain. It was approved after the Congress of Deputies encouraged the government to adopt the necessary measures to complete the 1985 regularization process. | <b>109,068</b>          |
| 1996  | <b>Third transitional provision of the 155/1996 Royal Decree</b> , of February the 2 <sup>nd</sup> , approving the implementation regulation for the 7/1985 Organic Law.<br><br><b>Resolution of April 15, 1996</b> , of the Undersecretariat, providing for the publication of the Agreement of the Council of Ministers of April 12, 1996, developing the documentation process for foreigners in an irregular situation ( <b>BOE-S-1996-93</b> ). | Third regularization campaign conducted by Spain as part of a reform to the legislative framework on migration given the continued increase of foreign migrants residing in the country.  | <b>n.a.</b>             |

|             |   |   |                |
|-------------|---|---|----------------|
| <b>2000</b> | <p><b>First transitional provision</b> of the <b>4/2000 Organic Law</b>, of January the 11<sup>th</sup>, on the Rights and Freedoms of Foreigners and their Social Integration in Spain</p> <p><b>239/2000 Royal Decree</b>, of February the 18<sup>th</sup>, establishing the procedure for the regularization of foreigners foreseen in the 4/2000 Organic Law's first transitional provision</p> | <p>A new Aliens Law adopted in the year 2000 gave way to another regularization process in the country. During this campaign, undocumented migrants were not required to have a job offer to obtain their residence permit.</p> | <b>153,465</b> |
| <b>2001</b> | <p><b>Fourth transitional provision</b> of the <b>8/2000 Organic Law</b>, of December the 22<sup>nd</sup>, reforming the 4/2000 Organic Law</p> <p><b>142/2001 Royal Decree</b>, of February the 16<sup>th</sup>, establishing the requirements for the regularization foreseen in 8/2000 Organic Law's fourth transitional provision</p>   | <p>A government change brought about the approval of a new Aliens Law. This new text introduced a reexamination of rejected regularization applications from the 2000 campaign. No new applications were accepted.</p>          | <b>36,000</b>  |
| <b>2001</b> | <p><b>Article 31.3</b> of the <b>4/2000 Organic Law</b>, on the Rights and Freedoms of Foreigners and their Social Integration in Spain</p>   | <p>New regularization process in 2001 based on the principle of rootedness. Announced by the new government in a press conference and open for a very short timeframe, before a new Aliens Law entered into force.</p>          | <b>322,761</b> |
| <b>2001</b> | <p>"Agreement between the Kingdom of Spain and the Republic of Ecuador on the regulation and management of migratory flows"</p>   | <p>Bilateral agreement for the regularization of Ecuadorian nationals. This process was approved after the death of a dozen of irregular Ecuadorian migrants in a work-related accident.</p>                                    | <b>20,000</b>  |
| <b>2005</b> | <p><b>Third transitional provision</b> of the <b>2393/2004 Royal Decree</b>, of December the 30<sup>th</sup>, approving the Regulation of the 4/2000 Organic Law</p>  | <p>Seventh and last extraordinary regularization campaign implemented in Spain. It was the biggest operation to date, and it was approved after a government change. Acceptance rate of 83%.</p>                                | <b>578,375</b> |

Source: Aguilera Izquierdo (2012); Pajares (2006)

*Figure 78. Overview of previous extraordinary regularizations in Spain*

## Overview of ongoing regularization permits granted in Spain

|                       |                   |
|-----------------------|-------------------|
| Legislative framework | Summary and scope |
|-----------------------|-------------------|

**Articles 124 and 127** of the **629/2022 Royal Decree**, of July the 26<sup>th</sup>, modifying the Regulation of the Organic Law 4/2000, on the rights and freedoms of foreigners in Spain and their social integration, after its reform by Organic Law 2/2009, approved by Royal Decree 557/2011, of April 20, 2011.

This recent update to the ongoing regularization mechanisms, or “*arraigo*”, provides several pathways for regularization on the basis of migrants’ family, labour, social, or training rootedness. Other articles of the Royal Decree include provisions for regularization given exceptional (i.e., humanitarian) reasons and family reunification.

|             | <i>Arraigo (rootedness)</i> | Family reunification | Humanitarian reasons | Total          |
|-------------|-----------------------------|----------------------|----------------------|----------------|
| <b>2016</b> | 31,370                      | 41,457               | 3,658                | <b>76,485</b>  |
| <b>2017</b> | 30,579                      | 42,165               | 3,940                | <b>76,684</b>  |
| <b>2018</b> | 36,735                      | 47,458               | 4,918                | <b>89,111</b>  |
| <b>2019</b> | 40,005                      | 51,558               | 43,861               | <b>135,424</b> |
| <b>2020</b> | 46,006                      | 42,669               | 86,619               | <b>175,294</b> |

Source: Ministerio de Inclusión, Seguridad Social y Migraciones (2021)

*Figure 19.8 Overview of ongoing regularization permits granted in Spain*

## Spain’s 2005 extraordinary regularization program

The 2005 extraordinary process, also known as “normalization”, was the seventh regularization campaign implemented in Spain since 1986 and emerged during a period of heightened public discussion over migration.

The early 2000s saw record numbers of immigrant arrivals (both regular and irregular) to Spain, driven by economic growth and demand for labour. At the same time, the existing migration legislative framework (8/2000 Organic Law), was viewed as restrictive and by some, unconstitutional (KII Spain 1). Social movements, led by civil society organizations (CSOs) and labour unions, were also increasingly active in advocating for migrants’ rights and eventually played a large role in the drafting and approval of the 2005 campaign (KII Spain 3).

In 2003, following an intervention by Spain’s Supreme Court, the 14/2003 Organic Law on the rights and freedoms of migrants in Spain and their social integration, was adopted with the aim of improving migration management, simplifying administrative procedures, and promoting legal immigration and the integration of migrants residing in the country (Chapter II, 14/2003 Organic Law). Then, in 2004, the *Partido Socialista Obrero Español*, (PSOE) came to power and embarked on further reforms to Spain’s migration legislation. This included the enactment of the 2393/2004 Royal Decree, which outlined the legislative framework for the 2005 regularization campaign.

While the government claimed that the legislation was aimed at prioritizing legal immigration in line with EU legal frameworks, given the high number of irregular migrants in the country – a record number of approximately 1.2 million in 2005 – a temporary and exceptional normalization campaign was seen as necessary (Fanjul & Gálvez-Iniesta, 2020).

Irregular migrants whose applications were accepted obtained a one-year renewable residence permit enabling them to work in the formal economy and receive full access to healthcare, social protections such as unemployment benefit, and freedom of movement (KII Spain 4).

Other rights, such as family reunification, were not immediately granted and were only accessible to migrants who later obtained a renewed residence permit for at least another year (Real Decreto 2393/2004). Furthermore, the 2005 programme did not include any pathways to permanent residency or naturalization. These procedures are regulated by the ordinary legal framework on migration and the Civil Code, and with certain exceptions, can only be obtained after five and ten years of legal residency in the country, respectively (Finotelli & La Barbera, 2017).

## Eligibility and process

With the exception of the 2001 bilateral agreement for the regularization of Ecuadorian nationals, all of the regularization campaigns carried out by Spain, both extraordinary and ordinary, have been open to all irregular migrants, with no exclusionary criteria based on nationality or job sector. However, the extraordinary processes and some rootedness categories (e.g., social rootedness) do require the existence of a job offer. In practical terms, therefore, eligible migrants were those of working age with a formal tie to the labour market.

For the 2005 normalization campaign, undocumented migrants could apply for regularization if they met the following conditions:



Figure 20. Eligibility criteria for the 2005 regularization in Spain

Employers played an important role in the 2005 normalization campaign. As outlined in the 2393/2004 Royal Decree, employers who wanted to hire migrant workers could submit an application on their behalf (Article 1 from the 2393/2004 Royal Decree). Irregular migrants could also submit their own applications, but the role of the employer was essential insofar as a formal contract was needed to have their administrative situation regularized (KII Spain 2; KII Spain 3).

Applications were presented at social security offices across the country (KII Spain 1) and successful applicants were required to register with the social security system within one month of the official regularization notification (Articles 3-7 from the 2393/2004 Royal Decree).

## Stakeholders and outreach

Overall, labour unions, CSOs, and employers played an important role in the regularization process, and it seems there was a collaborative effort among these stakeholders to ensure irregular migrants were made aware of the campaign. NGOs, for example, were active in organizing events and information sessions for migrants and employers who had questions or concerns (KII Spain 4). Similarly, labour unions actively collaborated with public institutions and maintained a regular dialogue with migrant workers to inform them about the process. For instance, one of the main unions in Spain, Comisiones Obreras (CCOO), used their network of information centres to provide free counselling to migrant workers (KII Spain 2).

The table below provides an overview of the key stakeholders involved in the 2005 regularization process.

| Ministries and key actors involved  |  |   |
|---|--|---|
| <b>Government</b><br>      | Ministry of Interior (Moi)   | These ministries collaborated to put together the legal frameworks behind the regularization campaigns.   |
|   | Ministry of Labour and Social Security (now Ministry of Inclusion, Social Security and Migrations)   |   |
|   | Inter-ministerial Commission on Migration  |   |
| <b>Civil Society</b><br> | Labour unions <ul style="list-style-type: none"> <li>• Comisiones Obreras (CCOO)</li> <li>• Unión General de Trabajadores (UGT)</li> </ul> | They participated in the regularization processes by providing information and advice to interested migrants. They played an important role in mainstreaming the campaign and supporting undocumented migrants submit their applications. |
|   | Non-Governmental Organizations   | They played an important role in mainstreaming the campaign and supporting undocumented migrants submit their applications.   |
| <b>Employers</b><br>     | Spanish Confederation of Business Organizations (CEOE)   | Their role revolved around providing official contracts and job offers to irregular migrants applying to regularization and registering them in the Social Security regime upon approval of their applications.                           |
|   | Freelancers and SME employers  |   |

Figure 21. Ministries and key actors involved in the 2005 regularization in Spain

## Labour market impact

The 2005 normalization process led to an immediate increase in migrants registering in the social security system, which was sustained until the 2008 economic crisis (Pumares Fernández, 2006). In January 2005, just before the campaign, there were approximately 1.4 million migrant workers registered, but by the end of 2008, this number had increased to over 1.8 million, suggesting that the program was first, successful in bringing migrant workers into the formal economy, and second that registrations were maintained after the expiry of the initial one-year work permit (Pajares, 2007).

Most migrant workers in Spain are employed as low-skilled workers in sectors such as agriculture, construction, energy extraction, or hospitality sectors (between 18 and 25 per cent of total workers), while their presence in sectors such as financial services and public administration is almost non-existent. Following the 2005 campaign, there was a small improvement in migrants' status, with limited decreases in the percentage of migrants

employed in unskilled labour and a slight increase of those employed in skilled intermediary positions (Pajares, 2007).

Studies have indicated that the integration of regularized migrants into the formal labour market following the 2005 campaign did not have a negative impact on the labour mobility of the Spanish population (Pumares Fernández, 2006). Three key trends were observed; first, employment, as measured by social security registrations, grew strongly in key sectors such as construction and services for both Spanish nationals and migrant workers; second, it grew at slower rates in industrial sectors; and third, the number of Spanish nationals working in the agriculture sector decreased (Pajares, 2007, tbl. 64). This suggests that the incorporation of regularized migrants into the formal labour market in fact facilitated upwards mobility for Spanish nationals who moved from manual labour to office jobs in growing sectors, such as real estate and business services. This idea is also supported by an observed decrease in the proportion of Spaniards working in unskilled categories, and an increase of those employed in intermediary or higher categories (Pajares, 2007).

In general, and as shown in the previous case studies, it is very difficult to determine the long-term impact of regularization programs on local labour markets given the lack of available data (OSCE, 2021). This is particularly difficult in the Spanish case owing to the disruption caused by the 2008 economic crisis (i.e., sharp increase in unemployment rates for both Spaniards and migrants), which hindered the ability to assess the direct economic impact caused by the last extraordinary regularization campaign in 2005 (Pajares, 2009). However, the mentioned figures from before the crisis show that the campaign increased the number of migrants working in the formal labour market without negatively affecting their Spanish counterparts. This constituted an achievement of the regularization process, which offered social and labour protection to migrants, allowed them to access better job conditions, reduced their vulnerability, and increased tax contributions for the state, without affecting the national labour force's employability prospects or wages.

## **Implementation Challenges**

### **Cooperation between different government ministries**

Experts consulted for this study said that the government did not face any significant challenges executing the 2005 campaign. Prior to implementation, efforts were made to strengthen the government's administrative and logistical capacity and the number of applications received was broadly in line with expectations (KII Spain 3; KII Spain 4). Due to the different levels of competence of the Ministry of Interior and the Ministry of Social Affairs and Migration, there was a process of adaptation and coordination to avoid duplication in the portfolios of both ministries (KII Spain 1).

### **Some applicants struggled to provide the required documents**

Migrants applying for regularization also faced a number of challenges during the process, mostly owing to the eligibility criteria and the difficulty of providing the necessary documentation (KII Spain 3).

First, those who were required to provide proof that they had been living in Spain for a certain period of time via a certificate "excluded a sizeable number of eligible applicants" who were not registered (Finotelli & Arango, 2011, p. 504). Second, the requested criminal record certificate had to be obtained from the migrants' country of origin, which was particularly difficult for some nationalities such as Nigerians, who struggled to obtain the documents from their government authorities (KII Spain 4). Finally, many irregular migrants failed to secure a work contract before the submission deadline (KII Spain 4).

Acceptance rates suggest that these challenges did not affect all migrant communities equally. For example, while migrants from Colombia and Uruguay had an acceptance rate of

90 per cent for migrants from India and Pakistan, it was 54 per cent (Pajares, 2006, p. 215). The overall rejection rate for the 2005 campaign was 17 per cent.

### **Short duration of residence permits**

The campaign was criticized for the short duration of the residence permits. Interviewees argued that the initial one-year permit granted to migrants after having their situation regularized was not long enough for them to settle. After this period, the renewal process posed new challenges because migrants again had to meet certain criteria (e.g., having a work contract) (KII Spain 2). To date, the duration of ordinary residence and work permits has not been modified and continues to be one year.

### **Spain's ongoing "arraigo" mechanism**

The concept of "*arraigo*" was first introduced by the 4/2000 Organic Law and was later codified by Royal Decrees. The rationale behind the mechanism was the Spanish government's desire to enact an efficient migration policy that could respond to changing labour market demands. The legislation was updated in August 2022 with the 629/2022 Royal Decree, which loosened eligibility criteria and introduced new categories of *arraigo*.

Several government actors were involved in the legislative drafting. Among others, the text was informed by the Secretariat of State for Social Security and Pensions, General Secretariat of Objectives and Policies for Inclusion and Social Welfare, the Ministry of Economic Affairs and Digital Transformation, the Ministry of Social Rights and 2030 Agenda, and the Ministry of Labour and Social Economy.

Migrants whose applications are approved receive a temporary one-year residence and/or work permit.

### **Eligibility and process**

The ordinary regularization procedure targets irregular migrants who have been present in Spain for a given amount of time and who have demonstrable ties - or "rootedness" - to the country. The mechanism is only open to non-EU and non-EEA citizens, and eligibility requirements vary for each rootedness scenario. Permits can also be provided on humanitarian grounds, or in other exceptional circumstances such as collaboration with the Spanish authorities for national security reasons.

The new legislation includes four potential pathways, and a general condition is that all applicants must have a clean criminal record in Spain and in the country or countries where they have resided in the past five years. Among these scenarios, social rootedness is apparently the most common (KII Spain 4).

The summarized eligibility conditions for each pathway are as follows:

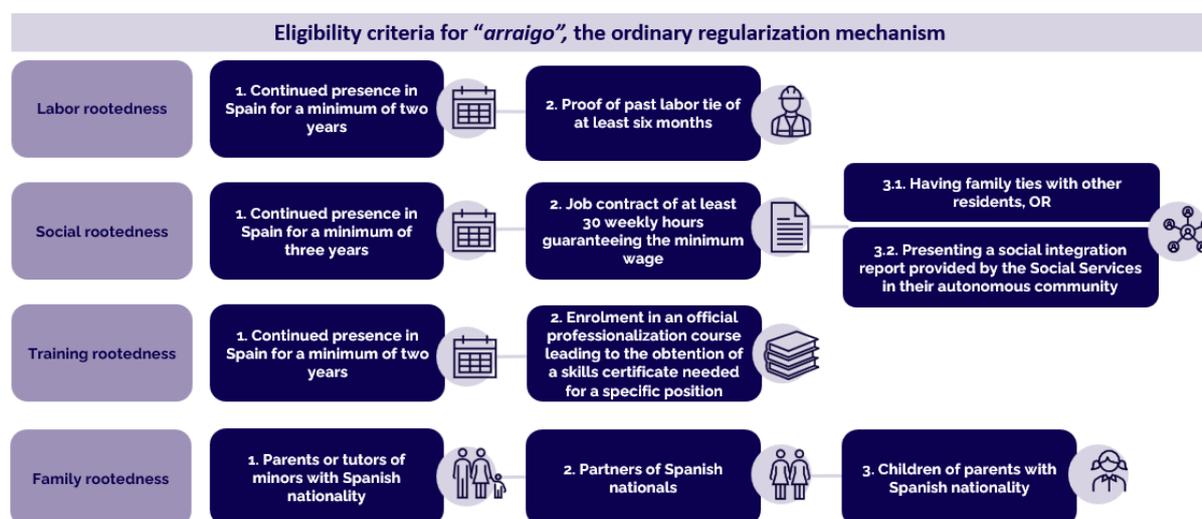


Figure 22. Eligibility criteria for the ordinary "arraigo" regularization mechanism in Spain

The 629/2022 Royal Decree states that migrants wishing to have their administrative status regularized through the *arraigo* procedure must submit the requested documentation to a foreigners' office in their province and pay a small application fee. If their application is accepted, the migrant must register in the social security system within one-month.

While the ordinary mechanism is managed centrally by the Spanish state, migrants may need to obtain some of the requested documents (i.e., integration report for social rootedness) from their regional communities, leading to some regional differences in implementation as some communities are more flexible than others in providing the required information (KII Spain 1; KII Spain 3).

## Implementation Challenges

### Limited administrative capacity

The main challenge faced by the government in implementing the ongoing regularization mechanism is the limited processing capacity in the foreigners' offices responsible for applications. This limitation was recognized by the recent 629/2022 Royal Decree, which created a new administrative unit to support the process.

### Applicants struggled to provide the requirement documents

As was the case with extraordinary regularization mechanism, the main challenge faced by migrants applying to be regularized under the ordinary mechanism is meeting the eligibility criteria, particularly under the old legislation (557/2011 Royal Decree). The new regulation approved by the 629/2022 Royal Decree has allegedly redressed these difficulties as conditions for participation have been loosened: for instance, migrants no longer need to provide a one-year contract to be regularized; and shorter durations are valid as long as the contract guarantees the minimum professional wage. New potential pathways were also introduced, and now proof of enrolment in an official training course is also accepted under the training rootedness scenario (although eligibility for a residence and work permit will be conditional on completion of the course). (KII Spain 2; KII Spain 3; KII Spain 4).

