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Social Ties as a Legal Avenue for Long-Term Asylum Seekers in the European Union

El *arraigo social* como alternativa legal para los solicitantes de asilo de larga duración en la Unión Europea

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ABSTRACT

This article analyzes the application of a regularization mechanism for immigrants, typical of Spanish law and directly linked to integration measures, as a possible legal solution for thousands of asylum seekers whose applications have been rejected or remain unresolved in any of the European Union Member States. The revision of the regulations and directives of the Common European Asylum System reform focuses on the extension of integration measures to these people. A new approach is provided to the figure of social ties in the field of applicants for international protection, concluding that if such a mechanism were incorporated into the planned reforms, this would give them the possibility to renounce their immigration status and opt for an administrative residence and work authorization, causing a huge impact on the entire system.

Keywords: 1. Common European Asylum System, 2. international protection, 3. integration measures and conditions, 4. European Union, 5. Spain.

RESUMEN

En el artículo se analiza la aplicación de un mecanismo de regularización de inmigrantes, propio de la ley española y directamente vinculado con las medidas de integración como posible solución legal para los miles de solicitantes de protección internacional cuya petición ha sido desestimada o continúa sin resolverse en alguno de los Estados miembros de la U. E. La revisión de los reglamentos y las directivas de la reforma del Sistema Europeo Común de Asilo se centra en la extensión de las medidas de integración a estas personas. Se proporciona un nuevo enfoque a la figura del *arraigo social* en el ámbito de los solicitantes de protección internacional, concluyendo que si dicho mecanismo se incorporará en las reformas previstas, ello brindaría a este colectivo la posibilidad de renunciar a su estatus migratorio y optar por una autorización administrativa de residencia y trabajo, causando un enorme impacto en todo el sistema.

Palabras clave: 1. Sistema Europeo Común de Asilo, 2. protección internacional, 3. medidas y condiciones de integración, 4. Unión Europea, 5. España.

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INTRODUCTION

Following the roadmap set by the 2030 Agenda, in September 2016 the UN General Assembly brought together the Heads of State and Government of its member countries to discuss issues related to migration and asylum, and to try to reach global consensus (Naciones Unidas, 2015). In this session, the New York Declaration for Refugees and Migrants was approved, which acknowledged the need to articulate a global approach to this issue (Naciones Unidas, 2016). This Declaration is the origin of the controversial Global Compact for Safe, Orderly and Regular Migration (Naciones Unidas, 2018), the first global agreement of its kind from which the United States initially distanced itself, other countries doing these same later (Laczko, 2016).

On May 13, 2015, the European Commission published the European Agenda on Migration. As regards the mid- and long-term, this roadmap contained guidelines in four areas, namely reducing incentives for irregular immigration, border management, developing a stronger common asylum policy, and a new policy on regular immigration that would review the conditions for obtaining the blue card. Likewise, it set new priorities for integration policies and gave some recommendations to optimize the benefits of migration (Comisión Europea, 2015). This Agenda and its successive updates were preceded by the 2005 Global Approach to Migration and Mobility (Consejo Europeo, 2005a),[3] reformulated in 2011. Previously, the EU had established other strategic guidelines from the entry into force of the Treaty of Amsterdam and through the Tampere (1999), The Hague (2004) and Stockholm (2009) programs. In October 2019, the Commission published its latest report on the implementation of this Agenda, and in September 2020 it presented the New Pact on Migration and Asylum (Comisión Europea, 2020a).

The entry and circulation of immigrants and refugees through the EU has historically been a concerning issue, constituting today one of its main challenges. This was stated in the 2016 European Union Global Strategy for foreign and security policy: “A common vision, joint action: a stronger Europe” (Unión Europea, 2016, p. 30). Yet in contrast to this declaration, migration policy did not appear in the European Security Strategy for the period 2003-2015, titled *A secure Europe in a better world* (Consejo Europeo, 2003c, p. 27). In the 2003 planning, large migratory movements were not identified as a threat or risk, but thirteen years later they have become one of the key points of the Union’s policies (Consejo Europeo, 2016).

