



## International migration and relations with third countries: European and US approaches

Jan Niessen and Yongmi Schibel (eds.)

### Spain

Anna Terrón

Project supported by the German  
Marshall Fund of the United States



**International migration and relations with third countries**

**SPAIN**

**Anna Terrón**

**This report is part of the publication “International migration and relations with third countries: European and US approaches”  
Supported by the German Marshall Fund of the United States**

**Migration Policy Group, May 2004**

# SPAIN

Anna Terrón

with the assistance of Gemma Pinyol (CIDOB Foundation)  
and the collaboration of Aliou Diao and Sara Bayés (Fons Català de  
Cooperació al Desenvolupament)

## 1. The Justice and Home Affairs Agenda

Immigration is new to Spain, which means that its instruments for immigration management are also new. It was in 2000 (which could justifiably be called Spain's "year of immigration") that the Spanish government reorganised and created most of the administrative structures that make up its immigration policy, at the same time introducing significant changes to its alien legislation with the passing of Organic Law 4/2000 and its later modification through Organic Law 8/2000 and effecting four regularisation processes.

Furthermore, Spain's recent incorporation as a destination country for immigration is also reflected on the dates on which it signed most of its third-country bilateral agreements concerning immigration management. It was from the 1990's onwards, and especially from 2000, that the Spanish Government set about reaching accords on the circulation of people, readmission or regulation of migratory flows as part of an effective immigration policy. Most of the accords centre around the management of migratory labour flows and the control of illegal immigration, principally via the establishment of readmission agreements.

Most of the readmission agreements were signed towards the end of the 1990s. Their aim is to establish mechanisms to guarantee that unlawful immigrants who will be subject to readmission will indeed be readmitted in their country of origin or, in the case of stateless individuals or third country nationals, to the transit country from which they entered Spanish territory.

Table 1: Countries with which Spain has signed bilateral agreements on readmission<sup>1</sup>

Country	Date of signature
Algeria	31 July 2002
Bulgaria	16 December 1996
Slovakia	3 March 1999
Estonia	28 June 1999
France	26 November 2002 (a.r.)
Guinea-Bissau	7 February 2003
Italy	4 November 1999
Latvia	30 March 1999
Lithuania	18 November 1998
Morocco	17 March 1992
Mauritania	1 July 2003
Nigeria	12 November 2001
Poland	21 May 2002
Portugal	15 February 1993
Romania	29 April 1996
Switzerland	17 November 2003

<sup>1</sup> Source: *Boletín Oficial del Estado* (BOE, Official Journal). Ministry for the Presidency.

These readmission agreements have allowed the Spanish government to repatriate more than 200,000 people between 2001 and 2003, mostly nationals of Morocco and Bulgaria. These two nationalities make up the major contingent of illegal immigration flows reaching Spanish territory by sea from the Gibraltar strait or the Canaries (in the case of Moroccans) or by land over the Jonquera border (in the case of Bulgarians), but have no special numerical relevance in the principal illegal immigration access route, namely Barajas, Madrid's airport. In this regard it is especially interesting to note that it is nationals from Latin American countries - with which Spain has not signed any readmission agreements - who present the biggest gap between the number of residence permits granted and their number on the census. This difference, beyond misadjustments in the census system, allows us to estimate by nationality the number of foreigners in an irregular legal situation. Looking at these figures we see that in the case of most Latin American countries the estimated proportion of administratively unlawful immigrants is larger than that of nationals with a valid residence permit.

Table 2: Repatriations from Spain<sup>2</sup>

	2001	2002	2003
Bulgaria	n.a.	5,399	8,266
Ecuador	n.a.	5,558	6,476
Morocco	n.a.	23,381	24,146
Romania	n.a.	18,865	32,306
<b>Total</b>	<b>45,544</b>	<b>74,467</b>	<b>92,679</b>

Table 3: Immigrants with a residence permit and immigrants registered on the census<sup>3</sup>

	With valid residency permit (to 31-12-2002)	Registered on census (to 01-01-2003)	Difference
Argentina	27,937	109,445	81,508
Bulgaria	15,495	52,838	37,343
China	45,815	51,228	5,413
Colombia	71,238	244,684	173,446
Cuba	24,226	38,332	14,106
Ecuador	115,301	390,297	274,996
Morocco	282,432	378,979	96,547
Peru	39,013	55,915	16,902
Dominican Rep.	32,412	44,290	11,878
Romania	33,705	137,347	103,642
<b>Total</b>	<b>1,324,001</b>	<b>2,664,168</b>	<b>1,340,167</b>

Presently, Spain has in effect 16 bilateral readmission agreements, which reflects the Spanish government's preference for widening the practice of expulsion of illegal aliens, and for speeding up their return or repatriation. In regard to this it is worth pointing out that the new Law on Aliens 14/2003 establishes the obligation for transport companies (air, sea and land) to examine documents and inform the

<sup>2</sup> Source: Governments' Delegation for Alien and Immigration Affairs.

