

MANAGING MIGRATION – THE CASE OF SPAIN

GEMMA PINYOL

With regard to migration issues, the Spanish case has become an atypical one. At the beginning of the nineties, Spain, similar to other Southern European countries, had a low regulated labour market and inadequate border protection. The reason is clear: until its accession to the European Community in 1986, Spain saw itself as a country of emigration. Just 20 years later, Spain has become a country of immigration, and an unusual one at that. In the past five years, Spain has become the country that receives the second highest number of immigrants after the United States, with 600,000 arrivals per year on average. Dealing with this huge influx of migratory flows, the different Spanish governments have had the challenge of managing an 'unexpected' phenomenon.

BECOMING A COUNTRY OF IMMIGRATION

Until its accession to the European Community in 1986, Spain had neither an immigration policy nor an immigration law. In 1985, as a precondition for EC membership, the first Spanish immigration law was enacted. It was more a 'requested' law to meet the EC standards than a real necessity because at that time, Spain was still an emigration country. In 1990, in fact, there were around 400,000 foreign people in Spain, less than 1.10% of the total population in the country. It could be said that the 1985 law was passed in order to calm down concerns of the European partners: the Mediterranean and Ibero-American characteristics of Spain (the first driven by geographical proximity, the second by historical and cultural ties) were seen to be placed at risk due to an increased influx of new immigrants from these regions. Nevertheless, the incorporation of Greece, Portugal, and Spain in the European Community in the course of the 1980s transformed them not only into transit countries, gateways to the traditional European immigration countries, but also into countries of destination themselves.

The number of foreign residents in Spain increased significantly. From 1975 to 1985, the increase was a moderate average of 2.2 percent annually. From 1985 to 1991, the foreign population rose annually an average of seven percent, and during the same period, the first national immigration law (*Ley de Extranjería*) was enacted and the first extraordinary regularization process was implemented. From 1992 on, this

figure climbed to 10 percent annually. From 1992 to 2000, the numbers of non-communitarian migrants increased 214 percent annually, and in 2001, foreign population in Spain numbered over one million people (1.109.060), meaning a 2.7% of total population.

Fifteen years after the first immigration law, Spain had become an immigration country with heterogeneous migration flows in a short period of time. The magnitude and speed of growth, and the diversity of origins (as well as the immigrants' religious, cultural and ethnic diversity) were the main characteristics of this process. In fact, 2000- is called the period of "discovering immigration" in Spain. To begin with, the Spanish government created the most important administrative structures to manage immigration. Two new immigration laws were passed with large political controversy. Furthermore, immigration entered the social debate and the media. Two events initiated this: first, a van accident where eight irregular Ecuadorian workers died forced the public to form an opinion on migration. Also, brutal attacks against undocumented Moroccan workers following the murder of a Spanish woman by a mentally disturbed Moroccan in the small Andalusian town of El Éjido confirmed that migration was indeed an issue in Spain.

FACING THE CONTRUCTION OF A COMPREHENSIVE IMMIGRATION POLICY

The gradual process of transformation Spain underwent to becoming a country of immigration country led the national government to provide a legal framework to deal with this phenomenon. Between January 2000 and November 2004, the Spanish immigration law was changed four times and four different regularization processes were established. This clearly indicated that immigration, as a topic, had become part of the political agenda. The main concerns of the Spanish migration policy had, in fact, remained the same, although the manner to manage them have changed. Briefly, these *shared* concerns are (1) the integration of migrants in the Spanish society and their participation in the labour market, which was identified as the first priority; (2) the reinforcement of mechanisms to promote regular immigration flows (quota system; contracting in origin, etc.); (3) internally, the fight against irregular migration and the development of several regularization programs and, externally, protecting the maritime borders; and (4) the need to collaborate with third countries, mainly (but not only) in order to avoid these irregular flows. Progressively, bilateral agreements with third countries on readmission and labour flows were signed, the quota system was established, and SIVE (Integrated System of Exterior Surveillance) was launched to control Spain's southern borders. As soon as Spain

developed from a transit country to a destination country, integration policies became more important and visible. The role of local authorities, the rights of migrants, both regular and irregular, and the management of cultural diversity all became principal issues on the political agenda.

