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Spain and legislation on migration

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Abstract

International Organization for Migration (IOM) considers migration as a movement of a person or a group of persons or over international border or within a country.

In the present paper I have chosen to present a Spain and its migration. This analysis of the migration in Spain it is founded on many people's attempts to settle and work in this country.

This analysis is based on the EU legislation and the legislation stops Spain.

Due to excessive increase in unemployment in recent years, the Spanish government imposed numerous measures to halt the migration in their own country.

Spain is a country rich European Union, with many resources especially in agriculture, construction, etc., it is always for the less wealthy tenant with a salary in the salary of the European Union.

Keywords: Span, legislation, migration

Introduction

The global economic crisis has hit the labor market in all Member of EU and the transformations experienced by the economies of these countries had in turn repercussions on labor migration. Sectors predominantly occupied by migrants, such as construction or services have been hardest hit by the economic crisis, causing job losses and increased unemployment among migrant workers.

In recent debates on international migration, both government officials and the private sector have recognized the need for a global market of labor effective, given that projections imbalances between demand and supply of labor for the coming years indicate an increase in their fundamental demographic aging and population decline in developed countries, while growth in the developing countries. However, expect the persistence of disparities in the level of salaries and opportunities to find a job between and within developed countries and those in developing countries, which will generate new resorts mobility and migration (Appave and Cholewinski, 2007).

2007 OECD report on international migration in 2005 shows that among the most important source countries remained relatively stable, with geographical proximity as a major determinant in choosing the destination country both in Europe and beyond.

However, in Europe there is a noticeable change on the countries of origin, the intensification of migration flows from the countries of Eastern Europe joined the European Union.¹

For Polish citizens main destinations were the United Kingdom, Germany, Italy, Ireland and Austria while in Romania, Spain, Italy and Germany had about 90% of immigrants.

Migration is a complex process with a multinational character that cannot be managed only unilaterally or bilaterally, but through effective management to consider everyone involved and changing characteristics of the migration process. In this context migration policies of countries change according to developments in the world economy, political situation, the influence of various factors: natural, social, etc.

This section discusses migration policies and legislation in the European Union and analyzes the policies, legislation and institutions related to the migration process in Spain. Demographic decline associated with the decline of qualifications at European level will cause a reduction in the working age population in the future in Europe.

This raises the need to find solutions to eliminate the negative effects of demographic

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¹ See "Regional aspects of international migration towards OECD countries" from OECD 2007 Report– International Migration Outlook, pp. 38-39.

decline. In this context the European Union has opened to migrant workers from third countries. Thus, legal immigration is now seen as a way to offset the decrease in the working population in Europe. It considers that migration function in the community area is more beneficial than leaving migration policy in each Member State.

Consequently there was a common immigration policy at EU level, which manifests openness to labor from third countries. Changing migration policy at EU level is marked by the Communication on Immigration, Integration and work of the European Commission in June 2003.

The main programs of the European Union that consider migration include:

1. The Tampere (1999), which introduces common policy on asylum
2. The Hague Program (2005) for strengthening freedom, security and justice in the EU, followed by Solidarity Program and management of migration flows for the period 2007-2013 (2006).

In order to ensure free movement of persons and workers it is necessary to recognize diplomas and professional qualifications.

The most important regulations in this respect at EU level are a group of directives which create preconditions for a general system of recognition of diplomas and qualifications and another group of directives governing the recognition of qualifications in various professions.

The four directives regulating this area are the following: Directive 89/48 / EEC, Directive 92/51 / EEC, Directive 1999/42 / EC and Directive 2001/19 / EC. At EU level, over time there have been difficulties in transposing the directive into national law. For example, Greece, Belgium, Britain, Portugal, Ireland and Spain were late transposition into national law Directive 1992, facing health problems related professions, the tourism, the sport and the public service.

Therefore it is considering drafting a new directive (fifth Directive) which is intended to remain single directive in this area and to simplify the *acquis* established by earlier Directives. It is envisaged that the principle of automatic recognition of diplomas and the recognition of qualifications on the basis of coordination of minimum training conditions.

Increasing mobility of labor within the European Union as one of the main objectives of the Lisbon strategy, it is envisaged by the Action Plan European Job Mobility 2007-2010. It sets out the main directions for future action followed by concrete targets.

In developing countries, weak economic situation and the state intervention through support mechanisms in the agricultural sector leading to increased instability of income from agriculture. Harvest, the good that can be turned into money, is heavily dependent on a variable over which there is no intervention - time.

The idea is that this year, next year is not known what will occur frequently in our discussions at Dobrotești about agriculture.

As long as harvest insurance mechanisms do not work or are not perceived as favorable weather conditions are not known intervention remains an uncontrollable factor that can make the investment a year in lost agricultural work.

Control of future crops associated income is diminished in

the practice of traditional agriculture. The use of the works of mechanized farming, fertilizers and selected seeds for some of the manufacturers can not compensate for lack of an irrigation system for example.

