



Spain's Immigration Policy as a new instrument of external action

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The period 2004-2008 has represented a significant change in the area of Spain's immigration policy. Even though the policy's lines of action have not altered, some external circumstances have changed and, as a consequence, the priorities of this policy have also been altered. In the past four years, the socialist government led by J. L. Zapatero has made great efforts to design a suitable formula for managing regular migration flows, fighting irregular immigration, strengthening border controls and improving relations with third countries.

This formula has, furthermore, made its imprint on Europe's evolution in the area of immigration issues. Following the objectives established at Tampere in 1999 and in The Hague Programme in 2004, a distinct Spanish impulse can be perceived in the Conclusions of the European Council in December 2005 and beyond.

New challenges, new responses

When Zapatero came to power in 2004, the construction of a new approach to managing immigration in Spain was on the new government's list of priorities. Though some of the main foreseen changes in orientation had already been announced during the 2004 electoral campaign, nowadays, a retrospective assessment of the migration policy, reveals that circumstances forced the government to redefine its priorities for action.

On the one hand, the socialist government had already declared that certain decisions would be taken to distance itself from the immigration management policies of the previous Aznar governments. The distinction made by the new government between flow management and integration policies was a direct attempt to disassociate the phenomenon of migration from issues of (in)security, and explains why the migration issue was moved from the Ministry of the Interior to the Ministry of Labour and Social Affairs. Furthermore, it soon became clear that the new government was planning to commence a new process of regularisation to alleviate the pressure of irregular immigration residing in Spain. This decision, which came in for harsh criticism from the opposition Partido Popular, acquired (unlike previous processes) a notable European dimension which served as the starting point for a broader debate on regularisation processes in the European Union.

On the other hand, the events of 2005 -when immigrants (mostly of sub-Saharan origin) attempted to overpass the fences at Ceuta and Melilla, and when the so-called "cayuco crisis" took place- forced the Spanish government to re-orientate its external action on migration. At first, it seemed that the logical way ahead would be for Spain to strengthen its bilateral relations with the main countries of origin and transit by signing agreements on the management of labour flows and readmission, similarly to previous governments actions, and progressively introducing the co-development issue.

However, the course of events soon highlighted that the government needs to redefine its objectives. As a result, greater emphasis was placed on the proposal to link immigration policies with development policies and, in general, to provide the former with a coherent external dimension -a move that would make an almost immediate impact on the Europe's immigration policy progresses.

In relation with the regularisation process, it produced fierce criticism in Europe. When the Spanish government publicly announced, in late 2004, that it was planning to open a regularisation process for all foreigners in an irregular situation who could prove they were residing and employed in Spain, most European partners reacted negatively. What displeased them most about Spain's initiative was that it had been made unilaterally, and without sufficient (although it was not necessary) consultation with the other EU partners. During the process, and particularly at the informal Council meeting in Tampere in September 2006, the Spanish government received some harsh comments from some of its European colleagues. Some, such as Nicolas Sarkozy, the then-Minister of the Interior for France, claimed that regularisations were not the solution for irregularity, and that they might result in increasing the number of irregular migrants in other Schengen countries. Others, as for example Wolfgang Schäuble, Germany's Minister of the Interior, criticised Spain for requesting economic aid from the European Union to control external borders but without had asked the opinion of its European partners before embarking on a regularisation process.

In spite of the criticism (or perhaps because of it), the Spanish process ended up providing new impetus to improve coordination between the Member States. In order to reduce the existing tensions, Luxembourg's EU Presidency at that time proposed establishing a mutual information and early warning mechanism for policy-makers in the areas of immigration and asylum for those decisions that could affect other Member States. Commissioner Frattini championed this idea, and the proposal was accepted by the Commission and formally adopted by the Council in October 2006¹. Furthermore, the Spanish government's insistence that the authentic "call effect" was the existence of an irregular labour market was gradually accepted by its European partners. In late 2007, the Commission presented a Communication recognising that irregular employment was one of the most "attraction effect" for clandestine immigration into the European Union. So that, the Communication stated that was vitally important to fight against those who hired workers on an irregular basis².