At the same time, Spain's major political parties began to formulate their own approaches to immigration policy. While the PSOE (Social Democrats) and the PP (Conservatives) agreed on the importance of immigration in general, they disagreed on how to best manage migration flows and border control, as well as on integration policies. Negative attitudes towards immigration became more popular during the term of the last conservative government which linked immigration with crime and frequently talking about "the pull effect". Under the current socialist administration, contrarily, positive remarks on immigrants' participation in the Spanish economic development as well as in Spanish society have become more frequent, although they seem diminish in times of crisis. Nevertheless, Spanish governments seem unable to demonstrate their capacities to control Spanish borders.

THE CHALLENGE OF MANAGING IRREGULAR MIGRATION

Although Spain has one of the most respected legislation on safeguarding migrants' rights in the EU, its European partners main concern is how Spain manages irregular migration, especially with respect to protecting the EU Southern borders.

The commonly held that Spain is an "easy gate" into Europe is inaccurate. Most of the irregular immigrants in Spain come from Latin American and Eastern European countries; they enter Spain by plane or crossing land borders, in many occasions coming from other Schengen countries (which are in charge to check the travel documents). Irregular entrance to Spain is less important than irregular residence due to visa *overstays*. Because it is a visible and human tragedy, media and public opinion focus mainly on the maritime irregular migration flows, though these flows comprise less than 10% of irregular flows in Spain.

In order to prevent irregular flows and to control irregular migrants residing in the country, since 2001 Spanish governments of different political shades have implemented different instruments. These instruments have been focused in two main areas, namely the regularization processes and the protection of the maritime borders, that have had an important European dimension.

The 2005 Regularization Process

Although four regularization processes had been implemented at the beginning of the 2000s, it was the 2005 regularization process which produced fierce criticism in Europe. In 2004, the Spanish government announced its intention to implement a process to legalize the status of irregular immigrants who were working in Spain. An estimated one million people fell into this group, a clear evidence of the shortcomings of previous Spanish immigration policies and the failure of instruments to incorporate foreign workers into the Spanish labour market (e.g. the quota system). The regularization process was intended to alleviate the social risks of this situation. At the end of the process, around 600,000 undocumented workers –who could demonstrate that they have been working in Spain–, obtained a regular status.

For some EU partners, the Spanish regularization program had a strong “pull effect”, thereby attracting even more undocumented immigrants to Europe, although experts disagree on whether or not this effect has actually occurred. In fact, the existence of a significant informal labour market in Spain is more likely to have a “call effect” than any regularization process. Fighting against irregular economy became a priority for the new Spanish Labour and Immigration Ministry. In that sense, the proposal for the directive introducing sanctions against employers of irregular workers directly echoes the 2005 Spanish regularisation process.

The external dimension as a tool for border management

Since 2002, the Spanish governments have been implementing the SIVE, a network of human and technological resources extending to all Spanish coasts. The first system started in the Strait of Gibraltar, where instruments such radar detection, visual identification, and satellite surveillance were implemented to detect small boats (*pateras*) trying to reach the Spanish coasts illegally. Due to the implementation of the SIVE system, these maritime routes have changed: initially these routes started in the from the northern Moroccan coasts, then they moved to the western ones and, finally, to the South Saharan coasts in Mauritania, Senegal or even Mali. Parallel to that, the SIVE has been implanted in all the Spanish maritime borders, from the Canary Islands to, most recently, the Balearic archipelago.

Considering that the route through Morocco became increasingly difficult to surpass, the immigration route over the Atlantic through the Canary Islands, though longer and more dangerous, became a popular alternative for those desperately seeking to enter Europe. From January to December 2006, around 30,000 irregular immigrants

from sub-Saharan Africa reached the Canary Islands by *cayucos* (fisher boats larger than *pateras* that can travel over longer distances). Yet, migrants came not only via maritime routes. In the autumn of 2005, Spanish and international attention was drawn to Ceuta and Melilla when groups of organized people tried to overcome the fortified fences of these controversial Spanish enclaves in North Africa. These events became even more dramatic when a man was shot by the Moroccan gendarmerie. Morocco started to deport some of the sub-Saharan nationals to the Morocco-Algeria desert border.

The events in Ceuta and Melilla and the *cayucos* crises revealed the need to add an external dimension to Spanish immigration policy. The Spanish government increased control measures in both enclaves and extended the SIVE system around the Canary Islands. Furthermore, the Spanish government stressed the need to strengthen European cooperation in order to protect the Union's external frontiers, specifically through the actions of FRONTEX.

