GUIDELINES OF THE IMMIGRATION POLICY OF SPAIN ON LEGAL MIGRATION AND DEVELOPMENT

FROM A LAND OF EMIGRANTS TO A COUNTRY OF IMMIGRATION

Migrations are a complex social phenomenon due to their causes and consequences, their origins and destinations, and the challenges that they pose both to the societies where immigrants come from and the societies where they settle. Yet with varying degrees of intensity depending on the point in history, all societies have experienced both incoming and outgoing migratory movements. It is the sedimentation of successive migratory currents in a given area that makes all contemporary societies mixed and plural. Migration therefore contributes to moulding the host societies while leaving a deep mark on the societies of origin.

Until recent years, Spain and other southern European countries have been areas of emigration. And the emigrants who left Spain and other European countries moved to the Americas, to Northern Africa and to other European countries over different times in modern history, making a positive contribution to both the development of the host countries and the welfare of the overall population in their countries of origin.

For the last two decades, Spain has become a country of immigration. This has been the case since the mid eighties in terms of annual flows, and since the beginning of the nineteen nineties in terms of the number of immigrants residing in Spain.
compared to the number of Spaniards residing abroad. Moreover, with the acceleration of migratory flows registered over the last five years, the proportion of foreigners residing in Spain has reached the high range among European Union countries.

The opportunities and challenges posed by immigration are very similar to those faced by our surrounding countries whose experience in receiving immigration is longer standing. Spain has the advantage of being able to learn from their experiences, from what they did well and their mistakes when integrating immigrant population.

THE CONSOLIDATION OF IMMIGRATION

During the first few years of this change in migratory behaviour, one could have thought that Spain was simply a stepping stone along the way to other destinations or that immigration was a temporary phenomenon tied to economic, social or political problems in the countries of origin. Today we know that Spain is becoming a country of immigration and its place on the international migratory map as a potential destination country for many immigrants is a long term situation that will continue at least over the next several generations.

Immigrants of various origins, cultures and characteristics are here to stay, and make up our common identity a Spanish society. And this is of crucial social significance, because the presence of these immigrants will bring about, and is already bringing about, a deep transformation of our society, both demographically and economically, and culturally and politically.

The consolidation of immigration in Spain also points to why we have become a country of immigration. Immigrant men and women have come to settle amongst us basically because they have found opportunities to better their living and working conditions, and because the Spanish labour market has shown it not only has a great demand for immigrant workers, particularly in certain productive activities, but also a great capacity to
incorporate these workers. The immigration process has been stabilised through family reunifications, joining families and completing the migratory cycle.

Immigrants make a very significant contribution to our society in different ways, generating opportunities not only for themselves and their families but also for the Spanish society as a whole.

In terms of Labour and Social security, it must be noted that immigrants arriving in Spain have activity rates that are twenty percentage points higher than those of the Spanish population at large, and that they perform many socially and economically significant tasks.

The reality of the migratory flux to Spain has dramatically changed over the last five years, from 1,647,011 legal immigrants in 2003 to 4,169,086 legal immigrants by the end of June, 2008.


Immigrants are also extremely important in our demographics, since although immigration itself cannot offset Spain’s imbalanced population pyramid, immigrants’ gender and ages can and is helping to curb this imbalance both by increasing the birth rate and by picking up the fertility rate in Spain.

Culturally speaking, immigration is contributing to an opportunity filled cultural diversity, and this can only be enriching for a plural society like our own.

Lastly, the immigrant population can make a contribution to improving living conditions in their countries of origin both directly, for their family members, and indirectly, for the population as a whole. They can also contribute to economic, social and political development there. The increasing importance of remittances and the spread of ideas and social practices are
very significant assets received by countries of origin thanks to migration.

Spain, like the ensemble of EU countries, needs immigration and must be ready to adapt its institutions and policies to the new challenges posed by the presence of citizens who have joined us as immigrants.

Spain has thus the challenge to enhance and reinforce administrative services responsible for legal migration management.

THE SPANISH APPROACH TO MIGRATION MANAGEMENT

According to Royal Decree 1600/2004, dated 2 July, The Secretariat of State for Immigration and Emigration, under the authority of the Ministry of Labour and Immigration, is charged with directing the Government’s alien and migration policy. The main objectives of the Government’s alien and migration policy are the following:

- The management of the migratory flux in an orderly way.

