

SITUATION IN SPAIN REGARDING SOME OF THE ISSUES THAT WILL BE DISCUSSED AT THE WORKSHOP ON “GENDER AND LABOUR MIGRATION: CONTEMPORARY TRENDS IN THE OSCE AREA AND MEDITERRANEAN REGION”.

Accem has participated as partner in an European Project regarding the assessing integration measures for vulnerable migrants group (ASSESS), being the leader of the project the Center for the Study of Democracy from Bulgaria.

Here is a presentation of the report which includes the results of the research conducted by Accem in Spain in relation to the Assessment of the integration of migrant women:

INTRODUCTION

The Spanish system for inmigrants' integration presents some particular features that distinguish it from other existing approaches at European level.

- 1.- The competence falls under the responsibility of each Autonomous Community, which decides the areas of intervention and the programmes to implement.
- 2.- At the same time, local government as well have high discretion on measures to develop, due to their proximity to the final beneficiaries.
- 3.- The other peculiarity within the Spanish system regards the high level of involvement and contribution of the organizations from the third sector, who carry out most of the measures for facilitating immigrants' integration and who develop more specific targeted programs on women, children and victims of trafficking.

Due to these specificities, the integration system presents several shortcomings mainly due to the lack of coordination and planning between all actors which causes lack of a coherent and of comprehensive approach.

ASSESSMENT OF THE INTEGRATION OF MIGRANT WOMEN

POLICY ASSESSMENT

The Women and Equality Policy Framework in Spain is characterized by the awareness on their particular vulnerability due to their double factor discrimination that migrant women suffer for being both women and foreign born persons. For this reason, legislation recognizes women as particularly vulnerable and at risk of social exclusion collective. This main principle is declared in both main National sources of Policy: the National Strategic Plan on Citizenship and Integration (PECI)¹ and the National Strategic Plan on Equality of Opportunities (PEIO)².

Gender equality and women related issues in Spain have been mainstreamed in all national policies that tackle specific areas of interventions that involve migrant women's integration, as the Organic Law 3/2007 on Effective Equality of women and men³ states in its Article 15: "The principle of Equality of Treatment between women and men will inform, with transversal character, all Public Power's interventions. The Public Administrations will integrate it, in an active way, in the adoption and execution of its legislative dispositions, in the definition and financial arrangement of its public policies in all the fields and in the development of all its activities".

The PECI, in its last 2011-2014 version, declares as "equality and non-discrimination"⁴ its first guiding principles, declaring that the Plan will pay special attention in order to guarantee the equality of treatment and of opportunities to migrant women in all the spheres of the public interventions and of social life, recognizing their already mentioned double discrimination. In addition, the Plan includes "Gender" between its transversal areas of intervention, making specific referral to the CEDAW principles. The strategy adopted by the Plan combines both specific tailored measures and the incorporation of the gender issues in all interventions, through the so-called mainstreaming approach⁵. One of the main declared objectives is women "empowerment", defined as a change process through which women increase their access to the power mechanisms, which does not only affect decision making or representation processes but as well women's self perception.

The last 2014-2016 version of the PEIO is mainly based on 4 basic principles: citizenship, empowerment, transversality and innovation. On the specific issue of migrant women, the Plan

¹ Spain, General Secretariat for Immigration and Emigration, Strategic Plan for Citizenship and Integration 2011-2014, 2010

² Spain, Ministry for Health, Social Services and Equality, Strategic Plan on Equality of Opportunities 2014-2016, 2013.

³ Ley Orgánica 3/2007, de 22 de marzo, para la igualdad efectiva de mujeres y hombres (Vigente hasta el 01 de Enero de 2015)

⁴ PECI, P. 105

⁵ PECI, P. 243

issues specific objectives in diverse areas of interventions as Education, Attention on diversity and Social Inclusion, Violence and Foreign Policy and Cooperation.

These measures are as well complemented and accompanied by special complementary plans as the national “Plan for Awareness and Prevention of Gender based violence”, a 2009-2012 “Plan of assistance and prevention of gender based violence within the immigrant population”, and an “Integral Plan against Trafficking for sexual exploitation”. On the specific thematic of victims of gender based violence, which mainly affects the immigrant population, the Organic Law 4/2000⁶ on Foreigners introduced⁷ a special provision for women who have been victims of gender or domestic violence, who may in theory access an individual residence permit, irrespective of the duration of the marriage or relationship. Initially, a 1 year residence permit is delivered, which is extended to 5 at the end of the trial in case the woman is recognized as victim. Access to the individual residence permit is however granted only after the Public Prosecution Service has issued an ad hoc report on the episode of violence, which is difficult to obtain for undocumented women, who often lack proof of violence and fear deportation as a consequence of approaching the local authorities. Generally, immigrant women who have been reunified by their spouses, have to stay in a relationship/marriage for a minimum of five years in order to get a residence permit. If the woman divorces, she has to prove to have cohabitated with her husband for at least two years. The special provision though, in case a migrant woman is victim of gender-based violence, and she had obtained her residence permit for purpose of family reunification, guarantees her the eligibility for an independent residence and work permit once a protection order has been issued by the police or a report has been issued by the Prosecution Services. The existing incoherence within the framework of the Law of Foreigners and the Integral Law against the Gender Based Violence though, introduces the possibility that an undocumented migrant woman who reports an abuse to the police risks deportation if the perpetrator is absolved at the end of the case (Article 31/2). Although the following rights are stated in the Law, in the practice there are also many limitations regarding the implementation of the right to be informed (Article 18 of the Integral Law) and the right to be accompanied by interpreters.

