

**International Meetings on Readmission Agreements:
Readmission agreements or blackmail to deportations?**

Section: **from readmission agreements to « new generation » agreements**

Communication: Spanish case: the strategy of the «African programme»

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1. Contextualisation of the investigation

The communication that we are going to present forms part of a more extensive investigation with the objective of clarifying the coherence between the co-operation and migration policies of the Spanish State. The aim is to review whether the co-operation policies are in any way subordinated to the migration policies, which would mean an instrumentalisation of the Official Development Aid (ODA) in favour of the control of migratory flows.

First of all, we would like to establish and clarify the framework from which we are starting. The research that Alboan-Entreculturas-University of Deusto are carrying out is structured in two parts: to review the normative framework regarding migration policies of, first, the European Union; and second, concentrating on the Spanish case. In this part we will also look at Official Development Aid (ODA) and the Framework Agreements of Migratory Cooperation and Readmission, called New or Second Generation Agreements, signed between Spain and countries of origin and transit of African migrations while the Africa Plan I was in force (2006-2008).

The incoherence of policies would be related to **interested associationism**, that is to say, the formulation of policies with high-priority objectives with respect to security and control of illegal migratory flows, leaving aside, or in the worse case ignoring altogether, the solidarity objective of development co-operation. According to the NGO Development Co-ordinating Group of Spain (CONGDE), these Plans do not correspond to the Millennium Development Goals (MDG) but rather to the internationalisation of Spanish companies in Africa, and according to Cuttitta (2008), to the externalisation of Europe's southern border into the African countries responsible for controlling migratory flows.

2. The Africa Plan I (2006-2009), the Africa Plan II (2009-2012) and the “new generation agreements”

The Ministry of Foreign Affairs and Co-operation (MAEC) of the Spanish government, within the tools for managing Spanish policy with respect to Sub-Saharan Africa, has developed

two *Africa Plans*, the first of which was published in 2006 and its follow-up which has just been published in 2009.

The Africa Plan I (2006-2008) (API) has been studied from many perspectives, and by different agents (academic and civil society), and of all the criticisms that have been made of it, the one most often repeated is of the **improvisation** that surrounded its writing and launching. The context that surrounded the API, was the so-called (by the mass media) “crisis of the *cayucos* [open boats]” (2006), and a year before, the events on the land border between Spain and Morocco (October 2005), where two citizens of Cameroon died as a result of police action. **The media discourse**, which was sensationalist, repeatedly cited the increase in African migratory flows, giving the image of an avalanche which did not, and still does not, correspond with reality¹ (JSM-E, 2009). In fact, the population of Africans in the Spanish state is not the most numerous, as is reported in the API itself (MAEC, 2006): “*Contrary to a widely extended perception, immigrants of sub-Saharan origin represent a modest proportion of the foreign population registered in Spain*”. However, the treatment by the mass media of these people who want to cross the border, along with the **political discourse**, characterised by opportunism, were the driving forces behind the API. Thus, as Carballo de la Riva (2009:6) says, “*public policies are characterised by their immediacy, based on specific events*”.

In contrast to this improvisation that characterised the API, Africa Plan II (PAII) is developed “*on the basis of consensus*” (MAEC, 2009:5), since as mentioned in the Africa Table, the body which created the first plan, by members of Spanish civil society, although insufficiently consensual, since they forgot to consult sub-Saharan actors (administrations, civil society and citizens). In both plans, Africa is treated from this perspective, as an **object**, and not as a subject, although, later, the agreements will request association and joint responsibility.