- The fight against illegal immigration.

- The integration of immigrants in the Spanish society.

- Cooperation schemes with countries of origin. From an international dimension the Government of Spain is both enhancing cooperation with countries of origin, transit and destination and actively acting within the EU framework to safeguard the position of Spain as a maritime external border very close to the African continent.

The current *Legislation on Foreigners*, their rights and freedoms and their social integration (published on the Official State Gazette on 07-01-2005), represents the maximum consensus
on the Spanish Immigration Policy between the central Government, local Governments and social agents.

The main issues dealt upon by the 1/2005 Legislation on Foreigners are the following:

- It facilitates an orderly legal immigration.

- It links legal immigration to the access of the labour market.

- It enhances the regime applicable to seasonal immigration.

- It foresees the granting of residence and work permits under exceptional circumstances for humanitarian reasons to illegal immigrants.

- It fights against illegal immigration, reinforcing Labour Inspections aimed at avoiding labour exploitation and the illegal recruitment of foreign workers.

Apart from what has been mentioned the Spanish government under the request of the Ministry of Labour and Immigration may issue Instructions to grant residence and work permits in the following cases:

- Foreigners behind bars working at penitentiary centres or on bail.

- Foreigners involved in professional sports activities.

- Foreigners involved in research and academic activities.

- Non EU citizens enrolled on Spanish vessels.
The legal accuracy of the above mentioned Legislation on Foreigners has been sanctioned by the Spanish Supreme Court in January 2007.

Migration management is based on the principle of reinforcing administrative services responsible for labour migration management so as to enable them to provide information to potential migrants on the risks linked to illegal immigration, as well as on available channels for legal migration, including the entry requirements to the labour market of the EU or at least of the interested Member States, and the specific needs of these labour markets, while taking account of existing structures. To this end the Spanish Immigration policy acts on the following instruments:


The quota system sets up an estimated number of stable job opportunities for each kind of labour activity, in all the Spanish provinces, that could be supplied by the labour market. Jobs offered are those for which there is no demand on the national labour market from either Spanish citizens or EU citizens. It supports the development of intermediation employment services which allow a more efficient matching of labour demand and supply. Trade Unions and employers play an important role at defining the specific needs of the labour market in Spain. For this purpose the immigration policy of Spain also aims at creating sources and systems of statistical information, which should lead to evidence-based formulation of appropriate migration policies.

2. Bilateral Agreements on the management of the legal migratory flux.

Spain has signed these kinds of agreements with those countries that have large communities residing and working in the country like: Colombia, Ecuador, Dominican Republic, Morocco,
Bulgaria and Mauritania. Similar agreements are under negotiation with the Ukraine and Senegal. Further negotiations might soon be launched with Peru, El Salvador, The Philippines and Mexico.

For the first time the Spanish Government set up the possibility of sponsoring enterprises and institutions that carry out training courses in countries of origin to ease the integration of migrants in Spain and to bring the professional qualifications of potential immigrants to meet the standards of the Spanish labour market. Promoting training systems oriented to national, regional and international labour markets, in order to allow people to improve their professional skills and providing incentives and alternatives to mitigate the loss of highly skilled people are other two important guidelines of the Spanish approach to migration.

A Unit on Large Enterprises has been set up within the framework of the Ministry of Labour and Immigration for the centralised management of residence and work permits in favour of:

- Cadres and highly skilled personnel working for companies that have made direct investments in Spain of more than 200 million Euros.
- Highly skilled technicians and scientists recruited by either central or local instances on research and development projects government-led as well as professors recruited by public Universities.
- Highly skilled technicians or scientists recruited by private institutions on research and development.
- Internationally well known artists.

3. Management of residence and work permits for seasonal or temporary work:
Cabinet decisions include also the recruitment of seasonal workers for the agricultural sector. These recruitments, which are not included in the quota system, promote and facilitate temporary and circular migration. In fact, it allows the recruitment of foreign workers in their countries of origin and it facilitates further recruitments of those who abide by the regulations and return to their countries of origin upon expiration of their contracts.

Under the Spanish regulations adopted in 2006 for this specific seasonal migration a permanent body is set up to coordinate central and local public-private instances in the planning and management of internal supply and in the control and supervision of work conditions, lodging and social integration of immigrants.