Due to the subdivision of competences between the different territorial levels that characterize the Spanish system of governance, and in particular thematic related to integration and social services, all Autonomous Communities and local administrations as well base their activities and programs on women related issues on autonomous and local Plans on Equality of Opportunities. For this reason, there isn't a totally homogenous and coherent system in the field of migrant women, as the approach and the implemented measures and programs depend on the authority in charge of their

⁶ Ley Orgánica 4/2000 de 11 de Enero sobre Derechos y Libertades de los Extranjeros en España y su Integración Social (artículo 31 bis); Reglamento de la Ley Orgánica 4/2000, aprobado por Real Decreto 557/2011, de 20 de abril (artículos del 131 al 134).

⁷ <http://extranjeros.empleo.gob.es/es/InformacionInteres/InformacionProcedimientos/Ciudadanosnocomunitarios/hoja042/index.html>

design and implementation. The sensibility on the thematic varies from an Autonomous Community to another, and similar thing happens with local interventions.

Despite the aims and the declarations made in policy documents though, the gender approach in migrations related issues is characterized by incongruence and incoherence, as the general approach seems to be more likely focused on the general collective, and not too specifically on women migrants. As it will be deepened in the following sections, although some attempts have been made in the last years, the migrant women labour market is still characterized by high levels of vulnerability and precariousness, and their position still suffers discriminations due to the legislative framework that rule their employment sector. At the same time, although normative sources aim at improving their civic participation, there is no collected data on their behaviour in related fields. For this reason, no assessment or monitoring can be really made, leaving behind this aspect of their integration.

EMPLOYMENT

a) Access to labour market

Organic Law 4/2000 “on Foreigners’ Rights and Liberties and their Social Integration” rules that third country nationals in Spain who are older than 16 years old, have the right to develop a remunerated activity and access to the Social Security System in equal conditions, as long as they hold one of the following administrative permits⁸:

- Temporal Residence permit for: paid employment, temporary paid employment, self employment, highly skilled workers holding a European Blue card, relatives with reunification permit and third country national women victims of gender based violence;
- Working permit for studies research and training, and for transnational provision of services, “*Arraigo*”, exceptional permits on humanitarian ground and international protection, victims of trafficking, and collaborators against criminal organizations;
- Long term residence permit and European long term residence permit.

The same source foresees three main different types of working permits: “*Trabajo por cuenta ajena*”, which is for employee workers, and “*Trabajo por cuenta propia*”, which represents the self-employment permit and the permit for “*Contingente*” which identifies determined vacancies in

⁸http://www.empleo.gob.es/es/guia/texto/guia_15/contenidos/guia_15_36_0.htm

sectors of activities, mainly agriculture. In order to have the first type of permit, TCN need a job offer and a job contract.

The concession of the working permit depends on the so called “National Situation of Employment”, which means that the contracting and the expedition of the permit will be authorised only if in the National Employment System there are no unemployed Spanish workers looking or available for the same type of job for which the TCN is requiring the permit. For this scope, the Public Service for State Employment (SEPE) elaborates trimester catalogues per each Spanish province that list the occupations with harder workers covertures. For employments that are not included in the catalogue, the employer must prove that the offer of employment for which he is contracting a TCN has had a negative result.

TCNs who want to work on self-employed basis have to meet certain requirements, as they have to hold the necessary professional qualification, need to prove they count on sufficient economic investment or they have the support of a financial entity. Usually, the main difficulties that TCN workers find at the moment of starting an own activity regard the financial aspects, as they face obstacles at the time of requiring bank loans, or even at the time of opening a bank account, due to the lack of financial record in the hosting country. In order to help TCN, some banks have developed programs that ease access to credit and loans for immigrants. Probably for these mentioned obstacles, most of TCN nationals work as employees. Most specifically, self employment only regarded 820⁹ migrant women in the first 6 months of 2014, while permits for working for an employer reached 33.443.

Access to the public sector employment is not possible for TCN, as candidates have to¹⁰: have Spanish or UE or Schengen nationality, or be spouse / descendent less than 21 years old or economically independent of a Spanish or UE or Schengen national no matter his/her nationality.

b) Participation to the labour market

The data collected yearly by the Ministry of Employment and Social Security on TCN women in the Spanish labour market is higher than TCN men’s. Numbers in fact show that the majority of work permits regard TCN women, as on a total of 175.610 permits expended in 2013, 90170 were issued to women. On the total of mentioned permits, 58.667 were issued for developing the profession of “Domestic Employee and other types of cleaning personnel”. For these features, migrant women’ participation in the labour market is characterised by a high concentration in the services sector, as they mainly work in the domestic care and in hotels and restaurants. In the first 6 months of 2014¹¹, on a total of 43.553 expended residence and work permits, 39.959 regarded employment in the

⁹ MEYSS, Anuario 2013.

¹⁰ http://www.seap.minhap.gob.es/es/servicios/empleo_publico/quien.html

¹¹ MEYSS, Estadística de Autorizaciones de Trabajo a Extranjeros, January to June 2014.

service sector, and more specifically, 31.938 regarded the “Domestic employee and cleaning personnel” figure. “Workers in restaurants services” represented the second working figure, reaching 2.383 conceded working permits. For these reasons, TCN women often work in precarious, arbitrary and informal conditions, with more temporal contracts and more part time working-hours than Spanish women, and often with lower salaries and many hours of daily work. The “Domestic work sector”, ruled under Royal Decree n. 29/2012 “on the Improvement in the management and the social protection of the Special System for Domestic Employees”¹²

In 2012, a national reform transformed the Domestic Sector in a Special System, ruled by autonomous normative concerning contracts, relation with employer, social security affiliation and social protection. The reform process aims at including the Special System into the General one by 2018, when the equity of conditions between sectors should be completed. Despite there have been some improvements, the sector is still characterised by high levels of precariousness. Compulsory written work contract only applies to several hours of work, registration to the Social Security still largely depends on the employee and even the hours of work necessary to reach the obligation to register to the S.S. are still low, it has no rules against unjustified and sudden dismissals, and does not foresee measures for occupational risk prevention. In addition the sector still presents low levels of social protection due for example to the fact that unemployment benefits are not foreseen for this type of workers, as their contributions to the Social Security only cover maternity, accidents and invalidity or disease leaves¹³. The fact that domestic employees can't benefit of unemployment benefits as well limits their possibility to access social benefits, as they are activated only when the previous forms of unemployment grants are exhausted. These peculiarities have a major impact on the data on TCN women integration indicators, as will be taken in exam in the next chapter.

