

Human Rights Violations on Spain's Southern Border 2021 - 2022

Institutional racism, borders
and migration policy

Credits and acknowledgements

We wish to show our gratitude for the collective efforts contributed by migrants, anti-racist activists, human rights activists, rights defenders on the borders, those affected by human rights violations, and those who spend time day after day observing and documenting these violations and speaking out against them. We would also like to thank those that have contributed throughout the year to the preparation of this report.

Publication date: May 2023

Report by Irídia and Novact

Irídia **NOVACT**

Coordinators: Maite Daniela Lo Coco, Clara Calderó Delgado and Andrés García Berrio

Authors:

Irídia and Novact: Andrés García Berrio, Clara Calderó Delgado, Irene Urango Montilla, Irina Samy Cucurull, Maite Daniela Lo Coco, Siham Jessica Korriche, Aina Estarellas Roca

GAC: Andrea Galán Santamarina and Gabriela López Neyra

ODHE: Carlos Díaz Bodoque and Nora Miralles Crespo

In collaboration with:

Algeciras Acoge, APDHA, Aquí Estamos Tenerife, Asociación Elín, Coordinadora de Barrios, Geum Dudou, M.D.L.R, No Name Kitchen, Oxfam Intermón, Plataforma CIEs no Algeciras, Programa Ödos (Fundación EMET), Proyecto Frontera Sur, Red de Solidaridad con las Personas Migrantes en Lanzarote, Red Interlavapies, Servicio Jesuita a Migrantes, SIR[a], Solidary Wheels, Valiente Bangla

Layout: Maria Conill Hernández

Photography: Valentina Lazo Escudero

Graphs: Maria Conill Hernández

Design: Maria Conill Hernández

Cover photo: Valentina Lazo Escudero

Graphic design coordinator: Valentina Lazo Escudero

Editing and correction: Raquel M. Martínez

Index

Introduction	6
1. Context and Framework	10
1.1 Institutional violence at the border	11
1.2. Racism, colonial domination and borders.....	12
1.3. Instrumentalisation of migration and migration agency.....	13
1.4. Criminalisation of migration	14
1.5. An intersectional analysis.....	16
2. An overview of Spain’s southern border: containment	18
2.1. Immigration Detention Centres (CIE).....	22
2.2. Temporary Stay Centres for Immigrants (CETI)	23
2.3. Temporary Reception Centres for Non-Nationals (CATE)	25
2.4. Other migrant centres.....	31
3. Methodology: difficulties in human rights monitoring on Spanish borders	32
3.1. How can we investigate, document and analyse Spain’s actions on its southern border?	34
3.2. Lack of publicly available official disaggregated data.....	35
3.3. The Ombudsman.....	36
3.4. Primary sources.....	40
3.5. Morocco: methodology and security	40
4. Human rights violations on Spain’s southern borders	41
4.1. Ceuta and Melilla	42
4.1.1. <i>Right to asylum</i>	42
4.1.2. <i>Express deportations</i>	44
4.1.3. <i>Temporary Stay Centres for Immigrants (CETI)</i>	51
4.1.4. <i>Unaccompanied children</i>	53
4.1.5. <i>Analysis of the events which occurred in Ceuta in May 2021</i>	56
4.1.6. <i>Analysis of police action on 24 June 2022 in Melilla</i>	59
4.2. Canary Islands.....	74
4.2.1. <i>General arrivals data</i>	74
4.2.2. <i>Management of rescue and first aid upon arrival</i>	77
4.2.3. <i>Detention: CATEs, CIEs and prisons</i>	80
4.2.4. <i>Canary Islands Plan</i>	86
4.2.5. <i>Right to asylum</i>	88
4.2.6. <i>Unaccompanied children</i>	89
4.3 Andalusia, Balearic Islands, Valencia and Murcia.....	91
4.3.1. <i>Detention: CATEs and CIEs</i>	93

5. Psychosocial impacts on the Southern Spanish-Northern African border: the harm of the southern border from a psychosocial perspective (Grupo de Acción Comunitaria)	97
5.1. Impacts of irregular migration	98
5.2. Psychosocial impacts on the Southern Spanish - Northern African border.....	102
5.3. Impacts upon reception in border areas.....	104
6. Surveillance technologies on Spain’s southern border	109
6.1. The technological construction of Spain’s southern border (ODHE)	110
6.2. Surveillance technologies on Spain’s southern border, and the companies making a profit.....	113
7. Current migration issues in Morocco	119
7.1. Containment of migration and deportation in Morocco.....	121
7.2. Protection in Morocco.....	123
7.3. Routes.....	124
8. Conclusions	129
1. Context and Framework.....	130
2. An overview of Spain’s southern border: containment	131
3. Methodology: difficulties in human rights monitoring on Spanish borders.....	132
4. Human rights violations on Spain’s southern borders	132
5. Psychosocial impacts on the Southern Spanish-Northern African border. The psychological harm of the southern border	136
6. Surveillance technologies on Spain’s southern border.....	137
7. The migration situation in Morocco.....	138
9. Recommendations	139
Annex 1	146
Annex 2	151

Introduction

The aim of this report is to complement the human rights monitoring work being done across the country by a wide range of individuals, groups and organisations. To this end, Spain's southern border¹ – and the way in which it is managed – is presented herein as an example of human rights violations which are the result of deliberate policy decisions. **This document consolidates and arises from the joint work being done to provide oversight of undocumented crossings on Spain's southern border. Its primary focus is the response by authorities on the ground to the arrival of those migrating to Spanish territory.**

This report **seeks to serve as a tool for highlighting the human rights issues at play on the southern border, as well as changing them. In turn, it is hoped that it will highlight the work behind it, so that this can also be built upon to raise further awareness about the situation on the southern border.** Based on periodic fieldwork, **this report highlights the principal human rights violations faced by migrants who entered Spanish national territory by irregular means in 2021 and 2022, with a particular focus on Ceuta, Melilla, the Canary Islands, the Balearic Islands, Andalusia and Morocco.**

The information presented is the **result of joint work which brings together expertise and aims to contribute towards a critical analysis of migration policy.** We believe that, by working together, we can raise our voices louder, and deal a blow to the impunity, violence and legal exceptionalism² that characterise Spain's southern border. This document is the continuation of a series of reports published by Iridia and Novact concerning the human rights situation at the border over the past seven years.³

The restrictions and socio-economic consequences caused by the pandemic⁴ disproportionately affected migrants' rights, and led to increasing levels of discrimination and racism.⁵ **In the wake of the pandemic, human rights infringements and the use of violence by nation states in migration control have intensified. As a result, borders have devolved into arenas of the loss of life and systematic disappearance of men, women and children.⁶ This has led the United Nations High Commissioner for Refugees (UNHCR) to express their deep concern at the increase in violence at the European Union's borders.⁷**

¹ We are aware that presenting the regions of Andalusia, the Canary Islands, Ceuta and Melilla as the 'southern border' could constitute a northern-centric outlook. However, we use this adjective as a geographical and non-political term and understand borders as ubiquitous, dynamic and multiple.

² Understood as the absence of law or the non-application of the law.

³ The last of the reports in this series was published in 2022. See Iridia, *Vulneraciones de derechos en la respuesta institucional a las llegadas de personas migrantes en Canarias* (Barcelona, 2022) https://iridia.cat/wp-content/uploads/2022/05/informe_vulneracion_derechos_canarias_abril_mayo_22-1.pdf

⁴ Blanca Garcés-Masareñas and Ana López-Sala, 'Inmóviles, varados y excluidos: los efectos de la COVID-19 en el régimen internacional de asilo'. *Revista CIDOB d'Afers Internacionals* n.129 (December 2021): 7-29

⁵ OHCHR, A/76/257, Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales - One and a half years later: the impact of COVID-19 on the human rights of migrants (2021) <https://www.ohchr.org/en/documents/thematic-reports/a76257-one-and-half-years-after-impact-covid-19-human-rights-migrants>

⁶ International Organization for Migration, Missing Migrants Project, <https://missingmigrants.iom.int/en>

⁷ UNHCR, "News Comment: UNHCR warns of increasing violence and human rights violations at European borders", 21.02.2022 <https://www.unhcr.org/news/press/2022/2/62137a284/news-comment-unhcr-warns-increasing-violence-human-rights-violations-european.html>

The Special Rapporteur on the human rights of migrants has referred to migration policies as “dangerous and lethal practices in border management”, which, taken as a whole, are a matter of international concern.⁸

It is undeniable that there is a link between the implementation of restrictive immigration policies and the deaths and disappearances of thousands of people. Current migration policies push those who migrate towards extremely dangerous routes.⁹ They also lead to the denial of the fundamental rights of groups of people from regions in the global South, as part of what has been called necropolitics.¹⁰ **Restrictive migration control measures and the daily litany of deaths and disappearances along borders can only be understood by applying a post-colonial analysis which links migration policies with structural racism and historical colonial domination.**¹¹ As part of such worldviews, some lives are worth more than others¹², and racialised bodies, classed as inferior, are at the mercy of disproportionate levels of violence and exceptionalism.

EU Member States’ migration policies share common features. Among these is the outsourcing of border control¹³, which is used to prevent the arrival of unwanted migration¹⁴, in what are known as “non-arrivals policies”.¹⁵ These put physical, ethical and legal distance¹⁶ between EU Member States and third countries, thereby circumventing the former’s obligations in terms of human rights and, in particular, international refugee law. Furthermore, the criminalisation of migration and human rights defenders, the consolidation of security infrastructure¹⁷ and the privatisation¹⁸ and militarisation of migration control have become common features at present-day borders.

8 OHCHR, A/HRC/50/31, “Violaciones de los derechos humanos en las fronteras internacionales: tendencias, prevención y rendición de cuentas – Informe del Relator Especial sobre los derechos humanos de los migrantes, Felipe González Morales”, 26 April 2022, 19 <https://reliefweb.int/report/world/violaciones-de-los-derechos-humanos-en-las-fronteras-internacionales-tendencias-prevencion-y-rendicion-de-cuentas-informe-del-relator-especial-sobre-los-derechos-humanos-de-los-migrantes-felipe-gonzalez-morales-ahrc5031>

9 Daniela Lo Coco, “EU migration policy and migrant human rights: the protection and negation of life at EU borders”, *The Age of Human Rights Journal* n.16 (2021): 54–80

10 Achille Mbembe. *Necropolitics*, (Spain: Melusina [sic], 2011).

11 Lucy Mayblin, Mustafa Wake, Mohsen Kazemi, “Necropolitics and the Slow Violence of the Everyday: Asylum Seeker Welfare in the Postcolonial Present,” *Sociology*, no. 54 (2020): 107-123

12 Frantz Fanon, *Black Skin, White Masks* (New York: Grove Press, 1952).

13 Thomas Gammeltoft-Hansen, “The Externalisation of European Migration Control and the Reach of International Refugee Law in The First Decade of EU Migration and Asylum Law”, in *The First Decade of EU Asylum and Migration Law*, eds. Guild, Elspeth and Minderhoud, Paul (Boston: Brill, 2011), 273-298

14 Critical migration studies highlight that a percentage of migrants represent a desired workforce. Generally speaking, this segment is commodified and not afforded corresponding rights. These are cheap, temporary workers with reduced opportunities in the wider job market. See Harsha Walia, *Border and Rule: Global Migration, Capitalism, and the Rise of Racist Nationalism*, 2nd ed. (Madrid: Alianza, 2001) or Évelyne Ritaine “Kitty Calavita, Immigrants at the Margins: Law, Race and Exclusion in Southern Europe”, *Critique Internationale* n.35 (2007): 206-209

15 Thomas Spijkerboer, “The Global Mobility Infrastructure: Reconceptualising the Externalisation of Migration Control”, *European Journal of Migration and Law* no. 20, 4 (2018): 452-469

16 Violeta Moreno-Lax and Martín Lemberg-Pedersen, “Border-induced displacement: the ethical and legal implications of distance-creation through externalization”, *Questions of International Law*, n.56 (2019): 5-33

17 Jose Ángel Brandariz and Cristina Fernández-Bessa, “La crimigración en el contexto español: el creciente protagonismo de lo punitivo en el control migratorio”, in *Estados de contención, estados de detención: el control de la inmigración irregular en España* (Barcelona: Anthropos, 2017)

18 OHCHR, A/75/590, “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance”, 2020, 5 <https://www.ohchr.org/en/special-procedures/sr-racism/annual-thematic-reports>

In recent decades, the development and use of new digital tools^{19 20} for the purposes of border control, without adequate risk assessment or relevant safeguards²¹, has been singled out as uniquely dangerous and as representative of the expansion of colonial²² and racist²³ border management technologies. All of the above has an impact on migrants, exposing them to distress that leads to fear, post-traumatic stress disorders, depression and anxiety. Indeed, these situations can be considered as a circumstantial form of torture.²⁴

The present report is divided into seven chapters. The first chapter offers an overview of the context and framework in which the report has been written. The report aims to disrupt the partial view of human rights violations at the border as an isolated emergency, and to provide a critical analysis that situates Spain's southern border within an overall EU border policy of containment and the attendant violations of human rights this supposes. Thereafter, the report looks at the challenges that have been identified in human rights monitoring at the Spanish border, illustrating the methodology used in this report (Chapter 2). It then addresses the principal human rights violations identified at the border in 2021 and 2022, including an analysis of events in Ceuta in May 2021, with further analysis of police operations on 24 June in Melilla included in Chapter 3. The following chapter, entitled 'Psychosocial Impacts of the Southern Spanish-North African Border: the damage caused at the southern border from a psychosocial perspective' (Chapter 4) focuses on the psychosocial effects of violence, based on an analysis prepared by Community Action Groups. The fifth chapter, 'Surveillance and Control Technologies at the Southern Spanish Border', prepared by the Observatory of Human Rights and Business in the Mediterranean Region (hereinafter, ODHE), analyses examples of privatisation, the companies involved, and the implementation of Artificial Intelligence (AI) systems for use in migration control (Chapter 5). Thereafter, a situational analysis of the human rights of migrants in Morocco is provided (Chapter 6). Lastly, the conclusions of the report and a series of recommendations are presented (Chapter 7).

19 StateWatch, "Regulating migration technology: how the EU's AI Act can better protect people on the move", 9 May 2022, <https://www.statewatch.org/news/2022/may/regulating-migration-technology-how-the-eu-s-ai-act-can-better-protect-people-on-the-move/>

20 OHCHR, A/HRC/44/57, "Racial discrimination and emerging digital technologies: an analysis of human rights", 2020, <https://www.ohchr.org/en/special-procedures/sr-racism/annual-thematic-reports>

21 OHCHR, A/HRC/50/31 "Human rights violations at international borders: trends, prevention and accountability - Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales", 26 April 2022, <https://www.ohchr.org/en/documents/thematic-reports/ahrc5031-human-rights-violations-international-borders-trends-prevention>

22 PICUM, "Regulating Migration Tech: How the EU's AI Act can better protect people on the move", 9 May 2022, <https://picum.org/regulating-migration-tech-eu-ai-act-protect-people-on-the-move/>

23 OHCHR, A/HRC/38/52 "Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance - Note by the Secretariat", 2018, <https://www.rightsdocs.org/doc/a-hrc-38-52/>

24 GAC, El limbo de la frontera: impactos de las condiciones de la acogida en la frontera sur española (2022) 11, <https://www.psicosocial.net/gac/wp-content/uploads/2022/05/El-limbo-de-la-frontera.pdf>

1. Context and Framework

1.1 Institutional violence at the border

In 2022, the United Nations High Commissioner for Refugees (UNHCR) publicly expressed their concern about the increase in violence and human rights violations in the EU²⁵ and the growth of “dehumanising tactics” in migration governance. **Human rights violations on borders are a direct consequence of the action or inaction of state authorities, given that border control and management is their responsibility.** It is the authorities themselves – in exercising physical and psychological force, with the attendant consequences these can have on the physical and psychological wellbeing and fundamental rights of migrants – who create the conditions for human rights violations on borders. **Without states which act to prevent people’s movement, there are no migratory crises.**

Consequently, data on violations of fundamental rights is not habitually recorded or published by authorities; on the contrary, in many cases it is deliberately concealed, making it difficult to gather data and investigate and report upon it. This has been pointed out by the United Nations Special Rapporteur on the human rights of migrants in one of their latest reports, dated April 2022, in which they state that the “full spectrum of such violations often remains hidden, due to State-led attempts to dismiss or cover up allegations of wrongdoing”.²⁶ Recently, the Rapporteur and the United Nations High Commissioner for Human Rights (hereinafter referred to as OHCHR) have denounced the widespread practice of express deportations,²⁷ limited access to asylum, inadequate reception conditions, deaths in the Mediterranean, the treatment of migrants and the lack of mechanisms for independent oversight, all of which deepens the vulnerability which migrants experience.²⁸

Human rights violations and deaths at borders have become a fundamental part of migration management. Despite the fact that access to truth, justice and reparation are basic principles of a democratic and law-abiding country, there is no political will in Spain to investigate these circumstances, nor facilitate access to information about them. On the contrary, at present we are seeing intolerable levels of impunity and exceptionality²⁹ in the face of serious violations of rights at the border, as evidenced by the repeated shelving of investigations into the deaths which occur there.³⁰ Against the backdrop of widespread violations of fundamental rights, UN human rights monitors³¹ point to the need to establish fully-independent national border oversight mechanisms.³²

25 ACNUR, “News Comment: UNHCR warns of increasing violence and human rights violations at European borders”, 21 February 2022, <https://www.unhcr.org/news/press/2022/2/62137a284/news-comment-unhcr-warns-increasing-violence-human-rights-violations-european.html>

26 OHCHR, A/HRC/50/31 “Human rights violations at international borders: trends, prevention and accountability - Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales”, 26 April 2022, 19, <https://www.ohchr.org/en/documents/thematic-reports/ahrc5031-human-rights-violations-international-borders-trends-prevention>

27 Ibid.

28 OHCHR, “Global Update: Bachelet Urges Inclusion to Combat “ Sharply Escalating Misery and Fear ”, 7 March 2022, <https://www.ohchr.org/en/speeches/2022/03/global-update-bachelet-urges-inclusion-combat-sharply-escalating-misery-and-fear>

29 Xavier Ferrer-Gallardo and Lorenzo Gabrielli, *Estados de excepción en la excepción del Estado Ceuta y Melilla*, (Spain: Icaria, 2018)

30 A clear example of this is the closure of the investigation into the events that occurred on 24 June 2022 in Melilla or of the judicial response to the deaths of 15 people on the beach of El Tarajal (Ceuta) on 6 February 2014 trying to cross the border. More information at: <https://www.cear.es/caso-tarajal/>

31 UN, <https://www.ohchr.org/en/instruments-and-mechanisms>

32 OHCHR, A/HRC/50/31 “Human rights violations at international borders: trends, prevention and accountability - Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales” 26 April 2022, 19, <https://www.ohchr.org/en/documents/thematic-reports/ahrc5031-human-rights-violations-international-borders-trends-prevention>

1.2. Racism, colonial domination and borders

Racism is a fundamental structural element³³ in the management of cross-border movement,³⁴ particularly so in the case of the EU and its Member States.³⁵ Nevertheless, in migration studies, those who employ a post-colonial perspective remain in the minority.³⁶ This report considers racism as a connecting axis in migration and asylum policies which serves both to understand them and the human rights violations which presently occur at borders.³⁷

There is an embryonic relationship between migration policies and Europe's history of colonial domination. During the eighteenth and nineteenth centuries, colonial powers legislated for commercial transit to be considered a right established in law. This changed when countries previously under colonial dominion became independent, and wealthy nations moved to regulate entry into their territories by redefining relations with their erstwhile colonial subjects.³⁸ Present-day migration policies are the link between historical colonial domination and the current international relations that have been built upon it.³⁹ This structure of discrimination has been referred to by some scholars as the “*global apartheid*”⁴⁰ or, in the case of deportations, “*departheid*”.⁴¹ The term “*global apartheid*” refers to the visa system that incentivises the movement of certain groups of people while paralysing the movement of others and exposing them to higher risk of detention, repression, violence and death.⁴²

Restrictions on movement – and the violence exercised for this purpose – have turned borders into arenas of violence and death for those groups of people who are the object of said restrictions. They are therefore also the object of violence⁴³ and repression of cross-border movement.⁴⁴ The restriction of movement forces people to take the most dangerous routes,⁴⁵ exposing

33 María José Aguilar Ibañez and Daniel Buraschi, “Racismo institucional. Claves analíticas para comprender la cara oculta de la dominación racial”, en *Dinámicas racistas y prácticas discriminatorias. La realidad en España, Francia, Italia, Dinamarca y Finlandia*, ed. by Ángeles Solanes Corellas, (Spain: Editorial Aranzadi, 2022), 63-88

34 Lucy Mayblin and Joe Turner, *Migration Studies and Colonialism*. Cambridge: Polity Press.

35 Miguel Mellino *Governare la crisi dei rifugiati. Sovranismo, neoliberalismo, razzismo e accoglienza in Europa* (Rome: Derive Approdi, 2019)

36 Martin Lemberg-Pedersen, Sharla M. Fett, Lucy Mayblin, Nina Sahraoui and Eva Magdalena Stambøl, *Postcoloniality and forced Migration* (Bristol: University Press, 2022)

37 Lucy Mayblin, *Asylum after Empire: colonial legacies in the politics of asylum seeking*, (Lanham: Rowman and Littlefield, 2017)

38 Iker Barbero, “Refugiados en contención: lógicas de (in)movilidad en materia de derecho de asilo en la Frontera Sur”, *Revista CIDOB d’Afers Internacionals*, n.129 (December 2021): 179-202

39 Karinde Vries and Thomas Spijkerboer, “Race and the regulation of international migration. The ongoing impact of colonialism in the case law of The European Court of Human Rights”, *Netherlands Quarterly of Human Rights*, no. 39 (2021): 291-307

40 Henk Van Houtoum, “Human blacklisting: the global apartheid of the EU’s external border regime”, *Environment and Planning D: Society and Space* no. 28 (2010): 957-976

41 Barak Kalir, “Departheid: The draconian governance of illegalised migrants in Western States”, *Conflict and Society: Advances in Research* no. 5 (2019): 19-40

42 Luke De Noronha, “Deportation, racism and multi-status Britain: immigration control and the production of race in the present”, *Ethnic and Racial Studies* n.42 (2020): 2413-2430

43 OMCT, “The torture roads: the cycle of abuse against people on the move in Africa”, (2019) <https://www.omct.org/site-resources/files/The-Torture-Roads.pdf>

44 Nicholas De Genova, “The ‘migrant crisis’ as racial crisis: do black lives matter in Europe?”, *Ethnic and racial studies* n.41 (2018): 1765-1782

45 Ana López-Sala and Amador Moreno, “En busca de protección a las puertas de Europa: refugiados, etiquetado y prácticas disuasorias en la frontera sur española”, *Estudios fronterizos* (2020)

themselves to vulnerability, violence⁴⁶ and death⁴⁷, in what is known as necropolitics.⁴⁸ This term refers to policies that fail to protect human life and permit death in a context of total impunity and legal exceptionalism. The number of deaths in the Mediterranean, the tangible violence at border crossings such as those in Ceuta and Melilla, and the failure of the authorities to investigate and protect the lives of those in need are examples of this.

