


La contratación en origen en España. Una aproximación político-administrativa.

Recruitment at source in Spain. A political-administrative approach.

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- After theory and law, why and how build it...
  - Now....., mechanisms and process or **HOW** to deal with...


# In the past...

- Public Policies oriented towards:
  - 1) Migration pressures
  - 2) Integration and working policies

***Working policies are our target***

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- Two strategies developed by the different Spanish administrations:
    1. System based in nominative offers in order to cover punctual vacancies.
    2. Quota system or acceptable collective recruitment based on generic labour offers on a yearly bases.

***In both, recruitment was in origin.***

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- The whole system was based on:
    1. Growing economy and intensive job creation.
    2. Ambiguous and soft regulation policy.

***More black economy, more  
irregular migrants.***

# Reforms of 2000 oriented towards:

- a) Political Management: The contracts will be followed by the administration in all its phases **work offer, selection and management of workers and entrepreneurs**, so it will be the State General Administration in charge of the whole process. The General Regime system was opened.
- b) Regulation: Changes in the worker quota system transforming it into a real tool of regular entry in the country. Three changes were included:
  1. All foreigner already in country was automatically excluded of the procedure,
  2. New design procedure about number and characteristics
  3. The development of a network of bilateral agreements with the countries of origin.


# The quota system. The origins...


- Create in 1993.
- Goals:
  1. Implement a recruitment of workers in countries of origin.
  2. Wanted to promote new ways for legal entry and started a collective system of access to particular economic sectors determined annually by the government.

# Worked?

- The number of jobs offered under this policy was a result of political evaluation of economic needs and agreements concerted between trade unions, employees associations, local and regional governments and the Spanish Ministry of Labor.
- Before work permits can be granted, the National Employment Institute (Instituto Nacional de Empleo, INEM) and the Provincial Commissions on Labor must issue a report on the nation's and regional's employment situation
- Estimation of national needs of workers for several sectors has shaped, first *de facto*, and later *de iure*, the concession and renovation of work permits in Spain since 1985



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- The number of jobs offered annually under this quota policy responded more to a tradition of concerted policy making process in labor policies than to real needs of labor market.
  - The quota included job offers for sectors of the Spanish economy facing a shortage of native workers and recruited workers by province and sector.
  - This system functioned as an implicit regularisation programme, as most applications were filled by irregular migrants already residing in the country.

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- This first quota policy was managed in the institutional framework of **Interministerial Immigration Commission** and specifically under the rule of the **Government Commission for Immigration Flows** (Ministry of Labor).


# Quota job offers by sector of activity (1993-1999)

	1993	1994	1995	1997	1998	1999
Agriculture	10,000	5,000	7,855	7,333	8,700	*5,371
Construction	1,100	1,000	▲ 12,091	494	942	838
Services	9,500	14,600	-	14,241	14,664	7,823
Other sectors	-	-	-	2,517	3,793	2,232
<b>Total</b>	<b>20,600</b>	<b>20,600</b>	<b>19,946</b>	<b>24,585</b>	<b>28,099</b>	<b>16,264</b>

# 2000 Reform of Quota System

- Framework of Provincia as administrative unit for reach labour needs.
- Main Actors: Trade unions, entrepreneurs, and local and regional authorities.
- Together with National Institute of Employment and Provincial offices of Employment send a proposal to the Ministry of Labor: **number of workers needed by province and sector of economic activity.**

- The Ministry made the formal (preliminary) proposal for the quota system listed the sectors and *provincias* in which the demand was required.
- This proposal was send to the **Major Council of Immigration Policies** (2001), an advisory/coordination body in which Autonomous Communities and local governments were present as well as the other Ministries implied (Interministerial Comission of Migration)
- Afterwards, the quota system list was approved by the Ministries Council.

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- The list from the Council of Ministers composed a potential work offers by employers. These offers, differently as in the General Regime, are not linked to the national working situation and are managed by the State foresees, doing the selection process in country of origin.
  - Important change: The **public authorities are responsible of the effective accomplish** of the work offers made by the employers during the year of life of each working quota list.

The most remarkable issues in this procedure were:

- a) The **recognition of competences on labor issues of the Autonomous Communities** for the first time.
- b) The **link between labor needs and the *provincial* labor market** meaning that the labor market it is not homogeneous in all state territory, explaining then the territorial limitation of initial permits of work.
- c) The **new participation of trade unions and entrepreneurs** made immigration policies since then oriented towards a **laboral answer** instead of migration pressure.

# Worked?

- Very scarce results:
  - Every year the offer was besides 20.000 posts of stable jobs (foreign entries were around 200.000)
  - The system was not able to avoid irregular flows due to the small quantity of post offered in comparison to real economic needs.




# The reasons:

- Fear of Trade Unions to the appearance of a competitive new labor force.
- A representativeness of the employers' associations and firms size.
- The weight of informal labor market.
- The lack of equilibrium among the labor reality and the migration pressure to the country.
- The new bilateral agreements proposal was not working: clientelistic recruitment policies in the countries of origin, limited collaboration of these countries to implement the agreements, short-staffed in consulates and embassies, etc.

***The most important: General Regime was closed by political decision.***

# 2004: New immigration system

- Reform of the Quota Policy:
  - 1) The number of available jobs could be change throughout the year, to process only stable job offers (contracts lasting at least one year)
  - 2) Creation of “job search” visas:
    - Visas for the children or grandchildren of Spanish citizens
    - Visas provided to immigrants specializing in areas where there is a serious shortage of workers.