Due to this mentioned vulnerable condition in the labour market, although they are formally entitled to access in equal conditions as autochthonous population, migrant women often do not access the public services for employment, mainly for lack of knowledge and information about the existing services, or for their participation in more informal channels and networks.

The active policies for employment in Spain are developed by Public Administrations that are in charge of providing public services to both unemployed and employed population with the main objective to facilitate obtaining job, enhance their labour promotion and their recycling. They as well manage the social allowances for unemployed persons. Autonomous Communities, through their system of Public Services for Employment direct, develop and execute the regional policies in the employment field. They mainly realize activities for the inter-mediation and labour orientation enhance employment policies and professional trainings. All public services must guarantee the

¹² Real Decreto-ley 29/2012, de 28 de diciembre, de mejora de gestión y protección social en el Sistema Especial para Empleados de Hogar y otras medidas de carácter económico y social

¹³ <http://www.empleo.gob.es/es/portada/serviciohogar/masinformacion/serviciohogar2014.pdf>

equality of treatment and opportunities for employment, paying attention to most vulnerable and at risk of exclusion collectives. The main programs within the employment area, mainly provided by the Autonomous Communities and local administrations regard: information, orientation and assistance to unemployed persons (SIPE), Labour orientation and Self employment assistance (OPEA), Labour mediation, contracts for realizing works of public interest, professional trainings, and professional schools for unemployed youth and job workshops.

In general, Public Employment Services are characterized by a “normalized” approach, which does not reserve a special treatment to migrant women. Nonetheless, there are programs that do take into account their belonging to more vulnerable groups.

Nonetheless, the Ministry of Health, Social Services and Equality through its Woman Institute, who’s function is to promote and enhance the conditions that enable the social equality between the sexes and women’s participation in politic, cultural, economic and social life, develop programs for the promotion of socio-labour insertion of migrant women and persons victims of multiple discriminations. These programs¹⁴ articulate both at territorial and sectoral level. Territorial programs aim at providing an integral and personalized itinerary for labour and social insertion which take into account the specific necessities of each beneficiary woman, including her background specificities. These itineraries count on information, motivation, assistance and training services and they are included under a program called AURORA. The AURORA program pushes actions for the empowerment and the promotion of women in rural contexts.

Under the sector programs (SARA), actions addressed and tailored on migrant women and women parts of ethnic minorities are developed. The SARA programs are implemented through Collaboration Agreements with no-profit Red Cross and CEPAIM organizations. In its 7 years of development until 2013, the Program has assisted to 1422 migrant women in their insertion in the labour market¹⁵.

The Ministry of Health, Social Services and Equality as well promotes programs for labor insertion of migrant women through a public funding for projects that aim at: reducing the salary gap between women and men, enhancing women self employment and entrepreneurship, promoting social and labour insertion of vulnerable women and fighting gender based violence. The European Social Fund has as well played an important role in enhancing and financing specific programmes of insertion for migrant women.

In addition, another gender-sensitive program was run by the Employment Regional Service (SEF) and the General Directorate for Gender Based Violence Prevention and Youth Reform through the

¹⁴<http://www.inmujer.gob.es/areasTematicas/multiDiscriminacion/home.htm>

¹⁵ <http://www.europapress.es/epsocial/politica-social/noticia-igualdad-renueva-programa-sara-cruz-roja-cepaim-ya-orientado-mas-1400-inmigrantes-20130422141514.html>

application of a Coordination Protocol, which was signed in order to improve the access of women victims of gender-based violence to the labour market. This protocol aims to enhance the employability of these women, to support their economic independence, to enable them to break up with their abusive partners and to recover.

It should be put in evidence how social and non-profit entities actively participate to the management of employment policies through the ratification of collaboration agreements, in order to guarantee full access to all citizens. The third sector in the practice plays the most relevant role in the development of ad hoc programmes for TCN integration in the labour market is played by the organizations of the civil society. NGOs and organizations in fact manage programs for the social and labour insertion for persons in most vulnerable situation, and for the aims that particularly concern the present report; they implement targeted initiatives for migrant women in order to facilitate their integration in the labour market through special orientation, itineraries, trainings and support. These projects support women to start their own activities, to find an employment through the organization's mediation and to participate in trainings that increase their future possibilities to find a job.

c) Recognition of professional skills acquired abroad¹⁶

Since 2009 it has been introduced the possibility to obtain an official accreditation of a persons' professional competence acquired through direct labour experience or through non formal trainings. This official accreditation is a joint responsibility of the Spanish Ministry of Employment and Social Security and of the Autonomous Communities, and serves the person to facilitate the obtaining of a diploma of Professional Qualification (which has both professional and academic value) or of a Professional Certificate (which only holds a professional value). Any person, no matter his or her nationality can enrol in the mentioned program, as long as he or she is regularly residing in the country. The professional competences of the applicant are evaluated and tested by a team of evaluators, that bases its final decision on which professional certificate is more suitable to the candidate on the existing Catalogue of National Professions

EDUCATION

a) Recognition of educational qualifications obtained abroad

A fundamental element for the integration of migrant women, mainly due to actual over qualification rates, is represented by the possibility to see their qualifications recognized and

¹⁶ Ley Orgánica 5/2002, de las Cualificaciones y de la Formación Profesional

validated in the hosting country in order to continue their studies or have access to occupations that are coherent with their in origin studies and that will allow them to improve their professional situation. On these specific issues¹⁷, Spain has established a specific procedure for the recognition of academic qualifications, which is the same for EU and extra EU citizens. On the contrary, the homologation of professional qualifications, ruled under Directive 2005/36/EC, does not take into account third countries' qualifications, as it is only applicable to university graduates whose qualifications have been obtained in any of the EU member states, EEA countries or Switzerland.

