

COUNTRY REPORT

SPAIN



# Undocumented Migration

Counting the Uncountable. Data and Trends  
across Europe

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CLANDESTINO

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## **PART I. SETTING THE FRAME**

### **I.1.-The regular migration framework**

#### **I.1.1.- A short history**

In 1980, only 180,000 aliens were resident in Spain, and the majority of these were Europeans from Germany, the United Kingdom and other countries of Central and Northern Europe, who had settled permanently on the coasts and islands of Spain and were mainly retired. Besides the Europeans, there was a small group of Latin Americans, most of whom had fled from the dictatorships of South America. This feature changed after 1985 as the immigrants who have arrived since then come from a broader range of countries: Moroccans, Chinese, Sub-Saharan Africans, Ecuadorians, Colombians, Dominicans, Western and Eastern Europeans. While at the end of the eighties, immigrants born in other western european countries accounted for half the total number, yet now, they do not even constitute a fifth (18 per cent in January 2008). The remaining come mainly from Latin America, Eastern Europe and North Africa. Moroccans formed the biggest group of non-EU immigrants in the nineties but they have been overtaken in number by the rapid growth in immigrants from Latin America.

In January 2008, the number of foreign-born people registered with the local councils (including EU citizens) represented 13 per cent of the total population (11% if only foreigners are taking into account), but the percentage could be lower, as experts agree that the data in these registers magnify the alien population (Arango, 2004; Garrido, 2004).

<b>Table I. Number of foreign legal residents (1980-1994) and foreign-born residents (1996-2008)</b>	
1980	182,045
1990	276,796

1992	402,350
1994	461,364
1996	<b>1,067,478</b>
1998	<b>1,173,767</b>
2000	<b>1,472,377</b>
2001	<b>1,969,270</b>
2002	<b>2.594,052</b>
2003	<b>3,302,440</b>
2004	<b>3,693,806</b>
2005	4,391,484
2006	4,837,622
2007	5,214,390
2008	5.995.962

Source: Instituto Nacional de Estadística y Ministerio del Interior [National Institute of Statistics and Interior Ministry]<sup>1</sup>

	Total in thousands
Romania	704,2
Morocco	676,4
Ecuador	451,1
Colombia	326,5
United Kingdom	357,2
Argentina	287,8
Bolivia	238,6
Germany	237,1*
France	219,5*
Peru	160,6
Bulgaria	150,5
Venezuela	142,7

<sup>1</sup> Data up to 1994 refer to legal residents. As from the year 1996, the data refer to persons registered in the municipalities the first day of each year. The 2000 Aliens Law granted irregular immigrants the right to free health care with the single condition that they were registered in the municipal register, which led to the statistic “blossoming” of a large portion of this population, as shown in the Local registers of January 2001.

Brasil	140,9
Portugal	135,3
China	125,3
Dominican Rep.	113,7

Source: Instituto Nacional de Estadística, Padrón Municipal de Habitantes, [National Institute of Statistics. Municipal Registers of Inhabitants] 2008

- Half of these foreign born residents are descendents of former Spanish migrants in Germany or France

For some years, Spain is the European country which receives most immigrants yearly. Although, strictly speaking, the comparison is impossible due to the heterogeneity of the sources, and, especially, because Spain is the only European country which allows and fosters the registration of irregular immigrants on the Padrón (local register of inhabitants).

	2000	2001	2002	2003	2004	2005	2006	2007
EU -15	1,055.6	1,321.8	1,701.2	2,052.1	1,813.5	1,606.6	1,649.1	1,580.8
Spain	378.5	427.8	649.9	738.5	610.1	641.6	612.8	701.9
Italy	55.2	47.6	349.3	600.6	558.2	324.2	377.5	494.3
Germany	167.8	274.8	218.8	142.2	81.8	81.6	23.5	47.8
UK	168.5	184.3	126.4	260.5	203.6	192.6	247.3	174.6

Source: Eurostat. [http:// epp.eurostat.ec.eu.int](http://epp.eurostat.ec.eu.int) The table includes all the countries which have reached or exceeded 100,000 immigrants in any of these years. The migratory balance is calculated as the difference between the total increase of the population and the natural growth of the population in the previous year.

As can be seen in table III, every year since 2000, Spain has received about a third of all the immigrants reaching the EU<sup>2</sup>. The difference is greater if we think in terms of the weight of this immigration in the total population: 48,000 new immigrants in the German population of 82 million in 2007 is almost nothing compared to 702,000 new immigrants in the Spanish population of 44 million inhabitants in 2007.

<sup>2</sup> These numbers are collected by Eurostat from the National Statistic Offices in each country

Immigration has grown at an extraordinary pace as figures went from 277,000 aliens in 1990 to 5,220,000 in 2008 (almost 6 million if those born abroad are considered and not only those who maintain foreign nationality), and most of this growth has taken place in the last eight years. In total, since January 2000, about 5,000,000 aliens have migrated to Spain and, during the entire period the percentage of irregularity has been extremely high. In recent years, approximately 40,00-50,000 persons are taking Spanish nationality yearly, especially Latin Americans who can obtain citizenship after only two years' legal stay. For this reason, the global figures are very different if they refer to aliens or to those born abroad.

The arrival of immigrants in Spain has coincided with a period of economic growth which has enabled an increase in the active domestic population and, in the meantime, the absorption of this foreign labour force. Between 1996 and 2005 six million new jobs were created, and in 2007 80.5 per cent of men between 16 and 64 years old were active, with a very low unemployment rate. Although unemployment has never disappeared completely during these years of continuous economic growth (affecting mainly women), a large number of unemployed persons are reluctant to work in the sectors where immigrants find employment. Hence, the latter fill an 'occupational gap' which has been left by Spaniards. These jobs are often unskilled and involve some of the following features: low wages, long working hours, hard physical conditions and low social prestige. By sector, male immigrants are concentrated in construction and services, while females are concentrated in services, especially domestic service, small businesses and catering and hotels. There is a certain sector specialization depending on national origin, thus 32 per cent of Africans (basically Moroccans) are employed in construction, while only 20 per cent of Latin Americans are found in this sector. On the other hand, 86 per cent of Chinese work in markets and restaurants, 44% of Latin Americans work in "other services" (which includes domestic service), while only 7 per cent of Africans work in this sector (Encuesta de Población Activa, EPA, fourth trimester 2007). The sectors the immigrants concentrate in are also those which feed the underground economy, whose weight in the Gross Domestic Product is estimated to be around 23 per cent, the fourth biggest in EU-15 after Greece, Italy and Belgium, and on the same level as Portugal (Schneider, 2004). Another estimation states that underground economy accounted in year 2000 to 21% of GDP (Alañón and Gómez, 2003)

There are some factors than can help explain why Spain has been during the last years so attractive to immigrants. First, there is the existence of this strong and rather vibrant informal economy where irregular migrants can find employment. Second, the relatively positive social attitudes towards immigrants, in comparison with other European countries<sup>3</sup>, the traditional tolerance towards illegality embedded in South European political culture, and, third, the treatment of social rights for irregular immigrants in Spanish laws. Since year 2000 irregular migrants enjoy free acces to the public health system and to education (from 3 to 16 years) in the same conditions as Spaniards or regular migrants with the only condition of register themselves in the Municipal Register (called Padrón)

Geographically, immigrants are distributed very unevenly on Spanish territory, with high concentrations on the Mediterranean coast, the Balearic and Canary Islands, and Madrid. Even in the ‘regions of immigration’, the distribution is very unequal and aliens are concentrated in certain villages and towns. Immigrants are found in the areas where there is a strong tourist industry, intensive agriculture or, generally speaking, where there are dynamic economies such as in Madrid or Barcelona. However, there are also political reasons, such as the presence of a violent nationalism, which would explain why areas which are economically rich, such as the Basque Country, are hosts to only a small percentage of immigrants.

This period of continous economic growth has arrived to an end in 2008, due to the end of the “construction bubble”, which in turn had been the main motor of economic development during the last years. This crisis had led almost immediately to an increase in the general unemployment rate, but has mainly affected immigrants workers due to their concentration in the construction sector and their minor qualification level. Presently (December 2008) their unemployment rate is 21% , while the Spanish one is 12%. But even in the midst of this crisis, immigrants continue to arrive and almost all new jobs created during the last months are taken by foreigners (Encuesta de Población Activa, December 2008).

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<sup>3</sup> See the [European Social Survey \(2005\)](#).

Although there are no official figures on the total number, there are only a few aliens with the status of asylees in Spain. Successive governments have maintained a very restrictive policy as regards the granting of this status and have accepted an average of less than five per cent of applications. Moreover, the aid offered to refugees is very sparse in comparison with that offered by other countries. Finally, the opportunities provided for obtaining work in the irregular economy make illegal immigration a preferable option for possible asylum seekers in Spain. During the previous decade, applications amounted to more than 10,000 annually during the years coinciding with the successive crises in Yugoslavia. Subsequently, and up to now, the figure has oscillated between 4,000 and 8,000 a year. Thus, in 2007, 7,662 applications for political asylum were submitted but only 204 (2,6%) were successful (CEAR. Comisión Española de Ayuda al Refugiado [Spanish Commission for Aid to Refugees]<sup>1</sup>)

### **I.1.2.- Understanding Irregular Immigration in Spain**

Irregular immigration has been in Spain a feature rather than an exception. Having passed by a phase of illegality is a common experience of most non-EU immigrants, as can be deduced by demographic data and by opinion polls devoted to immigrants. For instance, a study developed in 2000 showed that 83% of immigrants interviewed arrived to Spain without a work permit and then began to work or to look for a job (Díez and Ramírez 2001). Another research devoted to immigrants in Andalucía in 2003 showed that 50% of them were irregulars in the moment of the poll (Pérez and Rinken 2005). A simultaneous research conducted in Catalonia stated also a 50% of irregularity among immigrants (CERES 2004). As can be seen in Part II, irregularity has affected during the first years of this decade to more than 40% of immigrants.

Typically irregular immigrants arrive as tourists and overstay after the legal maximum of three months allowed by this kind of entry. At the beginning of this decade most Latinamericans did not need visa to travel to Spain, but when government confirmed the arrival of irregular immigrants in high number from one of these countries it imposed –through the EU- the previous application for visa. In 2001 visa was imposed to Colombians and immediately the number of immigrants coming from it decreased dramatically. As a consequence, irregular immigrants began to arrive from other Latinamerican countries, mainly Ecuador. Also in this case visa was imposed in 2003 and Ecuadorians were substituted by Bolivians and Brazilians,

whose percentage of irregularity in January 2008 was 70% and 67% respectively **In 2007 visa was also imposed to Bolivians.**

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Together with this main channel into irregularity, there are two minor others: Irregular frontier crossing and befallen irregularity. The irregular frontier crossing was important as a source of migration in the nineties, when a good part of Moroccans arrived illegally by boat. But after the deploying of the SIVE (Sistema Integrado de Vigilancia Exterior), a sophisticated surveillance electronic mechanism, in the Southern coast of Spain and in Canary Islands, and the beginning of effective collaboration with Morocco regarding its nationals, Moroccan irregular migration almost stopped, as their boats were systematically detected and their passengers returned to Morocco. In the "normalization" process of 2005 they accounted for one sixth of applications, but presently the efficiency of coast surveillance and of the return accord signed with Morocco has translated into a notable decrease of irregular migrants from Morocco. In fact in January 2007 there were more residence permits issued to Moroccans (544.000) than Moroccans registered in the Padrón (524.000)<sup>4</sup>.

