

(English version)

**Priority question for written answer P-002739/26
to the Commission
Alvise Pérez (NI)
(1 July 2026)**

Subject: Possible urgent CJEU referral on Spain's extraordinary regularisation scheme and Schengen risks

According to public reports, Spain's Supreme Court may rule by late 2026 or early 2027 on appeals concerning the government's extraordinary regularisation scheme and, if it refers a question to the Court of Justice of the European Union (CJEU), request the urgent preliminary ruling procedure. This would concern a matter directly linked to the Area of Freedom, Security and Justice, Schengen mutual trust and the uniform application of EU migration law.

The issue is not merely domestic. If a Member State grants large-scale residence rights before the legality of the measure is finally assessed, the effects may become difficult to reverse and could affect other Member States through free movement, secondary movements, access to services and the credibility of the EU's common border policy.

At a time when Spain is already facing serious rule-of-law concerns relating to legal certainty, institutional checks and the use of executive power, the Commission is asked:

1. Will the Commission assess whether Spain's extraordinary regularisation scheme is compatible with EU migration, return and Schengen rules?
2. If the Supreme Court refers a question for a preliminary ruling, will the Commission submit observations defending legal certainty, Schengen security and uniform application of EU law?
3. Will the Commission issue guidance to prevent Member States from consolidating large-scale residence effects prior to the completion of judicial review?

Submitted: 1.7.2026

**Answer given by Mr Brunner on behalf of the European Commission
(26 August 2026)**

The Commission refers to its replies to the following written questions: E-000366/26 ⁽¹⁾; E-000405/26 ⁽²⁾; E-000522/26 ⁽³⁾; and E-001628/26 ⁽⁴⁾. In these replies, the Commission explained that decisions to regularise illegally staying third-country nationals are a national competence.

The Commission also explained that a national residence permit issued by a Member State does not give authorisation to settle freely around the EU, but only to live and work in the Member State that issued it.

In exercising its role as Guardian of the Treaties, the Commission fully respects the division of competences between the EU and the Member States.

The Commission is not aware of any referral of the matter to the Court of Justice of the European Union at this point.

Finally, in 2017, the Commission recommended ⁽⁵⁾ to Member States that certain criteria for granting permits should be taken into account when regularising illegally staying third-country nationals under national law.

The recommendation suggests that Member States take into consideration in particular the need to avoid rewarding irregularity, the impact of regularisation measures on migration pattern of prospective (irregular) migrants, the personal conduct of the person concerned to ensure that they do not pose a risk and the likelihood of secondary movements within the Schengen Area.

⁽¹⁾ https://www.europarl.europa.eu/doceo/document/E-10-2026-000366-ASW_EN.html.

⁽²⁾ https://www.europarl.europa.eu/doceo/document/E-10-2026-000405-ASW_EN.html.

⁽³⁾ https://www.europarl.europa.eu/doceo/document/E-10-2026-000522-ASW_EN.html.

⁽⁴⁾ https://www.europarl.europa.eu/doceo/document/P-10-2026-001628-ASW_EN.html.

⁽⁵⁾ Commission Recommendation (EU) 2017/2338 of 16 November 2017 establishing a common 'Return Handbook' to be used by Member States' competent authorities when carrying out return-related tasks, C/2017/6505, OJ L 339, 19.12.2017, p. 83-159.