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EU Immigration Trends and Policies: Spain and France as Case Studies

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by Marissa Wong*

Introduction

The Treaty on European Union, also known as the Treaty of Maastricht or the Maastricht Treaty, created the European Union (EU) from the existing European Economic Community (EEC.) It was signed by the member states on February 7, 1992, and entered into force on November 1, 1993.¹ Among its many innovations was the creation of European citizenship, which would be granted to any person who was a citizen of an EU member state. Citizenship, however, is intertwined with immigration, which the Treaty also attempted to address. Policy on visas, immigration and asylum was originally placed under Pillar 3 of the EU, which dealt with Justice and Home Affairs. In 1997, however, the Amsterdam Treaty moved these policies from Pillar 3 to Pillar 1, signaling “a shift toward more supranational decision-making in this area,” as opposed to the intergovernmental method of Pillars 2 and 3.²

The 2009 Treaty of Lisbon formally undid the Pillar configuration of the EU, but there have still been attempts at keeping supranational immigration policy. Since 2008, for example, the European Commission has been developing a common immigration policy, which aims at “ensuring that legal immigration contributes to EU’s socio-economic development, EU countries’ acts are coordinated, cooperation with non-EU countries is developed further and illegal immigration and trafficking in human beings are tackled effectively”.³ The Commission promotes the integration of immigrants into society, provided that they enter legally and can contribute their needed skills to their new country’s workforce, and it has passed a number of directives concerning specific aspects of immigration, such as family reunification. The common immigration policy, however, does specify that it will be implemented “in partnership between the EU countries and institutions,” implying that member states will still have much influence over their immigration policies. Currently, member states have primary control over these policies, including the granting of residence rights to immigrants and asylum seekers, as well as how best to integrate these immigrants into mainstream society. These individual policies,

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¹ Summaries of EU legislation. “Treaty of Maastricht on European Union.” Accessed April 27, 2013. http://europa.eu/legislation_summaries/institutional_affairs/treaties/treaties_maastricht_en.htm

² Bomberg, Elizabeth, and Alexander Stubb. *The European Union: How Does it Work?*. Oxford: Oxford University Press, 2003.

³ Summaries of EU legislation. “A common immigration policy for Europe.” Accessed April 21, 2013. http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/jl0001_en.htm

nevertheless, can and will affect the EU as a whole. This paper will examine immigration in the EU, specifically in Spain and France, its challenges and controversies, and its implications for the future.

Recent immigration in the EU

Europe has long been a region of migration. Even in recent years, with many countries' struggling economies, immigration and emigration continue to be potent. The most recent comprehensive data from the EU is from 2011, and they demonstrate that about three million people immigrated to one of the twenty-seven* EU member states in that year alone.⁴ Included in these three million people, however, are about 1.3 million who immigrated within the EU; that is, from one member state to another. The country with the most immigrants in 2011 was the United Kingdom, which recorded over half a million immigrants. It was followed by Germany, Spain and Italy. In contrast to the three million total EU immigrants, approximately 2.3 million emigrants left an EU member state. Because of these waves, as of January 1, 2012, 4.1% of the total EU population was foreign, meaning that they were citizens of non-EU member states. The country with the greatest number of foreigners was Germany, which recorded over seven million foreigners. It was followed by Spain, Italy, the United Kingdom and France. Many foreigners eventually become citizens, and the largest groups of new EU citizens are from Morocco and Turkey.

Trends in Spanish immigration

Spain, in particular, has always been a country that has been inseparable from immigration and emigration. Throughout its history, its population has been mixed through waves of invaders and immigrants, such as the Germanic tribes, the Jews, the Moors and, in more recent centuries, natives of other European countries. In 1985, as Spain sought acceptance into the EEC, it passed the *Ley Orgánica 7/1985, de 1 de julio, sobre derechos y libertades de los extranjeros en España*, a law that declared the rights and freedoms of foreigners in the country. This law, which was passed in order to meet EEC requirements, greatly encouraged immigration into Spain, especially from countries deemed to have "cultural affinity" to it, such as the Latin American countries, Portugal, the Philippines, Andorra and Equatorial Guinea.⁵ Drawn, as well, by Spain's economic prosperity and social benefits of the late twentieth century, many non-European immigrants entered Spain. The largest groups were from Africa, especially nearby Morocco, and Latin America.⁶ In fact, by 2005, 39% of foreigners in Spain were from

*On July 1, 2013, Croatia became the twenty-eighth member state of the EU. For the purposes of this paper, however, Croatia's immigration data will not be considered.