A different problem is that posed by subsaharians who crossed Moroccan territory to finally travel by boat to Spain. During some years Morocco did not accept the return of these immigrants when they were caught in Spain waters or coast line, but the pressure of the EU achieved from 2004 a change of attitude of Moroccans authorities. From then on, subsaharians began a riskier travel to Spain, beginning in Mauritania to arrive in Canary Islands. When Spain attained the Mauritanian collaboration, Subsaharians moved further south, to Senegal and even Côte d'Ivoire. Year 2006 was the highest point in the arrival of these boats to Canary Islands, when 25,000 immigrants arrived that summer. Spanish law allows a maximum of 40 days of internment in the special centers devoted to irregular migrants (CIEs, Centros de Internamiento de Extranjeros) and if during this period the police, administrative and judicial system cannot identify and return the immigrant, he or she must be freed, and this always happens when there is not a readmission accord signed with the origin country. This freedom was the destiny of most subsaharian arrived by boat till 2006 but the diplomatic offensive of Spanish government in the Western African Coast during the last two years have achieved the signing of accords with Cape Green, Malí, Guinea Conakry, Guinea Bissau and Nigeria and varied forms of cooperation with other states in the region, with the result of a notable decrease of irregular

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<sup>4</sup> Once immigrants have obtained the permanent residence permit their incentive to register in the Padron can be much smaller. As Moroccans are the oldest economic migrants to Spain, most of them are already permanent residents and this can explain why the number of permits is superior to that of registers in the Padrón.

arrivals from Africa. Anyway, the flow of irregular immigrants through this way has always been very small in comparison with that of false tourists: For instance, during the year 2007, 18,057 immigrants were arrested when trying to enter Spain through the sea while at the end of that year the number of irregular immigrants was somewhere in between 300,000 and 595,000. On the other hand, many of the irregular migrants arriving from sub-Saharan Africa use Spain as an intermediate point in their way to France or UK (as they do not speak Spanish but French or English).

The assaults to the Spanish-Morocco frontier in the Spanish towns of Ceuta and Melilla by Subsaharian immigrants are other spectacular and dramatic way of entry but numerically non significant (in 2007 only 1,553 immigrants entered irregularly using this way). Finally the number of persons whose entry through airports or land frontier is blocked by the police is also small: only 5,579 persons were denied the entry to Spanish territory in airports or land frontiers during 2007 (Interior Ministry 2008). Airports are the main entry of to-be-irregular migrants, specially since Romania and Bulgaria joined the EU<sup>5</sup>. In the years previous to this enlargement, Romanians and to a lesser extent Bulgarians, were arriving by road, but, as this entry was legal since January 2007, airports have become the only important, in statistical terms, way of entry of to-be-irregulars.

“Befallen irregularity” resulting from slow bureaucracy and the understaffing of public services dealing with renewal of residence and labour permits is also an important way into irregularity but with the available data it is impossible to know its amount. On the other hand, the exigence of a labour contract or a job offer in the moment of renewal of the labour permit is frequently difficult to fulfill as immigrants concentrate in sectors with high levels of instability. As Cabellos and Roig have been pointed out<sup>6</sup>, exigences for renewing permits are always harder than those used in the extraordinary regularisations with the result that many immigrants that could legalise their situation in

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<sup>5</sup> As many other EU members Spain imposed to Romanians and Bulgarians a two year moratorium on the free movement of workers. Since 1<sup>st</sup> January 2007, Romanians and Bulgarians could reside legally in Spain but only could work as selfemployed, which led to a bloom of false selfemployed as many others continued to work in the informal economy (mainly women in the domestic service). This moratorium was lifted in January 2009

<sup>6</sup> For a detailed explanation of the administrative reasons resulting in “befallen irregularity” see Cabellos and Roig (2006)

a extraordinary process fall again into irregularity because of the lack of a contract in the moment of renewal.

Irrespective of their way of entry, irregular migrants wait to legalize their situation in some years, be through a regularisation "exceptional" proces be through the continous regularisation provided in the law while in the meantime, irregular migrants find job, as the Inspection Labour services are understaffed.

Legal and illegal immigrants do not form two different communities: In fact, most legal migrants in each moment were illegal previously (and legal during their first three months as tourists). Latinamericans form the biggest group of irregular immigrants in Spain as they form the biggest group among legal ones (see below). The common language is the main reason for the attraction of Latinamericans towards Spain, but to that it should be added the historical links which have translated into legal privileges devoted to them, the most important of those is the possibility to get the nationalization after only two years of legal stay, compared with ten years demanded to most groups.

Regularisations, be "extraordinary" or continous, have been the main instrument used in the management of immigrant flows: the first one was conducted in 1985-86 and mostly affected Moroccans in the Spanish African towns of Ceuta and Melilla. Over the last 20 years, after each important legal reform concerning aliens, a special regularisation process took place, which means there has been one every 5 years, three small ones (1986 in Ceuta and Melilla, 1991 and 1996) and two big: 2000-2001 and 2005. In total, 1.100,000 immigrants have benefited from these regularisations, of these 570,000, 52% of the total, in the last regularisation in 2005. The high percentage of immigrants who applied to these processes over the total foreign population shows the central role that regularisations have played in the Spanish policy of migration management. According to Izquierdo (2006), who compare the number of applications to each regularization with the stock of foreigners already regulars in each moment, i.e, with a residence permit, in the regularization of 1991 the number of applicants was equivalent to the 90% of all non-EU legal residents, 60% in the regularisation process of 2000, 73% in that of 2001 and 52% in 2005.

In 2000, the Popular Party (center-right) government opened the first of these big processes: 240,000 immigrants, a number much higher than expected, asked for their legalization, and the government answered positively to more than half of petitioners: 150.000 could regularise. Also during year 2000 a re-examination of refused applicants took place, and 36.000 were accepted. During year 2001, two new processes were opened. The first one was devoted to Ecuadorians, which formed then the second group of immigrants by number in Spain, after Moroccans, and provided with documents to 24.000 of them. The second one, called “documentation by rootedness”, (because immigrants could legalize their situation showing that they had taken roots in Spanish society), was offered to illegal immigrants coming from any country. 315.000 people asked for regularization in this process. They were asked to prove that they were staying in the country at least since the beginning of 2001 and that they had a job offer or relatives legally staying in Spain. Two thirds of petitions were accepted, that is, 215.000 people. Non accepted applicants in these regularisations could apply later to get a residence permit showing that they have been staying in the country during five years. If they can also prove laboral activity or family bonds with foreign legal residents or Spaniards, they would need only three years of stay to get regularisation through this way<sup>7</sup>.

In January 2002, the government announced the end of the extraordinary regularisation processes and in the meantime closed the door to legal immigration. Since then till 2005 the only opportunity for an illegal migrant to legalize his or her situation was to prove that he or she has been living in Spain at least for five years or to be included in the offer of employment (the contingent) which the government presented each year and that in 2002 included only 32.000 jobs, two thirds of them as temporal workers. But irregular migration continued to arrive in big numbers and in August 2004 the number of immigrants without "papers" was something in between 692.000 and 1.400.000. The first number corresponds with the applications presented to the next regularisation process (2005) –applicants should have been registered in the Padrón in August 2004– and the second one to the difference between immigrants registered in the local Padrón by then and those with a residence permit (see Part II).

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<sup>7</sup> Reglamento de la Ley de Extranjería (Real Decreto 864/2001)

Table IV Extraordinary regularisation processes		
	Applications	Accepted
1985-86	44.000	23,000
1991	130,000	110,000
1996	25,000	22,000
2000	244.327	152,207
2000 Reexamination	57,616	36,013
2001 Ecuadorians	24,884	24,352
2001 Rootedness	338,680	157,883
2005 Normalization	691,655	578,375
Total	1,506,032	1,103,830

Source: Interior Ministry, Labour and Immigration Ministry and Moreno (2005)

Added to this is the legalization channel of ordinary regularisation due to settlement which, until the legal reform approved in 2004, was obtained after five years' illegal stay (or three by showing integration into the job market). To attain this regularisation, since 2004 immigrants must show that they have been living in the country during the last three years –usually through their inscription in the Padron- and present a job offer. There is a second way called “labour regularisation”: In that case the immigrants must prove their stay during at least two years and show that he or she has been working at least during twelve months. According to data offered by the Labour and Migration Ministry, during 2007, 28.000 immigrants have legalised their situation using both channels (see below)

## **I. 2.- Irregular migration discourses and policies**

The first measure designed to regulate immigration in Spain was approved in 1985 in order to adapt Spanish legislation to European policies. At that time, the foreign population in the country barely amounted to 200,000 persons, most of whom European citizens. The 1985 Law was passed without public debate, approved in the Parliament almost unanimously and only provoked significant reactions in Ceuta and Melilla, the two Spanish towns in North Africa with a high percentage of immigrants of Moroccan origin. The Law was restrictive, mainly directed to facilitate the expulsion of irregular immigrants, making it very difficult to get into Spain through legal channels and renew stay permits. It ruled out, for instance, family reunification, and made no provision for a permanent residency permit (Aja 2006).

In 2000, the second and third laws on immigration were passed, both known as ‘Ley de Extranjería’ (Law on Foreigners)<sup>8</sup>. The first one was proposed by the Catalan nationalist party CiU (Convergencia I Unió), the leftist IU (Izquierda Unida) and the Mixed parliamentary group (mainly nationalists from different areas of Spain). Their proposal aimed to create a legal framework to pursue the integration of immigrants, and was thus in opposition to the 1985 Law, which mainly focused on controlling their arrival and stay. The Socialist Party later presented its own, more detailed proposal. All these were rather generous – in comparison with other European countries’ standards – with regard to the social rights of immigrants, be they legal or illegal, or the legal guarantees offered to irregular immigrants.

When the first Law was discussed in the Spanish Parliament, the Popular Party did not hold a sufficient majority and the Law was approved against its will. However, the 2000 general elections granted the Popular Party the necessary majority and a new version of the Law was presented. This version was slightly more restrictive, claiming that the change was necessary in order to adapt Spanish standards to those of the EU. The debate around the proposed reform of this Law was the first occasion that immigration became an important public matter, attracting wide coverage in the media. The Popular Party was alone in its defence of a more restrictive Law, when all other political parties, NGOs, the Catholic Church and trade unions were against the reform. The visibility and media coverage of the debate was increased because of the confrontation between members of government, in particular the Minister of Labour who was openly against the reform, and the Minister of Interior who was in favour. The reform of the Law was approved with the votes of the Popular Party only, and it included many small changes (BOE [State Gazette] 23 December 2000) (Pérez-Díaz, Álvarez-Miranda and González-Enriquez, 2002). Public attention focused on two issues: first, the restrictions directed to facilitate the expulsion of illegal immigrants, and second the limitations applied to them in the right of association, strike and demonstration. Compared with the first Law on Foreigners (4/2000), this was a restrictive Law, but not when compared with the 1985 Law or with most European provisions. The granting to all immigrants, irrespective of their legal status, to free access to public medical services in the same basis as

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<sup>8</sup> Ley Orgánica 4/2000 and Ley Orgánica 8/2000

Spaniards, and to public education from 3 to 16 years, which the only condition that they register in the Local Padrón, has had special relevance because from then on irregulars register in the Padrón and because this offer of public services became a pull factor.

