



Waiting for (A la Espera)

A national migratory policy may be liberal or restrictive. However, in Spain and Europe of the year 2002, it must be an integrative and well managed migratory policy. That means, there is a need for strategy, application rules, objectives, and results according to established expectations.

The problem of the present José María Aznar's Spanish Government, is that his migratory policy is null, and mostly not because it doesn't exist, but for its bad managing, which could not use the greater opportunities for social, economic and cultural growth. Instead, you get a growing problem that can no longer be approached firmly and intelligently.

A null migratory policy establishes disturbances of social peace, hidden racisms, and social inequalities. No government seeks social discomfort, so the effects described are not on purpose, but "collateral harm" of which the origins must be diagnosed and treated in order to avoid them to spread like Cancer. They are the results of the incapacity to approach the migratory phenomenon.

A null migratory policy puts emphasis on the criminality issues. It is true that "*a majority of criminals are immigrants*" (Mariano Rajoy), instead of "*a majority of immigrants are criminals*" (Jean Marie Le-Pen) is better, but it is a false logic to deduct the less immigration, the less criminality. It is true that to say "*a majority of barbarism is Islamic*" is a little

better than "*an Islamic majority is barbaric*", but barbarism should not be identified with the culture of origin, barbarism being barbarism, wherever it takes places, and whoever performs it.



Francisca Sauquillo Perez del Arco (President of MPDL, Member of the European Parliament, Socialist Group coordinator on the Committee on Development)

A null migratory policy starts when as the only consultative organ in immigration matters, in *el Foro para la Integración Social de los Immigrantes*, the only organization selected are those, which the Government considers comfortable (even though they may not be); a null migratory policy is when the Government denies the possibility of regulation of illegal immigrants established on the Spanish territory: confusion between the future migration desire, and the most actual and obstinate reality. A null migratory policy is when fundamental rights are denied (as the Spanish

Constitution of 1978 describes it) to someone who has committed the "*crime*" of wishing a better life and dignity, or just survival. As in all matters, there are two ways of governing: adapting the law to reality, or trying to adapt the reality to be conform to the law. "*That is the way it seems, and that is the way it has to be*" *Princes'* reasoning, isolated in his Palace, surrounded by good advisers, but not very clever, even inefficient.

We have to understand that politics is the quest for the maximum well being of the citizen, and not just the gathering of votes for

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the next election, confounding changes with threats, evolution with still stand.

Of course, one could option for systematic expulsion, or open frontiers, or green cards, or sectoral allowances linked to the need of the labour market. In any case, it must be correctly managed. Without management, the policy is nothing. Without management, the populism wins, Le Pen wins, the social racism wins, and still stand wins. However, if the management wants integration to guarantee social stability, and fosters cooperation to counter the migratory pressure, then the social organisations

will be on the side of the Government, who can count on their support and collaboration. They can count on our support, though we are still waiting for José María Aznar's Government to decide to take those steps: first, integrated managing; second, intelligent managing. He should not go backwards with declarations such as to link the spending of development aid to migratory control by the countries of origin, in order to stop illegal workers to come to Spain. It should be the opposite. We are not talking about politics, but about voting. What we are interested in are not the seats in the Parliament only, we want to support civil society.

ACCEM: Support for Asylumseekers and Immigrants in Spain

For more information about ACCEM and specific programs please contact: accem@sintax.es

ACCEM is a non Governmental Organisation that started to develop in 1951. Its first actions were concentrated to resettle refugees in third countries, given that Spain only was a transit country. After the ratification of the Geneva Convention in 1978, Spain was no longer a transit country and begun to be a destiny country, this is the period when ACCEM enlarged its activities. At present, it is a State Organisation with refugees' care centres all across Spain. Among its duties, we can find: asylum, information and consultancy, and the social, legal and labour assistance of asylum seeker and immigrant.

Spain has signed most International Treaty on Human Rights. The right for asylum seeker is registered on article 13 of the Spanish Constitution of 1978. This rule has been developed by Law 5/1984, March 6th, which regulates the Asylum Law and the Condition of Refugee, that was later modified by Law 9/1994, May 19th. With the reform, it is introduced in the asylum procedure, an accelerate procedure for an examination of the application.

Due to the substantial influx of immigrants and asylum seekers in the recent years, there have been legislative changes, mainly in foreign matters. Near these reforms, it have been taking place, during the years 2000 and 2001, extraordinary proceedings for the documentation of irregular foreigners in Spain, from which, those person already settled in Spain as asylum seeker, could have taken advantage of them. Approximately 300.000 people have obtained work permit and resident through these processes.