The impact of borders extends beyond their physical location, often unseen, through laws that disenfranchise certain groups of people. In Spain, the Immigration Act⁴⁹ **provides for the disenfranchisement, detention and deportation of the groups racialised by it,**⁵⁰ who **by and large come from countries historically subject to colonial domination.**⁵¹ Racial discrimination on the basis of citizenship, nationality and migration status highlights discriminatory attitudes and an unequal application of international human rights standards in relation to human rights violations.

1.3. Instrumentalisation of migration and migration agency

The “instrumentalisation of migration”⁵² is a consequence of the externalisation of border control, and is therefore something which occurs in countries bordering the EU. The term refers to the use of migration as a weapon for political pressure in a wider context.⁵³ When border management is handed over to third countries, the ability to exert political pressure and influence in other matters is likewise transferred to them. Understanding this is essential if we are to be able to analyse the relations between the EU, Spain and Morocco⁵⁴, as well as Algeria, insofar as these relations are determined by geopolitical strategic interests. As such, in order to understand what is happening in relation to migration on Spain’s southern border, we must understand the political agenda behind it.

As regards Morocco, it is necessary to take into account above any others the two main factors in dispute: the sovereignty of Western Sahara, considered by the UN as a Non-Self-Governing Territory,⁵⁵ and a commercial dispute largely re-

46 UNHCR “In this journey, no one faces if you live or die. Abuse, protection, and justice along routes between East and West Africa and Africa’s Mediterranean coast”. 2020 <https://www.unhcr.org/protection/operations/5f2129fb4/journey-cares-live-die-abuse-protection-justice-along-routes-east-west.html>

47 Daniela Lo Coco, “EU migration policy and migrant human rights: the protection and denial of life at EU borders”, *The Age of Human Rights Journal* n.16 (2021): 54–80

48 Achille Mbembe, *Necropolitics*, (Spain: Melusina [sic], 2011).

49 Act 4/2000 of 11 January on the rights and freedoms of foreign nationals in Spain and their social integration.

50 In this report, the term racialisation refers to the process by which bodies incorporate the hierarchical differentiation of colonial and racist history that permeates policies, population control practices, police practices, and immigration control. See Ramon Grosfoguel, “What is racism?”, *Journal of World System Research* n.22 (2016)

51 Achille Mbembe, *Crítica de la razón negra: ensayo sobre el racismo contemporáneo*, (Barcelona: Barcelona Ned editions, 2016)

52 Jean-Pierre Cassarino “The Instrumentalization of Migration in the Euro-Mediterranean Area: Between Past and Present”, in *IEMed Mediterranean Yearbook* (2021), <https://www.iemed.org/publication/the-instrumentalization-of-migration-in-the-euro-mediterranean-area-between-past-and-present/?lang=en>

53 Blanca Garcés-Mascareñas, “La instrumentalización de las migraciones”, *Anuario Internacional CIDOB*, (2022), https://www.cidob.org/es/articulos/anuario_internacional_cidob/2022/la_instrumentalizacion_de_las_migraciones

54 Nora El-Qadim, *Le gouvernement asymétrique des migrations. Maroc/Union européenne* (Paris: Dalloz, 2015)

55 The United Nations and Decolonization, <https://www.un.org/dppa/decolonization/en/nsgt/western-sahara>

lated to agriculture and fisheries⁵⁶. A paradigmatic example of this are the events which occurred⁵⁷ in Ceuta in May 2021, when more than 8,000 people entered the autonomous city in less than two days. In this regard, at the beginning of 2023 the European Commission raised before Parliament the possibility of suspending fundamental rights where “instrumentalisation” could be identified.⁵⁸

In spite of the instrumentalisation and externalisation of border management, this report focuses on the agency and the “subjective practices, desires, expectations and behaviours”⁵⁹ of those who migrate, move and/or flee from a diverse range of places and circumstances. In these terms, migration policies aimed at containment are processes that, rather than merely excluding them, shape the way in which thousands of people cross borders and migrate.⁶⁰

Recognising the agency and the resilience of migrants allows us in turn to recognise the existence of an active relationship between migration policy based on the externalisation of borders and the instrumentalisation of migration, as well as the struggle of those who migrate to challenge border management policies and assert their right to their desires, dreams and aspirations as migrants. Migratory movements and forced displacement therefore arise from a multiplicity of factors, as do the migration policies that condition people’s movements and migratory routes. It is essential to understand those who migrate as political subjects with their own agency.⁶¹ As such, it is important to highlight the capacity for self-organisation of the relatives and friends of those who have gone missing or died during their migratory journey.

1.4. Criminalisation of migration

The criminalisation of migration refers to the association of the movement of people with criminality, as part of a worldview that understands migration as a security issue⁶². The term likewise refers to the narratives about migration – especially those shared by the media, the general public and politicians – which link migrants with crime and disorder.

This has manifested in the fusion of immigration and criminal justice legislation and in resources such as detention centres and migration monitoring systems similar to those used by law enforcement agencies. Under these auspices, laws have been passed increasing border controls, draconian entry conditions and resources for detention and deportation, as well as a more general penalisation of migration.

⁵⁶ Cassarino “The Instrumentalization of Migration in the Euro-Mediterranean Area: Between Past and Present”

⁵⁷ Jean Pierre Cassarino, “An Unsettling Déjà-vu: The May 2021 Ceuta Events”, in *Instrumentalization of Migrants, Sanctions Tackling Hybrid Attacks and Schengen Reform in the Shadows of the Pact*, ed. by Daniela Vitiello and Stefano Montaldo, (European Papers, 2022), 79-85

⁵⁸ European Commission, Proposal for a Regulation of the European Parliament and of the Council on instrumentalisation situations in the field of migration and asylum. Strasbourg, 14.12.2021COM (2021) 890 final <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2021:890:FIN>

⁵⁹ Sandro Mezzadra, “Capitalismo Migraciones y luchas sociales.. La mirada de la autonomía”, *Nueva sociedad* n. 237 (2012): 159-178

⁶⁰ Sandro Mezzadra, *Derecho de fuga. Migraciones, ciudadanía y globalización*, (Madrid: Traficantes de sueños, 2005).

⁶¹ As an example of political struggles and demands by people on the move, see, Irídia, “Un grupo de personas residentes en el CETI de Melilla denuncian violencia Institucional”, 2022 <https://iridia.cat/en/comunicado-un-grupo-de-personas-residentes-en-el-ceti-de-melilla-denuncian-violencia-institucional-por-parte-de-la-seguridad-privada-del-centro/>

⁶² Gustavo De la Orden Bosch, “El derecho de asilo ante la criminalización de la migración irregular en las fronteras exteriores de la Unión Europea. España como un caso de estudio” (Doctoral Thesis, University of Deusto, 2022), <https://dialnet.unirioja.es/servlet/tesis?codigo=308775>

As a result, a narrative has arisen among authorities that situates “mafias” and a network of traffickers as both the drivers behind migration and those responsible for the dangerousness of migratory routes and the deaths which occur on them⁶³. This narrative sidesteps the failure of states to uphold their responsibility to ensure legal and safe routes⁶⁴, at the same time as discursively safeguarding a humanitarian image in line with the EU’s founding values. At the same time, security policy allows for the deployment of military resources in border areas for migration control, laying the groundwork for the violation of migrants’ rights.⁶⁵ **In Spain, some of the most serious consequences of this are the systematic detention of people in police facilities and the opening of criminal proceedings against migrants who have arrived in small boats, accused of being skippers and of having committed the crime of people smuggling.** This is a growing phenomenon across Europe.

Concentration of residents of the Melilla CETI (2022).

Valentina Lazo



⁶³ In 2015, the EU Action Plan against Smuggling of Migrants (2015-2020) was adopted as part of the European Agenda on Migration. In 2021, this plan was renewed: “A renewed EU action plan against migrant smuggling” (2021-2025) - COM(2021) 591, HYps://home-affairs.ec.europa.eu/renewed-eu-action-plan-against-migrant-smuggling-2021-2025-com-2021-591_en

⁶⁴ Maurice Stierl, “Fleet of Mediterranean Border Humanitarians”, *Antipode* no. 50 (2017): 704–724

⁶⁵ Eugenio Cusumano, “Migrant rescuing as organized hypocrisy: EU maritime missions offshore Libya between humanitarianism and border control”, *Cooperation & Conflict* no. 54 (2018): 3–24.

1.5. An intersectional analysis

The effects of migration policies on those who migrate differ depending on their skin colour, age, gender, health, abilities, economic situation, nationality and other axes. Taking the multiplicity and complexity of these factors into account is essential in human rights monitoring as a means of recognising the distinct challenges faced by children, adolescents, elderly people⁶⁶, women, people with special needs and/or of diverse genders and sexual identities.⁶⁷

However, there are limitations and obstacles to applying an intersectional approach. First, access to disaggregated data on irregular immigration is often impossible. The Ministry of Interior publishes its own figures without mentioning any of these variables, making it impossible to delve further into them. Nevertheless, from the available data, it can be stated that the majority of those who arrived irregularly in Spain between 2021 and 2022 were young men.

Secondly, the opacity surrounding national migration policy, as well as a number of detention and reception centres, further complicates analysis. Access to information relating to the situation of women or children is a complex issue, as a result of both its sensitivity and the fact that, if it is made public, it can put these people at risk. A similar lack of information, and the sensitivity thereof, also applies to sexual diversity. Consequently, an intersectional perspective is provided in the analysis in the form of specific case studies rather than disaggregated quantitative data.

With regard to gender, it is worth highlighting that gender-based violence often drives displacement, as well as occurring in transit in the form of sex trafficking and modern slavery, and violations of the rights to reproductive health and freedom and access to international protection. This is in addition to other forms of violence that affect mothers and their children.

Age is also a key factor in the analysis of rights violations on Spain's southern border. It should be noted that, **in spite of the fact that the protection of children is legislated for in Spain, human rights organisations have highlighted serious deficiencies in the application of said legislation where migration control is prioritised over the rights and best interests of children.** In this regard, and despite the passing of the Protection of Children and Adolescents Act 8/2021 which strengthened the system for the protection of children – including asylum-seekers – as well as amendments to Act 4/2000 governing the rights of non-nationals, concerns persist about the decentralisation of the system for the protection of unaccompanied children which leaves oversight in the hands of Spain's 17 autonomous communities and the two autonomous cities of Ceuta and Melilla, thus hindering any standardised nationwide approach.

⁶⁶ There are specific recommendations for children made by UNHCR, “Guidelines on international protection: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees”, 22 December 2009 <https://www.unhcr.org/publications/legal/50ae46309/guidelines-international-protection-8-child-asylum-claims-under-articles.html>

⁶⁷ For example, there are specific UNHCR recommendations for people of sexual and gender diversity, “Guidelines on International Protection NO. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees”, 23 October 2012, <https://www.unhcr.org/509136ca9.pdf>

Although we have been unable to fully delve into the circumstances affecting each of the groups, due to both the scope of our research and the limitations in accessing disaggregated data, **this report does provide a starting point for an intersectional approach that takes into account the range of axes of domination in future joint long-term monitoring work.**

Group of young people held by Spanish soldiers in a context of instrumentalisation of migrations (Ceuta, 2021).

Irina Samy



2. An overview of Spain's southern border: containment

The migration policy of the European Union has intensified externalisation and the logic of containment at the external borders, creating areas where people are practically immobilised or at least forced to slow down and contain their movement. This hindrance of movement is the result of the restrictions made on them, in the form of bureaucratic measures as well as arrest, detention, deportation and blockades.⁶⁸ Such phenomena can be found both within Spanish territory, usually at border crossings, and in transit countries, as is the case of Morocco.

The containment of migration is exercised via mechanisms and structures through which freedom of movement is limited or directly blocked: fences, trenches, checkpoints, bureaucratic procedures, arrests and deportations. In Spain, containment units work jointly with European agencies such as FRONTEX and the EU Asylum Agency and international organisations such as the UNHCR and the NGOs that both assist people upon arrival and during their asylum application and participate in the management of services given over to containment.

These services are mainly located in border areas where units created for the containment, grouping and deportation of non-nationals have been installed. This takes place under the assumption that “those who do not meet the conditions for international protection are to be deported immediately”.⁶⁹ Such policies have been identified as a breeding ground for the extreme right and racist and xenophobic discourses,⁷⁰ as has been observed in recent years in the territories contiguous to European borders.

In the case of Spain, containment is implemented through a legal framework and materialises in specific spaces, chiefly closed and semi-closed detention centres. In other words, a range of detention centres have been created with the aim of ensuring the containment yet, at the same time, the provision of care for those who arrive in the country and those who are about to be expelled from it. The principal facilities in operation in Spain are the Immigration Detention Centres (CIE, in Spanish), Temporary Stay Centres for Immigrants (CETI) and Temporary Reception Centres (CATE). These are supported by other “migration centres” that may be activated on demand. In Spain, oversight of centres intended for the reception of persons entering the country by irregular means is provided for in the regulations governing the implementation of Act 4/2000, approved in 2011. These centres are more generally referred to as “migration centres”, the most recent example of which is the Canary Islands Plan centre.

Containment units are characterised by a lack of transparency surrounding their practices, and the governance and legislation which applies to them.

As will be further shown in this report, they form part of a complex bureaucratic web that makes it very difficult for migrants to know where they stand legally, who their lawyers are and where to find them, how long they might remain in the facility, when they might be deported, and how to communicate with their relatives. The opacity surrounding these centres underpins arbitrary conduct by the authorities and causes migrants feelings of uncertainty, distress and loss of control.⁷¹

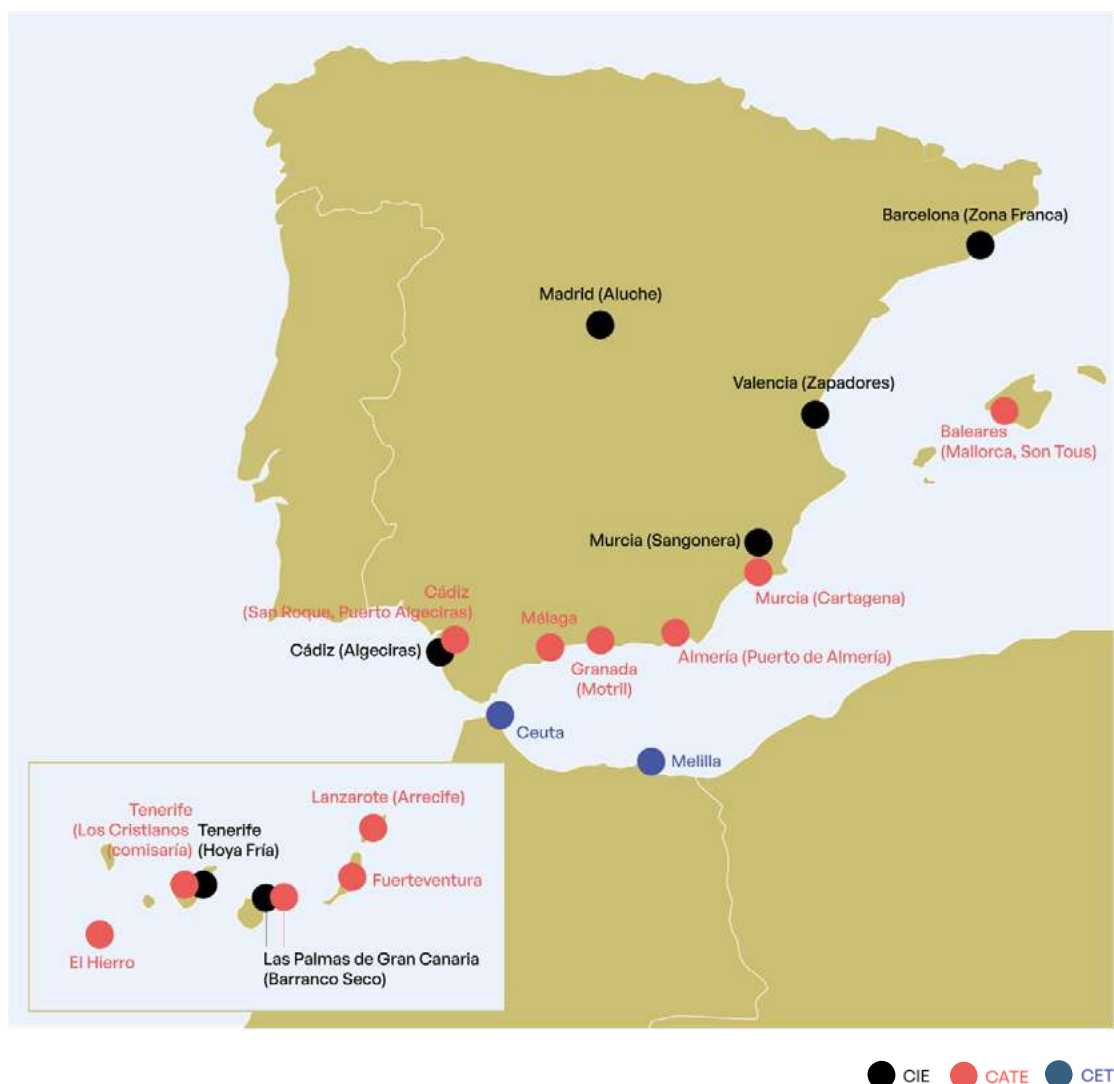
⁶⁸ Daniela Lo Coco and Eloísa González-Hidalgo, “La doble lógica de la externalización europea: protección y deportación en Marruecos”, *Revista CIDOB d’Afers Internacionals* no. 129 (2021); 79-106

⁶⁹ Blanca Garcés-Mascareñas, “Islas Jaula”, *Revista CIDOB d’Afers Internacionals*, December 2020, https://www.cidob.org/es/publicaciones/serie_de_publicacion/opinion_cidob/2020/islas_jaula

⁷⁰ *Ibid.*

⁷¹ Community Action Groups, “El limbo de la frontera. Impactos de las condiciones de la acogida en la frontera sur española”, *Sira*, 2022 <http://www.psicosocial.net/sira/frontera-sur/>

In **places that geographically represent spaces of containment, such as** Ceuta and Melilla and the Canary and Balearic Islands⁷², even greater effort is made to contain new arrivals and avoid their transfer to the peninsula. Here, asylum claims are made against a backdrop of irregular border crossings, detention centres and language difficulties⁷³. The distribution of these centres across Spain is as follows:



⁷²Iridia and Novact. "Vulneraciones de derechos en la respuesta institucional a las llegadas de personas migrantes en Canarias".. (2022), https://iridia.cat/wp-content/uploads/2022/05/informe_vulneracion_derechos_canarias_abril_mayo_22-1.pdf

⁷³Iker Barbero, "Refugiados en contención: lógicas de (in)movilidad en materia de derecho de asilo en la Frontera Sur", *Revista CIDOB d'Afers Internacionals* no. 129 (2021): 179-202.