The Law was modified again in November 2003. This modification was agreed by all the main parties, and was concerned with the intense and unexpected increase of immigrants in the first years of the decade. The reform's main declared objective was to improve the instruments so as to address illegal migration and the trafficking and smuggling of human beings. For instance, the reformed Law allows the Police to access the data collected in the Municipal Registers, oblige international transport enterprises to give notification of passengers who do not use their return ticket, include new penalties for smugglers and enterprises who hire irregular workers, and oblige foreigners without a permanent residence permit<sup>9</sup> to renew their inscription in the Municipal Register every two years (BOE [State Gazette] 21 December 2003).

As regards the policies which we can term proactive and whose declared objective is to adapt the arrival of aliens to the labour market needs and to allow their stay from the beginning in conditions of legality, the two main instruments have been the contingent and the "general regime", both notoriously ineffective<sup>10</sup>:

The so called general regime was in force until 2001 and permitted the individual contracting of a worker abroad by an employer on condition that "the domestic employment situation" permitted this. That is to say, on condition that the National Employment Institute (INEM) certified that there were no Spanish unemployed persons who could do the job, regardless of whether Spanish workers applied for the job or not or the province in which they lived. The system has never functioned because it is too costly for the majority of the employers and was closed in 2001 after the special regularisation accomplished that year.

From 2002 to 2004, the quota or "contingente" provided the only way to enter legally. It was drawn up as a result of an annual agreement of the Government with the Autonomous Communities with the participation of Trade Unions and business

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<sup>9</sup> Permanent residence permit is offered after five years of legal stay.

<sup>10</sup> For a description of the evolution of legal system regulating immigration see Moya (2006)

organisations. The system was a failure due to administrative and management loopholes both in Spain and in the origin countries, and it offered between 20,000 and 30.000 jobs to foreigners each year at a time when 400,000 to 500,000 immigrants arrived yearly to Spain (Aparicio and Roig, 2006).

In 2004 the general regime was reopened through the “catalogue of jobs difficult to cover”, which was drawn up quarterly, by provinces, from information provided by the Trade Unions, the business organisations and the state employment services. The change of scale from the Autonomous Communities to the provinces meant great progress towards realism, but there are still important flaws: the kind of business where most immigrants find job are small enterprises not well represented by the Employers Associations nor the Trade Unions (González-Enríquez, 2008b), while the state employment service only intermediates in a minor percentage of the work market, and private labour agencies or networks mechanisms are the most used way to find a job. As a consequence, information offered by these sources about needs in the job market is far from perfect.

From 2004 on, this catalogue of jobs difficult to cover is the basis for the entry of regular migrants. According to the rule<sup>11</sup>, the employer must apply for the contract of an identified foreign worker and once authorization is obtained, the foreigner must apply in his or her country of origin for the visa. The initial residence and labour permit which receives the foreigner is valid for one year and can be restricted to an economic sector and a province. This initial permit must be renewed twice (each renovation allows two more years of labour and stay permit) until the fifth year, when the renewal produces a permanent permit. In order to renew the permit during these first five years, immigrants must maintain their previous job or show a new contract or a job offer. The frequent failure to comply with this exigence in the period of renewal is an important way into befallen illegality.

As concerns preventive aspects, that is to say, the fight against irregular immigration, after the 2001 regularisation the government of the Popular Party (1996-2004) proclaimed this as its absolute priority in the migratory field. The government of the

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<sup>11</sup> Reglamento de la Ley de Extranjería. Real Decreto 2392/2004

Socialist Party (2004-) did the same after the so called “crisis of the cayucos” during the summer of 2006, when around 25,000 irregular sub-Saharan immigrants reached the coasts of the Canary Islands. The components of this defensive policy are the following:

1. – Reinforcement of border controls. Spain has made substantial efforts to seal its maritime frontier with Africa, through the creation of the Integrated System of External Surveillance (Sistema Integrado de Vigilancia Exterior, SIVE) provided with powerful technical resources and able to detect virtually all boats which approach the coastline. As has already been said, this system has been very effective at reducing the arrival of Moroccan immigrants as Spain and Morocco signed a readmission agreement which makes it possible to immediately return the immigrants intercepted on arrival at the Spanish coasts. However, the system did not prevent the arrival of sub-Saharans due to the lack of readmission agreements till 2007. In addition, for many years Morocco did not comply with agreement signed with Spain which obliges it to accept the nationals of third countries who arrive in Spain from the coasts of Morocco. Only since 2004, and thanks to the pressure from the EU, Morocco collaborates effectively in the prevention of this irregular immigration, and, since 2004 the cayucos leave from farther south, from Mauritania or Senegal bound for the Canary Islands.

The most substantial Spanish efforts against illegal immigration have been concentrated on maritime surveillance despite the fact that its statistical weight in the total arrivals of immigrants is very small. However, unlike the others who arrive through airports or by land from France, these have politically relevant characteristics:

- They have an extraordinary effect on public opinion because the mass media focus on them, their arrivals are televised live and their voyages are dramatic and often end in death.
- They require the humanitarian aid of the State services. In fact, a large part of the work of the Civil Guard involves attending to the immigrants intercepted. Also providing assistance are the Red Cross, basically financed with State funds, and the Autonomous Communities, in particular those of the Canary Islands, Andalusia and the cities of Ceuta and Melilla.
- The assistance to, and the destiny of, irregular immigrants arriving by sea in Andalusia or the Canary Islands has become a source of confrontation between Autonomous

Governments and the Central Government over recent years. The Canary Government in particular, asks from time to time for more financial help to assist immigrants and has obtained the periodical transfer of irregular migrants to the Peninsula, organized by the Ministry of Interior. Once there, after 40 days of stay in special centres (the maximum allowed now by Law) they are freed, as most of them cannot be expelled. This, in turn, provokes protests from the Autonomous Governments of Madrid, Valencia, Andalusia or Catalonia, the main points of destiny, who feel pressured by the presence on their streets of highly visible irregular immigrants in need of social help. This period of 40 days will be enlarged to improve the chances to identify and return irregular migrants. The enlargement till 60 days was included in the electoral program of the Socialist Party in the last electoral campaign (2008) and the European Directive on Immigrants' return recently approved has been promoted, among others, by the Spanish government.

2.- Harsher penalties for those involved in trafficking. In 2003, with the transposition of European legislation, a modification was incorporated into the Penal Code after it was agreed by the main parties. This punishes the trafficking of persons with sentences of 8 to 10 years imprisonment. As an unforeseen result of this modification, the voyages became more difficult and risky because the Moroccans stopped piloting the boats as they were easily identifiable among the subsaharans and the immigrants became skippers of the boats, often with no previous knowledge of navigation. The reform also included an article which stipulates prison sentences of 6 months to 3 years for those who foster or facilitate the illegal traffic of persons bound for Spain even when this is done with no profit motivation. In practice, this article, which has been applied in other European countries against NGOs and well intentioned private citizens, in Spain has merely a declarative, pedagogical or rhetorical nature and has not been applied.

The reform of the Penal Code also included legal measures to protect the victims of sexual or work exploitation, which has almost only been applied in cases of forced prostitution. The victims who collaborate with the police in order to reveal the networks are offered legal residence for one year renewable and they come under a witness protection programme. The will to promote a new reform of the Penal Code to include even harsher penalties to smugglers of immigrants has been announced by the Interior

Minister recently (September 2008), when 170 smugglers are under arrest in Spanish prisons.

3- Labour inspection. Since most irregular immigrants find work, as shown by the employment statistics and as it is necessarily deduced from the fact that there is no financial assistance nor access to public housing for irregular immigrants in Spain, labour inspection could be an effective method for combating irregular immigration. However, the number of inspectors and sub-inspectors is too small (780 inspectors and 860 sub-inspectors) and these take care, above all, of safety and hygiene at work. In any case, the number of inspections on enterprises who hire immigrants has increased substantially in the last years (from 30.409 in 2003 to 71.631 in 2006)<sup>12</sup> and, in some sectors it seems to have had an important dissuading effect.

4 – Strengthening of the police services. In this field, the most important landmark was the creation in 2001 of the UCRIF (Unidad para combatir las redes de inmigración y falsificación de documentos) [Unit for Combating Immigration and Document Falsification Networks], belonging to the Aliens Brigade of the National Police Force. The UCRIF acts on denouncements received and work on prostitution trade as there are very few denouncements regarding illegal employment.

During the last four years the number of policemen and members of the Guardia Civil devoted to the frontier control and the fight against irregular immigration has increased by a 25%, from 10.239 in 2003 to 12.771 in 2007 (Interior Ministry, 2008)

5.- Europeanization of the immigration control policy. For years Spain has been demanding to the European Union greater collaboration to control irregular immigration. In this regard, important events were the creation of the European Frontiers Agency (FRONTEX) promoted among others by Spain, the signing of joint agreements for readmission or the organisation of joint repatriation flights. From the Spanish perspective the main achievement is the support of the Commission in order to condition the external policies of the EU as regards the origin or transit countries

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<sup>12</sup> OPI, Anuarios de Inmigración (Immigration Yearbooks)

(mainly Morocco), so that they collaborate effectively against their own irregular immigration and immigrants in transit.

6.- Regularisations. Regularisations are the most powerful way to diminish the stocks of illegal immigrants and have become the main management instrument (a posteriori) of the migratory flows. Over the last 20 years, after each important legal reform concerning aliens, a special regularisation process took place, which means there has been one every 5 years: 1986 (Ceuta and Melilla), 1991, 1996, 2000 (2001 for Ecuadorians) and 2005. In total, 1,100,000 immigrants have benefited from these regularisations, of these 570,000, in the last regularisation in 2005. Each of these measures was presented as 'extraordinary' and 'the last one', and all of them have had a 'call effect' or 'pull effect' which has attracted more immigrants who, in turn, have found themselves in a situation of irregularity. 'Extraordinary' regularizations have, de facto, become the main instrument used in controlling immigration flows, and have turned into a 'cheap way' to adapt labour market demands to foreign workforce supply, relying on the efficiency of the 'invisible hand of the market' (Martín Urriza, 2008).

Added to this is the ordinary regularisation due to settlement or rootedness ("arraigo") which, until the legal modification of 2004, was obtained after five years' illegal stay (or three by demonstrating integration into the job market or family ties with Spaniards or foreigners legally staying) and this is now achieved after three years' stay and the offer of a work contract (or after two years' stay and twelve months' work).