<sup>3</sup> Source: Governments' Delegation for Alien and Immigration Affairs and Census Statistics (Explotación estadística del Padrón) on 1 January 2003. National Statistics Institute.

relevant authorities about passengers from countries outside the Schengen area. Failure to comply is considered a serious offence and could result in a fine of half up to a million euros for anyone who transports passengers without the required documents.

As in other European Union countries, the measures established for illegal immigration control which apply in Spain allow for the immediate return of persons detained at the border trying to gain access to Spanish territory by illegal means. This can mean that, given the immediate nature of the return, people seeking asylum who have used illegal means of access can be returned, so infringing the principle of *non-refoulement* established in the Geneva Convention of 1951. In relation to this, the report from the special UN rapporteur on migrant rights in Spain showed concern over confirmation that the security bodies charged with applying the law do not always distinguish between return and expulsion, and between the different guarantees that govern these procedures. In practice, according to the document, it is understood that returns are only applied to Moroccan citizens, while illegal aliens of other nationalities are generally expelled despite existing the conditions for return.

On the other hand, Spain has also signed bilateral agreements on regulation of migratory flows with several countries. These agreements - held with the Dominican Republic, Ecuador, Romania, Colombia, Poland and Bulgaria - govern migratory labour flows, establishing the mechanisms for communicating job offers and the assessment of requisites in job seekers. Furthermore, the accords guarantee labour and social rights for foreign workers in Spain, and specifically govern seasonal work.

Table 4: Countries with which Spain holds agreements on regulation of migratory flows<sup>4</sup>

Bulgaria	Regulation of migratory flows	28-10-2003
Colombia	Regulation and planning of migratory flows	21-05-2001
Ecuador	Regulation and planning of migratory flows	29-05-2001
Morocco	Labour	25-07-2001
Poland	Regulation and planning of migratory flows	21-05-2002
Dominican Republic	Regulation and planning of migratory labour flows	17-12-2001
Romania	Regulation and planning of migratory flows	23-01-2002

These agreements are particularly important bearing in mind the new legislative reform of the Law on Aliens, since Law 14/2003 modifies article 39.6 and establishes that seasonal job offers should preferably be directed towards countries with which Spain has signed an agreement on the regulation of immigration flows. The fact that between 2002 and 2003 Spain signed accords with Poland, Bulgaria and Romania suggests a "vague preference" for foreign workers of European origin, to the detriment of those of non-European nationalities.

All these agreements include, furthermore, a section to regulate and facilitate the voluntary return of nationals who have come to work in Spain. An exception to this is the labour force agreement signed with Morocco in July 2001, which does not consider the possibility of facilitating voluntary returns. Morocco continues to be a top priority country in the context of Spanish immigration policy. During the year 2003,

<sup>4</sup> Source: Governments' Delegation for Alien and Immigration Affairs.

the Moroccan government agreed to readmit those illegal immigrants - both Moroccan and sub-Saharan - who it could be proved had entered Spanish territory via Morocco. In addition to this, Spain has signed other agreements with Morocco, such as the agreement on seasonal workers (September 1999) and the memorandum on minors which was signed in 2003.

Meanwhile, in 2003 a voluntary return project was carried out for the first time in Spain within the framework of cooperation between the Governments' Delegation for Alien and Immigration Affairs and the International Organisation for Migration (IOM). The project aims at facilitating the return of immigrants who have not been able to enter the Spanish labour market and do not have the means necessary to return to their country of origin. The IOM has described this pilot project as an initiative addressed to 150 candidates in a situation of social exclusion, having been the victims of illegal human trafficking or willing to return to their country of origin having not succeeded in their migration project. The initiative mainly covers the transport of returning migrants to their place of residence in their country, although it considers the possibility of providing additional funds for reintegration in those cases where appropriate.

Unlike other European countries who have tried to prioritise highly qualified foreign workers, the Spanish labour market has preferred instead having foreign workers fill jobs requiring unqualified workers. In that respect, job offers demonstrate that regions with economic sectors needing extensive, unqualified manpower rely on foreign workers. Quotas have, on the other hand, led to a preference for hiring in origin the source, leaving unattended demands for work by immigrants already resident in Spain in an irregular legal situation.