This concern has grown in recent years with the massive arrival of mixed migratory flows from the Maghreb and sub-Saharan Africa, but mainly from Syria, Iraq, Afghanistan and Venezuela. Additionally, the questionable management of the European institutions and the Member States has had repercussions in the international arena, this reflected in events such as the death on the beach of the Syrian child Aylan Kurdi in 2015, or the haphazard crossing of the Aquarius ship

[3] In the Global Approach to Migration and Mobility, the EU determined that European migration policy should be linked to its foreign policy and, more specifically, to cooperation with third countries, both those of transit and those of origin.

towards the port of Valencia in 2018, the news of which occupied the front pages of the main media worldwide.

It is not only the management of these flows that has been a challenge and a key aspect on the political agenda of the EU, but also the reception and integration of newcomers into European societies. In 2004, European institutions understood that immigration was not an isolated and temporary phenomenon, but that a considerable number of immigrants ended up settling permanently (Porras Ramírez, 2017). Therefore, from that moment on, the integration of migrants in the societies that host them holds high priority in European politics, this reflected in the adoption of the Common Basic Principles for Immigrant Integration Policy by the European Council (Consejo Europeo, 2005b). One of the premises that justified these principles was the conviction that the successful integration of immigrants and their descendants into the society that welcomes them is an essential aspect of migration management (Sebastiani, 2017).

Article 79.4 of the consolidated version of the EU Treaty put a definitive end to the discussion on the competences regarding the integration of immigrants (Unión Europea, 2010), since the measures that the European Parliament and the Council would establish were to support the action of the States yet would not seek the harmonization of different national legislation. Thus, full freedom was granted for each member to continue legislating according to their own decisions, giving rise to a diversity of models and approaches in their immigration laws and policies, among which stands out the paradigmatic model adopted in Spain for transcending the scope of the European concept of integration (García-Juan, 2016).

In order to clarify the terminology to be used, it becomes necessary to bring up the 2009 REGINE[4] Report that addresses regularization mechanisms and programs in Europe (Baldwin-Edwards & Kraler, 2009). This report, resulting from a European project, concludes that the EU countries make use of two ways to regularize immigrants who remain irregularly in their territory: regularization programs and mechanisms. Programs are procedures made available for a limited period, while mechanisms are regulated in the legal system and are permanent (Baldwin-Edwards & Kraler, 2009). For example, the three most recent regularization programs in Spain were activated in the years 1996, 2000, and 2005.[5]

It is important to mention that the REGINE Report took into account the recommendation made by the ECRE[6] in 2007, by giving rejected asylum seekers the opportunity to apply for permanent legal status if they "have lived in the host country for three years or more, and have consequently begun to take root" (ECRE, 2007, p. 6).

[4] Acronym for Regularisations in Europe.

[5] The latter was strongly criticized by countries such as the Netherlands or Germany (Finotelli & Arango, 2011).

[6] Acronym for European Council on Refugees and Exiles.

In turn, the residence authorization for reasons of *social ties*[7] is a type of permit that immigrants in an irregular situation who meet certain requirements can apply for in Spain. In fact, it is mainly immigrants for economic reasons who opt for this path of regularization. However, given the legal nature and procedural characteristics of this legal concept, asylum seekers with settled in Spain may also choose this administrative authorization, provided that they withdraw their application for international protection if three years have elapsed without having obtained a resolution. This is a viable option if certain conditions are met, such as accrediting compliance with various requirements established by law that have the legal weight to prove that the person has integrated into Spanish society.

The importance of integration measures in the planned reform of the Common European Asylum System (CEAS), still pending in 2023, and its extension to asylum seekers (not only acknowledged refugees) means that the Spanish "solution" by social ties acquires special relevance, since it is a possible path of regularization for the thousands of nationals of third States whose legal status is still at an uncertain point, of which it is unknown what the official response will be when the process is closed.

The first part of this article provides an introduction to the CEAS and reviews the main reforms currently on the negotiating table of European institutions. In this part, the investigation delves into the aspects that mainly affect the integration of applicants and beneficiaries of international protection. In the second part, the concept of social ties is addressed, establishing the relationship between this legal regularization mechanism, which only exists as such in Spanish legislation, and the imminent reform of the CEAS. In this second section special emphasis is placed on the integration measures and conditions accounted for in the new community texts, since with this the EU would be legitimizing in some way that in Spain asylum seekers can choose to change their immigration status once they have completed three years of stay in the country.

