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HOW CAN THE EFFECTIVE INTEGRATION OF IMMIGRANTS IN SPAIN BE ACHIEVED?

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I. INTRODUCTION. – II. THE NORMATIVE FRAMEWORK AND NON-REGULATORY INTEGRATION INITIATIVES. – III. THE MEASUREMENT OF PUBLIC INTEGRATION POLICIES IN SOME AREAS OF INTERVENTION. – IV. CONCLUSIONS

ABSTRACT: The integration of migrants is a pending task for Spain, as reflected in the results of the Migrant Integration Policy Index (MIPEX) indicators. Spanish public policies on integration are close to European and international standards, with an average score of 60 points, but a closer look at the results shows that the score is uneven across different areas.

In this article, we look closely at Spain’s public policies on integration and the difficulties encountered in achieving integration. We focus mainly on the normative integration corpus and Spain’s non-normative initiatives. We place particular emphasis on measuring integration indicators policies and their importance in the EU, as well as on measuring some areas of intervention for the integration of migrants according to the MIPEX barometer.

KEYWORDS: Integration, MIPEX, Integration and Inclusion Action Plan 2021-2027, migrants, two-way process.

¿CÓMO CONCRETAR LA EFECTIVA INTEGRACIÓN DE LOS INMIGRANTES EN ESPAÑA?

RESUMEN: La integración de las personas migrantes es una tarea pendiente de España tal y como lo reflejan los resultados de los indicadores de Migrant Integration Policy Index (MIPEX). Las

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políticas públicas españolas en materia de integración se aproximan a los estándares europeos e internacionales con una media de 60 puntos, pero al tener un acercamiento a los resultados se refleja que la puntuación es desigual entre las distintas áreas.

En este artículo hacemos una aproximación a las políticas públicas de integración de España y las dificultades que se presentan para concretar dicha integración. Nos centramos principalmente en el corpus normativo sobre la integración, igualmente en las iniciativas no normativas de España. Hacemos especial hincapié en los indicadores de medición de las políticas de integración y su importancia en la UE, así como en la medición de algunas áreas de intervención sobre la materia de integración de las personas migrantes según el barómetro MIPEX.

PALABRAS CLAVE: Integración, MIPEX, Plan de Acción en materia de Integración e Inclusión para 2021-2027, personas migrantes, bidireccionalidad

COMMENT SPÉCIFIER UNE EFFICACE INTÉGRATION DES IMMIGRANTS EN ESPAGNE?

RÉSUMÉ: L'intégration des migrants est une tâche pas encore conclue pour l'Espagne, comme en témoignent les résultats des indicateurs MIPEX. Les politiques publiques espagnoles d'intégration sont proches aux standards européens et internationaux avec une moyenne de 60 points, mais l'approche des résultats montre que le score est inégal entre les différents domaines.

Dans cet article, nous faisons une approximation aux politiques publiques d'intégration de l'Espagne et aussi aux difficultés qui se posent pour une efficace intégration. Nous nous concentrons principalement sur le corpus normatif, ainsi que sur les initiatives non réglementaires sur l'intégration en Espagne. Nous mettons un accent particulièrement sur les indicateurs de mesure des politiques d'intégration et leur importance dans l'UE, ainsi que sur la mesure de certains domaines d'intervention en matière d'intégration des migrants selon le baromètre MIPEX.

MOTCLÉS: Intégration, MIPEX, Plan d'Action Intégration et Inclusion 2021-2027, migrants, double sens.

I. INTRODUCTION

The number of immigrants in Spain at the end of 2020 was around 5.5 million, more than 11% of the population. In addition, almost 2.5 million foreign-born residents have Spanish nationality. Managing the integration of immigrants is therefore considered one of Spain's challenges. One of the most debated issues in this area is the effectiveness of public integration policies in fostering social cohesion and ensuring that all people who are part of Spanish society have rights and freedoms regardless of their administrative situation, origin, culture or religion.

Spain understands social integration Strategic Plan for Citizenship and Integration defined in 2014, as a process of mutual adaptation that requires the active participation of all citizens, immigrants and natives, as well as the institutions of the host country, and which seeks to achieve an inclusive society

that guarantees the full economic, social, cultural and political participation of immigrants under conditions of equal treatment and equal opportunities.

Integration was consolidated in the Spanish legislation in 2009, even though the first law on immigration dates back to 1985. Several initiatives were introduced to promote integration, such as the strategic plans for citizenship and integration. However, integration is still far from being consolidated, especially in some areas such as nationality, political participation or racial, ethnic and religious anti-discrimination.

Although Spain defines itself as an intercultural model, it has not laid the foundations for the full integration of immigrants. This is reflected both in the absence of the political will to establish non-regulatory initiatives (the Strategic Plan for Citizenship and Integration SPCI expired in 2014) and in the negative results of the evaluations of public integration policies that are carried out, as we will see in the third part of this paper.

This paper is structured in three parts. The first part reviews the normative framework on integration. To this end, it highlights the regulatory evolution of immigration and the incorporation of integration. Emphasis is placed mainly on the amendment of 2009, which brought about a substantial change in the field of immigration and the integration of immigrants in particular. It also highlights that the 2009 modification of the law is based on the European spirit, mainly on the Common Basic Principles (CBP) approved by the Council and the representatives of the governments of the Member States in 2005 as an essential guide for the design of integration policies by the EU Member States. Finally, the complex distribution of integration competences in Spain between the central state and the autonomous communities is highlighted.

In the second part, we emphasize non-regulatory initiatives of integration, mainly the strategic plans that are the guide to help establish specific objectives and to collect them together with the implementation methods of action to achieve them and to establish diagnoses and measurements to know their effectiveness.

In the third part, we evaluate public integration policies in some areas of intervention. An example is giving of two areas where Spain is close to European and international standards, such as health and family reunification and some areas where Spain is well below the average, such as in the areas of racial, ethnic or religious anti-discrimination nationality and political

participation. In this part, we focus on the results of the MIPEX considered by the European Commission as the best tool for evaluating integration policy indicators.

II. THE NORMATIVE FRAMEWORK AND NON-REGULATORY INTEGRATION INITIATIVES

1. The Spanish legislation on integration

A. The evolution of the law on foreigners before the last amendment in 2009

Immigration in Spain is relatively recent compared to other European countries. In the 1980s and even the early 1990s, Spain was still seen as a country of emigration. At the end of the 1990s and in a short period, the arrival of immigrants from diverse backgrounds became one of the main changes in Spanish society², although, in those years, it was considered a new and unexpected phenomenon³. During that period, immigrant integration was primarily centred on the labour market, with the focus primarily on the economic contributions of immigration. However, as the years passed, it began to be assumed that immigration was already an integral part of Spain. The incorporation of immigrant integration into the Spanish legal order of in a tangible way was late, in 2009.

Organic Law 2/2009, of December 11, reforming Organic Law 4/2000, on the rights and freedoms of foreigners in Spain and their social integration incorporates integration as one of the main axes of immigration policy for the first time. This issue was one of the main reasons for reforming the Immigration Law, which has undergone several modifications over time.

The first law on immigration, dated back to 1985, was not established to regulate the situation of immigrants but as a prerequisite for Spain's entry into the current European Union. The regulations established before that first law were fragmented and comprised a large number of decrees mainly regulating

² LACOMBA VÁZQUEZ, J., BENILLOCH DOMÉNECH, C., CLOQUELL LOZANO, A., VEIRA RAMOS, A., *La aportación de la inmigración a la sociedad española*, N° 33, Observatorio Permanente de la Inmigración, 2021, p. 223.

³ IZQUIERDO ESCRIBANO, A., *La inmigración inesperada. La población extranjera en España (1991-1995)*, Trotta, Madrid, 1996.

the conditions of entry and granting work and residence permits⁴.

There was a legal vacuum on immigration, and the European Economic Community demanded that Spain establish regulations on the matter, when there was hardly any perception in Spanish society that immigration required government intervention⁵. This demand was motivated by pressure from the Member States that closed their borders in the 1970s, such as France and Germany, and feared the arrival of immigrants through Spain, which had open borders⁶.

Therefore, the 1985 Law was a response to a social need to guarantee the rights and freedoms of immigrants and was motivated by external pressure. This is reflected in the absence of the guarantee of fundamental rights for integration, such as family reunification or permanent residence since immigration was not yet recognised as a permanent, stable and lasting fact, and immigrants were perceived as temporary workers who would return to their countries of origin. Therefore, social integration was utterly absent in this law⁷.

A year later, in 1986, Royal Decree-Law 1196/1986 of 26 May 1986 approved the regulations for the implementation of the law, which were more oriented toward control policies rather than integration policies.