Table 5: Job openings by quotas<sup>5</sup>

Year of Quota	2002		2003		2004	
	Seasonal	Permanent	Seasonal	Permanent	Seasonal	Permanent
Construction	3,061	3,506		1,846		2,227
Hotel			1,406	1,927	1,327	1,928
Agriculture	15,929	821	11,183		17,428	
Transport				1,168		1,134
Services		3,474		2,479		1,195
Total	21,195	10,884	13,672	10,575	20,070	10,908
<b>Total</b>	<b>32,079</b>		<b>24,247</b>		<b>30,978</b>	

### The role of Spain within the European Union

All these elements developed by the Spanish government via bilateral relations complement Spain's involvement in EU initiatives. Within the EU over the last few years, the Spanish government has played an important role when talking about the regulation of migratory flows and particularly in the control of illegal immigration. To this end, Spain has favoured initiatives such as those demanding to establish the requirement of visas for Ecuadorian and Colombian nationals (two of the groups with a large, growing presence in Spain) who wish to gain access to EU territory.

<sup>5</sup> Source: *Boletín Oficial del Estado* (BOE, Official Journal). Ministry for the Presidency.

In this respect, let us have a look at the agenda established during Spain's last presidency of the European Union. The Spanish government decided short before the Seville Summit to include "illegal immigration" on its agenda as a priority, regarding it as a threat to the EU. The Spanish Presidency, with a discourse of "fear", set about creating a European policy on immigration and asylum, as it had been agreed in Tampere At the Seville Council, which took place on 21 and 22 June 2002, the member countries agreed a basic programme to include, amongst other things, the preparation of an unlawful immigrant repatriation scheme and joint operations on the EU's exterior borders. In addition to this, the need to integrate the EU's immigration and control policies to its relations with third countries was highlighted. Most of these proposals had already been included in the Treaty of Amsterdam and in the conclusions of the 1999 European Council of Tampere, beyond which the Seville Council did not represent a significant advance in the construction of a European immigration policy. Furthermore, the presidency's proposal – eventually watered down – to sanction third countries which did not control their irregular migration flows moved away from the conclusions of Tampere, which followed the logic of co-managing migratory flows with the countries of origin and transit.

On the other hand, at the beginning of April 2004, the European Parliament rejected Spain's initiative to adopt a directive obliging transport companies to disclose their passengers' data. This initiative would compel transport companies to report the relevant authorities on every passenger on origin and on foreigners who have not used their return ticket or their ticket to a third country as scheduled. Failure to comply with these obligations could result in economic sanctions of up to €5,000 or the immobilisation of the companies' assets.

With regard to cooperation with other European countries, in March 2003 the Spanish and French governments chartered a flight to expel more than 50 illegally resident Romanians. In July of the same year the Interior ministers of Spain and Italy decided in a bilateral meeting to promote the creation of a border police force and to try and establish a common fund for speeding up the repatriation of illegal immigrants. Spain has also participated in both the Ulyses sea border vigilance operation to help control immigrant smuggling networks and, at Jerez in May 2003, in the constitution of the so-called G-5, an initiative by Germany, Spain, France, Italy and the United Kingdom to promote an "efficient model of European security".

#### Spain and the instruments of the EU within the framework of Euro-Mediterranean Partnership agreements

One of the main problems of agreements agreed within the Euro-Mediterranean Partnership has been the low level of participation by those countries involved in the design of EU policies, which have a huge effect on relations between the parties on either side of the Mediterranean. The European immigration policy on which the member states decided to embark at the European Council of Tampere in 1999 can be included here. In the Euro-Mediterranean Partnership agreements there are few references to migratory flows - in spite of the rise in population movements from the southern Mediterranean countries towards the countries of the EU - although all the agreements include a clause obliging countries of origin to readmit immigrants living illegally in the destination country.

Table 6: Euro-Mediterranean Partnership Agreements<sup>6</sup>

<b>Mediterranean Partner</b>	<b>Signing of the Partnership Agreement</b>	<b>Entry into force of the Partnership Agreement</b>
Algeria	22-04-2002	Ratification pending
Palestinian Authority	24-02-1997	01-07-1997
Cyprus	*	
Egypt	25-06-2001	Ratification pending
Israel	20-11-1995	01-06-2000
Jordan	24-11-1997	01-05-2002
Lebanon	17-06-2002	01-02-2003
Malta	*	
Morocco	26-02-1996	01-03-2000
Syria	Under negotiation	
Tunisia	17-07-1995	01-03-1998
Turkey	*	

\* These three countries have signed the so-called first generation Partnership Accords. Cyprus and Malta joined the EU in the enlargement of May 2004. From 1 January 1996 a Customs Union between Turkey and the EU has been in force. In December 1999 Turkey was recognised as a candidate for admittance to the EU, although there have still been no negotiations over this matter.