On the other side, the 2005 events highlighted the need to strengthen the external dimension of immigration policy. After the events that took place at the fences in Ceuta and Melilla, and following the increase in irregular flows from sub-Saharan Africa into Spanish/European territory (the "cayuco crisis"), the Spanish government made intensive diplomatic efforts to bring its concerns over immigration onto the European agenda, using the argument that these problems could be resolved more efficiently within the framework of the European Union. Thus, the government stressed the need to strengthen European cooperation mechanisms for protecting the Union's external frontiers, and particularly through the actions of FRONTEX. Along with encouraging multilateral cooperation in these areas, the Spanish government also began to construct a new "migration diplomacy" with sub-Saharan countries, giving to them a consideration reserved till that moment to the Maghreb countries and paying more attention to include development instruments into the negotiations. In recent years, immigration has provided a stimulus for Spain's external policy, promoting a closer relations with (till that moment) non-priority countries or which were "diplomatically forgotten".

In the first place, the Zapatero government chose to strengthen bilateral relations with countries of origin and transit by commencing a series of rounds of negotiations and

attempting to reach global agreements on migration cooperation. These agreements (named as "second generation" ones) link immigration and development policies, as well as introducing elements of technical cooperation with third countries. The consolidation of these agreements confirmed that the socialist government had opted for a strategy that was totally different to the one proposed by the Aznar government at the European Council in Seville in 2002. This Council - as far as Spain was concerned - produced both positive and negative results; on the one hand, Spain's succeeded (for the first time) in raising its concern over irregular immigration onto a European Council's agenda of priorities. But on the other, the Member States rejected Spain's request for the application of a "negative conditionality" approach (i.e. reduced development aid for countries that failed to comply in terms of agreements on readmission and flow control). Related to migration, and unlike previous ones, the Zapatero government's policy toward third countries was to promote actions and instruments of "positive conditionality", which meant more aid and benefits to those countries showing greater willingness to cooperate in promoting organised migration flows.

Secondly, and also within the framework of this new migration diplomacy, in July 2006, the government presented its Action Plan for sub-Saharan Africa 2006-2008. Although the plan was broader objectives, the managing of immigration was a crucial element in the initial justification of the Africa Plan and a key element in the "renewed spirit of Spain's foreign policy"³. Generally speaking, the Africa Plan has helped to bring Spanish diplomacy closer to sub-Saharan countries, mainly those on the western coast, and many of which have become established as countries of origin and transit for migration flows into Spain. Fourteen countries, including Ghana, Guinea-Conakry, Mali and Senegal are now on the Foreign Affairs Ministry's priority list in the sphere of migration.

Finally, Spain's diplomatic offensive has led to the introduction of multilateral initiatives to foster European cooperation with African countries in regulating migration flows. In that sense, the Spain's initiative, supported by France and Morocco, to organise the Euro-African Ministerial Conference on Migration and Development (Rabat, 2006) was described by the Spanish government as a "boost for the Europeisation of the migration cooperation policy with Africa"⁴. Other examples include Spain's active role in stressing further cooperation and dialogue in the area of migration at the Euro-Mediterranean Conference on Migration (Algarve, 2007) and at the 2nd EU-Africa Summit (Lisbon, 2007).

Within the European framework, Spain's dynamism gave fresh impetus to the EU's efforts to strengthen the external dimension of immigration initiatives. As a result of the "discovery" of sub-Saharan immigration and concern over the permeability of its eastern borders, the link between migration policies and external action that was in the Tampere and The Hague agendas began to be conformed. Since 2005, several communications and European Council conclusions have reasserted the growing importance of migration for the European Union and its Member States, as well as its key role in relations with third countries, and especially in neighbouring areas⁵. Thus, the Euro-Mediterranean partners, the African countries and those that are included within the Neighbourhood Policy have become priority regions for developing dialogue, cooperation and EU action plans on immigration.

Fostering a new approach

Between 2004 and 2008, the Spanish government has made enormous efforts to promote external action in immigration policy. Until 2004, the link between external policy and immigration policies was limited to the efforts of the previous government at the Council of Seville in 2002 and the signing of bilateral agreements with the main countries of origin on the management of migration flows (particularly for labour purpose) and on readmissions.