The official accreditation of foreign higher education qualifications is only necessary for who has completed extra EU studies and wishes to pursue a bachelor's degree at a Spanish university and for students that wish to pursue a professional career in Spain.

The official recognition of bachelor's degrees may be carried out in two ways: accreditation as one of the qualifications listed in the catalogue of official university qualifications: that is, official recognition that the training received to obtain a foreign qualification is equivalent to that required to obtain one of the Spanish qualifications that appear in this catalogue. Or by the accreditation at an equivalent academic level: that is, official recognition that the training received to obtain a foreign qualification is equivalent to that required to obtain one of the academic levels in which Spanish university studies are structured, rather than to a specific qualification.

Any third country national can request the recognition of his / her academic qualifications both for non-university¹⁸, high level education or post graduate studies. The procedure is lead by the Sub DG on Certifications, Validations and Homologations of the Ministry of Education and Science and it grants the same official validity of the Spanish qualifications in the whole national territory. It starts submitting the application form along with the accreditation of the payment of the foreseen fees, in an official register. When the documents issued abroad are not in Spanish language, they must be accompanied by an official translation, which could be done by any sworn interpreter, by the Spanish diplomatic or consular representation abroad, or by the diplomatic or consular representation in Spain of the original country of the applicant, or the document.

The resolution is adopted on the basis of national academic standards required for each qualification, the duration and credit hours of this qualification, and its academic level and contents; always keeping in mind the foreign academic system and the Spanish one. The final decision can grant the homologation, deny the homologation or adopt a conditioned homologation¹⁹. This latter option is applied in the cases in which the technical committee In charge of the procedure detects some deficiencies or lacks of knowledge –and if they are not significant enough to refuse the recognition– complementary training will be required, which will be determined in the resolution,

¹⁷Orden ECI/1519/2006, of 11th May, which establishes the general criteria for the identification and realization of complementary training requirements, before the recognition of foreign higher education qualifications. <http://www.boe.es/boe/dias/2006/05/19/pdfs/A19066-19068.pdf>

¹⁸Real Decreto 104/1988, de 29 de enero, sobre homologación y convalidación de títulos y estudios extranjeros de educación no universitaria

¹⁹<http://www.mecd.gob.es/educacion-mecd/areas-educacion/universidades/educacion-superior-universitaria/titulos/homologacion-titulos/homologacion-titulos-universitarios.html#resolucion>

and may consist on passing an aptitude test, carrying out an internship, realizing a project or work, or participating in tutored courses. When the recognition is completed, the Ministry will deliver an official credential that proves it.

The last published data²⁰ on the number of applications for the homologation of non university studies refers to the year 2012. On a total of 24.921 applications, 23.751 were conceded. Almost half of them were granted to women (10.827), and almost half of these women were South American nationals (5.163), representing the Top 1 collective to receive this type of recognition. These numbers are mostly due to the existing bilateral agreements between Spain and many countries of Latin-American for the mutual recognition of the studies. Concerning the applications for the homologation of university studies in the same year, the GD in charge ran 23.831 procedures, conceding 13.775 approvals. 8.275 approved homologation regarded university studies developed by women, and once again the Latin-American collective represents the extra majority of them, reaching 4.295 approved homologations. The main obstacles faced by TCN at the time of applying for the recognition of their studies developed abroad mainly regard the original documentation they have to present and the costs of the documentation they need, of the required translations and legalizations and of the procedures' fees.

For what regards the recognition of post graduate qualifications, the recognition process depends on the Spanish university rectors, so the application form should be addressed directly to the selected university rector, attaching the necessary documents; and the rector will issue the corresponding credential.

In order to provide detailed information on these procedures and assess the users during the process of homologation, a NARIC21 centre has been issued under the initiative of the European Commission, which directly depends from the Ministry of Education. The purpose of the NARIC is to assist in promoting the mobility of students, teachers and researchers by providing authoritative advice and information concerning the academic recognition of diplomas and periods of study undertaken in other States. The main users of this service are higher education institutions, students and their advisers, parents, teachers and prospective employers.

b) Language trainings

Spanish language courses and trainings on knowledge of the Spanish culture are not mandatory or requested by the Spanish legislation as happens in other member states for the aim of guaranteeing immigrants' integration and for the obtainment of the so called "Integration Contract". The Law though, does foresee the possibility to realize language trainings on voluntary basis for persons that have arrived in Spain through family reunification procedures and for temporary residence permit holders. Once again, these activities as well count on the determinant role that the organizations

²⁰ <http://www.mecd.gob.es/dms/mecd/servicios-al-ciudadano-mecd/estadisticas/educacion/indicadores-publicaciones-sintesis/cifras-educacion-espana/2014/G3p.pdf>

²¹ <http://www.mecd.gob.es/educacion-mecd/areas-educacion/universidades/educacion-superior-universitaria/titulos/naric/que-es.html>

from civil society play, as they organize language trainings for all collectives of immigrants, no matter their administrative situation. These courses are of competence of the Autonomous Communities, which can decide whether to organize them besides deciding their duration, contents and other characteristics.