However, regularisations have an unquestionable call effect which can be observed in the evolution of the figures and is confirmed in some specific studies, such as the one conducted in 2000 by the Interior Ministry among 3.100 immigrants who applied for regularisation: 30% stated that their decision to migrate to Spain was influenced by the expectation of regularisation (Izquierdo 2001).

The last of these regularisations was announced in August 2004, soon after the Socialist electoral victory that year and it offered the chance to regularise their status to foreigners who were offered a labour contract and who could prove they were living in the country before 8 August 2004. To access to this "normalisation" as it was called,

immigrants should have been registered with their local council before that date, should have been offered a work contract of at least six months (three months in the agricultural sector) and have no criminal record in their home country or in Spain. The application had to be filled in by the employer, except in the case of domestic employees who could apply by themselves, and a channel to denounce employers who refused to apply for their workers was thus opened. In this process, held during the first months of 2005, 691,655 people asked for regularization and 573,270 were granted residence and labour permits. This translated into 550,000 new contributors to the Social Security fund<sup>13</sup>. The process was presented as an attempt to combat the hidden or ‘second’ economy and it was supposed to be accompanied by a strengthening of labour inspection services to avoid the employment of illegal immigrants.

The launching of this process was contested both domestically and internationally, as some European leaders saw it as a measure directed in the wrong direction and against the tendency of most European countries toward more restrictive policies regarding immigration. In the domestic arena, the Popular Party headed the protest against what they labelled a ‘call effect’ measure. The Popular Party, however, remained isolated in their confrontation, as trade unions, business associations and NGOs supported the “normalisation”.

Up to now, we have pointed out what the control policy of irregular immigration consisted of. However, the list of what has not been done is also important: in the first place, a systematic policy to trace and detect illegal immigrants inside the country, which would have been coherent with the declared aim, has not been carried out. The police could easily find the illegal immigrants, especially since the reformed Aliens Act (2003) obliges the Town Councils to put the Padrón at the disposal of the Interior Ministry. But in fact, the Interior Ministry has not made use of this capacity and there is no sign of a decline in the number of foreigners registered after this date. In short, in practice the main control is the border one, but, once they are in the country, irregular immigrants are very unlikely to be detected and expelled<sup>14</sup>

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<sup>13</sup> Irregular immigrants cannot pay Social Security fees.

<sup>14</sup> The Interior Ministry does not provide data on irregular immigrants detected inside the country. Interviews with public employees in this Ministry conducted during this research suggest that the number was very small till 2007 and has been increasing during 2008. In this year 42.000 persons have stayed in the Centers for Internment of Foreigners devoted to irregular migrants waiting for expulsion.

The reasons for this incoherency are of a political and administrative nature. Political leaders understand that a large part of the Spanish population would oppose a policy involving raids and massive expulsion of irregular immigrants. Thus, irregular immigration is tacitly accepted in the social and political environment, as is accepted the underground economy in which a substantial part of immigrants work. Unlike other developed countries which are hosts to immigrants, in Spain private citizens almost never report the presence of illegal immigrants. When such reports do occur, they refer exclusively to cases involving forced prostitution or exceptionally harsh exploitation at work. In this regard, immigrants benefit from a traditional political culture of tolerance towards illegality. On the other hand, the frequent changes in the legal framework and the strong occurrence of ‘befallen illegality’ make illegality a common feature. Most Spaniards who have any contact with immigrants are aware of this and, hence, do not necessarily attribute any negative connotations to irregular stayers (González Enríquez, 2006). A different thing is that many Spaniards, confronted with the State’s inability to control migration and their own lack of realistic alternatives, propose “contracts” as the solution. Thus they propose that only “immigrants with a labour contract” can enter the country, but the accent is posed here in the labour relation and not in the legality of the stay..

Moreover, there has been strong pressure from economic sectors based on the work of immigrants, such as that of intensive labour farming in the Mediterranean area. The most notorious example is the political turmoil provoked by the death in Lorca (Murcia) of 12 illegal immigrants on January 3, 2001 when the van driving them to work in a farm was run over by a train. As a result of this, the media showed that the use of irregular immigrants was generalised practice in agriculture on the Mediterranean coast. These immigrants were hired daily in the main squares of the villages, a practice which brought back memories of aspects of work in the agriculture which had disappeared from the Spanish countryside decades before. After the accident, through the Ministry of Employment, the Government announced an inspection campaign to combat the underground economy, and this political gesture led to fear among the farmers of Murcia, who were then submitted to the scrutiny of the media. In a few days, news appeared about frightened farmers who were afraid to continue to hire undocumented immigrants, the only workers available. Headlines were published such as “Lorca

Farmers are Forced to Use Systematic Fraud” or “The Lack of Labour Means 20,000 Hectares are not Harvested in Murcia”<sup>15</sup>. The arrest of the farming entrepreneur who had hired the Ecuadorian victims of the accident led to the solidarity of the farmers in the area who demanded his release arguing that farmers were obliged to hire undocumented immigrants as they were the only labour force at disposal. In response to this economic and social demand, coming from about 4,000 small and medium sized farm owners, and the wave of sympathy for the Ecuadorians all around the country as a result of the accident, the Government approved a special regularization plan for them and legalised the situation of 24,352 Ecuadorians.

And, finally the Spanish State lacks the economic and administrative means to effectively expel the illegal immigrants that could be detected if a systematic policy were put on effect. For instance, between January 1, 2002 and June 14, 2004, in two and a half years, the Administration dictated 117,768 expulsion orders for aliens, but it only executed 32,749, that is to say, 72% of the illegal immigrants detected by the police continued to stay in the country despite the expulsion orders<sup>16</sup>. The percentage has improved greatly since then, thanks to the return agreements signed with some of the main countries of origin. So, in 2007, only 8% of the expulsion orders remained non executed (50,318 expulsion orders dictated and 46,471 executed) (Interior Ministry 2008) . The financial cost of the expulsion – the travelling expenses of the person expelled and the police officer who must accompany him or her– is one of the main reasons which hinder expulsions and means that many more Moroccans are expelled than Latin Americans or Asians. For example, the repatriation of a Chinese citizen costs €6,750, that of an Ecuadorian €3,834 and that of a Senegalese €2,000.<sup>17</sup>

On the whole, it can be said that during the years of biggest arrival of immigrants (2000-2007) a policy of implicit tolerance towards irregular immigration has coexisted with the insistence on the motto that irregular immigration must be combated. The discourse endeavoured to focus attention on the criminal aspect of the entry of immigrants, with continual reference to the mafias involved in the traffic of persons, ignoring its effect on the job market and the economy.

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<sup>15</sup> El País, January 7 and 15, 2001

<sup>16</sup> Secretaría de Estado para la Inmigración y la Emigración. July 2004

<sup>17</sup> Cuerpo Nacional de Policía. May 2004

However, this policy did not satisfy the Trade Unions nor the employers, nor public opinion in general. During the years 2002-2004 the Trade Unions considered that government implicity allowed irregular migrants to arrive and that this was an endeavour to offer cheap labour to the employers. The employers considered that the system forced them to contract irregularly because they were not offered realistic ways to contract legally. The NGOs, the left in general, the Catholic Church and the associations of immigrants opposed to the policy of the Popular Party in this area. Meanwhile, public opinion evolved from 2000 to 2004 from a position of acceptance of immigration to rejection and support for restrictive policies.

The Socialist Government inaugurated in 2004 made some progress towards the regulation of the flows and the transparency of the system. In the first place, it facilitated the steps the immigrants must take in order to renew their residence or work permits, including the use of Internet. In June 2004, the offices of the Government Delegations throughout Spain accrued 374,749 unresolved dossiers referring to applications for residence or work permits for immigrants with delays of up to nine months. Half of these were applications for the renewal of permits<sup>18</sup>, that is to say, during those months, an unknown percentage of these 200,000 immigrants who were in legal situations became “irregulars” due to administrative delays. Although, according to Spanish administrative norms, the lack of an answer in these cases is equivalent to a positive one, in practice, if immigrants cannot demonstrate with a document the renewal of their permits, they will face difficulties even with other State agencies, such as the Social Security or the Border Police. In an attempt to decrease substantially this number of immigrants in situation of “befallen” and non-voluntary irregularity, the Socialist government adopted special measures and adapted the Social Security offices all around Spain, during the summer of 2004, to process the permits`renovations. But, still now, four years later, the departments in charge of processing the renewal of residence and work permits for aliens are understaffed, which leads to long delays and the frequent impossibility for immigrants of obtaining the renewal of their permits within the compulsory period.

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<sup>18</sup> Department of State for Immigration and Emigration. June 2004

On the other hand, the Socialist Government incorporated Trade Unions and employers to the negotiation on the Implementation Rules of the Law on Aliens from which arose the new General Regime through the catalogue of jobs difficult to cover. This system is more effective than the previous one because its scope is provincial and it is renewed every quarter with the participation of the Autonomous Communities.

However, the reforms fostered by the Government have been insufficient in some cases and counter-productive in others. The 2005 regularisation had an indubitable call effect, as do all regularisations, and at the beginning of 2008 (1<sup>st</sup> of January) there were around 450.000 irregular extracommunity immigrants, according to our estimates (see Part II). The Trade Unions demand more measures to control illegal immigration, that is to say, more labour inspections and, especially, more ordering of the flows through the use of the contract at origin and the visa policy. This requires economic and human resources at the embassies and consular offices which do not exist at the present time. Through the Confederación Española de Organizaciones Empresariales (CEOE) [Spanish Confederation of Business Organisations], the employers have always had a favourable attitude to administrative simplification and flexibility within legality. They defend the implementation of the job-seeking visa, which would permit immigrants a legal period of stay in the country while looking for work. The Socialist Party included this kind of visa in its electoral manifesto for 2004, but it has not implemented it due to the opposition of Trade Unions who fear that, in the current situation of insufficiency as regards labour inspection, this job-seeking visa may become a new way for more irregular immigration to enter.

The CEOE has always denounced the difficulty in contracting aliens following the legal norms and the lack of coordination between the administrations with competence in the matter, that is to say, the Interior, the Foreign Affairs and the Labour and Immigration Ministries, together with the Delegations of Government and the Autonomous Communities of Andalusia and Catalonia whose new Statutes include competences in this matter. In Madrid, for example, an employer takes about one year to arrange to contract a worker abroad. Achieving an appointment with the Delegation of the Government, a first step in the process, requires several months.

Paradoxically EU nationals have not been considered by the media, analysts or politicians when referring to “irregularity”, in spite of the fact that the percentage of them who do not comply with the obligation of register themselves is much higher than that of non-EU nationals. Only after the entry of Romania and Bulgaria in the EU (January 2007) has been this matter raised. After this EU enlargement many thousands of irregular stayers coming from Romania saw their stay automatically legalized, but as Spain has applied the moratorium to the free movement of Romanian and Bulgarian workers, they only could work legally as independent contractors and not as employees. This meant that their stay was legal while their work remained illegal. In fact a good part of them became “false autonomous”, working as before but with a different kind of contract.