## Summary

The main success of the 2005 “normalization” campaign was that it succeeded in regularizing a substantial number of undocumented migrants present in the country (KII Spain 4), which led to migrants moving from the informal to the formal economy, an increase in declared taxes, and the creation of more employment for both locals and foreigners (Pajares, 2007). By obtaining a residence permit and work authorization, migrants who had previously been employed informally in low-skilled positions, were gradually able to upskill and thus experience upwards labour mobility (Lebrusán Murillo et al, 2019). This offered them better conditions in the labour market, social protection against vulnerability, and increased stability in the country.

There has been some debate as to whether regularization programs such as the 2005 campaign led to an increase in irregular migration as such campaigns raise expectations among migrants that similar programs will be repeated in future (Finotelli and Arango, 2011). In the Spanish case, however, there is no evidence that the 2005 campaign led to any increases (KII Spain 3). Additionally, although it is difficult to assess the long-term effects of the last extraordinary regularization campaign on the Spanish economy, available data suggests that it did not have any negative impact on the national labour force (Pajares, 2007). Spain's ongoing regularization procedure is relatively unique. Spain is one of the few European countries that offers such a mechanism after a relatively short stay in the country (KII Spain 3). According to CSO representatives and experts interviewed for this study, it is considered best practice in migration legislation – because it allows the ongoing regularization of migrants who have developed roots in the country (OSCE, 2021) – and the Spanish mechanism is often provided as an example of what should be adopted elsewhere (KII Italy 8).

Another success of the rootedness programme has been its adaptability over time, as new legislation has updated – and loosened – eligibility criteria to ease migrants' access to regular status (KII Spain 3).

## Summary of regularization initiatives

The table below provides a summary of the regularization initiatives discussed in this case study.

|                         | 2005 extraordinary normalization process   | Ordinary regularization procedure  |
|-------------------------|--|--|
| Legislative framework   | <b>Third transitional provision of the 2393/2004 Royal Decree</b> of 30th December, approving the 4/2000 Organic Law's regulation, of 11th January, on the rights and freedoms of foreigners in Spain and their social integration   | New <b>629/2022 Royal Decree</b> of July the 26 <sup>th</sup> , modifying the 4/2000 Organic Law Regulation, on the Rights and Freedoms of Foreigners and their Social Integration in Spain.   |
| Timeframe               | Applications had to be submitted within a <b>three-month timeframe</b> after the entry into force of the Royal Decree.   | The ordinary regularization procedure is open on an <b>ongoing basis</b> .   |
| Eligibility criteria    | <ul style="list-style-type: none"> <li>• Minimum six-month presence in Spain before the entry into force of the regulation.               <ul style="list-style-type: none"> <li>◦ Presence could be proved via registration in the Municipal Registry, in addition to other proof such as electricity bills, transportation cards, etc..</li> <li>◦ Other official documents (i.e., health record) could also be used (interview Pajares)</li> </ul> </li> <li>• <b>Job offer and/or contract</b> between the migrant worker and an employer for a <b>minimum of six months</b>. Its effects would be conditioned on the residence and work permit resolution.</li> <li>◦ Special criteria applied to foreigners intending to develop their activities in domestic service, agriculture, or part-time positions.</li> <li>• <b>No criminal record</b> in Spain nor in the country or countries where the migrant had resided in the past five years.</li> </ul> | <p>General: <b>no criminal record</b> in Spain nor in the country or countries where the migrant had resided in the past five years</p> <p><u>Labour rootedness</u>: (1) continued <b>presence</b> in Spain for a minimum of <b>two years</b>; (2) proof of a <b>past labour tie</b> of at least <b>six months</b>.</p> <p><u>Social rootedness</u>: (1) continued presence in Spain for a minimum of three years; (2) <b>job contract</b> of at least 30 weekly hours guaranteeing the minimum interprofessional wage; (3) having <b>family ties</b> with other resident foreigners or presenting a <b>social integration report</b> provided by the Social Services in their autonomous community.</p> <p><u>Family rootedness</u>: (1) <b>parents or tutors</b> of minors possessing Spanish nationality and who are under the applicant's care and cohabit with them; (2) <b>partner</b> of a person possessing Spanish nationality; (3) <b>children</b> of parents with Spanish nationality.</p> <p><u>Training rootedness</u>: (1) continued <b>presence</b> in Spain for a minimum of <b>two years</b>; (2) enrolment in an official <b>professionalization course</b> leading to the obtention of a skills certificate needed for a specific position.</p> <p>Other scenarios:</p> <p>Temporary residence permits on the basis of <b>collaboration with authorities, national security reasons, or public interest</b>.</p> <p>Temporary residence permits granted on <b>humanitarian grounds</b>.</p> |
| Resolution and benefits | If the conditions were fulfilled, the migrant was granted a <b>one-year residence and work authorization</b> whose validity was subjected to the migrant's official registration in the Social Security regime. The permit was <b>renewable</b> upon expiration.   | The initial residence and/or work permit is granted for a <b>one-year period</b> . Permits are <b>renewable</b> if eligibility criteria are still fulfilled.   |

Figure 23. Summary of Italy regularization initiatives

A photograph of a stone archway overlooking the ocean at dusk. The archway is made of weathered, light-colored stone blocks. The ocean is visible through the arch, with waves breaking on the shore. The sky is a deep blue with some clouds. The text "Key Findings Libya" is overlaid in the center of the image in a white, sans-serif font.

## Key Findings Libya

# Potential benefits and downsides of migrant regularization in Libya

Regularization initiatives, if implemented with careful consideration to the Libyan context, could help Libya manage its large population of irregular migrants. Furthermore, such initiatives may be of benefit both to the Libyan state as well as irregular migrants who are open to regularizing their status.

## Potential benefits to Libya

The key benefits of regularization initiatives to Libya include responding to Libya's **economic** needs, bolstering **tax** contributions, protecting **public health**, and strengthening Libya's system for **migration management and security**.

Where relevant, potential risks or downsides are noted alongside these benefits. These risks or downsides take into account the complexity of Libya's current situation and serve as points of caution for the recommendations presented later.

### Economic benefits

As evidenced in the previous section, migrants in Libya often have the desire to remain in the country (indefinitely or for a period of time) and seek employment. Furthermore, available research points to the economic contribution of migrants and the reliance of the Libyan market on this labour source. Findings from a recent perception study conducted by Voluntas and IOM suggest that Libyans are aware of the economic contribution of migrants, with half of respondents reported interacting at least weekly with migrants in a commercial space (IOM & Voluntas, 2022).

Migrant labour forms a key foundation to Libya's growing private sector. As such, employers would benefit from safeguarding this workforce through regularizing their status. Furthermore, regularization can also help limit the growth of both the informal and illicit economy.

**Migrant labour and the private sector.** As discussed earlier, Libya's inflated public sector has historically been a significant employer, while the private sector has been constrained, resulting in a large informal economy.



Several studies have highlighted Libyan's preferences to seek employment in the public sector due to the higher salaries and better working conditions (Borgnäs et al., 2020; El Kamouni-Janssen et al., 2019; UNDP, 2021). Key informants within both Libyan government and civil society, recognize that migrants do jobs that Libyans typically do not want to do, thus filling a necessary gap in the market (KII Libya Govt 4; KII Libya expert 5; KII Libya Govt 8). If regularization measures were to be implemented, findings suggest that this would not negatively impact the local labour force because there is very little employment competition between the two groups (KII Libya expert 5; KII Libya expert 2; KII Libya Govt 4). One key informant within the Libyan government argued that regularization could help address Libya's labour needs (KII Libya Govt 1).

A key expert raised that the private sector in Libya stands to be a potential key driver for regularization, because of how much the sector relies on foreign labour (KII Libya expert 6). Other interviewees agreed, referencing the private sector's need for workers as a reason why employers may support regularization (KII Libya Govt 1; KII Libya expert 5). Furthermore, migrant workers are also seen as valuable assets to economic sectors that contribute to Libya's reconstruction (KII Libya expert 2; KII Libya expert 1). One key informant said that, "[employers] don't have a problem because [regularization] satisfies their interests as employers. They have protection when their workers are in a legal situation" (KII Libya Govt 9). It has also been reported that employers may at times need to bail out their employees who

are detained for being present in Libya irregularly (El Kamouni-Janssen et al., 2019; KII Libya expert 5). Stability for employers could be a convincing reason to garner the private sector's support for regularization, especially given Libya's reliance on migrant labour.

As essential components to the economy, regularization measures could be a way to safeguard this workforce.

*"Public opinion would support the organization of the labour market and the regularization of the situation of migrants because they see them as an essential part of the economy. They see them in bakeries, stores, construction areas because they are the main engine of these sectors."*

**Libyan CSO representative**

In addition to low-skilled jobs, irregular migrants may also have the ability to fill key skilled positions in Libya. Regularizing the status of skilled irregular migrants would allow them to seek employment in their areas of expertise, from which they may currently be restricted (KII Libya expert 5; KII Libya expert 1). Certain sectors, for example, Libya's health sector, are "in dire need of skilled labour" (KII Libya expert 8) and regularization measures represent a possible opportunity to allow skilled irregular migrants already present in the country to access and apply for these jobs. One key informant in the government suggested a study should be done by the Ministry of Labour to determine the exact needs of the Libyan market (KII Libya Govt 3).

**Addressing the informal economy.** While reportedly growing in size, the private sector still straddles Libya's formal and informal economies. Undocumented labour is frequently used by Libyan SMEs, micro-enterprises, and individual employers (El Kamouni-Janssen et al., 2019). A private sector survey (PSS) analysis by UNDP reported that only 41 per cent of highly formal surveyed businesses reported providing employment contracts "to a great or very great extent." This, coupled with the report's key informant responses, suggest that degrees of informality exists across Libya's private sector (2021). However, measuring the full scope of the informal economy in Libya is also very difficult due to its lack of visibility and a lack of reliable data (UNDP, 2021).



As Libya's private sector expands, regularization measures could help Libya to control the growth of the informal economy that is tied to the private sector. Particularly for formal enterprises currently employing informally, regularization measures could allow employers to formalize their whole business. As exemplified by Spain's 2005 campaign, regularization can successfully contribute to the reduction of informal or underground economies. From a different perspective, irregularity can also be seen as an economic loss for the state because irregular migrants are incomplete economic actors (Fanjul & Gálvez-Iniesta, 2020). The potential for regularization measures to capture lost tax contributions is discussed further below.

**Potential downsides:** While regularization offers clear potential benefits to Libya's economy, it is important to recognize potential limitations. Public perception of migrants is still a concern regarding the general acceptance of regularization measures (KII Libya Govt 10), particularly for non-Arabs. In a recent study by Voluntas and IOM, Libyan survey respondents were less likely to support more lenient policies on illegal migration (e.g., work permits, citizenship pathways) for sub-Saharan migrants than for Arab migrants (IOM & Voluntas 2022; KII Libya Govt 3). However, findings from interviews also suggest that public acceptance may be supported by emphasizing that such measures are intended for migrants that plan to stay longer-term, not those transiting to Europe (KII Libya Govt 6; KII Libya Govt 7). An additional potential challenge is if in pursuit of livelihood opportunities, Libyans and migrants start competing for the same low-skilled jobs. Borgnäs et al argues that the Libyan labour market is currently shaped by unemployment for both Libyans and substantial numbers of foreign workers (2020). However, there is currently no evidence that that job competition between Libyans and migrants exists.

As discussed previously, there is a substantial illicit economy surrounding irregular migration throughout Libya. It has been noted that in some communities smuggling may support economic livelihoods and fund certain services. This was reported to be the case in Ghat, which became an issue when the number of migrants passing through this area decreased (El Kamouni-Janssen et al., 2019). In addition to the potential pushback from armed groups and criminal networks, local communities who benefit from smuggling may also feel threatened by attempts to change the current status-quo of migration.

## Tax benefits

Recalling back to the case study on Spain, the 2005 regularization campaign contributed to an increase in declared taxes, as well as an immediate increase in migrant's social security registrations (Pumares Fernández, 2006). In the case of Libya, there is limited available research on the current functionality and efficacy of Libya's tax system. However, Spain's successes related to tax contributions reflects a promising opportunity for Libya, particularly as it looks towards funding reconstruction efforts.



Within Libya, research suggests that only a limited number of informal companies pay corporate tax – 17 per cent of surveyed highly-informal companies reported doing so according to UNDP's PSS analysis (2021). Regularization, and therefore formalization, could help Libya recover previously lost tax earnings. Furthermore, key informants argue that if regularized, migrants will pay taxes which helps fund many of the services migrants receive including electricity and water (KII Libya Govt 1; KII Libya Govt 6).

*"When you regulate over 250,000 people and allow them to work in the formal economy, they can start paying taxes and this money you can use to extend social protection schemes."*

**Key expert on Libya**

Separate from the fiscal benefits of tax contributions, using regularization to ensure migrants' contributions to taxes can also bolster public perceptions. Key informants for both this study and the recent perceptions study suggest that Libyan's may be more likely to support regularization if it meant that migrants would pay taxes (IOM & Voluntas 2022; KII Libya Govt 1).

**Potential downsides:** Under the previous section on economic benefits, interviewees emphasized that employers could be potential key supporters of regularization measures. However, under Libya's current tax structures, employers are responsible for paying higher rates of social security contributions than employees. For Libyan companies, employers contribute 10.5 per cent of gross income while employees would contribute 3.75 per cent. However, it is not clear if this is consistent across all sectors and forms of employment. (Libya - Corporate - Other Taxes, n.d.). One government key informant also agreed that employers are required by law to pay taxes to the state for their employees (KII Libya Govt 11). Another limitation to Libya realizing these benefits is that the state may be hindered by the degree it can enforce tax payments (KII Libya expert 12).

## Public health benefits

As exemplified in the Italy case study, regularization can be used as a response to public health concerns. In Italy, part of the rationale behind the most recent regularization program was that migrants, through regularization, would have better access to health care during the pandemic. In Libya, one perception among the local population is that diseases are common among migrant communities and that migrants pose a public health hazard, even though there is little evidence to support this (El Kamouni-Janssen et al., 2019).



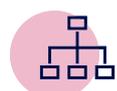
One interviewee raised that irregular migrants may not generally seek to access hospitals or health centres out of fear of deportation (KII Libya expert 3)<sup>18</sup>. Another noted that the movements of irregular migrants are often restricted to their neighbourhood due to concerns of being detained at checkpoints (KII Libya expert 5). While this will be discussed more under the section on benefits to migrants, severely restricted movements could hinder access to health services if facilities are located outside of their neighbourhood.

By regularizing a migrant's status, public officials could ensure migrants' access to health services which ultimately is a benefit to public health. It is important to note, however, that while this may strengthen the narrative behind regularization and respond to public perceptions, public health may not necessarily be a convincing primary reason to explore regularization.

## Migration management and security benefits

For all three case studies, one of the objectives of regularization was to manage the large population of irregular migrants present in-country. In these cases, regularization was usually implemented as a part of a larger strategy for migration management. At a base level, regularization initiatives can be an avenue for states to document and track migrants within their borders. However, regularization measures must be seen in tandem with other policies that focus on border control and strengthening legal entry. Furthermore, regularization also has the potential help improve Libya's public image and to respond to criminal activity.

**Alternative approach to migration management.** The recent perception study showed that roughly 60 per cent of respondents are unsatisfied or very unsatisfied with how the government has managed migration in Libya (IOM & Voluntas, 2022). Results from this study suggest that Libyans lean more towards stricter migration governance, but that regularization could be considered as part of a tool box of other migration policies (ibid). During data collection for the perception study, a host community member raised that "the government is not that effective [at migration management], and should work on creating a system through which migrants are identified, registered, and entering the country legally" (ibid). In the present study, one government representative



<sup>18</sup> It is also acknowledged that currently migrants may not have access to public health facilities without proper documentation. Furthermore, it is important to note that Libya's public health system is falling short for citizens as well.

argued that the registration and tracking process of regularization is important because migrants can also enter Libya to participate in wars as mercenaries (KII Libya Govt 8). They further stated that to incentivize migrant participation in regularization measures, security campaigns should be increased so that regularization appears to be the best option (KII Libya Govt 8). Another key informant advocated for the creation of an internal body to monitor registered migrants for security reasons – particularly those that seek to transit through Libya (KII Libya Govt 9). It is important to note, though, that officials do still see border control and criminalizing illegal entry as important policies for Libya to engage in (KII Libya Govt 3) and that further international assistance is needed in this regard (KII Libya Govt 10). A potential counter argument to prioritizing border control as a migration policy is costly. One key informant argued that detention centres in Libya are a heavy burden on the state (KII Libya Govt 11). Regularization measures could be a cheaper and more sustainable solution in comparison.

**Improving public image.** Regularization could help improve Libya's public image internationally by demonstrating Libya's strengthened alignment to international and regional frameworks and other commitments. Including regularization measures, which aim to improve the treatment of migrants, within a revised migration management framework could enhance Libya's public image internationally and be a potential signal to key donors.

**Response to criminal networks.** Crime amongst migrant communities is a key concern for Libyans (IOM & Voluntas, 2022). One key informant argued that regularization had the potential to support crime reduction as migrants may have greater economic stability and may not need to pursue illicit activities (KII Libya Govt 8). While this may be true, the criminal networks that surround the current migration system (i.e., smuggling, detention, and forced labour) should also be a key focus when discussing crime reduction. Regularization initiatives represent a possible opportunity to reduce criminal networks that thrive under the current framework. As described earlier, militias profit from running informal detention centres where extortion, forced labour, and human trafficking are also part of the business model (Malakooti, 2019). Further exacerbating the issue, assistance from the international community to migrants in official detention centres can also be reportedly misappropriated, with militias ultimately benefiting (ibid). Under the current system, the government in Libya has been unable to control militias who benefit from exploiting migrants in detainment (KII Libya Govt 3). By regularizing migrants and therefore extending protection against arbitrary detention, the Libyan government could cut a key funding source from militias, who see migrants as a commodity.

**Potential downsides:** Any act that may cut funding sources for militia groups and criminal networks could be met with significant push back. These parties, and any others connected to them, benefit from Libya's status as a transit country and therefore would likely oppose any regularization efforts (KII Libya expert 2; KII Libya Govt 3; KII Libya expert 8). Careful consideration to harm reduction efforts would need to be discussed ahead of any regularization initiative.

Another potential limitation to leveraging regularization as part of a more robust migration management plan is the limited existence of a centralized government in Libya. Furthermore, the operational context of Libya is unstable (KII Libya Govt 4), exacerbating an already weakened central government. This is a challenge because legally migration policies are implemented and enforced at the central level (KII Libya Govt 3).

## Potential benefits to migrants

As outlined in the case studies, regularization can provide a number of benefits to migrants, including the right to work, live, and study; full access to services (e.g., education and health care); freedom of movement; and protection mechanisms.

Several experts highlighted the importance of understanding the profile of migrants in Libya and whether or not it is their intention to stay. Some research suggests that not all irregular migrants want to regularize their status, partly because in certain circumstances the economic benefits of not regularizing may be higher, or, because migrants are hesitant of interacting with government authorities (Kraler, 2019). In Morocco, a key informant shared that that migrants were initially reluctant to participate in regularization campaigns because they were concerned about the possibility of negative repercussions if they submitted their personal details (KII Morocco 4). However, research could not confirm if any negative repercussions were documented.