To overcome the difficulties in the implementation of agreements reached within the framework of the Euro-Mediterranean Partnership, Spain could use the new cooperation mechanism of Spain-Morocco Action Plan. Before the Tampere European Council, the High Level Group on Asylum and Migration drew up different action plans for certain origin countries of asylum-seekers and migrants living in the EU. The Morocco Action Plan centred on the creation of a permanent dialogue on migration between the EU and Morocco, drawing on the EU-Morocco Partnership Agreement, giving special attention to the fight against the growing illegal immigration flows from the Maghreb. For this, the plan relies on the establishment of mechanisms for the sharing of statistics and strategies for combating illegal trafficking networks; it also anticipated a move towards readmission accords on nationals of Morocco or third countries entering Spanish territory via Morocco as well as economic development cooperation initiatives which might help reduce migratory pressures. On the other hand, it also includes aspects included in European immigration policy, such as the integration of Moroccan nationals living in the EU, equality of treatment, family reunification and respect for the diversity of cultural identities.

This would be a good opportunity for Spain to become more involved in the Euro-Mediterranean process. These action plans must be proposed and devised by the European Commission, but a political boost from a member state which, as is the case of Spain, has special historical and geographical links to the countries targeted can often be useful. As the experience of Italy and Tunisia would suggest, the Morocco Action Plan should be a special priority for Spain given that the two countries share a long history and an important common border. Negotiations with the EU continue, but Morocco has expressed on various occasions its concern over the excessive importance the European initiatives have attached to security issues, leaving other matters sidelined. Spain could work to ensure that the Action Plan gives more tangible attention to aid programmes for regions of origin of economic migrants or initiatives aiming to improve living standards in countries of origin.

<sup>6</sup> Source: Euro-Mediterranean Partnership. European Commission.



Beyond the initiative of the 1995 Barcelona Conference to create the Euro-Mediterranean Partnership, Spain has not been any more involved in assigning Community resources to this project than other European countries. The two Spanish presidencies of the EU have shown clear interest in the Euro-Mediterranean process, but with different results. The first Spanish presidency set up the initial bases for the process with the Barcelona Declaration, and later Spain sponsored other initiatives such as 5+5 Dialogue, which it set up together with France in 1990, or the project launched soon afterwards with Italy to create a Mediterranean Security and Cooperation Conference. For its part, the latest Spanish EU presidency kept the country's interest for the Euro-Mediterranean process by holding the Valencia Conference, in which it proposed the creation of a Euro-Mediterranean Bank within the European Investment Bank, but showed no special interest in taking the Morocco Action Plan forward. Furthermore, the deterioration of bilateral relations between Spain and Morocco and the support for a flow control approach to immigration management in the Seville Summit have not helped to good relations in the Mediterranean region.

In the last few years, the Spanish government has made no major efforts to establish relations with origin countries based on anything else but the reinforcement of border controls. As pointed out in the Tampere Council, it could be more useful to move towards relations based on collaborative management of migratory flows and co-development policies. That is to say complementing Interior policies with Exterior policies and incorporating commercial elements and development cooperation.

## **2. Migration for development**

Co-development means the participation of immigrant populations in developmental cooperation in their origin communities. This involvement is seen as a way of making immigrants visible and promoting their capacity to integrate in the social dynamics driving international solidarity and participatory democracy.

### Integration of immigration into development cooperation policies

At a national level, the law<sup>7</sup> and the norms for its implementation do not mention any links between migration and development as one of the governing axes of Spanish cooperation. However, in 2003 the subject of co-development was raised in some cooperation strategies, without defining or putting the concept into context:

- Spanish Cooperation Strategy for the Promotion of Democracy and Rule of Law, Subsection Intervention in the Reform of Public Administration<sup>8</sup>, “has as its aim to guarantee persons’ rights to keep a dignified existence in their country of origin (...). Furthermore [the Strategy] shall encourage the study of forms of cooperation and exchange of information between the Developmental Cooperation Policy and the foreign dimensions of immigration policy (co-development)”

---

<sup>7</sup> Law 23/1998, of 7 July 1998, on international development cooperation (BOE No 162, 8 July 1998), Spanish framework plan for cooperation 2001-2004 (approved 24/11/2000), Annual international cooperation plan (approved 16/01/04).

<sup>8</sup> <http://www.aeci.es>

- In the Spanish Cooperation Strategy for the Promotion of Gender Equality, it is recognised that links should be established between Spanish cooperation and migration, creating co-development programmes to encourage the participation of women as development agents for countries of origin.

