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Humans Rights on the Southern Border 2007 Asociación Pro Derechos Humanos de Andalucía

The report that the Asociación Pro Derechos Humanos de Andalucía (APDHA) writes every year about the "Humans Rights on the Southern Border", published in French and Spanish, is realised by a staff who carries out a follow-up of the human rights' violations that occur on the borders, particularly with regard to the migratory roads that, from the South Border, go to Spain.

The report was elaborated gathering data from the mass media, from the statistics provided by the governments, from the information provided by partners organizations of Morocco, Africa and Canary Islands, and from own investigation carried out by APDHA 's research missions on the ground.

The report we present today, referred to the year 2007, highlights that the principal tendencies we indicated in the Report 2006 have not been substantially modified. In case, some of the most problematic aspects of the migratory policies developed by our country have continued deepening.

According to the data of the "Balance of the fight against the irregular immigration 2007" presented by the Interior Department, the Spanish State repatriated 55.938 immigrants in irregular situation throughout 2007, which would represent a number 6% higher than the one of 2006, as opposed to a smaller arrival of immigrants by means of boats, 18.057, which means a reduction as opposed to 2006 of 53,9%.

What is sure is that the detentions' data are higher if we refer to the people held or stopped on the African coasts, who exceeded 12.000.

If we take into account these data, the reduction in people held in the boats hardly exceeded the 30%.

In any case, these are data presented in a "triumphalist" way by the Spanish government, to show, in electoral year, the effectiveness of its policy of "regulation of the migratory flows", so that immigration is "more and more ordered". But, with this approach, the Spanish authorities manage to direct the migratory debate towards a solved problematic of public order, by introducing the migrants like a problem of safety, and overflow of the Spanish, and therefore European, borders.

Actually, it is this not very consequent analysis that allowed the Popular Party (**PP: Right Wing, NDT**) to locate, with an absolute lack of scruples, the migratory debate in the centre of the election campaign, with truly intolerable proposals.

It is this analysis which legitimates the criminalisation of the migrant's figure, which is the key to justify greater measurements of borders' controls, and the disminution of its fundamental rights.

It is this analysis the one that encourages the imaginary collective of "invasion" and allows the sprouting of distrusts and rejection, when not directly of racism and xenophobia. But this triumphalism forgets the unbearable numbers of the lives that have remained on the way of this supposed "immigration more and more ordered".

In this report, the APDHA has managed to evaluate in a contrasted way that 921 people have died during the year 2007 in their migratory adventure towards Spain. But it is nothing exaggerated to estimate that at least 3500 human beings have died by the result of borders' control policies more and more repressive and cruel.

From the documented victims, 629 are people of sub-Saharan origin, 287 magrebíes and 5 Asians. The deaths and disappearances were about 189 on the Spanish coasts and the remainder, 732, on the African coasts (the Maghreb and Western Africa). And we do not count here, because it is practically impossible, the victims who fell on the road that crosses the Sahel, and goes towards Algeria or Libya. Some high positions in charge for the Spanish Interior Department admitted that the desert of Sahara had become an immense sand cemetery.

It is certain that, to where we, the APDHA, have been able to document, the number of people who have died has descended compared to the year 2006.

But that comforts us little, since it's a number that none democratic society should be able to support.

And that continues:

Because only in the first two months of the year 2008, 89 people already died (6 on the Canary coasts, 13 on the coasts of Cadiz, 1 person in Ceuta, another in Algeria and 68 on the coasts of the Sahara and Morocco), as opposed to the 12 deaths in the same period of 2007.

These first two months of the year 2008, 2.096 immigrants have arrived on the Spanish coasts (624 on the coast of Andalusia, 43 in the Balearic Islands, 113 in Murcia and 1.316 on the Canary coasts), a number that we consider similar to the one of last year.

We do think, as unfortunately we are beginning to verify with the first two months data of the year, that a reactivation of clandestine immigration towards the coasts of Andalusia would not be to exclude, for the longer and more difficult crossing of other roads, for the deployment of the Frontex even on origin countries' coasts, or because of the renewed migratory flow from Morocco and Algeria.

But so many deaths are not considered unbearable by the Spanish Government and the European Union. They seem to think that it is an inevitable "collateral damage" of their migratory policies of control, in which the European implication through the FRONTEX has played a narrow part with millionaire investments (that we detail in the report).

In spite of all the declarations of intentions, the Spanish Government and the UE continue to ignore the causes of the present migrations (question widely analyzed in

the report) and therefore apply hyper-restrictive measures whose reach and effectiveness are conjectural, and whose effects in the mid term are unforeseeable. The migratory policy of the Government is centred in the policy of "borders' externalization", impelled from the UE and actually led pitifully by the Spanish government.

Its objectives are summarized in the following form:

- To prevent the people from leaving certain African countries
- If they manage to leave, so that they cannot arrive in Spain/Europe
- And if they arrive, so that they can be expelled as soon as possible.