Even so, according to the CONGDE, the PAII has same weak point which characterised the first: **incoherence with development policies**, especially, with the Spanish Master Plan of Co-operation 2005-2008 (MP), the framework document that establishes the objectives, criteria, sectorial and geographical priorities of the Spanish development co-operation and in whose elaboration all the aforementioned Spanish agents participated. The greatest incoherence between these two instruments, API and MP, is regarding the so-called high-priority countries (see map 1 in Annex 1). Eduardo Romero (2006: 50) justifies this incoherence by saying that the high-priority countries and of specific interest in the API in their majority correspond to the countries that can be useful for Spanish interests, in this case referring to the control of migratory

¹ Jesuit Service for Migrants (JSM) Spain, Democratic control for the management of the Southern Border. April 2009. In 2008 sub-Saharan residents in Spain were less than 4% of the total of immigrants.

flows, and for this reason, labels as “*conditional co-operation*” that which Spain offers these countries, since in the bilateral “new generation” agreements it offers small and unspecified quotas of legal workers in exchange for the commitment to contain illegal emigration and the acceptance of repatriations of nationals and people from third countries who have passed that way along their migratory route.

In addition, we do not only find inconsistencies between the different foreign policy plans, but between different types of policies, such as the policies of co-operation (foreign) and immigration (domestic). This collision of policies can be seen in an objective of each plan: Within the API, this is objective 3 and its lines of action, which aims “*to promote co-operation so as to order migratory flows*”. Within the PAII, it is objective 4, which calls for “*consolidation of the association with Africa regarding migration*”.

2.1. Africa Plan I and the promotion of co-operation to order migratory flows

The editors of the plan make an introduction referring to the causes of the African migration, the consequences for the development of the country, the number of people who migrate, and the solutions that they find for this challenge, thus justifying the existence of the API.

With respect to the causes, we would like to point out that the African migratory phenomenon is decontextualised, being the causes reduced to “*political considerations, mainly, socio-economic ones*”, as well as to the population increase, without mentioning the post-colonial relationship that has characterised the bond between Europe and Africa. In this sense, Eduardo Romero (2005: 162) considers that the API only presents endogenous causes (corruption, weak states, porous borders, absence of democracy, rampant population growth) as an explanation for the misery of the majority of the population, as well as the degradation of ecosystems, without referring to the situation that the African countries occupy in the international system.

Regarding the consequences, only two negative points are mentioned: that remittances perpetuate a dependent economy, and the fact that migration is considered as an “*escape valve for demographic pressure and the lack of opportunities*”. We consider that this point is not very accurate, since they do not mention the positive consequences of migration either in the country of origin or in the destination (for example, the alternatives that circular migrations offer for both the origin and the destination), and nor is mentioned the greatest dependency of all: external debt and tied aid which is given as import credits. According to Intermon-Oxfam (2007), in 2005, the cases of Cameroon and Uganda went to the extreme of reimbursing Spain for the return of credits from the Development Aid Fund (FAD) more funds than they received in ODA. Cameroon,

which only manages to spend 1.2% of its GDP on health, reimbursed Spain up to 4,526,034 Euros in 2005.

With respect to the governmental agents *involved in the topic* the following are emphasised: *Ministry of Work and Immigration, Department of the Interior, and Ministry of Foreign Affairs and Co-operation*. When analysing the execution of “new generation” agreements, besides considering the political ideas that underlie the API, it is very interesting to consider the actor that makes the journeys, as well as the one that negotiates and elaborates the agreement, because migratory agreements signed by Foreign Affairs and cooperation agreements signed by Interior could arise.

The API proposes as a solution to African irregular migration “*adopting as regards migration [...] a global approach that bears in mind the causes of immigration, the positive effects of a regular and ordered immigration both for the countries of origin and for Spain as a destination country, and the circumstances in which irregular immigration takes place, with devastating effects for the countries of origin, transit and destination of the migratory flows*”. This is the EU's strategy regarding migration, and quite aside from the debate on the protagonism or otherwise of Spain in the EU's migratory policy, according to Alberdi and Bidaurratzaga (2008: 211) “*what is true is that this positive conditionality of migration has also been incorporated in the global approach to migration of the EU*”.

In addition, it calls for a **principle of joint responsibility**, which seeks solutions in three dimensions: internal, bilateral and multilateral. In this research we are considering border control as a line of action of the internal dimension; and in the majority of the lines of action of the bilateral dimension, in which “new generation” agreements are mentioned. In fact, the objective of this bilateral point of view is “*to obtain greater collaboration with the countries of origin and transit by means of the creation of a network in Agreements framework of Migratory Co-operation and Readmission*”.