The concept of co-development (as an axis of development cooperation) was analysed extensively in seminars organised by the Planning and Evaluation Office (OPE) of the Spanish International Cooperation Agency (AECI). However, development projects led by immigrants have never received financial support from the AECI.

### GRECO Plan (Interior Ministry)

Competence over migration policy in the Spanish central government over the last few years has been granted to the Interior Ministry, which has overseen all related policies including those which have a foreign dimension such as control and return. Although the framework aim is regulation of immigration from the perspective of development cooperation policies, there also exist co-development programmes, strategies and action plans belonging to other bodies and policy strategies. This situation leads us to extend the analysis to social policies (such the Interdepartmental Plan of the Generalitat de Catalunya) or to alien policies (Interior Ministry, GRECO Plan) in order to obtain a clear overview of co-development.

The Interior Ministry's GRECO Plan<sup>9</sup> (Global Programme on Regulation and Co-ordination of Immigration and Alien Affairs in Spain) is broken down into different lines of action, one of which being cooperation (not co-development) and establishing in its conclusions that *"investment in the development of countries of origin must be the key element in the government's overall design... in which we must favour over other actions the return of immigrants to their countries of origin. Their professional training, after their work here, will be an added value to their own experiences which will allow them to contribute to efforts towards development and growth in their own countries"*. According to Professor Consuelo Ramón Chornet, this definition, although recognising some principles of the concept of co-development, centres almost exclusively on promoting, encouraging and facilitating the return of immigrants.<sup>10</sup>

The GRECO plan establishes in its strategy for action on co-development 1.4 five plans of action:

1. Training of immigrants so that they may contribute to development on return to their country of origin (Ministry of Social Affairs).
2. Assistance to immigrants for their reintegration in their country of origin (Ministry of Social Affairs).
3. Orientation of savings to productive investment in countries of origin (Interior Ministry).
4. Granting of micro-credits in countries of origin for the financing of productive activities (Ministry of Foreign Affairs).
5. Technical assistance in regions of origin (AECI).

<sup>9</sup> <http://www.mir.es/dgei/index.html>

<sup>10</sup> Paper by Professor Consuelo Ramón, Co-development and Migration Policies, seminars on co-development and immigration organised by the OPE (25 and 26 September 2003).

Several Spanish social agents have criticised this plan because it implies a change to the definition of co-development. By way of example we will mention some of the arguments used:

- The plan is completely centralised, and removed from society and the immigrants themselves. The roles of society and local councils are completely ignored.
- The political will to address co-development has not been translated into a specific budgetary commitment.
- In practice the 5 action plans above have not been carried out.

In conclusion, neither the Spanish Cooperation Law nor the Interior Ministry's legislation have created a clear strategy for tackling co-development. A legislative programme is needed which deals with participation by immigrants in the development of their communities of origin rather than promoting a policy based almost exclusively on returns. This legislative programme should be established in the context of development policy, based on the principles of: solidarity, decentralised management and analysis of the causes of migration.

With regard to the bodies of the autonomous regions of Spain, the link between migration and development policies is not consistent amongst the various Autonomous Communities.

The Government of the Generalitat de Catalunya<sup>11</sup> draws together proposals related to co-development in its Interdepartmental Immigration Plan. According to this plan, Catalonia may influence the development of immigrants' countries of origin by means of developmental cooperation, awareness raising, and training (amongst other mechanisms), with the aim of encouraging mutual knowledge and closer relations with immigrants' societies of origin. From the perspective of developmental cooperation, co-development must contribute to the development of destination countries and must raise awareness in Catalonia about these countries and the realities of life there. However, above all, it must further the joint responsibility of donor and beneficiary in the developmental process. To this end, the Generalitat must particularly encourage co-operative developmental plans based on co-development carried out in association with agents from the beneficiary country, with special regard for those which promote the role of immigrants in Catalonia.

The law-rank regulation<sup>12</sup> dealing with developmental cooperation in Extremadura makes no mention of co-development or of the link between development / underdevelopment and migration, although the concept is introduced in the General Plan. This emphasises the need to work with new concepts based on practical experience and establishes that "*we must study and incorporate new proposals such as the creation of capacities or co-development*".

In both Castilla la Mancha's<sup>13</sup> law on cooperation and the first draft of the Balearic Islands'<sup>14</sup> autonomous law there is reference to the relationship between migration

---

<sup>12</sup> Law on Cooperation for Development. DOE (Official Journal) n° 33 of 18 March 2003 (p.4163), Law 1/2003 of 27 February 2003.

Draft General Plan for Development Cooperation in Extremadura 2004-07. Technical Secretariat for Cooperation, Mérida, September 2003 (pp 16-17).