Perception mechanisms by which the state supports farmers as insufficient or their unrecognition make most or even opportunities offered by the scheme are not used. Problem failure to provide crops and inefficient functioning of financial support mechanisms to modernize agriculture and add the inefficiency functioning of the so-called "future markets".

The farmer is forced to find arrangements and sell agricultural products mostly after harvest time. Pressure from agricultural work starts a New Year does not allow low sells and in these circumstances the manufacturer is forced to accept any price offered.

The lack of firm agreements guaranteeing the sells earlier harvest at a predetermined price regardless of the market situation at the time of the transaction reduces the chances of getting a substantial profit from agricultural activities.

The risk associated with the harvest itself is associated therefore the risk of falling prices when sold. Agriculture is perceived in these conditions as a sector that can ensure a high income but can primarily as a sector that can provide a steady income, of course.

In Spain, according to the Organization for Economic Cooperation and Development, immigrants accounted in early 2005, 4.6% of the total population, or 1.9 million people.² However, the figures provided by the Spanish Government for that year are almost double - 3.7 million immigrants and those published by organizations such as the Red Cross are even higher - 4.8 million.

It is possible that the differences are caused by the inability of the authorities to register all immigrants entering the country, the overwhelming majority of whom are illegal immigrants.

In early 2007, the Spanish government has released new figures of immigration: more than 4.1 million foreigners, of whom 600,000 Moroccans, Ecuadorians about 500,000, about 300,000 Romanian and the same number of Colombians.³

Meanwhile, independent statistics, such as The Financial Times, provides other figures for 2006 showing that Spain is the most attractive destination for world citizens⁴, not only for illegal immigrants, but especially for a skilled labor force in the United Kingdom, Germany, Italy and France.

Spanish legislation unskilled labor from non-EU countries to work legally thanks to a special permit, but mostly immigrants working illegally. However, both groups of immigrants contribute significantly to the development of the Spanish economy.

Along with the economic, social networks play an important role in shaping the labor market? Segmentation and system based on workload, which recruits workers by sectors and provinces, have made possible a visible labor stratification based on ethnic groups, thus creating niches for the labor market. For example, the services sector

² OECD, International Migration Outlook, 2006, <http://www.oecd.org>.

³ Data from Database of the Royal Statistical Commission of Spain, <http://www.ine.es>.

⁴ ROUSSANOV, Todor, Europeans Favor Spain for Expat Jobs, 2007, http://international.ibox.bg/news/id_1406161495.

makes up about 59% of immigrants with the right to work and the agricultural sector - 21% of them.

The decision in 2005 to provide immigrants amnesty conditions caused a number of concerns regarding the future of immigration in this country, so that by 2015, one in three residents of Spain will be foreign.

In terms of security implications, immigrants from Spain magnitude does not create problems identified in Italy. However, the European Observatory against Racism noted in recent years increasing intolerance towards immigrants Spanish citizens, especially the Latin Americans and Africans, whom they associate with crime and terrorism.

It is obvious that in these countries, immigrants are a source of insecurity and, at the same time, security.

Security challenges are rooted in particular ethnic and religious differences between the target population and immigrants, and the low standard of living of the latter, caused by difficult access to jobs in that country.

Also, unfavorable image that citizens have of that country newcomers, they "invade" and "threatening" communities, is often a source of tension between them. However, it must not underestimate the role of immigrants as safety factors, especially in the economic field.

There are few European countries, following legal or illegal employment of foreigners in various sectors of the economy, showed a substantial increase in gross domestic product and, therefore, a significant increase in the living standards of their citizens.

Spain has signed bilateral agreements with six third countries (Romania, Bulgaria, Ecuador, Colombia, Dominican Republic, Morocco), most of which countries the key source for the flow of illegal migration in order to strengthen the general framework for cooperation and prevent migration illegal exploitation of workers.

The agreements follow a standard format and allow for the recruitment of both permanent workers and seasonal work and trainees, usually aged between 18 and 35 years. These agreements also contain chapters on selection procedures, working conditions and social rights, the return of these migrant workers, and provisions regarding the fight against illegal migration and human trafficking.

For seasonal workers there are special provisions that require them to sign a pledge stating that they will return to their country of origin upon termination. Seasonal workers are also required to present themselves at the Spanish Consular office in their country of origin within one month of their return. Most of these agreements have worked well in practice, particularly as regards seasonal workers. Number of workers admitted are determined by quotas set for each sector and not based on nationality.

The management of bilateral schemes is shared between institutions dealing with migration and employment at national, regional and local levels. Usually there is a partnership between several stakeholders such as trade unions, employers, employment offices and the central government.

In some Member States, regional administrations have become increasingly active in the recruitment of foreign workers. Some of the receiving countries have set up offices in third countries to recruit and even provide training for workers to be admitted.

In some cases companies were involved in this process and now send out personnel in countries to train and recruit workers so that they can be integrated more easily once in the Member State.