A decade later, and because of the evolution and settlement of immigration in Spain, civil society demanded a law modification on foreigners that would adapt to the new reality and favour the integration of immigrants. In 1996, instead of modifying the law, the Spanish legislator opted to approve a new regulation that repealed the 1986 regulation in its entirety through Royal Decree-Law 155/1996, 2 February. Despite its limitations, it specifies the rights of foreigners and some issues related to integration, such as the recognition of permanent five-year residence permits. This right guaranteed immigrants specific stability and fostered their social integration.

⁴ CONEJERO PAZ, E., “La política de inmigración en España”, *3c Empresa investigación y pensamiento crítico*, N°8, 2012, pp. 1-27, p. 13.

⁵ *Ibid*, p.14.

⁶ SOLANES CORELLA, A., “Un balance tras 25 años de leyes de extranjería en España: 1985-2010”. *Revista del Ministerio de Trabajo e inmigración*, N° 90, 2010, pp. 77-102, p.79.

⁷ PAJARES ALONSO, M., “Inmigración y políticas públicas”, in De Lucas, J., Solanes Corella A., (coord.), *La igualdad en los derechos: claves de la integración*, Dykinson, Madrid, 2009, pp. 127-146, p.138.

However, it was not until 2000 that the Law on Foreigners was adopted with Organic Law 4/2000 of 11 January 2000 on the rights and freedoms of foreigners in Spain and their social integration and the previous Organic Law 7/1985 was repealed. Concerning integration, this law established a modification at the conceptual level and introduced the notion of “integration” in its title. Its main contribution in terms of content was the right to education and health care for irregular but relatively stable immigrants in Spain⁸. This change is seen as an essential step towards integrating immigrants regardless of their administrative status. It also provided for an ordinary individual regularisation process and changed the system of sanctions, excluding the expulsion of those who were in an irregular situation in the first place⁹.

Nevertheless, Organic Law 4/2000 was short-lived and was modified by Organic Law 8/2000 at the end of the same year by the new Popular Party government -which voted against its approval-. Although it did not mean the total replacement of Organic Law 4/2000, it meant a relevant modification, denying immigrants the right to non-compulsory education, the right to assembly and demonstration, and the right to association, unionisation and strike substantially harmed their integration.

In 2003, Organic Law 11/2003 of 29 September 2003 on specific measures on citizen security, domestic violence and social integration of foreigners was passed¹⁰. In its general lines, it deals with the integration of immigrants but does not deal with the Law on Foreigners. Even though its explanatory memorandum insists on the objective of favouring integration, this law focused more on toughening immigration control measures than on favouring integration, except for the protection of immigrant women in the case of separation and divorce - this measure has been accompanied by the reform of the Civil Code - and the criminalisation of genital mutilation or ablation.

Two months later, the Law on Foreigners was reformed with Organic Law 14/2003 of 20 November 2003¹¹, without making substantial changes in terms

⁸ Aja, E., “La evolución normativa sobre inmigración”, in Aja, E., Arango, J. (eds.), *Veinte años de inmigración en España. Perspectiva jurídica y sociológica (1985-2005)*, Barcelona, Fundación CIDOB, 2006, pp. 6-31, p.16.

⁹ *Ibid.* p.16.

¹⁰ BOE n°. 234, of 30 September, 2003.

¹¹ BOE n°. 279, of 21 November, 2003.

of integration, but rather, it was mainly restrictive, among others, to improve management by simplifying administrative procedures and the legal regime of the status of foreigners in Spain, as well as determining the types of visa. The reinforcement and improvement of sanctioning means and instruments to combat illegal immigration and human trafficking; the reinforcement of procedures for returning foreigners who enter illegally, and the sanctioning of human trafficking.

B. The reform of the Law of 04/2000 on the rights and freedoms of foreigners in Spain and their social integration since 2009

The fourth modification of the Law on Foreigners was in 2009 with Organic Law 2/2009, of 11 December¹², intending to guarantee immigrants fundamental rights. This amendment was motivated, as stated in its preamble, on the one hand, to incorporate the case law of the Constitutional Court, which considered unconstitutional the requirement of legal residence that the previous law imposed on foreigners for the exercise of the fundamental rights of assembly, association, unionisation and strike. This condition constituted an unjustified restriction and, therefore, contrary to the Constitution since, according to the Constitution, the rights mentioned above apply to all persons simply because they are foreigners. On the other hand, the amendment was made to incorporate nine European directives on immigration¹³ into the

¹² Organic Law 2/2009, of 11 December, reforming Organic Law 4/2000, of January 11, on the rights and freedoms of foreigners in Spain and their social integration. *BOE* no. 299, of 12 December, 2009.

¹³ 1) Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air.

2) Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.

3) Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

4) Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data.

5) Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service

6) Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research.

Spanish legal system and finally to adapt the immigration law to the new migratory reality and its different challenges.

Thus, this new law made a substantial change in terms of immigration in general, but also in terms of immigrant integration to reinforce integration as one of the central axes of immigration policy to achieve a framework of coexistence of identities and cultures.

In this way, for the first time at the legal level, an article on integration is enshrined that guarantees better conditions to ensure the full inclusion of immigrants, advocating it is mainstreaming in all policies aimed at all citizens and carried out by public administrations.

In 2011, Royal Decree-Law 557/2011 was adopted, to approve the Regulation of the Law on Foreigners. Nevertheless, its explanatory statements states that it aims to optimise, among other things, the social integration of immigrants. In practice, however, it did not introduce any significant changes in this regard.

The law underwent a slight but essential modification, specifically in Articles 31 bis and 59 bis, to facilitate the protection of foreign women victims of gender-based violence by providing them with a way to regularise their status if they denounce their aggressor. Indeed, the explanatory memorandum of the law states that “the fact that a foreign woman who is in an irregular situation denounces her aggressor and an administrative procedure is opened that may lead to her expulsion discourages foreign women from reporting”.

The penultimate reform was carried out in October 2021 through Royal Decree 903/2021¹⁴. This modification is mainly focused on the group of unaccompanied foreign minors and *unaccompanied and separated children who*

7) Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

8) Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.

9) Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

¹⁴ BOE n°. 251, of 20 October 2021, Royal Decree 903/2021, of 19 October, which modifies the Regulation of Organic Law 4/2000, on the rights and freedoms of foreigners in Spain and their social integration, after its reform by Organic Law 2/2009, approved by Royal Decree 557/2011, of 20 April.

are child care leavers. On the one hand, its objective is to promote this group's integration to eliminate the obstacles that impede their documentation and to design a residence regime when they reach the age of majority. The non-profit residence regime is eliminated, extending the duration of residence permits. On the other hand, allow unaccompanied minors between 18 and 23 years' old who have been forced into irregularity to have access to a work permit.

Another significant contribution of this amendment is the increase in the validity of residence authorisations for unaccompanied foreign minors and their possible renewals. Thus, the initial authorisation is valid for two years, and the renewal is for three years as long as the migrant remains a minor. If the young person is employed, this shall be considered to calculate the amount of these sufficient financial means.

In the case of foreign minors who reach the age of majority without documentation and undocumented young people in detention, the requirements are now more in line with the actual situation of this group. This prevents them from becoming irregular and generating situations of social exclusion.

In July 2022, Royal Decree 629/2022 of 26 July¹⁵ was approved, bringing essential changes but focusing on the labour field. This is one of the fundamental areas for the integration of migrants.

In this sense, this new amendment was introduced for several reasons and gave rise to various modifications. Among them, the most significant ones will be highlighted.

Firstly, recruitment in origin has been made more flexible. Before this modification, the Catalogue of occupations that were difficult to fill was minimal and did not correspond to the needs of the current labour market.

This meant it was only possible to obtain an initial work permit as an employee if the job was on this limited list. However, the new reform broadens the professions in the Catalogue with biannual updates by geographical area according to the needs of each province or territorial demarcation.

Thus, recruitment in the country of origin will be much more flexible and, most importantly, much more possible and a real option.

Secondly, residence renewals have been increased from 2 to 4 years.

¹⁵ BOE n°. 179, of 27 July 2022, Royal Decree 629/2022, of 26 July, amending the Regulation of Organic Law 4/2000, on the rights and freedoms of foreigners in Spain and their social integration, following its reform by Organic Law 2/2009, approved by Royal Decree 557/2011, of 20 April.

Before the reform, the second renewal of the residence permit was 2 years; however, it is now 4 years. In addition, the requirements for self-employment have been made more flexible. The previous regulations did not facilitate entrepreneurship by foreigners, especially for the first time. In addition to the documentary obstacles, it was considered that the self-employed worker could only be linked to a significant investment, thus avoiding the figure of the individual entrepreneur who is limited to the minimum investment following the characteristics of his or her work project and whose objective is self-employment. At the same time, in renewals, maximum compatibility has been determined between employed and self-employed work to encourage entrepreneurship among migrants while extending its validity to four years.