<sup>13</sup> International Development Cooperation Law. Law 3/2003 of 12 February 2003 on International Development Cooperation, DOCM (Official Journal) n° 82.

and development. In the Balearic first draft, furthermore, co-development is established as a priority sector in developmental cooperation “for its strategic value in the context of relations between the receiving countries and the immigrants’ societies of origin”.

In the Comunidad Valenciana<sup>15</sup> there are no law-rank regulations on developmental cooperation, although a draft general plan recognises co-development as a priority. In this draft the term “co-development” is defined as a concept linking immigration with development: there exists interdependence between economic migration and development of communities of origin.

Finally, a future Basque law<sup>16</sup> recognises as a priority axis of the Basque policy of cooperation the “*peoples and countries providing the main inflows of immigrants to the Basque Country.*” In 2000 the Basque government expressed a will to address the question of co-development by carrying out a study co-ordinated by the Universidad del País Vasco. It proposed a research project which would bring together different collaborative strategies for evaluating the appropriateness of incorporating co-development mechanisms into the Basque developmental policy. The programme carried out was an investigation to identify and establish the criteria for Basque Government’s involvement in developmental cooperation on immigration, and as a result three co-development projects were implemented. Furthermore, the Basque Country Immigration Plan 2003-05 regards co-development as one of 11 substantive action areas, taking as an area for the promotion of foreign relations “*the co-development action comprising guidelines with regard to exterior co-operative acts by Basque institutions with direct participation by immigrant populations resident in the Basque Country Autonomous Region*”. The programme establishes four lines of action, these being the development of the Basque government’s exterior relations as a strategy for facilitating processes of developmental aid and the reception of immigrants in the Basque Autonomous Community; the development of procedures for decentralising aid and development initiatives empowering local administrations, bodies and movements; the promotion of foreigners’ direct participation in development projects aimed at their country of origin; and the articulation of financial procedures for enabling immigrants to make economic transfers to their home country, as well as encouraging their investment in products linked to development in their regions of origin.

On the other hand, no mention is made of the link between migration and development as an axis of developmental cooperation in the autonomous laws of Andalucía<sup>17</sup>; Aragón<sup>18</sup>; Galicia<sup>19</sup>; La Rioja<sup>20</sup>; Madrid<sup>21</sup> or Navarra<sup>22</sup>.

---

<sup>14</sup> Draft Proposal for a preliminary draft Law on Development Cooperation, Presidency’s Council, General Directorate for Cooperation <http://www.caib.es>

<sup>15</sup> Draft Framework Plan for Cooperation in Valencia 2004-2007, point 2.6.

<sup>16</sup> Draft text for preliminary draft Law for Development Cooperation in the Basque Country

<sup>17</sup> International Development Cooperation Law. BOJA (Official Journal), n° 251 p.27.446 of 31 December 2003. Law 14/2003 of 22 December 2003.

<sup>18</sup> Law on Development Cooperation. Law 10/2000 of 27 December 2000.

<sup>19</sup> Law on Development Cooperation. DOG (Galicia’s Official Journal): n° 128, Xoves (p. 8830). Law 3/2003 of 3 July 2003.

<sup>20</sup> Law on Development Cooperation. BOR (Rioja’s Official Journal): No 3105 Law4/2002, of 1 July 2002.

<sup>21</sup> Law on Development Cooperation of the Madrid Community. Law 13/1999 of 29 April General Development Cooperation Plan for the Madrid Community (2001-04), Law 13/1999 of 29 April.

<sup>22</sup> Law on Development Cooperation. Autonomous Law 5/2001, of 9 March 2001.

## Integration of immigration in co-development projects and strategies

*a. The role of local authorities: the experience of the Fons Català de Cooperació al Desenvolupament*<sup>23</sup> (Catalan Fund for Development Cooperation).

Before dealing with this section we must ask ourselves what the legislative and administrative jurisdictions of local bodies are in relation to the phenomenon of migration. The truth is that this "supposed" jurisdiction does not exist, although experience tells us that it is local authorities who deal with immigration on a day-to-day basis. Faced with this situation and these needs, the authorities at local, sub-regional and regional level have come up with different strategies in the field of integration (jobs, race relations, etc.): amongst them, and possibly most innovatively, the execution of development projects.

The concept of co-development as understood by the Fons Català Migration and Development section springs from the idea that underdevelopment and poverty are important pushing factors for migration. Via co-development, immigrants participate in development projects in their own countries of origin, becoming in the process an active agent in the development of their community of origin. The activities and projects carried out via co-development have the fundamental objective of improving living conditions for the members of these communities and creating self-managed processes which add social sustainability to the cooperation experiences.

