



Kingdom of Spain

*Position Paper on the new mandate for the European Union
Agency for Asylum*

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2015 has been a very complicated year for the European Union (EU) due to the serious episodes of massive arrival of refugees to the Greek coast, which have taken place since summer. The refugees' crisis is the biggest challenge the Commission has faced since it took possession in 2014. In spite of it, we should not discard that the EU will honour its tradition of making use of the crisis to advance and to set the foundations of an effective migration policy and common asylum, which would tackle the following aspects: legal immigration, the struggle against the irregular immigration and traffic in human beings, the readmission of third countries' nationals, the cooperation with the countries of origin and transit, the control of borders and the international protection.

Against the experiences gained on the functioning of the Dublin system in a mass influx situation as witnessed in 2015 and the beginning of 2016 and based on an evaluation of this instrument, the European Commission's 'Communication towards a reform of the Common European Asylum System (CEAS) and Enhancing Legal Avenues to Europe' addresses its structural shortcomings by establishing priorities of action. One of the priorities is to set a 'new mandate for the European Union's Asylum Agency', that was created by the Regulation (EU) No 439/2010.

This is an essential issue for Spain, the one EU's country with terrestrial border with Africa and as a consequence, is very sensitive to the migratory pressure and, with less intensity, to that of refugees' potential flows. In the last year, the crisis of the refugees, the migratory flows and the decision-making about both, have turned out to be steamed up by the internal political situation of Spain: the past general elections of the 20th of December concluded without an agreement to invest the new President, leading the country to new elections that will take place on the 26th of June.

Nevertheless, despite the difficulties of the current internal situation, Spain cannot ignore the important challenges raised by the migratory phenomenon, both at national and communitarian level. This is the reason why Spain devotes great attention to the issue and tries to contribute in a constructive way to the search of a lasting and global solution, which implies the necessary cooperation between Member States.

The Spanish Government has taken different measures in order to make the safety of its external borders and, as extension, of the European ones, compatible with an organized and humanitarian migration policy, adapted to the requirements of International, European and internal Law. For example, the state budget for 2016 implies an increase of 105,28% in the amount destined for Asylum and International Protection, to attend the increase of asylum requests (around 20.000 requests are expected for the current year) and the commitments with the EU.

Moreover, the Spanish Parliament, in its Institutional Declaration released on the past 17th of March, reflects the unanimous position as regards the crisis of the refugees: against this crisis, it is necessary to adopt united, responsible, joint and sensitive actions; a common policy in the frame of the EU with the commitment of all the Member States; the collaboration with the countries of transit and origin, and the coordination with third States.

Besides, Spain must keep on demonstrating its disposal to contribute in the joint action of the EU against this phenomena, both in the commitment to relocation and resettlement and in the efforts of the Union to define procedures according to each situation, and the increase of the budget aimed to this end. All these measures must be understood in the frame of the commitment of the Spanish State with

the defence of peace and human rights, and the fulfilment of the legality as the basis for the effectiveness of all the rights.

To prevent any threat to the functioning of the Schengen space coming from the refugee flows, there must be a major control of the external borders, the hot spots in Italy and Greece must function properly, the criteria through which the States grant asylum must be homogeneous, and a common list of “safe countries” to which an asylum petitioner can be returned to must be approved. It is clear that the only feasible political solution needs an exchange of efforts and solidarities. Above all, the control over the European external borders, which Spain fulfils in an effective way, cannot imply human rights’ violation in any case.

Taking into consideration the dramatic refugee crisis, the Spanish Executive firmly believes that an improvement of the European Union Asylum Agency, in the direction proposed by the Commission, is essential. The reinforcement of the tasks and the presence of the European Asylum Support Office (EASO), which will contribute to the proper functioning of the CEAS, will be developed in different slopes, as the ‘Communication towards a reform of the CEAS and Enhancing Legal Avenues to Europe’ shows.

First of all, thanks to the ‘dedicated evaluation system’, the Agency will be able to monitor the compliance with the necessary asylum standards of all Member States (i.e. reception conditions, access to the asylum processes, and respect for the essential guarantees). Therefore, the Agency will make sure that Member States correctly apply the European asylum policies in all its extension, being able also to suggest to the Commission the prescription of certain measures to be taken by a specific Member State.

Another measure that the Spanish Government has reaffirmed in different occasions is the harmonized assessment of the applications of the international protection in the Member States, based on the criteria defined by the Qualification Directive. In doing so, the UE would be walking towards a higher homogenization of the asylum policies, and making easier the cooperation and collaboration between States.

For the Spanish Government, the assessment by the Agency of a third State’s compliance with the criteria to be designed as ‘safe third country’ or ‘safe third country of origin’ is essential. This is another mechanism to achieve the goal of harmonization and homogenization.

In the same way, it is convenient that the Agency puts in practice the distribution mechanism under the reformed Dublin regulation, without this mechanism implying discretion for the Agency.

It is also positive the fact that the Agency will be able to intervene and support the Member State (even at its own initiative), when the Member State does not implement the necessary actions, or when the Member State faces an emergency situation.

Finally, all these measures must be financial and legally supported, in order to function in an effective way. It will also be necessary the coordination with other support measures that could be adopted in favour of Member States under particular pressure.

In conclusion, the Government of Spain considers that the strengthening and improvement of the European Asylum Support Office is an essential step in order to encounter the current migration crisis, a phenomena that is challenging the general and foundational principles of the EU. Within the EU, Spain is committed to work in a constructive way, along with the other Member States, to put an end to the humanitarian crisis caused by the displacement of thousands of people which run away from the terror and war ravaging their countries of origin.

Representing the Kingdom of Spain,
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