Thirdly, and as established in the preamble to the Royal Decree, the need for training to make up for the shortcomings currently found in Spanish companies has been highlighted. It is proposed, similar to what Germany calls tolerated stay, that persons in Spain in an irregular situation and fulfilling a practical training commitment can obtain a residence permit. This will have a twofold effect: on the one hand, it will be possible to obtain personnel with the necessary training to fill the jobs offered by companies; on the other hand, people working in a precarious or directly irregular manner will be able to obtain personnel with the necessary training be incorporated into the labour market.

Fourthly, one of the essential changes concerns the situation of students. The new modification allows students to work for themselves or others at the same time as their studies in any profession without needing to complete any formalities. This is a demand from both students and universities and serves the internationalisation of universities. In addition, the requirement of 3 years to change the student card for a work permit has been eliminated.

Undoubtedly, these changes favour the integration of migrants, mainly since the modifications are applied in the labour market, which is one of the main areas for integration. However, in our opinion, this modification demonstrates Spain's view of migrants, which considers them as an asset only to work and contribute to the country's economy. It continues to be far from considering citizens with full rights who need substantial changes in public policies to guarantee their full integration into society.

C. The European spirit of integration inspired the modification in 2009 of the Law of 04/2000

It is worth mentioning that the last amendment of law 02/2009 concerning integration was motivated by the European spirit of integrating immigrants from third countries. Although not expressly stated, it is inspired by the eleven European Common Basic Principles (CBPs) adopted by the Council and the representatives of the governments of the Member States in 2004.

The CBPs are an essential guide designed to assist countries in formulating on their integration policies by providing non-binding and straightforward guidelines¹⁶ for successful integration based primarily on the principle of bi-directionality and reciprocal engagement between Member State nationals and immigrants who must respect the fundamental values of the EU. The CBPs also considered critical elements of the integration process; employment, education, access to public and private institutions, goods and services on equal terms with nationals, non-discrimination, intercultural dialogue, the practice of different cultures and religions and participation in the democratic process.

It should be recalled that it was not until 1999 that integration was articulated by the idea of the temporariness of migration¹⁷. The Tampere European Council included integration as one of the pillars of the Common Immigration and Asylum Policy. That was the summit intended to give the “starting pistol” for elaborating the standard immigration policy¹⁸. However, integration remained absent from the Common Immigration and Asylum Policy, and there were only a few general references to it. Until the CBPs were established in 2004. These Principles are not legally binding but codify the European discourse on integration¹⁹, which was belatedly introduced into European policies.

It should be noted that integration is a competence of the Member States:

¹⁶ ILLAMOLA DAUSÀ, M., “Los Principios Básicos Comunes como marco de la política de integración de inmigrantes de la Unión Europea y su incorporación en la política española de inmigración”, *Revista de Derecho Comunitario Europeo*, N° 38, 2011, pp. 155-182, p.167.

¹⁷ GARCÍA JUAN, L., “Medidas y condiciones de integración de inmigrantes: una propuesta europea difícil de articular en España”, *Migraciones*, N° 38, 2015, pp. 87-110, p.88.

¹⁸ PAJARES ALONSO, M., “Inmigración y políticas públicas...”, *op. cit.*, p.131.

¹⁹ LÓPEZ PICH, P. “La política de integración de la Unión Europea”, *Migraciones*, N° 22, 2007, pp. 221-256, p.225.

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States”. (79.4 TFEU).

Thus, Member States are competent to set legal standards on integration based on the CBPs, but some choose them à la carte and focus mainly on the fourth CBP based on “a basic knowledge of the language, history and institutions of the host society”. Public integration policies established by countries such as Germany, Austria, Belgium, Denmark, France and the Netherlands require immigrants to take language assessment tests and a certain level of knowledge of the culture and history of the nation on a compulsory basis²⁰. These integration models move away from the spirit of the CBPs and their objectives by considering integration as a two-way, dynamic process of mutual adjustment. This means that integration is not only the responsibility of the immigrant - who must assimilate - but is a shared responsibility between all parties, immigrants, natives and institutions.

It is worth noting that when drafting the CBPs, Spain was the only state to propose an additional amendment, intending to include in the text the preservation of the languages and cultures of origin of immigrants, thus recognising their cultural identity and reinforcing their sense of belonging to ordinary society²¹. However, Spain’s proposal was rejected. The result of the exclusion of this idea, according to LÓPEZ, was the drafting of a set of:

The first of these principles does not quite live up to the definition of integration as a bi-directional process. Alternatively, at any rate, it is two-way process in which one side has a much longer way to go than the other²².

Moreover, in contrast to the spirit of the EU’s CBPs, Spain seeks to favour the integration of immigrants regardless of their administrative status. The 2009 reform law makes no distinction between regular and irregular migrants and even urges municipalities to register migrants who have a habitual residence

²⁰ ZEBDA, S., “Las medidas de integración de los inmigrantes no comunitarios en la UE y su aplicación en España: ¿una realidad o un mito?”, in Del Álamo Gómez, N., Picado Valverde, E.M. (Dir.), *Políticas públicas en defensa de la inclusión, la diversidad y el género III. Migraciones y Derechos Humanos*, Universidad de Salamanca, Salamanca, 2021, pp.501-510, p.505.

²¹ LÓPEZ PICH, P., “La política de integración...”, *op. cit.*, p 245.

²² *Ibid*, p. 246.

in Spain regardless of whether they have a residence permit.

After this summary presentation of the CBPs, we stress that Organic Law 2/2009 reforming Organic Law 4/2000 is inspired by these EU Principles and is based on two-way process of mutual accommodation²³ of all immigrants and residents of European countries (CBP 1). This is reflected in the preamble (III) of Organic Law 2/2009 reforming Organic Law 4/2000, which insists on the need to favour the full integration of immigrants and to guarantee coexistence and social cohesion between immigrants and the native population.

Similarly, Article 2.2 is inspired by more than one EU CBP and is worded as follows:

Public administrations shall incorporate the objective of integration between immigrants and the receiving society, transversally into all public policies and services, promoting the economic, social, cultural and political participation of immigrants, under the terms set out in the Constitution, in the Statutes of Autonomy and other laws, under conditions of equal treatment.

They shall seek through training actions knowledge of and respect for the constitutional and statutory values of Spain, the values of the European Union, human rights, public freedoms, democracy, tolerance and equality between women and men. Also, they shall develop specific measures to encourage incorporation into the education system, guaranteeing in all cases schooling at compulsory age, learning all the official languages, and access to employment as essential factors for integration”.

In particular, this article is inspired by various CBPs. Firstly, CBP 2 states that integration implies respect for the fundamental values of the EU. Secondly, CBP 3 considers employment a fundamental part of the integration process. Thirdly, CBP 4 insists on the need for basic language skills. Fourthly, BCP 5 underlines that efforts in education are essential. Fifthly, CBP 10 states that policies and measures to mainstream integration into all relevant policy competences and levels of Government and public services should be duly taken into account in elaborating and implementing public measures.

2. Areas of competence in the management of integration policies

The competence of integration in Spain is one of the most debated

²³ CBP 1 Communication from the Commission to the Council, the European Parliament, the European Economic and Social committee and the Committee of the Regions - A Common Agenda for Integration - Framework for the Integration of Third-Country Nationals in the European Union, COM (2005) 389 final.

issues regarding the effectiveness of the social inclusion of immigrants. The distribution of competences on immigration and integration is decentralised with a lack of in-depth dialogue and cooperation between state and regional public administrations²⁴.

The Government assumes exclusive legal-administrative competence over matters related to immigration conferred by the Spanish Constitution (in the future SC), such as nationality, immigration, emigration, foreigners and the right to asylum (art.149.1.2 SC), as well as over some social issues such as labour market regulation and family reunification²⁵. Nevertheless, the reality is more complex and nuanced than the concise and forceful declaration in Article 149.1.2 of the SC of the State's exclusive competence over immigration²⁶.

It is, therefore, a provision that assigns all matters relating to immigration and foreigners to the State in bloc. Without this, at the time the Constitution was approved, giving rise to any discussion or controversy, as Spain, in 1978, was far from being a destination country for immigration²⁷.

It should be stressed that none of the Statutes of Autonomy prior to the current reform process included competences in this area, or, in other words, that they opt for a strict and exclusive interpretation of the exclusive nature of the state competences of 149.1.2²⁸.