EU nationals coming from the rich countries, like Germany, France or United Kingdom, who make in January 2008 a 18% of foreigners living in Spain, frequently do not fulfil their legal obligation to register themselves in the Police Office. Presently 25% of foreigners born in those countries (those belonging to the EU before the 2004 enlargement) have not registered , so, they become “irregular” migrants (40% of Germans and British are “irregulars”), but in this case their irregularity means nothing more than a minor administrative infraction and has very few practical consequences (González Enríquez 2008a).

## **PART II. Estimates**

### **II.1.-Most relevant studies and data sources**

Unlike other European countries where the number of irregular immigrants is estimated from figures provided by the police, Labour Inspection Authorities or from case studies, in intellectual exercises which leave a broad margin for interpretation and discussion, Spain is unique in Europe as regards data on the number of immigrants since irregular immigrants register voluntarily, thus, we can compare the number of aliens registered with those aliens with residence permits and obtain the number of irregular immigrants. All estimations about the size of irregular immigration in Spain are based in the comparison between those two sources. There are other two methods also used

occasionally and in a complementary way: First, the comparison between the number of foreigners paying fees to the Social Security and the number of foreigners detected as active population in the EPA (Encuesta de Población Activa). But this method does not provide an estimation about irregular immigrants but about immigrants who are not paying fees to Social Security (fraud to Social Security is also noticeable among Spaniards). The same problem affects the second method which uses the Health Service Cards called “*extensión de cobertura sanitaria*”, given to those who are not paying Social Security fees<sup>19</sup>. There is no proof that all foreigners asking for this card are “irregulars” (in the meaning of lacking residence or work permits). Many of them could be “legal” stayers but not pay Social Security fees. Another problem of this last source is that these data cannot be obtained centrally for the whole Spanish territory (each of the 17 Autonomous Communities keeps its own data and they are not easily available).

The scientific analysis and discussions about the number of irregular immigrants have been few<sup>20</sup>, as scholar attention has been paid to the whole immigrant population regardless of its legal status. Probably because irregularity has been a so common feature of immigration (as a phase in the lives of most immigrants), researchers have not paid great attention to their peculiarities. In any case, calculations have always been based on the data provided by the National Institute of Statistics and by the Interior Ministry, and the discussion has focused on how to interpret these data.

## **II.2.-The Spanish Padrón**

Spanish legislation offers incentives to irregular immigrants in order to have them included in an administrative register, the municipal census list (“*Padrón*”), kept by all municipalities. From the approval of the Law on Foreigners in 2000, irregular immigrants have access to public healthcare in the same conditions as Spanish nationals and regular immigrants, with the sole condition that they are registered in the *Padrón* of their Local Councils. To be registered in this *Padrón*, immigrant must show any paper which demonstrates that he or she is staying there: an electricity, gas, telephone or water

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<sup>19</sup> This source is used by CERES 2004. The difference between the estimation of irregular immigrants in Catalonia using the *Padron* and the number of residence permits, and the estimation based in the health cards was in 2004 of 23% (320.000 irregulars using the first method, 247.000 using the second).

<sup>20</sup> See Luis Garrido (2004), CERES (2004) and Cebolla and González (2008)

supply receipt, a rental contract, or the declaration of another resident stating that he or she shares housing with the applicant. However, although there are norms applicable along the country which regulate the conditions required so that a person can be included in the Padrón, in fact administrative practice is very varied. We have personally verified that in some municipalities no documentation is required (the word of the person concerned is sufficient and sometimes the person concerned can even be included in the Padrón through the Internet, with no need to personally visit the Town Hall), while in others the civil servants comply with the regulations and even in some exceptional cases they attempt to obstruct the inclusion of extra-Community aliens in the Padrón.

The result is that the Padrón has become a partly unreliable source for several reasons. In the first place, those who leave Spain are not obliged to remove their names from the Padrón, therefore, they continue on the list even after they leave the country. Furthermore, it is known that many aliens are included in the Padrón but do not live in Spain. They register themselves in order to have a document which accredits their presence in Spain on a certain date so that they can subsequently obtain a residence permit through regularisation or enjoy free healthcare for illnesses or ailments which do not receive proper treatment in their countries. In theory, there may also be irregular extra-Community immigrants who are not in the Padrón either because they are afraid they will be traced by the police through the list or because they are totally unaware of the advantages of such registration. As regards the first, the reform of the Law on Foreigners established the right of the National Police to access the individual data of the municipal Padróns, which gave rise to protests from associations of immigrants, NGOs and some Town Halls at the time. However, to date, the police is not using the Padrón in order to trace irregular immigrants and there is no sign that irregular immigrants decide not to be on the list<sup>21</sup>. On the other hand, ignorance of the advantages of being registered on the Padrón is unlikely to affect a significant number of immigrants considering the dense network of associations of immigrants of all nationalities and Spanish NGOs devoted to them. In any case, there is no signals that this possible ignorance is reducing the registration of irregular immigrants on the Padrón. On the other hand, the Local Councils, especially those in small municipalities,

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<sup>21</sup> Prostitutes living in clubs or some others coming from African countries and too afraid of any kind of contact with authorities could decide not to register, but there is no reliable estimation on its number.

are interested in “inflating” their Padróns as many of the services and funds they receive from the State depend on the size of their populations.

Another problem which affects the reliability of the source is that, once they have a permanent residence permit, immigrants may not feel compelled to register in the Padrón. If they are working legally and paying Social Security fees they can obtain free health care without needing municipal registration. And, if they do not have children, or their children are already enrolled at the school, they will not need to show their inscription in the Padrón. Thus, as it happens in the case of Chinese or Moroccans, the number of permits can be higher than that of registered in the Padrón, while at the same time, the National Poll on Immigrants shows that at least 7% of Moroccans were irregulars at the beginning of 2007.

In order to solve the problem of those who no longer live or have never lived in Spain, but are registered in the Padrón, the reform of the Law on Aliens approved in 2003 included an article which obliged non-Community aliens with no permanent residence permits to renew their registration on the municipal Padrón every two years. The process for the renewal of the Padrón began in December 2005 and resulted in 2006 in the withdrawal from the Padrón of 300,000 extra-Community aliens who did not renew their registration. But this renewal process, which continues since then, has been conducted without information campaigns directed to immigrants and with very divergent results in each Local Council, a signal that the process depends on the willingness of the Town Halls: some allocate resources to informing the immigrants of this obligation, others do not, some facilitate the renewal, others hinder it.

In short, although Spain has an unquestionable advantage as compared with the rest of the European countries since it has a general registration of irregular immigrants, this registration is far from perfect.

#### **Estimates and data on stocks.**

#### **Indications from the Padrón**

Regarding extra-Community immigrants, we can establish the maximum number of irregular immigrants by comparing the number of residence permits with the number of those registered on the Padrón, bearing in mind that asylum seekers and foreign students must be subtracted. It is not known if or when foreign students register themselves in the Padrón, as, due to their special circumstances, many of them do not need it (Universities offer medical care). Anyhow their number is relatively small and does not affect the results in a significant way. According to the current data, extra-Community foreign students amount to 43,000 (Observatorio Permanente de la Inmigración, March 2008)

Those who have lost their residence permits because of administrative delays in their renewal should also be subtracted, but the official sources do not provide reliable information on this field. Numbers offered by the Interior Ministry refer to renovations which are under process but not to the amount of permits which have expired due to administrative delays. Furthermore, data offered by the Interior Ministry on those permits pending renewal are so heterogeneous as 16.000 (data provided by the Interior Ministry to the researcher and referred to June 2008) and 260.000 (data published by the journal *El País*, referred to January 2008 and attributed to the Interior Ministry).

In accordance with this data, in January 2008 there were a maximum of 590,000 extra-Community irregular immigrants.

1.- Extra-Community aliens registered on the Padrón: 3,071,000

2.- Extra-Community aliens with residence permits: 2,433,000

3.- Foreign students with temporary stay permits: 43,000

4.- Asylum seekers: 5.000

Total irregular immigrants: 1-2-3-4 = 590,000 (19% of the total registered on the Padrón)

We can compare this calculations with those offered by two media, one close to the Socialist government (*El País*) and another by a think tank close to the main opposition party (GEES). According to *El País*<sup>22</sup>, the number of irregular extracommunity migrants is 300.000 in the same date (January 2008). The author exclude 260.000 persons who

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<sup>22</sup> “Ojo con las conclusiones”, *El País*, 21-06-2008.

supposedly are renovating their permits (equaling this situation with that of "befallen irregularity" due to administrative delay, which is not correct), plus 25.000 temporal workers and transfrontier workers (excluding these is a mistake as they do not register themselves in the Padrón, thus they do not constitute part of the total from which we are subtracting), plus 40.000 "cancelled registrations" (this is also a mistake as these cancellations have already been subtracted from the Padron). On the other extreme, the Grupo de Estudios Estratégicos (GEES), close to the Popular Party, speaks about one million irregular migrants, referring broadly to the comparison between the Padrón and the number of permits (Ortiz 2008). Another source, the economist Carlos Martín (2008), analyst in the Trade Union Comisiones Obreras (CCOO), using also the comparison between the Padrón and the number of permits, offers this same number: 1.100.000 irregular immigrants, referring the data to 1 July 2007 but including in the number Romanians and Bulgarians (legally staying since January that year, but illegally working). **The sociologists Héctor Cebolla and Amparo González (2008) offer a smaller estimation, 419.000 irregulars, referring to 1 January 2007. In this last case they did not exclude Romanians and Bulgarians from the number of residence permits (as the source refers to 31 december 2006 and they became EU citizens in January 2007), in spite of the fact that they are excluded from the Padrón (referred to 1 January 2007). If Romanians and Bulgarians are excluded from both sources, the estimation of Cebolla and González and my own are coincidental.**

Also using the comparison between these two sources, Luis Garrido (2004) calculated 869.000 irregulars in the beginning of 2002 (including here the EU citizens) and CERES (2004) indicates 1.340.000 one year later (beginning of 2003). In both cases these figures are the result of subtracting the number of foreigners with residence permit from those registered in the Padron. Both authors are conscious that the Padrón is not an entirely reliable source. Using the same method, the Government stated in October 2004 that there were between 800,000 and one million irregular aliens<sup>23</sup>.

As concerns the Rumanians and Bulgarians, their entry into the European Union in January 2007 legalized the stay in Spain of 355.000 of them (there were by then 626.214 registered in the Padrón and only 271.499 with residence permit), but as Spain

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<sup>23</sup> Statement made by the Vicepresident of Government. El País, 28, October 2004.

applied a moratorium to the free movement of their workers until 2009, it is very probable that a substantial number of these fail to comply with the law by working without contracts or as false “self-employed workers”. Thus, according to the data provided by the Social Security, in April 2008, there were only 264,000 Rumanians and 56,000 Bulgarians affiliated (paying fees to the Social Security). If we compare these figures with the total Rumanian or Bulgarian populations, taking into account their age structures, the cost of living and the average salaries in the sectors and jobs in which immigrants work, it can be deduced that those who are working in these groups must be much more than those contributing to the Social Security. Of the total of 701,000 Rumanian immigrants on the Padrón in January 2008, 582,000 are within the working age range and less than half of these are affiliated to the Social Security. In the domestic sector only 16,000 Rumanians are affiliated, when all signs show that this is one of the most common job for Rumanian women in Spain (and it is the sector least controlled by Labour Inspection). The same applies to immigrants coming from Bulgaria although these are much less numerous.