With this simplism (that for simple does not stop being cruel), many future questions are at stake.

It is at stake the Spanish cooperation, conditioned in an immoral way to the objectives of the control of the borders and the immigration.

Immoral because thousands of people's life can not be subjected to security conceptions and the will of agreements with corrupted governments, who seriously violate the human rights of their citizens.

It is at stake the future relations with the African countries, with the "cañoneras" policy of sad memory, in which the ships of the Civil Guard or other European countries control the African countries' borders, restoring us the most rancid image of the colonial time. For many Africans, the "cañoneras" and the massive expulsions create a new ditch and shock with Europe in the collective imaginary, of unforeseeable consequences.

It is at stake the fulfilment of the Universal Human Rights Declaration, which clearly establishes that no one can be prevented from exercising its right to leave and to return to its own country. The concept of "illegal emigration" widely used by Spain and the EU is a legal concept that clearly breaks with all the Agreements that form the International Architecture of the Protection of the Human Rights.

Human lives are at stake. We have already spoken about the chilling number of the people who had died trying to go to Spain. But the increase of the borders' control modifies the roads, the migrants looking for other exits, with more death and tragedies. The organization Fortress Europe, through a press review, managed to count during the year 2007 551 deaths in the channel of Sicily, 257 in the Aegean Sea and 177 at other borders.

And as a result, the greater monitoring, the greater control, the agreements imposed to third countries, do not have for consequence an ordered immigration, but a more clandestinized immigration, with more suffering and more deaths, more rupture of the international legality and more violation of the human rights.

Where to go?

After the electoral defeat of the PP, whose proposals in the framework of the migrations can only be described as deeply xenophobe, we wish a true change of course in the orientation and the management of the migrations from the PSOE government, taking thus advantage of its electoral triumph

But honestly we do not have too much confidence in it. In fact, at least with regard to this present report (the management of the migratory flows, therefore it does not approach the set of the subjects that affect the immigration in our country), the APDHA can only denounce the policies developed by the Government, which seriously violate the human rights and that, in the end, are not even effective from the point of view of the objectives that they declare persecuting, which is the migratory flows' regulation.

For that reason, we solicit to the new PSOE government which will be formed after the elections:

- a new design of the migratory policy able to analyze the causes of the forced migrations, described in this report, and verifies that responsibilities from Spain and the European Union exist for it. And, verifying those responsibilities, that this government acts with the necessary consequences, so that our country's policy in Africa does not imply the deepening of the inequalities, of the poverty and of the ditch that separates the rich countries from the impoverished ones.
- On the other hand, from ethical and moral criteria the government cannot follow clinging around the dogma of closing borders. But not only from ethical and moral criteria, also from the minimum utilitarian assessment: in almost twenty years of restrictive policies not only the results claimed to reach were not obtained (to control the migratory flows), but the opposite effect even occurred...
- We believe deeply unjust this policy carried by the government concerning the migratory flows, which violates the human rights. In particular, the fact of conditioning in an immoral way the development aid with the cooperation of the origin and transit countries to fight against the clandestine immigration.
- Independently of the States' legitimacy to control their own borders, what is certain is that the scrupulous respect of the human rights of those who try to enter, must be above the borders' control(worthy reception, right to the legal assistance and to an interpreter, etc....). And this is not done in a consequent way. Just like are not either scrupulously respected essential human rights as the right of asylum, the right to live in family or the minors' right to receive protection.
- In this sense we request that the role of the Retention Centers (**CIE**) be deeply reconsidered, including their closing, since we already underlined in our report 2006 those opaque frameworks of human rights' violations, where a person who did not commit any crime can be subjected to a sometimes infra-human prison regime. A question that finishes ratifying a denunciation report of the European parliament in relation to Spain
- On the ground of the international legislation, we ask the new Spanish government to ratify as soon as possible the 4° EU Protocol of Human Rights, that prohibits the migrants' collective expulsion. In the same way, it is urgent

the ratification, not yet carried out, of the International Convention of the United Nations on the Protection of all the Migrant workers and their Family.

- We think that, in the new legislature, a deep modification of the present legal frame would have to be considered, since it is necessary to change by the roots the present Immigration Law of, that would allow reconsidering the present visa and quotas policy, the system of entry and regularization....Without these normative changes, it is impossible to think about making flexible the management of the flows.
- An easing of flows with concrete ways that allows the regular emigration from Africa to Europe. Africa must be integrated in the migratory processes towards Europe, giving exit to the generations, to that fringe of people between fifteen and thirty five years who has interiorized the will to flee. And it can only be done through a legal management of flows, more open, more rational... that can paradoxically help to reduce the irregularity, which is precisely reinforced by the policies of borders' closing. And also to reduce therefore the deaths and the suffering of so many people.

Andalusia, March 2008

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