The development of autonomy statutes in which the Autonomous Communities have assumed competences in social matters has led to questioning the applicability of Article 149.1.2 of the Spanish Constitution as the sole provision defining competence in this area. Now, it is considered

²⁴ ZEBDA, S., "Réflexions sur les politiques d'intégration des immigrés dans l'UE et en Espagne", in Del Valle Gálvez, A., (Dir.), *Inmigración y derechos humanos en las fronteras exteriores del sur de Europa*. Dykinson, Madrid, 2021, pp. 239-248, p. 244.

²⁵ GODENAU, D., RINKEN, S., DE LIZARRONDO ARTOLA, A.M., MORENO MÁRQUEZ, G., *La integración de los inmigrantes en España: una propuesta de medición a escala regional*, Ministerio de Empleo y Seguridad Social, Madrid, 2014, p.35.

²⁶ GARCÍA MURCIA, J., CASTRO ARGÜELLES, M.A., "La distribución de competencias en materia de inmigración". *Temas Laborales*, Nº 100, 2009, pp. 227-263, p. 235.

²⁷ MARZAL YETANO, E., "Crisis y competencia por la competencia: el ejemplo de la inmigración", *Revista de Derecho Político*, Nº98, 2017, pp. 121-158, p. 126.

²⁸ SANTOLAYA MACHETTI, P., "Extranjería y nuevos Estatutos de Autonomía", *Revista d'Estudis Autonòmics i Federals*, Nº. 4. 2007, pp. 159-181, p. 170.

more as a starting point in the configuration of the competence framework²⁹.

This somewhat belies the qualification of “exclusivity” formally applied to the competence mentioned above of the State³⁰. Therefore, the Autonomous Communities has been assuming competences in immigration matters as a cross-cutting competence in addition to the competences they already had in social policies such as education, health, housing, labour inspection, social services, or protection of minors. The Autonomous Communities has assumed this immigration competence outside the exclusive competence reserved by art. 149.1.2 in favour of the central State, in reality transferring to the Statutes of Autonomy what the Autonomous Communities were already carrying out in practice³¹.

In the latest reforms of the Statutes of Autonomy, several autonomous communities have established exclusive competence over the economic, social and cultural integration of immigrants, albeit in a differentiated manner from one community to another. They have been assuming functions on the social integration of immigrants based on their own competences such as social assistance (Art. 148.1.20 SC), healthcare (Article 148.1.20 of the Spanish Constitution), enforcement of labour laws (Article 149.1.7 of the Spanish Constitution), the establishment and administration of the Social Security system (Article 149.1.17 of the Spanish Constitution), the development and administration of the right to education (Article 149.1.30 of the Spanish Constitution), etc.

The evolution of immigration, along with the evolution of the competences of the Autonomous Communities regarding integration, complicates the distribution of responsibilities. That required the Constitutional Court to delimit competences between the State and the devolved regions in matters of immigration, as in Judgement 31/2010 of 28 June 2010, which recognised that competence over matters related to the objective of social integration of immigration is complex, as it is shared between those entities which, under different competences, have a bearing on the same matter. On the one

²⁹ MARZAL YETANO, E., “Crisis y competencia por la competencia...”, *op. cit.*, p. 127.

³⁰ GARCÍA MURCIA, J., CASTRO ARGÜELLES, M.A., “La distribución de competencias...”, *op. cit.*, p. 236.

³¹ VIDAL FUEYO, C., “Las leyes autonómicas en materia de inmigración: algunas reflexiones respecto de su necesidad y contenido”, in Matia Portilla, F.J., (ed.). *Nuevos retos para la integración social de los inmigrantes*, Valencia, Tirant lo Blanch, 2014, pp. 25-55, p. 29.

hand, the State would initially be empowered by the generic title of 149.1.2 SC on immigration, which is also responsible for legislation based on other sectoral competences of 149.1 in social matters, such as education or health. Moreover, the Autonomous Communities, on the other hand, to whom, due to the connection between integration and the sectoral competences they have assumed, the legislative development and execution of these bases correspond, or who even have complete competence over a specific social policy also attributed as their own (as may, for example, occur in matters of housing or social assistance and services)³².

This complexity is further reinforced by transferring several integration-related competences from the Autonomous Communities to the municipalities. The implementation of integration policies by the municipalities is positive, because these are aware of the immigrant needs and the difference in migratory characteristics from one municipality to another. On the other hand, however, the participation of local administrations in public integration policies is necessary, as they are the competent authorities in this area and are almost forgotten when drawing up integration plans and models³³.

It should be noted that the General State Administration and the Autonomous Communities participate in the Sectoral Conference on Immigration (SCI) to strengthen intergovernmental cooperation in all areas of immigration, including integration. The SCI, created under art. 5 of Law 30/1992 of 26 November 1992 on the Legal Regime of Public Administrations and Common Administrative Procedure, has as its primary purpose, according to its Internal Regulations of 2008, to achieve maximum coherence in the application of public policies exercised by the Central State and the Autonomous Communities, by exchanging points of view and jointly examining the problems that may arise and the actions planned to tackle and resolve them, and to establish the bases and criteria on which a global policy on the social and labour integration of migrants should be based.

According to Article 3.4 of the SCI's Rules of Procedure, local authorities can participate with a voice but no vote, which means that the competent bodies in the integration field can only participate as observers without the

³² MARZAL YETANO, E., "Crisis y competencia por la competencia...", *op. cit.*, p.131.

³³ VANSTEENBERGHE WAETERSCHOOT, G. P., "Coexistencia de tres modelos de integración en España". *BARATARLA. Revista Castellano-Manchega de Ciencias Sociales*, Nº 13, 2012, pp. 225-237, p.232.

power to make decisions. Furthermore, this Conference has been criticised for its inefficient organisation and lack of meetings³⁴. Article 8 of the SCI Regulation establishes the periodicity as two meetings per year. The first one was held in 2008; since then only 8 meetings have been held, two in 2009, and from 2010 to 2015, just one meeting per year, except in 2013 when none was held. The last one held to date was in 2018.

This complex and unclear distribution of integration competences at state, autonomous community and local levels has generated a disconnection that makes it challenging to have a unified integration model. The Spanish model is defined as intercultural, but it lacks adequate competences to order and impose a model on the Autonomous Communities, the latter pull their own cultural and social model³⁵. The multicultural model has prevailed in several Autonomous Communities. Creating ghettos according to the origin of immigrants and around their most frequent creeds. Far from thus moving from interculturality, which refers to the interrelation between cultures and the search for a stable coexistence based on equality, non-discrimination and respect³⁶.

3. Non-regulatory initiatives for integration

Spain has undertaken many non-regulatory initiatives to promote the integration of immigrants, some of which are highlighted below.

First, in 1994 the Plan for the Social Integration of Immigrants was approved. Although it focused mainly on control aspects³⁷, it sought to address immigration for the first time in Spain with a comprehensive approach³⁸ and contributed to creating the Permanent Immigration Observatory and the Forum for the Social Integration of Immigrants. It takes EU guidelines as a

³⁴ ZUPPIROLI, J., *Informe de revisión sobre los mecanismos de seguimiento existentes para la integración de migrantes en España*, ACCEM, 2014.

³⁵ VANSTEENBERGHE WAETERSCHOOT, G., “Coexistencia de tres modelos...*op.cit*, p.232.

³⁶ GODENAU, D., RINKEN, S., DE LIZARRONDO ARTOLA, A., MORENO MÁRQUEZ, G., *La integración de...op.cit*, p.22.

³⁷ CORRAL, A., PRIETO-ANDRES, A., SIERRA HUEDO, M., ROMERO, C., ULDEMOLINS, E. *La integración de los inmigrantes en Europa y en España: modelos e indicadores para las políticas públicas*, Funcas, 2019, p. 64.

³⁸ CIEDES FOUNDATION. *Cuaderno nº 12 del II Plan Estratégico de Málaga. La integración de los inmigrantes a través de la formación y el empleo en Málaga*, 2011, p.75.

reference, intending to guarantee the exercise of rights and duties and access to services without unjustified discrimination, promoting coexistence based on democratic values and tolerant attitudes, guaranteeing immigrants a legal and socially stable situation, combating barriers to integration, fighting against the exploitation of foreign workers and raising awareness of racism and xenophobia³⁹.

Secondly, we highlight the Global Programme for the Regulation and Coordination of Foreigners and Immigration in Spain for 2001-2004 to improve the area of foreigners and immigration. It includes one of the four primary lines of intervention, the integration of foreign residents who actively contribute to the country's growth and their families. However, this programme was heavily criticised for its unidirectional character related to the assimilation of the immigrant (who should be the one to make an effort to integrate)⁴⁰, for the lack of budget and concrete measures to promote integration, which indicates that it was not a practical plan for integration⁴¹.