The number of irregular extra-Community immigrants in Spain decreased substantially during 2007 due to the accession of Rumania and Bulgaria to the EU. On the other hand, the visa requirements for some Latin-American countries have substantially contributed to reducing the number of arrivals in recent years. Thirdly, the regularisation of 2005 reduced the number of irregular immigrants by 570,000, and the legal instrument for the continuous regularisation also inaugurated in 2005 permitted a constant flow from irregularity to regularity. Finally, as already said, the efficacy of the Government as regards the repatriation of aliens intercepted on trying to enter Spain irregularly has improved due to the signing of readmission agreements with the countries of origin.

Comparing the Padrón and the number of residence permits, the percentage of irregularity, which fell by 19% in January 2008, was above 40% during part of the decade and even amounted to 51% in 2003.

Table V.- Percentage of irregularity at the beginning of each year.*
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	Total number of extracommunity aliens on the Padrón (A)	Extracommunity aliens with residence permits ** (B)	Extracommunity aliens with student permits (C)	Extracommunity irregular aliens 1-2-3 (D)	% of irregularity D/A x 100
2001	927,978	589,517	28,816	309,645	34%
2002	1,457,661	777,708	29,402	650,551	45%
2003	2,042,083	971,446	23,756	1,046,881	51%
2004	2,358,040	1,208,755	30,254	1,119,031	47%
2005	2,894,712	1,478,416	36,545	1,379,751	48%
2006	3,164,302	2,169,648	30,640	964,014	30%
2007***	2,769,664	<b>2,089,305</b>	33,267	<b>647,092</b>	<b>23%</b>
2008	3,070,484	2,432,705	42,852	594,927	19%

Source: National Institute of Statistics and Permanent Observatory on Immigration. Own drafting.

\* Asylum seekers have not been included in this table because of their small number.

\*\* **Number of residence permits refers to 31 december of previous year, i.e. one day earlier than the reference date of Padrón. The number includes both permits obtained through the “general” regime, the common way for TCNs, and those obtained through the “communitarian” regime, applied to those TCNs with familiar links with EU citizens.**

\*\*\* **Bulgarians and Romanians have been excluded as they became “regulars” from 1 January 2007**

## **II.2.2.- Indications from the National Poll on Immigrants (Encuesta Nacional de Inmigración, ENI)**

During the last weeks of 2006 and the first ones of 2007 an ambitious poll was conducted among foreigners in Spain, directed by the Instituto Nacional de Estadística. The poll interviewed 15,500 foreigners, 11,000 of them extra-community aliens, and the questionnaire used included a question about their legal situation. According to its results, as an average 13% of TNC were lacking a permit to stay, 10% if Romanians and Bulgarians are excluded, a percentage that was much higher among those arrived later. 40% of those immigrants arrived during 2006 confess that they did not have a permit, 35% of those arrived during 2005 and 25% of those arrived in 2004, i.e., regularity is a function of time of stay (Reher and Requena 2008). These percentages must be considered as a minimum, as it is most probable that many interviewed foreigners without “papers” would hide it in front of an interviewer who presents

himself or herself as working for an official institution, the Instituto Nacional de Estadística.

### **II.2.3.- Indications from Social Security and EPA (Encuesta de Población Activa)**

As it has already been mentioned, the number of irregular foreign workers can be deducted from the comparison between those paying fees to the Social Security and those detected as workers in the Encuesta de Población Activa, a quarterly poll. According to these sources, in the third quarter of 2007, there were 2,846,000 foreign workers (EPA) but only 2.037.000 foreign payers of Social Security fees, which would imply that more than 800.000 foreign workers were irregularly working (these figures include EU foreigners, who represent a 18% of total foreign population). But, to the problem already mentioned (they refer only to workers and not paying SS fees cannot be equated with an irregular status as residents), another should be added: The EPA uses the Padron to translate the figures deducted from the sample to the whole population, i.e., eventual mistakes in the Padrón affect the EPA quantification of foreign working population.

### **II.2.4.- Indications from 2005 regularisation process**

We can now compare these data with those resulting from the regularisation process of 2005, taking into account that only those already registered in the Padrón on 8th August 2004 could apply for "normalization" and that this process only legalized workers (i.e. not inactive or unemployed family members) whose employers could present a job offer of a least one year. That excluded those immigrants working as autonomous (self-employed), those without a stable employer or whose employer refused to apply as this would have implied the compromise of paying Social Security fees. In fact during the process of regularisation of 2005, many protests were presented by Trade Unions and immigrants associations accusing some employers of refusing to regularise their workers<sup>24</sup>. With all these caveats in mind, the comparison between the number of irregular migrants in August 2004 (around 1.270.000<sup>25</sup>) and the number of applications to the regularisation process of that year (692.000) shows that the Padron was highly overinflated and therefore that the number of irregular migrants in that date should be

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<sup>24</sup> See Javier Moreno (2005)

<sup>25</sup> As immigrants had to show that their stay in Spain has began before the 8<sup>th</sup> of August 2004 in order to apply to this process, we have calculated the number of irregulars in that day supposing that their increase was homogeneous during the whole 2004.

considerably lower<sup>26</sup>. To what extent it is impossible to say by now. Since the end of 2005 when the process of "deputation" of the Padron began and those falling to renew their inscription in it were deleted from the register, the source has become much more reliable despite the defects we have already mentioned.

### **II.3.- Sociodemographic characteristics of irregular immigrants.**

As it was mentioned above, irregularity has been the rule rather than the exception in immigration into Spain, therefore, the demographic or sociological analyses have taken into account the totality of immigrants without paying special attention to their legal status.. Only some studies of an anthropological or micro-sociological nature have specifically examined the more visible irregular immigrants, such as temporary agricultural workers or sub-Saharan workers who sell copies of CDs and DVDs in the streets, and these are always focused on an analysis of the underprivileged and of poverty<sup>27</sup>. Nevertheless, despite their unquestionable value, the results of these qualitative studies cannot in anyway be considered to be representative of the average situation of the irregular immigrants, but only of those who do not fit so easily into the job market. The two most outstanding exceptions are the books "La inmigración irregular en Tenerife" (Godenau and Zapata 2007) and "Inmigración irregular en Cataluña" (CERES-CCOO 2004). The first one is based in 581 interviews with immigrants who either were irregular at that moment or had been irregular in the past. It offers an interesting picture of work and life conditions of extra-community immigrants in this island, but, due to the methodological problems derived from the lack of knowledge of the "universe" and the inclusion in the sample of already legal migrants, the research does not offer a sociodemographic portrait of irregular immigrants. Anyhow, the local character of the research and the economic specialization of Tenerife island prevent the generalization of its results to the whole irregular immigration in Spain.

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<sup>26</sup> The interpretation of some NGOs and leftist groups was that "some hundred thousands" irregular immigrants were left outside the process, but this only can be true if referred to those arrived after 8 August 2008 . See [www.aeah.org](http://www.aeah.org)

<sup>27</sup> See Ubaldo Martínez Veiga (2003). "Pobreza absoluta e inmigración irregular. La experiencia de los inmigrantes sin papeles en España", *Papeles de Economía Española*, n. 98, pp 214-224

The book devoted in 2004 to irregular immigration in Catalonia focuses in a much bigger area which accounts for more than a fourth of immigrant population in Spain and with a more diversified economy. It presents estimations of the size of irregular immigration and an analysis of the irregular work of immigrants and the role of employers and labour inspection. Part of the information derives from 271 interviews to irregular immigrants conducted in the offices of CITEs (Centros de Información a Trabajadores Extranjeros), a service provided by trade unions. The research is of great value and interest, and it offers a general portrait of links between work market, legal channels, legal enforcement and the offer of irregular immigrants. But, as the authors themselves recognize, it cannot present a sociodemographic picture of irregular immigrants.

Although we cannot state their present distinctive socio-demographic characteristics, we can use the data coming from the “normalization” process of 2005 to identify the age, gender, geographical origin and economic sectors which made up the major part of irregularity then. Regarding geographical origins, Latin-American immigrants made the biggest part of those regularised in 2005, followed by East Europeans and Africans:

Table VI.- Regularization process of 2005. Main results		
	Applications	Regularised
<b>Total</b>	<b>691,655</b>	<b>578,375</b>
Latinamerica	326,469	288,134
Europa	179,235	152,584
Africa	136,784	107,011
Asia	42,788	25,989
North America	525	361
Oceania	56	42
Apatrids	5,798	4,254
<b>Main single nations</b>		
Ecuador	140,020	127,925
Romania	118,546	100,128
Morocco	86,806	68,727
Colombia	56,760	50,417
Bolivia	47,325	39,773
Bulgaria	25,598	22,239
Argentina	23,896	21,519
Pakistán	15,782	8,602
Uruguay	10,650	9,653
Brasil	10,488	8,069

Source: Observatorio Permanente de la Inmigración, Anuario 2005

Regarding composition by gender and ages of irregular immigrants, the data derived of the “normalización” process of 2005 provides this structure (it must be taken into account that only working immigrants, and not their relatives, were regularized in this process):

Table VII.- Sex and age structure of regularized immigrants 2005 (pop. between 16-65 years)	
Men	56 %
Women	44 %
16- 24	18 %
25-39	61 %
40-65	21 %

Source: Ministry of Labour and Immigration (Balance del Proceso de Normalización de Trabajadores Extranjeros. Diciembre 2005)

This age and gender composition is basically similar to that of the whole immigrant population, except for dependent persons (children and the elderly), most of whom have arrived when the immigrants have achieved stability in the country, as regards housing and legal status. This similarity reinforces the hypothesis that irregularity is a common trend and a phase in the life of most immigrants in Spain and does not form a different group of immigrants.

With respect to economic sectors, 32% of applications to the regularisation process were coming from domestic service, 21% from construction, 15% from agriculture and 10% from hospitality (hotels, catering, bars). As the first one was the only which allowed immigrants to apply by themselves (without an employer) it is very probable that this sector was overinflated as many immigrants could have found in this channel the solution to a lack of stable employer or to a reluctant employer.

Nowadays (2008) those from Argentina, Bolivia, Brazil, Chile, Colombia, Mexico, Paraguay, Uruguay and Venezuela entail two thirds of the irregularity. Bolivia

contributes with the highest number as two thirds of its 234,000 immigrants in Spain are estimated to be in an irregular situation. In absolute terms, Argentina follows Bolivia, with 99,000 irregular immigrants of a total of 195,000. In relative terms, that is to say, the weight of irregular immigrants as compared with the total number of immigrants from each country, Latin-Americans are first.