1. **CIEs** have been in operation since 1985. They are detention centres used in the control of borders and non-national arrivals. These are closed centres which detainees are unable to leave. According to the definition provided in the Immigration Act and a judgement of the Constitutional Court issued on 7 July 1987, the CIEs in Spain are by definition “non-penitentiary” centres. There are currently 7 CIEs in Spain: 1. Barcelona (Zona Franca), 2. Madrid (Aluche), 3. Valencia (Zapadores), 4. Cádiz (Algeciras), 5. Murcia (Sangonera), 6. Las Palmas de Gran Canaria (Barranco Seco) and 7. Tenerife (Hoya Fría). They fall under the oversight of the Ministry of the Interior.
2. **CATEs** were first introduced in 2018. They are usually located in police stations or fenced-off prefabricated buildings and complexes, usually in policed port areas or nearby. It is here that those arriving by non-regular means are detained for 72 hours in order for police to carry out background checks and for humanitarian aid to be provided to them. Rudimentary camps constructed by military emergency response teams, ships and docks have also been used. It is difficult to calculate how many there are, especially when they are set up in police stations: 1. Cádiz (San Roque, Puerto Algeciras), 2. Balearic Islands (Mallorca, Son Tous), 3. Lanzarote (Arrecife), 4. Granada (Motril) 5. Gran Canaria (Barranco Seco) 6. Tenerife (Los Cristianos police station) 7. El Hierro 8. Fuerteventura 9. Murcia (Cartagena) 10. Valencia (Alicante); 11. Malaga 12. Almeria (Port of Almeria). In Algeciras, Malaga and Almeria, Policía Nacional stations are used as CATEs. They fall under the oversight of the Ministry of the Interior.
3. **CETIs** are semi-open centres located in Ceuta and Melilla. They were first introduced in 1999 in Melilla, with a capacity of 480 people, and in 2000 in Ceuta, with a capacity of 512. They are government-run establishments, intended as a resource for providing initial provisional reception and social and other services to immigrants and asylum seekers who arrive in either of Spain’s two autonomous cities, with identification and medical check-up procedures carried out prior to any decision to transfer said persons to another centre, depending on their residency status in Spain. They fall under the responsibility of the Ministry of Inclusion, Social Security and Migration and, as they are located in the autonomous cities of Ceuta and Melilla, remain outside of the Schengen Zone.

2.1. Immigration Detention Centres (CIE)

CIEs are first mentioned in legislation in the Immigration Act,⁷⁴ now repealed, which was in force when Spain moved to join the EU in 1985 (with official entry in 1986). They are governed by the stipulations of the Immigration Act 4/2000 and subsequent regulations laid out in Royal Decree 162/2014. They are detention centres used in the control of borders and non-national arrivals. As per the Immigration Act and a judgement of the Constitutional Court issued on 7 July 1987, the CIEs in Spain are by definition “non-penitentiary” centres. There are currently 7 CIEs in Spain, spread across the country: Madrid, Barcelona, Valencia, Murcia, Cadiz, Gran Canaria and Tenerife.⁷⁵

According to the Jesuit Migrant Service (SJM)⁷⁶, over the course of 2021 1,841 people were detained in these centres, with **most of them subject to a deportation order after having arrived by irregular means in a small boat.** Nevertheless, most of these were ultimately released from detention when it was found that they could not be deported. Organisations working directly with detainees in CIEs have noted **the despair, suffering and vulnerability they face due to uncertainty over what will happen to them, in addition to the physical conditions in which they are detained⁷⁷ and obstacles to reporting ill-treatment which exist.⁷⁸ In 2021, examples of exclusion continued to be identified in these centres: 11 children were kept in detention, one third of women were released for their request for asylum, and 60 individuals were subjected to isolation despite mental health protocols not being activated.⁷⁹**

The geographical location of the CIEs follows the strategy of containment (Graph 1). Some are used from primary containment, such as those located in the Canary Islands and Algeciras, which currently has a capacity of approximately 30⁸⁰ but is scheduled to be replaced by a larger CIE with an approximate capacity of 500, which is currently under construction at a cost of 33,627,378 euros. Construction is expected to be completed in 2024. Other CIEs are used in post-border immigration control, and serve for the detention of people who have resided in the country for years. Examples of these are the centres located in Madrid, Barcelona⁸¹ – where, in March 2023, a module for women was opened – and Valencia. Deportations from these centres are commonplace. It is important to note that, according to the SJM, **only one in four of those deported from Spain (25.8%) is at one time or another detained within a CIE. Monitoring and oversight over more opaque procedures such as express deportations, carried out at police facilities, is even more difficult.**

⁷⁴ Act 7/1985, of 1 July, on the rights and freedoms of foreigners in Spain <https://www.boe.es/buscar/doc.php?id=BOE-A-1985-12767>

⁷⁵ The information on the new CIE appears in a document of the Ministry of the Interior, Secretary of State for Security “Plan for the improvement of the facilities of the CIE 2019 execution project of the new CIE of Algeciras (Cádiz)”. This document is not available.

⁷⁶ Jesuit Migrant Service, “CIE 2021 Report Figures Annex” (2022), <https://sjme.org/2022/10/18/anejo-de-cifras-informe-cie-2021/>

⁷⁷ Ibid

⁷⁸ Irídia, “Obstáculos en la denuncia de malos tratos en el CIE de Barcelona”, 2022, <https://iridia.cat/en/Publicaciones/dossier-obstaculos-en-la-denuncia-de-maltractaments-al-centre-d'internament-des-trangers-de-barcelona/>

⁷⁹ Jesuit Migrant Service, “Annex figures CIE 2021 report”

⁸⁰ We have not been able to access official data to confirm this approximate figure

⁸¹ Afrofeminas “Denunciamos la apertura del módulo de mujeres en el CIE Barcelona, donde 12 compañeras están siendo sometidas a violentas condiciones de detención”, February 20, 2023, <https://afrofeminas.com/2023/02/22/comunicado-contra-la-apertura-del-modulo-de-mujeres-del-cie-de-barcelona/>

Rights violations in CIEs have specific impacts on women and LGBTQI+ people. Although there is scant information and little recent research in this regard, it has been claimed that one common differential factor is the identification and protection of persons who may have been victims of trafficking.⁸² Secondly, access to health care differs for women and non-cisgender people in terms of sexual and reproductive rights. LGBTQI+ people have been observed as suffering manifest violence and discrimination based on their gender identity and/or sexual orientation, ranging from verbal aggression to discrimination in treatment and a lack of protection against possible aggression by other inmates in CIEs. This especially affects transgender people.⁸³

2.2. Temporary Stay Centres for Immigrants (CETI)

CETIs⁸⁴ were first introduced in 1999 in Melilla, with a capacity of 480 people, and in 2000 in Ceuta,⁸⁵ with a capacity of 512.

“They are government-run establishments, intended as a resource for providing initial provisional reception and social and other services to immigrants and asylum seekers who arrive in either of Spain’s two autonomous cities, with identification and medical check-up procedures carried out prior to any decision to transfer said persons to another centre, depending on their residency status in Spain”.⁸⁶ **Ministry of Labour of Spain.**

They fall under the responsibility of the Ministry of Inclusion, Social Security and Migration and, as they are located in the autonomous cities of Ceuta and Melilla, remain outside of the Schengen Zone.⁸⁷

These centres constitute a loose, semi-open system of confinement, with their management and certain activities provided within them tendered to other organisations. They are intended as a resource for providing initial provisional reception and basic social and other services to immigrants and asylum seekers while police identification and medical check-up procedures are carried out. **The time of stay in these centres is unlimited, discretionary and depends on their capacity and the wider political situation. In the cities of Ceuta and Melilla, this situation has led to certain groups of people to have remained in these centres for years at a time.⁸⁸**

There are no clear criteria for release or transfer to the peninsula of those in CETIs, nor for their admission. No information on the matter has been made publicly available. External observation indicates that there are no fixed criteria, but rather markedly discretionary and arbitrary practice on the part of authorities in deciding who is admitted or excluded from these centres. Transparency

⁸² Women’s Link, *Mujeres en los CIE realidades entre rejas*, 2012 <https://www.womenslinkworldwide.org/files/1356/mujeres-en-los-cie-realidades-entre-rejas.pdf>

⁸³ Irídia *Vulneración de derechos humanos en las deportaciones*, 2020, https://iridia.cat/wp-content/uploads/2020/11/Deportaciones_FinalMOD_Imprimir-2.pdf

⁸⁴ Insertion within the public network of “migration centres” regulated in accordance with articles 264 to 266 of Act 4/2000, approved by Royal Decree 557/2011, April 20.

⁸⁵ Insertion within the public network of “migration centres” in article 264 et seq. Act 4/2000 of 11 January on the rights and freedoms of non-nationals in Spain and their social integration (RLOEX)

⁸⁶ Spanish Ministry of Labour https://www.mites.gob.es/en/guia/texto/guia_15/contenidos/guia_15_37_3.htm

⁸⁷ This means that these cities are not part of the area of free movement and access to the peninsula from them requires passing through a Schengen Area migration control point.

⁸⁸ Laura J. Varo, “Los 700 de Túnez atrapados en Melilla”, *El País*, October 16, 2020, <https://elpais.com/espana/2020-10-15/los-700-de-tunez-atrapados-en-melilla.html>

on admission and exclusion requirements for CETIs is a longstanding demand made by human rights organisations. Current practice has **led to high levels of uncertainty and malaise for those who remain in these centres.**

Against this backdrop of arbitrary practice – excepting some notably specific cases and circumstances in which they have been allowed entry – Moroccan nationals are not generally admitted to CETIs, even when they are asylum seekers. Consequently, in the cities of Ceuta and Melilla, there are many homeless asylum seekers who are only able to survive thanks to the support of third-sector organisations. This situation sometimes extends to nationals of other North African countries.

The CETIs are equipped with a specialised legal aid service for international protection (one or two persons from the Spanish Commission for Refugee Assistance, CEAR), and the UNHCR makes regular visits. The surveillance and security agents who work in these centres are provided externally by the private company Clece. While the internal operating structure of the CETIs is unknown, temporary or permanent expulsion from these centres have often been resorted to as a form of punishment, with the person sanctioned suffering the removal of their access card. **It is important to note that, in Ceuta and Melilla there are no alternative resources for those who are not admitted to these centres (or who are expelled from them), leaving them homeless, without access to hot meals and shelter.** With a lack of alternative accommodation, access to basic needs such as food or water or the possibility of finding employment, these actions put people’s lives at risk.

CETIs have also been used on certain occasions **as detention centres, as occurred following events on 24 June 2022 at the border crossing located in the Barrio Chino neighbourhood in Melilla.** Survivors of the tragedy were placed in detention. This was recorded in a complaint to the Defensor del Pueblo, or Spanish Ombudsman, dated June 2022, in which it was stated that the 133 people who managed to reach the CETI on 24 June were “deprived of liberty in apparent isolation according to COVID protocol”. It was further noted that said isolation was made without legal grounds, insofar as the relevant health authorities had made no requirement to do so, nor had “the mandatory judicial authorisation as provided for in LJCA Article 8.6 been requested”.⁸⁹ The same complaint indicated that detainees were held in unacceptable conditions and in solitary confinement, guarded by CETI security personnel and without access to external communication.

As pointed out in a CEAR report concerning at-risk admittees, there is no available paediatric service within the country’s CETIs. Furthermore, in the CETI in Ceuta, there is no access to abortion; as such, those resident in the centre who wish one must be transferred to a peninsular centre.⁹⁰ There is also no protocol for prevention of and response to sexual and gender-based violence, despite both the UNHCR⁹¹ and the Ombudsman having made a number of recommendations

⁸⁹ Act 29/1998, of July 13, regulating Civil-Administrative Jurisdiction <https://www.boe.es/buscar/act.php?id=BOE-A-1998-16718>

⁹⁰ CEAR, “Vidas que cruzan fronteras. Un análisis feminista sobre la Frontera Sur”, 2020, <https://www.cear.es/wp-content/uploads/2021/01/Vidas-que-cruzan-fronteras.pdf>,

⁹¹ Redacción, “ACNUR pide protocolos de actuación para prevenir abusos en el CETI de Melilla”, La Vanguardia, 24 February 2016, <https://www.lavanguardia.com/vida/20160224/302407102934/acnur-pi-de-protocolos-de-actuacion-para-prevenir-abusos-en-el-ceti-de-melilla.html>

in this regard.⁹² There are shortcomings in the services for identifying victims of trafficking, particularly in the CETI in Ceuta.⁹³ Further to this, following a series of complaints, in 2017 the Ombudsman issued a recommendation to prioritise the transfer of LGBTI persons requesting international protection to peninsular centres.⁹⁴

Lastly, it is important to bear in mind that Ceuta and Melilla’s non-Schengen status allows for the use of semi-open centres – rather than closed detention centres – for containment. In these cases, restrictions on movement are carried out by the police and other authorities who intervene in attempts to cross over into peninsular Spain. This also occurs on the Canary Islands which, by their very nature, are units of geographical containment. In this sense, over the years a high degree of arbitrary conduct on the part of authorities has been identified in terms of the requirements, legal status and valid documentation solicited for entry to the peninsula. Some progress has been made in the case of Ceuta and Melilla, thanks to the Constitutional Court decision STC 173/2021 of 10 February 2021 on the case brought by the SJM in Melilla, and the Supreme Court of Spain’s rulings STS 1130/2020 and 1128/2020, both dated 29 July 2020, regarding cases brought by CEAR and the SJM. However, in the case of the **Canary Islands, it has been observed that transport companies and security forces present in ports and airports continue to engage in ethnic-racial profiling and hinder travel between islands or to the peninsula on these grounds.**

2.3. Temporary Reception Centres for Non-Nationals (CATE)

The increase in the number of arrivals to Spanish soil in 2018⁹⁵ led to changes to the containment model and the introduction of these non-legally defined centres.⁹⁶ Spain’s model follows the European strategy based around so-called “hotspots” – places where recent arrivals spend 72 hours in detention – which have been introduced in Greece and Italy.⁹⁷

CATEs are usually located in police stations or fenced-off prefabricated buildings and complexes, usually in policed port areas or nearby. It is here that those arriving by non-regular means are detained in order for police to carry out background checks and for humanitarian aid to be provided to them. Rudimentary camps constructed by military emergency response

⁹² The Ombudsman issued a recommendation in 2016, which was rejected by the authorities. It can be consulted at: <https://www.defensordelpu.es/resoluciones/elaborar-con-caracter-urgente-un-protocolo-para-la-prevencion-y-la-respuesta-a-la-violencia-sexual-y-por-motivos-de-genero-para-su-implantacion-en-el-ceti-de-melilla/>. Since then it has been a repeated recommendation in 2017 and 2018. See <https://www.defensordelpueblo.es/noticias/visita-melilla-ceuta/>

⁹³ CEAR, “Vidas que cruzan fronteras. Un análisis feminista sobre la Frontera Sur”

⁹⁴ Defensor del Pueblo, “Solicitantes de protección internacional que pertenecen al colectivo LGTBI y residen en los CETI de Ceuta y Melilla Priorizar el traslado a la península”, 2017, <https://www.defensordelpueblo.es/resoluciones/priorizar-el-traslado-ala->

⁹⁵ Iker Barbero, Los Centros de Atención Temporal de extranjeros como nuevo modelo de control migratorio: situación actual, (des)regulación jurídica y mecanismos de control de derechos y garantías, DERECHOS Y LIBERTADES: Revista De Filosofía Del Derecho Y Derechos Humanos n.45 (2021): 267-302

⁹⁶ Before 2017, these spaces were given different names. See, for example, Defensor del Pueblo, “Ficha de seguimiento de la visita realizada por el MNP” <https://www.defensordelpueblo.es/evento-mnp/centro-primerasistencia-detencion-extranjeros->

⁹⁷ European Commission, “A European Agenda on Migration”, 2015 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0240&from=HU>

teams⁹⁸, ships and docks⁹⁹ have also been used.¹⁰⁰ It is difficult to calculate how many there are, especially when they are set up in police facilities.

These centres are not established by law, and no mention is made of them in the Immigration Act. The Secretary of State for Security outlined in an official government notice dated 23 July 2018 that they are “facilities designed for the undertaking of initial actions during a maximum stay of 72 hours while identification and background checks are carried out, with subsequent transfer to CIE or referral to NGOs”. In its response to parliamentary question 184/481 21 July 2019, the government stated that their “legal status [...] is the same as that of the police unit to which they are attached”. **In addition to lack of clarity regarding the legal status of these centres, they operate without any differential internal protocols or operational procedures known to those in detention.**¹⁰¹

We have not been able to access detailed, up-to-date and complete information on how many CATEs are currently in operation, nor where they are located. As will be detailed in the chapter on human rights violations on Spain’s southern borders, we have identified CATEs in Andalusia, the Balearic Islands, Murcia, Valencia and the Canary Islands.

CATE “Barranco Seco” modules, Gran Canaria (2022).

Valentina Lazo



CATEs fall under the operational command of the National Police Corps (Policía Nacional). Nevertheless, other stakeholders participate in them, such as the European agency Frontex, who provide support for background checks and investigative work, and organisations that provide first aid (Red Cross), protection (UNHCR and EASO-EUAA) and legal aid (duty lawyers assigned by bar

⁹⁸ For example, the CATE de Motril in 2018. See Laura Álvarez “Un campamento para acoger a inmigrantes que llegan a las costas granadinas”, *El Mundo*, August 27, 2018, <https://www.elmundo.es/andalucia/2018/08/27/5b841e3f46163f95bb8b4640.html>

⁹⁹ Ingrid Ortiz Viera “Interior vacía la ‘nave de la vergüenza’ y deja operativo el CATE de Lanzarote”, *Canarias7*, 26 February 2022, <https://www.canarias7.es/politica/interior-vacia-nave-20220226203856-nt.html>

¹⁰⁰ Eduardo Robaina, “La historia de Arguineguín se repite en el CATE de Barranco Seco”, *La Marea*, 13 January, 2021, <https://www.lamarea.com/2021/01/13/repite-historia-arguineguin-migrantes-retenidos/>

¹⁰¹ *Ibid.*, p. 62.

associations). In some CATEs there may be an external medical service. In terms of child care, **Save the Children has had the authority to act in the CATEs in Eastern and Western Andalusia since 2019 and, since 2023, in the CATE located in Gran Canaria. Its teams are called upon when the Policía Nacional identifies minors among maritime arrivals, and currently have access to the CATEs in Malaga, Línea de la Concepción, Motril, Almería and Gran Canaria.** Despite this, there is no regulatory framework outlining the operations and coordination of these spaces.

Human rights organisations and reports by Spain’s national Ombudsman, acting as the country’s National Preventive Mechanism against torture (hereinafter, NPM), have repeatedly pointed to CATEs as spaces in which human rights violations occur. To mention only a few such examples, the 2017 NPM report highlights shortcomings in facilities, overcrowding and inappropriate cells for reception.¹⁰² In 2018¹⁰³, the NPM reiterated the “need to implement joined-up facility management that guarantees fundamental rights”.¹⁰⁴ Separately, but also in 2018, the NPM reported that “claims by mothers with young children were not treated as a priority in order to ensure that they were held for as little time as possible in those facilities”, and that there was “an absence of suitable space for legal visits, which were carried out in a few minutes and without the possibility of confidential conversation between the lawyer and those to whom assistance was provided”.¹⁰⁵

As of 2019, the CATEs still did not have “specific regulatory or operating protocols”¹⁰⁶, with the NPM going so far as to complain that “this is the fourth visit, and it should be noted that the shortcomings identified during previous visits persist”.¹⁰⁷ In 2020, the Ombudsman likewise denounced¹⁰⁸ the use of detention beyond the maximum 72-hour period in the Canary Islands¹⁰⁹, the unsanitary conditions in which people were held, and the difficulties they faced in accessing legal aid and information.¹¹⁰ More generally, difficulties, deficiencies and shortcomings in the quality and quantity of translators and interpreters have been identified, resulting in a violation of the right to information and impeding access to asylum, especially for particularly vulnerable groups such as children or other groups with specific needs. Finally, a range of organisations have highlighted their difficulties in gaining access to CATEs to provide legal advice and carry out human rights monitoring work. In the CATEs, the legal aid provided by lawyers

102 NPM, “Informe Anual 2017. Mecanismo Nacional de Prevención”, 2018, 75-82, https://www.defensordelpueblo.es/wp-content/uploads/2018/07/Informe_2017_MNP.pdf

103 NPM, “Informe anual 2018. Mecanismo Nacional de Prevención”, 2019 https://www.defensordelpueblo.es/wp-content/uploads/2019/09/Informe_2018_MNP.pdf <https://www.defensordelpueblo.es/gestionDocumentalWS/rest/matrizSeguimientoMNP/18012930>

104 Follow-up sheet to the visit made by the NPM to the Municipal Sports Centre “Ciudad de San Roque” in San Roque (Cádiz), 2018, <https://www.defensordelpueblo.es/gestionDocumentalWS/rest/matrizSeguimientoMNP/18012927>

105 NPM, “Informe anual 2018. Mecanismo Nacional de Prevención”, 2019 https://www.defensordelpueblo.es/wp-content/uploads/2019/09/Informe_2018_MNP.pdf

106 NPM; “Informe anual 2019. Mecanismo Nacional de Prevención”, 64 and visits 65/2019, 67/2019, 68/2019, 69/2019 and 73/2019 https://www.defensordelpueblo.es/wp-content/uploads/2020/06/Informe_2019_MNP-1.pdf

107 *Ibid.*, p. 67.