Currently, the movement of labor between Romania and Spain is governed in accordance with Spanish legislation regarding foreign (Organic Law No.4 / 2000 on the rights and freedoms of foreigners in Spain and their social integration, as amended) and the agreement between Romania and Spain for the regulation and organization of labor movement between the two states (Law no. 464/2002). Thus, in terms of labor relations and social security rights, migrant workers are governed by the laws of the receiving State. It is important to note that Romanian citizens wishing to work in Spain must obtain a work visa and residency.

Spanish employer has the obligation to obtain a work permit for the person that committed but its absence does not lead to the invalidity of the contract. Rule implementing the Law no. 156/2000 on the protection of Romanian workers working abroad indicates that employment agencies working abroad, as providers of mediation services for employment abroad Romanian citizens are required by the mediation contract, submit beneficiary among other data, information and specifications regarding job requirements and conditions that may be hiring, to arrange for the employment contract with the foreign employer, to ensure inclusion in the individual work items listed in offers farm jobs, to ensure that an individual working copy of the contract and in Romanian and ensure compliance by the employer of clauses in individual employment contract. Authorization models work and offer jobs can be found in the Appendix. However, in the Romanian Embassy in Madrid there is attached to the labor and social issues, whose details are set out in the Annex, which has among its duties under Art. 5 of GD 1326/2004 amending and supplementing Government Decision 737/2003, to promote measures to secure and protect the rights and liberties Romanian workers working abroad in the field of labor and social security, maintaining regular contacts with Romanian citizens working abroad, so that they can exercise their constitutional rights, and organizing awareness-raising and awareness of Romanian citizens working abroad on risk illegal work and lack of social security.

Foreigners working legally in Spain are covered by the social security system Spanish is the general scheme, they are covered by workers remunerated either by special schemes for agricultural workers, self-employed, domestic workers, workers in mines, sailors and students. The main benefits are social security: medical care, compensation for temporary or permanent work, maternity allowance, pension, survivors and location for children.

European regulations on social security are applicable in Spain. Romania has signed a social security agreement with Spain, and such migrant workers will be subject to Spanish Social Security legislation under the same conditions as Spanish nationals. Spanish immigration in statistical bulletin no. 6 of July 2005, annexed, shows a number of 126 298 Romanians in the Spanish social security system, of which 82 727 in the overall system.

According to the bilateral agreement between Romania and Spain, the Spanish authorities communicate requests workforce by existing job offers.

Non-EU foreign workers quotas are set annually by profession and not based on nationality. An example of determining the rate for 2004 can be found in the Appendix.

However, a publication of the European Migration

Dialogue stated that "the difference between the numbers of quotas and flows current migration suggest that migration flows in Spain beyond the control and this happens even wanted, if we consider the profitability economic, considering the low wages and working conditions of immigrants accepted in the absence of rights at work. "In most interviews with migrants from various magazines, among reasons for leaving are mentioned instability of employment and unemployment problem. The fall of the city economy is headed commuter workforce has led not only to the emergence of broad categories of unemployed and the drastic reduction of employment opportunities in paid employment in the industry.

Prolonged periods of fruitless job as an employee created the perception of unemployment as a deadlock. Orientation to agriculture or business activities on their own pose any constant and reliable income.

Lack of appropriate retraining and inability to compensate for falling private sector industry migration state gave way to manifest as a viable opportunity to ensure consistency of household income. Remittances from family members working abroad have become, in some cases, the main source to cover expenses.

Conclusion

As a general conclusion, the country of origin to migration to OECD countries is characterized by a great diversity, depending on the direction and intensity of migration flows, among other factors, and geographical proximity as well as the historical linguistic. Regarding the European Union, included in the general context described above, it aims to promote a comprehensive migration policy that provides a coherent and efficient manner to meet the challenges and opportunities of migration.

Comprehensive, multilateral envisaged by the EU covers all phases of the migration process, aiming to capitalize on the advantages posed by this and, while applying effective policies and measures concerning illegal migration and human trafficking.

It is based on generally accepted principles concerning subsidiarity, proportionality, solidarity and respect for the law and the economic and social countries (Europe Rapid Press Release, 2007). It also takes into account human rights and fundamental freedoms of migrants, including access to asylum procedures in force concerning the request.

Spain is thus quite permissive legislation responsible for the large number of immigrants.

Bibliography

1. Pieter Boeles, Maarten Den Heijer, Kees Wouters, Gerrie Lodder, European Migration Law, Intersentia, 2009
2. Steve Peers, Professor Elspeth Guild, Jonathan Tomkin, EU Immigration and Asylum Law (Text and Commentary): Volume 1 : Visas and Border Controls, Brill, 2012
3. Ben Petrie, Natasha Bosnjak, Migration Law - Annotated Migration Act & Related Legislation, Lawbook Co., 2016
4. Data from Database of the Royal Statistical Commission of Spain, <http://www.ine.es>.
5. OECD, International Migration Outlook, 2006, <http://www.oecd.org>.
6. "Regional aspects of international migration towards OECD countries" from OECD 2007 Report–International Migration Outlook.
7. ROUSSANOV, Todor, Europeans Favor Spain for Expat Jobs, 2007, http://international.ibox.bg/news/id_1406161495.