Interviewees emphasized that the Libyan government would need to be very clear about what the benefits to migrants would be; how the programme would work, including all the different steps and objectives; and even what the consequences would be of not applying (KII Libya expert 5; KII Libya expert 1).

### Social integration and protection from detention

By nature, regularization helps integrate into society those that have existed on the margins. In the case of Spain's 2005 regularization campaign, obtaining a regular status guaranteed migrants the right to access healthcare, move freely, rent accommodation legally, open a bank account, and receive social benefits and assistance (KII Spain 4). One key informant shared that "access to rights (health care, security, access to services, etc.)" would encourage migrants' participation in regularization measures (KII Libya Govt 9). This key informant also argued that a formally registered migrant would be able to access legal support for grievance redressal (KII Libya Govt 9). Another key informant within the Libyan government raised that if migrants regularized or registered their status they would have the right to access education for their children and, because of their difficult circumstances, qualify for reduced school fees (KII Libya Govt 1).



As discussed above, regularization can also allow migrants to move freely without fear of arrest, arbitrary detention, or deportation. As one key informant argued "registration guarantees that they will not be deported or expelled" (KII Libya Govt 8; also argued by KII Libya Govt 3; KII Libya Govt 9; KII Libya Govt 8), which is an incentivizing factor for participation (KII Libya Govt 3). Having proof of regularized status would be imperative for migrants to comfortably pass through checkpoints (KII Libya expert 5). Results from FGDs with irregular migrants also echo these findings. Respondents repeatedly advocated for increased protection from abuse and detainment, which they considered to be paramount issues.

A key success raised under the Morocco case study is that through regularizing their status, migrant-run associations and CSOs were able to formalize their organizations under Moroccan law and support their members in regularization (KII Morocco 3; KII Morocco 5).

### Employment opportunities

Several key informants agreed that regularization would support migrants in realizing more work opportunities and/or increasing their income (KII Libya Govt 9; KII Libya Govt 4; KII Libya Govt 8; KII Libya Govt 1). Two key informants argued that employment opportunities would increase through regularization because movement restrictions would be eased, therefore allowing migrants to travel to find work (KII Libya Govt 8; KII Libya Govt 1). In the case of Spain, it is argued that regularization also supported the creation of more employment opportunities for both local and migrant populations (KII Spain 3).



Another potential benefit to regularization is easing the process for migrants looking to send remittances back to family in their country of origin. Research suggests that migrants often need to send remittances through informal means as they do not have bank accounts (IOM, 2019). A report covering the impact of COVID-19 on migrants' labour market access indicates that a sizable proportion of interviewed migrants reported their ability to send remittances was hindered during COVID-19. This was attributed to a decrease in movement, increased cost of money transfers, and a loss of income (ILO, 2021). While regularization may not directly address all of these conditions, it could allow migrants to access formal means for sending remittances.

### Access to social protections

According to an IOM expert cited in a previous report from Voluntas and IOM, migrants are not typically included within government expenditure plans in Libya, which ultimately means they are excluded from any potential state assistance (IOM & Voluntas, 2021). Other



research suggests that migrants may view employers as key protection providers (El Kamouni-Janssen et al., 2019). One key informant raised how it is a custom that employers are responsible for their foreign employees – especially if an employee dies under their employment (KII Libya Govt 7). However, these arrangements may open up opportunities for employers to engage in exploitative practices, particularly as migrants may only have oral contracts with their employers. A report from ILO and IMPACT initiatives reported that migrant workers lacked basic protections with “many migrants report[ing] working six or more days per week for 10 hours or more. Alongside this, most interviewed migrant workers reported only having oral contracts with their employer, not having access to any form of social insurance, and not having a work permit” (ILO, 2021, 51). While Libyan labour laws are highly protective of workers (KII Lawyer), having irregular status and no written contract leaves migrants at risk of exploitative situations.

By regularizing their status, migrants would have access to work place protections including social security in the event of a work place accident (KII Libya Govt 4; KII Libya Govt 1). These protections would be ensured through formalized work arrangements (physical contracts) as well as migrants and employers contributions to social security (KII Libya expert 6).

*“This would give them more security, stability and protect their rights against abuse by employers, etc. They would also be able to use services in the country.”*

**Libya government representative**

According to an expert at ILO, it appears a considerable proportion of migrants do not know what their current rights are and they do not attempt to access social protections out of fear due to their irregular status. Regularizing their status would alleviate this fear and encourage migrants to access social protections.

## *Summary*

Regularization offers potential benefits to both Libyans and irregular migrants. For Libya, regularizing migrant workers could further support the Libyan economy by filling key labour gaps and formalizing the private sector (and therefore minimizing the informal sector). Connected to this, regularizing migrant workers also potentially provides opportunities for these individuals to contribute to tax systems and increase state revenue. Additionally, regularization can also serve as an alternative approach to Libya's migration management, including supporting the assessment of migrants present in-country and signaling to the international community policy shifts that could improve Libya's public image. Key challenges potentially inhibiting the realization of these benefits include (i) tax costs disincentivizing employer participation, (ii) pushback from communities reliant on the informal economy, (iii) threat of violence from criminal networks financially threatened by regularizations, (iv) limited control of central government, and (v) the ability to ensure data protection for irregular migrants.

For migrants, regularization is an opportunity to further join and contribute to society, as well as decrease their vulnerability. After formalizing their status, migrants could have better access to legal and medical support, workplace protections, and move freely without fear of arrest, arbitrary detention, or deportation. Key findings from FGDs and CAPI surveys emphasize that security and freedom of movement are key benefits, and that regularization is perceived as a pathway to an improved situation.

# Main Findings: CAPI survey and FGD results

## Demographics

The survey was conducted with 301 irregular migrants across Libya: 104 in the north, 103 in the south, and 94 in the east. Owing to difficulties reaching female migrants 96 per cent of survey respondents were male and only 4 per cent female. This difference in gender representation is primarily related to cultural dynamics and the vulnerable situation of irregular migrant women, which means they are much less visible in the community and therefore harder to access. Six focus group discussions were also conducted - two per region - with both male and female participants.

Survey respondents came from three main regions: 50 per cent from North Africa (Egypt, Morocco, Sudan, Tunisia), 5 per cent from the Middle East (Iraq, Lebanon, Palestine, Syria), and 37 per cent from West Africa (Burkina Faso, Gambia, Guinea Bissau, Côte d'Ivoire, Mali, Mauritania, Niger, Nigeria, Togo). Nine per cent of respondents came from countries outside these regions and have been categorized as "other" (Bangladesh, Chad, Eritrea, Ethiopia, Zambia). Considering the lower percentage of respondents from the Middle East and "other" region, findings disaggregated by region should be interpreted with caution.

37 per cent of respondents said they had some form of work or residence permit. The majority of respondents without any form of permit were from West Africa and regions classified as other, with more than three-quarters of respondents from those regions saying they did not have any form of permit, compared to roughly 20 per cent of respondents from the Middle East and 54 per cent from North Africa.

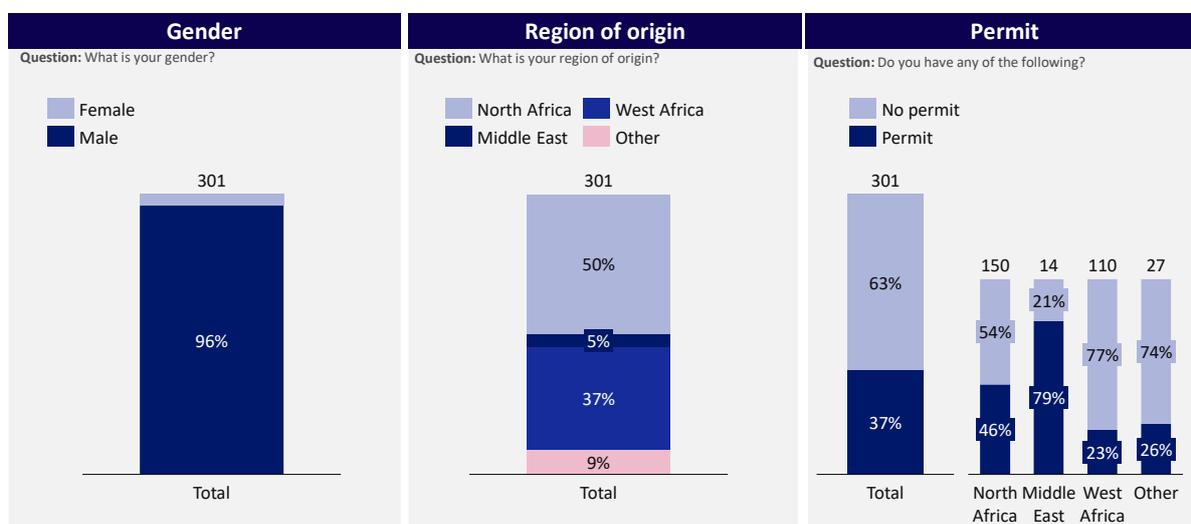


Figure 24. General information

70 per cent of people surveyed classed themselves as self-employed, 22 per cent as employed, and 3 per cent as unemployed.

The top two industries in which respondents are employed were retail, with 26 per cent, and construction, with 24 per cent. These are followed by hospitality, the service industry, and manufacturing.



Figure 25. Employment

29 per cent of survey respondents said they had some primary education, followed by 22 per cent with high school education, and 20 per cent with no formal education. 11 per cent of respondents said they had a university education.

65 per cent of respondents have an average household monthly income of between 500 and 1,500 Libyan dinars, while 25 per cent receive less than 500 Libyan dinars. 6 per cent of respondents reported an average household income above 1,500 Libyan dinars.

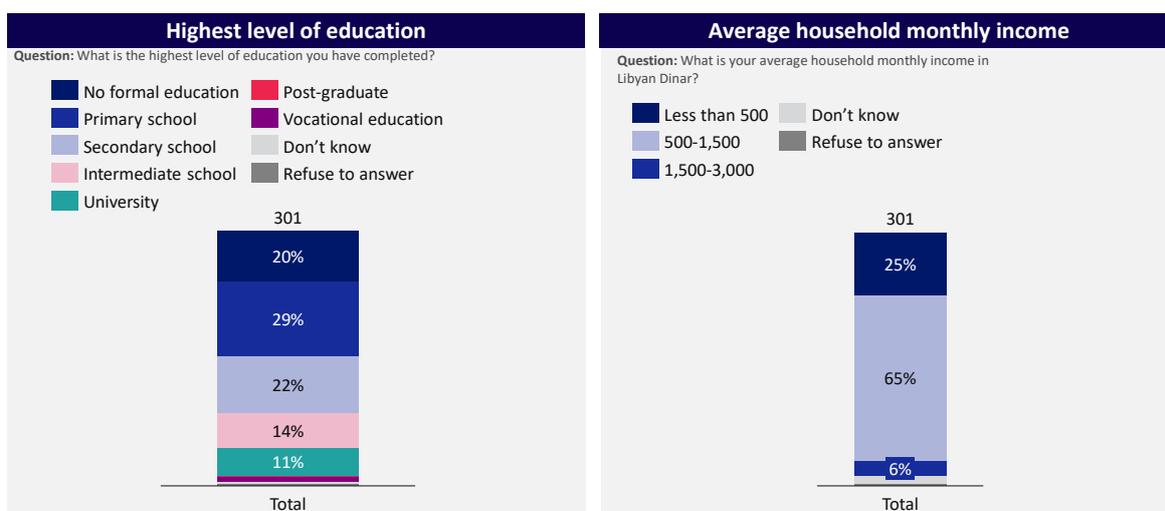


Figure 26. Level of education and monthly income

## Reasons for migrating to Libya

Most respondents travelled to Libya for economic reasons, with 80 per cent saying they came to find a job and 50 per cent saying they came to improve their economic situation. This is particularly the case for migrants from West Africa where 92 per cent of respondents said they came to Libya to find a job.

Other reasons for traveling to Libya included joining family members, respondents not feeling safe in their home country, and wanting to travel to other countries.

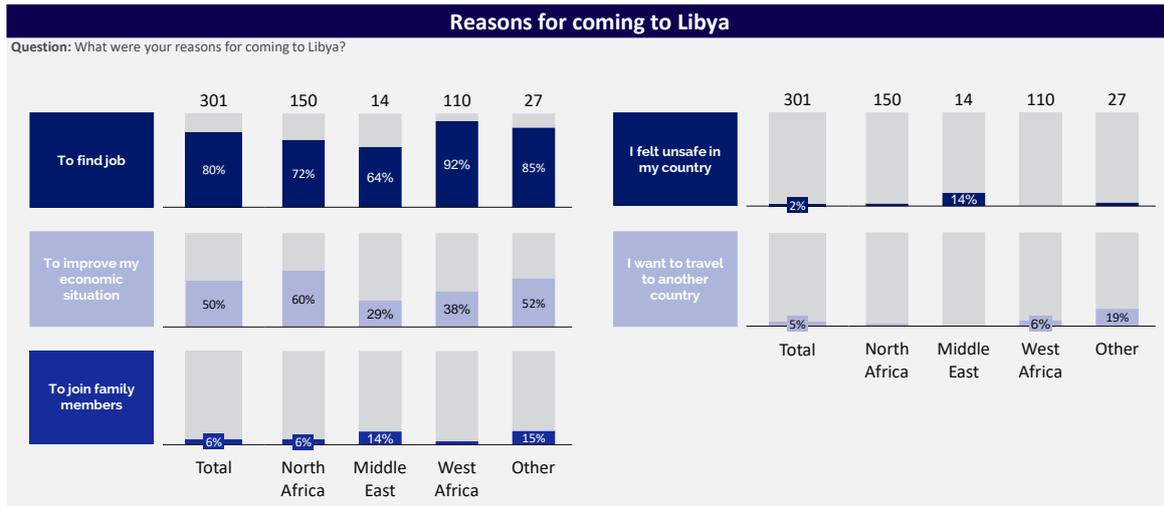


Figure 27. Reasons for coming to Libya

Of those surveyed, 51 per cent said they intended to move back to their country of origin, while 37 per cent said they intended to stay in Libya. An additional 10 per cent said they intended to travel to another country to settle there. Respondents from the Middle East were the most willing to stay in Libya, at 86 per cent. When asked whether they would stay in Libya if they could legally stay, 68 per cent of respondents said they would stay, while 29 per cent said they would not stay.

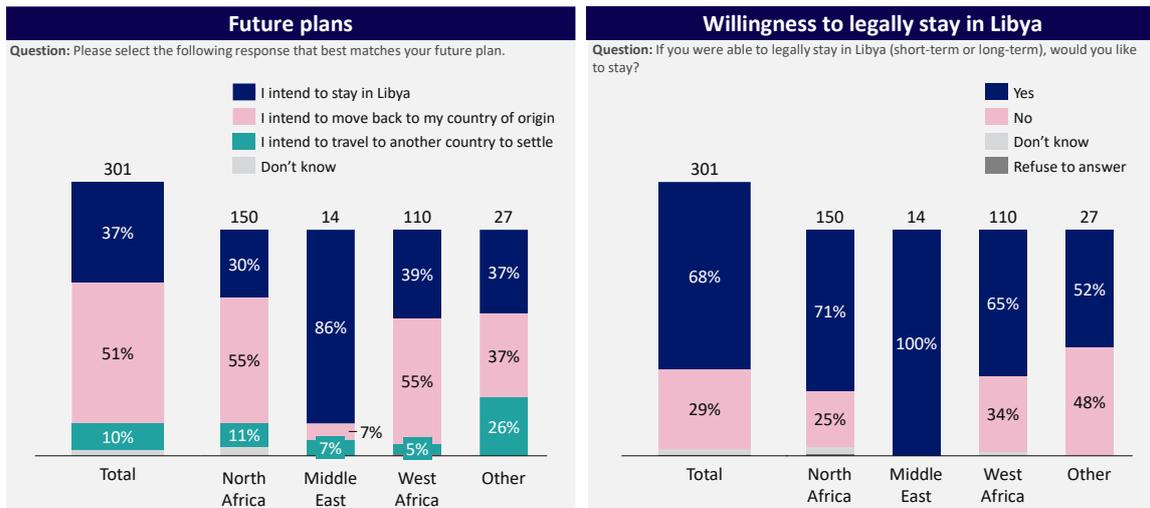


Figure 28. Future plans and willingness to legally stay in Libya

With regards access to personal documents, 54 per cent of respondents said they had access to a current passport. However, results show a large discrepancy in access across the different regions, with roughly 80 per cent of respondents from North Africa and the Middle East saying they had access to a current passport compared to 19 per cent from West Africa and 37 per cent from countries classed as other.

Few respondents had access to other documents, including an expired passport, birth certificate, proof of address in Libya, proof of employment or work contract, and proof of no criminal record. Other documents that respondents reported be able to access were a health certificate, an identity card, a document from the migrant's embassy or consulate, and a municipal registration card.

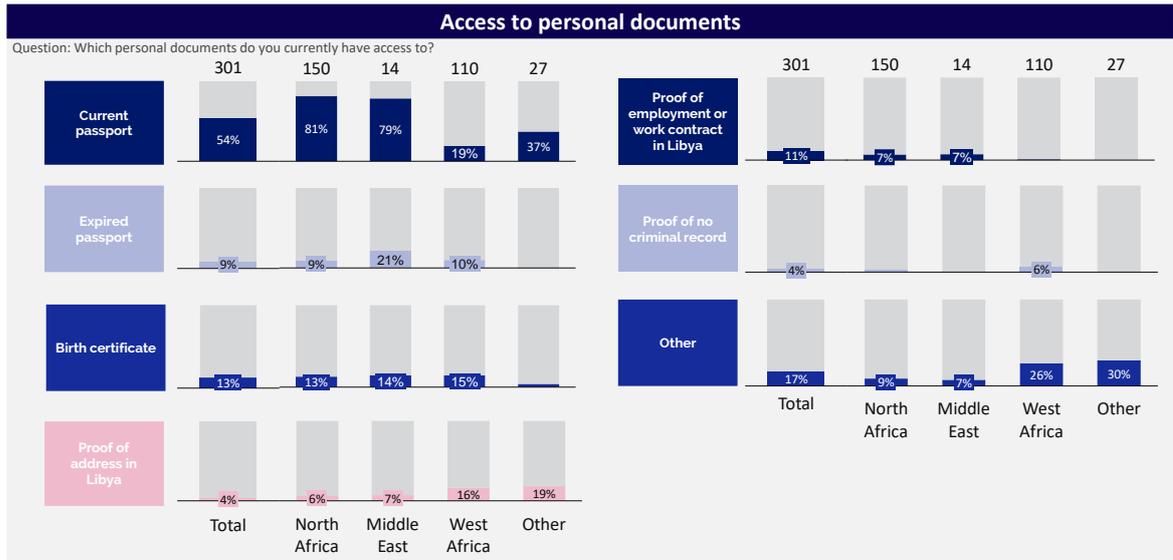


Figure 29. Access to personal documents

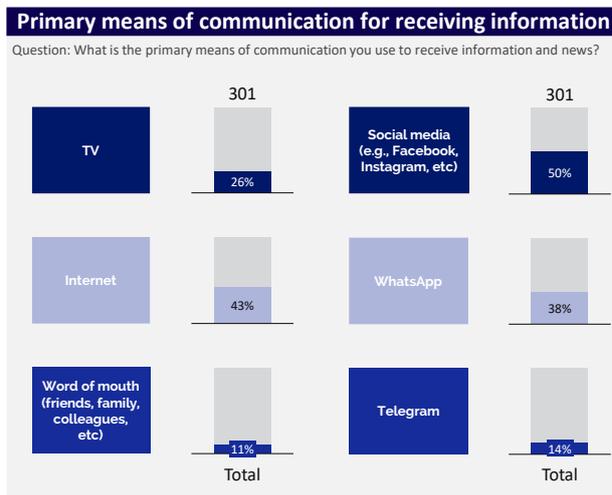


Figure 30. Primary means for receiving information.