⁴ Eurostat. "Migration and migrant population statistics." Accessed April 21, 2013. http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Migration_and_migrant_population_statistics

⁵ Agencia Estatal Boletín Oficial del Estado. "Ley Orgánica 7/1985, de 1 de julio, sobre derechos y libertades de los extranjeros en España." Accessed April 14, 2013. <https://www.boe.es/buscar/doc.php?id=BOE-A-1985-12767>

⁶ Cebolla Boado, Héctor, and Amparo González Ferrer. *La inmigración en España (2000-2007): De la gestión de flujos a la integración de los inmigrantes*. Madrid: Centro de estudios políticos y constitucionales, 2008.

Latin America, especially Ecuador, Colombia, Bolivia, Argentina and Peru; they made up the biggest group of foreigners, surpassing Europeans for the first time.⁷ These new groups and the ensuing demographic changes resulted in immigration becoming a major policy issue.

In recent years, however, what has been more concerning has been the increasing emigration from Spain as a result of the economic recession and its high unemployment, which has reached past twenty-five percent for the total population and over thirty percent for immigrants, according to Meacham (2013). The EU's migration and migrant population statistics note that, in 2011, Spain had the highest number of emigrants in the EU; over half a million people left the country. Emigration has been greatest among Latin Americans, many of whom have returned to their home countries, which have been faring better than many European nations. Meacham remarks how over 80,000 Latin Americans have left Spain for their native countries since 2009. Native Spaniards have also been leaving Spain to look for work so they can send money to their families; they often go to neighboring countries, such as Morocco, and Latin America. In Brazil, for example, the number of native Spaniards emigrating there rose by 227 percent between 2007 and 2011.⁸

Spain's attempts at counteracting the recent emigration

To counteract this emigration, Spain must retain as many residents as possible. One way to encourage this is to grant citizenship to non-natives, which furthers the EU's goal of integration of immigrants into society. Normally, there are five ways of acquiring Spanish citizenship, the most common being continuous legal residency for ten years in Spain, known as citizenship of residency, and having a Spanish parent, known as citizenship of origin.⁹ People born in Spain to foreign parents can also acquire citizenship of origin if at least one parent was also born in Spain. Furthermore, in recent years Spain has extended the offer of citizenship to more descendants of Spaniards. In 2007, it passed the *Ley 52/2007, de 26 de diciembre*, also known as the Law of Historical Memory. This law "allows the optional acquisition of Spanish citizenship of origin by persons whose father or mother was originally Spanish and by the grandchildren of those who lost or were forced to forfeit their Spanish citizenship as a consequence of the exile [during the Civil War and Dictatorship]".¹⁰ Because of their exile, they did not willingly choose to forfeit their Spanish citizenship, so they should be entitled to reclaim it.

Another, more controversial, attempt to encourage Spanish citizenship was a plan announced in November 2012 to give descendants of Spain's original Sephardic Jews preference

⁷ Meacham, Carl. 2013. "Entre el sueño latinoamericano y el español." *El País Internacional*, March 28. Accessed April 13, 2013. <http://internacional.elpais.com/internacional/2013/>

⁸ Stargardt, Gabriel, and Paul Day. 2012. "Reversal of fortunes sends Spaniards to Latin America." *Reuters*, October 31. Accessed April 14, 2013. <http://www.reuters.com/article/2012/10/31/us-spain-emigration-idUSBRE89U1C820121031>

⁹ Ministerio de Justicia. "¿Cómo se adquiere la nacionalidad española?" Accessed April 21, 2013. http://www.mjusticia.gob.es/cs/Satellite/es/1215198282620/Estructura_P/1215198283622/Detalle.html

¹⁰ Ministerio de Justicia. "Descendants of Spanish nationals." Accessed April 28, 2013. <http://leymemoria.mjusticia.gob.es/cs/Satellite/LeyMemoria/en/concesion-de-la-nacionalidad-/a-descendientes-de-espanoles->

for citizenship.¹¹ This is not a unique proclamation, as similar proposals have been announced since the 1920s. Before this most recent declaration, Spanish law reduced the residency requirement for Sephardic Jews to only two years, “a privilege that is also available to citizens of Spain’s former colonies in Latin America and elsewhere”.¹² Those seeking citizenship must be able to prove to the Spanish Federation of Jewish Communities (FCJE) that their ancestors were part of the large Jewish community that was expelled by Spain’s Catholic monarchs in 1492. Other details of the plan have not been finalized, however, so it has not yet been implemented, leaving hopefuls disappointed.