Although the effects of the global COVID-19 pandemic will predictably have an impact on the future reform of the CEAS, this article analyzes the situation prior to March 2020, which remains unchanged at the time of writing these lines.

THE COMMON EUROPEAN ASYLUM SYSTEM IN THE CONTEXT OF THE EUROPEAN MIGRATION SYSTEM

Due to the intense influx of migrants to the EU in recent years, applicants for and beneficiaries of international protection, as well as international migrants, have become one of the priorities of the political debate (Tocci, 2017). The pressure on the Dublin system (Parlamento Europeo y Consejo, 2013) and the inconsistencies of European approaches to migration highlight the need to review the role of European institutions in the governance of this policy area (Ceccorulli & Lucarelli, 2017). Solidarity between States has been rather scarce, and flagrant human rights violations have been

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[7] From *arraigo social*, an expression meant to convey the rootedness of an individual to a place due to ties of a social nature (Translator's note).

documented, revealing a series of normative and ethical questions related to migration management (Sönmez, 2020).

The CEAS establishes a common framework of procedures to manage applications for international protection, and to welcome and resettle applicants for and beneficiaries of the right of asylum. However, by being governed mainly by the directives, each of the 28 States (including the United Kingdom) has established protocols and regulatory provisions that differ considerably from each other, as they adhere to the guidelines of the European institutions to an unequal extent (Chetail, 2016).

For its part, the Dublin system has evolved from its 1997 Convention (Dublin I) (Comunidad Europea, 1997) and its 2003 Regulation (Dublin II) (Consejo Europeo, 2003d). In January 2014, the Regulation that establishes the criteria and mechanisms for determining the Member State that will be responsible for examining applications for international protection entered into force (Comisión Europea, 2014). Under this system, known as Dublin III, the application must be examined by a single State or partner country of the EU which will as a general rule be the first one in which the petition was filed.

This regulation establishes that Member States can return asylum seekers to the country through which they entered the European Union, provided that it has an effective asylum system. In turn, said regulation protects the applicants during the processing and has served to highlight the deficiencies of the different national systems. Dublin III has even generated deep inequalities between the Member States, since its mechanisms mean that those countries with external land borders are the ones that receive the greatest number of requests and are thus forced to manage them (Weber, 2016).

These inequalities and the discomfort generated by the exponential increase in asylum applications between 2014 and 2016 motivated a call to reform the Dublin system, so as to distribute applications among Member States more equitably. But, after the failure of that proposal, the European Commission rather proposed a new reform in September 2020, this time betting on greater border control and prioritizing distribution criteria other than those of the country of arrival (Morgese, 2020).

The Reform of The Common European Asylum System in Terms of Integration

To address the uneven application of the CEAS in the EU and the problems of the Dublin system, in 2016 the European Commission promoted a series of reforms aimed at harmonizing the asylum procedures of all Member States through the establishment of common agreements. The ultimate goal was to offer a reasonable status to any third-country national who requires international protection, but also to guarantee compliance with the principle of non-refoulement (Rossi, 2017). The entire system is based on articles 67.2 and 78 of the Treaty on the Functioning of the European Union (Unión Europea, 2010), as well as article 18 of the Charter of Fundamental Rights of the European Union (Unión Europea, 2000), without any of the two legal instruments providing definitions for the terms “asylum” and “refugee,” referring in both cases to the 1951 Refugee

Convention of Geneva (Naciones Unidas, 1951) and its 1967 Protocol (Naciones Unidas, 1967; Kaufmann, 2020).