As can be seen in the chart, the primary means of communication for the majority of respondents is social media, followed by internet, WhatsApp, and TV. The least used means of communication are radio, newspapers and magazines, religious institutions, and charitable organizations.

## Belonging and support from institutions

When asked whether they belonged to an institution such as a labour union, employment association, or other, the majority of respondents responded, "don't know."

Similarly, when asked if they received support from an institution, 65 per cent of respondents answered, "don't know".



Figure 31. Belonging and support from institutions

## Interest in regularization

85 per cent of respondents said they would participate in a programme implemented by the Libyan government that would enable them to obtain a residence permit. Those from North Africa and the Middle East were slightly more enthusiastic than those from West Africa and other countries. Similar results were seen regarding participation in a programme that would enable migrants to obtain a work permit.

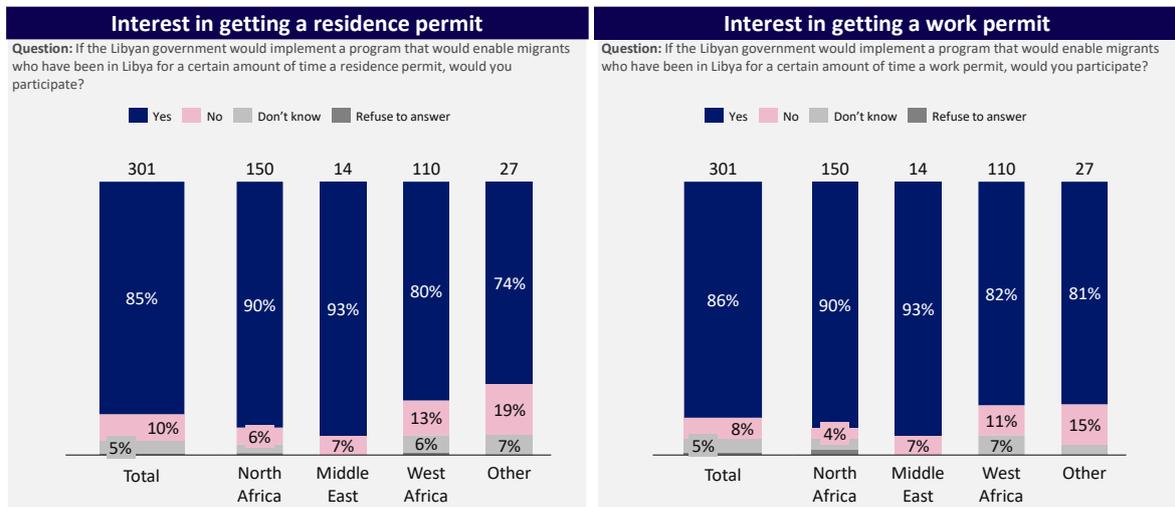


Figure 102. Interest in getting a residence or work permit

82 per cent of respondents also said they would be interested in registering with the municipality to receive basic services. Of those who were not interested, 29 per cent said they would be interested in registering their details if they were shared only with the municipality and no other institution, compared to 60 per cent who said they would not be interested. Similarly, most FGD participants also expressed an interest in obtaining legal status in Libya.

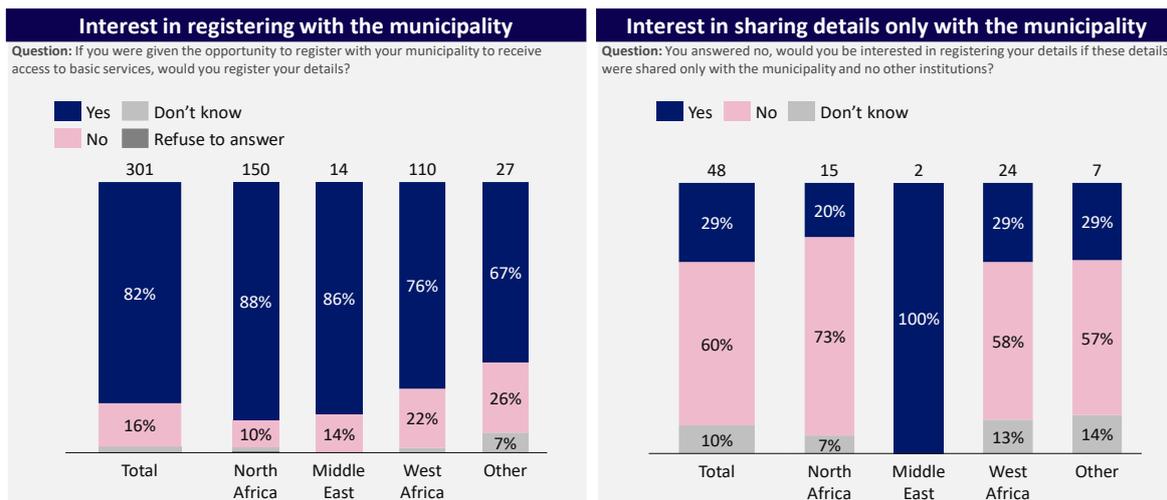


Figure 3311. Interest in registering and sharing details with the municipality

In response to the question: What would be the main benefits of obtaining a legal permit in Libya, the majority of respondents highlighted economic benefits, with 56 per cent saying access to job opportunities, 48 per cent better working conditions, and 41 per cent access to higher wages. 42 per cent of respondents also indicated that freedom of movement in Libya was also a key benefit.



Figure 124. Main benefits of obtaining a legal permit

In focus group discussions, participants said that one of the main benefits to regularization would be access to basic services such as health care and education. According to participants, these services are either denied to migrants or are very expensive for them (FGD Tripoli Female, FGD Sebha Female).

Protection benefits was also a recurring theme. Several participants reported fearing for their safety, especially where human trafficking is prevalent, and noted abuse by local gangs, police, and armed groups (FGD Tripoli Female). Participants said regularization could enable protection from arbitrary abuses in detention centres (FGD Tripoli Female) and the protection of women from harassment, violence, torture, and exploitation, especially for low-paid housekeepers (FGD Tripoli Female). Some female participants said protection from

transgressions is “more important than food and water” and said female migrants were subject to abduction, harassment, and rape (FGD Tripoli Female).

*“What is important is the protection of individuals and their rights in a country with limited rule of law, which is plagued by violence, and where human trafficking has become a profitable practice. This is what drains us and turns us into commodities to be sold and bought. We are tricked, robbed and lost in the desert.”*

**FGD Tripoli Female**

Some, however, were skeptical of the possibility of protection benefits because “even Libyans are being kidnapped and tortured by militias” (FGD Tripoli Female).

FGD participants also discussed the potential economic benefits of regularization. In one group in Tripoli, male migrants expressed that many of them were hired as day labourers, so their work was unreliable. They were also often exploited by their employer. Obtaining a work or residence permit, would therefore enable them to get a regular and stable job and not be exploited (FGD Tripoli Male).

*“Having identity documents would allow me to have a stable job and not fear being exploited. I am currently being subjected to insults and beatings, and I sometimes do not get what is rightfully mine. That is why I want to regularize my status in Libya and work here.”*

**FGD Tripoli Male**

Some participants expressed that regularization could lead to better job opportunities (FGD Benghazi Male) as well as improved salaries (FGD Tripoli Male).

Other participants, however, said they thought it might lead to fewer job opportunities because jobs available are mostly limited to day labourer jobs (FGD Sebha Male).

Finally, FGD participants also emphasized the importance of freedom of movement both within and outside the country (FGD Benghazi Male, FGD Benghazi Female). In Sebha, participants highlighted the benefit of moving freely between cities to find work (FGD Sebha Female and Male). Others noted that obtaining a work or residency permit would enable them to be independent, particularly from people who facilitated their entry into Libya (FGD Tripoli Female and Male).

Some FGD participants, however, indicated that not all irregular migrants would want to stay in Libya. This could be due to their desire to earn money and migrate to Europe, or to the current state of insecurity in the country, which does not guarantee them rights or protection.

*“As we fled our countries because of the many wars, militias and armed gangs, we will not stay in a country where we, from time to time, are kidnapped, blackmailed and robbed”.*

**FGD Tripoli Female**

Our findings show that the majority of migrants would be keen to participate in a registration or regularization initiative in Libya owing to the perceived benefits of obtaining regular status such as economic benefits, work and/or residence permits, freedom of movement, access to basic services, and social protection. Given most migrants moved to Libya for economic reasons, it is recommended that such initiatives be linked to employment opportunities and outcomes. This would also enable the Libyan government to better match labour supply to

demand and potentially address labour shortages in certain sectors. In implementing a registration or regularization initiative, however, the government would need to be mindful of the fact that there seems to be a large disparity in access to identity documents so flexibility would need to be demonstrated in this regard. For example, migrants may not have access to documents such as passports or birth certificates, so the government should consider accepting other types of documentation such as proof of residence or employment in Libya, a health certificate, a document from the migrant's embassy or consulate, and a municipal registration card. The government should also carefully consider outreach and communication channels. The survey suggests that the majority of migrants use the internet, social media, and WhatsApp to obtain information, therefore relevant campaigns should target these channels rather than traditional media such as newspapers and television. It is important to take into account, however, that not all migrants may have access to electricity, phones, or the internet so campaigns should also involve civil society organizations to leverage the effectiveness of word of mouth as a means of transmitting information.

## Scenarios of regularization

In focus group discussions, some participants said that registration with municipal authorities was adequate because many African workers already register there (FGD Tripoli Male). In addition, municipalities are the closest authority to the migrants, which can facilitate the completion of procedures (FGD Sebha male). Some participants explained that their main motivation to register would be to receive health care and basic services, as many migrants face destitution, poverty, food insecurity, and die from hunger and lack of health care (FGD Tripoli Female).

*"When one of my friends or I get sick, we always look for a facility that offers us health services. Having access to health services is extremely reassuring."*

**FGD Tripoli Male**

Some participants argued that the government should allow migrants to receive residence or work permits on humanitarian grounds, given the risks of human trafficking and dying at sea (FGD Tripoli Female). Furthermore, participants emphasized that children should be considered from a humanitarian perspective in the course of regularization (FGD Benghazi Male).

## Operationalization of regularization

Survey respondents were asked which Libyan institutions they felt most and least comfortable registering their personal data with. 35 per cent said they would be comfortable registering with the Ministry of Interior, 26 per cent their local municipality, and 17 per cent the Ministries of Social Affairs and Labour.

When asked which institutions they would be least comfortable registering their details, the majority answered, "don't know" (38%).

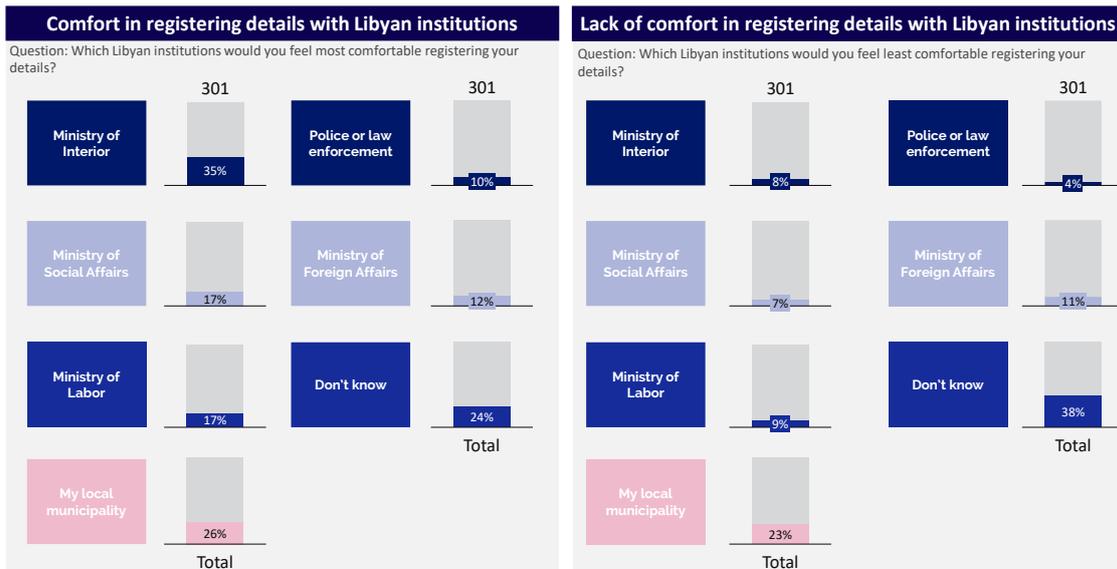


Figure 135. Comfort in registering details with Libyan institutions

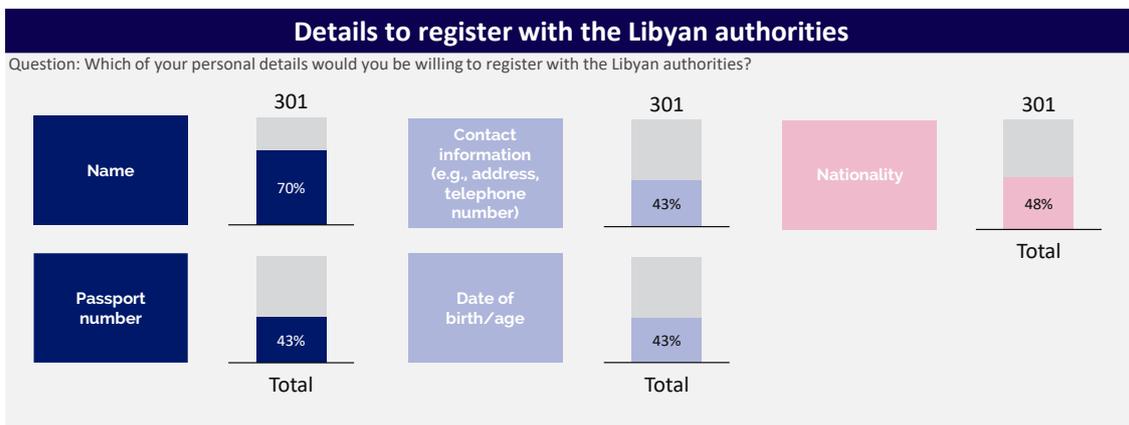


Figure 146. Details to register with the Libyan authorities

70 per cent of respondents said they would be comfortable sharing their name with the Libyan authorities, while less than 50 per cent said they would be interested in sharing their passport number, contact information, nationality, and age/date of birth.

FGD participants reported being most comfortable with government institutions, organizations, and associations that deal with migrant and refugee affairs (FGD Sebha Female). They also indicated that they are willing to register their data with health and education institutions, employment institutions, private institutions that they deal with regularly, public registries, and public institutions that are far away from their workplace (FGD Benghazi Male). In contrast, they are not comfortable sharing their data with judicial and security institutions (FGD Benghazi Female).

*"Migrants would be more comfortable sharing their personal information with a centre for migrants, and would, of course, not feel comfortable dealing with the police."*

**FGD Sebha Male**

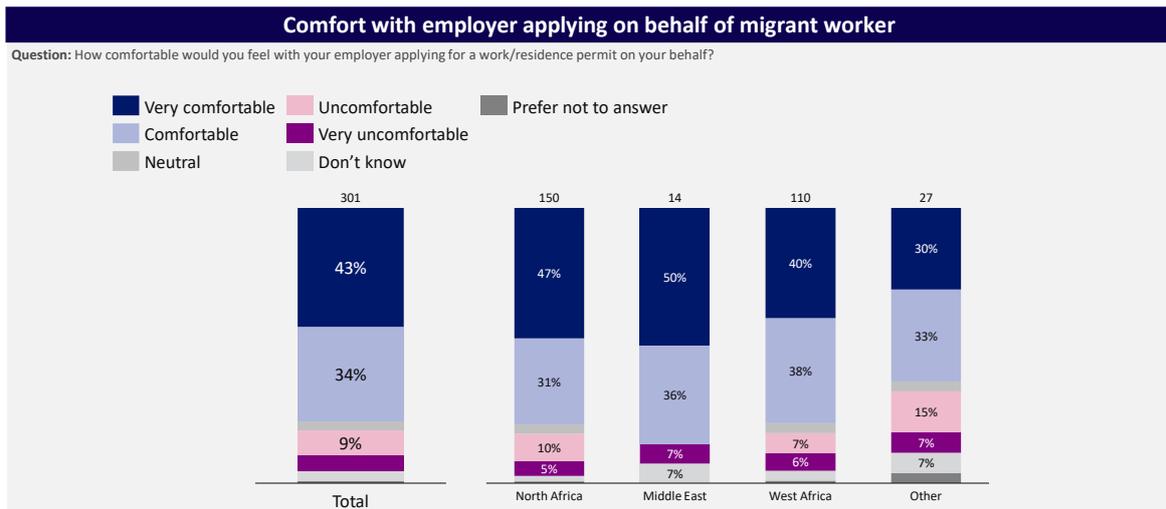


Figure 157. Comfort with employer applying on behalf of migrant worker

Overall, the majority of survey respondents reported being comfortable or very comfortable with employers applying for a work or residence permit on their behalf.

FGDs, however, provided a more nuanced views on employer involvement in the regularization process. Many agreed that employers should be involved because they are currently hiring workers illegally (FGD Sebha Female, FGD Tripoli Male). Others said employers could assist migrants with the administrative procedures, making the process easier for them (FGD Benghazi Male).

Another group, however, said that employers should not be involved in the process because it is not in their best interests for their employees to become regular (FGD Tripoli Female). Employers can easily replace undocumented migrants since they are not under the protection of law. Furthermore, regularized workers would be able to demand decent wages, putting employers at a disadvantage (FGD Tripoli Female). It should be noted, however, that focus groups involved a small number of participants and are therefore not a representative sample.

*“Employers would not submit regularization applications on behalf of migrant workers because it is easy to get rid of illegal workers without having to go through legal channels. It is also easy for employers to fire them if they make a mistake or do not satisfy their every whim. We are often stolen from, and they refuse to pay us by threatening to hand us over to the Anti-Illegal Immigration Agency”.*

**FGD Tripoli Female**

*“Most employers would not care. Not all migrants in Libya will become legal, maybe only those working in houses and farms. Employers would only be interested in those kinds of workers becoming legal to keep their own families safe and protect their livelihoods”*

**FGD Tripoli Female**

Our findings show that migrants have low levels of trust in Libyan state institutions and while most are comfortable with sharing their name, less than half are comfortable sharing further details such as passport details and contact information. Should a registration or regularization initiative be implemented, it will therefore be important for the Libyan government to engage in trust building measures with migrant communities. This could be done through the use of

mediators such as international or civil society organizations, or religious groups. Furthermore, it will be important throughout the process to communicate and emphasize migrants' rights and access to social protection mechanisms.