	Padrón (A)	Residence permits (B)	Irregulars = (A) – (B)
Bolivia	234,000	69,000	165,000
Argentina	195,000	96,000	99,000
Brazil	118,000	39,000	79,000
Paraguay	66,000	14,000	52,000
Uruguay	61,000	31,000	30,000
Venezuela	60,000	33,000	27,000
Colombia	280,000	254,000	26,000
Rusia	44,000	30,000	14,000
Chile	48,000	25,000	13,000
Ucrania	74,000	62,000	12,000
Ecuador	408,000	396,000	12,000
Pakistan	46,000	36,000	10,000
Senegal	43,000	33,000	10,000
Cuba	52,000	45,000	7,000
Peru	122,000	116,000	6,000
Rep Dominic	76,000	71,000	5,000
Argelia	49,000	46,000	3,000

Source: National Institute of Statistics Municipal Padrón and Permanent Immigration Observatory. Own drafting.

Note: The Padrón refers to 1 January 2008 while the Interior Ministry source on permits refers to 31 December 2007 (one day earlier). In the table appear only those groups whose size is bigger than 30.000 persons. Irregularity among Moroccans and Chinese immigrants is, apparently, very low, as the number of those registered in the Padrón is lower than that of permits of stay.

Globally taken, men surpass slightly women among extra-community foreigners, but distribution is very uneven depending on the continent of origin. Thus women are the biggest group among non-EU Europeans (mainly Romanians) and among Americans

(almost all of them Latinamericans), while men dominate among Africans (mainly Moroccans) and Asian (mainly Chineses).

Table IX.- Gender distribution of Extra-Community Foreign Population according to origin. January 2008. Padrón			
	Total	Men	Women
Non EU-Europe	209,000	98,000	110,000
Africa	898,000	593,000	306,000
America	1,761,000	804,000	957,000
Asia	253,000	157,000	96,000

Source: Instituto Nacional de Estadística. Padrón Municipal. January 2008

Immigrants form a young population, concentrated in the more active years (16-44 years), with very few old people as it can be expected in the first phase of a labour immigration, i.e., when family reunification is still scarce.

Table X.- Age distribution of Extra-Community Foreign Population according to origin. January 2008. Padrón					
	Total	0-14	15-44	45-64	65 or more
Non EU-Europe	209,000	25,000	123,000	46,000	14,000
Africa	898,000	172,000	632,000	85,000	9,000
America	1,761,000	255,000	1,239,000	235,000	32,000
Asia	253,000	38,000	180,000	32,000	4,000

Source: Instituto Nacional de Estadística. Padrón Municipal. January 2008

As concerns work, there are two sectors which have always provided entry to the job market for irregular aliens in Spain: domestic service and agriculture. In domestic service surveillance by Labour Inspection is null, while in agriculture there is now bigger, but in previous years surveillance was almost non-existent. The typical route followed by the irregular Latin-American or Rumanian female immigrants (before the 2007 enlargement of the EU) was working for some years in domestic service until “papers” could be obtained, then changing to the catering sector (bars, restaurants, hotels) or retailing. In the case of irregular immigrant men from North Africa or Eastern Europe, agriculture on the Mediterranean coast has been the most common way to

access the job market (for years agricultural employers have insisted that the only work force available was composed of irregular immigrants). Due to the physical strains of this sector, a substantial number of these immigrants left it when their situation was regularised and sought work in construction (a sector which is much more strictly controlled by the Employment Inspection Authorities) or in the services.

Referring to the whole extracommunity immigrant workforce, regardless of their legal status, four sector of occupation concentrate two thirds of the total: domestic service, construction, hospitality (hotels, restaurants and bars) and agriculture. All of them are "niches" of hidden economy, which, as has already been said, in Spain has been evaluated as providing for the 23% of the GDP.

Table XI.- Main groups of activity of most numerous Non-EU foreign workers. 2003 (vertical percentages)			
	East European	African	Latinamerican
Domestic help	18%	4%	26%
Hospitality (catering and hotels)	11%	8%	16%
Agriculture	8%	13%	8%
Construction	28%	29%	16%
Total	65%	54%	66%

Source: Luis Garrido and Luis Toharia (2004), based in the Encuesta de Población Activa

Immigrants's position in the workplace is clearly secondary, as can be deduced from the data provided by the Social Security based in the job category:

Table XII.- Percentage of "labourers" (non qualified workers) among each group of immigrants	
Non-EU Europe	36%
Africa	49%
Iberoamerica	33%
Asia	31%

Source: Social Security, data offered by OPI (Anuario de Extranjería 2007)

In comparison with them, in Spanish total population only 15% of workers are "labourers", and foreigners are more present than the media in the less qualified categories:

Table XIII.- Distribution of workers affiliated to Social Security according to professional categories. 2007				
	High	Medium high	Medium low	Low
Foreigners	6%	9%	52%	33%
Total population	18%	20%	46%	16%

Source: Social Security, data offered by the OPI (Anuario de Extranjería 2007), own drafting.

### **Other groups raising specific concern**

With regard to asylum seekers and refugees, their number in Spain is so small, as was mentioned before, that there are no specific studies on their characteristics. As has already been said, the opportunities provided for obtaining work without a work permit make illegal immigration a preferable option for possible asylum seekers in Spain.

Prostitutes form a big part of irregular female immigrants, as most of sex-workers are foreigners and, according to police sources, the majority of them had no residence permits before the regularisation process of 2005 (González Enríquez 2006). But there is no data nor estimations on the size of this irregular immigration. The figure of 300,000 prostitutes working in the country has been mentioned by the media but it seems too high to be reliable. Part of these irregular immigrants have been victims of trafficking networks and data coming from the police can account for the dismantled networks, but these data cannot be taken as an approximation to the number of irregular immigrants working in the sector.

### **II.4.- Estimates of flows**

There are no data or estimations on flows of irregular immigrants per year. As have already been said, overstaying is the most common way of entry into irregularity and, compared with that, the number of irregular immigrants detected in frontiers is very small. For instance, during the year 2007, 23,636 immigrants were arrested when trying to enter Spain, 18,057 through the sea and 5,579 in airports or land frontiers (Interior

Ministry 2008) while at the end of that year the number of irregular immigrants was around 450.000 according to our estimations.

An unknown number of previously regular immigrants could have lost their permits during 2007 because of administrative delays or because they did not count with a job offer in the moment of applying for renewal. On the other hand, thousands of previous irregular migrants managed to regularise their situation during 2007, as those irregulars arrived three years before and with a job offer could obtain a residence permit. All those irregular migrants who were already in Spain in 2004 but could not get regularisation during the last extraordinary process (2005) could apply to the “settlement” channel to legality in 2007. Estimations published during 2005 and 2006 forecasted 400.000-600.000 regularized through this way in 2007<sup>28</sup>, but the final number was much smaller:

Table XIV.- Regularised in 2007 through the settlement channel.		
Social settlement	Laboral settlement <sup>29</sup>	Total
27,618	696	28,314

Source: Labour Ministry

### **Part III. Discussion and policy implications**

Immigration has become a central theme in the competition between the main parties and in public debate over the present decade. However, the estimate of the number of irregular immigrants only took on an important role in this debate as from 2004 when the Socialist Party won the national elections and the Popular Party headed the opposition. In order to understand the nature of the public debate in Spain, it is

<sup>28</sup> This calculation came from the Asociación Profesional de Abogados de Extranjería de Madrid and was widespread by different media.

<sup>29</sup> To apply to the “Laboral settlement” channel of regularisation, immigrant must denounce the employer who has been contracting him or her. For this reason this is a non frequently used channel.

necessary to take into account that all relevant mass media are strongly politicised and are clearly biased and even sectarian. The division of opinions, the biased selection and presentation of the information and the climate of radical confrontation between the two big parties and their respective supporters in the mass media lead to the non-existence of a neutral field for political debate. Thus, there are no media which enable reasoned debate between the positions on the right and on the left as regards immigration (or many other subjects).

This clarification is necessary in order to understand why the estimate of the number of irregular immigrants has not played a role in the public debate despite the fact that most of the news published on immigration (65.2%)<sup>30</sup> referred to irregular immigration. Only a minimum part of this news included estimation of the total numbers of irregular immigrants (8%).

During the period of government of the Popular Party and especially from 2001 on, the Socialist Party in the opposition together with the Trade Unions and the NGOs repeatedly accused the Government of tacitly permitting irregular immigration so that cheap labour might be available for employers. Nevertheless, the number did not matter much in these accusations where stress was laid on the demand for the regularisation of all the irregular immigrants. Throughout those years (2001-2003), the newspapers and other mass media gave relevance to the news related to irregular immigration and drew attention to its more dramatic aspects (the deaths on crossing the straits of Gibraltar, the immigrants who were specially exploited, the cases of forced prostitution, etc.), aspects which later passed to a secondary level. However, the Socialist opposition as the left and NGOs in general were not interested at the time in the numbers of the irregular immigrants as the dominant factor was their humanitarian and supportive motivation and they feared that publicity regarding the high numbers of irregular immigrants might be counterproductive as far as public opinion was concerned, as this might turn against immigrants. Thus, the human drama was highlighted and not the figures.

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<sup>30</sup> Own calculations made by the Spanish team of the ISISPA (Immigration and Party Systems) research project, using a sample of 1,481 articles published in main journals between 2000 and 2005 ([www.uned.es/dcpa/invest/isispa\\_en.html](http://www.uned.es/dcpa/invest/isispa_en.html) )

Shortly after winning the elections in March 2004, the Socialist party announced its “normalisation” or special regularisation process and, in order to justify the need for this process, opposed by the Popular Party, it presented high estimates of the total number of immigrants whose situations were irregular, and blamed the previous Government of the Popular Party for the growth of irregular immigration during its mandate. As it has been said, the Government spoke of between 800,000 and one million irregular aliens who could regularise their situation, while finally the number was 570,000. In the same way, as has already been mentioned, the Socialist Party made public in the summer of 2004 that more than 200,000 immigrants were at that moment waiting for the renewal of their permits, implying that many of them could have fallen on an irregular situation after being in a legal one due to the lack of resources of the public administration in order to handle the applications for renewal.

The response of the Popular Party was to deny the need for regularisation with the argument that this was equivalent to rewarding the mafias engaged in the trafficking of persons and warn of the “call effect”, but they did not discuss the credibility of the figures used, among other reasons because the experience of previous regularisations was always that the number of applications was quite higher than expected (quite the opposite to this occasion).

As was pointed out above, the regularisation announced in 2004 and carried out in 2005 gave rise to criticism both in Spain and in other European countries, therefore, the Government was forced to defend itself with the utmost care. Among the arguments used in this defence was that this regularisation was intended to definitively resolve a problem inherited as a result of the mismanagement of the earlier governments and that, from then on, the immigration which Spain would receive would be regular. The statistical data show that this forecast was mistaken and that, despite the measures taken in order to improve the management of migratory flows, irregular immigration has continued to arrive in big numbers. At the same time, public opinion has moved towards more critical positions as concerns immigration and the Government of the Socialist Party has been forced to modify its discourse due to the alarm caused by the attempted massive assault on the fences round Ceuta and Melilla in 2005 and the large number of “cayucos” [small boats] which reached the coasts of the Canary islands from Africa in 2006. Strongly hounded by the Popular Party in this matter and aware of the worsening

public opinion concerning immigration, the Socialist Government and the mass media close to the Government avoided mentioning the number of irregular immigrants. Meanwhile, the Popular Party, and its kindred mass media highlighted these numbers as evidence that the special regularisation of 2005 had had the “call effect” they had forecasted and had not solved the problem.

