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EDITORIAL

*Morocco uses migratory pressure to force Spain
and the EU to give in to the Sahara*

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We experienced an unprecedented crisis at Spain's southern border last week. On the 17th and 18th, nearly 8,000 people entered Ceuta through the border breakwaters in the face of the passivity and even cooperation of the Moroccan authorities. This attitude on the part of the Moroccan authorities has surprised some people, given the role of the Moroccan state as a "key, model and reliable partner" in controlling migratory pressure. However, the instrumentalisation of this role by the Moroccan monarchy to put pressure on Spain is not new, however much some sectors now want to make it appear so.

Morocco's role in controlling migration flows

Morocco is the main recipient of European funds in the Mediterranean region for neighbourhood policies and is the southern partner with the most developed relations. According to a study by the [porCausa Foundation](#), Morocco received 389.9 million euros in December 2019 "as part of its support for reforms, inclusive development and border management within the framework of the "Euro-Moroccan Partnership for Shared Prosperity" and "101.7 million euros of funds pledged in 2018 to combat illegal immigration and human trafficking". This privileged role is largely promoted by Spain, since, as [Pedro Sánchez](#) himself defended, cooperation with the Moroccan state in matters not only migratory but also anti-terrorist 'constitutes a model example in the European environment' based on 'well-established trust, mutual respect and permanent communication'. This being the case, the events of recent days would be difficult to understand and justify in this context of trust and mutual respect. However, this institutional naivety contrasts with reality, and with Morocco's continued and sustained use of migration to pressure Spain. There are several clear examples of the use of control (or lack thereof) over migration flows associated with other key elements of bilateral relations between Spain and Morocco, such as the negotiation of the Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco (OJ L 141) in 2006, which coincided with a migration crisis in the Canary Islands, the Perejil islet incident in 2002, or more recently in 2020, when the Rabat government unilaterally approved two laws to delimit its maritime space.

A migration crisis?

The situation in Ceuta must therefore be understood in a broader context, in which migratory pressure is used as a [pressure measurement](#) in Spain-Morocco and Morocco-EU bilateral relations. Much has been said about the trigger for these events (assuming that it is a political reaction), linking it to the Western Sahara conflict, and specifically to the presence of [Brahim Ghali](#), representative of the Polisario Front in Spain to be treated for [a serious case of COVID](#). All the media have assumed that the government's decision is behind this Moroccan reaction, based on the statements of Moroccan [diplomatic sources](#) themselves. These statements, together with the recall of its ambassador to Madrid for consultations, make it clear that this crisis is a diplomatic entente, not a migration issue.

However, it is more doubtful that Ghali's presence in Spain alone is the reason for Morocco to throw down the gauntlet. While it is true that weakening the figure of the SADR president is one of Morocco's objectives, we cannot understand this situation in isolation from recent events and reactions in the Western Sahara conflict, especially since the breakdown of the ceasefire in November 2013. After the Frente POLISARIO recalled on numerous occasions Morocco's non-compliance and attitude in the non-resolution of the conflict and recalled its

right to resume the armed conflict, it was under Gali's presidency that this change of scene took place. Since then, Morocco has tried by all means to make the new war situation invisible and conceal it, without being able to avoid its [media repercussions](#). Similarly, Morocco hoped that [Trump's decision to recognise](#) Moroccan sovereignty over the territory would be extended to other countries, but has instead been met with a generalised refusal to change its traditional stance, with forceful positions [such as that of Germany](#). Some [authors](#) also argue that Morocco's timing is linked to the Gaza crisis, trying to pressure Biden to consolidate recognition of Moroccan sovereignty over the Sahara in exchange for his mediation in the Israeli-Palestinian crisis.

Finally, it should not be forgotten that in the coming weeks the [EU Court of Justice is expected to rule on the EC-Morocco fisheries and association agreements](#). This ruling could be a serious blow for the Moroccan state, and [Ignacio Cembrero](#) already anticipated this possible diplomatic crisis months ago.