The majority of migrants also indicated they were comfortable with their employers being involved in the registration or regularization process again demonstrating the importance of linking regularization to employment. At the same time, it is important to recognize the risk of exploitation and ensuring such initiatives contain safeguards to limit these risks.

## Impact of regularization on public opinion

FGD participants were asked how they felt regularization would be perceived by the general population in Libya. Overall, there was no consensus on this topic. Some participants said that regularization would enable them to be seen as "normal people" and argued that while discrimination would likely continue, their rights would at least be recognized and protected by law.

*"They will realize that we are normal people who have the right to live anywhere we want to"*

**FGD Benghazi Male**

Some were more negative, however, citing widespread racism in the country (FGD Sebha, Female).

## Potential disadvantages and challenges for participating migrants

While some participants said they did not think there would be any challenges for migrants participating in regularization programs (FGD Sebha male), others expressed fears of being deported (FGD Benghazi Male and Benghazi Women) and the difficulty of confronting gangs (FGD Tripoli Female). Participants also stressed how regularization would meet resistance from human traffickers, who would not be interested in such initiatives since their practice is extremely profitable (FGD Tripoli Female and Male).

*"Human traffickers are the main challenge because they only care about money, and the implementation of a regularization programme in Libya would not be in their best interest"*

**FGD Tripoli Male**

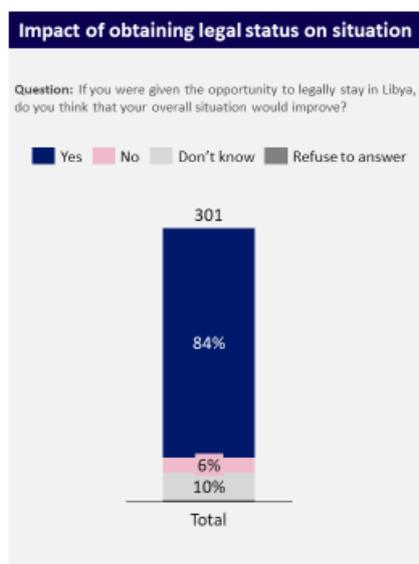
Other challenges included lack of trust towards stakeholders implementing a regularization programme (FGD Tripoli Male), ongoing discrimination (FGD Tripoli Male), and religion (FGD Tripoli Female; FGD Benghazi Female).

Some migrants expressed **concern over whether any regularization initiative would be completed** owing to "the Libyan government's inability to bridge the country's political divides" (FGD Benghazi Female). Or, if implemented, that their legal status would not be "regularized the way we had hoped it would" (FGD Tripoli Female).

*"The fear of facing injustices, even after having registered" and "lack of protection and being abused"*

**FGD Tripoli Female and FGD Sebha Male**

Finally, one group was concerned about the potential fees of taking part in the programs (FGD Benghazi Male).



Finally, 84 per cent of survey respondents stating that their overall situation would improve if they were given the opportunity to legally stay in Libya.

*Figure 38. Impact of obtaining legal status*

### Summary

Overall, more than 80 per cent of survey respondents reported being interested in either a registration or regularization initiative. 84 per cent felt that regularization would improve their overall situation. The most reported potential benefits were access to job opportunities (56%), better working conditions (48%), freedom of movement (42%), and higher salaries (41%).

Similarly, the majority of FGD participants were interested in obtaining legal status in Libya and agreed that regularization would have a positive impact on their lives. Participants highlighted that it would help migrants improve their living conditions, have access to services, and be protected by the law.

However, initial reluctance to engage in a regularization programme can be expected as confidence levels in the Libyan authorities are generally low and challenges in implementation are expected, as evidenced by the survey results and FGD findings. This challenge can be mitigated by highlighting the potential benefits of a regularization programme in its design and involving of local stakeholders such as CSOs and municipalities in outreach and implementation. Outreach should also include social media, television, and whatsapp campaigns .

## How to implement regularization initiatives?

The following section examines how a regularization initiative in Libya could be implemented. It covers possible scenarios, implementation measures, considerations, and potential challenges.

### Understanding the objective

Determining the objective and rationale of any regularization initiative will be key to its eventual success. In Italy and Spain, for example, neither country had a system to monitor the outcomes of the programs and in the end the programs were described as being more about politics than about policy. A key recommendation for Libya, therefore, is that policymakers should be concrete about what it is they want to achieve from such an initiative. For example, objectives could include ensuring irregular migrants have access to social protection mechanisms, matching labour demand with labour supply, or fostering integration of migrants into society. Policymakers should also consider the timeframe and sustainability of such initiatives. Several interviewees noted that once the momentum surrounding regularization programs had faded, irregular migrants often faced situations similar to what they had faced prior to the implementation of the programs. Similarly, policymakers should factor into the design of the programme the longterm integration of migrants into society.

It is also important to note that the Libyan context should frame the start and end of any conversation on regularization. Given Libya's volatile political and security situation, implementing such an initiative will be extremely complex and challenging and thus require careful consideration and planning among all stakeholders involved.



It is clear that implementing such a programme in Libya will be a significant challenge.

A key recommendation for Libya, therefore, is that policymakers should be concrete about what it is they want to achieve from such an initiative. For example, objectives could include ensuring irregular migrants have access to social protection mechanisms, matching labour demand with labour supply, or fostering integration of migrants into society. These options are not mutually exclusive, but to ensure the success of any regularization initiatives, the policy goals should be clear.

### Potential scenarios

#### Registration with local municipalities

As seen in Spain, registration is a local migration management tool and is generally considered a much less complicated policy measure than regularization. One of the main advantages to registration is that authorities can better understand the number of people living in a community, thus allowing for better planning of service provision, while at the same time providing migrants with some benefits.

## Scenario One: Registration



Libyan government officials and civil society representatives were generally open to the idea of registering migrants with their local municipalities, especially as a tool manage irregular migrants at a municipal level.

Several government representatives said that a form of registration – known as a migrant limitation card – is currently used in some municipalities, primarily in the East. The cards are issued by labour offices and contain migrants' personal information such as name, occupation, and whether or not they are seasonal workers. These cards are intended to protect irregular migrant workers from arrest and deportation while within the boundaries of the issuing municipality and may also provide employment benefits

With regards to whether a registration system should be implemented, or continue to be implemented in Libya, several government officials argued that the limitation card system should be rolled-out across Libya. Reasons shared included

that a registration system would help build trust with local populations, limit the crime rate, enable the government to better understand the labour market and organize informal migrant workers to have a clearer picture of labour market needs. With a registration system the government could determine the number of migrants, address their status with their embassies, ensure health requirements are respected, amend legislation on countering irregular migration, and provide support to municipalities).

There are several potential disadvantages, however, to registering migrants with their local municipalities. First, while it may provide some basic level of protection for irregular migrants, ultimately, they will remain in an administratively irregular situation, which does not solve the problem in the long term. Additionally, registration may be difficult due to the large number of irregular migrants present in Libya. Furthermore, different municipalities may apply registration mechanisms differently, which may pose problems for migrants if they travel outside a particular municipality. Overall, if a coordinated registration initiative is implemented in Libya, municipalities should coordinate to ensure that (i) registration affords beneficiaries key protections or benefits (i.e., freedom of movement) and (ii) the implementation of registration initiatives is as consistent as possible across municipalities. Finally, it is important to note that in Libya, municipal councils are not the only actors involved in local governance. Post-revolution, a myriad of micro-governance systems has emerged, involving a combination of both state and non-state actors, such as local officials, tribal elders, influential family leaders and business elites, military councils, and militia leaders. As highlighted earlier, some of these actors may also be stakeholders in the migration management framework, which make implementing a municipality-driven policy on irregular migration difficult.

| Advantages  | Disadvantages   |
|---|---|
| <ul style="list-style-type: none"> <li>• Enables local authorities to better understand the number of residents living in a particular area, thus enabling better planning of service provision</li> <li>• May provide irregular migrants with a basic level of access to services such as healthcare,, as well as ensure access to rights that migrants are already guaranteed regardless of status</li> <li>• May provide irregular migrants with protection against arrest or deportation</li> </ul> | <ul style="list-style-type: none"> <li>• Migrants remain irregular</li> <li>• Registration may be implemented differently in different municipalities, which may pose problems for migrants when they leave their municipality</li> </ul> |

- Could help build trust between migrants, local communities, and local authorities

### One-off regularization program

As seen in all three case studies, one-off regularization programs are typically used when the number of irregular migrants in a country has become unsustainable and governments “need to do something quickly” (KII key expert 3). There is no one-size-fits-all approach to the general framework and eligibility and benefits vary. However, a common trend observed in the case studies is that one-off regularization programs are generally linked to employment and migrants receive one- or two-year residence or work permits that are renewable. Some regularization programs may include a temporary permit for migrants to seek employment.

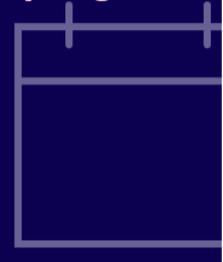
In addition to residence or work permits, migrants usually are guaranteed access to all rights and privileges afforded those who are present regularly within a country, including access to social security and welfare, healthcare, and freedom of movement. Eligibility may be restricted to workers in particular sectors, as was the case in Italy. Other eligibility criteria often include presence in the territory before a specific date, a job offer or contract, and proof of no criminal record.

The main advantage to one-off regularization programs is that it allows the state to regularize a large number of documented people relatively quickly. The state can further benefit from tax revenue, both through the fees or fines charged through the programs themselves, but also by bringing workers from the informal sector into the formal sector (Levinson, 2005). One-off programs also tend to be cheaper than ongoing regularization mechanisms, where applications tend to be assessed on a case-by-case basis. To ensure success, one-off programs should be as comprehensive as possible to enable as many people as possible to benefit (KII key expert 3; KII key expert 4).

There are, however, several downsides to one-off regularization programs. First, they tend to be high profile and may therefore be subject to a backlash from the local population (KII key expert 3). Furthermore, one-off regularization programs are often a means of managing the flow of migrants in the absence of an adequate migration policy (González Beilfuss & Koopmans, 2021). According to one interviewee, “every four to five years we have to approve a regularization programme because the situation is dangerous for the living conditions of the affected people” (KII Italy 3). A major concern among the local population is that one-off regularization programs may become a pull factor, in that migrants become familiar with such programs and move to a country illegally under the expectation that a regularization programme will eventually be implemented (KII Libya expert 6; KII Libya Govt 3). While there is little empirical evidence that this is the case, a one-off regularization programme would nevertheless need to be accompanied by some form of outreach to the local population, not only to alleviate any concerns they may have, but also to demonstrate the potential benefits to Libya of such an initiative.

Some Libyan government officials were skeptical of the feasibility of a one-off regularization programme because irregular migrants are continually arriving.

### Scenario Two: One-off regularization program



| Advantages  | Disadvantages  |
|---|--|
| <ul style="list-style-type: none"> <li>• Typically has a big impact when there is a high number of irregular migrants in a country</li> <li>• Ensures access to all rights and privileges afforded to persons present regularly within Libya</li> <li>• Tend to be cheaper than on-going regularization measures, where applications are processed on a case-by-case basis</li> </ul> | <ul style="list-style-type: none"> <li>• Generally high-profile and therefore may be unpopular among the local population</li> <li>• Does not provide a long-term or sustainable solution</li> </ul> |

### Ongoing regularization mechanism



Ongoing regularization mechanisms are typically part of a country's legal framework and are thus a permanent measure (OSCE, 2021).

Ongoing mechanisms are advantageous because they provide a continual pathway for irregular migrants to become regularized, enabling a country to manage migration more effectively, especially in contexts where there are continual flows of irregular migration (KII Libya Govt 7). Ongoing mechanisms are particularly beneficial for irregular migrants who have been in their host country for a long period of time and have established certain ties. In Spain, the *arraigo* mechanism allows for employment, family, education, and social ties.

Another advantage to ongoing mechanisms is that they tend to be less high profile and so receive less attention than large-scale one-off measures. They are therefore particularly suitable for countries where migration is a controversial issue (Levinson, 2005)

One challenge, however, is that ongoing mechanisms require permanent processing capacity to be in place. The application process is also more intensive, with eligibility criteria typically more difficult to meet than for one-off programs. Applications are also done on a case-by-case basis. As noted above, they are typically more expensive than one-off programs.

| Advantages   | Disadvantages   |
|--|---|
| <ul style="list-style-type: none"> <li>• Provides permanent pathway for irregular migrants to become regularized</li> <li>• Less high-profile so less likely to draw attention compared to a large-scale effort</li> </ul> | <ul style="list-style-type: none"> <li>• Tends to involve a much smaller number of irregular migrants</li> <li>• More expensive because applications are reviewed on a case-by-case basis.</li> <li>• Needs ongoing administrative and processing capacity</li> <li>• Application process is more intensive and requirements generally more difficult to meet than for a one-off program</li> </ul> |

## A combination of measures

Several experts said that a successful migration policy needs both ordinary and extraordinary approaches to regularization. While extraordinary campaigns are essential when there is a large concentration of irregular migrants in a territory, ordinary mechanisms are necessary to facilitate a gradual and ongoing regularization of foreigners, according to migrants' and employers' needs (KII Spain 2; KII Spain 3; KII key expert 3; KII key expert 4). As one expert noted, various policies and continuous programs are needed to keep people in legal status as much as possible (KII key expert 3). It is worth noting, however, that if Libya decides to proceed with regularization, it would need to consider that a combination of measures could be both logistically challenging and expensive to carry out.



A **key recommendation** for Libya, regardless of the type of regularization initiative implemented, is to ensure that regularized migrants are aware of what rights and social protections they are guaranteed as a result of regularization. This is important to clearly define expectations of the benefits surrounding regularization, as well as to ensure that migrants are able to access social protections. Overall, a rights-based approach to regularization is critical.



A **key recommendation** for Libya, is to consider employing a combination of measures through a phased approach, for example, starting with registration as a prerequisite to regularization and introducing an ongoing mechanism when politically and financially feasible. However the longer the amount of time between a one-off programme and an ongoing mechanism, the greater the likelihood that the number of irregular migrants increases. A phased approach could also provide Libya with time to plan for and finance the more costly components of regularization.

## Potential Framework

As seen in all three case studies, regularization initiatives are often targeted at particular groups of irregular migrants, with programs and mechanisms often linked to workers, or workers in particular sectors. Some programs also target migrants of a particular nationality, migrants seeking family reunification, or migrants with extenuating circumstances. This section examines how the Libyan government could consider which groups of irregular migrants could be targeted.

**Workers and employment.** For the regularization programs examined in Spain and Morocco, irregular migrants had to secure an offer of employment to apply, while in Italy, the government went further by limiting the 2020 programme to workers in the agri-food, domestic, and healthcare sectors. There are several potential advantages to restricting applications to employment outcomes. On the one hand, it ties regularization to the economy and labour market needs, while on the other, it is seen as more politically palatable to the local population.

Both of these factors were mentioned in interviews with Libyan government officials and CSO representatives, who said that organizing the migrant labour force is very important to the economy and migrants who pay taxes will be seen by Libyans as contributing to the economy (KII Libya Govt 1; KII Libya Govt 6; KII Libya expert 3, KII Libya expert 2). Some Libyan government officials also suggested that regularization initiatives could be restricted to certain

sectors where there is demand for migrant labour, for example, mechanics, construction, agriculture, cattle raising, bakeries, and cleaning (KII Libya Govt 5; KII Libya Govt 6; KII Libya Govt 1).

There are, however, several disadvantages to linking regularization so closely to employment, particularly in the Libyan context. Most experts interviewed for this study were highly critical of the Italian approach of limiting applications to workers from particular sectors, partly because it generally excludes a large number of irregular migrants, but also because it may lead to incidences of fraud, where people claim to work in sectors they are not qualified for.

It is also important to note that, depending on the level of employer involvement, migrants could be left with little ownership of the process and potentially exploitation. It will be important, therefore, to include safeguards in the design of such initiatives.

Linking regularization to employment contracts may also result in certain groups being excluded. For example, in Spain, Indian and Pakistani migrants faced greater difficulties securing work contracts compared to their Latin American counterparts and so faced higher rejection rates. This is an important takeaway for Libya where, for example, sub-Saharan migrants face greater integration challenges and higher levels of prejudice relative to migrants from other Arab countries (IOM & Voluntas, 2022). It may also be disadvantageous to women, who face higher unemployment rates in Libya and, for socio-cultural reasons, may not be able to work in certain sectors.

Another consideration is whether or not employers would want to be involved in the regularization process. Several Libyan government officials said that the labour law in Libya is very strict and protective of workers. According to UNDP, current labour legislation in Libya provides a wide range of benefits and substantial protection for workers. It emphasizes family rights, including the right to marriage and emergency leave. It provides for 14 weeks of paid maternity leave, including six weeks after delivery. Other types of leave are also permitted under the law, including sick leave, bereavement leave, leave to perform Hajj, and leave to take examinations (UNDP, 2021). Giving migrants official contracts would therefore not likely be of interest to employers. Government interviewees also noted that many employers hire irregular migrants because they can be more easily exploited. (KII Libya expert 12; KII Libya Govt 3).

Overall, in the context of Libya, given the large number of economic migrants, regularization initiatives will likely need to be linked to employment. This is also more likely to achieve public support. However, this is contingent upon the Libyan government communicating that regularized migrants would help fill necessary gaps in Libya's labour force. Additionally, the conditions of regularization initiatives tied to labour needs would need relatively lenient to limit the risk of unequal relationships with employers and by allowing a degree of labour mobility. This is discussed further in the recommendation below.

**Nationality restrictions.** Some Libyan government officials suggested that a regularization initiative in Libya could target the largest group of migrants in the country by nationality, or migrants from Arab countries because of their cultural proximity and therefore ease of integration (KII Libya Govt 1; KII Libya Govt 6).

However, this approach is generally not recommended by experts because it is considered exclusionary. In Libya, this would likely exclude large groups of irregular migrants from West Africa and South Asia. As such, enforcing nationality restrictions would be likely to severely limit the effectiveness of a regularization initiative in Libya.

**Family reunification.** Both Morocco's programs and Spain's *arraigo* mechanism were open to irregular migrants who wanted to reunite with family members who already have residency permits.

However, a CSO representative in Italy said that they were cautious of regularization initiatives that included family reunification because it increased the risk of exploitation to women and minors who may be subject to arranged marriages and domestic violence (KII Italy 1). This

would be a particular concern in Libya where human trafficking, exploitation of irregular migrants, and political instability is widespread.

**Extenuating circumstances.** Some countries provide regularization pathways for irregular migrants who face extenuating circumstances. In Italy, for example, irregular migrants can apply to be regularized if they face serious situations of violence or exploitation with concrete dangers to their safety.<sup>19</sup>

However, such a mechanism will likely be very difficult to implement in Libya. As outlined above, the Libyan context is characterized by a large number of irregular migrants experiencing violent situations such as trafficking, extortion, arbitrary detention, and sexual exploitation. In a landscape with weak rule of law and widespread impunity, such transgressions are difficult to prove and prosecute (UNHCR et al., 2017).