108 Ombudsman, “La migración en Canarias”, 2021, 28, https://www.defensordelpueblo.es/wp-content/uploads/2021/03/INFORME_Canarias.pdf

109 Ombudsman, “Visita al Centro de Atención Temporal de Extranjeros del Muelle del Puerto de Arguineguín”, 2020, <https://www.defensordelpueblo.es/evento-mnp/centro-de-atencion-temporal-de-extranjeros-del-muelle-del-puerto-de-arguineguin-las-palmas-de-gran-canaria/>

110 Iridia Vulneraciones de derechos humanos en la Frontera Sur: Canarias y Melilla, (2021), <https://iridia.cat/es/Publicaciones/vulneracions-de-drets-humans-a-la-frontera-sud-canaries-i-melilla/>

has been highlighted as unsatisfactory by a number of human rights defence organisations. Likewise, migrants have faced significant obstacles when contacting their assigned lawyers since – on occasion – they do not provide them with a telephone number or business cards with their information and even, when signing deportation papers, provide only the number of their bar association, making it very difficult to contact them.

In **2021, in their role as NPM, the Ombudsman pointed out that “the fact that the authorities conflate CATEs with cells in police stations leads to the conclusion that official recognition that those rescued at sea or detained on the coast require specific and differentiated care remains pending”**,¹¹¹ further suggesting that “the detention of immigrants rescued at sea must be carried out in centres specifically designed for this purpose, which meet the material and operational conditions as established in law, in accordance with the regulations set out by the European Committee for the Prevention of Torture (CPT)”.¹¹² Furthermore, the NPM **signalled that “the detention of migrants should be exceptional and proportionate” and that “it should only be used as a last resort**, after a thorough examination of each case on an individual basis”, adding that the use of detention should be periodically examined and alternative non-custodial measures considered and adopted.¹¹³

To this end, detention in police stations means the use of worrying practices in terms of human rights safeguarding. **According to various sources consulted, the Policía Nacional and Frontex conduct interrogations of new arrivals without the presence of a lawyer.** Interrogations are part of Frontex’s work in collecting information on persons suspected of involvement in criminal activities in border areas, such as the smuggling of migrants, people trafficking and terrorism. This information is then shared with the appropriate national authorities, Europol and other European agencies. **In these cases, bar associations are notified and requested to provide legal aid after Frontex has carried out its investigations in identifying and charging boat skippers. It is unknown whether or not interpreters are present during such interrogations, how long these interrogations last, and how they are conducted.** Were this to be the case, it would represent a serious violation of the right to effective judicial protection (Article 24 of the Spanish Constitution).

Additionally, in a 2020 report, the Ombudsman referred to possible **racial discrimination** in that “Algerian and Moroccan nationals are admitted to CATEs, while [people] of sub-Saharan origin are referred to humanitarian aid services”.¹¹⁴ In 2021, the Ombudsman made the recommendation to “cease the practice of placing people in custody in CATEs for identification purposes as defined in the Immigration Act, based on their nationality or ethnic profile”¹¹⁵. This recommendation was rejected by authorities. **These examples serve to highlight the years-long recurrence of serious violations of migrants’ fundamental**

¹¹¹ NPM, “Informe anual 2021 Mecanismo Nacional de Prevención”, 2022, 58, https://www.defensordelpueblo.es/wp-content/uploads/2022/05/Informe_2021_MNP.pdf,

¹¹² NPM, “Informe anual 2021 Mecanismo Nacional de Prevención”, Annexes. E.2 SUGERENCIAS., 2021, File 20016990, After visiting the Provincial Police Station of Almería used as a CATE, Centro de Atención Temporal de Extranjeros. Almería. Defensor del Pueblo

¹¹³ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Immigrant Detention, March 2017 [CPT/Inf (2017)3], <https://rm.coe.int/16806fbf12>

¹¹⁴ Ombudsman. “Informe anual 2020. Mecanismo Nacional de Prevención”. 2021. https://www.defensordelpueblo.es/wpcontent/uploads/2021/06/Informe_2020_MNP.pdf, p. 66

¹¹⁵ Ombudsman. “Visita al Centro de Atención Temporal a Extranjeros de Málaga (CATE).” 2021. <https://www.defensordelpueblo.es/resolutions/centro-de-atencion-temporal-a-extranjeros-de-malaga-cate/>

rights in CATEs, as well as the lack of preventive measures or consideration of alternatives to detention.

According to the Ombudsman, there are also **shortcomings in the aid provided to especially vulnerable people, insofar as “it is still not possible to guarantee a social and legal triage that properly identifies [those in need]”**.¹¹⁶ In their 2022 report, **the Ombudsman reiterated their recommendation – already made in 2021 – that “children, pregnant women or those who have expressed their intention to apply for international protection, are not to be detained if caught trying to access national territory by irregular means”**.¹¹⁷

With regard to groups with special protection needs, the situation faced by children¹¹⁸ and adolescents is particularly worrying, insofar as they should never be placed in detention for having migrated or as part of the provision of their care. There is regional variation as to how the cases of children and adolescents are handled. Although children are subjected to fingerprinting and background checks in some CATEs, these are not age-appropriate spaces, regardless of whether the child or adolescent is accompanied by an adult.¹¹⁹ The Policía Nacional permits access to Save the Children teams when it identifies children and adolescents. There are no nationwide written protocols covering the relationship with specialist childrens’ organisations, nor the criteria for their intervention in order to address children and adolescents’ needs. Instead, this is subject to the discretion of local Policía Nacional units and, more broadly, to any applicable temporary circumstances.

There are shortcomings in spaces for children and adolescents both in terms of the personnel who work there – there are no childhood specialists with a mandate for their protection – and the physical space used for their detention. Within Spain there is a great variety of structures that function as CATEs, including, on occasion, cells in police stations. With regard to personnel, there is no plan to provide specialist staff or services to ensure children’s wellbeing and adequately provide information to them. Children and adolescents who have been inappropriately detained often do not understand what is happening, nor what is going to happen, resulting in high levels of uncertainty. This is a violation of Article 12 of the Convention on the Rights of the Child, concerning the right to be heard and participate in decisions that affect their lives.¹²⁰ Furthermore, there is no provision for any specialist psychosocial support system for children, who may have witnessed extremely traumatic moments during their journey at sea.

In order to meet the specific needs of children in CATEs, it is necessary to identify these in the first place. In this regard, human rights organisations underline the importance of the presumption of under-age status based on the word of

¹¹⁶ Ombudsman, “La migración en Canarias”, 51, https://www.defensordelpw.es/wp-content/uploads/2021/03/INFORME_Canarias.pdf

¹¹⁷ NPM, “Informe anual 2022 Mecanismo Nacional de Prevención”, 2023, 170, 117 MNP, “Informe anual 2022 Mecanismo Nacional de Prevención”, 2023, 170, <https://www.defensordelpueblo.es/wp-content/uploads/2023/03/Defensor-del-Pueblo-Informe-anual-2022.pdf>

¹¹⁸ With “children and adolescents” this report refers to people between 0 and 18 years of age.

¹¹⁹ Save the Children, “Save the children reactiva el programa de atención presencial a la infancia migrante en las costas andaluzas y Melilla”, 1 July 2020, [https://mixedmigration.org/wp-content/uploads/2021/04/160_la_reapertura_de_una_entrada_informe_resumido.pdf](https://www.savethechildren.es/notasprensa/save-the-children-reactiva-el-programa-de-atencion-presencial-la-infancia-migrante- and Mixed Migration Centre, “La reapertura de una entrada: la creciente popularidad de la ruta atlántica”, 2021, <a href=)

¹²⁰ UNICEF, “Convention on the Rights of the Child”, <https://www.un.org/en/events/childrenday/pdf/derechos.pdf>

children themselves, for which it is necessary to listen to them. Should they possess any, it is essential to rely on the documentation children provide for identification. **UNHCR specifies that age tests should only be carried out as a measure of last resort, where there are grounds for serious doubts about age and other methods, such as interviews or attempts to gather documentary evidence, have not been sufficient in establishing the person's age.**¹²¹ The Council of Europe Convention on Action against Trafficking in Human Beings (2005) provides that, where there is any doubt, the person shall be presumed to be a child and granted special protection until their age is verified.¹²² Likewise, the Committee on the Rights of the Child has signalled that age determination procedures used in Spain constitute a violation of the Convention on the Rights of the Child.¹²³ The same Committee reiterates “the fundamental importance of determining the age of any individual claiming to be a minor, since the outcome of such deliberations will condition whether they are entitled to protection as children”.

*Minors Temporary
Rehousing Centre "La
Esperanza" in Ceuta
(2023).*

Irina Samy



However, specialist NGOs point out that age tests have been systematically monitored and cannot be considered as a substitute for the revision of documentation with the appropriate consulate¹²⁴. These NGOs have spoken out in particular about the systematic practice of conducting age tests on unaccompanied children and adolescents with Moroccan nationality. There are Moroccan consulates in all of Spain's autonomous communities, through which, except in cases relating to international protection, these children and adolescents could be identified. However, contrary to what is established in international regulations, these tests continue to be systematically carried out.

¹²¹ UNHCR, “Unaccompanied minors and asylum protection”, point 5, <https://www.acnur.org/5cf926764.pdf>

¹²² Instrumento de Ratificación del Convenio del Consejo de Europa sobre la lucha contra la trata de seres humanos del 16 de mayo. BOE, no. 219, of 10 September 2009. https://www.boe.es/diario_boe/txt.php?id=BOE-A-2009-14405

¹²³ OHCHR, “Age determination procedure in Spain violates the Convention on the Rights of the Child, UN committee affirms”, October 13, 2020, <https://www.ohchr.org/en/2020/10/spains-age-assessment-procedures-violate-migrant-childrens-rights-un-committee-finds>

¹²⁴ Save the Children, UNHCR & UNICEF, “Separated Children in Europe Programme: Statement of Good Practice, 4th Revised Edition”, 2009, www.separated-children-europe-programme.org

These tests, as the UN Committee on¹²⁵ the Rights of the Child points out, “are inaccurate and have a wide margin of error and, therefore, are not suitable for use as the only method of determining chronological age”¹²⁶. Furthermore, in its General Comment No. 6 on the treatment of unaccompanied and separated children outside their country of origin, the Committee itself states that “identification measures [including] age assessment...should not only take into account the physical appearance of the individual, but also his or her psychological maturity”.¹²⁷

Moreover, the tests used have been designed based on the bone development of the Caucasian population, determined by different environmental factors, such as the place where one lives, the activities one engages in, food, etc. As such, the scales used would not be applicable to non-Caucasian migrant children and adolescents present on Spain’s southern border. In this regard, the revision of age determination procedures agreed to in April 2022 represents a step forward. However, this commitment is yet to translate into action due to the lack of a decision by the General Council of the Judiciary of Spain.

Lastly, there are concerns about the protection of children and adolescents who are accompanied by adults. Human rights organisations have stressed that, should there be no indication of risk of harm, there is no protective benefit in separating children from adults who, despite not being in possession of documentation proving parenthood, share a bond with them. As such, they recommend establishing adequate spaces, pending the completion of the necessary background checks, in order to avoid the systematic separation of children and adolescents from the adults with whom they have travelled and in whom they trust.

2.4. Other migrant centres

Migrant centres are macro-infrastructures intended to accommodate thousands of people in a semi-open environment with limited amenities.¹²⁸

Recent arrivals are handled in line with the humanitarian care programme financed in accordance with Royal Decree 441/2007/10, which approves subsidies “for humanitarian care for immigrants provided by NGOs”. Its objective is to “reduce vulnerability by providing accommodation, support and coverage of their basic needs and social skills (language learning, training, guidance)”. This legal framework enables authorities to create new centres as and when required. An example of this is the Canary Islands Plan.

The centres established as part of this scheme on the Canary Islands have been criticised for their lack of adequate reception conditions, systematic infrastructural shortcomings, violations of the right to privacy and intimacy and institutional violence, especially at the hands of private security guards.

125 On April 12, 2022, the Council of Ministers approved the Preliminary Draft Law regulating the Age Assessment Procedure, with the potential to modify the procedures used so far. See <https://www.mjusticia.gob.es/en/AreaTematica/ActividadLegislativa/Documents/APL%20procedimiento%20evaluación%20de%20la%20edad.pdf>

126 Committee on the Rights of the Child, CRC, 1989 Convention on the Rights of the Child; Views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning the communication adopted in 2018 (Geneva: United Nations, 2021), <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?en=6QkG1d%2fPPRiCA-qhKb7yhsipDhHPbtIGBmpBTHoaBZz6f%2b7n9j%2fBZYyTCHgUR0zyFxFuRj3oGUnelGbb5lky5LIH-q4bj%2fr%2byEfJlcBan4N30fSJUhp0pb892ljAazFzJN7LTADKeiaZOM%2bKv4rP1xg%3d%3d>

127 Committee on the Rights of the Child “Treatment of unaccompanied and separated children outside their country of origin”, CRC/GC/2005/6 (1 September 2005), <https://www.acnur.org/fileadmin/Documentos/BDL/2005/3886.pdf>

128 Ombudsman, “Estudio sobre la migración en Canarias”, 2021, <https://www.defensordelpueblo.es/informe-monografico/la-migracion-canarias/>

3. Methodology: difficulties in human rights monitoring on Spanish borders

Access to information is an integral part of freedom of expression and an important tool for promoting the rule of law, and all the more so when it comes to human rights. Information allows for public scrutiny of policy in practice, and contributes to the exercise of a certain degree of public oversight and accountability in decision-making. **Information relating to compliance with human rights standards is a matter of public importance, and should be provided for by the authorities as part of their basic responsibilities.**

Nevertheless, many obstacles can emerge when carrying out human rights research into the institutional violence suffered by migrants in border regions. The fundamental challenge is attempting to access information on institutional violence, given the lack of political appetite – despite professed democratic ideals – for bringing such cases into the public spotlight. In this regard, it should be noted that it is practically impossible to undertake research from a gender and intersectional perspective into the little data that is publicly available or which can be obtained upon request to the authorities, given that any data provided is not broken down by gender and age. As such, any access our research team has had to disaggregated data has been partial.

The majority of human rights violations which occur at Spanish borders are not recorded, and are repeated on a regular basis. Examples of these are express deportations¹²⁹, carried out both at sea and on land in Ceuta and Melilla, and the excessive use of force that has been repeatedly observed both at terrestrial borders and in migrant centres.¹³⁰¹³¹ The Constitutional Court ruling 172/2020¹³² on the obligation to comply with international regulations on deportations and the principle of non-refoulement has not been met with the introduction of any relevant action protocol for police and security forces. This has led to a scenario in which unlawful deportations continue to occur.¹³³

Specialist international organisations have spoken out against the lack of political willingness to investigate and provide information on human rights violations, and a reluctance to bring them to public attention. In the light of the scarcity of information, and in the context of the ongoing negotiations on the New Pact on Migration and Asylum, the Special Rapporteur has spoken in favour of efforts by Member States to establish strong and independent national mechanisms

129 CEAR, “Devoluciones en Caliente”, <https://www.cear.es/wp-content/uploads/2021/02/Devoluciones-en-caliente.pdf>

130 Irídia, “Comunicado: Un grupo de personas residentes en el CETI de Melilla denuncian violencia Institucional por la seguridad privada del centro”, June 3, 2022, <https://iridia.cat/en/comunicado-un-grupo-de-personas-residentes-en-el-ceti-de-melilla-denuncian-violencia-institucional-por-parte-de-la-seguridad-privada-del-centro/>, or as per Irídia and Novact Vulneración de derechos en la respuesta institucional en los arribadas de personas migrantes a Canarias (April May 2022), (2022), in reference to a number of centres in the Canary Islands https://iridia.cat/wp-content/uploads/2022/05/informe_vulneracion_derechos_april_mayo_mayo_22-1.pdf

131 Margarita Martínez-Escamilla, “Fronteras sin derechos. Las devoluciones en caliente” Estados de detención. El control de la inmigración irregular en España, ed. by López-Sala and Godenau, (Barcelona: Anthropos, 2017), 54-74

132 STC 172/2020, of November 19, 2021

133 OHCHR, A/HRC/50/31 “Human rights violations at international borders: trends, prevention and accountability - Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales”, 26 April 2022, 18. On March 13, 2023, the Ombudsman closed his investigation into the 24J case in Melilla concluding that the 480 deportations that were made that day were illegal. See María Martín, “El Defensor del Pueblo concluye que las devoluciones en caliente durante la tragedia de Melilla fueron ilegales” El País, March 13, 2023 <https://elpais.com/espana/2023-03-13/el-defensor-del-pueblo-concluye-que-las-devoluciones-en-caliente-durante-la-tragedia-de-melilla-fueron-ilegales.html>

for monitoring the human rights of migrants.¹³⁴ In this regard, they clarify that Member States must consider ways to ensure that such mechanisms are truly independent and have a clear mandate to receive complaints and investigate alleged violations, making their findings publicly known. In addition, the Rapporteur notes that fragmentation should be avoided and collaboration among the various monitoring agencies at national, regional and international levels improved. **Informality and opacity, as well as lack of legal clarity and high levels of impunity, clear the path for the violations of the rights of migrants on Spain's southern border.**¹³⁵

In Spain, access to information is established in Act 19/2013 9 December, which covers transparency, access to public information and good governance. Preface I of the Act states that “only when the action of public officials, how public funds are managed or the criteria under which our institutions operate are subjected to scrutiny [...] can we speak of the beginning of a process in which the authorities provide a response to public demand for participation.” “Enabling better oversight of public activity is a step towards necessary democratic regeneration.” Article 7 specifies that public bodies, within the scope of their powers, must publish guidelines, instructions, agreements and memoranda. Despite this, **significant challenges are still faced when investigating, recording and monitoring human rights issues on borders, particularly in Spain, where the borders with Morocco can be characterised by legal exceptionalism, lack of clarity in legislative and public policy frameworks,¹³⁶ and the obstruction of investigations.**¹³⁷

3.1. How can we investigate, document and analyse Spain's actions on its southern border?

A range of different methods and tools are available for monitoring human rights on Spain's southern border. On the one hand, public oversight is provided by the judicial system, the Ombudsman and the National Mechanism for the Prevention of Torture (hereinafter, NPM). On the other, activists, NGOs, community groups and human rights organisations carry out human rights monitoring work. It is important to recall that, when raising an issue or complaint, those affected – particularly where they are women, children, LGBTQI+ people or people with specific needs – find themselves in a situation of significant vulnerability. Often, these people are resident or detained in centres run by the authorities, something which tends to discourage complaints being made. Fear of possible reprisals – in the form of hindrance of procedures and transfers – is a further demotivating factor. Beyond this, case management is difficult when people have no fixed abode, as is often the case when it comes to migration. At present, it is only NGOs, activists and those affected by human rights violations who are recording them.

134 OHCHR, UNHCR and European Network of National Human Rights Institutions, “Ten points to guide the establishment of an independent and effective national border monitoring mechanism in Greece” [https://europe.ohchr.org/EN/Stories/Pages/National border-monitoring-mechanism.aspx](https://europe.ohchr.org/EN/Stories/Pages/National%20border-monitoring-mechanism.aspx).