At present, once these regulation processes are closed, the tendency is to control the migratory flux and the reinforcement of residence permit and expulsion policy. In 2001, more than 2.532 Colombian request for asylum in Spain, since January 2002 the necessity of visa for travelling to Spain was enforced, this number decreased

drastically in the first months of 2002.

Actually, ACCEM develops more than twenty programs for immigrants and refugees, and it has reception centres with capacity for 148 people. To mention some, the program socio - labour insertion for asylum seekers who have been accepted to examination, refugees or displaced persons, pretends to illustrate the different necessities that the asylum seekers, refugees, and displaced persons find when they arrive to Spain, during the examination period of the application. Every case is studied individually and globally, taking into account the different characteristics users have as their composition, whether it is family units or individual cases. The aim of the program is to try to give the users an integrated attention that will let, in the short run, him/her to an effective insertion in the asylum society. The majority of applicants that get into this program have successfully obtained a job in Spain.

ACCEM also has a program for voluntary repatriation, which aim is to facilitated the return home for those refugees and asylum seekers that have been rejected or proceed, and for those displaced persons that have not found a solution to their socio-labour problems in Spain, considering the return as a long-lasting solution that will allow them to resettle in their countries of origin, because of their situation that caused their exit or because of humanitarian reasons, assuring that their return will take place without any risk for their personal security and with real perspective in a social and labour participation.

This program includes the economic support for buying the tickets, internal transportation and their settle in their country of origin. Once there, ACCEM carries out a following of the case. The people who return are still in contact with us through letters or emails.

Jumping the Fence

Albert Bitoden Yaka trusts in human beings, though he has reasons for not doing so. Since he was born, 34 years ago, in the economic capital of Cameroon, Douala was a restless kid. Son of a cook and a secretary, his childhood was accompanied by 9 brothers and sisters, who he has to protect since he was one of the elder brothers. He studied Economics, up to the fourth year, as he had to quit studying in order to contribute economically to the family.

Since the day he left Cameroon, February 18th, 1991, he has crossed ten frontiers, Nigeria, Benin, Togo, Ghana, Ivory Coast, Burkina Faso, Mali, Algeria, Morocco and Spain. He asserts that the last frontier was the most painful, when he arrived to the city of Melilla.

He passed the frontier jumping over the fence that separates the *melillense* land of Nador. It was not a welcome land; on the contrary, nine terrible months were expecting him, without roof, and about all, without human touch. *"We ate bread and milk, and people insulted us, they even proposed us sex"*, tells Albert. *"Son of bitch, pig, Nigger! Get out of here"*, words and attitudes, though the time passed, he can not banish from his mind.

He tried to get under the trucks that transported merchandises to Spain, and he saw how some of his friends died in the port of Melilla. *"I said to myself, I am not killing myself for being in Europe, but the reality is that they killed us little by little, we died slowly when they told us: your case does not have any solution"*.

He learned how to speak Spanish and this saved him from death. He started finding in the rubbish old newspapers in order to learn the new language on his own. *"The Spanish think that when someone speaks Spanish, you can be Chinese, Japanese, Indio, you get become part of the group, you work in my*

structure, in my scheme and it is ok. When you are like me, it is ok", he asserts sadly.

During the year he spent in Melilla, he collaborated with Red Cross and with the association Melilla Acoge. After this year, a ministerial law come up stating that the immigrants who live in Ceuta and Melilla could pass to the Peninsula if there is any individual or organisation that welcomes them. Albert was lucky, the organisation *"Asociación Cultural Bartolomé de las Casas de Puerto Real (Cádiz)"* hired him so he could make this step.