In all three of the cases studied, irregular migrants who participated in regularization programs were granted one-year, or in the case of Italy, up to two-year residence permits, which were renewable. As discussed above, permits are often closely tied to employment contracts.

Several experts interviewed for this study criticized the length of the programs, saying that they did not provide long-term stability for migrants and further increased the likelihood of migrants falling back into irregularity.

When designing a regularization program, policymakers should therefore consider realistic timeframes that enable migrants to achieve longterm stability.



A **key recommendation** for Libya, is to align regularization initiatives to labour needs. Most Libya government interviews said that labour needs and employment should be central to any regularization process given the importance of migrant labour to Libya as well as the likelihood of regularization initiatives being accepted by the general population. Further to this, it is important that regularization is (i) not limited to particular sectors, (ii) employers are not made responsible for the application process, and (iii) migrants are able to maintain agency during the process. It is also important that any initiatives linked to employment should be considered with a gender lens to avoid making women more vulnerable. Overall, the framework for regularization should be flexible to enable as many irregular migrants as possible to regularize ("if you want people to be legalized, help them achieve this" (KII key expert 3)).

## Key implementation considerations

### Documentation required

Applicants to regularization initiatives are generally required to provide a number of documents such as an identity card or passport and a criminal record certificate. Depending on the reasons for regularization, other documents that may be required include copies of marriage contracts and birth certificates (family reunification), or a certificate or offer of employment (employment-based programs). Regularization programs are also often restricted to migrants who have been in the country for a certain amount of time.

A recurring theme in all three case studies was the difficulties faced by migrants in meeting the eligibility criteria and providing the required documents. For many irregular migrants, identity documents are often lost during perilous journeys and the nature of being irregular

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<sup>19</sup> It should be noted that this is distinct from an asylum system.

means that they operate under the radar and so their activities are undocumented. Furthermore, providing documents that require the cooperation of the migrant's country of origin is often challenging, because these governments may not have the capacity, or be willing, to provide the necessary documents. Migrants who have entered a country illegally may also struggle to prove how long they have been in the country.

To help migrants become regularized, the documentation required should be kept to a minimum, but at the same time be flexible so that migrants have different options. In Morocco, for example, CSOs negotiated with the authorities so that migrants without a passport could instead present an ID or consular card provided by the embassy of their country of origin (KII Morocco 1). Similarly, certificates issued by CSOs were accepted by some offices as proof of stay in the country (KII Morocco 5). For countries with large number of migrants who have entered illegally, experts recommend avoiding any conditions related to proving that they entered regularly. Sworn statements can also be used in place of certain documents such as criminal records. In general, the requirements should be clear to avoid mistakes and confusion.

It is likely that irregular migrants in Libya would have great difficulties providing documents, as well as proving their length of stay. As seen in the survey, while roughly half of migrants have access to a current passport, there are significant disparities among different groups, with only 19 per cent of respondents from West Africa saying they had access to a passport compared to 81 per cent of North Africans.

#### Application process and administrative capacity

When designing the application process, it will be important for the Libyan government to determine an approximate number of irregular migrants who are likely to apply to any regularization initiative to ensure sufficient administrative capacity.

Across the cases studied, applicants, or their employers, were generally required to submit paperwork via post, in person, or online; or, in the case of Italy, a combination of in-person or post/online. For digital applications, a key consideration is whether irregular migrants have access to the necessary digital tools (for example, smartphone, access to internet) and whether governments themselves have adequate digital infrastructure to process the applications. In Libya, given internet access and the postal service are considered poor, applications will likely need to be made in person ("Digital 2022: Libya," 2022; Universal Postal Union, 2019).

One additional consideration is the use of personal interviewing to assess migrants' applications. While it is generally not used for one-off regularization programs, it is used in the case of the ongoing arraigo mechanism in Spain. According to one key expert, personal interviewing is considered a "disaster" because migrants are often subjected to the biases of the interviewee. It is therefore not recommended (KII key expert 3).

Finally, it is important that staff tasked with processing applications receive adequate training.

#### Communication and outreach to migrant communities

Experts interviewed for this study highlighted the importance of outreach to migrant communities so that potential applicants are aware of any regularization initiatives. In addition to publishing information materials in migrant's native languages, policymakers should focus on media channels used by specific migrant communities (newspapers, radio, social media) and places where migrants go (religious institutions, clubs) (KII key expert 4). The majority of survey respondents said their preferred means of communication was social media, followed by the internet and WhatsApp so Libyan government officials could, for example, consider a social media campaign.

In addition to understanding the benefits of regularization and how the program will work, it will also be important to establish channels to answer questions and address any concerns that potential applicants may have. As will be discussed in further detail below, the role of IOs and CSOs here will be key. As seen in all three case studies, CSOs, in particular, were crucial in

terms informing migrants about the process, alleviating concerns, and even helping applicants fill out and submit their applications.

### Grievance mechanisms

An important consideration in the design and implementation of potential regularization initiatives is the use of grievance mechanisms. Morocco established the National Monitoring and Appeals Commission, composed of government representatives and civil society actors, which was tasked with examining grievances and rejected applications. It also played a key role in suggesting changes and improvements to the overall regularization process. It is important, however, that migrants are not only aware that such a mechanism exists but also how such procedures work.

Finally, alongside the implementation of a regularization initiative, the Libyan government should also consider how migrants will be integrated into society over the long-term. As noted by a Moroccan government official, any initiative should have a broader vision than regularization that takes into account the longterm integration of migrants.



Based on the above, **key recommendations** for Libya include:

- (i) A lesson learned from both ordinary and extraordinary processes is that eligibility conditions must facilitate migrants' participation rather than discourage it. That is, admissibility criteria must be reasonable and realistic, and migration legislation must be flexible enough to evolve over time and adapt to new circumstances. To prevent lapses into irregularity, criteria to maintain regularized status must not be difficult to meet.
- (ii) Libya's migration management system and institutional structure and capacity are inadequate to meet the challenges facing the country (IOM, Assessment of the priorities for the development of Libya's migration policy: A strategic vision, 2014). Even for European countries with high capacity, regularization is difficult, and would be even more so in the context of a weak rule of law, such as in Libya. As implementing any form of regularization initiative would require significant administrative resources and planning, it would be favorable to establish a Libyan internal coordination forum composed of the main Libyan authorities responsible for migration.). Since there are few structures or procedures for cooperation, a decision at a higher level would be required for ministries to collaborate. Additionally, it is very likely that Libya will require international support to successfully implement regularization.
- (iii) Finally, ensuring that CSOs have a role in the grievance redressal process would be advantageous as CSOs can help support case management and advocacy.

## Role of key stakeholders

### Government

In all of the countries studied, several government ministries were involved in the design and implementation of the respective regularization programs. Key ministries are typically the

Ministry of Interior and the Ministry of Labour. Local administrative bodies also play an important role in the administration and implementation process.

Interviewees noted that in Libya, the ministries or government agencies that would most likely be involved in any regularization initiative would be the Ministry of Interior, the Ministry of Social Affairs, the Ministry of Labour, the Department for Combating Illegal Migration (DCIM) and immigration department/passport control agencies (agencies within the ministry of interior).

As a consequence, engaging other ministries that are more trusted by migrants (e.g., the Ministry of Labour and the Ministry of Local Governance) would encourage greater participation. Additionally, one way to circumvent the lack of trust would be to implement regularization at the local level with the involvement of local authorities.

Another consideration with regards to government actors is the degree of cooperation and competition between different government bodies. Furthermore, different government bodies may adopt different approaches to the process. In all three case studies, there were reportedly discrepancies, particularly at the local level, in how the processes was applied. d

Coordination among different government bodies is likely to be a significant challenge in Libya considering the country's fractured central government and regional tensions. Different regions may have different approaches and/or different applications of policies based on what is the most advantageous. It is also important to note that since 2011, militias have been running security in some parts of the country, including monitoring migrants and managing the detention centres where they are held. This is still the case in some regions of the country, and would likely further complicate a unified implementation strategy.

#### Employers and trade unions

As seen in both Italy and Spain, employers are often central to regularization programs.

The involvement of employers can be advantageous in that it ensures the focus of regularization initiatives on the economy and jobs. Getting the buy-in of employers can help improve public opinion and increase the program's overall chance of success.

At the same time, however, not all employers are keen to participate, because hiring workers legally generally involves higher costs, salaries that will likely need to meet minimum salary thresholds and social security costs. In Italy, employers were reluctant to participate in the process for fear it would lead to fiscal checks and fines.

The involvement of the employers also has potential disadvantages for the applicant. First, applicants can be denied agency if the process is too reliant on the input of employers. Secondly, it increases the risk of exploitation; for example, employers may pass any costs related to regularization onto the worker. Furthermore, in Italy, there were several reports of employers blackmailing workers who wanted to regularize, by demanding money, or requiring them to work extra hours. Finally, certain groups may struggle to find employers willing to hire or support them. As discussed above, this was the case with Indian and Pakistani workers in Spain, who had greater difficulty finding employment contracts compared to their Latin American counterparts.

#### Civil society organizations and international organizations

In addition to government actors and employers, CSOs also played a significant role in the regularization processes in each of the countries studied. In Spain, CSOs engaged in outreach to irregular migrant communities and hosted events and information sessions to manage questions and concerns. In Morocco, CSOs were instrumental in both the design and implementation of the 2014 and 2017 programs and further participated in feedback and grievance mechanisms. In all three countries, CSOs supported migrants throughout the process, helping them gather the necessary documents and submit applications. Additionally, international organizations (IOs) present in Libya may be valuable auxiliary

### ***Conclusion and recommended ways forward***

The first step in implementing a regularization initiative is agreeing on the key objectives. Findings suggest that policymakers should be concrete, as these objectives will guide the design of such initiatives, including who should be targeted. Here it is recommended that labour needs and employment outcomes be key considerations in determining which irregular migrants to regularize. Furthermore, all relevant actors (i.e., government ministries, employers, and CSOs) should be included in the design and implementation phases.

The case studies point to three common regularization scenarios: (i) registrations, (ii) one-off regularization programs, and (iii) ongoing regularization mechanisms. Registration occurs at the local level, and may offer access to basic services and protection. This is in addition to the basic rights that migrants must be afforded regardless of status. Registration, and all forms of regularization must guarantee access to these rights and ensure that migrants are integrated into the necessary processes. In the case of Libya, registration provides an opportunity to build trust at the local level. One-off programs are larger-scale efforts by the state to regularize a targeted population of migrants within a specified time period. These programs could help Libya address its large population of irregular migrants, however, this is not a sustainable solution to Libya's migration challenges. Ongoing mechanisms are permanent policy fixtures where pathways are established for migrants to apply for regularization on a case-by-case basis. A potential challenge would be that these mechanisms require significant administrative capacity and are costly. For Libya's current situation, a combined scenario approach is recommended, where registration initiatives serve as a prerequisite to a forthcoming one-off programme and ongoing mechanism. However, it is acknowledged that Libya will likely need international support to finance and capacitate such initiatives.

Successful implementation is also dependent on policymakers to (i) minimize required documentation and eligibility criteria, (ii) anticipate needed administrative capacity, (iii) engage in thorough outreach to migrants, (iv) create and maintain grievance redressal mechanisms for applicants, and (v) develop a long-term strategy for integrating migrants into Libyan society once regularized.

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A dark blue-tinted photograph of a mosque minaret seen through an archway, with palm trees in the foreground. The minaret is tall and slender, with a pointed top. The archway is made of stone or brick. The palm trees are in the foreground, and the background shows a building with a grid-like facade.

# Appendices

## **Additional details of the methodology and analytical framework**

As discussed earlier in the report, this study's analytical framework was structured around three phases. These phases are detailed further below.

### **Phase I: Contextual understanding**

In the first phase, Voluntas conducted a preliminary assessment of the demographic profile of migrants in Libya, considering country of origin, gender, age, marital status, and profession. Additionally, through desk review and the CAPI survey, Voluntas examined how the social, political, and economic context within which migrants live might impact their ability and/or desire to regularize their status. This context assessment was further supported by two previous IOM studies conducted by Voluntas in Libya: an assessment of the impact of COVID-19 on migrants and a study examining perceptions of migrants among host communities. These studies helped inform our understanding of Libya's social, political, and economic context vis-à-vis the migrant population, as well as what could promote or disincentivize regularization.

In partnership with IOM, Voluntas identified European and North African countries where regularization measures have previously been implemented. CoDs were evaluated according to the scope of their regularization measures and comparability of migrant demographics and local perceptions of migrants to the Libyan context. This identification and selection process is detailed further under the section "Rationale for Case Study Selection."

### **Phase II: Migrant regularization context (Libya and CoDs)**

Within the CoD case studies, the research team analysed the legal frameworks of key regularization programs, including the technical processes and conditions of these programs. We also assessed the benefits and incentives for participation, including the services and protection mechanisms available to regularized migrants. Finally, the team analysed communication and outreach from governments and key stakeholders to targeted irregular migrant communities. Within Libya, the researchers evaluated the current landscape of migration policies and the socio-economic situation for migrant communities. This served to identify where regularization efforts may best fit within the Libyan context and what benefits could be realized. Prominent organizations and institutions involved in migration policy and regularization efforts were also identified.

In addition to the legal and protection-based components of migrant regularization, Voluntas examined the conditions of employment and recruitment in relation to these programs. In CoD case studies, recruitment drives, employment-based conditions, and wage benefits of regularization programs were also explored. Moreover, the case studies analysed challenges faced by implementing governments and migrants participating in regularization processes. The team also explored the impact of regularization programs on local labour forces and local wages, to the extent possible. Within Libya, the economic situation of irregular migrants was assessed, including exploring what impact regularization could have on a large informal economy as well as the local labour force.

### **Phase III: Operationalization**

Findings from phases I and II were operationalized into evidence-based recommendations for a scalable regularization model in Libya. As part of this process, the team also identified global best practices. The core feature of this study was informing the feasibility of applying these practices to the Libyan context.

The figure below outlines the specific components, indicators, and modes of data collection.

## Analytical framework

• Voluntas will investigate the context of migrant regularization within Libya and three selected CoDs, which will inform the feasibility of a regularization model in Libya. To do so, we will structure the research into three main phases: (Phase I) preliminary contextual understanding of Libya and identifying CoDs, (Phase II) analyzing regularization frameworks, protection mechanisms, and conditions of employment in Libya and the selected CoDs, and (Phase III) operationalizing a scalable regularization model.

| Phase  | Components                                     | Sub-components  | Modes of Data Collection |      |      |      |
|--|--|---|--------------------------|------|------|------|
|  |  |   | DR                       | IDIs | FGDs | CAPI |
| Phase I:<br>Contextual understanding                         | Libyan context assessment                      | Demographics of migrants with Libya as their CoD  | ✓                        | ✓    |      | ✓    |
|  |  | Social, political, and economic context of Libya  | ✓                        | ✓    | ✓    | ✓    |
|  |  | Local perceptions of migrants   | ✓                        | ✓    | ✓    | ✓    |
|  |  | Legal framework related to migrant regularization and its application                                 | ✓                        | ✓    | ✓    | ✓    |
|  | Identification of CoDs                         | Demographics of migrants choosing CoD   | ✓                        | ✓    |      |      |
|  |  | Social, political, and economic context of CoD  | ✓                        | ✓    |      |      |
|  |  | Local perceptions of migrants   | ✓                        | ✓    |      |      |
|  |  | Legal framework related to migrant regularization and its application                                 | ✓                        | ✓    |      |      |
| Phase II:<br>Migrant regularization context (Libya and CoDs) | Legal framework and protection mechanisms      | Legal framework for migrant regularization, including protection                                      | ✓                        | ✓    | ✓    | ✓    |
|  |  | Protection mechanisms made available to migrants  | ✓                        | ✓    | ✓    | ✓    |
|  |  | Compliance with international standards   | ✓                        | ✓    | ✓    | ✓    |
|  |  | Grievance redressal mechanism in place for migrant workers during the regularization process          | ✓                        | ✓    | ✓    | ✓    |
|  | Conditions of employment and recruitment       | Effect of protection mechanism on migrants  | ✓                        | ✓    | ✓    | ✓    |
|  |  | Main stakeholders   | ✓                        | ✓    | ✓    | ✓    |
|  |  | Wages and benefits provided following regularization  | ✓                        | ✓    | ✓    | ✓    |
|  |  | Challenges faced by migrants after regularization   | ✓                        | ✓    | ✓    | ✓    |
|  |  | Impact on employment opportunities for local labor force including long-term effects on local wages   | ✓                        | ✓    | ✓    | ✓    |
| Phase III:<br>Operationalization                             | Development of a scalable regularization model | Global migrant regularization best practices and how they can be customized to fit the Libyan context | ✓                        | ✓    |      |      |

\*Note: Quantitative data can be compared for perceptions of migrants on a national level. However, disaggregating by gender, age, or other demographics would increase the margin of error  
DR: desk review; IDI: in-depth interview; FGD: focus group discussion; CAPI: computer assisted personal interview

Voluntas | 5

Figure 39. Analytical Framework

## Data collection modes

Further information specific to each mode of data collection is detailed below.

### Desk review

To gain a better understanding of the legal and political context and the status of migrant regularization in Libya and selected CoDs, an extensive desk review was conducted. Spread across phase I and phase II of the project, desk review was integral to the selection and development of the CoD case study analysis. The desk review also contributed to the scoping of data collection instruments and the identification of relevant interviewees. Furthermore, the desk review informed this study's foundational understanding of the socio-economic conditions for irregular migrants in Libya, as well as Libya's current approach to migration policies. The review covered existing data, publications, reports, assessments, academic studies, and legal documentation. Additionally, Voluntas drew from both its own recent publications and key documents identified by IOM.

### In-depth interviews (IDIs)

The IDIs served to add nuance and fill knowledge gaps identified in the desk review. In addition to adding further understanding of the legal frameworks and labour components of irregular migration and regularization, the interviews also covered potential application to the Libyan context. Voluntas conducted 46 remote IDIs in both Libya and selected CoDs (case studies). In Libya, A total of 11 IDIs were conducted with government representatives (six at the national level and five at the local level). A further 12 IDIs were carried out with key Libya experts, including CSO representatives and experts at IOM. For the CoD case studies, interviews were conducted with research, policy, and civil society experts in each of the selected countries.

Eight interviews were conducted in Italy, seven in Morocco, and four interviews in Spain. Finally, four IDIs were conducted with experts on regularization at a global level.

## Focus group discussions (FGDs)

Voluntas carried out two gender-segregated focus groups discussions in Benghazi, Sebha, and Tripoli – six in total – with irregular migrant workers. FGDs discussed potential regularization scenarios, including what would incentivize participation in regularization and with which institutions or actors irregular migrants would feel comfortable engaging.

## Computer assisted personal interviewing (CAPI) survey

To capture insights from migrant workers in Libya on their status, situation, and perspectives on regularization, a total of 301 CAPI surveys were carried out across Libya –roughly 100 in each of the regions (East, South, and West). This ensured national level representativity at approximately a 5-6% margin of error at a 95% confidence interval.