SOCIAL INCLUSION

Immigrants' access to the public system of social services and welfare in Spain is mainly achieved in two ways²²: through employment and through residence. The first way is represented by social insurance schemes linked to their participation in the labour market and their affiliation to the social security system; in this case, immigrants that hold labour permits can access the mentioned systems in equal conditions as autochthonous workers. The registration to the Social Security system represents the bases of the welfare system in Spain, and it is composed by insurances face to several social risks related to the employment field (unemployment, labour injuries, invalidity, retirement). The reception of benefits is directly related and in proportion to the duration and the amount of the person's contribution during its employment period. The second manner for accessing the social services system depends from the regularly resident status of the beneficiary, which guarantees access to social services programs with universal character. Due to these preconditions it results once again evident the vulnerable situation of most of TCN women, due to their precarious situation in the labour market. Due to these two systems-criteria, the access to social services obviously presents some limitations for the immigrant population, mainly due to the number of undocumented persons who live in Spain, to the existence of black economy, and to the different conditions within the labour market of the immigrant population, and more specifically of TCN women. The social services system as well includes mechanisms that aim at facilitating the social integration and the autonomy of those most vulnerable collectives that face obstacles or can't have access to the social protection contribute-system and that don't have means on their own. Regarding the irregular population, point 3 of Article 14 of the Foreigners Law states that "foreign born persons, no matter their administrative situation, have right to basic services and benefits".

It should be highlighted how Spain is the only country in Europe that provides undocumented migrants a pathway to documentation and to regular administrative situation. This procedure is called "Arraigo", and grants to undocumented beneficiary a temporal residence permit if he /she can prove at least 3 years of social integration, 2 years of labour integration or that has Spanish

²²http://obrasocial.lacaixa.es/StaticFiles/StaticFiles/670e2a8ee75bf210VgnVCM1000000e8cf10aRCRD/es/vol31_es.pdf

descendants. In the first 6 months of 2014, the Ministry of Employment and Social Security²³ has estimated that on the total number of 83.578 residences and work permits conceded, 16.916 were granted for “Arraigo”. On the total, half of them were conceded to TCN women.

Despite this, migrants in most vulnerable situation are undocumented ones, as they still do not have access to many social services. Being the provision of social services in Spain of Communitarian competence, it is reliable that each Autonomous Community rules the access criteria and the pre conditions to access to these services. This implies that documented migrants do have access to all services in equal conditions as the autochthonous population, while undocumented migrants’ access depends on their residence status, or their inscription in the Municipal Register, or on other particular requirements, depending on the Autonomous Community in which they live.

On the particular field of health services, Foreigners Law in its Article 14.2 guaranteed access to basic services to all foreign born nationals no matter their administrative situation. In addition, point 4 evidenced that “foreign born pregnant women have the right to health assistance during their pregnancy, delivery and post delivery”. The legislation on access to public health care though has been recently modified in 2012²⁴, by conditioning²⁵ access to the National Health System to the inscription to the Social Security to limit access by irregular and undocumented immigrants to the free health system, leaving thousands of people without free health assistance. Due to the already mentioned competence of CC.AA in the provision of social services, each Autonomous Community ruled special rules for adapting their health system to the Royal Decree, causing heterogeneous interventions and disparities in the whole territory. The available data on the consequences of the reform are not coherent. The Spanish Ministry of Health, Social Services and Equality, in January 2014 has announced that 676.000 TCN not residing anymore in Spain had been unsubscribed to the National Health System. During the same month, the Ministry reported to the OHCHR UN agency that the total amount of the affected people reached the 748.835.

As a result²⁶, irregular migrants need to pay to receive medical care, with the exception of some autonomous communities such as Andalusia, Catalonia, the Basque Country and Galicia (the latter, for those with very low income). Only two Communities (Andalusia and Asturias) still guarantee a normalized access to medical services to irregular migrant women, for which this reform has had huge consequences above all on this collective. Not only they don’t have access to health care, but they are as well excluded from the Public System of Reproductive and Sexual Health, meaning that they face huge obstacles at the time of requiring information on reproduction and sexuality related thematic, and to essential services as voluntary interruption of pregnancy.

²³ MEYSS, Estadística de Autorizaciones de Trabajo a Extranjeros, January to June 2014.

²⁴ Real Decreto-ley 16/2012, de 20 de abril, de medidas urgentes para garantizar la sostenibilidad del sistema Nacional de Salud y mejorar la calidad y seguridad de sus prestaciones ha supuesto un cambio del modelo del Sistema Nacional de Salud (SNS)

²⁵ Ley 16/2003 del 28 de Mayo, de cohesión y calidad del Sistema Nacional de Salud

²⁶ Médicos del Mundo and Open Society Foundation, *Dos años de reforma sanitaria: más vidas humanas en riesgo*, April 2014

One of the most vulnerable collectives between migrant women, who has as well been extremely affected by the 2012 reform of the Health System, is represented by victims of gender based violence. In fact, as denounced by several organizations committed to the protection of migrants' rights, the Health Reform has affected the possibility to detect and identify cases of irregular migrant women who are victims of gender based violence. Most of the cases in fact, are detected by the sanitary staff when the victims ask for health assistance.