135 Ibid.

136 Xavier Ferrer-Gallardo and Lorenzo Gabrielli. *Estados de excepción en la excepción del Estado: Ceuta y Melilla*, (Barcelona: Icaria, 2018)

137 The latest example of this is the closure of the investigation by the Prosecutor's Office into events on 24 June 2022 in Melilla, despite official evidence of deaths.. See Europa Press, “La Fiscalía Archiva la Investigación Relativa a la Muerte de 23 Migrantes en la Frontera de Melilla el 24 de Junio,” Europa Press, December 23, 2022, <https://www.europapress.es/nacional/noticia-fiscalia-archiva-investigacion-relativa-muerte-23-migrantes-frontera-melilla-24-junio-20221223114752.html>

Obtaining data requires an investment in terms of time and effort which is almost unachievable for organisations on the ground. In addition, human rights violations are so commonplace that it is difficult to systematise and collect data about them. This, the urgency which characterises the work being done by organisation's on the front line, the situation of those affected, and the difficulties in accessing evidence, documents and information, render any systematic monitoring and understanding of the situation on the southern border very difficult.¹³⁸

This report is based on complementary information provided through joint work between a range of organisations, and on the analysis of primary and secondary sources. Principally, it analyses reports from international and regional organisations on the human rights situation on Spain's borders. At a national level, it reviews the reports of the Ombudsman, NGOs and human rights organisations expert in migration matters, as well as official documents. In terms of primary sources, this report focuses on communications with and questions put to the Ombudsman, and on parliamentary questions. Direct contact has also been made with a number of key research centres and organisations. Lastly, the research team has requested data via the transparency portal, although this procedure is slow and, at the time of publication of this report, a response has yet to be received.

The most common human rights violations detected in each area have been recorded on a monthly basis. This has been possible thanks to fluid and constant communication between groups, organisations and activists. Networking and collaborative working have made it possible to alert the Ombudsman to complaints which have been made at different points on the border. This has been key in providing systematic evidence of human rights violations on the southern border. These two methodologies have, in particular, aided in permanent monitoring. In addition, during trips to different border checkpoints in 2022, semi-structured interviews were conducted with key stakeholders and informants who have reinforced and added to the information in this report (ANNEX 1). It has thus been possible to triangulate official information and that which has been gathered by human rights organisations with the information collected through interviews and observations at the border itself. Below are some of the characteristics and obstacles encountered in monitoring the human rights situation at the border.

3.2. Lack of publicly available official disaggregated data

Official, publicly accessible information on irregular crossings is hard to come by, and official data is fragmented and incomplete. Moreover, any such data is **not broken down according to nationality, gender, age or place of arrival, making intersectional analysis difficult.** Some organisations have pointed to the "striking lack of consistency"¹³⁹ in official data. **A lack of transparency hinders efforts to determine the needs for protection of those at the border, as well as an understanding of the situation at the border itself.**

¹³⁸ Data disaggregated by region does not appear in the reports of the Ministry of the Interior, but does appear in those of certain organisations and NGOs such as the Association for Human Rights of Andalusia (APDHA) <https://www.apdha.org/balance-migratorio-2022-sedunda-cifra-mas-alta-de-muertes-de-la-historia/>

¹³⁹ SJM, "Territorio hostil: formas diversas de hostilidad en los CIE", 2021, https://sjme.org/wp-content/uploads/2022/10/Informe-CIE-2021-SJM_anexo-cifras_DEF.pdf

The Special Rapporteur on the human rights of migrants¹⁴⁰ has expressed **concern at the unnecessary, disproportionate and arbitrary restriction of the monitoring work of grassroots organisations that attempt to document express deportations and other human rights violations at the Ceuta and Melilla borders.**

Data published by the Ministry of the Interior¹⁴¹ concerning irregular arrivals reflects only the number of entries, indicating whether they have been made by sea or land, without systematically specifying the port or points of entry. As an example, joint data is offered covering both the Balearic Islands and peninsular Spain, meaning that it is impossible to determine how many people arrive at each port, thus necessitating compensatory recourse to unofficial data. Consequently, different sources of information have been combined (official, unofficial, European and primary source) in order to make a detailed and comprehensive analysis of the situation on the southern border.

Data relating to the Centres for Temporary Stay of Immigrants (CETI) was requested via email to the head of each centre. The information obtained is inconsistent, fragmented and barely disaggregated. Specifically, the **CETI in Ceuta** remitted a document in PDF format containing data from 2021, disaggregated by nationality and by sex (“man and woman”), together with the total number of releases. It also provided data from 2022 in an email in which it specified the total and the average numbers of people held in the CETI in the body of the email itself, referring to the “average residential capacity of the CETI in Ceuta”. The information provided by **the CETI in Melilla** was presented in a spreadsheet with data disaggregated by nationality, sex (“h” or “m”, with additional “mn”, which is understood to refer to minors). No specification was made of the methodology used to gather this data, nor was an explanatory legend included in the document. In addition, the information is static, referring only to the totals available at the time of the request. While the team was in Ceuta and Melilla, meetings were requested with the directors of both CETI. In both cases, these requests were denied.

Data published in the annual reports of the NPM and reports by investigating NGOs on Temporary Reception Centres for Migrants (CATE) and Immigration Detention Centres (CIE) has been used to complement analysis. Networking with a range of organisations and platforms which gather information related to these centres has been fundamental in allowing this analysis to be made.

3.3. The Ombudsman

The range of Ombudsmen, whether national, regional or municipal, are autonomous institutions with their own areas of oversight, independent from the government and involved in ongoing dialogue with the various parliaments which correspond to their territorial scope. The national Ombudsman (Defensor del Pueblo) is responsible for monitoring the activity of public authorities under their jurisdiction and competence. The information they collect is published in annual

140 Felipe González Morales, “Mandatos del Relator Especial sobre los derechos humanos de los migrantes; de la Relatora Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión; de la Relatora Especial sobre la situación de los defensores de derechos humanos y del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes”. Presented at the Palais des Nations in Geneva (Switzerland), 14 April 2021. <https://spcommreports.ohchr.org/TM-ResultsBase/DownloadPublicCommunicationFile?gId=26327>

141 Ministerio del Interior, “Balances e informes” <https://www.interior.gob.es/opencms/es/prensa/balances-e-informes/>

reports and, on occasion, in specialist reports relating to serious human rights violations, as is the case of the specialist report on the situation of recent arrivals to the Canary Islands¹⁴² published in 2021. The national Ombudsman also undertook, together with a delegation, visits to Melilla following mass attempts to cross the border in March 2022 and on 24 June 2022.

In addition, following Spain's ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the United Nations Assembly in New York on 18 December 2002, the Spanish parliament assigned the Ombudsman with the role of the National Mechanism for the Prevention of Torture (hereinafter referred to as NPM) in November 2009. As NPM and, therefore, an independent oversight body, the Ombudsman conducts periodic preventive visits to detention centres with the aim of preventing torture and other cruel, inhuman or degrading treatment or punishment. In matters of migration, this translates into regular visits to Spain's CIEs and CATEs, although not its CETIs or other semi-open centres. These visits are intended to identify problems that could give rise to the commission of torture or ill-treatment.

In their supervisory role, the Ombudsman deals with individual complaints filed by citizens, as well as the initiation of *ex officio* proceedings where there are sufficient indications of a problem in public services. In the course of any investigation, the Ombudsman can request a wide range of information and documents from the public bodies concerned, these being obliged to collaborate. Rulings made by the different Ombudsmen on migration issues are abundant. **However, many of the recommendations issued have failed to lead to genuine change.**

First, there is little practical use where required of existing measures for coercion and sanction as these apply to the duty of public bodies to comply with the relevant Ombudsmen's rulings. This lack of collaboration is reflected in the respective Ombudsmen's annual reports¹⁴³. Secondly, any **rulings issued by Ombudsmen are non-binding, meaning that there is no consequence for non-compliance.** Thirdly, in the event that the Ombudsmen undertake investigations into a case which is subsequently taken to court, by and large these investigations are immediately suspended, even though there this is not always clear legal criteria for doing so¹⁴⁴. Therefore, **despite being administrative oversight bodies, Ombudsmen are limited in terms of their ability to investigate in-depth cases of torture and ill-treatment. They also do not dispose of the particular specialist resources required to carry out forensic investigations, including examination of the scene, which could provide sufficient evidence to open criminal or other disciplinary proceedings which would see perpetrators brought to justice.**

Difficulties in case follow-up have also been identified due to the format in which recommendations and observations are published. It is difficult to retrospectively monitor already-identified violations, especially those that occur on a recurring basis. As a consequence, **recommendations are repeated over the years without this being made clear, and without any substantial or preventive efforts to address human rights violations being made by the authorities.**

142 Ombudsman, "Estudio sobre la migración en Canarias", 2021 <https://www.defensordelpueblo.es/informe-monografico/la-migracion-canarias/>

143 Irdia, Transparencia y mecanismos de control de los cuerpos policiales en el estado español, (2022) <https://iridia.cat/wp-content/uploads/2022/10/Transparencia-y-mecanismos-de-control-de-los-cuerpos-policiales-en-el-Estado-espanol-INFORME.pdf>

144 Ibid.

Some examples of this are the recommendations relating to the CATES, the identification of police officers¹⁴⁵, and express deportations. In relation to the CATES, the NPM¹⁴⁶ stated as early as 2019 that “from the follow-up of the visits made in 2018, it appears that several facilities have subsequently been shut down”.¹⁴⁷ Indeed, the NPM has repeatedly identified that these spaces have not complied with minimum standards. This situation continued in 2020, with a visit by the NPM to the CATE installed in the Arguineguín port zone.¹⁴⁸ The NPM subsequently requested its “immediate closure” on account of the violation of migrants’ fundamental rights¹⁴⁹ in a letter to the Ministry of the Interior. In 2022, the Arrecife CATE closed on the recommendation of the Ombudsman, who observed that “the space fails to meet minimum standards”.¹⁵⁰ This centre was replaced by another of greater capacity.¹⁵¹ These examples show that, while human rights violations do come to the attention of the authorities, this does not seem to translate into preventive measures or a search for alternatives to ensure they are not repeated.

Along the same lines, and over the course of 2021 and 2022, photographic evidence was produced which showed that any recommendations regarding the use of force¹⁵² which could seriously infringe the human rights of migrants and refugees at the borders were not being followed. At least 20 people were reportedly hospitalised¹⁵³ as a result of injuries arising from police action during mass attempts to cross the Melilla border on 2 and 3 March. This led to an Ombudsman delegation travelling to Melilla and undertaking a visit to the CETI, where at least one person allegedly assaulted on 2 March was interviewed. This person, an 18-year-old asylum seeker from Mali, was hospitalised for at least 15 days and underwent emergency surgery to repair damage to their eye. The Ombudsman registered a complaint *ex officio* requesting information from the National Public Prosecutor’s Office, which informed the Ombudsman of the initiation of criminal investigation proceedings and, subsequently, the shelving of said investigations. Several organisations filed a complaint with the Ombudsman as a result, highlighting the disproportionate use of force by police and security forces, as well

145 With respect to the police, recommendation of the Ombudsman of 20 July 2016, addressed to the Secretary of State for Security-Ministry of the Interior, derived from complaint No. 11018475 on the visibility of the identification number of Guardia Civil officers, the Ombudsman issued a “reminder to Guardia Civil regarding personal identity number in visible place”, 2017.

146 There are previous recommendations for the closure of police units where the first reception is made, see visit 9/2017 of the MPT, 2017 in which it is recommended “to proceed with the closure of these units due to their unsanitary and inappropriate nature and that other new facilities be provided” <https://www.defensordelpueblo.es/gestionDocumentalWS/rest/matrizSeguimientoMNP/17023913>

147 “Informe anual 2019. Mecanismo Nacional de Prevención”, 2020, 65 https://www.defensordelpueblo.es/wp-content/uploads/2021/03/INFORME_Canarias.pdf

148 Ombudsman “Centro de Atención Temporal de Extranjeros del Muelle del Puerto de Arguineguín (Las Palmas de Gran Canaria)”, on 22, 23, 24 and 25 November 2020 (without prior notice) <https://www.defensordelpueblo.es/evento-mnp/centro-de-atencion-temporal-de-extranjeros-del-muelle-del-puto-de-arguineguin-las-palmas-de-gran-canaria/>

149 Vega, G. “El Defensor del Pueblo pide el “cierre inmediato” del campamento de Arguineguín”, El País, 27 November 2020, <https://elpais.com/espana/2020-11-27/el-defensor-del-puebl-pide-el-cerre-inmediato-del-camp-de-arguineguin.html>

150 Defensor del Pueblo, “Nave de detención policial de Lanzarote y nuevo CATE de Arrecife para acogida de extranjeros”, 21 February 2022, <https://www.defensordelpueblo.es/resoluciones/nave-de-detencion-policial-de-lanzarote-y-el-nuevo-cate-de-arrecife-para-acogida-de-extranjeros/>

151 Canarias Ahora, “Interior asegura que el nuevo CATE de Lanzarote está operativo y dispuesto para acoger inmigrantes”, 24 February 2022, https://www.eldiario.es/canariasahora/migraciones/interior-asegura-nuevo-cate-lanzarote-operativo-dispuesto-acoger-inmigrantes_1_8780732.html

152 Analysed in cases 5 and 6 (pages 139-141) in Iridia, “Transparencia y rendición de cuentas de los cuerpos policiales en el estado español”, 2022, <https://iridia.cat/wp-content/uploads/2022/10/Transparencia-y-mecanismos-de-control-de-los-cuerpos-policial-en-el-Estado-espanol-INFORME.pdf>

153 Complaint filed by Iridia and Solidary Wheels to the Ombudsman regarding the events that occurred on 2 and 3 March 2022 in Melilla

as a further complaint concerning at least two express deportations and at least two officers who were not wearing their identification during the operation. With the Prosecutor's Office having closed the investigation, the Ombudsman responded to these complaints referring directly to the response issued following the events of 24 June. In other words, the Ombudsman's view is that the events which occurred on 2 and 3 March are addressed in the ruling concerning 24 June.

Thanks to extensive joint work beyond that taken in response to other incidents, various organisations and NGO representatives, together with members of the public from different backgrounds, filed a complaint with the Ombudsman regarding the events which occurred on 24 June 2022. The Ombudsman issued their conclusions in October 2022, highlighting the throwing of stones by the Guardia Civil and the pushback at the border of 470 people.¹⁵⁴ In their report, the Ombudsman added that “the two-minute period [in which events occurred] makes it impossible to assert that pushbacks were made at the border in accordance with minimum legal requirements.” As such, the report considered this to be proof that individualised, rather than mass, pushbacks and the safeguarding of the right of asylum and the principle of *non-refoulement* were not ensured. **Nevertheless, no further investigations or actions were taken into the events in question. We can conclude that, while the Ombudsman acts as an intermediary between the public and the authorities, it does not function as a mechanism for the monitoring and safeguarding of human rights at the border, nor as guarantor of the non-repetition of human rights violations.**

This notwithstanding, complaints to the Ombudsman have proved useful as a means of systematising human rights violations, in turn facilitating holistic follow-up analysis. Nevertheless, no action has been taken to date. In addition to the complaints mentioned above, joint working has made it possible to share and analyse additional complaints to the Ombudsman lodged by other organisations working on the border. Among these complaints, one related to the procedures of separation of children and family reunification in other EU countries (December 2022); another, to the impossibility of obtaining official identification documents in Ceuta, after having submitted the appropriate forms to the Immigration Office (May 2022), and another, to the care received at the University Hospital of Ceuta where, according to the complainant, a child with mental health problems did not receive appropriate care (May 2022). Complaints were also filed in Ceuta in relation to the violation of the right to asylum and international protection (September 2022), the use of violence against children in state care (March 2022), and negligent health care in the Ceuta Child Protection Centre (April 2022). In the Canary Islands, there is evidence of complaints being raised regarding human rights in CATes, and concerning violations of the right to freedom of movement.

154 Ombudsman, “Actuaciones y medidas de los Cuerpos y Fuerzas de Seguridad del Estado en Melilla”, 14 October 2022, <https://www.defensordelpueblo.es/resoluciones/actuaciones-y-medidas-de-los-cuerpos-y-fuerzas-de-seguridad-del-estado-enmelilla/>

3.4. Primary sources

In 2022, the research team responsible for the present report travelled to Las Palmas de Gran Canaria, Tenerife and Lanzarote (March and April) and to Ceuta, Melilla (May and June), as well as making a subsequent visit to Morocco in January 2023, to reinforce joint working with other organisations and complement human rights work being done on the southern border. During these trips, interviews were conducted with various stakeholders: judges, academics, professionals, activists, campaign groups and affected individuals were contacted (see ANNEX 1, list of interviews). Semi-structured interviews were conducted in Arabic, French, English and Spanish. All of these concerned specific issues related to human rights safeguarding at different times and in different places.

Interviews with those working in public positions were carried out with the multiple objective of influencing approaches to human rights, bringing observations made by organisations working in the field to their attention, and gathering official information. As previously mentioned, this report has been developed jointly with other NGOs, organisations and activists. Where it has not been possible to obtain the necessary information, a series of jointly-written questions have been conveyed to authorities via parliamentary questions and the official transparency portal (see ANNEX 2, list of questions sent).

Lastly, over the course of these research trips, we have been able to identify an individual who may have been the victim of inhuman and degrading treatment near the border fence in Melilla on 2 March. The monitoring of the situation at the border has made it possible to identify cases for possible legal intervention and litigation.

3.5. Morocco: methodology and security

The following chapter on the human rights situation of migrants in Morocco is structured in a similar way to those covering other areas. It combines a study of primary and secondary information gathered from both affected persons and key stakeholders. For security reasons, certain information concerning the situation at the border cannot be fully presented. Consequently, information relative to research undertaken in Morocco is not included in the list of interviews, in order to ensure the safety of the human rights defenders and organisations working with migrants on the ground.

4. Human rights violations on Spain's southern borders

4.1. Ceuta and Melilla

Ceuta and Melilla share similar characteristics in terms of migration control measures and facilities: technology, fences, surveillance systems and police presence along the border perimeter. These territories represent the only land border between the African continent and the European Union. This has seen the two **cities become the focal point of repeated human rights violations, with express deportation practices, lack of clarity regarding access to asylum, shortcomings in reception, lack of protocols and transparency in CETIs and repeated, disproportionate and – on occasion – unauthorised use of force by police and state security forces all having been identified.** For decades, these two cities have been singled out as an example of continuous exceptionalism, and for the recurrent violations of migrants' rights that occur within their boundaries.

The borders between Spain and Morocco were closed in both enclaves during the pandemic.¹⁵⁵ Until this point, thousands of people, mostly Moroccans, crossed the border on a regular basis to go to their jobs as cross-border workers. However, the closure of the border left them unable to access these two autonomous cities and therefore their places of work. These people, payees into the Spanish social security system who beforehand crossed daily with a work permit, were completely excluded from the country's economic aid measures on account of their non-resident status. According to local organisations, 8,500 people were left in legal and economic limbo, with female domestic workers and caregivers particularly affected. These restrictions led to many families being separated and finding themselves in very difficult economic situations, leading workers to organise and speak out for their rights.¹⁵⁶

4.1.1. Right to asylum

In 2021, 2,588 people entered Ceuta and Melilla by non-official and unsafe channels. In 2022, this figure was 2,582, according to data from the Ministry of the Interior.¹⁵⁷ 3,157 asylum applications were made in Ceuta¹⁵⁸ and 3,277 in Melilla in 2021. There is no homogeneous, nationwide asylum procedure in Spain, with notable variance according to region. While in the rest of the country people face great difficulties in accessing asylum services¹⁵⁹, in Ceuta and Melilla there are no delays.

In terms of claiming asylum, the principal difficulty for people in Morocco is gaining access to border crossing areas, owing to pressure from the authorities. This pressure is particularly notable in areas close to “border crossings and, **as such, there is no genuine and effective access to asylum at the border,**

155 12 March 2020. See Luís B, García, ““Marruecos cierra la frontera con España tras suspender las conexiones por mar y aire”. La Vanguardia, 13 March 2020, <https://www.lavanguardia.com/politica/20200313/474106725462/coronavirus-mar%C3%B9-espa%C3%B1a-frontera-exteriores.html>

156 Pepa Suárez, “Trabajadoras transfronterizas de usar y tirar en Ceuta y Melilla”, El Salto, 7 June 2022, <https://www.elsaltodiario.com/frontera-sur/trabajadoras-transfronterizas-de-usar-y-tirar-en-ceuta-y-melilla>

157 Ministerio del Interior, “Informe inmigración irregular 2022”, 2022, https://www.interior.gob.es/opencms/export/sites/default/.galleries/gallery-de-prensa/documents-y-multimedia/balances-e-informs/2022/24_informe_quincenal_acumulada_01-01_al_31-12-2022.pdf

158 Ministerio del Interior, “Informe de actividad 2021. Oficina de Asilo y Refugio”, 2022, https://www.interior.gob.es/opencms/pdf/servicios-al-ciudadano/oficina-de-asilo-y-refugio/datos-e-informacion-estadistica/Informe_actividad_OAR_2021.pdf

159 Ombudsman, “Informe anual 2022”, 2023, <https://www.defensordelpueblo.es/wp-content/uploads/2023/03/Defensor-del-Pueblo-Informe-anual-2022.pdf>

unless life is put at risk [by] swimming or jumping the fence”, as the Council of Europe’s Human Rights Commissioner pointed out on their last visit.¹⁶⁰

This stems mainly from the repression exercised by the Moroccan authorities in the areas bordering Spanish territory. This repression focuses on black people, who are detained in unofficial centres, forcibly displaced to remote areas within Morocco, and deported. Since the adoption of the Asylum Act in 2009, human rights organisations have demanded that it is brought into regulatory effect in order to set up asylum application departments in embassies (Article 38). This demand has yet to be met. Regarding asylum, the human rights law firm Demos¹⁶¹ recently provided assistance to a young Sudanese man – part of the group of 470 people returned to Morocco on 24 June 2022 – in his asylum request at the Spanish embassy in Rabat. Although Basir (false name) obtained an interview with embassy staff, a final decision remains pending regarding his request. Making it possible to claim asylum in Spanish embassies, as established by law, would considerably reduce deaths in transit and at border crossings.

