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Policy Recommendations – Spain

The challenge of immigration in Spain

During the 1990s, weak migration regulation and an ineffective programme characterized Spain as an emerging immigration country. In particular, Spanish legislation was characterized by a certain blindness to the real demand of the Spanish labour market, especially in sectors such as construction, agriculture and domestic service. The bureaucratic procedure to hire a migrant was very complex and always depended on a previous labour market check. Furthermore, the workers' selection often depended on bilateral agreements with sending countries: the content of those agreements was very rigid in contrast with the changing patterns of migration flows. Finally, the quotas of foreign workers were insufficient to meet labour market demand, emphasizing the mismatch between market demand and state regulations. As a consequence, irregular migration turned into a structural feature of the Spanish migration regime and has, since the early 1990s, represented one of the most important challenges for the Spanish governments.

1) Regularisation processes

All Spanish governments tried to solve the problem of irregular migration by carrying out periodic regularisation processes. The first regularisation took place in 1985, followed by new regularisation processes in 1991, 1996, 2000, 2001 and 2005. The frequency of such processes demonstrates that they soon became a fundamental instrument to repair, *a posteriori*, an ineffective regulation system. In spite of the critics, several studies on the outcomes of regularisation processes point to some important positive effects. Given the restrictive character of Spanish legislation, regularisations allowed for the legal inclusion and stabilisation of the majority of foreign residents – in spite of the precariousness of the residence permits issued after such processes. Furthermore, regularisations allowed for the periodic recovery of control over irregular flows – thereby partially reducing the irregularity rate, at least as far as older communities are concerned. Finally, they fulfilled, *a posteriori*, a labour market demand which could not be satisfied through regular channels. However, regularisations are policy tools with lights and shadows since they are not substitutions for a rational and active immigration policy. As a matter of fact, a successful immigration policy depends on the conception of efficient active policies, external and internal controls and individual regularisation schemes. At the same time, governments should take into account

that the integration of immigrants cannot be limited to economic integration, even though the type of employment and its stability plays a fundamental role in the overall integration process. For this reason, in the last four years the Spanish government has improved the quality of its immigration and integration policy. The objective of the reform was to reduce the probability of new irregular migration flows and increase the chances of a successful integration process. In this respect, the pillars of the Spanish reform programme might represent suitable policy recommendations for migration regimes with similar characteristics.

2) Active recruitment policies

The reform of the Spanish migration regime is based on the assumption that successful immigration policies require a flexible and effective control of entries. First of all, the quota regulations (*contingentes*), especially those for temporary workers, are now more flexible and can be modified according to the necessities of the labour market during a year. Furthermore, the introduction of a list of jobs for which it is difficult to find available workers (*Catalogo de trabajos de dificil cobertura*) permits a skirting of the priority check of the labour market and represents, thus, a step forward in the conception of workable immigration policies. Finally, the new reform introduces a visa for job searches, which brings further flexibility into the Spanish recruitment system (despite being limited to certain employment sectors). In all cases, the recruitment schemes are based on a wide consensus among the social contingents involved. There are, of course, still loopholes in the system. The representatives of the agricultural sector, for instance, complain that the recruiting procedure still takes too long (4-5 months) to fulfil the immediate necessities of a flexible and often unpredictable sector like agriculture. Furthermore, according to information provided by the Spanish trade unions, some employers officially hire immigrants according to the *Catalogo*, but employ them in other activities once the recruitment procedure has been concluded. Finally, the visa for job searches still has a rather symbolic character as it has been issued to a very limited number of immigrants since the approval of the reform. Nevertheless, the reform of the Spanish system shows that effective recruitment schemes do not only depend on recognition of labour market demand but also on the programming and cooperation capacity of the actors involved in the process. Furthermore, an effective recruitment system should foresee both quota and individual regulations.

3) Border controls

The improvement of labour recruitment schemes in Spain has been complemented by more effective border controls through technological innovation and bilateral agreements with the sending countries. Since the end of the 1990s, Spanish governments have tried to increase the effectiveness of their external controls by reinforcing border technology and establishing new cooperation forms with both other EU member states and countries of origin. One of the first steps for the improvement of border controls was the implementation of the SIVE, Integrated System of Exterior Vigilance (*Sistema integrado de vigilancia exterior*). Furthermore, the active role of the Spanish government in the fight against irregular migration has been buttressed by the European control agency FRONTEX, which, in its inception in 2004, was partly the product of strict cooperation among the so-called ‘guards of the borders’ in the Mediterranean region. Spain, as a member of the European Union, adapted its visa policy to the European guidelines introducing visa obligations for Colombian (2001), Ecuadorian (2003) and Bolivian (2007) citizens. Such regulations considerably reduced the number of overstayers coming from these regions, while the SIVE helped divert clandestine flows from the Strait to the Canary Islands. But in spite of the “technological” improvements in border

controls, bilateral agreements with sending countries represent the real *conditio sine qua non* of an effective border control system. Through bilateral agreements, the Spanish governments offered privileged entry quotas as compensation for the readmission of clandestine immigrants. Such bilateral agreements have been accompanied by awareness-raising campaigns against irregular migration as well as the formulation of working groups on immigration with relevant authorities of the sending countries. In 2006, the Spanish government started the Africa-Plan (2006-2008) whose objective was to create a cooperation framework with several African countries in order to achieve effective management of the migration flows from Africa to Europe. Such new cooperation mechanisms have certainly improved the quality of border controls and show that an effective border control policy cannot be separated from an active presence in the countries of origin and an active cooperation with their institutions. At the same time, an efficient control system should take into account the necessity to intensify internal controls, especially in countries with a wide informal economy.