On the particular field of housing related services, the Law²⁷ states that "foreign born resident persons have the right to access the public systems of benefits for housing in the established terms of each competent Administration. In any case, foreign born long-term residents have the right to mentioned benefits in the same conditions of Spaniards". As happens in the management of other social services thematic, each competent Autonomous Community rules on this thematic. This introduces once more the problem of documentation conditions, which vary from region to region, affecting not only irregular population but also TCN recently residing in Spain. In addition, it can be said²⁸ that public provisions for vulnerable collectives, mostly regard the ease of houses acquisition, and not the rental, which would represent a better public policy for persons with low incomes. Despite general provisions, access to housing services remains very difficult for immigrants and in particular for immigrant women, due to their precarious condition in the labour market and to discrimination. The 2013 "Survey on Living Conditions" developed by the INE, points out how only 22 % of the TCN population owns the house in which they live, face to the 82.7 % of the autochthonous population. In fact, the 67.4 % of extra UE country nationals lives in rented houses.

Child Care

All children who are at least three years old have free access to the education system. However, although there are a few public day-care centres for younger children, it is very difficult to find public day-care for children below three years. In addition, this type of care is a CC.AA competence, which implies once more the already mentioned difficulties in accessing the system for undocumented women, due to the different documentation requirements for the children's inscription. The same type of limitation regards the access to child care benefits, as the competence is off the AA.CC; there are different documentation pre-conditions for applying. The last obstacle for TCN women is represented by the fact that the Spanish system of child care usually covers the most conventional 8-working-hours, while parents with irregular or discretionary working hours and longer work days often have to organize by themselves.

²⁷ Art. 13. L.O. 2/2009, de 11 de diciembre, de reforma de la L.O. 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social («B.O.E.» 12 diciembre)

²⁸ OPI, Informe sobre la situación social de los inmigrantes y refugiados en 2010. Foro para la Integración Social de los Inmigrantes (2010-2012).

The difficulties that migrant women face in accessing child care is shown in the available data that will be taken in deeper exam in the next chapter, and as will be commented, have major impact as well on the levels of education attainment of migrant students.

ACTIVE CITIZENSHIP

a) Political participation

In Spain, third country national residents, even if they are long-term residents, do not generally enjoy electoral rights. Foreign born residents do not have the right to vote or be elected at both national and regional levels²⁹. At local level³⁰, only nationals of countries that have signed a reciprocity agreement with Spain have the right to vote. Until now, Spain has signed the following reciprocity agreements: Bolivia, Chile, Colombia, Ecuador, Paraguay, Peru, Island, Norway, New Zeland and Cabo Verde. The 2013 report³¹ on Immigrant's integration edited by the Forum on Immigrants' social Integration declares that at the moment there are ongoing parliamentary procedures for signing reciprocity agreements with the governments of Argentina, Burkina Faso, and Trinidad y Tobago. Nationals from the mentioned countries that want to vote in the elections must be older than 18, must hold a residence permit and have been continuously legally residing in Spain for 3 years.

There is no legal restriction to the affiliation of foreigners in political parties or syndicates in Spain. They are not allowed to create parties but they can be members no matter their nationality, legal situation or duration of their residence. Unfortunately this type of data is not collected, for which there is no clear idea on the phenomenon of third country nationals' affiliation.

b) Civil society and community life participation

On the contrary, TCN are entitled the full right of associations. The GD of Immigration and Emigration, which lies under the Spanish Ministry of Employment and Social Security, publishes calls for proposals of projects that aim to facilitate the integration of migrants and beneficiaries of international protection in fields such as reception, integration, humanitarian assistance and voluntary return³². Similar calls are as well published by every Autonomous Community, and the Municipalities, pursuing similar aims of the national subventions. These grants are addressed to all

²⁹ Ley Organica 5/1985, Titulo III, de 19 de junio, del Regimen Electoral General, Art 6.

³⁰ Ley Organica 5/1985, Titulo III, de 19 de junio, del Regimen Electoral General

³¹ <http://www.foroinmigracion.es/es/MANDATO-FORO-2010-2013/DocumentosAprobados/Informes/INFORME-FORO2011-MONOGRAFIA-PARTICIPACION-POLITICA.pdf>

³² <http://extranjeros.empleo.gob.es/es/Subvenciones/>

no-profit organizations that work in the mentioned thematic, and migrant associations are equally entitled to request the funding, whether they are specifically addressed to particular collectives or not. In the practice, migrant associations don't receive many of the funding, mostly due to their informal structures, non professionalised and voluntary based collaborators.

c) Anti discrimination

The last 2014-2020 national Strategic Plan for the Equality of Opportunities (PEIO)³³ foresees an area of intervention aimed at promoting the employability of women that belong to particularly vulnerable social groups, such as women affected by disability, victims of gender based violence or trafficking and immigrant women. These programs are aimed at supporting their insertion in the labour market.

In 2011 the Ministry of Employment and Social Security launched the "Integral Strategy against racial discrimination, xenophobia and other forms of intolerance"³⁴, which identifies migrant women as especially vulnerable collective due to multiple discriminations they could suffer in accessing employment and education. Under this strategy, the "Management of Diversity in Labour" (GESDI) Project³⁵ was developed, which aimed at enhancing immigrants participation in the labour market. The general strategy though does not specifically focus on migrant women. As mentioned above, organizations from the third sectors are the ones that in the practice play a relevant role in this field.

At the same time, every Autonomous Community has designed and implemented integral plans for the equality of opportunities, including specific objectives in migrant women. In addition, actors from the civil society play a central role in enhancing the no discrimination for immigrant women in all areas of social life, work, education, trainings, civic participation and much more.

ASSESSMENT OF OUTCOMES

EMPLOYMENT

When analyzing and looking at the available data on employment integration of TCN women, the initial considerations that have been done at the beginning of the present report regarding their demographic trends should be remembered. It should be stressed how TCN population has

³³ PEIO, p. 58

³⁴ http://explotacion.mtin.gob.es/oberaxe/documentacion_descargaFichero?bibliotecaDatoId=207

³⁵ http://explotacion.mtin.gob.es/oberaxe/inicio_descargaFichero?bibliotecaDatoId=206

decreased, giving as a result a five-year growth below 1.29%, until last year when it declined of 0.14%.