In 2005, when the Common Basic Principles for Immigrant Integration were declared (Consejo Europeo, 2005b), all of them referred to legal resident immigrants, but not to applicants for or beneficiaries of any form of international protection (Illamola Dausá, 2011). Integration was defined as "a two-way dynamic process of mutual adjustment by all immigrants and residents of European countries" (Comisión Europea, 2005, p. 5), the sixth principle stating that "the access of immigrants to institutions and to both public and private goods and services, under the same conditions as national citizens and without discrimination, is an essential requirement for better integration" (Comisión Europea, 2005, p. 9). In view of these principles, stated and conceived for immigrants, but not for beneficiaries of international protection, the expanded treatment of integration in the CEAS reform is particularly surprising, as we will see below.

The concept of integration was conceived by European institutions to address the peculiarities and identities of immigrants, with the aim of facilitating their inclusion in the educational systems of the Member States and facilitating their access to the labor market (Joppke, 2007). As anticipated in our introduction, integration policies in the EU have not been subject to harmonization, since their focus and development have been limited by community directives, which propose certain frameworks or general guidelines without imposing standardized procedures, measures or conditions (Menéndez, 2016).

In April 2016, the European Commission presented in Brussels the Communication *Towards a Reform of the Common European Asylum System and Enhancing Legal Avenues to Europe*, which proposed the creation of a fairer system, with greater possibilities of temporary stay, through which the EU country that would be responsible for processing asylum applications would be determined. This same communication was committed to strengthening the EURODAC system, as well as to increasing the harmonization of national legislations, thus guaranteeing greater equality of treatment throughout the EU. The Commission also projected a mitigation of the *call effect*,[8] decreasing the secondary movements of applicants for asylum between member countries of the EU (Comisión Europea, 2016).

Later, in 2016, 2018 and 2020, the Commission presented the package of reforms pertaining the reception, the requirements for acknowledgement of asylum status, the common admission procedure, the resettlement, the common return procedure, the management and control of external borders, and the situations of crisis and force majeure. The difficulty of reaching a political agreement on all these legislative proposals has resulted in that several of them, almost seven years later, have still not been approved (Comisión Europea, 2022).

For the specific purposes of this research, one of the most important issues raised by these reforms is that those applications with a high probability of being unfounded can be denied by a

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[8] This effect consists of attracting even more irregular migration.

fast-track procedure. This category includes, among other causes, those in which the applicant comes from countries classified as *safe* by the EU according to article 45 of Communication 467 of 2016; also, when there are reasonable grounds to consider that a third country, through which the asylum seeker has transited, is safe (Parlamento Europeo y Consejo, 2016).

Both international law and the legislation of the EU on the asylum procedure consider that a country is safe when it has a democratic system and when, in a general and consistent way, there is no persecution, punishment, torture, inhuman or degrading treatment, and no threat of violence or armed conflict. Eleven Member States have their own lists of safe countries, but the EU is proposing a single list that would include Albania, Bosnia and Herzegovina, the former Yugoslav Republic of North Macedonia, Kosovo, Montenegro, Serbia, and Turkey.

In other words, asylum requests by Albanians, Bosnians, Macedonians, Kosovars, Montenegrins, Serbs and Turks can be denied, but also those submitted by nationals of other countries who have passed through a safe country on their journey to the EU, as long as it can be demonstrated that it was not a danger to their life or physical integrity to have remained in said country. In view of this, if the reform of the CEAS is approved as currently drafted, the very meaning of the right to asylum in the European Union could be called into question.

According to the literalness of the proposed rules, it will be the person's nationality or the accidental circumstance of having taken one route or another in their flight to the EU that will decide, in advance, the result of his request. This clearly departs from the procedure that constitutes the very basis of the right to asylum, that is, the detailed and meticulous evaluation of the specific case and its circumstances. Given this scenario, it is possible to foresee that the hopes of millions of asylum seekers who aspire to obtain refugee status in Europe will be seriously limited (Comisión Española de Ayuda al Refugiado, 2017).

Those whose applications are regulated by the CEAS still in force are also worth taking into account. What will happen to those who are officially asylum seekers and have not yet received a response from the corresponding authority? As things stand, they have been authorized to remain in the EU country that is processing their request. However, what conditions are they in? Can adults work legally? Do children have access to the official education system? Have they had access to the reception and integration programs offered by the different public administrations and other private entities? These asylum seekers find themselves in an uncertain life situation, in a legal limbo to which European law has not given a satisfactory legal response.