Thirdly, the Strategic Plans for Citizenship and Integration (SPCI) was approved for 2007-2010. The I SPCI made explicit for the first time a policy framework for the integration of and with immigrants⁴². After considerable gestation since 2004, its drafting involved the participation of associations, trade unions, employers, local, regional and national administrations and various experts in the field of migration⁴³. The I SPCI is based on three principles: equality, citizenship and interculturality. Among its premises are two-way process and mutual adaptation, established by the European CBPs.

Its objective was to build a comprehensive and shared framework to serve as a reference for public policies⁴⁴ in twelve areas of intervention (reception,

³⁹ GARRIDO RODRÍGUEZ, P., *Inmigración y diversidad cultural en España: un análisis histórico desde la perspectiva de los Derechos Humanos*, Universidad de Salamanca, 2012.

⁴⁰ BONINO COVAS, C., ARAGÓN MEDINA, J., ROCHA SÁNCHEZ, F., *Los planes de las Comunidades Autónomas para la integración social de las personas inmigrantes*. Confederación Sindical de Comisiones Obreras, Madrid, 2004, p.15.

⁴¹ PAJARES ALONSO, M., "Inmigración y políticas públicas" ...*op,cit*, p.139.

⁴² CACHÓN RODRÍGUEZ, L., *La «España inmigrante»: marco discriminatorio, mercado de trabajo y políticas de integración*. Ediciones, Anthropos, Barcelona, 2009, p.42.

⁴³ *Ibid*, p.43.

⁴⁴ GARRIDO RODRÍGUEZ, P., *Inmigración y diversidad cultural en España: un análisis histórico desde la perspectiva de los Derechos Humanos*. Universidad de Salamanca, Salamanca, 2012.

education, employment, housing, social services, health, children and youth, equal treatment, women, participation, awareness-raising and co-development).

This initiative sought to articulate a model that would bring together autonomous intervention so that the state would be involved in integration policies. At the same time, it established a political framework formulated by the government that involved society as a whole in managing the two-way integration process⁴⁵.

On the one hand, a lack of agility in responding to changes during the implementation phase. Mainly due to the effects of the economic crisis on activity and employment were detected. On the other hand, limitations and weaknesses were detected in the coordination and exchange of monitoring information that was defined in a standard, homogeneous and comparable way between the different levels of the administration and sometimes between administrations and social entities.

The II SPCI for 2011-2014 was a continuation and improvement of the previous Plan. It was approved under the following six premises: - the conception of integration as a two-way process of mutual adaptation in accordance with the spirit of the EU's CBPs; - the conviction that the responsibility for the integration process and its management must be shared by the different administrations, organised civil society, including immigrant organisations and the citizenry as a whole; - the conception of the Plan as a framework for collaboration capable of dynamizing policies, bringing together initiatives and providing coherence to the actions of both the public sector and civil society; -the need to adopt an integral or global approach, both in immigration policies and in integration and diversity management policies; -the idea that integration and diversity management policies are aimed at the immigrant and Spanish citizenry as a whole, and that public actions should be geared towards promoting and guaranteeing normalised access for the immigrant population to public and private services of a general nature; -the transversal incorporation of issues relating to the integration of the immigrant population into all relevant public policies.

The II SPCI was articulated through four principles: equality and non-discrimination, citizenship, inclusion and interculturality.

Its areas of intervention are based, on the one hand, on specific issues

⁴⁵ CACHÓN RODRÍGUEZ, L., *La «España inmigrante» ...op, cit, p.57.*

such as reception; employment and economic promotion; education; health; social services and inclusion; and mobility and development and, on the other hand, on cross-cutting areas such as coexistence; equal treatment and anti-discrimination; children, youth and families; gender; and participation and civic education.

However, following the suspension of the State Fund for the Integration of Immigrants, established by Article 2.4 of Law 02/2009 of the 2012 State Budget, the II SPCI remained incomplete.

The II SPCI expired in 2014; since then, there has been no renewal or alternative initiative. Moreover, there was no evaluation or monitoring as stated in the Plan. Following one of the CBPs states that “it is necessary to establish clear objectives, indicators and evaluation mechanisms to adjust policies, assess progress in integration and make the exchange of information more effective”. This lack of renewal demonstrates public and political disinterest in integrating immigrants. The immigration-related debate was focused between 2015 and 2019 on asylum and the situation of refugees⁴⁶, leaving aside the issue of integration.

One positive aspect of the SPCI is that they focus on immigrants’ integration without considering their administrative status, similar to the 2009 Law that amended Organic Law 4/2000. Therefore, Spain is committed to integrating all immigrants regardless of whether they are regular or irregular. Likewise, all immigrants in Spain can benefit from programmes financed by European funds. This is a clear departure from the European postulates that refer exclusively to third-country nationals legally resident in one of the Member States⁴⁷.

At the regional level, within the Operational Plan 2021, the Andalusian Strategy for Immigration (2021-2025) Inclusion and coexistence⁴⁸ was approved. This Strategy aims to facilitate and contribute to the integration and inclusion of migrants in Andalusia by establishing public policies that guarantee equal rights and opportunities. People’s diversity and cultural respect promote coexistence in collaboration with other public administrations and

⁴⁶ PASETTI, F., CUMELLA DE MONSERRAT, C., “Las políticas de integración en España según el índice MIPEX”, *CIDOB*. N° 238, Diciembre 2020, pp.1-7, p.1

⁴⁷ GARCÍA JUAN, L., “Medidas y condiciones de integración de...”, *op.cit.* p.103-104.

⁴⁸ Andalusian Regional Government “The Andalusian Strategy for Immigration (2021-2025) Inclusion and coexistence”, 2021.

NGOs. The migratory phenomenon is positively valued to achieve a plural and cohesive Andalusian society, and coexistence based on egalitarian relations and mutual respect for values and ways of life is favoured.

The Strategy presents very relevant data on the situation of immigrants in Andalusia, serving as a guide to promoting integration. It establishes four strategic axes: reception policies, inclusion and integration, management of diversity and coexistence, and coordination, knowledge and institutional strengthening. Each axis sets out a series of objectives and actions. However, from our point of view, this Strategy has many pitfalls that must be considered.

The Strategy emphasizes only four main areas: employment, education, social inclusion, and active social participation. However, it does not reference other necessary areas for integration, such as health and housing.

Even though the Strategy understands integration as a two-way process in which both immigrants and the host society must make an effort to get closer and live together, the actions established only focus on the efforts of the immigrant, with very little involvement of the host society.

III. THE MEASUREMENT OF PUBLIC INTEGRATION POLICIES IN SOME AREAS OF INTERVENTION

1. The importance of indicators for the EU on integration

Integration is a multidimensional and cross-cutting process that manifests in various areas of social life, such as employment, education, access to benefits, goods and essential services, intercultural coexistence, equal treatment and the fight against discrimination, political participation and education. Promoting these cross-cutting areas guarantees a successful integration process, considering that integration is only possible based on equal freedoms and duties since there can be no integration without rights, and not vice versa⁴⁹.

As we have mentioned throughout this paper, both the 2009 Law reforming Organic Law 4/2000 and the two SPCI are based on the theory of bi-directionality and mutual adaptation between the immigrant population and the native population and are thus inspired by European prisms. However, when we approach the areas of intervention and actions in practice, we realise

⁴⁹ SOLANES CORELLA, A., “Integración sin derechos: de la irregularidad a la participación”. *Cuadernos electrónicos de filosofía del derecho*, N° 14, 2006, pp.1-4, p.2.

that the integration process is unidirectional and the responsibility for social integration falls on the immigrant. At the same time, the host society is a facilitator of this process and not a co-protagonist⁵⁰. This is reflected in the Integration Plans, where the indigenous population only plays a leading role in two areas of intervention, one in each Plan. The first, the SPCI 2007-2010, has the area of awareness-raising, and the SPCI 2011-2014 has the area of coexistence⁵¹.

In recent years, Spain has put forward a series of policies to address this reality to reinforce two-way process and mutual adaptation and promote integration. In order to know the effectiveness of the initiatives undertaken and the integration policies implemented, and whether the efforts made in integration policy are practical and allow progress to be made, it is necessary and crucial to measure the indicators.

Indicators refer to a limited number of simple quantitative elements that indicate significant trends in crucial areas of integration policy. The function of the indicator is to provide an overview of the situation and the possibility of analysing it and to show whether something fundamental is happening, bearing in mind that integration is a continuous process, irrespective of the various interventions⁵².