Work in the co-development processes of the Fons Català is based on four focal points. Firstly, the identification, diagnosis and mentoring of organisations, which consists of singling out immigrant organisations willing to carry out a developmental project in their communities of origin. This research is done via local councils, although sometimes it is the organisation itself that contacts the Migration and Development section of the Fons Català. Secondly, there are training courses, which aim primarily to enable immigrants to become genuine development agents in the development of their communities of origin. This training allows a wider vision of international cooperation and the role the immigrants themselves play in assessing their reality. Thirdly, the analysis of the aid sector and developmental cooperation projects, set mainly in the fields of agriculture, health and education. Finally, the fourth basis of the Fons Català's actions is support for organisational processes in the South, which consists of reinforcing the social fabric and community dynamics with the objective of creating self-managing co-operatives and social organisations in local communities.

The Fons Català has financed more than 20 projects based on the creation of trust and communication between immigrant bodies, local public authorities and communities of origin of immigrants. The positive effect of this developmental strategy, co-development, is double: on the one hand it encourages developmental projects defined and executed by local people, while on the other it promotes their integration into their communities.

---

<sup>23</sup> See <http://www.confederacionfondos.org> and <http://www.fonscatala.org>

*b. The role of regional authorities: The Secretariat for Migration of the Generalitat de Catalunya*<sup>24</sup>

No co-development projects have yet been executed under the regulatory umbrella of Catalan law and the General Plan for Developmental Cooperation. However, before enacting the law the Generalitat de Catalunya financed some projects managed by immigrant associations via the general cooperation budget. Among the programmes the Generalitat carried out - with a different definition of co-development to that applied by the Fons Català - one might highlight the ENERBUS programme to establish a network of energy experts in Latin America, the Maghreb project aimed at helping Catalan businesses to employ qualified personnel from the Maghreb region, the training programme for Tunisian experts in energy and environmental management, and the programme to establish a plan for co-development and voluntary return for immigrants in Catalonia.

Alongside the process of defining and writing the Catalan Cooperation Law, The Secretariat for Migration of the Generalitat de Catalunya designed and executed a cross-departmental migration action plan. One of the building blocks that defined this plan was the co-development programme. The starting point of this section made explicit the link between immigration and underdevelopment.

*c. Experiences of the Unió de Pagesos farmers' trade union*<sup>25</sup>

The Unió de Pagesos is a Catalan farmers' union which manages its own solidarity programme with the aim of helping to regulate migratory flows.

The general outlines of the Unió de Pagesos' solidarity project are:

- Hiring foreign workers on origin
- Participation in the economic and social development of agricultural populations undergoing hardship, especially in the Third World, with the support of its organisational structures.
- Mentoring of seasonal workers during their stay in Spain, offering training on social and cultural dynamisation.
- Organisational development cooperation for agricultural populations.
- Raising public awareness in Spain of agricultural societies' problems and the inequalities of globalisation.
- Education in values, with priority for school programmes in rural areas.
- Encouraging Fair Trade and Responsible Consumption.

The Unió de Pagesos placed within its solidarity programme a strategy of co-development framed in the seasonal work of immigrants from the Maghreb and Latin America (known as "temporeros") to Catalonia. The objective of this initiative is the regulation of migratory flows and essentially involves three phases:

---

<sup>24</sup> See <http://www.gencat.net/presidencia/immigracio/plaimmig/index.htm>

<sup>25</sup> See [http://www.uniopagesos.es/organitzacio/fundacio\\_02.asp](http://www.uniopagesos.es/organitzacio/fundacio_02.asp)

1. Hiring on origin: giving information and training on the usual rates and working practices in destination areas.
2. Promoting immigrant groups who work to the advantage of their community's development (co-development).
3. The constitution of a Course for Development Agents, noting the human value of seasonal immigrants.

The Course for Development Agents has been working for four years with the objective of enabling training of seasonal immigrants while in Catalonia in order that they may return to their country of origin and share their experience and promote collective projects for economic and social improvement. The content of the course may take in different subjects: IT, agriculture, developmental cooperation projects, languages, etc.

### Conclusions and recommendations

Considering the regulatory texts mentioned, one may affirm that state cooperation policy does not link immigration to development, but is centred on a policy of immigration control and immigrant integration. Still, it has been established that legislation from autonomous regions and the practices of local bodies, in spite of not having real competence over migration, have produced an important legislative framework recognising the evident connection between migration and development.