The plan was first criticized when it seemed that those applying for citizenship had to have remained Jewish, meaning that the many who converted to Catholicism, known as *los conversos*, would not have been eligible. It now seems more likely that it will allow all descendants of Sephardic Jews to be granted citizenship, whether or not they have maintained their ancestors’ faith. The plan still receives criticisms, however, from Muslim scholars and advocates, who note that the descendants of expelled Muslims have not been included or presented with a similar offer. According to Kern, they charge discrimination and wonder why the Jewish population should be favored over the Muslim population (2012). Regardless of the government’s motive, it is also unclear what effect this plan will have on Spain once implemented. In theory, a large influx of the Jewish descendants will help Spain’s economy, as the Jews historically were large contributors to it. This is merely hypothetical, however, and it is also unclear how many people will actually relocate to Spain. Although there were allegedly about 6,000 enquiries by December 2012 according to Hadden, if Spain’s economy continues to suffer, many will find it unwise to move to Spain (2013).

Trends in French immigration

France’s issues regarding immigration differ in some ways from those of Spain. Because of its involvement in World War II, France found itself in great need of immigrants to help it rebuild its devastated country. The first decades of the EEC, therefore, saw a great influx of immigrants to France, particularly from Italy, Africa, Hungary, Spain, Portugal and Latin America, especially Chile.¹³ Many of these groups fled communist regimes and military dictatorships, while others took advantage of successful independence movements, such as those from the Maghreb in North Africa. Out of these immigrants, the most numerous were the Algerians. In total, the foreign population in France doubled between 1946 and 1975, from 1.7 million to 3.4 million.

In more recent decades, the attitude to immigration has varied with each different presidency and the economic conditions. Though in general, the door into France has been less open, despite the aging population and demand in certain industries, such as construction, public

¹¹ Hadden, Gerry. 2013. “Sephardic Jews invited back to Spain after 500 years.” *BBC News Magazine*, March 6. Accessed April 21, 2013. <http://www.bbc.co.uk/news/magazine-21631427>

¹² Kern, Soeren. 2012. “Muslims angry over Spanish citizenship for Jews.” *Gatestone Institute*, December 21. Accessed June 2, 2013. <http://www.gatestoneinstitute.org/3509/spanish-citizenship-jews>

¹³ Cite nationale de l’histoire de l’immigration. « De 1975 à nos jours. » Accessed April 21, 2013. <http://www.histoire-immigration.fr/dix-themes-pour-connaître-deux-siècles-d-histoire-de-l-immigration/emigrer/de-1975-a-nos-jours>

works and hospitality, for help. Asylum is often limited to those being reunited with family members and those who have been granted refugee status.¹⁴ The last few decades, nevertheless, have seen a greater variety of immigrants. Although Algerians and Moroccans continue to make up a large percentage of immigrants, other Africans, particularly those from sub-Saharan Africa, have arrived in France, as have large groups of Asians. Turks and Sri Lankans are among the most popular groups, as well as the Vietnamese and Cambodians, who fled warfare in droves. The end of the Cold War also contributed to a large influx of Roma peoples from Eastern Europe, as they escaped persecution and sought better conditions in the more prosperous western democracies.¹⁵ While France had experienced Roma migration for centuries, these newcomers further exacerbated the concerns of some French policy makers. Under former president Sarkozy, the French government “began to pursue a policy of the so-called selective migration, whose aim was to attract to France mainly skilled personnel,” and a quota system was implemented to help determine the appropriate number of required workers.¹⁶

France’s reaction to its immigrants

The main focus today intends to be in line with the EU’s goals: curb illegal immigration and integrate the existing immigrants into France. In 2011, France passed *Loi no 2011-672 du 16 juin 2011 relative à l’immigration, à l’intégration et à la nationalité*, which transposed three EU directives concerning immigration, integration and nationality.¹⁷ It specified that non-EU nationals “staying illegally in France, if intercepted, are subject to removal within 30 days of notification of their removal.” There are exceptions to this ruling; for example, the date of removal can be postponed, and those in France for medical attention or escaping marital abuse cannot be deported.