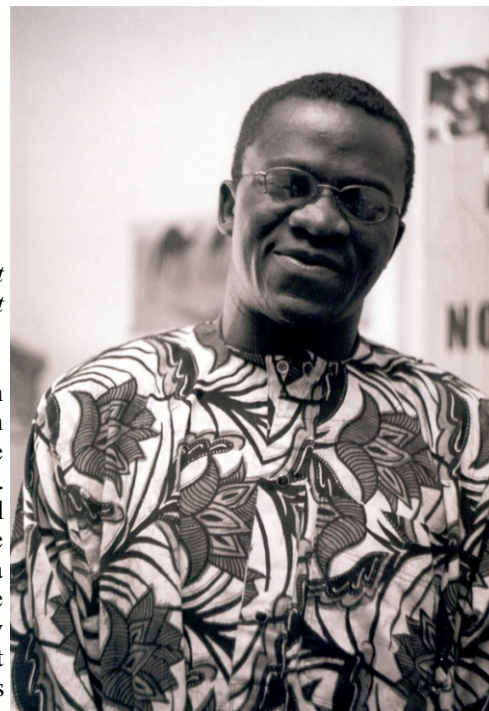
This father of three thought that his experience as an immigrant could be helpful for others, he studied this subject and he continued his collaboration with organisations as Red Cross and the *Centro de Acogida de Inmigrantes de Jerez (CEAIN)*, following this, he was hired as a professional training in the *Federación Andalucía Acoge*, that integrates ten pro immigrant associations in Andalucía and Melilla, and where he continues his work successfully. *"I think it would be a mistake to work something else, I identify myself with this, I think I will always work with this reality"* he affirms.

Albert is still waiting for his papers, he may get next year his permanent resident permit and he will ask for the Spanish nationality.

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Albert Bitoden Yaka

Amnesty International: EU war on "illegal immigration"

(...)Now, with illegal immigration the top issue, the same human rights imbalance manifests itself in an unprecedented anti-immigration drive that threatens to sacrifice the rights of those who seek and need protection. To be clear, states have the right to control entry into their territory, and a duty to provide for the security of their citizens and all others on their territory. That includes combating human trafficking and other crimes associated with illegal immigration. However, human rights standards must always govern the way states treat people under their jurisdiction or asking their

protection. (...)

From: EU war on "illegal immigration" puts human rights at risk; Amnesty International appeal to the Sevilla Summit, 12 June 2002

The whole text can be received through amnesty-eu@aieu.be

Belén García de Vinuesa
Protection Official, ACNUR
Madrid, December, 2001

The Asylum since Amsterdam

How far we have moved forward and what way remains to go through?

The process we are talking about has clearly had a positive beginning, due to the creation, in September 2000, of the European Refugee Fund. This fund is destined to support the European Union Member States for reception of asylum seekers, refugee's integration, and programs concerning the voluntary repatriation. This fund will have positive consequences for both the States, and asylum seekers and refugees, whose asylum countries conditions must improve considerably.

Another important measure that has emerged from this process is the compromise reached by all Member States of the EU, in order to give temporal protection to those max influenced people that arrive escaping from conflicts, or human rights systematic infringement in their countries of origin.

The Directive about the temporal protection, July twentieth, 2001, foresees that the temporal protection regime will last one year, expanded to two years, and exceptionally to three, this confirms the completed validity of the Geneva Convention of 1951 about Refugees' Statute. Likewise, it allows the presentation of an asylum application form at anytime under temporal protection, since the Member States will have access to its exams once this regime is finalized. The European Union has compromised with ACNUR on each stage of this system.

At the time of this comment, all the instrumental proposals inside the asylum framework have been presented by the Commission. Although, it remains a long way to go through, given that the negotiation stage just started, and the Member State will have to show a clear determination in order to fulfil the Amsterdam Treaty calendar.

What are the advantages and risks of this process?

All process based on the achievement of common rules or applicable criterion in any country on the EU, bears an arduous negotiation stage, in which every Member State interests plays an important role. In the negotiation process of these common asylum rules, we encounter three fundamental

elements that will have a determinant influence on the final result.

1. Both the EU normative and the incorporated national laws must respect the fundamental principles of the refugee's international and human rights.

2. As the magnitude of the process taking place, the Member States had the caution of maintaining the unanimity system on the adoption of the different instruments, and it's right of veto on the decision making process, any State can thus obstruct a decision if it does not agree with its content. Besides, the Member States largely limit the democratic control through the European Parliament, which reports about the new legal instruments won't have entailed effects during the Amsterdam Treaty foreseen period. As well, the supranational judicial control of the European Court of Justice won't be produced until the Member States adopt the directives, elements that won't contribute to mitigate the law effects of the Governments right of veto in the Council. The Treaty of Nice, signed on February 2001 foresees the vote for a **qualified majority** in the Council in matters of asylum and gives a decision power to the Parliament, but only when the foreseen legal instruments have been adopted by the Amsterdam Treaty inside this framework.