With respect to the line of action “**border control**”, we wish to emphasise that, besides reinforcing with institutional support for the people in charge and the mechanisms to develop a optimum migratory management for the government, “*the procedures for repatriation of immigrants who enter the national territory in an irregular way will be made more flexible, in conditions that guarantee scrupulous respect for human rights and International Law and the commitments assumed by Spain*”. Also we wish to emphasise that “*specific budgetary lines will be established for co-operation regarding migration, including co-financing of European projects, in the Ministries of Work and Social Affairs, Interior, and Foreign Affairs and Co-operation*”. We

would conjecture that the increase in ODA from the Spanish state towards the countries of sub-Saharan Africa, could be conditional on **border control**.

On the other hand, within the **bilateral** dimension, the Spanish government develops 8 lines of action, of which we would highlight the following:

- “Conclusion and, where appropriate, promotion of Framework Agreements of Migratory Co-operation and Readmission and of the fight against organised crime, with the most outstanding sub-Saharan countries in this respect, that is to say, Senegal, Mali, Nigeria, Ghana, Cameroon, Niger, the Ivory Coast, Cabo Verde, Guinea-Bissau, Guinea-Conakry and Gambia”
- “The Spanish Government will make every effort to achieve consolidation in the countries of origin of irregular immigration of political will and administrative capacity to work together, so that, inasmuch as the agreements of Migratory Co-operation enter in force, or even without them, the aforementioned countries harness their policies against illegal migration and accept the repatriation of their nationals”
- “Collaboration will be increased to strengthen the administrative, police and judicial capacity of the countries of origin and transit so as to adapt them to the control of their borders and the fight against the mafias, by means of training, technical assistance and equipment for border control and the detection of false documentation”.

The CONGDE raises the criticism that, in spite of identifying high-priority objectives and detailing the lines of action, the strategies that are to be followed in order to reach them are not indicated, nor is the means of evaluating them. In fact the API has not been evaluated.

2.2. Africa Plan II (PAII) and the consolidation of association with Africa regarding migration

The objective in the PAII analogous to what we have just seen, is number 4, which states: *“in the bilateral scope, during the period in force of the PA 2009-2012, attention will be paid to the effective application of the bilateral Agreements of Migratory Co-operation with the countries that have signed them – at the moment the Republic of Guinea, Gambia, Guinea Bissau, Niger, Cabo Verde and Mali as well as those which may be signed in future with other African countries”.*

In the PAII the lines of action are divided into the three axes of the European global approach to migration, which are developed in the Conclusions of the Presidency of the Council of the EU celebrated in Brussels in December 2005, that is to say: the organisation of legal migration; the co-ordinated fight against illegal immigration and the mafias that traffic in human

beings; and migration and development. We can emphasise the line of action that relates to the intersection of each objective with the cross-sectional objective of respect for Human Rights, which states: *“to support the elaboration and putting in practice of migratory policies that are coherent with respect to Human Rights”*. Not only coherence is mentioned at this moment, but there is also a commitment to [promote] *“coherence and the positive contributions which the public policies of the Spanish state, not specifically in ODA, can have on the objectives of development in the countries of origin and transit of migration”*.

Having contextualised the tool in which the “new generation” agreements of the Spanish state are framed, we will now proceed to carry out a **descriptive analysis** of the agreements that have been made during the execution of the API with the following sub-Saharan countries (dates are the day of signing, not the day of entry into force): Republic of Mali (23 January 2007); Republic of Guinea (9 October 2006); Republic of Gambia (9 October 2006); Republic of Cabo Verde (21 February 2008); Republic of Niger (7 March 2007).