Even EU nationals, however, are not immune to deportation from France. Huda reports how, in 2010, French officials began dismantling many makeshift Roma communities and deporting its residents to their native Bulgaria and Romania (2012). Such expulsions received international condemnation, such as from the United Nations and from then-Pope Benedict XVI. More important were the cries of concern from other European leaders and the European Commission. Specifically, France was accused of violating the 2004 EU Directive on Freedom of Movement, which allows any EU citizen to move freely within the EU; the Roma, whether they are French, Bulgarian or Romanian, would legally benefit from this directive. The

¹⁴ Cite nationale de l’histoire de l’immigration. « De 1945 à 1975. » Accessed April 21, 2013. <http://www.histoire-immigration.fr/dix-themes-pour-connaître-deux-siècles-d-histoire-de-l-immigration/emigrer/de-1945-a-1975>

¹⁵ Huda, Syed Ahmad. 2012. “Legal remedies for the Gypsies: Can the European legal frameworks hold France liable for the expulsion of the Roma?” *University of Pennsylvania Journal of International Law*. Accessed June 3, 2013. <http://iiiprxy.library.miami.edu:2694/HOL/Page?handle=hein.journals/upjil33&collection=journals&page=1075>

¹⁶ Author. 2012. “French government cuts immigrant welfare by 83%.” *The European Union Times*, December 28. Accessed April 21, 2013. <http://www.eutimes.net/2012/12/french-government-cuts-immigrants-welfare-by-83/>

¹⁷ Author. 2011. “France: Immigration – law on immigration, integration and nationality.” *Global Legal Monitor*, July 1. Accessed April 21, 2013. http://iiiprxy.library.miami.edu:2706/ps/i.do?action=interpret&id=GALE%7CA260874389&v=2.1&u=miami_richter&it=r&p=AONE&sw=w&authCount=1

Commission even threatened to bring legal charges against France, but such threats were later dropped.

France otherwise does have a system in place for integrating foreigners into its society. In 2011, over 100,000 foreigners acquired French citizenship, which cannot be acquired if the person is not yet a French national. He/she can become a national in four ways. The most common ways of becoming French are by having at least one French parent, known as the right of blood, or by being born in France, known as the right of soil.¹⁸ One can also become French by marriage, but the most common way for immigrants is most likely through the naturalization process, whereby they must have resided continuously in France for at least five years. This length of time can be reduced to two years if the person has completed two years of higher education successfully or has otherwise made important contributions to France, which is open to interpretation. Regardless of the length of residency, since the Sarkozy law of 2003, everyone seeking to be naturalized must also pass an individual interview that gages their level of assimilation to French society. This interview tests their proficiency of the French language, as well as the rights and duties conferred on French nationals. This was further expanded in 2011. One must now show knowledge of French history, culture and society, and be able to “sign a charter listing the rights and duties of the citizen that restates these essential principles, values, and symbols,” according to the *Global Legal Monitor*.

Because of the right of soil, any children of immigrants become French, and they thus lose their ethnic and racial background since it is illegal in France to collect statistics referring to ethnic or racial origin.¹⁹ It is estimated that the legal minority population, as of 2009, was eight million people, although this counted both foreigners and French-born “minorities.” All French nationals and citizens are theoretically considered equal, but there is debate as to if this is really so. There are allegations of discrimination, but because ethnic differences cannot be acknowledged, it is difficult to specify if one group of people is truly being favored over another. Researchers have tried to measure discrimination using legal methods, such as judging a person’s ethnicity by his/her name, and they have found that discrimination does seem apparent. In 2009, Yazid Sabeg, former President Sarkozy’s diversity commissioner, proposed a method of collecting ethnic information. Although he insisted that participation would be voluntary, anonymous and based on self-categorization, many interest groups, particularly the anti-discrimination group SOS Racisme, vehemently opposed this plan. They fear the plan can actually encourage further discrimination and bring France back to a hateful past filled with ethnic typecasting.