The EU identifies the development of measurement of indicators as a tool that is necessary to understand the effectiveness of inclusion policies and advocates standard measurement among the Member States. The first reference to the standard measurement of indicators can be found in the Hague Programme, where the importance of evaluating integration policies for third-country nationals was emphasised as a result of the Council Conclusions adopted after the Potsdam Ministerial Conference in May 2007⁵³. Member States were thus invited to encourage the development of common indicators

⁵⁰ GONZÁLEZ-RÁBAGO, Y., “Los procesos de integración de personas inmigrantes: límites y nuevas aportaciones para un estudio más integral”, *Athenea Digital*, N° 14, 2014, pp. 195-220, p.201.

⁵¹ *Ibid*, p.201.

⁵² Spanish Presidency of the EU. European Ministerial Conference on Integration (Zaragoza, April 15 and 16, 2010) “Zaragoza Declaration”.

⁵³ GARCIA JUAN, L., “Las medidas de integración de inmigrantes en el MIPEX ¿supone España un obstáculo en el avance hacia un sistema común de indicadores?”, *Revista Internacional de Doctrina y Jurisprudencia*, N°4, 2013, pp. 1-30, p. 7.

that they could use to assess the results of their integration policies⁵⁴.

Common Basic Principle on Integration number eleven states that it is “necessary to establish clear objectives, indicators and evaluation mechanisms to adjust policies, assess progress in integration and make the exchange of information more effective”.

On this basis, the Council Conclusions drawn up at the Vichy Ministerial Conference in November 2008 stated that the evaluation of integration policies was considered a priority at the European level and should be the subject of regular dialogue, both in terms of methods and results, which could take the form of the identification of indicators⁵⁵.

The Zaragoza Declaration, following the European Ministerial Conference on Integration in April 2010, paid particular attention to the evaluation of integration policies and developed a guide for the development of indicators.

2. Measuring indicators in the Action Plan on Integration and Inclusion for 2021-2027

The European Commission adopted the Action Plan on Integration and Inclusion in November 2020 as a basis and follow-up to the 2016 Action Plan. It is also part of the comprehensive response to address the new Deal on Migration and Asylum challenges and promote effective integration policies.

This recent Plan is framed within the EU’s approaches to integration. It sets out several actions planned for the implementation period, such as inclusive education and training, improving employment opportunities, promoting access to health services and access to adequate and affordable housing. It also recognises the difficulties faced by migrants in these areas.

Compared to the previous one in 2016. It is a new one that covers both migrants and EU citizens of migrant origin, including not only nationals of an EU Member State who had the nationality of a third state and became EU citizens by naturalising in one of its Member States, but also EU citizens who are of migrant origin because their parents were born in a non-EU third country⁵⁶. This new approach responds to the complexity and heterogeneity

⁵⁴ *Ibid*, pp. 7-8.

⁵⁵ Spanish Presidency of the EU. European Ministerial Conference on Integration (Zaragoza, 15 and 16, April, 2010) “Zaragoza Declaration”.

⁵⁶ CEPILLO GALVÍN, M.A., “Notas sobre el plan de acción de la unión europea en materia de integración e inclusión para 2021-2027”, in Del Valle Gálvez, A., (Dir.). *Inmigración y derechos humanos*

of migration and integration. According to this Plan, currently (2020), around 34 million EU inhabitants were born outside the EU (around 8% of the EU population) 4 out of 10 of young people (aged 15-34) born in the EU have at least one parent of foreign origin⁵⁷.

This Action Plan, presented as a declaration of intentions, could, in principle, be described as a correct step toward overcoming difficulties in integrating people of migrant origin into the EU. However, this declaration of intent goes against the consolidation of a narrative based on the European way of life as a set of values with little capacity to evolve to generate a new generation of migrants.

Capacity to evolve in terms of generating new dynamics for meeting, interacting and welcoming neighbours of migrant origin. The European Commission's strategy does not focus exclusively on the analysis of inequalities based on national origin, but explicitly advocates an intersectional approach to personal characteristics such as gender, race, sexual orientation or disability, recommending that these be taken into account when legislating, implementing and evaluating the impact of cross-cutting measures.

The Plan of Action recognises that, for integration policies to be effective, they *should be built upon reliable evidence about both integration outcomes and the impact of integration policies... To monitor the effectiveness of policies in the long-term, accurate and comparable data on the scale and nature of discrimination suffered by migrants is important.*

Accurate and comparable data on the extent and nature of discrimination faced by migrants is essential for monitoring the effectiveness of policies in the long term.

The Plan also recognises the long road ahead, identifying relevant gaps between the native and foreign populations following the analysis of critical data on inclusion indicators and focusing on strengthening effective and participatory tools for measuring the implemented measures' impact.

On the other hand, the European Commission is aware that despite "major efforts, there are still several knowledge gaps that prevent the development of effective and evidence-based integration policies. Although most Member

en las fronteras exteriores del sur de Europa. Dykinson, Madrid, 2021, pp. 137-146, p. 143.

⁵⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: action plan on integration and inclusion 2021-2027. SWD(2020) 290 final.

States regularly monitor integration, they rarely use the indicators agreed at EU level” and mainly the indicators of the Zaragoza Declaration. In this regard, according to the Report “Together in the EU - Promoting the participation of migrants and their descendants by the European Union Agency for Fundamental Rights, of the 19 EU Member States with an active national integration strategy or plan, 15 carried out some form of regular assessment or review by 2015 (Austria, Bulgaria, Croatia, Czech Republic, Estonia, Finland, Germany, Latvia, Lithuania, Luxembourg, the Netherlands, Portugal, Romania, Slovakia and Slovenia). Moreover, eleven Member States (Austria, Belgium: Flanders, Denmark, Estonia, Finland, Germany, Italy, Latvia, the Netherlands, Portugal and Sweden) monitored progress on immigrant integration outcomes regularly through official integration indicators, most of them recently adopted and addressing all or most of the indicators of the Zaragoza Declaration. At the same time, four countries (Bulgaria, Czech Republic, Slovakia and Spain) have developed the Zaragoza Declaration indicators but have not yet implemented them⁵⁸.

Therefore, despite the relevance of the indicators established by the Zaragoza Declaration to assess integration policies and reaffirmed in the Action Plan on Integration and Inclusion 2021-2027, several countries still do not give them the importance they deserve.

3. The result of the measurement of the indicators of some areas of intervention in Spain according to the MIPEX

The first reference to the measurement of indicators in Spain on integration is established in the first SPCI: “the evaluation of public policies should be part of any good governance as it is a tool for seeking continuous improvements in the quality of services provided to citizens, whether Spanish or immigrants”.

Conclusions and recommendations for monitoring and evaluating the PEI were drawn up, which served to highlight the achievements of the Plan and put forward proposals for areas that could be improved or were deficient. This formed the basis for the development of the II PEI for 2010-2014, which also emphasized the importance of measuring indicators. Nevertheless, this task was not completed as the PEI has not been renewed up to the present. In reality, there has been no reference to the EU indicators established

⁵⁸ European Union Agency Of Fundamental Rights, *Together in the EU - Promoting the participation of migrants and their descendants*, Publications Office of the European Union, 2017.

in the Zaragoza Declaration.

However, several indicators support a relatively satisfactory level of social integration in Spain⁵⁹. This has placed it above the average for both the EU and the OECD countries as a whole⁶⁰. One of these indicators is the MIPEX (Migration Integration Policy Index). It is a unique and valuable tool for assessing and comparing what governments are doing to promote the integration of migrants⁶¹ in all the countries analysed⁶². In the fifth edition (MIPEX 2020), a core set of indicators has been created for 2014-2019 that looks at 8 areas; access to nationality, anti-discrimination, education, family reunification, health, labour market, permanent residence and political participation.

It is considered the most comprehensive and reliable tool with integration indicators, and its practical use is the most widely used and valued across the European Union⁶³. The European Commission concluded that MIPEX offers the best tool for assessing integration policy indicators and that no other index offers the same coverage⁶⁴.

The barometer establishes 10 rankings; in the first category, we find 5 countries (two of them are from the EU); Switzerland has obtained the highest score; 86 out of 100, second by Finland (85), Portugal (81), Canada (80), and New Zealand (77). The worst score was Saudi Arabia, with 10 points out of 100.

⁵⁹ ECONOMIC AND SOCIAL COUNCIL OF SPAIN, *La inmigración en España: efectos y oportunidades*, Madrid, 02/ 2019.

⁶⁰ PASETTI, F., CUMELLA DE MONSERRAT, C., “Las políticas de integración...”, *op. cit.*, p.5.