3. The Amsterdam Treaty indicates in repeated occasions that the Member States only will have to agree on "minimum rules" in the different asylum aspects. This expression indicates clearly that this is only the beginning of the harmonization process, that will be kept developing in the future as the Council of Tampere foresaw (on 16 and 16 of October, 1999), or as the Commission has been announcing in several **work documents**.

These last two points show the clear risk of adopting "minimum common denominator", which on practice ends with actually generous politics in some countries, finally damaging the asylum seekers and refugees. This is ACNUR main concern, that is convince that the asylum normative harmonization in Europe is a fundamental measure to achieve the fairest conditions for asylum seekers and refugees through all European Union.

Read Belén García de Vinuesa's final conclusions of this analysis in the next issue of ESCAPE

Attention to Immigrants: Pattern to Follow

Since March 2002, MPDL (Movement for Peace, Disarmament and Freedom) has been carrying out one of its most important projects in Henares, Madrid: the managing of one of the nine Centres of Immigrants Social Care (CASI).

CASI is a pattern to follow in Immigration and Foreign Policy. From its headquarter in Alcalá de Henares, Madrid, CASI, managed by the social department of MPDL, will assist the immigrant population in Henares.

CASI is a complementary help to other Social Service Centre of each municipalities, which means it will be what it is called "second level help dive". The centres managed by MPDL receive

immigrants from the Municipal Social Services. Once in these centres, there are different interventions. Then, the information gathered is transferred to the Municipal Social Services, since they are responsible of each case, and the ones that have to close the files.

CASI has different areas of activities: a Specific Social Care, Psycho - Social Care, Law Advise, Socio Educative and Socio - Labour Intercultural and Integration. To complement the others CASI, it will present a new service: the emergency reception for those immigrants in a special risk situation, such as suffering physical and moral aggressions, or suffering a scarcity in economic resources.

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EU-Council in Seville: No decision how to fight against illegal immigration

The President of the European Council, José María Aznar, had called illegal immigration a "challenge" which needed to be tackled at the Seville European Council on 21 and 22 June, 2002. Following his meeting with the German Chancellor, on June 3rd, 2002, Aznar said that "Gerhard Schröder is willing to take serious decisions on immigration and asylum policy in Europe" and added that "politically, these are one of the most important issues in Europe today and for the future."

However, no consequent handling of the question on how to avoid illegal immigration appears. Only

the future plan to get active against transit countries was declared. There is no general agreement between the 15 EU-Members, if the effort of EU-neighbours to prevent migration into the EU should be encouraged by incentives (Chirac), or if a lack of efforts to avoid illegal immigration to the EU should be sanctioned with cutbacks in development-funding (Schröder). Now Europe has time to restart thinking again.

For more information you can visit the Spanish Presidency web site: www.ue2002.es

Bulgaria: Refugees are protected according to international agreements

Most if not all EU member states and Central Eastern European countries involved in the EU accession process have become countries of immigration. Bulgaria is not an exception. The number of all registered asylum seekers and refugees as of the end of the year 2000 has been relatively small - 3,700 people. Despite the changing international circumstances and the events in Kosovo and Macedonia, Bulgaria has remained virtually unaffected by the refugee wave.

What makes a country an immigration country is precisely its declared policies based on the needs, the interests and humanitarian obligations. On August 1st, 1999, the Refugee Law came into force in Bulgaria. Under this law, refugees' rights are guaranteed and Bulgaria carries out its responsibilities pursuant to the international

documents - the 1951 Geneva Convention and the 1967 New York Protocol. Humanitarian protection is granted to refugees who were forced to leave their country of origin because of war conflicts, civil violation and so on. Recognized refugees have the same rights as Bulgarian citizens, with the exception of the right to vote and to be elected, to join the army and to take a post in the state administration. Refugees are protected without discrimination as to race, religion or country of origin. However due to the severe social problems of Bulgaria and the increase of poverty, refugees face the same acute social and economic problems as many Bulgarians. On the way to the market economy and EU accession, it becomes increasingly obvious that there is a necessity for a common EU policy and common solution to refugees treatment.

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Austria - Eastern Frontier of the Fortress Europe

by Michael Genner (Asyl in Not)

For a long time, Austria has not been an asylum country, although evidence shows that it was in the past. The uprising in Hungary 1956 - Czechoslovakia 1968 - Poland 1981: Long, long ago... Hundreds of thousands then came to find protection in this country, which today strives for being the Eastern frontier of the Fortress Europe.