At the same time, it should be highlighted the impact that the economic crisis that is affecting Spain has had on the employment rates, mainly for what regards the activity sectors that regard the immigrant population: services, agriculture and construction sectors. The sectors in which the immigrant collective is concentrated are characterized not only by low-qualification requirements but as well by a higher instability, due to the conditions of employment. As it will be taken in deeper exam further, the social protection that concerns the workers from the secondary segment of the labour market is much lower than the one that workers from the primary segment can benefit, mainly concerning the Spaniard population.

Activity rates by sex, age and nationality (%)

SEX	Extra EU-27	Reporting country
Males	85,2	79,1
Females	71,4	68,2

Source: EUROSTAT, LFS Survey

When looking at the Eurostat available statistics regarding migrant women in Spain and their labour situation, it is reliable that their Activity rates are still quite high concerning the 71.4 % for TCN women, against the 68.2 % of autochthonous women. This data is coherent with the previous trends, as in the 2000-2010 periods, TCN women always kept their activity rate higher than Spaniards, as employment represents their main objective of their migration. On the contrary, their activity rate has recently decreased face to TCN men's, which now reaches the 82.2 %.

Regarding their employment levels, the rate is lower both face to migrant men and to autochthonous women. The data in fact shows that TCN women reach a 44.3 % of employment rate, against the 48.7 % of TCN men and the 50.8 % of Spanish women.

Employment Rates by sex, age and nationality (%)

SEX	Extra EU-27	Reporting country
Males	48,7	60,2
Females	44,3	50,8

Source: EUROSTAT, LFS Survey

At the same time, the 37.9 % of them is unemployment at the present time, showing a lower value than the one that characterizes TCN men, in 42.8 % and higher value face to autochthonous women 25.4 %.

Unemployment Rates by sex, age and nationality (%)

SEX/CITIZEN	Extra EU-27	Reporting country
Males	42,8	23,8
Females	37,9	25,4

Source: EUROSTAT, LFS Survey

When taking a look at the numbers that feature the three collectives are being compared, it is reliable how unemployment within Public Services for Employment is much higher for autochthonous women, than for the migrant population, although TCN show lower rates than TCN men.

Unemployment in Public Employment Service

TCN Women ³⁶	TCN men	Autochthonous Women
165.312	210.767	2.406.626 ³⁷

Source: SEPE

As previously stressed, this data mainly reflects the economic sector that have been more affected by the economic depression that has characterized the last years of the Spanish economy, which – for what mostly concerns TCN women labour activity - has had an huge impact on the service sector, and in particular on the demand for personal care services and domestic sector. In order to explain available data on labour participation and to assess TCN women integration in employment the trends that are characterizing the domestic work sector is extremely revealing and representative, as it represents the first type of employment in Spain per number of foreign born people working in it, which reaches the 64.73 %³⁸, with the great majority of TCN working women. The “domestic employees” sector, which was characterised by indefinite work contract, between 2013 and 2013 lost the 68,79% of its workers. In the same way, the number of contracts in the same period fell a 38.01 %.

As already appointed in the first chapter of the present report, migrant women mostly work as employees. In fact, their self employment rate is 47.8 %, while for TCN men reaches 87.9 %. It should be put in evidence though, how these figures do not show family businesses in which migrant

³⁶ Observatorio de las ocupaciones, Informe del Mercado de trabajo de extranjeros Estatal - Datos 2013, Marzo 2014, http://www.sepe.es/contenidos/observatorio/mercado_trabajo/2320-2.pdf

³⁷ SEPE, Informe del Mercado de trabajo de mujeres - Datos 2013, Marzo 2014

³⁸ SEPE, Mercado Laboral Extranjeros - Datos 2013. Marzo 2014

women are enrolled, although they are not owners. The same trend concerns Spanish men and women, as the value referring to men almost doubles women's one.

Self employment Rates by sex, age and nationality (1000)

SEX/CITIZEN	Extra EU-27	Reporting country
Males	87,9	1.766,5
Females	47,8	834,9

Source: Eurostat, LFS Survey

Data referring to migrant population nor in employment, nor in education and training shows how migrant women and men rate is the same, 30.6 %. These values show much lower values within the autochthonous population, as Spanish women excluded from all activities are the 15.6 %, while this situation concerns the 17.9 % of autochthonous men.

People neither in employment nor in education and training by sex, age and citizenship (NEET)

SEX/CITIZEN	Extra EU-27	Reporting country
Males	30,6	17,9
Females	30,6	15,6

Source: Eurostat, LFS Survey

The characteristics of migrant women participation in the labour market and more in particular their working conditions within the domestic sector already stressed in the previous chapter, are expressed in the available data on unemployment benefits, as TCN women uptake are only 110.978, representing the 39.2 %, men 172.188, meaning 60 % while Spaniard women 1.263.383. This data has to be read taking into account the lack of unemployment benefits within the domestic care sector and the fact that the economic crisis has been affecting the migrant population, and in particular TCN men collective, at least a couple of years before the autochthonous one, due to the activity sectors that have been firstly affected. Due to this, the migrant population started receiving unemployment benefits before, and thus has run out of them before. In addition, as this kind of benefit is related to the working period and salary, and considering the fact that migrant women have a high proportion of part time contracts (face to male contracts numbers), and that their affiliation in social security is much weaker than men's due to the peculiarities of the main sector they work in, these figures do not really surprise.