Additionally, **there is a degree of arbitrary application both at the border and within Spanish territory of asylum protocols** established in Act 12/2009, 30 October, which sets out the right to asylum and subsidiary protection. This was observed, for example, on 2 and 3 March 2022, when approximately 900 people entered Melilla. Although these people were in Spanish territory, travelling from the CETI to the border post to formalise their claims, all of them (except one who was hospitalised) were dealt with using a fast-track border procedure.¹⁶² This procedure shortens the deadlines and, as such, offers less security in terms of human rights safeguarding. Human rights organisations have noted that, in order to meet these procedural deadlines, the authorities transferred Policía Nacional officers to Melilla (PN) who were not experienced in conducting asylum interviews. The use of this procedure in order to handle the claims of those already in Spanish territory implies an understanding of the autonomous city as a border in itself.

On the contrary, all persons who entered on 24 June 2022 were dealt with via the regular procedure for territorial claims. Although the law itself is clear, the criteria applied has led to legal uncertainty for those seeking asylum. It is worth recalling that Article 2 of the Agreement between the Kingdom of Spain and the Kingdom of Morocco on the movement of persons, transit and readmission of foreign nationals who entered illegally, signed in Madrid on 13 February 1992, provides for a period of 10 days for the return of third-country nationals. Lack of clarity in law enforcement also gives rise to uncertainty and obstacles in safeguarding rights for asylum claimants.

Malpractice has also been identified with regard to access to the right to asylum. The Policía Nacional is alleged to have requested a number of unnecessary documents in order to formalise asylum claims. This has tended to affect young

160 Council of Europe, “Spain should advance social rights, better guarantee freedoms of expression and assembly and improve human rights of refugees, asylum seekers and migrants”, 29 November 2022 <https://www.coe.int/en/web/commissioner/-/spain-should-advance-social-rights-better-guarantee-freedoms-of-expression-and-assembly-and-improve-human-rights-of-refugees-asylum-seekers-and-migran>

161 Juan Carlos Sanz, “La Embajada de España en Rabat examina la petición de asilo del sudanés que sobrevivió a la tragedia de Melilla”, El País, 6 March 2023, <https://elpais.com/espana/2023-03-06/la-embajada-de-espana-en-rabat-examina-la-peticion-de-asilo-del-sudanes-que-sobrevivio-a-la-tragedia-de-melilla.html>

162 Asylum law establishes two procedures: a fast-track procedure at border crossings, and an intra-territorial procedure with longer deadlines and greater safeguards.

men of Moroccan or North African origin without a fixed residence. Cases have also been identified in which the ex officio lawyer present in asylum offices at the Beni Enzar border post has signed off asylum interview documentation without having fully and thoroughly provided in-person legal aid.

4.1.2. Express deportations

With regard to **express deportations**, the Special Rapporteur on human rights¹⁶³ has pointed out the “regrettable persistence” of this practice internationally, and the tendency to legitimize it via legislation, as occurred in Spain with the entry into force on 1 April 2015 of the tenth additional provision of Act 4/2000, which was introduced by way of the Citizens’ Security Act 4/2015. This established “special regulations for intercepting and expelling migrants in Ceuta and Melilla”¹⁶⁴, against which the Special Rapporteur on the human rights of migrants spoke out. An appeal challenging the constitutionality of the law¹⁶⁵ (No. 2896-2015), supported by ninety-seven legislators, led to the issuing of Constitutional Court Ruling 172/2020 on 19 November 2020.¹⁶⁶ This ruling established that “expulsions at the border” are in accordance with law, provided that three requirements are applied: that it “applies to individualised entries, [with] full judicial control and compliance with international obligations in matters of asylum and human rights” (STC 36/1991, dated 14 February, FJ 5). **In practice, these expulsions are carried out without individualised appraisal of each case, and without the correct identification of possible risk factors such as childhood, human trafficking or applicants for international protection. These are procedures that do not respect the constitutional principles of lawfulness and non-arbitrariness, and could be construed as violating the right to life, as well as the right to physical wellbeing and protection from degrading treatment.** In this regard, the European Court of Human Rights judgement in the case of N.D and N.T v. Spain is also of importance.^{167 168} This jurisprudence points to the need to comply with international law and to guarantee individual access to asylum, recalling the importance of respecting the principle of non-refoulement.

Nevertheless, **the situation in Ceuta and Melilla highlights the consolidation of express deportations in contravention of international law.** This has been evidenced by the images published in the media, and by the Ombudsman’s own conclusions verifying the nature of the deportation of 470 people

163 OHCHR, A/HRC/50/31 “Human rights violations at international borders: trends, prevention and accountability – Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales” 26 April 2022, 7, <https://www.ohchr.org/en/documents/thematic-reports/ahrc5031-human-rights-violations-international-borders-trends-prevention>

164 According to the decision of the Grand Chamber in N.D. and N.T. v. Spain paragraph 20

165 See CEAR’s assessment of the Constitutional Court ruling, 2020, https://www.cear.es/wp-content/uploads/2020/12/VALORACION%CC%81N-CEAR_Sentencia-Tribunal-Constitucional-rechazo-en-frontera-2020.pdf

166 Ruling 172/2020, 19 November 2020, on the appeal on grounds of unconstitutionality 2896-2015. Boletín Oficial del Estado, 332, of 22 December 2020. <https://www.boe.es/boe/dias/2020/12/22/pdfs/BOE-A-2020-16819.pdf>

167 European Court of Human Rights Case N.D. and N.T. v. Spain (Complaints no. 8675/15 and 8697/15), of 13 February 2020. <https://www.mjusticia.gob.es/en/AreaInternacional/TribunalEuropeo/Documents/Sentencia%20de%20Gran%20Sala%20e%20n%20N.D.%20y%20N.T.%20v.%20Enp%C3%B1a.pdf>

168 Hirsi Jamaa and Others v. Italy [GC] – 27765/09 Judgment 23.2.2012 [GC] Torque 74 and 178) recall that “the existence of ‘no-right zones’ where individuals are not protected by a legal system cannot be admitted”. [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22002-102%22](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22002-102%22)

from Melilla on 24 June 2022.¹⁶⁹ In addition, research undertaken for the present report corroborates this. 11 individuals interviewed in the surroundings of the CETI in Ceuta report having been deported arbitrarily from areas near the border: “They take you by the hands, take you to the gate, open it with the keys, kick you, and then they throw you out”. Another individual interviewed in Casablanca (MarE1)¹⁷⁰ recalled having been deported without recourse to procedure, in violation of the law, on 2 March 2022. This is in addition to at least two more cases of express deportations which occurred on the same date, as detailed in a complaint to the Ombudsman filed by Solidary Wheels. The Ombudsman subsequently travelled to Melilla and obtained a statement from an 18-year-old asylum seeker from Mali who was allegedly attacked by the Guardia Civil on the same day as he approached the border fence. A man of Senegalese nationality (MarE1) accompanied him at that time and witnessed the events. He recounted how he witnessed the instant in which a Guardia Civil officer dealt three blows to his companion, who suffered serious and irreversible injuries after being struck by the officer’s baton, causing him to lose his vision.

“El Tarajal” border post during the May 2021 entries to Ceuta in a context of instrumentalisation of migrations (2021).

Irina Samy



169 Ombudsman, “El defensor del pueblo avanza sus primeras conclusiones sobre lo sucedido en el perímetro fronterizo de Melilla”, 14 October 2022, <https://www.defensordelpuerto.es/noticias/secesos-melilla/>

170 This reference and similar references which follow correspond to the list of interviews that appears in Annex 1.

What follows is an analysis of the human rights violations – in the form of express deportations and excessive use of force, among others – which occurred in Melilla on 2 and 3 March and 24 June 2022, as presented in the complaints filed with the Ombudsman. Despite the seriousness of the events reported and the audiovisual evidence presented, as reflected in Table 1, the complaints relating to the events of 2 and 3 March were dismissed by the Ombudsman, under the auspices that “it is ultimately a difference of point of view, insofar as the Secretary of State for Security has given their response, in which they do not share the view of the Ombudsman”. This notwithstanding, according to the Ombudsman, “actions taken at the Melilla fence continues to be investigated in relation to the case concerning the mass crossing attempt in June, which has been brought by [Irdia], Novact and Solidary Wheels.” A lack of investigation into and accountability for violations of international law, express deportations and excessive use of force against migrants are a recurrent issue.¹⁷¹

171 Amnesty International, “Nuevo salto con violaciones de derechos humanos en Melilla”, 4 March 2022, <https://www.en.amnesty.org/en-que-estmos/noticias/noticia/articulo/amnistia-internacional-nuevo-salto-con-violaciones-de-derechos-humanos-en-melilla/>

Table 1- Analysis of the complaints lodged with the Ombudsman regarding the events of 2 and 3 March and 24 June 2022.

Melilla		
Complaint to the Ombudsman	Grounds for complaint	Response received
<p>Mass border cross attempts on 2 and 3 March 2022</p> <p>This complaint features an analysis of the images published in the media.</p> <p>Iridia and Solidarity Wheels, presented on 1 April 2022</p>	<p><i>The complaint points to evidence of attached images:</i></p> <p><i>Video 1</i></p> <ul style="list-style-type: none"> — The complaint indicates the assault carried out by three Guardia Civil officers identifiable by their number and two officers without identification – one of them from the Reserve and Security Group – in numerical superiority, to which a sixth officer who may or may not have been wearing identification apparel can be added. 5 blows are accounted for in the form of punches and three kicks, one of these when the person was immobilised on the ground. — These actions are contrary to the principles governing the actions of police and security officers, insofar as they are inappropriate, disproportionate and unnecessary and, therefore, constitute an unlawful and unprotocolary use of force. <p><i>Video 2</i></p> <p>A group of Guardia Civil and Policía Nacional officers are observed to be without proper identification apparel. Specifically, unidentified 10 Guardia Civil officers can be seen using riot control material, in addition to an officer from the Police Intervention Unit (UIP) of the Policía Nacional who is without the Operational Number on their uniform.</p> <ul style="list-style-type: none"> — Express deportation of an immobilised person. — Transfer of injured persons by the Guardia Civil and the Policía Nacional to the border fence area, with the risk that they be unlawfully expelled. — Four Guardia Civil officers rapidly transfer a person to the border forthwith and expel them. — Apparent lack of attention by Spanish authorities to factors of risk. — Analysis of events indicates that the actions of police and security officers may have infringed the procedural safeguarding of basic rights. <p><i>Video 3</i></p> <p>Injured people appear to be in transit.</p> <p><i>Video 4</i></p> <ul style="list-style-type: none"> — Guardia Civil and Policía Nacional officers fail to display a visible identification number while carrying out their duties. A Reserve and Security Group officer does display a number, but only on their lower back, making identification difficult. — A Guardia Civil officer strikes a person to constrain them, in what appears to be a disproportionate use of force, constitutive of mistreatment and endangerment of their physical wellbeing. — Unidentified Guardia Civil officer, who places their foot on the neck of a person lying on the ground in order to constrain them, in what appears to be a disproportionate use of force, constitutive of mistreatment and endangerment of their physical wellbeing. — A Guardia Civil officer is observed striking someone three times with their baton without the need to do so, in an act constitutive of mistreatment and endangerment of their physical wellbeing. — Overall analysis of the police intervention leads to the conclusion that it runs contrary to operational police principles concerning the use of force, owing to a lack of necessity, applicability and proportionality, and may constitute an unlawful use of force → 	<p>A single response was received to these three complaints on 15 November 2022, mentioning only events which took place on 24 June 2022.</p> <p>The response of the Secretary of State for Security has been received, concerning the Reminder of legal duties that was presented to said body, in relation to actions of officers on 3 March 2022, regarding an individual caught attempting to enter national territory by irregular means via the Melilla border fence.</p> <p>The relevant authorities do not share the Ombudsman's view. This has led to differing judgement in the handling of this complaint, which continues with respect to the mass crossing attempt of the Melilla border on 24 June 2022, during which an indeterminate number of non-nationals tragically lost their lives.</p> <p>Several judgements have been made regarding this matter, which can be consulted via the Ombudsman's website.</p> <p>The first link provides access to the recommendations to the Under-secretary of Foreign Affairs, the European Union and Cooperation on "asylum applications in Spain without recourse to irregular routes of entry". The second is to the Ministry of the Interior, specifically to "Actions and measures of State Security Forces in Melilla".</p>

	<p>The Ombudsman was requested to intervene and initiate an investigation in order to clarify who gave the order for these actions, and who carried them out. It was also requested that the conclusions of said investigation be delivered to the internal affairs units of the Policía Nacional and the Guardia Civil, in the interests of informing any possible internal evaluation and disciplinary measures.</p> <p>It was also requested that, if investigations were to indicate the possible commission of any criminal offence, evidence for this should be transferred to the Public Prosecutor's Office, in order that appropriate measures be taken to identify the whereabouts and situation of those who appear in the video and, in particular, to carry out an analysis of all the people who were injured on 2 and 3 March at the moment of entry via the border fence, as well as to take an interest in the whereabouts and situation of those summarily expelled by police officers to Morocco.</p>	
<p>Mass crossing attempt on 2 March 2022</p> <p>Solidary Wheels</p>	<p><i>The complaint indicates the evidence seen in the images attached:</i></p> <ul style="list-style-type: none"> — Policía Nacional officers deployed to the scene forced [the people perched on the fence] down, with shouts of: “pull them, pull them.” — The officers asked us [Solidary Wheels] to abandon the scene, using the police vehicles to conceal the three men who had just fallen to the ground. After about 10 minutes, without having received medical, legal or any other assistance following the police intervention, they were taken into these vehicles and transported to the nearest border crossing (gate 153). — Several Spanish police officers proceeded to open the aforementioned gate and forced the 3 men they had pulled down to enter Moroccan territory, handing them over to the Moroccan security forces. — These expulsions were made without respect for international human rights and international protection regulations to which Spain is a party, as established in the tenth additional provision of the Citizens' Security Act. 	
<p>Events of 24 June</p> <p>A group of eight organisations registered a complaint regarding the events of 24 June 2022 in Melilla</p>	<p><i>The complaint indicates the evidence seen in the images provided and that gathered by the organisation present on the ground when events occurred, both in Melilla and in Nador (Morocco).</i></p> <ul style="list-style-type: none"> — The reporting of events starts with a series of intense containment actions by officers, carrying out raids and mass arrests of migrants in Morocco, and the egregious abuses to which migrants are subjected. Likewise, it is mentioned that, in the days prior to 24 June, a reinforced anti-intrusion unit was deployed by the Spanish authorities in the Chinatown area. — A coordinated riot police operation between the Spanish police and the Moroccan gendarmerie is undertaken with use of crowd control material. Specifically, the complaint mentions the use of smoke grenades, as well as the disproportionate action by the Moroccan gendarmerie, going so far as to throw stones and act, making use of force, in Spanish territory. <p>This coordinated action between the security forces of both countries, both in Moroccan and in Spanish territory, endangered the group of people attempting to cross both border perimeters. Their safety and physical integrity were not guaranteed when they exercised excessive violence against people who, given their profiles, presented sufficient indications as applicants for International Protection, which resulted in the deaths and disappearance of more than 77 people according to the Moroccan Association of Human Rights (AMDH).</p>	<p style="text-align: right;">→</p>

- The complaint details that, in spite of audiovisual material showing inhuman and degrading treatment, insufficient information has been provided regarding not only this but also the number of deaths, number of people injured, and the medical and psychosocial condition of the survivors.
- Lack of health care for seriously injured survivors.

In the videos available, the Moroccan Gendarmerie are seen to be authorised to enter Spain, with the Guardia Civil transferring custody of a number of individuals to the gendarmes in order to return them to Morocco. This would evidence the exercise of jurisdiction of Spain over these individuals, some of whom were injured.

- It can be seen in the videos how the dead and injured are crushed next to the blue access fence at the Chinatown border post within Spanish territory.

There is no doubt that these events occurred under the effective control of the Spanish authorities, as (1) police were fully deployed along the border perimeter and between the fences, (2) the Spanish Guardia Civil witnessed all manner of assaults and violence against migrants by the Moroccan Auxiliary Forces, with this occurring (3) during a police operation in accordance with the bilateral cooperation agreement with Morocco which aims to "protect" the Spanish border from irregular entry attempts, in a manner constitutive of the externalisation of Spanish border control. The above can therefore be considered an exercise of the jurisdiction of Spain within the meaning of Article 1 of the ECHR.

- 133 people cross the border and proceed to the CETI.
- These people, of Sudanese, South Sudanese, and Chadian nationality, are currently unlawfully detained, ostensibly in isolation as a consequence of the activation of COVID protocols. There are no legal grounds for such isolation, insofar as the relevant health authorities have made no requirement to do so, nor has the mandatory judicial authorisation as provided for in LJCA Article 8.6 been requested.
- The conditions of said isolation are completely substandard, with detainees confined separately under guard by CETI security personnel, without access to mobile phones or any other communication device. Their cells lack call mechanisms, panic buttons or any other type of security device in case of emergency.

There are evident consequences of isolation on detainees' psychosocial wellbeing. This must be taken into account particularly in the case of those who come from or have travelled through countries where torture is endemic, or who have just survived a disaster with multiple victims. In order to ensure that individuals are able to avail of their rights and to guarantee the principle of non-refoulement, the identification of persons in need of international protection must be carried out, particularly of those in situations of vulnerability or with specific protection needs. The conditions in which the 133 people who crossed the border find themselves held, discourage thorough and prompt identification of children (including those who are unaccompanied or separated), victims of torture, rape or other serious forms of psychological, physical or sexual violence, and people with disabilities, serious illness or mental health needs.

- Spanish security forces pushed back people at the border immediately without paying due care and attention to the presence of especially vulnerable individuals, as is required by constitutional jurisprudence.

	<p>These summary expulsions, in addition to being in violation of the commitments signed by Spain in the field of international protection and child protection, have been undertaken in violation of the principle of non-refoulement and effective protection against torture.</p> <ul style="list-style-type: none">— Spanish security forces had the opportunity to verify, through in situ observation and through the cameras installed along the border perimeter, the situation in Moroccan territory with respect to the use of force deployed, lack of medical aid, and the deceased and seriously injured who remained abandoned on the ground in the custody of the Gendarmerie for up to nine hours.— The summary expulsions occurred at 11:00 in the morning, when the bodies of the victims had already been abandoned at the fence for several hours. Despite this, the Spanish authorities agreed to the expulsion of the survivors and their handover to the authorities. It follows from the above that the Spanish authorities were aware of violence and degrading treatment to which migrants in Morocco were subjected but, ignoring their obligation to protect, agreed to return them to Morocco.	
--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

Source: Complaints sent and Ombudsman responses. Own research.