According to Asín Cabrera (2008: 171) we can affirm that the Africa Plan *“marks a before and after in the reorientation of Spanish migration policy with regard to sub-Saharan Africa”*. This is demonstrated in the lines of action developed on the international bilateral level and which take shape in the “new generation” agreements. This new category of bilateral agreements represents an advance with respect to the first agreements signed by Spain with African countries focussed entirely on the readmission of irregular migrants.

2.3. New or second generation agreements between the Spanish state and the countries of Western Africa

First of all, we are going to distinguish between different types of agreements: those that regulate labour flows; those that regulate readmission; “new generation” agreements, which for Asín (2008) are different from the previous ones in that they **begin from foreign policy to end up in domestic policy**. The Spanish state has formally concluded these three types or categories of bilateral agreements with African countries regarding migration.

With respect to this characteristic of the “new generation” agreements, until now many investigations had concentrated on analysing the instrumentalisation of ODA, but always with policies, ministries, and departments that corresponded to the same type of policies in different scopes or with different actors, for example: co-operation and commerce (both are matters of Foreign Affairs). What characterises our research is the interaction of policies in several scopes: countries change the roles they play (from a source of migrants to a receiver of aid and vice versa), the policies are developed with the perspective and point of view of different governmental

agents, with different objectives (domestic and foreign), aside from the interaction of agents (academy, civil society and administration) and of perspectives that already existed in the other investigations. It is for this reason that CDP must be present in the analysis of these agreements, whose aim is to “*combat and mitigate irregular migratory flows [by means of] international co-operation through the conclusion of bilateral agreements of migratory co-operation and readmission with the countries of origin or transit of irregular immigrants, [and which] occupy a central place in EU and Spanish immigration policy*” (Asín, 2008:167). These agreements are inspired by the global approach adopted by the EU of immigration as a positive factor of development, and therefore readmission is no longer considered as an isolated tool of migratory flow management. The framework agreements are not international agreements on readmission in a strict sense, but instruments that start from the consideration of immigration management as a responsibility that must be shared between the countries of origin, transit and destination and without losing sight of the positive links and synergies that exist between development and migration policies. They consist of 18 articles in 8 chapters, preceded by an introduction, which mentions the global approach, associationism, joint responsibility; they include an Annex on the procedures and guarantees for the readmission of people, which other, previous agreements did not incorporate.

Finally, and to finish this brief analysis, we would like to emphasise a series of commentaries that we have been formulating throughout these months of research in relation to the API and the “new generation” agreements. Even though the protection and guarantee of the fundamental rights of foreign immigrants who are under jurisdiction of a state is one of the most worrisome aspects proposed by the application of agreements regarding migration, as of 2003, the inclusion in agreements of guarantees of Human Rights has become a habitual practice. Although this Annex is found in each of the agreements, there have been studies and investigations (SOS Racism, 2006; CEAR, 2008) that have brought to light practices of African governments which ignored these commitments, leaving sub-Saharan immigrants in the desert, or keeping them in unhealthy conditions in detention centres.

Finally, to emphasise that the specific agreements of readmission have the purpose of fixing the normative rules of readmission and the transit of irregular migrants; however, the framework agreements of co-operation regarding migration, are more in tune with the orientations of Spanish and EU foreign policy carried out at the moment with the African states.

3. Conclusions from the point of view of Coherence of Development Policies

We can say that the API was the fruit of improvisation. The PAII has improved in numerous ways, for example in the greater linking with the Spanish Co-operation Master Plan, the inclusion of cross-sectional objectives like respect for Human Rights, the promotion of co-ordination between donors and recipients of aid and with existing policies at European and multilateral level.