Alternatives for a diplomatic solution

Thinking of short-term solutions to a situation that is sustained over time is a fruitless and dubiously intelligent solution. To avoid a repetition of this situation, Spain must strengthen its role in bilateral relations by defending itself from internal interference, which is an attack on the waterline of international law. Similarly, Spain must ensure strict compliance with international law and assume its obligations, in this case as the administering power of Western Sahara. Consolidating the occupation of Western Sahara, contrary to international law, could jeopardise Spain's own national sovereignty, as it would open the door to [historical claims](#) over Ceuta and Melilla itself, and weaken Spain's position to contest issues such as the aforementioned extension of Moroccan territorial waters.

Finally, Spain and Europe must ensure respect for human rights, not only by contributing to their protection within but also outside Europe. In this regard, it should be recalled that it is not only President Ghali who is immersed in proceedings before the *Audiencia Nacional*, but also [11 high-ranking](#) Moroccan officials who have been prosecuted by this court for their participation in the Sahrawi genocide. In addition, numerous human rights organisations have denounced [the escalation of violence and repression](#) in the occupied territories since the return to arms, with the case of the Sahrawi activist [Sultana Khaya](#) being particularly serious.

Border management options

While Ceuta represents the European border with Morocco, the EU's competencies to tackle a situation such as the one that took place on the southern border of Spain [last week](#) are quite limited. Art. 77(2)(d) [TFEU](#) states that the EU shall move towards the gradual

establishment of an integrated management system for external borders, but arts. 4(2) [TEU](#) and 72 TFEU establish that the Member States are ultimately responsible for their own internal security and for managing their external borders.

Let us naively assume that what happened in Ceuta constituted a migratory crisis, rather than a diplomatic and political disagreement between Spain and Morocco, to assess two options at the EU's hands to help Spain. The [European Border and Coast Guard Agency \(Frontex\)](#), with prior authorization of Spain, could intervene in Ceuta if the Spanish authorities did not implement the measures previously recommended by Frontex's Executive Director to face the vulnerabilities spotted at its external border. Frontex could also intervene on the ground if Spain was facing a sudden and disproportionate migratory pressure at its external border and refused to request operational assistance from the Agency. [Regulation 2019/1896](#) also confers enforcement powers to Frontex so, under the supervision of the competent Spanish authorities, the Agency is allowed to verify the identity and nationality of the arriving migrants, authorize or refuse entry during border controls, stamp travel documents, issue or refuse visas or patrol. Additionally, Spain could have requested, as Italy and Greece did during the "refugee crisis", the establishment of a [hotspot](#) in Ceuta. In this scenario, the European Commission would be in charge of coordinating the direct operational assistance on the ground of several specialized European agencies such as Frontex, [EASO](#), [EUROPOL](#), [EUROJUST](#) or the [FRA](#). None of these measures was considered since Spain was well aware that the situation in Ceuta had this time little to do with border management and migration.

Devoluciones en caliente/Summary deportations

If the border in Ceuta is a European external border, the EU shall ensure its surveillance, but also guarantee that fundamental rights are protected and that summary collective expulsions of arriving migrants are not carried out. The extraordinarily high number of summary deportations that took place in Ceuta last week can hardly be in accordance with the European legislation requiring Spain to conduct a detailed analysis of the personal situation of those third-country nationals who arrived in Spain.

While the European Court of Human Rights recently [endorsed](#) the Spanish summary deportations, the massive collective expulsions witnessed in Ceuta cannot be considered in full compliance with the right of asylum (Article 18 EU Charter of Fundamental Rights). The EU institutions rushed in insisting that Ceuta is a European border, but they were not as expeditious in reflecting to what extent the events in Ceuta reveal the limits of an EU migratory policy stubbornly centred on securitization, militarization, externalization and the removal of migrants to their countries of origin. A policy of externalization has led to entrust the management of the European external borders to countries like Morocco, which is

opened to force a humanitarian and migratory crisis to pursue its own political interests.

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