Express deportations do not only occur at land borders: the practice has also been detected at sea. One example of this occurred in August 2021, when 41 people arrived on Isla de la Tierra, in the Alhucemas archipelago. Of these, 20 were women (3 of them pregnant), and 6 were children.¹⁷² A Guardia Civil Underwater Activities Group (GEAS) was deployed and transferred by helicopter to the island to proceed with their deportation, with the aid of the Gendarmerie of the Kingdom of Morocco (GRM).¹⁷³ This was publicly denounced by several NGOs, who filed a complaint with the Ombudsman.¹⁷⁴ A month later, a group of approximately 125 people, including 60 women and 8 children, arrived at Peñón de Vélez on the island of La Gomera (Spanish territory on the African continent). More than 90 of them applied for asylum with the support of human rights organisations working at the border. However, as shipwreck survivors, they were deported directly to Morocco.¹⁷⁵ The Jesuit Migrant Service (SJM) and AMDH have also drawn attention to a change in the practice of dealing with migrants to the Chafarinas Islands since 2020. While people are currently transferred directly to Moroccan patrol boats for deportation to Morocco, the Guardia Civil had previously transferred them to Melilla for identification, with access to legal aid and an interpreter. In January 2022, nine people of Syrian origin were deported – three of them children, and all of them seeking international protection – while, in December 2021, an entire group including an infant was subjected to express deportation.¹⁷⁶ The AMDH recorded the express deportation of 138 individuals in 16 attempts to access the island in 2021 and, in January 2022, two debarkations of 18 people in total.¹⁷⁷

4.1.3. Temporary Stay Centres for Immigrants (CETI)

It should be noted that Moroccan nationals are not generally admitted to CETIs in Spain. As an exception, during the 26 months that the land border was closed due to the COVID-19 pandemic, Moroccan people were admitted. In June 2022, the Ombudsman issued a reminder of the legal duty to admit Moroccan citizens to the CETI without the need to have an application for asylum pending.¹⁷⁸ In addition, there is evidence of recurrent use of expulsion as a punitive measure against CETI residents. It has been found that residents expelled from these centres have been left homeless for varying periods of time. Generally, in Melilla, expelled individuals install themselves in a tunnel near the CETI until they are re-admitted. In January 2023, the associations Elín and No Name Kitchen brought

172 EuropaPress, “Caminando Fronteras muestra en Melilla su preocupación por los 41 inmigrantes llegados a Isla Tierra”. Europa Press, 22 August 2021, <https://www.europapress.es/ceuta-y-melilla/noticia-caminando-fronteras-muestra-melilla-precarcion-41-inmigrantes-lavados-isl-tierra-20210822152533.html>

173 J.M. Zuloaga, “Marruecos acepta la devolución de medio centenar de subsaharianos llegados a Alhucemas”, La Razón, 21 August 2021 <https://www.larazon.es/espana/20210821/2txkvzwukzfbifhtzdwvm4qtu.html>

174 EFE “Varias ONG denuncian un intento de devolución de 41 migrantes llegados a la Isla de Tierra”. Público, 21 August 2021 <https://www.publico.es/sociedad/ong-denuncian-devolucion-41-migrantes-llegados-isl-tierra.html#:~:text=Varias%20ONG%20han%20denunciado%20p%C3%BAblicamente,en%20el%20archipi%C3%A9lago%20de%20Alhucemas.>

175 Laura Varo, ““España devuelve a Marruecos a 125 inmigrantes que habían entrado en un peñón español frente a Alhucemas”, El País, 20 September 2021, https://elpais.com/espana/2021-09-20/espana-devuelve-a-marut-a-125-inmigrantes-que-habian-entrado-en-un-penon-espanol-frente-a-alhucemas.html?event_log=oklogin

176 EFE, “ El Defensor recuerda que no se pueden devolver a inmigrantes bajo protección”. El Faro de Ceuta, 5 January 2022, <https://elfarodeceuta.es/defensor-no-devolver-inmigrantes-bajo-proteccion/>

177 EFE, “Islas Chafarinas, otra barrera para los migrantes que desean entrar en España”. El Faro de Ceuta, 27 January 2022, <https://elfarodemelilla.es/islas-chafarinas-otra-barrera-para-migrantes-desean-entrar-espana/>

178 Ombudsman. “Dificultades de acceso al CETI de Melilla por solicitantes de protección internacional marroquíes” 2 June 2022, <https://www.defensordelpueblo.es/resoluciones/dificultades-de-acceso-al-ceti-de-melilla-por-solicitantes-deproteccion-internacional-marroquies/>

the death of Moussa, a young Guinean who committed suicide after he was expelled from CETI de Ceuta for unknown reasons, to public attention.¹⁷⁹

In Ceuta, the CETI has the capacity to accommodate 512 people. In 2021, 1,010 entries were registered: 906 men, 60 women, and 44 children accompanied by their families. Most of these people were Moroccan nationals, whose entry was likely the result of events at the border in May 2021, accounted for later in this chapter. The second largest group are Guinean nationals, followed in smaller numbers by people from Algeria, Senegal and Cameroon, with a total of 28 different African and Asian nationalities. In 2022, a total of 1,147 people were discharged from the CETI: 1,127 men, 16 women, and 4 children accompanied by their families. The average occupancy was 350 residents, and the predominant countries of origin were the Republic of Guinea and Sudan. In the case of Melilla, a spreadsheet provided by the CETI management reports that, in 2021, total entries numbered 2,327 – 119 children, 173 women and 2,035 men – mostly from Tunisia, Mali, Sudan, Morocco, Algeria and Egypt. Another spreadsheet shows that, in 2022, total entries reached 1,284, of which 3 were women, one was a child, and 1,280 were men, mostly from Mali and Sudan.

Concentration of residents of the Melilla CETI (2022).

Valentina Lazo



According to the United Nations High Commissioner for Human Rights, it is essential that an adequate standard of living is guaranteed in these centres, including but not limited to suitable and sufficient food to meet basic daily needs, access to treated drinking water, adequate and appropriate clothing and adequate housing conditions, all of which must be subject to periodic improvement.¹⁸⁰ In this regard, those interviewed in the CETIs located in both cities (see ANNEX 1) stated that there can be problems with access to drinking water outside of meal times.

A nursing service is available as part of the CETI's health services. In terms of mental health, the CETI in Ceuta employs two professionals for psychological care. These professionals, however, do not speak the everyday languages of the centre's residents. In an interview for this report, members of the association

¹⁷⁹ No Name Kitchen "Statement of Moussa's Death in Ceuta", 27 January 2023. <https://www.nonamekitchen.org/en/comunicado-de-denuncia-por-la-muerte-de-moussa-en-ceuta/>

¹⁸⁰ OHCHR, "Principle and guidelines supported by practical guidance on the human rights protection of migrants in vulnerable situations", <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf>

Elin stated their concern about the disinterest and lack of attention paid to the mental health of migrants, given that many of them arrive in fragile states due to what they have experienced while migrating.

In 2022, three cases of violence by security guards in the Melilla CETI were identified. In the first case, a resident at the centre reported that, after arriving at the CETI management building on 10 January 2022 to ask when he would be transferred to a centre in peninsular Spain, he was refused this information. Upon insisting that it be provided to him, three private security guards employed by Clece restrained and then beat him with a baton, causing injuries to his back and neck. A statement denouncing this assault was issued by several organisations.¹⁸¹ The second case took place on 17 January 2022, when another resident reported having been injured by private security guards from the same company, who prevented him from entering the centre without having informed him of the reasons in a language understandable to him. He was not allowed to speak with an interpreter. After this, he reported that several guards restrained and beat him until the Guardia Civil arrived, following which he was transferred to a police station.

A press release issued by grassroots organisations detailed the third case, in which a CETI resident was assaulted by a security guard at the centre.¹⁸² The resident claimed to have been taken to a room where one of the guards punched him in the eye. The residents, after expressing their disgust to those responsible for the centre, decided to carry out a protest at the entrance of the CETI in which they demanded that the Government take action regarding the situation. The case is the subject of a criminal complaint and subsequent judicial inquiry by an investigative court in Melilla, and remains pending resolution.

It is essential that an effective channel is created for temporary CETI residents to safely and confidentially report any future instances of violence by police or other security bodies to the Ministry of Inclusion, Social Security and Migration. The SJM has involved itself in the three cases, although none of these have yet come to trial.

4.1.4. Unaccompanied children

Ceuta and Melilla are the two autonomous communities of Spain with the highest rate of children in the care system. In Ceuta, the Temporary Relocation Centre known as “La Esperanza”, in San Ildefonso, which houses children under the age of 18, wings III and IV of the Piniers detention centre – known respectively as “Aljarafe” and “Triana” – the emergency girls’ units run by Asociación Engloba and the Mediterranean Centre currently form part of this system. There is also the “Punta Blanca” Young Offenders Detention Centre (CEMI). In Melilla, their counterparts are the “La Gota de Leche” centre for the accommodation of vulnerable national and non-national children, “La Purísima” (non-nationals), “La Divina Infantita” (boys only) and “El Baluarte”.

181 Iridia, “Comunicado: Un grupo de personas residentes en el CETI de Melilla denuncian violencia institucional por parte de la seguridad privada del centro”, 3 June 2022, <https://iridia.cat/en/comunicado-un-grupo-de-personas-residentes-en-el-ceti-de-melilla-denuncian-violencia-institucional-por-par-te-de-la-seguridad-privada-del-centro/>

182 Novact, “Comunicado: Un grupo de personas residentes en el Centro de Estancia Temporal de Inmigrantes (CETI) de Melilla denuncian violencia institucional por parte de la seguridad privada del centro”, <https://novact.org/2022/06/comunicat-un-grup-de-persones-residents-en-el-centre-des-tada-temporal-dimmigrants-ceti-de-melilla-denuncien-violencia-institucional-per-part-de-la-segure-tat-privada-del-centre/?lang=en>

Deficiencies in temporary resettlement centres for non-adults in these cities cause many children in care to leave them, leading to situations of neglect. **Despite the existence of police action protocols for dealing with non-adults who have disappeared¹⁸³, organisations working in Ceuta and Melilla claim that these are not applied when children abandon their assigned resettlement centre.** This results in child and adolescent homelessness, without any measures being taken to locate them for their protection. **Institutional neglect of migrant children in Ceuta and Melilla, both those in situations of homelessness and on occasion those resident in official centres, paves the way for the infringement of human and children’s rights in the form of sexual violence**, exemplified by the arrest of Javier Guerrero, a former minister of Ceuta, for sexual abuse of children of Moroccan origin resident in “La Esperanza”.¹⁸⁴

Another significant risk for children and adolescents is the phenomenon known locally as “risky”¹⁸⁵, denoting any attempt to cross the Strait of Gibraltar by stowing away in the undercarriage of a transport vehicle. Attempts to deal with this phenomenon have turned the ports of Ceuta and Melilla into hot spots of violence against children and adolescents by the Policía Nacional, the Guardia Civil and port authorities. The Asociación Maakum and No Name Kitchen in Ceuta, and Solidary Wheels and Prodein in Melilla, gather **reports of brutality by police forces against migrants and against migrant children.** As an example, Maakum spoke out publicly in 2019 **against the practice of shaving the heads of children and adolescents in care** in Ceuta.¹⁸⁶ This practice, along with the **Policía Nacional’s assault on a group of three children**, was again brought to the attention of authorities in March 2022 via a complaint to the Ombudsman by No Name Kitchen. The same organisation filed another complaint to the Ombudsman in April 2022, denouncing negligence in the health care provided in “La Esperanza”, with reference to a serious scabies outbreak. **In 2021, the organisation recorded at least 14 cases of improper use of force and physical assault against children in the port of Ceuta** and its vicinity, or in areas where homeless children spend the night. In at least one of these cases, it has been reported that a police dog attacked a child.¹⁸⁷

Where children are concerned, particular respect for the fundamental rights to education, health, identity, nationality and family life is essential. Organisations in Ceuta have spoken out against practices in children’s temporary resettlement centres such as **refusal of access under opaque and subjective criteria, lack of information about their rights, mistreatment and abuse of power including physical and verbal assault, improper use of punishment and other aggressive containment measures, a hostile environment, and**

183 Instruction No. 1/2017 of the Secretary of State for Security, updating the “police action protocol for minors” (which sets out the steps to be taken in cases of disappearance of minors) <https://bienestaryproteccioninfantil.es/instruccion-no-1-2017-de-la-secretaria-de-stat-de-seguridad-por-la-que-se-actualiza-el-protocolo-de-actuación-policial-con-menores-regula-la-actuación-pe-cífica-en-caso-de-desap/>

184 EFE, “Prisión provisional para un exconsejero de Ceuta por un presunto delito de abusos sexuales a los menores marroquíes”, El País, 2023, <https://elpais.com/espana/2023-01-13/prison-provisional-para-un-exconsejero-de-ceuta-por-un-presunto-delito-de-abusos-sexuales-a-los-menores-marroquies.html>

185 A practice that consists of hiding in the undercarriage of a vehicle which enters the port heading towards the peninsula, usually carried out by minors.

186 Maakum Ceuta, “A día de hoy en Ceuta, ciudad Española, se utilizan medidas represivas y violentas como por ejemplo, rapar el pelo a los chavales a la fuerza.” Published on their Facebook page, 31 October 2019, <https://www.facebook.com/459655701230217/posts/646651109197341/>

187 Cases taken from an internal No Name Kitchen report.

non-compliance with security measures against COVID-19.¹⁸⁸ The insecure working conditions of those employed in these centres should be noted as a determining factor in the unsatisfactory care given to children.

Following a visit to the Punta Blanca CEMI in Ceuta, in addition to visits to other CEMIs across Spain, the Ombudsman's 2022 annual report highlighted shortcomings in the following areas: initial admission protocols, information collection, adaptation of educational and therapeutic activities and health care to specific needs, suicide prevention, the use of force and restrictive measures, communications and the complaint management system.¹⁸⁹

The specific needs of separated children and adolescents¹⁹⁰ – those who arrive in Spain accompanied by adults, mostly women, who are not their biological parents – must also be taken into account. If the woman reports not being the mother, the child is often removed and placed in the care of the Child Protection Services. If she claims to be the child's mother, DNA tests are performed to prove this relationship. Where these tests come back negative, the authorities involved may assume that the child is an orphan and remove them, despite this not being in the best interest of the child and/or their right to family life.¹⁹¹ The Programa ÖDOS initiative has also highlighted the lack of coordinated management protocols in these cases, reporting that family members are often viewed with suspicion by certain authority figures under the often biased belief that they are involved in trafficking. Such situations evidently must be prevented and acted upon, but it is important that this work is not carried out on a prejudiced, one-size-fits-all basis.

Those who have been in the care system in Ceuta and Melilla, in turn, lack resources to turn to once they reach adulthood, and on many occasions – albeit less frequently now than prior to immigration law reform in 2022 – **leave the care system without official documentation and end up homeless, as was highlighted by the Ombudsman during their visit to Ceuta and Melilla in June 2021.**¹⁹²

The following sections analyse two examples of legal exceptionalism in Ceuta and Melilla as this relates to national and international human rights law. First, an analysis of events in May 2021 in Ceuta is provided, and thereafter of police actions on 24 June 2022 in Melilla.

188 Maakum Ceuta, Elín, No Name Kitchen. Informe sobre las vulneraciones de derechos de los niños, niñas, adolescentes y jóvenes migrantes en Ceuta (2021), <https://maakumceuta.files.wordpress.com/2021/06/informe-vulneraciones-de-derechos-de-la-infancia-adolescencia-y-juventud-migrante-en-ceuta.-june-2021-1-1.pdf>

189 Ombudsman. Informe Anual 2022. Volumen I." 2023, <https://www.defensordelpueblo.es/wp-content/uploads/2023/03/Defensor-del-Pueblo-Informe-anual-2022.pdf>

190 Separated children are children separated from both parents or their legal or customary guardians, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members. General Comment No. 6 (2005) CRC/GC/2005/6. The full text can be accessed via the following link: <https://www.acnur.org/fileadmin/Documentos/BDL/2005/3886.pdf>

191 Since 2018, the ÖDOS Program has worked with the City Council of Montilla (Córdoba) in children's services, assessing risk factors of children in these situations. ÖDOS, together with the Social Services of Montilla, identified that minors with parents residing in another country of the European Union tend to be those who seek family regrouping.

192 Ombudsman, "Fernandez Marugán viaja a Ceuta y Melilla para entrevistarse con autoridades y ONG", 4 June 2021, <https://www.defensordelpuerto.es/noticias/visita-institucional-ceuta-melilla/>

4.1.5. Analysis of the events which occurred in Ceuta in May 2021

Against a backdrop of political spin regarding migration, it has been estimated that, from 17-19 May 2021, more than 8,000 people entered Ceuta as a result of the unofficial and unilateral opening of the border by the Moroccan authorities. This action was the result of geopolitical tensions between Morocco and Spain which came to a head in April 2021 after Spain welcomed the Secretary-General of the Western Sahara Polisario Front, Brahim Ghali, to receive treatment for COVID-19.

Although mostly Moroccan nationals, a wide range of men, women and children of different nationalities and ages crossed over into Ceuta. Those attempting to enter gathered on the beaches of neighbouring towns in Morocco (Fnideq), with some families with very young children using boats to reach the coast. Entries were also made by land. On the Spanish side of the border fence, a large number of Guardia Civil riot police officers awaited them. Beyond any physical injuries, falling on the Spanish side of the fence meant immediate expulsion. The police made use of smoke grenades.¹⁹³

On 17 May, the Ministry of the Interior announced an “immediate reinforcement” of 50 further offices from the Guardia Civil, and 150 belonging to the Policía Nacional.¹⁹⁴ On 18 May, members of the Spanish Legion and volunteer infantry units of the Spanish Army were deployed to the border, along with at least four armoured vehicle units (BMR).¹⁹⁵ Entries ceased on 19 May when police and security forces fired tear gas across the fence against groups of people who were on the beach in the neighbouring country.

The Red Cross Immediate Emergency Response Team (ERIE) was deployed to Tarajal and Benzú. Vehicles belonging to the ERIE were used to transport the recent arrivals to the Tarajal warehouse complex, the principal emergency response unit set up in the industrial estate located right beside the border. The space soon became overcrowded, and a large group of people were kept outside under police supervision. According to the testimony of a Red Cross volunteer (CE05), **young children, families and asylum seekers were held in unsanitary conditions for hours without access to food or water, without being able to leave.**

Deportations via the Tarajal border began on 18 May. The Red Cross volunteer explained that “they began immediately deporting [people]...people were being deported indiscriminately, without reason.” According to another anonymous source, the Policía Nacional took control of the warehouse, resulting in the Red Cross leaving. Children were separated from adult family members, and a humanitarian corridor was set up for Moroccan people who expressed their desire to return to Morocco.

193 Gabriela Sánchez, “8.000 personas, al menos un cuarto de ellas menores, entran a nado en Ceuta en plena crisis con Marruecos”, Eldiario.es, 17 May 2021, <https://www.eldiario.es/desalambre/personas-entran-ceuta-nado-mar>

194 Ibon Uría, “El Gobierno anuncia un refuerzo inmediato de 150 policías y 50 guardías civiles para frenar las llegadas a Ceuta”, 20 Minutos, 17 May 2021, <https://www.20minutos.es/noticia/4699713/0/el-governance-anuncia-un-refuerzo-inmediato-de-150-policias-y-50-guardias-civiles-para-frenar-las-lavadas-a-ceuta/>

195 Esteban Villarejo, “El Ejército despliega en Ceuta al menos cuatro blindados BMR en la playa del Tarajal” ABC, 18 May 2021, https://www.abc.es/espana/abci-ejercito-despliega-ceuta-menos-cuatro-blindados-playa-tarajal-202105181044_noticia.html

Over these days, **people who had already reached Ceuta were also deported, and extraordinary deportations were carried out both of Moroccan and third-country nationals under false pretexts.** In one case, a pregnant woman who crossed the border was transferred to hospital after suffering a haemorrhage. Upon leaving the hospital, she was taken to the warehouse area and later deported to Morocco. There is also evidence of the express deportation of an entire family (parents and children) and at least two single-parent Congolese families who had applied for international protection from the Tarajal complex. These deportations were carried out without any registration or expulsion order, and treated as a pushback at the border. The non-profit organisation Coordinadora de Barrios and the UNHCR registered a complaint regarding the case (CE05). **The Ombudsman has also handled the case of Yemeni and Congolese nationals who claim to have been improperly deported to Morocco, despite having applied for international protection.**¹⁹⁶

Faced with this situation, the Tarajal complex was set up and remained open for months to accommodate unaccompanied children, families and at-risk individuals. Formerly a large sports hall, it was filled with rows of canvas beds, wall-mounted bunk beds and bathroom facilities which fell short of the number of people accommodated there. Up to 200 people were accommodated in these facilities, being kept in confinement for the first 72 hours in accordance with COVID-19 prevention protocols (CE05).

Retention of people in “las Naves del Tarajal” during May entries (Ceuta, 2021).

Irina Samy



Many of those who crossed the border in May 2021 ended up on the street due to a combination of a lack of available spaces, exclusionary access criteria, and changes in how these were overseen. A group of more than 100 black people of diverse origin, mostly young men and some women, spent between 9 and 12 days without accommodation, sleeping outdoors in wet weather near la Playa del Trampolín, without food, water or legal and psychosocial aid. Local residents provided them with blankets, water and food. As a result of the efforts of the people themselves, and following the drafting of a letter which they delivered to the Governor Delegate with the help of local associations including

¹⁹⁶Ombudsman. “Informe Anual 2022. Volumen I.” 2023, <https://www.defensordelpueblo.es/wp-content/uploads/2023/03/Defensor-del-Pueblo-Informe-anual-2022.pdf>

Asociación Elín, No Name Kitchen and Maakum, they were admitted to the CETI in small groups over three days. This once again demonstrates the importance of grassroots action in human rights monitoring and oversight.