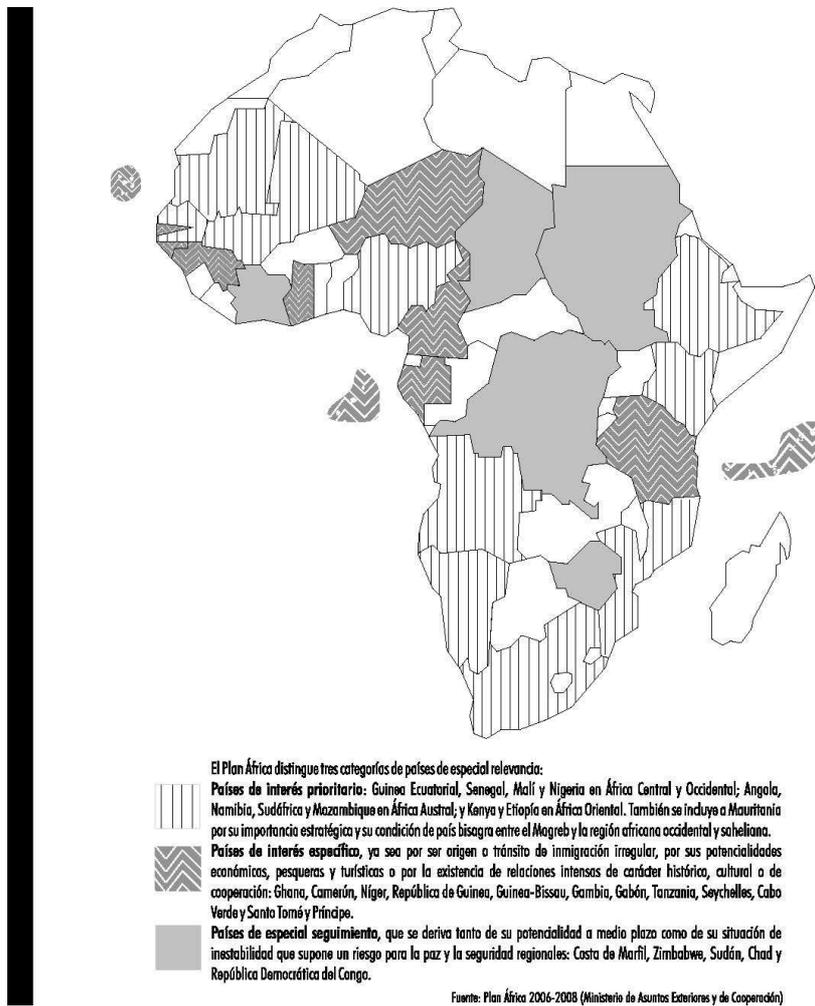
API (2006: 11) considers that “*the fundamental pillar of this commitment to sub-Saharan Africa is development co-operation*”. However, one of the key objectives of present European and Spanish migration policies refers to the effort to fight against irregular immigration by means an increase in international co-operation and co-ordinated action. Therefore, it is interesting to complete the analysis of these “new generation” agreements, by reviewing the amounts of ODA, as well as the sectors of the CAD of the OECD from which the aid was derived, because we suspect that development cooperation is conditional and even that resources destined to ODA could be being used to finance border control activities. In this sense, within the most reactionary Spanish political discourse we find declarations such as: “*we are only going to help those that help us*”.

In fact, Spanish foreign and domestic policy are obsessed with the control of migratory flows from Africa, and the instruments created are organised around this preoccupation. Within domestic policy this does not cause too much incoherence, but the two plans set out by the MAEC demonstrate this priority over interest in solidarity and the development of the African continent. Against this background, of the incoherence of policies and interested associationism, it is difficult to promote this development, if the objective is to intensify the economic and political relations by internationalising Spanish companies and externalising Europe's southern border.

How we can link migrations and development such that the result is optimal for all? Concerning CDP, already we have observed that European and Spanish policies are seeking their own development, something which they display with, according to Eduardo Romero, an “obscene transparency”. The linking of policies only emphasises the control of migratory flows, leaving aside alternatives that promote the development of both the countries of origin and destination, for example, the circular migration. If we follow this type of policies, which do not promote development in the countries of origin, but which are dedicated to creating more and higher walls,... will this type of *linking* reinforce the vicious circle that we now face, or will we be able to create a virtuous circle which will benefit everyone?

4. Anexos

Anexo 1: Mapa países Plan África I



Fuente: Romero (2006:50)

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