Enhancing the integration of immigrants into the Spanish society constitutes one of the key priorities of the Immigration Policy of Spain and counts with a broad support by the Spanish people. To understand the endeavours of Spain in this matter we should look at it under two different perspectives:

Under the perspective of illegal immigration:

As a consequence of the strong migratory pressure on Spain and on the Canary Islands Autonomous Region in particular the central government has established a special Fund aiming at articulating a State Network of Comprehensive Reception Services throughout Spain, able to meet the comprehensive reception needs of persons in vulnerable situations and to provide specialised reception.

The dramatic increase of these arrivals in Spain has brought the budget for the above mentioned Fund from 7,600,000 Euros in 2004 to 192,500,000 Euros in 2008 (105,875,000 Euros for comprehensive reception and 86,625,000 Euros for education reinforcement).
Priority is accorded to face and manage the arrival of non accompanied minors into Spain (mainly to the Canary Islands and Andalusia provinces). These non accompanied minors shall be sheltered along the Spanish territory according to the sheltering capacity of each Autonomous Region. The allocated budget for 2008 is of 15,141,200 Euros.

Legislation approved on April 3rd, 2007 sets up the regulatory framework for direct contributions to NGOs that focus on humanitarian assistance to immigrants. Total direct contributions from the Government for 2007 amount to 29,580,400 Euros whereas total contributions for 2008 amount to 39,933,798 Euros.

From the overall immigration perspective:

The overall approach of Spain on migration and development aims at developing a public government-led migration policy that contributes to development maximising the positive effects and minimising the negative consequences related to migration, both for the countries and for the migrants themselves, and their families. In this context, migration policies must be part of national development plans and strategies.

For that purpose, Spain looks at developing broad-ranging development policies which can have an impact on the structural causes of migration by generating opportunities and livelihood expectations in the countries of origin, supporting the design and implementation of coherent and well coordinated migration public policies in countries of origin, transit and destination, and supporting projects in the field of migration and development and co-development, involving diasporas. Humanitarian assistance can be also added within this framework, taking into account that protecting the lives and dignity of immigrants is part of the duties and responsibilities of the Spanish Cooperation in this field.

As far as Spain is concerned it is important to stress that development aid programs are carried out not only by the Government directly but through NGOs and Intergovernmental
Institutions (IOM, for instance) under the following main principles:

- Capacity building.
- Remittances.
- Prevention of brain drain and,
- Motivation of Diasporas by:

*Enhancing* the economic impacts of migration on the development of the countries by promoting business skills in immigrants and their families; by giving them access to financial institutions; by providing them with skills in management and other issues involved in setting up a business, and in providing financial assistance if necessary; by fostering the constitution of business ties between countries of origin and destination.

*Promoting* initiatives aimed at making it possible for remittances to have an impact on the development of the communities to which they are sent. On this point just to mention that the Spanish Government reached an agreement with the banking system in January 2007, encouraging migrants to send remittances to their countries of origin through the banks´ channels and encouraging them also to launch development projects in their local communities.

*Facilitating* the involvement and contribution of migrant communities and migrant associations in the host countries to the development of their countries of origin through co-development measures, and supporting their links to the communities of origin, through the eventual creation of networks and public or private alliances between the countries of origin and destination.

*Supporting* voluntary return and reintegration of migrants.

On September 19th 2008, the Spanish Cabinet designed new measures targeting non EU legal workers who are currently on the dole in Spain and who are citizens of 19 countries that have signed bilateral Agreements on Social Security with Spain.
This recent development allows unemployed citizens to be paid in advance their unemployment benefits if they decide to return voluntarily to their countries of origin.

Payments shall be made in Euros (40% after the right to perceive the benefits has been recognized to the worker and the remaining 60% in their countries of origin thirty days after the first payment).

The Spanish Government wishes thus to help those foreign workers who have contributed to the economic growth of Spain so that their return to their countries of origin takes place in the most favourable conditions, providing them with a capital that shall undoubtedly ease their reintegration into their national labour markets.

These measures encourage and promote the development of countries of origin with the arrival of well trained workers. Returnees assume the responsibility of not returning back to Spain for a period of three years.

The Spanish Government launched on February 16, 2007, the Strategic Plan on Citizenship and Integration aiming at safeguarding the coexistence of immigrants and nationals of the host country within a framework of diversity and respect of the rules of the State of Law. Again, both political instances and social institutions have come to a broad consensus on the need to ease the integration of immigrants in Spain, the respect for their traditions and values, provided immigrants commit themselves to abide by the principles of the State of Law. Consequently positive effects are maximized and negative consequences related to migration minimised benefiting both the host countries and the migrants themselves and their families.