The proposed sample size and distribution is shown below:

| Region | Total |
|--------|-------|
| West   | 100   |
| East   | 100   |
| South  | 100   |
| Total  | 300   |

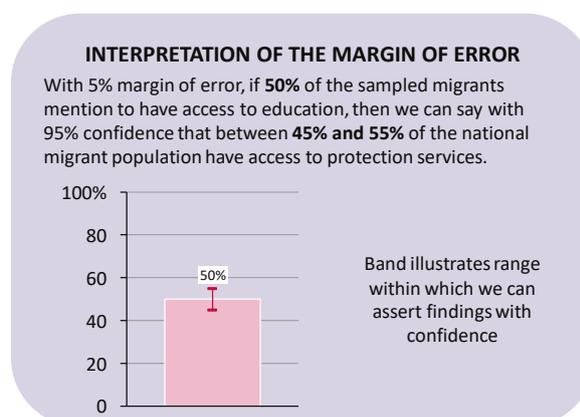


Figure 40. Data collection overview

## Rationale for Case Study Selection

For the case study selection, Voluntas and IOM explored a number of European and North African countries where regularization measures had previously been implemented. The suitability of CoDs was assessed according to the scope of their regularization measures and the comparability of migrant demographics and local perceptions of migrants to the Libyan context.

For European countries, Spain and Italy were selected because they have implemented several high-profile regularization programs since the 1980s, including two of the largest. Spain also maintains a permanent mechanism for regularizing migrants known as "arraigo". Italy, meanwhile, recently implemented a regularization program to mitigate the labour impacts of COVID-19. As this programme is still ongoing this provided an opportunity to study an existing regularization program.

Within North Africa, Morocco is the only country to have implemented a regularization programme and is therefore a particularly useful study to apply to the Libyan context.

## Key Limitations and Challenges

Over the course of data collection, Voluntas and Diwan faced a number of challenges which could limit the broader application of this study's findings.

**Responsiveness among IDIs**, particularly among Libyan government representatives was a key challenge. In several cases, Voluntas researchers made numerous attempts to contact the representatives identified by IOM. Of the 23 identified representatives, 11 were responsive and agreed to participate in an interview. Responsiveness was also a limitation faced with identified CSOs in Morocco. However, this was mitigated by leveraging the network of the respondents who Voluntas researchers were able to reach. Responsiveness among FGD participants was also a significant challenge. Many irregular migrants who were identified ultimately declined to participate either as an act of precaution or because the study did not offer remuneration or financial support.

**Language barriers** were a key concern for data collection with irregular migrant communities in Libya, particularly when targeting non-Arabic or non-English speakers. Relying only on communities who could speak Arabic or English would have skewed the demographic profile of the sample of participants. To mitigate this, the CAPI survey questionnaire was preloaded in Arabic, English, and French for the interviewees use. (It should be noted that Voluntas-Diwan enumerators were unable to verbally support respondents in French, which could limit the participation of individuals with restricted literacy rates). For FGDs, Voluntas coordinated with IOM staff in Libya to facilitate the presence of a French translator during the sessions.

Furthermore, it should be qualified that while **CAPI surveys are representative** at the national level, data collection was primarily conducted in three major cities: Benghazi (East), Sebha (South), and Tripoli (West). Therefore, representativeness should be interpreted with caution. Additionally, due to difficulties reaching migrants in Benghazi, some surveys were conducted in other cities in the East.

Considering the sensitive nature of the research topic, **terminology on regularization** was approached with caution when interviewing government representatives. Terms such as "informal worker" and "organizing the labour market"/"registrations" were used in place of "irregular migrant" and "regularization program." This approach could potentially have contributed to a lack of clarity for key informant respondents.

Most importantly, **data collection with irregular migrants** (a highly vulnerable group within Libya), was approached with a high degree of caution, with the team ensuring a do-no-harm approach. Consent was also emphasized in both CAPI and FGD participation. All FGDs were conducted in close proximity to the residential areas where irregular migrants live and work, to avoid any issues with checkpoints. Furthermore, no names or identifying information were collected during data collection. With all FGD participants, aliases have been used.

## CAPI Survey Questionnaire

### IOM – Voluntas – Diwan Regularization Feasibility Study CAPI Survey Questionnaire

#### Introduction

Welcome and thank you for agreeing to take part in this interview. My name is \_\_\_\_\_ [says the name], I am working as a researcher for a company called Diwan.

Voluntas Advisory, a Danish consulting company based in Tunis and Copenhagen, and Diwan have been contracted by the International Organization for Migration to conduct feasibility study on migrant regularization in Libya. The research aims to examine the feasibility of implementing a regularization model in Libya, including from the perspective of irregular migrants residing in Libya.

This survey will take around \_\_ minutes to complete. You will not receive any payment or reward for participating in this research. Please note that you are free to withdraw at any stage of this survey and that you can decline to answer any particular question without reason. Your name will not be recorded, and your responses will be confidential.

#### 1. Consent

101. Do you agree to participate in the survey?
1. Yes
  2. No [end interview]

#### 2. Demographics

201. How old are you?  
[Age number; if under 18, end interview]
202. What is your gender?
1. Female
  2. Male
  96. Don't know
  97. Refuse to answer
203. What municipality do you live in?  
[Dropdown menu of Libyan municipalities]
204. What is your nationality?
1. Niger
  2. Egypt
  3. Sudan
  4. Chad
  5. Nigeria
  6. Other, please specify: \_\_\_\_\_
  96. Don't know

97. Refuse to answer
205. What is your current employment status?
1. Employed
  2. Self-employed
  3. Not working and not looking for work
  4. Unemployed
  5. Student
  6. Retired
  7. Other, please specify: \_\_\_\_\_
96. Don't know
97. Refuse to answer
206. What industry are you currently employed in?
1. Hospitality & service industry
  2. Agriculture
  3. Waste management (incl. trash collection and sewage management)
  4. Retail
  5. Construction
  6. Manufacturing
  7. Oil and gas production
  8. Retired
  9. Other, please specify: \_\_\_\_\_
96. Don't know
97. Refuse to answer
207. What is your average monthly income in Libyan Dinar?
1. Less than 500
  2. 500-1,500
  3. 1,500-3,000
  4. 3,000-4,500
  5. 4,500-6,000
  6. 6,000-7,500
  7. More than 7,500
96. Don't know
97. Refuse to answer
208. What is the highest level of education you have completed?
1. No formal education
  2. Primary school
  3. Secondary school
  4. Intermediate school
  5. University-level education
  6. Post-graduate-level education
  7. Vocational education
96. Don't know
97. Refuse to answer

### 3. Feasibility of regularization in Libya

301. What were your reasons for coming to Libya? [Please select all that apply].
1. I came to Libya to find a job
  2. I came to Libya to improve my economic situation
  3. I came to Libya to join family members
  4. I came to Libya because I felt unsafe in my country of origin
  5. I came to Libya because I want to travel to another country
  6. Other, please specify: \_\_\_\_\_
  96. Don't know
  97. Refuse to answer
302. How long have you been in Libya? [open question]
303. Do you have any of the following for Libya [tick all that apply]
1. A work permit
  2. A temporary residence permit
  3. A permanent residence permit
  4. I don't have a permit
  5. Other, please specify: \_\_\_\_\_
  96. Don't know
  97. Refuse to answer
304. Please select the following response that best matches your future plan.
1. I intend to stay in Libya
  2. I intend to move back to my country of origin
  3. I intend to travel to another country to settle
  96. Don't know
  97. Refuse to answer
305. If you were able to legally stay in Libya (short-term or long-term), would you like to stay?
1. Yes
  2. No
  96. Don't know
  97. Refuse to answer
306. If you were given the opportunity to register with your municipality to receive access to basic services, would you register your details?
1. Yes
  2. No
  96. Don't know
  97. Refuse to answer
- 306a. If you answered no, would you be interested in registering your details if these details were shared only with the municipality and no other institutions?
1. Yes
  2. No
  96. Don't know
  97. Refuse to answer
307. If the Libyan government would implement a programme that would enable migrants who have been in Libya for a certain amount of time a work permit, would you participate?
1. Yes

- 2. No
- 96. Don't know
- 97. Refuse to answer

307a. If you answered no, please explain why. [Open ended response]

308. If the Libyan government would implement a programme that would enable migrants who have been in Libya for a certain amount of time a residence permit, would you participate?

- 1. Yes
- 2. No
- 96. Don't know
- 97. Refuse to answer

308a. If you answered no, please explain why. [Open ended response]

309. If you were to obtain a legal permit in Libya, what would be the main benefits [please tick all that apply]

- 1. Access to job opportunities
- 2. Better working conditions
- 3. Access to higher salaries
- 4. Improved access to health services
- 5. Improved access to educational opportunities for your children
- 6. Improved acceptance by Libyan communities
- 7. Freedom of movement within Libya
- 8. Feel more secure in my environment
- 9. Ability to leave Libya and return without problems
- 10. Opportunity for family reunification
- 11. Other, please specify: \_\_\_\_\_
- 96. Don't know
- 97. Refuse to answer

310. Which personal documents do you currently have access to? [tick all that apply]

- 1. Current passport
- 2. Expired passport
- 3. Birth certificate
- 4. Proof of employment / work contract in Libya
- 5. Proof of address in Libya
- 6. Proof of no criminal record
- 7. Other, please specify: \_\_\_\_\_
- 96. Don't know
- 97. Refuse to answer

311. Which Libyan institutions would you feel most comfortable registering your details [tick all that apply]

- 1. Ministry of Interior
- 2. Ministry of Social Affairs
- 3. Ministry of Labour
- 4. My local municipality
- 5. Police or law enforcement
- 6. Ministry of Foreign Affairs

7. Other, please specify: \_\_\_\_\_  
 96. Don't know  
 97. Refuse to answer
312. Which Libyan institutions would you feel least comfortable registering your details [tick all that apply]
1. Ministry of Interior
  2. Ministry of Social Affairs
  3. Ministry of Labour
  4. My local municipality
  5. Police or law enforcement
  6. Ministry of Foreign Affairs
  7. Other, please specify: \_\_\_\_\_
96. Don't know  
 97. Refuse to answer
313. How comfortable would you feel with your employer applying for a work/residence permit on your behalf?
1. Very comfortable
  2. Comfortable
  3. Neutral
  4. Uncomfortable
  5. Very uncomfortable
96. Don't know  
 97. Prefer not to answer
314. Which of your personal details would you be willing to register with the Libyan authorities [please tick all that apply]
1. Name
  2. Contact information (e.g., address, telephone number)
  3. Date of birth/age
  4. Nationality
  5. Passport number
  6. Other, please specify: \_\_\_\_\_
96. Don't know  
 97. Refuse to answer
315. Do you belong to or associate with any of the following:
1. Labour union
  2. Employment association
  3. Other, please specify: \_\_\_\_\_
96. Don't know  
 97. Refuse to answer
316. Do you receive support from any of the following [please select all that apply]
1. Civil society organization (CSO)
  2. International organization
  3. Non-governmental organization (NGO)
  4. Religious institution (e.g., mosque, church)
  5. Other, please specify: \_\_\_\_\_
96. Don't know

97. Refuse to answer

317. What is the primary means of communication you use to receive information and news?  
[please select all that apply]

1. TV
  2. Radio
  3. Newspaper/magazines
  4. Word of mouth (friends, family, colleagues, etc.)
  5. Internet
  6. Social media (e.g., Facebook, Instagram, etc.)
  7. WhatsApp
  8. Telegram
  9. Religious institution (e.g., church, mosque, etc.)
  10. Charitable organization (e.g., CSO, NGO, international organization)
  11. Other, please specify: \_\_\_\_\_
96. Don't know  
97. Refuse to answer

318. If you were given the opportunity to legally stay in Libya, do you think that your overall situation would improve?

1. Yes
  2. No
96. Don't know  
97. Refuse to answer

318a. If you answered no, please explain why you do not think that your situation would improve. [Open ended response]

319. Do you have any additional comments? [open ended]

## FGD Guide

### IOM – Voluntas – Diwan Regularization Feasibility Study FGD with irregular migrants

#### Introduction

Welcome and thank you for agreeing to take part in this discussion. My name is \_\_\_\_\_ [says the name], I am working as a researcher for a company called [Diwan/Voluntas].

Voluntas Advisory, a Danish consulting company based in Tunis and Copenhagen, and Diwan have been contracted by the International Organization for Migration to conduct a feasibility study on migrant regularization in Libya.

This discussion will take around one hour to complete. You will not receive any payment or reward for participating in this research. Please note that you are free to withdraw at any stage of the interview, and that you can decline to answer any particular question without reason. Your name will not be listed in the final report.

|   |  |
|---|--|
| <b>Interviewer Name</b>                                 |  |
| <b>Participant Names</b><br><i>(Please use aliases)</i> |  |
| <b>Region</b>   |  |
| <b>Date (dd.mm.yyyy)</b>                                |  |
| <b>Start time</b>                                       |  |
| <b>End time</b>   |  |
| <b>Interview in-person / remote</b>                     |  |

| Regularization scenarios   |  |
|--|--|
| 101. If the Libyan government were to implement a programme that would enable migrants who have been in Libya for a certain amount of time to stay in the country legally, do you think migrants generally would be interested in participating? Why or why not? |  |
| 102. If migrants were to obtain a legal permit to stay in Libya, what do you think would be the main benefits to them? Please discuss.   |  |

|   |  |
|---|--|
| <p>103. A number of countries in Europe and North Africa have implemented measures over the last 20 years to organize irregular migrants. Which of these do you think would work best in the Libyan context? Please discuss:</p> <ul style="list-style-type: none"> <li>a. Informal migrant workers registering with municipal authorities to receive access to healthcare and other basic services</li> <li>b. The government could enable informal migrant workers who have been in Libya for a certain amount of time to receive a residence or work permit</li> <li>c. The government could enable other migrants with family in Libya to receive a residence or work permit</li> <li>d. The government could enable other migrants to receive a residence or work permit for humanitarian reasons</li> <li>e. Other</li> </ul> |  |
| <p>104. In your opinion, would migrants be comfortable with registering their details with Libyan institutions?</p> <ul style="list-style-type: none"> <li>a. Which institutions would migrants be most comfortable sharing their details with?</li> <li>b. Which institutions would migrants be least comfortable sharing their details with?</li> </ul>   |  |
| <p>105. Overall, what conditions do you think would incentivize irregular migrants to participate in a registration or regularization program?</p>  |  |

**Employment and recruitment**

|   |  |
|---|--|
| 201. In your opinion, should employers be involved in the regularization process? (For example, by submitting the application on behalf of the migrant.) Why, or why not?   |  |
| 202. Overall, do you think that if migrants were to receive residence/work permits they would have better access to job opportunities? Why or why not?<br><br>a. Do you think salaries would improve? Why or why not? |  |
| 203. Do you think that employers in Libya would look favorably on migrants becoming legal residents? Why or why not?  |  |

**Potential impact and challenges**

|   |  |
|---|--|
| 301. In your opinion, what challenges would migrants face when undergoing a regularization process?                             |  |
| 302. In your opinion, what could be the disadvantages to migrants of participating in a registration or regularization program? |  |
| 303. Overall, what impact do you think a regularization programme would have on participating migrants?                         |  |

|  |  |
|--|--|
| 304. Do you think public opinion of migrants would improve if migrants were to become legal? Why or why not? |  |
|--|--|

## KII Master Guide: CoD Govt representative

### IOM: Regularization Feasibility Study Interview Guide – CoD Interviewee: Government representative

Welcome and thank you for agreeing to take part in this interview. My name is \_\_\_\_\_ [says the name], I am working as a \_\_\_\_\_ [says the role] for Voluntas.

Voluntas, a Danish consultancy company based in Tunis, Copenhagen and Khartoum, has been contracted by the International Organization for Migration (IOM) to conduct a feasibility study on migrant regularization in Libya.

As a part of this study, we are examining the feasibility of implementing a regularization model in Libya. To inform our research, we are carrying out case studies of countries with experience in implementing regularization programs, including in [country].

During this interview, we would like to gain further insights on the prior and/or current regularizations programs implemented in [country]. We will focus on understanding the legal frameworks, protection mechanisms, and employment conditions associated with these programs. Finally, emphasis will be placed on extracting impact, successes, challenges, and lessons learned.

Please note that you are free to withdraw at any stage of this interview and that you can decline to answer any particular question without reason. Your name will be used only internally for the purpose of reporting on the findings of the mapping. Your identity will not be publicly disclosed as part of your participation in this interview.

Do you agree to participate in this interview (yes/no, comment)?

| 1. Background questions     |                  |
|-----------------------------|------------------|
| Targeted country            |                  |
| Interviewer                 | Name and Surname |
| Interviewee                 | Name and Surname |
| Interviewee contact details | Phone and email  |
| Interviewee role/position   |                  |
| Interview language          |                  |
| Date                        | --/--/----       |
| In person/Remote            |                  |
| Start time                  | HH.MM            |

| Questions   | Answers |
|---|---------|
| 1. Introduction   |         |
| 1. Could you please briefly introduce yourself and describe your role?                        |         |
| 2. How would you describe the current situation regarding irregular migrants in your country? |         |
| 3. What are your government's current policies and priorities                                 |         |

|  |  |
|--|--|
| regarding irregular migration in your country? |  |
|--|--|

**2. Legal framework and protection mechanisms**

**Note: For questions on regularization, the interview may need to ask these for each separate regularization program.**

|   |   |
|---|---|
| 4. Has your government previously implemented a regularization program(s)? If yes, please describe.                         |   |
| 5. Is your government currently implementing any regularization programs? If yes, please describe.                          |   |
| 6. What were the key objectives of these programs?  |   |
| 7. Did these regularization programs target any particular groups of irregular migrants? (e.g., nationalities, gender) why? |   |
| 8. What were the eligibility requirements for these regularization programs?  | <input type="checkbox"/> Proof of current employment in [country]/employer sponsorship<br><input type="checkbox"/> Proof of residing in [country] for a set period of time<br><input type="checkbox"/> Proof of paying taxes<br><input type="checkbox"/> Skilled workers or labourers in a particular sector(s)<br><input type="checkbox"/> Belonging to a certain nationality: Please specify<br><input type="checkbox"/> Family reunification<br><input type="checkbox"/> Other: Please specify |
| 9. How would you describe the uptake for these programs?  |   |
| a. Were migrants overall willing to register? If not, why?  |   |
| 10. Under these programs, how long are regularized migrants able to stay legally in [country]?                              |   |
| 11. How likely are regularized migrants to lapse back into irregularity?  |   |
| a. Are certain groups more likely to lapse back into irregularity than others?  |   |

|  |   |
|--|---|
| 12. What rights and/or benefits did migrants receive through these regularization programs?  | <input type="checkbox"/> Right to live in [country] without threat of detention or deportation<br><input type="checkbox"/> Right to housing (rent or ownership)<br><input type="checkbox"/> Right to work<br><input type="checkbox"/> Right to public services (including health and emergency services)<br><input type="checkbox"/> Right to welfare<br><input type="checkbox"/> Other: Please specify |
| 13. What protection mechanisms are available to migrants participating in these programs?  |   |
| 14. Outside of formal regularization programs, are there any other mechanisms or pathways within [country's] legal frameworks to informally regularize irregular migrants? |   |

| <b>3. Employment and recruitment</b>   |  |
|--|--|
| 15. Did these regularization programs target migrants working in particular sectors? If so, which sectors?                                     |  |
| 16. Did migrants receive any wage benefits as a result of their participation in these programs?   |  |
| 17. In your view, did these regularization programs have any impact on the local labour force?   |  |
| a. Have there been any long-term effects on wages?   |  |
| 18. Are migrants able to approach the legal system to address any grievances during the regularization process?                                |  |
| 19. In [country], are bilateral labour agreements (BLAs) in place with any countries of origin for irregular migrants? If so, which countries? |  |
| a. If relevant, could you explain the general process for migrants immigrating through BLAs?   |  |
| b. What are the key successes and challenges of BLAs as a  |  |

|   |  |
|---|--|
| pathway to regular migration for those who would alternatively enter irregularly? |  |
|---|--|

|                                 |  |
|---------------------------------|--|
| <b>4. Challenges and impact</b> |  |
|---------------------------------|--|

|   |  |
|---|--|
| 20. Did your government face any challenges implementing these regularization programs? (E.g., administrative constraints, political challenges, challenges for migrants) |  |
| 21. To your knowledge, did migrants face any particular challenges relating to these regularization programs?   |  |
| 22. Overall, what impact do you think these programs had on participating migrants?   |  |
| 23. Overall, what impact do you think these programs had on [country]?  |  |
| 24. What do you think were the key successes of these programs?   |  |
| 25. What do you think were the key lessons learned from the design and implementation of these programs?  |  |
| 26. What recommendations would you have to other countries wanting to implement these programs?   |  |
| 27. Are there any other stakeholders involved in implementing regularizations programs that you recommend we speak to?  |  |

|  |                  |
|--|------------------|
| <b>Thank you very much for your participation in this interview. Your answers will provide valuable insights to our study.</b> | <b>End time:</b> |
|--|------------------|

## KII Master Guide: CoD CSO representative

### IOM: Regularization Feasibility Study

#### Interview Guide – CoD

#### Interviewee: CSO representative

Welcome and thank you for agreeing to take part in this interview. My name is \_\_\_\_\_ [says the name], I am working as a \_\_\_\_\_ [says the role] for Voluntas.