In the beginning of the 90s, Austria was (like Germany) one of the countries that pushed for a restriction of the asylum and immigration law. The legislation by the then Minister of the Interior, Franz Löschnak (SPÖ), and his dreadful lawyer Manfred Matzka forced ten thousands into clandestinity. Overnight, "guest" workers lost their staying permits. Refugees disappeared into detention prior to deportation. The then head of the asylum office in Vienna, Schadwasser, gave his civil servants the order: "Do it as you like, but make it negative!"

Löschnak was brought down in 1995 under the joint pressure of the NGOs. His successor, Caspar Einem, created a more liberal asylum law which banned deportations during a procedure in process and finally established a real court of appeal: The Federal Independent Asylum Senate (Unabhängiger Bundesasylsenat, UBAS). Yet, in practice, Einem failed due to the sabotage of a civil service with racist attitudes. He was replaced by Karl Schlögl, in whose term of office officers of the foreign police gagged a detainee for deportation, Marcus Omofuma, until he died.

In 1999, **Asyl in Not** ran the project "mobile legal assistance", which was supported by the European Commission. We visited the accommodation at the Eastern border - where the federal army has been hunting refugees since 1990. There, we found families from Afghanistan, Iraq and Iran. They all had one thing in common: They consisted of women and children. The fathers were missing. They were sitting in detention

prior to deportation, somewhere at the other end of Austria.

We called this *hostage-taking*. A crime ostracized by international law. Austria has been practicing it for years.

This kind of hostage-taking has been abolished under our pressure. Nevertheless, single refugees continue disappearing in detention. Also the decisions made by the Federal Asylum Office, in which the request of Ms W. from Afghanistan was rejected: "(...) are the restrictions imposed on women by the Taliban not to be seen as gender-related political persecution. Similar obligations exist, possibly not that extreme, in most Islamic states as a long tradition." As for corporal punishment for infringements on the obligation to carry a veil: "It is not the fact of being a woman which is punished, but

Civil servants getting the order: "Do it as you like, but make it negative!"

the violation of regulations." And regulation is regulation! This is part of the Austrian...

what was it called? Oh, yes: "Leitkultur"...

Mr. M. from Congo waited eight years (from 1992 to 2000) for his right. He had been secretary of the embassy in Vienna and worked at the same time for the opposition, copied folders, warned threatened persons. When he was busted, he was extremely endangered, and should immediately have been given asylum. Instead, he was five months in detention prior to deportation, was nearly handed over to his persecutors, and was finally released after protests. On request of the UNHCR, I took over his legal representation. The administrative court reversed the decision made by the Ministry of the Interior (then the second instance); the Ministry ruled once again negatively; the Court reversed again - three times to-ing and fro-ing...

Any solution for this problem was blocked by the Head of Section Manfred

Matzka through a personal veto - until Caspar Einem's reform of the asylum law created the UBAS as second instance. There, finally, Mr M. was granted asylum. Eight years of his life had been stolen by Austria; now he is 65, a tired, broken man.

Family T. from Turk Kurdistan waited for ten years for a final decision. Mr T. was a farmer and had not been politically active, he had just twice participated in meetings, reason enough to become a target of the Turk military. He went to Vienna in 1991; he received a visa and lost it again, because he missed (as so many others) the deadline which had been set for a request for prolongation. So we demanded asylum for Mr T., But the case was rejected! Mr T. was "not politically" persecuted, but "for legitimate criminal reasons"...

His wife and children fled to Austria in 1992; Ms T. had been questioned and beaten by the Turk police until she lost consciousness. Her request for asylum was rejected by the Ministry of the Interior with the explanation, the police had not "ill-treated her for the reasons named in the Geneva Convention for Refugees", but just "to know the place where her husband stayed".

This procedure also went repeatedly from the Ministry to the administrative court and back, until Mr T. Was given asylum in the beginning of 2002, after three public hearings before the UBAS. A happy end after ten years, although with a bitter aftertaste. Of course, Family T. should have been granted asylum in 1992 - in the first run, without any further procedure. Family T. was a victim of the systematic destruction of the asylum law in the period of Löschnak and Matzka. They have a right to compensation from Austria, as do many other persons whose lives have been destroyed by racist laws and a xenophobic civil service.

Under the current black-blue regime, new restrictions are planned. Well, we have already seen many ministers coming and going again. One day, the law will be winning again - even in this country.

ESCAPE - REFUGEES ACROSS EUROPE

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