INTEGRATION MEASURES AND CONDITIONS FOR INTERNATIONAL PROTECTION APPLICANTS

Issues related to the governance of migration, such as the integration of immigrants and refugees, their regulations and the development of related public policies, both those issued by the European institutions and those of the Member States themselves, have been harshly criticized in Europe (Acosta Arcarazo, 2012). From different forums, the instrumentalism of the *integration measures*

and conditions has been highly criticized, and their misleading use in favor of dark claims to select immigrants has been denounced (Groenendijk, 2004). In this section, we will address the evolution that this key aspect has undergone in the CEAS and the treatment given to the integration measures and conditions that apply to applicants for and beneficiaries of international protection in the planned reforms.

For terminology purposes, integration conditions refer to the mandatory requirements that Member States may ask of migrants before they leave the country of origin or upon arrival at the country of destination. For their part, integration measures are the circuits, programs and devices in which they normally participate voluntarily so as to access certain basic services, renew their residence permits, or change their immigration status.

These conditions and measures consist of various courses and tests that assess the level of proficiency in the language of the host country, as well as knowledge of the legislation, history, customs and values of the Member State to which the application is submitted, whatever its purpose. In some European countries they are called cultural integration courses (Niejenhuis, Otten, & Flache, 2018).

The main regulatory instruments of the European Migration System that refer to integration conditions and measures are the Directive on the right to family reunification (Consejo Europeo, 2003a) and the Directive on the status of third-country nationals who are long-term residents (Consejo Europeo, 2003b). The scope of application of the first includes both legal resident immigrants and beneficiaries of refugee status, although in this second case the rule does not allow the imposition of integration conditions prior to departure. The second Directive applies to immigrants residing legally in any of the 27 Member States of the EU, but not to applicants for or beneficiaries of international protection.

From the analysis of the CEAS regulations and the planned reforms, we can conclude that the current directives on integration are limited to stating that the specific needs and particular integration challenges faced by beneficiaries of international protection must be taken into account, so as to guarantee the effective exercise of their rights and benefits. Likewise, it urges that these particularities be considered in the integration programs intended for them. However, the regulations at no time refer to the measures or conditions of integration.

The current Directive that establishes the requirements for the acknowledgement of international protection requires Member States to guarantee beneficiaries international protection and access to integration programs, yet grants them complete freedom in terms of their configuration. In addition, this access is limited to those who are already beneficiaries of refugee status or subsidiary protection status, not extending to asylum seekers (Parlamento Europeo y Consejo, 2011). In contrast, in the 2016 proposals, integration is a key and cross-cutting issue, not only for those who already are beneficiaries of international protection, but also for applicants.

The reforms provided for in the CEAS insist throughout its articles on extending the integration conditions and measures to asylum seekers, keeping them not only to those who already enjoy

refugee status or subsidiary protection. To achieve this, it is proposed that asylum seekers be allowed to work and earn their own income no later than the third to the sixth month from the submission of the application, even while their files are being processed. For the first time, there is also talk of mandatory integration requirements, non-compliance with which may be cause of substitution, reduction or withdrawal of the benefit of material reception conditions (García-Juan, 2021).

The proposal for a Regulation to establish the requirements for the recognition of international protection considers it essential that Member States promote the integration of refugees into host societies, clarify the scope of their rights and obligations, and provide incentives for their active integration. Likewise, the proposal allows Member States to grant certain social assistance on the condition that the beneficiaries of international protection effectively participate in integration measures in line with the *Action plan on the integration of third-country nationals* (Comisión Europea, 2016b). In short, it is proposed for Member States to decide whether this participation should be compulsory or voluntary. It is important to point out that the plan refers exclusively to immigrants and national refugees from third countries legally residing in the EU (Maltseva, 2017).

Another new and relevant aspect of the reform to the CEAS is the possibility that those who were holders of refugee status or subsidiary protection but who ceased to be so for any reason, will have three months to request another legal status, for example, that of legal resident immigrant for labor reasons. Along the same lines, the proposal for Regulation COM/2020/610 (Comisión Europea, 2020b) allows beneficiaries of international protection to obtain the status of long-term residents after three years of legal and uninterrupted residence in the Member State that granted such protection. Both possibilities are offered only to those who at some point benefited from international protection or who are actually holders of it, but in no case would it cover applicants.