In this sense, immigration issues have also broadened the Spanish foreign policy agenda due the growing importance of the development-migration nexus. As a consequence, the topic of immigration had an impact on Spain's foreign policy, promoting closer relationships with non-priority countries or those "diplomatically forgotten". Spain began to formulate its own policy on western Africa, constructing a new "migration diplomacy" with sub-Saharan countries with the elaboration of "Plan Africa". With an integral approach, this Plan Africa includes a series of agreements with sub-Saharan countries that deal with economic development, technical cooperation, and the management of migration flows. Beyond the control of labour migration and readmissions accords (the conventional agreements, also known as 'first generation' ones), these "second generation" agreements seek to link migration with development policies and attempt to incorporate technical cooperation with third countries, all in line with the guidelines already proposed by the European Commission as well as the provisions of the Euro-Mediterranean Association Agreements. In addition, sub-Saharan countries involved in the Plan Africa pledged to fight irregular flows and to sign readmission agreements with Spain.

CONCLUSION

In a short period of time, Spain has been confronted with new and different migration flows, and been pushed to implement new responses and look for new instruments and tools. Since 2005, the Spanish government has actively promoted a more visible role in managing irregular immigration. Cooperation with developing countries

(providing technical support, promoting development cooperation, etc.) and endowing more and sufficient resources to Frontex are some of the Spanish initiatives included in the agenda of the European Union.

Nevertheless, debates and discussions in the aftermath of the Spanish 2005 regularization process and the management of the “Cayucos” crises revealed a certain degree of mutual apprehension between Spain and its EU partners. An important number of EU member states expressed their concern about how Spain was dealing with irregular immigration and how it was protecting its own, as well as European, borders. From the Spanish perspective, though, some EU countries have misunderstood the circumstances of the new EU immigration countries, which have to deal with larger and more complex immigration than their neighbours. Against this background, Spain has been trying to elaborate and strengthen measures, policies and instruments – most of them already included in the Tampere and the Hague Programmes – in order to advance the construction of a coherent immigration policy, both at the national and European level.

Since 2005, the actions carried out by the Spanish government respond directly to a migratory context in transformation. These actions have also helped stress the existence of a different migration model at the European level and, therefore, the need for new instruments to be devised. New countries of immigration, especially those in southern Europe, have different needs, as they confront different challenges. Thereby, they promote distinctly different responses than traditional countries of immigration. Responses to the 2005 events have resulted in the articulation of a new “migration diplomacy”, and has enabled Spain to play an innovative, dynamic role in the construction of a European immigration policy. Unfortunately, the current economical turmoil has changed the priorities of migration policies, including Spain. The government option for promoting voluntary return as well as the recently passed migration law, one that has received a large amount of critique because of its strictness and effective weakening of migrants’ rights, could be understood to be a 180-degree turn compared to previous measures. While it is difficult to assess the results of some recent changes, time will tell us to what extent the economic crisis has served to harden the Spanish immigration policy.

REFERENCES

Carrera, S. and Geyer, F. (2007): "The Reform Treaty & Justice and Home Affairs. Implications for the common Area of Freedom, Security & Justice". CEPS Policy Briefs, No. 141. CEPS, Brussels.

Faist, T. and Ette, A. (2007): *The Europeanization of National Policies and Politics of Immigration. Between Autonomy and the European Union*. London: Palgrave MacMillan.

Guild, E. and Carreras, S. (2009): *Towards the Next Phase of the EU's Area of Freedom, Security and Justice: The EC's Proposals for the Stockholm Programme*. CEPS Policy Briefs, n° 196. CEPS, Brussels.

Pinyol, G. (2008): "Spain's Immigration Policy as a new instrument of external action" in Barbé, E. (coord.): *Spain in Europe 2004-2008*, Monograph of the Observatory of European Foreign Policy, num. 4. Bellaterra (Barcelona): Institut Universitari d'Estudis Europeus.

Zapata-Barrero, R. and De Witte, N. (2007): "The Spanish Governance of EU borders: Normative Questions". *Mediterranean Politics*, 12:1, pp. 85-90.

Gemma Pinyol, Migrations Programme Co-ordinator, CIDOB-Barcelona Center of International Studies, 2010