Uptake of unemployment benefit, by nationality (2013)

TCN Women	TCN men	Autochthonous Women
110.978	172.188	1.263.383

Source: MEYSS

TCN women with employment contract are characterized mainly by: no education or first stage of secondary education level. Crossing the data between the main sector of activity and the level of education attained, which is mostly represented by secondary education it is reliable that the over qualification rate of the migrant woman collective is very high, concerning the 71 % of the population (2011 data). This rate is in 59 % for what regards male TCN workers. It should be stressed though, how for Eurostat, Spain in 2008 represented the first European country per over qualification rates, which represented the 31 % of the total employed population, while the European average was 19 %. This fact is due to the rapid increase of the education level of the population, face to an economy still based on few sectors as constructions and services that could not employ highly skilled workers.

Over qualification Rate (2011) ³⁹

	TCN women	TCN men
Over qualification rate	71 %	59 %

Source: Eurostat, Migrant Integration Indicators

EDUCATION

Data on the highest education level attained by migrant women residing in Spain shows that 52.8 % of them has achieved a primary or lower secondary level, while the 28.9 % of TCN women has reached an upper and post secondary level. Almost 20 % of them has reached tertiary education. These features differ from the ones that characterise the male population, which is mainly concerted in primary levels, and that present lower values both in secondary and tertiary attainments. When looking at this data though, it should be kept in mind the younger average age of the migrant population, which means that they left their home countries in young and formative age, and the previously highlighted difficulties faced by TCN nationals at the moment of asking the recognition of their studies. Spaniard women do experience higher levels of education attainment, and the data shows the biggest difference regarding tertiary education, when they almost double the migrant population.

³⁹ EUROSTAT, Migration Integration Indicators, Over qualification rate by groups of country of birth, age groups (20-64) and sex. 2011

Population by educational attainment level, sex, age and citizenship (%)

CITIZEN	Extra EU-27	Extra EU-27	Extra EU-27	Reporting country	Reporting country	Reporting country
	Pre-primary, primary and lower secondary education (levels 0-2)	Upper secondary and post-secondary non-tertiary education (levels 3 and 4)	First and second stage of tertiary education (levels 5 and 6)	Pre-primary, primary and lower secondary education (levels 0-2)	Upper secondary and post-secondary non-tertiary education (levels 3 and 4)	First and second stage of tertiary education (levels 5 and 6)
Males	60,3	25,3	14,4	47,5	22,2	30,3
Females	52,8	28,9	18,4	42,8	22,7	34,4

When taking a look at the total participation rates in Life Long Learning education and training though, the differences decrease, as Spanish nationals present, face to TCN men and women, only an average difference of 0.5 % increment.

Participation rate in education and training by sex, age and citizenship (%)

SEX/CITIZEN	Extra EU-27	Reporting country
Males	10,8	15,6
Females	13,1	17,5

SOCIAL INCLUSION

For what concerns the social integration of TCN women, and the risk they are exposed to suffering exclusion, vulnerability and poverty, the data collected on Spain speaks by itself. Eurostat worrying statistics show that the 46.3 % of third country national women are at risk of poverty or social exclusion, and the men's value is lower only by 1 % face to women's. This data is almost 3 times the percentage presented by the autochthonous population.

At-risk-of-poverty rate by broad group of citizenship (population aged 18 and over)

CITIZEN	Non EU28-countries	Reporting country
SEX/TIME	2013	2013

Males	47,3	16,3
Females	46,3	16,2

In addition, the actual poverty rate detected within employed TCN reaches the 30.8 % for women, and 31 % for men, face to the 7.3 % result of autochthonous women. These data once again put in evidence the conditions of the TCN population in the labour market in Spain, which as already remarked is characterised by high levels of instability and by low earning and low protection conditions.

In-work at-risk-of-poverty rate by broad group of citizenship (population aged 18 and over)

SEX/CITIZEN	Non EU28-countries	Reporting country
Males	31,0	9,0
Females	30,8	7,3

This fact is as well highlighted by the median total income of the TCN population registered by the INE in 2013 (€ 5.998), which is almost half of the one earned by the autochthonous population (€ 11.581). It should be highlighted how in Spain, data on the salary differences within the same activity sector is not available. This data would be very useful when trying to analyze the features of the migrant and autochthonous labour market, and most of all the level of equality, differences and the actual discrimination in it.

In the same way, EUROSTAT disposable data on the median equivalised disposable income as a proportion on the total population show that is earned by the TCN migrant women earn 60 % while men 66 %. The same concerning data is reflected on statistics on persistent at risk poverty rate regarding TCN population: for men, it reaches the 47.3 %, while for women 46.3 %. This data is overwhelming considering that the percentage on autochthonous women stops in 16.2 %. In addition, when the above features are analysed, it should be taken into account the impact that these numbers have on the children of migrant families. This particular aspect will be further deepen in the following chapter of the present report, which specifically takes into account information and statistics regarding TCN children and their integration in Spain.

ACTIVE CITIZENSHIP

In 2013, 64.651 TCN women obtained the Spanish nationality. In the same year, 50.843 TCN men have become Spanish citizens. Eurostat's data shows that the naturalization rate in Spain is 3.9 % for migrant women and 2.9 for migrant men. The number of Long Term residence Permits conceded to women were 1.030.265, while for men were 1.222.185

As already stressed, no national data is available on the participation of TCN in electoral processes at any level. The same lack of information regards their affiliation to political parties and syndicates. This fact represents a big limitation at the time of assessing and evaluating the integration of TCN in these fields in Spain.

TO CONCLUDE

For what concerns the TCN women collective, it has been observed that their vulnerability is mostly due to their concentration in the domestic employment sector. In order to facilitate their integral social and labour integration, more legislative initiatives and programs should target the bettering of their working conditions and their relations with employers. In addition, further efforts should be developed in order to promote their participation in other types of activities. At the same time, more attention should be paid to their political participation, as no relevant data is collected at national level for the monitoring of participation levels.