In this regard, it would be significantly useful to revise Spain's Developmental Cooperation Law to include co-development as a basis for action and the modification of the concept of co-development as established in the present GRECO plan. Furthermore, there should be efforts to change the public perception of immigration and immigrants via recognition and evaluation of the work of immigrant associations, which would imply promotion of these institutions and their public activities.

On the other hand, administrative bodies should also facilitate the creation and consolidation of immigrant associations as active partners in the central Government's co-operative activities, as well as set up active policies to improve the technical abilities of immigrant organisations. Last but not least, efforts should be made to recognise the human worth and ability of immigrant associations in benefiting the societies of both their destination and home countries.

### **3. Migration, mobility and trade**

Mode 4 of GATS refers to the seasonal movement of persons with regard to supply of services. It is distinguished from traditional labour migration principally by the seasonal nature of a person's physical movement between different member states of the WTO and because movement in the interests of supplying a service does not give the supplier access to the labour market of the destination country. In this sense, mode 4 constitutes a specific section for seasonal migration and has normally come to refer to highly qualified workers. In spite of that, this trans-border circulation of people could affect national migratory policies: because of this, in the short term it does not seem likely that facilities for independent professionals who wish to cross borders more easily will be increased, due mainly to the fear of governments that they will find themselves with an uncontrolled stream of immigrants.

In regard to international commercial relations, there has been a liberalisation in the movement of goods, service and capital, but this has not produced a similar freedom in the movement of people. In many “receiving” countries the governments believe that the GATS mode could influence control over migratory flows, and the European Commission itself has expressed its concern over the tension between mode 4 and migratory policies. Similarly, in many OECD countries there exists a significant movement from seasonal to permanent permits, which makes difficult a clear demarcation between one type of immigration and the other.

Spain shares the position of the EU, which is against the WTO becoming involved in migratory and labour issues as these are beyond its competence and because it has liberalisation as its final aim. This position differs from that of other countries and from that of the WTO itself, which speaks of the necessity to co-ordinate commercial and migratory policies and to improve transparency of policies and actions related to migration. In this regard Spain and the EU are largely against the GATS proposal and will disappoint those developing countries who see in mode 4 the possibility of liberalising and making more flexible the conditions for entry into developed nations.

Under GATS mode 4 Spain would see itself more as a receiver than a provider of services. This is backed up by the behaviour of the Spanish labour market, which sees little geographical movement of professionals in its own territory. Spanish companies have thus demonstrated little interest in the initiative (especially in comparison to other EU Member States) and both unions and professional associations have expressed doubts about the initiative proposed by the EU in relation to mode 4 of GATS.

Mode 4 and its improvement have not been a priority for the Spanish government up to this point. Proof of this is that Spain has waited until the last moment to transpose the EU directive. On the other hand, it has done so strictly according to the “official” position of the EU. Law 45/1999 of 29 November 1999 was the transposition of EU directive 96/71/EC of 16 December 1996 with regard to trans-national movement of workers for supply of services. The new Spanish government takes a different line on the theme of migration and points at different EU alliances, and so we must wait to find out its position.

Spain works well on inter-ministerial cooperation on GATS, principally via regular meetings, but there are notably different positions between ministries. Thus, while the Ministry for the Economy tries to distinguish between mobility and immigration under mode 4, other ministries fear that in practice this distinction does not work, and that seasonal workers will not return to their country of origin or will be replaced by other workers.

The Ministry for the Economy has also pointed out that the adoption of the EU offer will have no major impact on the Spanish labour market or on the Spanish rate of unemployment, but doubts expressed by other ministries suggest that a larger debate on the topic is necessary. We will have to wait to find out if the new Spanish government takes a different stance on this subject, but for the moment mode 4 of GATS has not been a priority on the Spanish political agenda, even less so when Spain has a high unemployment rate that also affects qualified workers.

Negotiation on mode 4 of GATS is a problem in that it affects work permits for which Spain’s legislation on aliens demands authorisation of labour. This authorisation is required for Type D work permits (initial); for self-employed workers for trans-national supply of services (Type G) and for seasonally employed workers (Type T); in all cases, the authorisation requires an evaluation of the national employment situation.



The repeated reforms of the law on aliens over the last few years together with public opinion especially sensitive to immigration means that no new reforms should be expected in the short term. We will have to wait and see if the new Spanish government, which has announced in principle a change of direction in immigration policy, although no changes in depth, decides to undertake further modification of the law.

Migration Policy Group  
Rue Belliard 205, box 1  
B-1040 Brussels  
Tel. +32 2 230 5930  
Fax. +32 2 280 0925  
email: [info@migpolgroup.com](mailto:info@migpolgroup.com)  
[www.migpolgroup.com](http://www.migpolgroup.com)