The implications of such controversies

The true issue behind these controversies, as well as Spain’s recent moves to expand citizenship opportunities, however, is that national identity is a flexible and subjective construct. Both Spain and France identify themselves as political, rather than ethnic, nations. Their national

¹⁸ Vie Publique. « Comment devient-on citoyen français ? » Accessed April 21, 2013. <http://www.vie-publique.fr/decouverte-institutions/citoyen/citoyennete/citoyen-france/comment-devient-on-citoyen-francais.html>

¹⁹ Author. 2009. “To count or not to count.” *The Economist*, March 26. Accessed April 21, 2013. <http://www.economist.com/node/13377324>

identities revolve around their commitments to their constitutions and national ideals such as democracy and equality. In theory, any person who commits to these ideals and to the nations' laws can become Spanish or French, regardless of ethnic background. Over time, it has become increasingly difficult to specify who is, and who has the right to be, Spanish or French or, by extension, European. European countries, particularly these two historic powerhouses, are facing an uncertain future where their traditional demographics and status quos are being challenged, and their stability depends greatly on the immigration and integration policy decisions made.

It is obvious that neither Spain nor France is yet fully comfortable with this realization. Their recent policy decisions show how they are still resistant to certain groups deemed less "European," such as Muslims and Roma, respectively. They resist immigration from these groups and also aim to curb mass emigration from their existing mainstream residents, as they both already face aging populations that will be unable to sustain their countries' economies and social programs. While this is mainly a problem for Spain, France must also be alert. In 2011, its over 200,000 emigrants made it the EU country with the fourth-highest number of emigrants, according to the EU's migration and migrant population statistics.

Conclusion

The long-term prognosis for Spain is troubling. While the reverse migration, as well as immigration, to countries such as Latin America is good for these developing economies, it can help to further stagnate Spain's economic growth. There may be a small improvement in the immediate future since the emigrants will help to alleviate an already problematic unemployment rate, but if they do not return, Spain's economy will not be able to grow. Stargardter and Day (2012) note how most of the emigrants "are between 20 and 40 years old," and many have been educated at Spanish universities; they thus have the greatest chance of becoming successful. If they do not return, those who remain will be overburdened with financing Spain's social security program and other pensions for the aging population (Meacham 2013). This will leave them with fewer funds for them to use on themselves and to propel the economy.

France, though not as troubling, has an uncertain future as well. Its economy has also stagnated, and in an attempt to redesignate public funds, it has reduced financial aid to immigrants as of March 2013, reports *The European Union Times*. The most dramatic change was an eighty-three percent decrease in immigrant benefits, such as unemployment benefits, as well as a reduction in the compensation given to immigrants who voluntarily decided to return to their native countries. This reduction in benefits was intended to deter migrants who do not work or study in France; therefore, they are not seen as contributing to the country. Lawmakers intend on spending the saved funds on other resources, such as job creation for nationals and overall economic recovery. The effects of this government ruling, however, have yet to be seen. It is unclear what type of sentiment will be prevalent among the migrant population. While the French government hopes this policy will encourage immigrants to search more vigorously for jobs, there is fear that immigrant youth in particular will engage in antisocial behavior out of protest. The French government must tread carefully in the implementation of these measures, as France's future remains largely contingent on their outcomes.

As some of the EU's most populous countries, any major changes in Spain and France have the potential to greatly affect the EU in general. In recent years, because of the economic

difficulties, both countries have somewhat strayed from the EU's goals; France, in particular, has chosen questionable ways to integrate foreigners into society, making it more difficult for them to remain in the country. Spain, by contrast, has not enacted such harsh measures, as it has not had to struggle with such influxes in recent years. On the contrary, it seeks to retain its native talent and entice skilled foreigners to its territory, but its economic struggles do not make it an attractive destination. It can be said, therefore, that the countries' economies and migration trends and policies are intertwined, and immigration can be both helpful and harmful to each respective country. In addition, the political and social undertones of each policy decision demonstrate how each country aims to define its national identity. Each country seems to look to its past for clues to its identity, yet they do not recognize that, historically, identities change with each wave of immigrants. As Spanish and French identities transform, so also does the elusive concept of European identity, as any new Spanish and French citizens automatically become citizens of Europe.

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