4) Internal controls

The conclusion of bilateral agreements with sending countries has considerably improved the effectiveness of Spanish transfer procedures. As a matter of fact, the number of transfers has been increasing considerably in the last four years. Most of the expulsions were carried out in the context of a readmission agreement, which highlights once more the importance of international cooperation with sending countries. Work place controls are another important internal control tool, as the informal economy represents an important magnet source for irregular migrants. In Spain, the number of labour market inspections increased after the most recent regularisation processes. But in spite of such efforts, the Spanish internal control system still exhibits loopholes which should be taken into account by policy makers. The representatives of large Spanish companies complain about being more exposed to state controls than small businesses are. In this respect, they are not very satisfied with the efficiency of the new control strategy of the Spanish administration. Furthermore, as our interview partners pointed out, there is an increasing need for more competent and experienced labour inspectors, which is difficult to satisfy in a short time. A major obstacle in the fight against irregular migration is the importance of the domestic sector as an employment niche for irregular workers. But the main obstacle for effective labour market controls remains, no doubt, the prevailing cultural attitude towards informal work and shadow economy, which is very tolerant in large parts of Spanish society. However, the Spanish case indicates that labour market controls represent one of the most important tools in the struggle against irregular migration, especially in countries with a large informal segment in their economies. In this case, labour market controls should be equally distributed in all country regions, with no distinctions made between company sizes. They should be also accompanied by an awareness-raising campaign against informal work.

5) Individual regularisation schemes

Mass regularization processes certainly do not represent an appropriate and effective regulation tool in the long term. However, each migration regime should take into account the risk of a certain degree of irregular migration. In this case, the existence of individual and permanent regulation tools would allow for the correction of irregular migration in specific situations. For this reason, the new Spanish regulation introduces an on-going individual regularisation system, aimed at correcting certain dysfunctional components of the Spanish migration regime and avoiding, at the same time, mass regularisation processes. Each

migration regime should take into account the possibility of introducing such tools as correction mechanisms, along with setting up active policies and more effective controls.

6) Integration policies

Immigration control should always be accompanied by effective integration measures. As a matter of fact, the Spanish migration regime can be considered as very innovative in comparison to other European migration regimes: irregular migrants have access to primary school and health provisions, just like Spanish citizens. Under these circumstances, there is a lower probability than there is in other countries of the marginalization of irregular migrants. As far as regular migrants are concerned, the Spanish government has approved a generous National Plan for Citizenship and Integration. The Plan's objective was to promote social cohesion at different levels of Spanish society. To reach its objectives, the government planned a total budget of 2 billion. Euro for the period 2007-2010, where 42 per cent of the resources were allocated to education. This means that the Integration Plan clearly recognizes the importance of education (schooling and language learning) for the integration process of immigrants. The objective of the Integration Plan is also to promote dialogue between different social parties, such as state agencies and immigrants' associations, which are involved in the integration process. However, a successful integration policy – such as border control policy, for instance – depends on the amount of resources invested in it. Until today the National Integration Plan has been supported by a positive economic situation, a more than satisfactory labour market insertion of immigrants and a surplus in the state financial budget. But the ongoing economic deceleration could produce a change not only in the amount of financial resources available for integration programmes but also in the government's attitude towards the integration challenge. As a matter of fact, the new Spanish government is now supporting measures for the voluntary return of immigrants who have lost their employment. However, voluntary return does not represent a suitable solution for such a complex and multifaceted phenomenon like immigration. Given the low likelihood that most immigrants will be willing to return, there is a special need for measures, such as vocational training, that can help unemployed immigrants adapt to the new labour market situation. Furthermore, the autonomic governments should make real efforts to avoid the spatial segregation of immigrants and, as a consequence, the segregation of immigrant children in a limited number of schools.

7) Citizenship and political participation

Citizenship represents another fundamental step towards full integration. Studies carried out in traditional immigration countries such as Canada have demonstrated that naturalisation clearly improves the chances of immigrants in the labour market as well as in their general living conditions. However, citizenship should not be a consequence of a two-level policy which favours certain national communities – as happens with Latin Americans in the Spanish case. Furthermore, the Spanish citizenship law seems to require a higher degree of formalization, with less discretionary power afforded state officials. Citizenship is also linked to the right to vote in national elections and means, thus, a higher degree of political participation. A reform of the citizenship law would also favour equal participation chances among the different immigrant communities. As far as municipal elections are concerned, EU citizens are presently the only category of foreigners that have the right to vote in Spain. Therefore, the municipal right to vote of immigrants should receive more attention by policy makers. Indeed, political participation is one of the most important steps to a successful integration process – and it begins with the right to vote in municipal elections.