The situation of this last group is the one that, de facto, is safeguarded in Spain under the concept of social ties, since an asylum seeker who has not yet received a response from the corresponding authority can renounce his administrative procedure and request an authorization of temporary residence due to exceptional circumstances for reasons of social ties. If the requirements set out below are met, the granting of this type of authorization will also entail a permit to work, thus becoming a legal resident.

The Concept of Social Ties in the Spanish Immigration System

In the EU acquis, residence authorizations for humanitarian reasons refer to specific categories of people not included in the concept of international protection. This is an additional form of acknowledging the needs of migrants who, not meeting the requirements to obtain the right of asylum, could be under other circumstances in which they would have access to an administrative permit enabling them to stay in the country they have arrived in. An example would be victims of trafficking or of violence against women (Bilgic, 2013).

According to a study by the European Parliament, once a humanitarian visa has been issued and the national of a third State has entered the territory of the country of destination within the EU, he can present an application for asylum or another residence permit, such as the humanitarian residence permit. From that moment on, the request is governed by the corresponding internal legal system and is subject to the requirements and formalities that said system has established (Parlamento Europeo, 2014).

In this sense, the Spanish immigration law establishes in its article 31.3 that "The Administration may grant a temporary residence permit due to a situation of ties, as well as for humanitarian reasons, collaboration with the justice, or other exceptional circumstances that are determined by regulation. In these cases, the visa will not be required" (Gobierno de España, 2000, p. 17). In turn, and further developing this provision, article 123.1 of the Regulation includes as the access routes to temporary residence in exceptional circumstances those cases in which "a temporary residence permit may be granted to foreigners who are in Spain in the cases of ties, international protection, humanitarian reasons, collaboration with public authorities or reasons of national security or public interest" (Gobierno de España, 2011, p. 80).

We will dedicate this section to the concept of ties and, in particular, to that of social ties, as it is a way of accessing legal residence, that is, a regularization mechanism widely used in Spain, a Member State of the EU. The importance of this concept in relation to asylum seekers lies in the fact that, if the reforms envisaged by the CEAS prosper and integration measures are opened up to these people, this path would emerge, at least in Spain, as a feasible solution to the situation of legal limbo in which this group finds itself. It should be noted that, according to the 2009 REGINE Report, no other country in the European Union has included in its national migration legislation a regularization mechanism for immigrants similar to social ties.

It was in 2003, with the second modification to the Spanish migration law (Gobierno de España, 2003), when the concept of ties was introduced for the first time as a way of accessing temporary residence for nationals of third States. Spain was the EU country that received the most net immigration at that time, so it was urgent to find a mechanism that would progressively alleviate the rate of irregular immigrants in constant growth in the territory (Alonso, 2018). This regularization mechanism was designed for those foreigners in an irregular administrative situation who did not meet the requirements to request international protection or residence permit for humanitarian reasons, but whose situation was exceptional (Aguilera Izquierdo, 2006).

The 2004 regulation that developed that legal reform differentiated the three types of ties, which were later labeled as *labor ties*, *family ties* and social ties in the 2011 regulation still in force. By way of labor ties, it is possible to obtain a temporary residence permit if the continuous stay in Spain for a minimum period of two years is proven, as well as if holding an employment relationship whose duration is not less than one year is proven. Under the concept of family ties, the father and mother of a minor of Spanish nationality have access to the same permit, as well as the children of a father or mother who were originally Spanish, almost automatically.

The particularity of the regularization mechanism by social ties lies in that it gives access to a temporary residence permit to foreign nationals of third States who are in Spanish territory irregularly and who meet four easy-to-fulfill requirements. These requirements are: accredit three continuous years of stay in Spain, having no criminal record, having a pre-employment contract, and demonstrating holding certain ties in the country. One of the formulas to prove that one hold ties is by means of a social integration report issued by the local or regional authority of one's primary residence. This report must refer to the cultural, social and labor insertion programs that the foreign person has followed during their stay in Spain, and that demonstrates the efforts they have made in favor of their integration into the society that welcomes them. This regulation does not expressly prevent people with an underway asylum application from requesting permit for social ties, and so it is understood that they can also initiate this process (Triguero Martínez, 2014).