Among the premises, objectives and principles making up the Strategic Plan for Citizenship and Integration’s philosophy the following are to be pointed out:
- Integration is conceived as a two-way process of mutual adaptation;

- Integration policies have to be targeted at the citizenship at large, and public action must be oriented towards promoting and ensuring the immigrant population’s normalised access to general public and private services.

- The principle of intercultural exchange, a mechanism so that persons of different origins or cultures can interact with esteems and respect for cultural diversity.

- To adapt public policies, particularly in education, employment, social services, health and housing, to the new needs generated by the immigrant population.

- To combat different manifestations of discrimination, racism and xenophobia in all areas of social life, both in the public and private spheres.

- To introduce the gender perspective both when drawing up immigrant integration policies and when applying them.

- To foster co-development policies and experiences in immigrants´ countries of origin.

The budget allocated for the period 2007-2010 amounts to 2,005 million Euros.

Legislation approved on September 21\textsuperscript{st}, the Spanish Cabinet ruled the composition, competences and management of the \textit{Council on Equality of Treatment and Non Discrimination due to Ethnic or Racial Origin}.

\textit{The promotion of cooperation with countries of origin} is currently undertaken from different perspectives:
From a bilateral perspective:

Taking into account the specific weight of the international dimension in the ongoing migration process the Government of Spain has resorted to the following instruments:

- The signing of *Readmission agreements* with countries of origin, aimed at *illegal immigrants* (21 such agreements signed and 2 under negotiations).

- The signing of *agreements* with countries of origin aimed at *managing the legal migratory flux* (8 such agreements signed and 1 under negotiation). The selected candidates after the completion of their contracts return to their countries of origin bearing a new social and work experience as well as financial resources that enable them to meet their family needs and even invest in a productive way.

Spain would like to point out as an example of good practice the recruitment in 2007 of more than 5,000 Moroccan women from depressed rural areas with a very important social impact in their communities of origin as well as on their financial situation.

Another example of good practice has been set by the Catalanian Foundation Pagesos Solidaris by designing a program aiming at a global approach to the management of the migratory flux. In fact, and from the point of view of development the above mentioned program foresees an intensive course for seasonal workers to form Co-development Agents. It envisages those workers with a more pronounced commitment to the development of their communities of origin and with leadership abilities. On return to their countries of origin The Foundation Pagesos Solidaris finances the launch of their projects.

From the EU perspective:
Within the framework of the European Union Spain has strongly sponsored the ongoing debate on collaboration with Africa on immigration. Spain deems inevitable the implication and the support of the European Union to help in the management of illegal immigration from Sub-Saharan countries.

An example of this is the Declaration and Action Plan of the first EU-Western African countries Ministerial Conference on Migration and Development held in Rabat in July, 2006, which have paved the way for a reinforced partnership on global, balanced, pragmatic and operational approach between the countries located along the West African migratory route. At the core of this partnership, it also integrated the three tracks of the Global Approach to Migration to address migratory flow under all its aspects, thus favouring a balanced dialogue to benefit of migrants and of the countries participating in the process: organisation of legal migration; fight against irregular migration and synergies between migration and development.

The so called Rabat process will continue with the next EU-Western Africa Ministerial Conference to be hold in Paris on 25 November, 2008.

From a national perspective it is important to mention the approval by the Spanish government of the Africa Plan which aims, among other things, at expanding and reinforcing our diplomatic presence, cultural cooperation, mutual knowledge and understanding as well as at promoting the learning of the Spanish language in the African continent.

The opening on the Canary Islands of the House of Africa with the contribution of the local government is another example of the efforts being currently undertaken by Spain to promote our relations, cooperation and presence in the African continent.

CONCLUSION

Summing up, it is important and necessary to take into consideration the importance attached by Spain to the migratory
phenomenon and to stress again on the unbending commitment of the Spanish Government to further develop a migratory national policy based on the fight against irregular migration and the eradication of networks trafficking with human lives; the enhancement of administrative services for information and migration management and the promotion and encouragement of the integration of legal immigrants into the Spanish society under the spirit of respect to the State of Law.

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