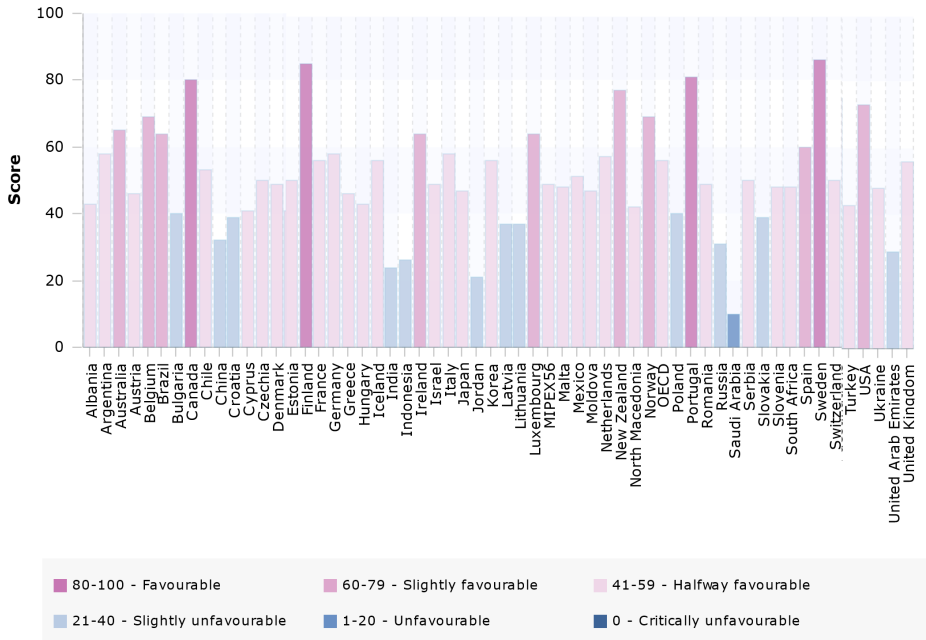
⁶¹ CEPILLO GALVÍN, M.A, ZEBDA, S., “El plan de acción de integración e inclusión de la UE (2021-2027) y su aplicación en España” En Yurrebaso, A., (Dir) *Políticas públicas en defensa de la inclusión, la diversidad y el género IV interculturalidad y Derechos Humanos*, Universidad de Salamanca, Salamanca, 2021, pp. 25-36, p.31.

⁶² All EU Member States, other European countries (Albania, Iceland, North Macedonia, Moldova, Norway, United Kingdom, Serbia, Switzerland, Russia, Turkey and Ukraine), Asian countries (China, India, Indonesia, Israel, Japan , Jordan, Saudi Arabia, South Korea, United Arab Emirates), North American countries (Canada, Mexico, and the US), South American countries (Argentina, Brazil, Chile), South Africa, and Australia and New Zealand in Oceania.

⁶³ GARCIA JUAN, L., “Las medidas de integración de inmigrantes en el MIPEX...”, *op. cit.*, p. 13.

⁶⁴ https://ec.europa.eu/jrc/sites/default/files/migration_policy_indexes_04.04.2018.pdf.

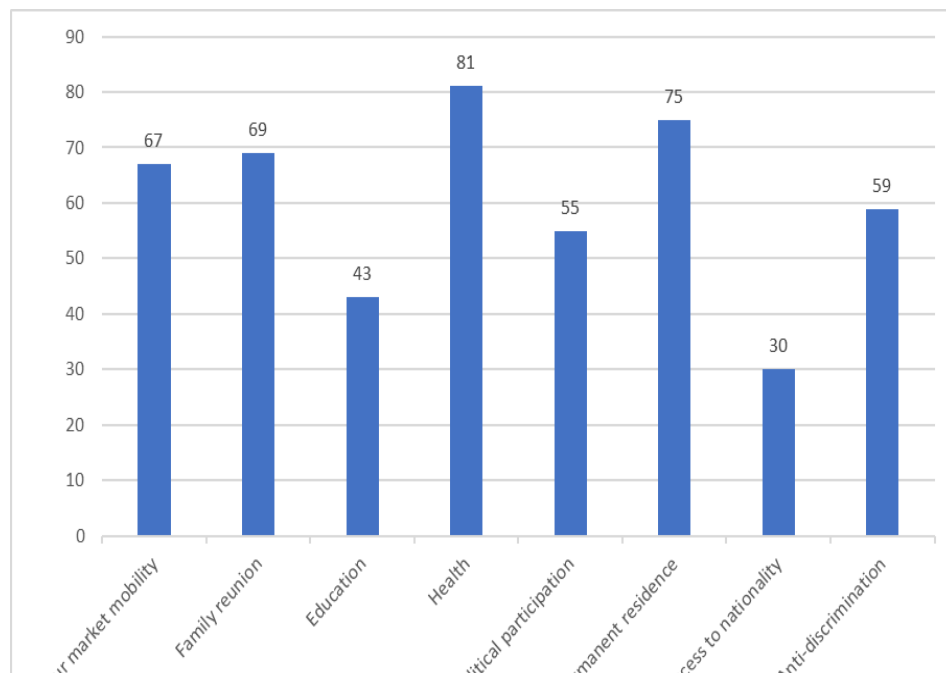
FIGURE 1. The Score of the Public Policies of the OECD Countries According to MIPEX



Source: <https://www.mipex.eu/>

According to this index, Spain has improved its integration policies over the last five years. And has advanced 3 points from 2014 to 2019 with a score of 60. Spain is in the second group of countries, “Global Integration - Slightly Favourable” This group, according to MIPEX, adopts a comprehensive approach to integration. However, policies are less comprehensive and less advanced. In addition, policies do not always encourage the population to consider immigrants as equals, neighbours and potential citizens.

FIGURE 2. The Key Areas of Integration Policies in Spain According to MIPEX



Source: Own elaboration from the data provided by MIPEX

Some areas are very positively evaluated, and Spain has taken significant steps toward the effective integration of immigrants, but in other areas, it is still far from reaching the minimum levels of integration.

In this respect, Spain comes close to European and international standards in two areas: health and family reunification. In healthcare, with 81 out of 100, Spain ranks fourth in this area⁶⁵. Since 2018, universal healthcare has been reintroduced for everyone regardless of their administrative situation with Royal Decree-Law 7/2018 of 27 July 2018⁶⁶.

Regarding family reunification, with a 69 out of 100, Spain is 19 points above the EU average. The access to family reunification conditions is more flexible in Spain than in the average EU countries. Its granting is not conditioned

⁶⁵ PASETTI, F., CUMELLA DE MONSERRAT, C., “Las políticas de integración...”, *op. cit.*, p.2.

⁶⁶ BOE n°. 183, of 30 July, 2018, Royal Decree-Law 7/2018, of 27 July, on Universal Access to the National Health System.

by language level or integration tests. Spain provides for the possibility of granting family reunification after one year of residence to the partner, parents, dependent minor and adult children, and other family members in a similar situation to the family member applying for reunification⁶⁷. One of the fundamental problems of family reunification that lowered Spain's score in this area is the three-year family relationship required of the reunified person to obtain a permit independent of the applicant.

While Spain has excelled in health and family reunification, in other areas, it is below the average of European and international standards and scored very poorly, such as in racial, ethnic or religious anti-discrimination. The lack of legislative action places Spain below the EU average (78) with 59 points. The anti-discrimination legal framework is very general⁶⁸ and lacks concreteness and effectiveness.

Nationality is another area in which Spain has received the lowest score: 30. The Law 51/1982, dated July 13, which modified Articles 17 to 26 of the Civil Code, has remained unchanged since 1982. This law establishes the principle of *jus sanguinis* as the primary method to acquire Spanish nationality and requires ten years of residency for naturalization. However, this law includes exceptional cases that allow for shorter periods – a two-year residency requirement for nationals originating from Ibero-American countries, Andorra, the Philippines, Equatorial Guinea, or Portugal, as well as for Sephardic Jews and a five-year for refugees⁶⁹ – and simplified procedures for naturalization under specific circumstances⁷⁰.

Additionally, in 2015, Royal Decree 1004/2015, of November 6, was approved, which establishes the Regulation that regulates the procedure for acquiring Spanish nationality by residence. This regulation imposes more restrictive requirements, obliging applicants to pay for and prove a language level (A2). They must also demonstrate a sufficient adaptation to Spanish culture

⁶⁷ Article 17 Organic Law 2/2009, of 11 December, reforming Organic Law 4/2000, of 11 January, on the rights and freedoms of foreigners in Spain and their social integration. *BOE* no. 299, of 12 December, 2009.

⁶⁸ Organic Law 2/2009, of 11 December, reforming Organic Law 4/2000, of 11 January, on the rights and freedoms of foreigners in Spain and their social integration.