The first socialist government in the 21st century has, therefore, represented a clear turning point by giving immigration policy an external dimension, thereby making it an indispensable element in any discussion on managing regular migration flows; fighting irregular immigration, border protection or relations with third countries. The creation of this approach of the Spanish immigration policy was reactive: it was brought about by a reaction to events, and particularly those of 2005. But in any case, this response has 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.

At a European level, Spain's actions to boost the external dimension of immigration policies have had two main effects, both of which are linked with the ideas of change and transformation. Firstly, Spain's decisions have reactivated the European Union's collective external action in the field of immigration. On one hand, through looking for coordination mechanisms for regularisation processes and the fight against the irregular labour market on the European scenario, and on the other, by deploying a series of instruments and mechanisms to execute coordinated actions in border control (FRONTEX actions) and in increasing cooperation with countries of origin and transit (the Rabat and Lisbon conferences).

Secondly, Spain impulses (together with other states in the south of Europe) these initiatives, and it transforms the subordinate status that, till that moment, Southern countries policies have had in front of migration policies by traditional European countries of immigration. The Spanish government has championed the introduction of a new migration model for the European Union in several areas: firstly, by stressing that Spain's borders (and the southern Europe ones) are also Europe's frontiers, and their protection requires greater cooperation; secondly, by fostering closer cooperation with third countries, and thirdly, by emphasising the links between irregular immigration flows and the attraction of irregular economy. It is an innovative and different model, far removed from the recent concerns of traditional immigration countries. Germany, France and United Kingdom, for example, are currently immersed in discussing the crisis of models for managing diversity and in establishing mechanism to attract high-skilled migrants.

Spain's approach has not received unanimous support from its European partners, but results aside, the country's role as a driving force in this political sphere has represented a 180-degree turn compared to previous governments. And considering the results, they can hardly be described as a failure⁶. The proposal for the directive providing for sanctions against employers of irregular workers directly echoes the 2005 Spanish regularisation process. The continuity produced by the Rabat and Lisbon conferences has also confirmed the aim of the Spanish government to link immigration and development policies and to promote greater dialogue and cooperation with third countries.

Conclusions

In the 2004-2008 term, the actions carried out by the Spanish government directly respond to a migratory context in transformation. Furthermore, these actions have also helped to stress the existence of a different migration model at European level and, therefore, the need for new instruments to be devised to this end. In fact, a first step has been taken to promote a new approach for immigration, by encouraging the European multilateral dimension to manage migration flows and border control, as well as fostering the creation of closer links with countries of migration origin and transit.

The next term of office should -no matter which party ends up forming a new government -serve to evaluate the continuity of the Zapatero government's purposes on migration policies, also at the EU level. Intentions that not only concerned with new political content, but also with the continuation of the transformation option. Continuing the change is the question that will be answered by the new government, and it will also reveal which is the role and the agenda that Spain wants to play in the construction of the external dimension of the EU's immigration policy.

Notes

¹ European Council, *Council Decision of 5th October 2006 on the establishment of a mutual information mechanism concerning Member States' measures in the areas of asylum and immigration*, 283/40 (D OL), 14th October 2006.

² European Commission, *Proposal for Directive of the European Parliament and of the Council providing for sanctions against employers of illegally staying third-country nationals*, COM (2007) 249.

³ Africa Plan 2006-2008. Executive summary. Ministry of Foreign Affairs and Cooperation.

⁴ *Ibíd.*

⁵ See Communication COM(2005) 390 on "The link between migration and development"; Communication COM(2005) 491 on "A strategy on the external dimension of the area of freedom, security and justice"; the Conclusions of the European Council of Brussels, 15 and 16 December 2005 and its section on "Global approach to migration"; Communication COM(2006) 735 on the "Global approach to migration one year on: Towards a comprehensive European migration policy"; Communication COM (2007) 247 on the "Application of the 'Global approach to migration' in the eastern and south-eastern neighbouring regions of the European Union" and the Conclusions of the Council of Justice and Domestic Affairs, Brussels, 18 September 2007.

⁶ In an interview held in May 2007, Consuelo Rumí, Secretary of State for Immigration and Emigration, claimed that the EU had adopted Spain's immigration policy. *El País*, 2nd May 2007.

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