Voluntas, a Danish consultancy company based in Tunis, Copenhagen and Khartoum, has been contracted by the International Organization for Migration (IOM) to conduct a feasibility study on migrant regularization in Libya.

Specifically, we are examining the feasibility of implementing a regularization model in Libya. To inform this study, we are carrying out case studies of countries with experience in implementing regularization programs, including in [country].

During this interview, we would like to gain further insights on the prior and/or current regularizations programs implemented in [country]. We will focus on understanding the legal frameworks, protection mechanisms, and employment conditions associated with these programs. Finally, emphasis will be placed on extracting impact, successes, challenges and lessons learned.

Please note that you are free to withdraw at any stage of this interview and that you can decline to answer any particular question without reason. Your name will be used only internally for the purpose of reporting on the findings of the mapping. Your identity will not be publicly disclosed as part of your participation in this interview.

Do you agree to participate in this interview (yes/no, comment)?

| 1. Background questions     |                  |
|-----------------------------|------------------|
| Targeted country            |                  |
| Interviewer                 | Name and Surname |
| Interviewee                 | Name and Surname |
| Interviewee contact details | Phone and email  |
| Interviewee role/position   |                  |
| Interview language          |                  |
| Date                        | --/--/----       |
| In person/Remote            |                  |
| Start time                  | HH.MM            |

| Questions   | Answers |
|---|---------|
| <b>1. Introduction</b>  |         |
| 1. Could you please briefly introduce yourself and describe your role?                        |         |
| 2. How would you describe the current situation regarding irregular migrants in your country? |         |

## 2. Legal framework and protection mechanisms

**Note: For questions on regularization, the interview may need to ask these for each regularization program.**

|   |   |
|---|---|
| 3. Have regularization programs been previously implemented, or are currently being implemented in [country]? If yes, please describe.          |   |
| 4. Did these regularization programs target any particular groups of irregular migrants? (e.g. nationalities, gender) Why?                      |   |
| a. Were there any particular groups of irregular migrants that were excluded, or should, in your opinion, have been included in these programs? |   |
| 5. What were the eligibility requirements for irregular migrants?   | <input type="checkbox"/> Proof of current employment in [country]/employer sponsorship<br><input type="checkbox"/> Proof of residing in [country] for a set period of time<br><input type="checkbox"/> Proof of paying taxes<br><input type="checkbox"/> Skilled workers or labourers in a particular sector(s)<br><input type="checkbox"/> Belonging to a certain nationality: Please specify<br><input type="checkbox"/> Family reunification<br><input type="checkbox"/> Other: Please specify |
| 6. In your opinion, were these eligibility requirements realistic and/or appropriate for the targeted groups?                                   |   |
| 7. In your opinion were irregular migrants willing to participate in these regularization programs? Why or why not?                             |   |
| 8. Under these programs, how long are regularized migrants able to stay legally in [country]?   |   |
| a. Were there any drawbacks to this length of time guaranteed under the program?  |   |
| 9. How likely are regularized migrants to lapse back into irregularity?   |   |

|  |  |
|--|--|
| a. Are certain groups more likely to lapse into irregularity than others?  |  |
| 10. What rights and/or benefits did migrants receive through these regularization programs?  | <input type="checkbox"/> Right to live in [country] without threat of detention or deportation<br><input type="checkbox"/> Right to housing (rent or ownership)<br><input type="checkbox"/> Right to work<br><input type="checkbox"/> Right to public services (including emergency services)<br><input type="checkbox"/> Right to welfare<br><input type="checkbox"/> Other: Please specify |
| a. Are there any rights and/or benefits that regularized migrants did not receive that, in your opinion, they should have received?  |  |
| b. Did migrants face any particular drawbacks and/or disadvantages by participating in these programs?   |  |
| 11. What protection mechanisms are available to migrants participating in these programs?  |  |
| 12. How would you describe the engagement of CSOs/NGOs in [country] in supporting successful regularization and integration of irregular migrants?   |  |
| 13. In your opinion, how well have [country]'s regularization policies complied with international standards on migration and regularization? (Reference Global Compact for Migration (objectives 5, 15, and 16) and SDGs 10 and 16) |  |

### **3. Employment and recruitment**

|  |  |
|--|--|
| 14. Did these regularization programs target migrants working in particular sectors? If so, which sectors? |  |
| 15. In your opinion, have these programs improved livelihood opportunities for regularized migrants?       |  |

|   |  |
|---|--|
| 16. In your view, did these regularization programs have any impact on the local labour force?                  |  |
| 17. Are migrants able to approach the legal system to address any grievances during the regularization process? |  |
| a. Do any barriers exist to migrants successfully accessing the legal system during or after regularization     |  |

| <b>4. Challenges and impact</b>  |  |
|--|--|
| 18. To your knowledge, did the government of [country] face any challenges in the implementation of these regularization programs? (E.g., administrative constraints, political challenges, challenges for migrants) |  |
| 19. To your knowledge, did migrants participating in these programs face any challenges related to the programme itself?   |  |
| 20. Overall, what impact do you think these programs had on participating migrants?  |  |
| 21. Overall, how well have regularization programs been received by the general population?  |  |
| 22. What do you think were the key successes of these programs?  |  |
| 23. What do you think were the key lessons learned from the design and implementation of these programs?   |  |
| 24. What do you think could have been improved in the regularization programs implemented in [country]?  |  |
| 25. Are there any other stakeholders involved in the integration or regularization of irregular migrants that you recommend we speak to?   |  |

**Thank you very much for your participation in this interview.  
Your answers will provide valuable insights to our study.**

**End time:**

## **KII Master Guide: Libya Govt representative**

### **IOM: Regularization Feasibility Study Interview Guide – Libya Interviewee: Government representative**

Welcome and thank you for agreeing to take part in this interview. My name is \_\_\_\_\_ [says the name], I am working as a \_\_\_\_\_ [says the role] for Voluntas.

Voluntas, a Danish consultancy company based in Tunis, Copenhagen and Khartoum, has been contracted by the International Organization for Migration (IOM) to conduct a feasibility study on migrant regularization in Libya.

Specifically, we are examining the feasibility of implementing a regularization model in Libya. To inform this study, we are carrying out interviews with key stakeholders involved with migration issues in Libya, including members of Libya's government.

During this interview, we would like to gain further insights on how a regularization programme might be designed and implemented. We will explore the legal frameworks, protection mechanisms, and employment conditions which would need to be considered for a future program. Finally, emphasis will be placed on anticipating potential impacts, challenges, and recommendations.

Please note that you are free to withdraw at any stage of this interview and that you can decline to answer any particular question without reason. Your name will be used only internally for the purpose of reporting on the findings of the mapping. Your identity will not be publicly disclosed as part of your participation in this interview.

Do you agree to participate in this interview (yes/no, comment)?

| <b>1. Background questions</b>     |                         |
|------------------------------------|-------------------------|
| <b>Targeted country</b>            |                         |
| <b>Interviewer</b>                 | <b>Name and Surname</b> |
| <b>Interviewee</b>                 | <b>Name and Surname</b> |
| <b>Interviewee contact details</b> | <b>Phone and email</b>  |
| <b>Interviewee role/position</b>   |                         |
| <b>Interview language</b>          |                         |
| <b>Date</b>                        | --/--/----              |
| <b>In person/Remote</b>            |                         |
| <b>Start time</b>                  | HH.MM                   |

| <b>Questions</b>   | <b>Answers</b> |
|--|----------------|
| <b>1. Introduction</b>   |                |
| 1. Could you please briefly introduce yourself and describe your role? |                |

|  |  |
|--|--|
| 2. How would you describe the current situation regarding irregular migrants in Libya?               |  |
| 3. What are the government's current policies and priorities regarding irregular migration in Libya? |  |

## 2. Legal framework and protection mechanisms

|  |   |
|--|---|
| 4. Are you aware of any pathways for irregular migrants in Libya to apply for regular or legal status? If so, please describe.   |   |
| 5. If regularization programs or policies were to be implemented, which government agencies/ministries would likely be involved? |   |
| 6. Which irregular migrant communities could regularization programs target in Libya and why?                                    |   |
| 7. What should/could be the eligibility criteria? Please consider the corresponding list:  | <input type="checkbox"/> Proof of current employment in Libya/employer sponsorship<br><input type="checkbox"/> Proof of residing in Libya for a set period of time<br><input type="checkbox"/> Proof of paying taxes<br><input type="checkbox"/> Skilled workers or labourers in a particular sector(s)<br><input type="checkbox"/> Belonging to a certain nationality: Please specify<br><input type="checkbox"/> Family reunification<br><input type="checkbox"/> Other: Please specify |
| 8. What rights/benefits could regularized migrants receive?  | <input type="checkbox"/> Right to live in [country] without threat of detention or deportation<br><input type="checkbox"/> Right to housing (rent or ownership)<br><input type="checkbox"/> Right to work<br><input type="checkbox"/> Right to public services (including health and emergency services)<br><input type="checkbox"/> Right to welfare<br><input type="checkbox"/> Other: Please specify   |
| a. How feasible would it be to guarantee these rights?   |   |
| 9. What protection mechanisms could be made available to migrants participating in these programs?                               |   |

|  |  |
|--|--|
| 10. Are you aware of any regularization programs in other countries that could be a model for Libya? Please elaborate. |  |
|--|--|

### 3. Employment and recruitment

|  |   |
|--|---|
| 11. Which, if any, employment sectors should a regularization programme target in Libya?   |   |
| a. In your opinion, would the stakeholders in this sector be open to employing or supporting regularized migrants?   |   |
| 12. In your opinion, how might regularization impact the livelihood opportunities available to migrants working in the key sectors previously identified?              |   |
| 13. What conditions would incentivize irregular migrants to participate in a regularization program?   |   |
| 14. How might regularization programs impact the local labour force?   |   |
| 15. In Libya, are any bilateral labour agreements (BLAs) in place with any countries of origin for irregular migrants? If so, which countries?                         |   |
| a. In your opinion, how successful would BLAs be as a pathway to regular migration for those who would alternatively enter irregularly? Please consider the following: | <input type="checkbox"/> Countries with whom BLAs would be successful<br><input type="checkbox"/> Employment sectors that would benefit from BLAs |

### 4. Potential impact and concluding questions

|  |  |
|--|--|
| 16. Overall, how feasible do you think it is to implement a regularization programme in Libya? |  |
| 17. If a regularization programme were to be implemented, which                                |  |

|  |  |
|--|--|
| ministries would need to be involved?  |  |
| a. Do you foresee any potential challenges related to coordination between these ministries and the establishment of a governance structure?                     |  |
| 18. What challenges do you think the Libyan government would face implementing regularization programs? (E.g., administrative constraints, political challenges) |  |
| 19. Overall, what impact do you think a regularization programme would have on participating migrants?   |  |
| 20. Overall, what impact do you think a regularization programme would have on the country?  |  |
| 21. Would public opinion look favorably on a regularization programme in Libya?  |  |
| a. Are there any particular population groups in Libya that would not look favorably on regularization? If so, who and why?                                      |  |
| 22. What recommendations do you have for the design of a potential regularization programme in Libya?  |  |
| 23. Are there any other stakeholders in Libya that you recommend we speak to regarding the implementation of a regularization program?                           |  |

**Thank you very much for your participation in this interview. Your answers will provide valuable insights to our study.**

**End time:**

## KII Master Guide: Libya CSO representative

### IOM: Regularization Feasibility Study

#### Interview Guide – Libya

#### Interviewee: CSO representative

Welcome and thank you for agreeing to take part in this interview. My name is \_\_\_\_\_ [says the name], I am working as a \_\_\_\_\_ [says the role] for Voluntas.

Voluntas, a Danish consultancy company based in Tunis, Copenhagen and Khartoum, has been contracted by the International Organization for Migration (IOM) to conduct a feasibility study on migrant regularization in Libya.

Specifically, we are examining the feasibility of implementing a regularization model in Libya. To inform this study, we are carrying out interviews with key stakeholders involved with migration issues in Libya, including members of Libya's civil society.

During this interview, we would like to gain further insights on how a regularization programme might be designed and implemented. We will explore the legal frameworks, protection mechanisms, and employment conditions which would need to be considered for a future program. Finally, emphasis will be placed on anticipating potential impacts, challenges, and recommendations

Please note that you are free to withdraw at any stage of this interview and that you can decline to answer any particular question without reason. Your name will be used only internally for the purpose of reporting on the findings of the mapping. Your identity will not be publicly disclosed as part of your participation in this interview.

Do you agree to participate in this interview (yes/no, comment)?

| 1. Background questions     |                  |
|-----------------------------|------------------|
| Targeted country            |                  |
| Interviewer                 | Name and Surname |
| Interviewee                 | Name and Surname |
| Interviewee contact details | Phone and email  |
| Interviewee role/position   |                  |
| Interview language          |                  |
| Date                        | --/--/----       |
| In person/Remote            |                  |
| Start time                  | HH.MM            |

| Questions  | Answers |
|--|---------|
| 1. Introduction  |         |
| 1. Could you please briefly introduce yourself and describe your role?                 |         |
| 2. How would you describe the current situation regarding irregular migrants in Libya? |         |

| 2. Legal framework and protection mechanisms |
|--|
|--|

|   |  |
|---|--|
| 3. Are you aware of any pathways for irregular migrants in Libya to apply for regular or legal status? If so, please describe.          |  |
| 4. Which irregular migrant communities could regularization programs target in Libya, if any? Please explain why.                       |  |
| 5. In your opinion, would irregular migrants in Libya be open to regularizing their status in Libya? Why or why not?                    |  |
| 6. Is there any information that you think would not be ready to disclose?  |  |
| 7. What protection mechanisms should be made available to migrants participating in these programs?                                     |  |
| a. Do you see any potential protection risks for migrants related to regularization?  |  |
| 8. How would you describe the engagement of CSOs/NGOs in supporting the livelihoods and integration of irregular migrants into society? |  |
| a. If regularization programs or policies were to be implemented, how should CSOs be involved, if at all?                               |  |
| 9. Are you aware of any regularization programs in other countries that could be a model for Libya?                                     |  |

### 3. Employment and recruitment

|   |  |
|---|--|
| 10. Which, if any, employment sectors could a regularization programme target in Libya?                           |  |
| a. In your opinion, would the stakeholders in this sector be open to employing or supporting regularized migrant? |  |
| 11. In your opinion, how might regularization impact livelihood   |  |

|  |  |
|--|--|
| opportunities available to irregular migrants?   |  |
| 12. What conditions would incentivize irregular migrants to participate in a regularization program? |  |
| 13. How might regularization programs impact the local labour force?                                 |  |
| a. How might the local labour force perceive these potential impacts?                                |  |

| <b>4. Potential impact and concluding questions</b>   |  |
|---|--|
| 14. Would implementing a regularization programme in Libya be successful? Please explain.   |  |
| 15. In your view, what potential challenges would the Libyan government face in implementing a regularization program? (E.g., administrative constraints, political challenges) |  |
| 16. In your view, what challenges would irregular migrants face in potentially participating in a regularization program?   |  |
| 17. Overall, what impact do you think a regularization programme would have on participating migrants?  |  |
| 18. Overall, what impact do you think a regularization programme would have on Libya?   |  |
| 19. Would public opinion look favorably on a regularization programme in Libya?   |  |
| a. Are there any particular population groups in Libya that would not look favorably on regularization? If so, who and why?   |  |
| 20. What recommendations do you have for the design of a potential regularization programme in Libya?   |  |

|  |  |
|--|--|
| 21. Are there any other stakeholders in Libya that you recommend we speak to regarding the implementation of a regularization program? |  |
|--|--|

|  |                  |
|--|------------------|
| <b>Thank you very much for your participation in this interview.<br/>Your answers will provide valuable insights to our study.</b> | <b>End time:</b> |
|--|------------------|

## List of interviewees

| Interviewees           |                         |
|------------------------|-------------------------|
| Mohsen Abuazza         | Claudia Finotelli       |
| Adelwahad              | Khaled Gendil           |
| Khadija Ainani         | Sahel Gherieni          |
| Altaher Alaswad        | Serge Aime Guemou       |
| Maurizio Ambrosini     | Mohammed Haidour        |
| Najia Aouina           | Hamida                  |
| Samia Kazi Aoul        | Albert Kraler           |
| Diego Acosta Arcarazo  | Theodora Korkas         |
| Martin Baldwin-Edwards | Cristina Fuentes Lara   |
| Sara Benjelloun        | Veronica Lentini        |
| Yousra Boughdadi       | Fathi Mohammed          |
| Rabiea Buras           | Hussain Mohammed        |
| Alpha Camara           | Maria Cristina Molfetta |
| Jacopo Carbonari       | Mohamed Oun             |
| Paola Cavanna          | Miguel Pajares          |
| Ennio Codini           | Enrico Di Pasquale      |
| Tanja Dedovic          | Feruccio Pastore        |
| Marina De Stradis      | Franz Prutsch           |
| Munsor Elbera          | Hafed Ramadan           |
| Wael Eleshaebi         | Ali Sadiq               |
| Saleh Elkawafi         | Naji Sassi              |
| Idress Elmahdi         | Katharina Schmitz       |
| Aurelie Eragne         | Aranzazu Triguero       |
| Ivana Fellini          |                         |

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