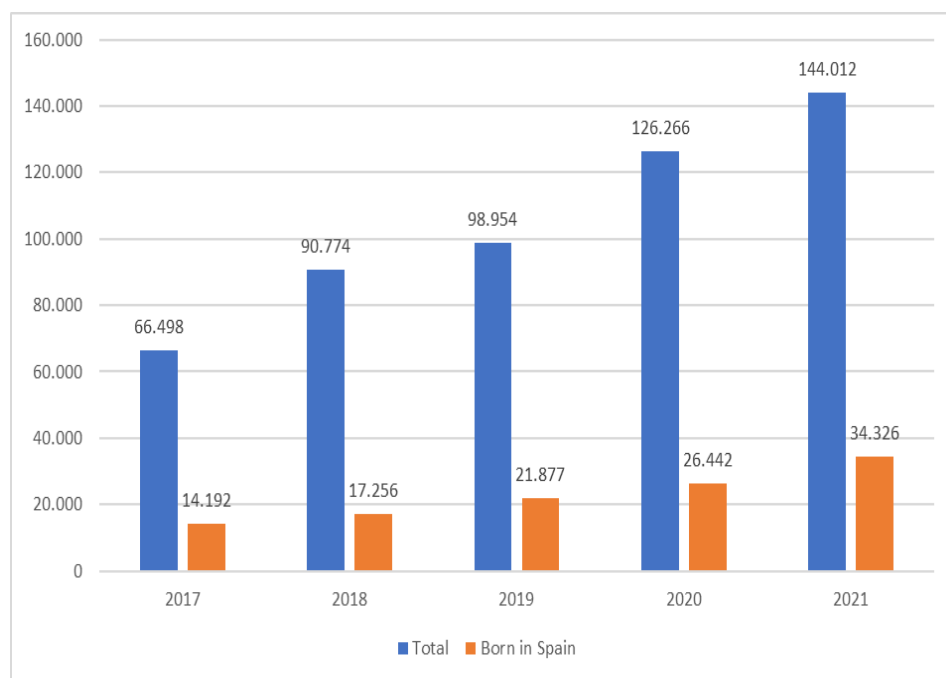
⁶⁹ This extension was introduced with Law 18/1990, of 17 December, on the reform of the Civil Code regarding nationality.

⁷⁰ PASETTI, F., CUMELLA DE MONSERRAT, C., “Las políticas de integración...”, *op. cit.*, p.5.

and lifestyle⁷¹ through an integration test on “knowledge of Spain’s historical, constitutional, and sociocultural values,” conducted by the Cervantes Institute. However, obtaining nationality is difficult and time-consuming, although it is one of the main ways of integration.

In 2021, 144,012 foreigners obtained Spanish nationality, of whom 34,326 were born in Spain, according to the National Institute of Statistics. According to the following graph, we can see an evolution in the Spanish nationality acquisition figure, but it is still a low figure compared to the number of foreigners living in Spain.

FIGURE 3. Acquisition of Spanish Nationality



Source: Own elaboration from the data provided by National Statistics Institute of Spain

As for political participation, only 4% of non-EU foreigners are interested in it. The fact that they do not have the right to vote in municipal elections

⁷¹ FINOTELLI, C., LA BARBERA, M.C., “Naturalizaciones en España: normativa. datos y tendencias”, *Anuario CIDOB de Inmigración*, 2017, pp. 255-273, p.262.

due to the lack of bilateral reciprocity agreements is considered a factor in their lack of involvement in political life⁷². So far, agreements have been signed with several countries with which Spain has reciprocity agreements: Bolivia, Cape Verde, Chile, Colombia, Korea, Ecuador, Iceland, Norway, New Zealand, Paraguay, Peru and Trinidad and Tobago, giving them the right to vote in municipal elections. However, immigrants from countries with which Spain does not have a bilateral agreement cannot vote despite their significant numbers.

An illustrative example can be highlighted in the case of the largest non-EU community, the Moroccan community (872,759 in 2021). Despite meeting the requirements - being registered on the census and demonstrating a minimum of five years of legal and uninterrupted residence in the country – they do not have the right to participate in municipal elections due to the lack of a reciprocity agreement between Spain and Morocco. The possibility of negotiating a reciprocity agreement was considered in the penultimate High-Level Meeting between both countries in 2015⁷³, but it was not carried out.

The lack of political participation hinders the integration of Moroccans because they cannot choose their representatives and, as a result, they cannot participate in the development of integration programmes⁷⁴.

On the other hand, the existing obstacles to participating in municipal elections lead to a lack of interest in participation. One of the main reasons for the low participation of the foreign community in general is the requirement to express the intention to vote in order to register in the electoral census *CERE* (Electoral Census of Foreign Residents), instead of automatic registration as for the Spanish population⁷⁵.

⁷² ECONOMIC AND SOCIAL COUNCIL OF SPAIN, *La inmigración en España: efectos...*, *op. cit.*, p.206.

⁷³ ZEBDA, S., “XI Reunión de Alto Nivel hispano-marroquí, junio de 2015: reflexiones sobre la cooperación en economía, seguridad y cultura”, *Peace & Security-Paix et Sécurité Internationales (Euromediterranean Journal of International Law and International Relations)*, N° 03, 2018, pp. 227–237, p.233.

⁷⁴ ZEBDA, S., “Las políticas migratorias españolas y la integración de los inmigrantes: el caso de la inmigración marroquí”, in Guzmán Ordaz, R., Gorjón Barranco, M.C. *Políticas públicas en defensa de la inclusión, la diversidad y el género*, Universidad de Salamanca, Salamanca, 2019, pp. 294-310, p. 307.

⁷⁵ BERMÚDEZ, A., ESCRIVÁ, A., “La participación política de los inmigrantes en España: elecciones, representación y otros espacios”, *CIDOB*, 2016, pp. 297-317, p. 306.

In addition to the normative conditioning factors, other factors influence the participation of the immigrant population, such as socio-economic factors, lack of information and knowledge about the Spanish political system, and unavailability of networks and spaces for political socialisation in which to get involved⁷⁶.

Regarding passive participation, only 1% of elected were born abroad—a higher level of representation among EU migrants than the rest⁷⁷.

IV. CONCLUSIONS

Despite the evolution of immigration law affecting integration and the political will to promote the integration of migrant individuals through the development of non-normative initiatives, the necessary foundations for full immigrant integration have not yet been established. This is due to several factors, as we have discussed throughout this paper.

Firstly, because of the complexity of the distribution of integration competences between the central State, which assumed exclusive competence over immigration with Article 149.2 of the EC, approved at a time when Spain was still a country of emigration and not of immigration. With the evolution of immigration accompanied by the need to manage integration, the Autonomous Regions have been acquiring competences over issues that directly affect integration, such as education, health, etc. This has led to the complexity in integration competences between the central State and the Autonomous Regions, hindering the workflow between public bodies.

Secondly, the lack of initiatives, such as adopting a new state-level strategic plan on integration, leads to the ineffectiveness of Spanish public policies. Such plans are necessary to take stock and make a diagnosis of integration and provide a guide for all actors working in this field. A renewal of the strategic plan is urgently needed, accompanied by an evaluation of the situation of integration in Spain over the last seven years (since the expiry date of the last SPCI in 2014).

Thirdly, although Spain has improved its integration policies over the last five years and indicators show a satisfactory level of integration of immigrants

⁷⁶ MORALES, L., SAN MARTÍN, J., “¿Cómo votarían los inmigrantes?”, *Zoom Político*, N.º 2011/002, 2011, pp. 1-16.

⁷⁷ BERMÚDEZ, A., ESCRIVÁ, A., “La participación política...”, *op. cit.*, p. 307.

in Spain that is above the European average according to MIPEX, it has not yet reached the desired level of effective implementation of public policies for successful integration in all areas.

Concerning certain areas (family reunification and health), a very advanced integration framework is shown, close to international and European standards. However, substantial problems persist in other areas, such as racial, ethnic or religious anti-discrimination, which lack concrete legislative actions. Another area that falls far short of international standards is access to nationality, with the worst score (30) due to the lack of updated legislation since 1982, restrictive requirements and a complex and lengthy process.

Another area analysed important for integration is the political participation of immigrants due to the lack of the right to vote. Because of the non-existence of bilateral agreements between countries of origin, or the cumbersome procedure for participating in municipal elections, leads to a lack of interest in participation.

Ultimately, Spain should rethink the integration issue considering the abovementioned issues. That would help to implement effective integration based on European perspectives, namely bi-directionality, mutual adjustment and interculturality and in line with the European way of life as stated by the Vice-President for the Promotion of the European Way of Life, Margaritis Schinas “Inclusion is the embodiment of the European way of life. Integration and inclusion policies are vital for newcomers and local communities and contribute to cohesive societies and strong economies. Everyone who has the right to stay in Europe must have access to the tools they need to realise their full potential and take up the rights and obligations that govern our Union”.

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