In the mass media close to the Socialist Government publicity was given to the progress made in the reduction of the number of “cayucos” reaching the Spanish coasts in 2007 (18,000 persons) as compared with the whole 2006 (39,000 persons)<sup>31</sup>, thanks to the signing of agreements with Mauritania and Senegal and the involvement of FRONTEX in maritime control. Secondly, publicity was given to the increased number of effective repatriations, that is to say, the number of immigrants with expulsion orders who were effectively returned to their countries of origin (56,000 in 2007, of them 46,000 when detected in the frontiers). However, these figures are very small in relation to the total irregular TCNs, whose main door of entry, as was pointed out, are the airports through which enter those Latin Americans who are not required to have a visa.

## **CONCLUDING REMARKS**

Spain is a unique case in the European Union as regards the level of information on the number of irregular immigrants as the legislation on aliens has created a strong incentive for aliens to register in the Local Councils while, on the other hand, this registration does not entail a threat to their possibilities of continuing to reside in the country. But, the municipal Padrón, the main source of information, is not a perfect register precisely because being registered on it grants social rights (free and complete healthcare assistance and public education) and it is a necessary step for subsequently accessing the ordinary (after three years irregular stay) or the eventual special regularisation. Furthermore, the immigrants do not withdraw their names from the register when they leave the country. In order to solve this last problem, an obligatory process for the renewal of inscription on the Padrón was started up in 2005 for all those extra-Community immigrants who do not have a permanent residence permit, but the execution of this process by the Local Councils is uneven.

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<sup>31</sup> Data provided by the Interior Ministry in a Press Communication of January 2008

For these reasons we calculate a maximum number of irregular migrants, which at the beginning of 2008 was 595.00 (19% of TNC), but we have some indications or evidences that this figure is overestimating reality. The big difference between the number of those who applied to regularisation (be the last extraordinary one or the continuous one) and the calculation on the number of irregulars entitled to apply based in the Padrón, cannot be explained only by reasons related to the age structure or the refusal of employers to regularise their workers. The reliability of the Padrón has improved since then, once the continuous process of “cleaning” was initiated at the end of 2005, but still now rules are not applied in a homogeneous way among Local Councils and in many of them there is almost no requisite to register, which facilitates the overestimation.

In our own estimation, the number of irregular migrants at the beginning of 2008 is somewhere in between the maximum of 595,000 and a minimum of 300,000, roughly its half. 300.000 is the number which results of applying to the registered TCNs in January 2008 (3 millions) the average of irregularity recognized by polled immigrants (it was of 10% excluding Romanians and Bulgarians).

Anyhow, the most important problem related to irregular immigration is not what was its exact size in a fixed date, as this number is continuously changing, but why irregularity in Spain was allowed to be the rule rather than the exception. Irregularity has been implicitly accepted by successive governments despite the dominant rhetoric of “struggle against irregular immigration”, therefore, the calculation of the number of irregular immigrants was not an important factor in political decision taking. The “hidden agenda” as regards immigration was to permit the immigrants to arrive, find work and later regularise. In short, a liberal, market approach dominated and this gave priority to the demand of the job market over the ordering of the migratory flows. This adjustment between the demands of the job market and the arrival of immigrants could have been done in a more orderly fashion, which would have prevented much of the irregularity, but this would have been much more expensive: the State would have had to invest more in its foreign services in order to regulate the arrival of immigrants through these, in the Employment Services and in Labour Inspection.

The system worked this way until 2008. However, this year the economic crisis provoked by the collapse of the construction sector, which had been the main motor of growth for many years, suddenly transformed the irregular immigrants into a nuisance. Unemployment among Spaniards and immigrants is increasing (it stands at 12% in the fourth quarter of 2008, according to the EPA -Encuesta de Población Activa-), it is forecast to raise until it reaches 18% in 2010<sup>32</sup> and immigrants are already suffering and will suffer the consequences of the crisis more than the native population, especially if they are in an irregular situation. In the fourth quarter of 2008, unemployment rate among foreigners is 21%<sup>33</sup>. On the other hand, immigrants are prone to move geographically to find a job wherever it is offered and because of their specially weak situation they are willing to accept job offers which Spaniards would not accept. For this reason it is plausible that unemployment will affect more autochthonous population than immigrants, who, on their side, are on a greater risk of falling into the more hidden and irregular labour market. On the other hand, unemployment or displacement towards hidden economy will prevent renovation of stay permits, transforming many regular immigrants into irregulars. The Government has presented a plan to promote the return of unemployed immigrants to their countries of origin: they will receive unemployment subsidy in two instalments, instead of receiving monthly payments, but this plan only applies to legal immigrants who have contributed to the Social Security for at least a year and whose countries have signed with Spain an accord of mutual recognition of Social Security contributions<sup>34</sup>. The plan has been launched in November 2008 and in its first month has received 767 applications, a very small figure compared with those 780,000 unemployed foreigners detected by the EPA (Encuesta de Población Activa, December 2008.)

There are signs of a radical change of scenario: the Government message on immigration has become harder during this second Socialist administration (2008-), Spain is among those countries promoting the recent EU Directive on Return and for the

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<sup>32</sup> Forecast developed and presented by FUNCAS (Fundación de las Cajas de Ahorros) in November 2008

<sup>33</sup> Unemployment has been during the last years always higher among immigrants because of their recent arrival to the Spanish labor market.

<sup>34</sup> Most Latinamerican countries are in this case, as it is also Morocco, but none of the Subsaharian or Asian countries.

first time in the Spanish history a massive roundup of immigrants has been carried out<sup>35</sup>. These changes announce a new stage in which governments will pay more attention and endeavour to reduce irregular immigration. This stage will last for long as Spanish economy will not recover quickly the growth rates it has enjoyed during the last twenty years. The construction “bubble” will not expand again and there are no short term alternatives.

## References

Aja, Eliseo (2006) “La evolución de la normativa sobre inmigración” in Aja and Arango (eds) pp 17-44

Aja, Eliseo, and Arango, Joaquín (eds) 2006 *Veinte años de inmigración en España*, CIDOB, Barcelona

Alañón, Angel and Miguel Gómez (2003) *Una evaluación del grado de incumplimiento fiscal para las provincias españolas*, Instituto de Estudios Fiscales, Madrid.

Aparicio, Marco, and Roig, Eduard (2006) “La entrada por razones laborales y el trabajo de los extranjeros” in Aja and Arango , pp 145-174

Arango, Joaquín (2004) “La población inmigrada en España”, *Economistas*, No., 99, pp 6-14

Cabellos, Miguel Angel and Roig, Eduard (2006) “El tratamiento jurídico del extranjero en situación irregular” in Aja and Arango (eds) pp 113-128

Cebolla, Héctor and González, Amparo (2008), *La inmigración en España (2000-2007)*, Centro de Estudios Políticos y Constitucionales.

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<sup>35</sup> It took place in Torre Pacheco, a town in Murcia, in the Southeastern coast, the 28<sup>th</sup> of June, 2008. 300 immigrants were identified in the streets, bars and even in a Mosque, and 58 were arrested. Some days later the government apologized for this “round up”

CERES-CC00 (2004) *Inmigración irregular en Cataluña. Análisis y propuestas*. CERES-CCOO

CES (Consejo Económico y Social) (2004) *Informe sobre la inmigración y el mercado de trabajo en España*, CES

Díez Nicolás, Juan and Ramírez, María José a (2001) *La voz de los inmigrantes*, IMSERSO.

Garrido, Luis (2004), "Para cuantificar a los extranjeros" *Economistas*, nº. 99, pp 28-37

Garrido, Luis and Toharia, Luis (2004), "La situación laboral de los españoles y los extranjeros según la Encuesta de Población Activa", pp 77-87, *Economistas*, nº 99

Godenau, Dirk and Zapata, Vicente (Coord.) (2005), *La inmigración irregular. Una aproximación multidisciplinar*. Ed. Cabildo Insular de Tenerife, Área de Desarrollo Económico.

González-Enríquez, Carmen (2006), "The Fight against Illegal Immigration, Smuggling and Trafficking in Human Beings in Spain. Ambiguities and Rhetoric" in *Immigration and Criminal Law in the European Union* Elspeth Guild and Paul Minderhoud (eds), Martinus Nijhoff Publishers, Leiden-Boston, pp. 325-345

González-Enríquez, Carmen (2008a), "The other immigrants: EU citizens from rich countries". Real Instituto Elcano, ARI 37/2008 <http://www.realinstitutoelcano.org/>

González-Enríquez, Carmen (2008b), *Los sindicatos ante la inmigración*. Observatorio Permanente de la Inmigración. Madrid. Also electronic version: <http://extranjeros.mtas.es/es/ObservatorioPermanenteIntegracion/Publicaciones/>

Interior Ministry (2008), *Balance de la lucha contra la inmigración irregular* [www.min.es](http://www.min.es)

Izquierdo, Antonio (2006), “Cuatro razones para pensar en la inmigración irregular” in Cristina Blanco (ed) *Migraciones. Nuevas moviidades en un mundo en movimiento*, Anthropos

Izquierdo, Antonio (2001), “Encuesta de Regularización 2000. Informe final”. . Ministerio del Interior, Madrid.

Martín Urriza, Carlos (2008), “The impact of immigration in the Spanish labour market”, Real Instituto Elcano, <http://www.realinstitutoelcano.org/> ARI/39-2008

Martínez Veiga , Ubaldo (2003), “Pobreza absoluta e inmigración irregular. La experiencia de los inmigrantes sin papeles en España”, *Papeles de Economía Española*, n. 98, pp 214-224

Moreno, Javier (2005), “The regularisation of undocumented migrants as a mechanism for the ‘emerging’ of the Spanish underground economy” Unidad de Políticas Comparadas.

Moya, David (2006), “ La evolución del sistema de control migratorio de entrada en España” on Aja and Arango (2006), pp 47-84

OPI (Observatorio Permanente de la Inmigración) Several years. Yearly and quarterly reports. <http://extranjeros.mtas.es/es/ObservatorioPermanenteIntegracion>

Ortiz, Ana (2008) “Política de inmigración, rectificación más que necesaria” GEES, Grupo de Estudios Estratégicos. [www.gees.org](http://www.gees.org)

Pérez-Díaz, Víctor, Álvarez-Miranda, Berta and González-Enríquez, Carmen. (2002), *Spain and Immigration*. (Barcelona: Fundación LaCaixa. [www.estudioslacaixa.es](http://www.estudioslacaixa.es) )

Pérez-Yruela, Manuel y Rincken, Sebastián (2005) *La integración de los inmigrantes en la sociedad andaluza*, CSIC (colección Politeya)

Reher, David and Requena, Miguel (2008) “La Encuesta Nacional de Inmigrantes. Una nueva fuente de datos para el estudio de la inmigración en España”. Real Instituto Elcano. DT 49/2008 <http://www.realinstitutoelcano.org/>

Schneider, Friedrich (2004) “Shadow economies around the world. What do we know?”, CREMA working papers 2004-03