The existence of this regularization mechanism in Spanish regulations pushes the different public administrations to adopt policies that allow and favor compliance with this last requirement, the report of social integration or ties. This is the main reason why integration policies in Spain are addressed not only to foreign legal residents, but also to those who are in an irregular administrative situation (Espinola Orrego, 2007). This makes the social ties mechanism a particularity of Spanish law that somewhat contradicts the European Union regulations that contain provisions related to the integration of immigrants, since community institutions understand integration exclusively in terms of foreign nationals of third States residing legally in a country of the Union or partner of the Schengen Area (Rinken, 2015). Consistent with this policy, the EU has been more in favor of applying the return procedure in the case of applicants for international protection whose applications have been rejected and, in general, in that of immigrants in an irregular situation (Parlamento Europeo, 2008).

On the other hand, it is worth noting that ties are today the second most important access route to administrative regularity made use of by third-country nationals who wish to settle in Spain. The main access route to administrative regularity in the years between 2009 and 2019 has been the initial temporary residence and work permit through someone else (which requires a work visa), followed by social ties (which does not require a visa). Year 2009 is taken as the initial reference because it is the first period in which the disaggregated data were published by the Government of Spain. Additionally, these residence permits granted by means of the ties procedure come together with a work permit, which allows the foreigner to also access the labor market (Carbajal García, 2012).

Table 1 below shows the number of temporary and long-term residence permits issued in Spain between 2009 and 2019. Per year, authorizations for reasons of ties represent between 10% and 11% of the total (if long-term residence permits are included), while those granted for humanitarian reasons represent 1.5% of the total. But if we look only at temporary permits, those granted for reasons of ties represent 16%. In the last year of the sample, there is a very striking variation in the number of permits for humanitarian reasons, since its percentage among temporary ones goes

from 2.2% in 2018 to 15.3% in 2019. The reason is the arrival of thousands of immigrants from Venezuela.

Table 1. Residence Permits Granted in Spain to Foreign Nationals of Third Countries According to the Reason for Granting Them (2009-2019)

	Temporary residence permits				
	Exceptional circumstances		Other		
Year	Ties / (% of the total)	Humanitarian and other reasons	(non-profit, family reunification, work)	*Long-term* residence permits	Total
2019	40.005 / (10.2)	43.861	202.224	105.454	391.544
2018	36.735 / (11)	4.918	181.727	108.594	331.974
2017	30.579 / (9.8)	3.940	163.837	113.963	312.319
2016	31.370 / (9.8)	3.658	160.620	126.081	321.729
2015	36.692 / (10)	3.365	161.991	162.062	364.110
2014	38.839 / (10.6)	3.272	181.265	141.993	365.369
2013	45.801 / (10.3)	2.996	196.926	197.414	443.137
2012	58.084 / (10.5)	2.749	269.734	222.953	553.520
2011	78.579 / (11.8)	3.039	342.352	239.044	663.014
2010	68.067 / (6.4)	2.509	452.119	531.783	1.054.478
2009	81.575 / (10.6)	2.947	486.529	195.740	766.791

Source: Own elaboration based on data from the Permanent Observatory on Immigration (OPI, 2019).

As previously mentioned, applicants still waiting for a resolution can initiate a social ties procedure by presenting, along with the required documentation, a letter withdrawing their asylum application. This document is the only thing that differentiates this process from that initiated by an immigrant in an irregular situation. In order to meet the rest of the requirements demanded in Spanish regulations, asylum seekers who have decided to withdraw also have to prove their continued stay in Spain for three years. Likewise, they must have a pre-employment contract for a year, have no criminal record, and demonstrate certain ties by means of a social integration report (Rinken et al., 2016).