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- The number of job offers is being negotiated among the Spanish Government, the Autonomous Communities and the Trade Unions and Entrepreneurs Representatives which are all part of the so-called **Tripartite Labor Commission of Immigration (informed each month of changes and each three months of evolution of the Ministerial Order)**
  - The number of stable job offers is always **provisional** and can be modified through the year depending of the needs of the labor market.

- In 2006 there were 16,878 stable jobs offered through the quota system, 646 job search visas given by specific occupation or activity and 570 visas for Spanish descendants. The numbers show how the crisis has negatively affected this process.
- In 2007, 27,034 stable jobs were offered through the quota system, 455 visas for domestic work and 500 visas for children and grandchildren of Spanish citizens to search for jobs.
- In 2008, as the growing economic crisis gradually became evident, the number of stable jobs was reduced to 15,731, a number that would be reduced by 90%.
- In 2009, the quota shrank to 901 job offers.
- In 2010 the offer was just of 168 stable jobs offers, a shortage of more than 80%
- In 2011, 14 stable jobs were offer.

# The open-up of General Regime

- Applications for residence and work are evaluated in an individual bases following objective criteria such as market tests which obliged to accompanied the application with a report made by the labor public services.
- This report should be stated that the enterprise or the employer have made the correspondent job offer at national level with a negative result.

# Criteria for election TCNs

- market test;
- guarantee of permanence in-job;
- enterprises or employers should be in order with Social Security payments;
- conditions in the job offer were the regulated ones for that occupation and sector national based;
- be in possession of the adjusted qualification (degree, professional qualification, etc);
- be with no penal history and not be irregular in the territory.

# Procedure

- 1) Job Offer presented by the employer to the Employment Public Services in the province where the worker will be recruited
- 2) Report from the State Agency of Tax Administration, the Social Security General Treasury, the Police General Direction and the Central Register of Prisoners and Rebels within 10 days.
- 3) The competent authority (Foreigners Offices dependent from State Secretary of Immigration and Emmigration) will evaluate all reports and will solve out in a motivated way.
- 4) In a month time the worker will have to ask for visa in the correspondant Spanish Consulate
- 5) Since the visa is given, the worker will have a month to take it personally in the Consulate.
- 6) Once the worker has visa he should get into the country not further than three months.
- 7) Once in-country, the worker could start working and register in Social Security Regime.
- 8) In a month time since its entry in Spain, the foreigner will apply for its Foreigner Card. If the foreigner has not been register in Social Security Regime, then the authority will cancel the original permit.

# Special Catalogue of Vacant Jobs

- Started in July 2005.
- List: all occupations that need to be covered by workers and cannot be filled either by Spaniards, Communitarians or Third Country Nationals with a valid work permit.
- Elaborated: by the **Labor Public Services** and it is approved and renewed every three months.
- It is disaggregate territorially by **province**, island in the cases of Balearic and the Canary Islands and the autonomous cities of Ceuta and Melilla and by sectors.
- Speeds up the General Regime process, because it avoids the need to publish job offers by the employer



# General Regime

- In 2006, 120.324 initial permits of residence and work.
- In 2007 were 178.340
- When the crisis started the data started to slow down giving only around 17.000 in 2010.
- Catalogue evolution:
  - First semester of 2008, 488 different occupations.
  - First semester of 2011 were just 50.

# Great Enterprises Unit

- February 2007 creation of Great Enterprises Unit (Unidad de Grandes Empresas, UGE). Until then there was no difference on the recruitment procedure of high skill or low skill workers.
- An office responsible for allocating work authorizations and residence permits for highly skilled immigrants such as business executives, Internet technology workers, scientists, university professors, and internationally renowned artists.
- First initiative by the Spanish government to manage the flow of highly skilled workers.
- From its creation in 2007 through the end of 2010, 9,274 applications were processed — roughly 2,000 work authorizations per year — suggesting that demand for highly skilled workers continues in Spain despite the recession

# Recruitment reforms in the Law 2/2009

- Maintains the basic elements of 4/2000 Organic Law which are the ones with consensus among all political forces and social actors:
  - Choice of an immigration based on legal entries and linked to the labour market
  - Respect for equality principle for all citizens and acknowledge of basic social rights to everyone.

# Main changes

- Creation of a **Sectorial Conference on Immigration** in charge of coordination among all administrative bodies in the state, meaning General Administration and Autonomous Communities.
- Substitutes another body: Superior Council of Immigration Policy.
- In charge of the coordination and cooperation among the different administrations present in Spain.
- Objective: reach as much coherence as possible among the actors with competences in immigration policies: General Administration and Autonomous Communities. In that conference both administration exchange points of view, and reinforce a global policy on integration laboral and social of immigrants. It pretends to give more presence of territorial governments, especially those with competences in giving initial permits in their territories, such us Catalonia.



## Skilled workers:

- a new residence and work permit for high skill workers (blue card)
- a new statute of researchers.

# Final Remarks

- Changes in General Regime (including the Catalogue) have made the new General Regime in the main way of entrance to the labor market.
- The combination of this with the reformed quota system gives for the first time appropriate channels for either a nominative offer, or general offers, so that it adjust labor market needs with migration pressure in country.
- Both instruments, the General Regime and the Catalogue have showed to be very flexible and adaptable mechanisms to the different economic situations and to the labor market.