In Spain, thousands of foreigners participate every year in language and regional, national and European Union history, culture and values courses offered by both public administrations and some private entities. These are integration measures (cultural integration courses) that are not compulsory, but are voluntarily accepted by those who are interested in obtaining a positive integration report (Moya, 2008). Such reports are meticulously prepared carrying out one or several interviews in which the particularities of the specific case are addressed, regardless of the nationality of the applicant, their condition or migratory status, or the countries they have crossed to reach Spain. What is valued are the real efforts made to integrate into Spanish society (Torrente et al., 2011).

In Spain, asylum seekers wait an average of three years to receive an official response, which is generally in the negative. This refusal results in the loss of the provisional residence and work permit granted by their asylum seeker status, and also in the imposition of a mandatory departure

from the country (Iglesias et al., 2018). This implies a drastic break in the integration trajectories after years of integration into Spanish society, which results in the loss of employment and rental contracts, as well as of social assistance. All this renders ineffective the efforts and public investment made to promote the effective integration of these people into society.

We have seen that the regularization mechanism for reasons of social ties acknowledges the personal circumstances not only of immigrants in an irregular situation, but also of asylum seekers who have decided to give up this request and have rather opted to try to regularize their situation by processing a temporary residence permit for exceptional reasons. Despite this clear legal avenue for asylum seekers, one of the main problems of the Spanish reception system is that the integration measures aimed at these applicants have been defined in parallel to those aimed at immigrants for work reasons, separately that is, with no connection between them. For this reason, it is expected that under the CEAS reform these measures will be unified and generalized for those who patiently await an official response regarding their right to asylum. This reform could represent great progress, as it would facilitate access to socio-labor and cultural integration programs that will prepare applicants for future individual regularization by means social ties, thus turning their aspirations meaningful and efficiently redirecting the investment of public and private resources.

CLOSING REMARKS

The treatment given to socio-labor integration in the proposals for the new regulations that will govern the Common European Asylum System has evolved in two directions. The first is positive, as the integration policies and instruments have been extended to asylum seekers whose files have not been given resolution, when in the regulation still in force such is a residual issue limited to those who are already beneficiaries of some type of international protection. The second direction is negative, since the very meaning of the right to asylum is being put at risk by conditioning the mere possibility of requesting it to factors such as the applicant's nationality or the route followed on their journey to the EU.

Despite the fact that asylum seekers will be able to access integration programs while waiting for their application to be resolved, the reform of the CEAS still does not solve the problem of legal uncertainty for those who, finally, obtain a negative response. We have seen that the reform does provide solutions for beneficiaries of international protection who for some reason have ceased to be so. However, no mechanism has been included for those who, after an official negative response, are left with an order to leave the territory and again with the status of national of a third State in an irregular situation. There are thousands of people who remain in the territory of the EU without a defined legal status, without the possibility of working legally, and without a clear idea of what their rights and obligations are.

Spain is resolving, through the regularization mechanism known as social ties, the problem of pockets of foreigners in an irregular situation. This legal mechanism allows asylum seekers, after three years of waiting in Spanish territory without administrative response, to change their

immigration status. Through this legal concept, the particular circumstances of the person in each specific case are valued and a temporary residence and work permit is granted to those who have made efforts to integrate into society.

Social ties provide asylum seekers the possibility of renouncing their immigration status and opting to start the procedures leading to an administrative permit for residence and work. The formal requirements demanded are met in most cases, and with the reform of the CEAS pending approval, these possibilities increase exponentially, since the integration mechanisms are then to be also open to this group.

In Spain there are integration programs aimed at immigrants for work reasons both in regular and irregular situations, but there are also programs aimed at asylum seekers, at refugees whose status has not yet been acknowledged, and at people who are beneficiaries of some type of international protection. This clearly exceeds the limits established in community regulations, which currently restrict these programs to legally resident third-party nationals and to those who are beneficiaries of international protection.

Other European institutions have the opportunity to review (and replicate) the creative proposals that have been effectively implemented for more than 10 years in this southern Member State of the European Union. From its particular approach to integration, Spain has shown that, unlike central and northern countries, it is finding formulas that really help those who fled to save their lives, thus promoting their full-fledged incorporation into the society that welcomed them.

Translation: Fernando Llanas.

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