At the same time, groups of mainly North African and Asian nationals retreated to the woodland areas surrounding the CETI for fear of being caught and returned to Morocco after their requests for access to the centre or the Tarajal complex were denied. As part of the collaboration between Spain and Morocco, police raids featuring arrests continued for weeks, and **approximately 7,000 people were deported**.¹⁹⁷ These deportations were the fruit of the cooperation¹⁹⁸ between the two countries in the admission of groups of up to 40 people by Morocco.¹⁹⁹

It is estimated that at least a quarter of arrivals during the aforementioned dates in May 2021 were unaccompanied children.²⁰⁰ Although this goes some way to explaining the overcrowding (247% of capacity) in supervised care centres over the course of the year²⁰¹, it should be noted that many of the children in state care, despite being registered at an appropriate centre, remained on the street for months either continuously or, more often, intermittently.

The associations Maakum, Elín and No Name Kitchen describe the **substandard conditions in accommodation faced by children who arrived in May 2021**. Centres were set up in warehouses where up to 400 children lived together, with substandard and unsanitary portable toilets, outdoor showers with limited use time and no hot water, limited and non-nutritional food and restriction on movement to the space itself.²⁰² In addition, deficiencies in the reception system for children in Ceuta extended beyond the emergency centres set up in 2021, as previously explained in the section on ‘Unaccompanied children’.

In August 2021, a case was brought to the courts by Coordinadora de Barrios and the Raíces foundation to stop the unprecedented deportation to Morocco of 55 children in care in the city of Ceuta who had arrived in May. The children were transported in groups of 15 from the accommodation centre to the border, by bus, without their consent or prior information. On 13 August 2021, the Ombudsman issued a reminder of “the legal duty to comply with the provisions of Article 35.7 of Act 4/2000 on the rights and freedoms of foreign nationals in Spain, and the requirement of a report on the family circumstances of the child from the diplomatic institutions of their country of origin, prior to any

197 Eds., “España devolvió a 7.000 inmigrantes que entraron en Ceuta”. Deutsche Welle, 22 May 2021, <https://www.dw.com/es/espa%C3%B1a-devolvi%C3%B3-a-7000-inmigrantes-que-entaron-en-ceuta/a-57633320>

198 Agencias, “España pacta con Marruecos la entrega de grupos de hasta 40 migrante cada dos horas a través de la frontera de El Tarajal”, Público, 20 May 2021, <https://www.publico.es/politica/espana-marruecos-acuerdo-entrega-migrantes-tarajal-ceuta.html>

199 María Martín, “España aprueba entregar 30 millones de euros para ayudar a Marruecos a frenar la inmigración irregular”, El País, 18 May 2021, <https://elpais.com/espana/2021-05-18/espana-entregara-30-millones-de-euros-para-ayudar-a-marruecos-para-frenar-la-inmigracion-irregular.html>

200 Gabriela Sánchez and Gonzalo Testa, “8.000 personas, al menos un cuarto de ellas menores, entran a nado en Ceuta en plena crisis con Marruecos” Eldiario.es, 17 May 2021, https://www.eldiario.es/desalambre/personas-entran-ceuta-nado-marruecos_1_7941768.html

201 Eds., “Ceuta mantuvo en 2021 una sobreocupación de menas del 137%, 306 de las 88 plazas que dispone” El Pueblo, 9 November 2022, <https://elpueblodeceuta.es/art/75745/ceuta-mantiene-en-2021-un-sobreocupacion-de-menas-del-247-306-de-las-88-plazas-que-dispone>

202 Maakum Ceuta, Elín, No Name Kitchen. Informe sobre las vulneraciones de derechos de los niños, niñas, adolescentes y jóvenes migrantes en Ceuta (2021), <https://maakumceuta.files.wordpress.com/2021/06/informe-vulneraciones-de-derechos-de-la-infancia-adolescencia-y-juventud-migrante-en-ceuta.-june-2021-1-1.pdf>

decision regarding the initiation of repatriation procedures”.²⁰³ According to local sources, the child’s family situation was not verified prior to their deportation to Morocco, indicating that the best interests of the child were not met.²⁰⁴

It should be noted that both the Administrative Disputes Court 1 in Ceuta and the High Court of Justice of Andalusia have ruled that the repatriation of a group of adolescents to Morocco breached legal procedure. Furthermore, as **a result of this judicial decision, an investigative court in Ceuta opened a criminal investigation against the then-Delegate Governor and the Vice President of Ceuta.** Both will be tried in the coming months, with the Public Prosecutor’s Office requesting 12 years disqualification from office for each party for the offence of misfeasance in public office.²⁰⁵ The Public Prosecutor’s Office indicates that both parties **“agreed to practice repatriation [in principle of 145 children, although 55 were carried out] without determining if any of the children would be placed at-risk in their country of origin or if this was not in the best interests of each child”**.²⁰⁶ In turn, the defendants pointed out in their statements that ultimate responsibility lies with the central government²⁰⁷, in particular with the Ministry of the Interior led by Fernando Grande-Marlaska. Nevertheless, both the Public Prosecutor’s Office and the presiding judge decided against requesting the declaration under investigation of further parties.

4.1.6. Analysis of police action on 24 June 2022 in Melilla

The deaths of at least 40 people, the disappearance of about 80, the extrajudicial deportation of a further 470, added to the several dozen injured who attempted to access the autonomous city of Melilla on 24 June 2022 constitute, without a doubt, **the most serious mass human rights violation in which Spain has been involved in the last decade, as well as the greatest tragedy in terms of number of deaths at a European Union land border.**

The magnitude of events contrasts, however, with the responses from Spanish, Moroccan and European authorities, all of whom have failed to carry out prompt, thorough and exhaustive investigations.²⁰⁸ When asked about the actions of the police and state security forces, the Minister of the Interior, Fernando Grande-Marlaska, has repeatedly defended that they “acted within the law, proportionality and out of necessity” and that “there were no deaths in Spanish territory”.²⁰⁹ All of the Minister’s appearances before the Congress of Deputies

203 Ombudsman, “Devolución sin procedimientos de menos extranjeros no acompañados en Ceuta”, 2021, s://www.defensordelpueblo.es/resoluciones/devolucion-sin-procedimiento-de-menores-extranjeros-no-acompanados-en-ceuta/

204 The international principle which accords children the right to have their best interests assessed and taken into account as a primary consideration in all measures or decisions concerning or affecting them (European Commission).

205 Gonzalo Testa, “La Fiscalía pide inhabilitar 12 años a la exdelegada del Gobierno y la vicepresidenta de Ceuta por deportar a 55 niños”, El Diario.es, 22 December 2022 https://www.eldiario.es/desalambre/fiscalia-inhabilita-12-anos-exdelegada-governance-vicepresidenta-ceuta-deportar-55-ninos_1_9817300.html

206 Ibid.

207 Manuel Marraco and Gema Peñalosa, ““La vicepresidenta de Ceuta responsabiliza a Marlaska de la entrega de menores: Es obvio que la decisión se adopta a otro nivel”, El Mundo, 8 December 2022, <https://www.elmundo.es/espana/2022/12/08/6390ecef21efa0f9658b45a7.html>

208 Óscar López-Fonseca and Nacho Sánchez, “La Guardia Civil detalla que usó 65 pelotas de goma y 86 botes lacrimógenos durante la tragedia de Melilla”, El País, 7 November 2022, <https://elpais.com/espana/2022-11-07/la-guardia-civil-admite-el-uso-masivo-de-material-antidisturbios-durante-la-tragedia-de-melilla.html>

209 El País, “La Guardia Civil detalla que usó 65 pelotas de goma y 86 botes lacrimógenos durante la tragedia de Melilla”, 7 November 2022. Available at: <https://elpais.com/espana/2022-11-07/la-guardia-civil-admite-el-uso-masivo-de-material-antidisturbios-durante-la-tragedia-de-melilla.html>

– before which he was censured on 9 February 2023 – have been forced at the request of other parliamentary groups.

For its part, Morocco has passed the responsibility for events to Spain, justifying its own actions on account of the unpredictable nature of events. Meanwhile, criminal proceedings opened in relation to the case have focused exclusively on those who tried to cross the border that day. A total of 61 people were arrested, of whom 46 have been sentenced to between 11 months and 2 years in prison for the offences of illegal immigration, belonging to a criminal organisation, damage to public property and violence against police officer, among others. Another 15 were still awaiting trial as of September 2022. No police officers or commanders have been placed under investigation.²¹⁰

The absence of detailed official information about what happened on 24 June, as well as the days before and after, is deeply troubling. **Nearly a year on, it remains unclear how many people died either that day or in the subsequent days as a result of injuries and lack of medical care.**²¹¹ Moroccan authorities say a total of 23 people have died, of whom only one has been identified.²¹² On the contrary, the organisation Caminando Fronteras believes that the figure could number at least 40 deaths. Of these, it is unknown how many could be among the **77 missing people**, according to the accounts of the survivors²¹³ and the Moroccan Human Rights Association (AMDH), which has also spoken out about the digging of mass graves to bury unidentified bodies.²¹⁴ Neither the Moroccan nor the Spanish authorities have provided information on the whereabouts of those reported missing.

For its part, Amnesty International has affirmed that the statements of witnesses and survivors, as well as other evidence, attest to **“the widespread use of illegitimate force by Moroccan and Spanish security forces”**, namely the use of potentially lethal weapons in a manner contrary to international norms, which continued even after those targeted were under police control and could not pose a threat to the officers themselves or to third parties. In addition, it found that **neither Moroccan nor Spanish security forces ensured the subsequent provision of emergency medical care to the injured, resulting in their pain and suffering and increased risk of death.**²¹⁵

210 It is important to note that, among the 61 persons detained, one was a child who was provisionally released. Of the 62 detainees, 55 were from Sudan, 5 from Chad and 2 from South Sudan. Source: Misión Permanente del Reino de Marruecos ante Naciones Unidas, “Réponse des autorités marocaines à la communication conjointe AL MAR 2/2022”, Geneva, 9 September 2022, p. 6.

211 This has also been acknowledged by the Public Prosecutor’s Office which, in its call to close the investigation, pointed out that the only official data available in relation to the deaths that took place that day and their causes are those provided by the Moroccan authorities in a report delivered to the United Nations High Commissioner for Human Rights. Diligencias de Investigación nº1/2022, Fiscal de Sala Coordinadora de Extranjería, 22 December 2022, 13.

212 Permanent Mission of Morocco to the United Nations, “Réponse des autorités marocaines à la communication conjointe AL MAR 2/2022”

213 Caminando Fronteras, “Masacre Frontera Nador-Melilla 24 junio 2022”, undated, <https://caminandofronteras.org/wp-content/uploads/2023/01/Informe-Masacre-Nador-Melilla-EN.pdf>

214 AMDH Nador (@NadorAmdh), ‘ Les craintes soulevées s’avéraient réelles : ce matin, les autorités de Nador préparent 21 tombes au cimetière de sidi Salem pour enterrer des migrants morts le vendredi. Sans enquête sans autopsie sans identification, les autorités cherchent à cacher le désastre Un vrai scandale’, Twitter, 26 June 2022, <https://twitter.com/NadorAmdh/status/1541028758840393728> In contrast, the Moroccan National Human Rights Commission claims that none of the people who died trying to cross the fence were buried and that the corpses remain in the morgue.

215 Amnesty International, “He was beaten on the head to check if he was dead”, Evidence of crimes under international law committed by Spain and Morocco at the Melilla border, (UK, 2022).

In a report to the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Moroccan authorities argued that the autopsies performed attributed the cause of all deaths to mechanical asphyxiation compatible with external chest pressure, relating this to the stampede which occurred at the border gates which, according to the Spanish Government, separate *de facto* both countries. In turn, the authorities assured that none of the victims showed traces of ecchymosis or external haemorrhages resulting from blows²¹⁶ with a defensive weapon. This statement contrasts with the observations of the AMDH on the first and only occasion it managed to gain access to the morgue in Nador, on 25 June, upon which it discovered the bodies of 15 people who appeared to have suffered impact injuries to the head, face, chest and feet. Feedback provided by the Moroccan authorities has not been subject to any external and independent verification, and Amnesty International has denounced that at least two NGOs were prevented from visiting hospitals in Morocco to examine the bodies and identify the deceased in the days following the events of 24 June.²¹⁷

In view of this apparent lack of transparency and institutional accountability, the present paragraph serves as an analysis of actions by both countries' police forces from the perspective of international human rights law. It is important to state that the purpose of this analysis is not to determine the territorial jurisdiction in which the events occurred, but to delve into the respective operations and their impacts on the rights of people seeking to cross the border. This assessment cannot be understood in isolation from the rest of the analysis contained in this report, nor from the migration policies of Spain and the European Union, whose policy determines the action taken at the border.

Demonstration against 24J in Barcelona convened by the Comunidad Negra Africana y Afrodescendiente de España (CNAAE) (2022).

Irina Samy



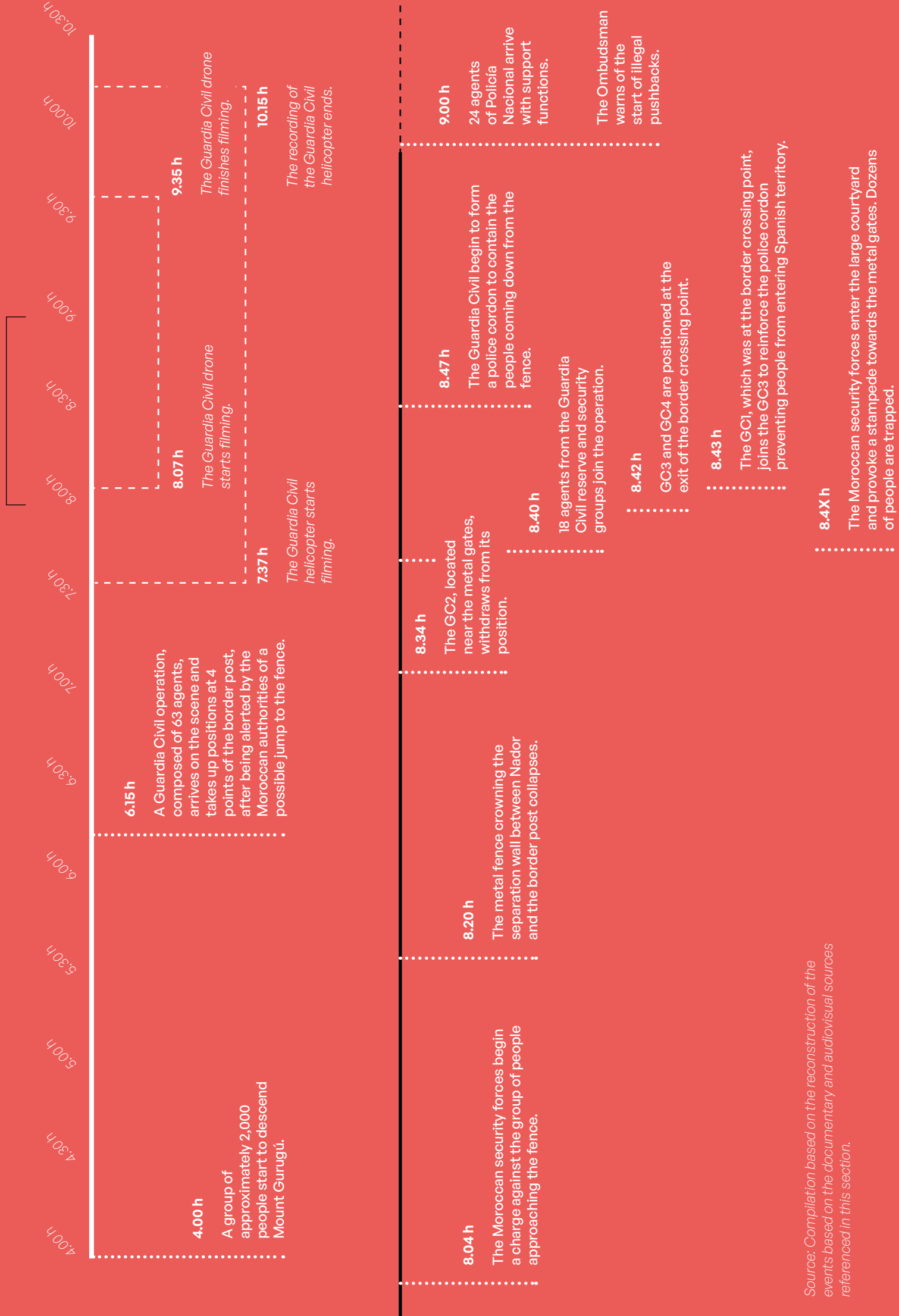
216 National Human Rights Council (Morocco), “Enfrentamientos sin precedentes en la valla de Melilla Conclusiones preliminares de la Comisión de información para la reconstrucción de los hechos,” 13 July 2022, https://www.cndh.ma/sites/default/files/rapport_-_enfrentamientos_melilla_enp_2022.pdf. See also: Permanent Mission of Morocco to the United Nations, “Réponse des autorités marocaines à la communication conjointe AL MAR 2/2022”

217 Amnesty International, “He was beaten on the head to check if he was dead”, Evidence of crimes under international law committed by Spain and Morocco at the Melilla border (UK, 2022), 45 and 9.

It is also worth highlighting that this analysis is based exclusively on information which has been made available through the work of investigative journalists, including a variety of audiovisual sources from the day of the events and interviews with survivors and Spanish institutional actors.²¹⁸ It is also based on the Decree of the Non-Nationals Unit of the Public Prosecutor's Office, dated 22 December 2022, which gave notice of the decision to shelve investigations into the police officers on duty that day. This document is especially relevant when it comes to understanding the actions of the Spanish authorities, which to-date have received less coverage than their Moroccan counterparts. The present research has also been informed by statements from the Moroccan National Human Rights Council, the Spanish Ombudsman, a response by the Kingdom of Morocco to questions posed by OHCHR, and reports prepared by Amnesty International, Caminando Fronteras and the AMDH.

The absence of a full and thorough investigation, as well as the lack of access to the set of images recorded that day, has led to timescale **gaps that impede a full understanding of the overall sequence of events**, something which, consequently, has conditioned subsequent appraisal of them.

218 Particularly noteworthy are the investigations carried out by the BBC, "Death on the border", November 1, 2022, available at: <https://www.bbc.co.uk/programmes/p0dbnttd>; and Light House Report jointly with El País, Le Monde, Der Spiegel and ENASS, "Tragedia en la frontera de Melilla: el papel de Marruecos y España en las muertes del 24-J", 29 November 2022, available at: https://elpais.com/videos/2022-11-29/documental-tragedia-en-la-frontera-de-melilla-el-papel-de-marruecosy-espana-en-las-muertes-del-24-j.html?event_log=oklogin



Source: Compilation based on the reconstruction of the events based on the documentary and audiovisual sources referenced in this section.

As per the information available, on the day in question large numbers of people (around 2,000, according to the Spanish Prosecutor's Office), most of them refugees from Sudan, South Sudan, Chad and Niger, attempted to cross the Chinatown border post which separates the Moroccan city of Nador from the Spanish autonomous city of Melilla. On their way together to the fence – descending from Mount Gurugú through the gorge known as Barranco Lobo – the group was not intercepted, split up or forced to change route, having begun its march around 4:00 a.m. **The Moroccan police waited until the group was close to the fence before beginning a charge from the rear, using tear gas and stones, at around 08:04 a.m., four hours after the group had left the camp.** Subsequently, and unlike on other occasions in which attempts were made to climb the fence that surrounds the entire city of Melilla, the group attempted to access Spanish territory by breaching the border checkpoint, which had been closed for more than two years.

It is important to note that, according to the information provided by the Public Prosecutor's Office, the Moroccan authorities alerted the Complex Operational Centre – which in turn informed the Melilla Guardia Civil Command – that an attempted breach of the border was underway, thus **proving that there was a communication channel between both police forces.** Faced with this warning, **the Command deployed a unit of 63 officers which arrived at the site at around 06:15 a.m. and spread out across four different points of the border perimeter.** Subsequently, this unit would be joined by 34 further Guardia Civil officers and 24 officers of the Policía Nacional, reaching a total deployment of 121 officers. The number of officers involved increased as operational needs mounted, at the discretion of the Spanish authorities.²¹⁹

Once inside the border area, around 08:25 a.m., **a group of between 700 and 800 people (according to the Prosecutor's Office) concentrated in an inner courtyard** of about 1,350 square metres (hereinafter referred to as the large courtyard) **which, according to the Spanish authorities, fell under Moroccan jurisdiction and connects with the Spanish side of the border via two metal gates.**²²⁰

At the time, the group which had managed to access the large courtyard was completely surrounded by the Moroccan and Spanish police, who blocked all the exits from the enclosure. Despite the group being surrounded, Moroccan security forces continued to fire tear gas into the courtyard, as can be seen in footage released by Lighthouse Reports, which said up to 20 tear gas canisters were fired in less than 8 minutes. Another witness, who was in the courtyard, said that stones were also thrown at those present.²²¹

According to United Nations recommendations, using tear gas in an enclosed area can lead to the risk of stampedes, as well as, temporarily, difficulty breathing, nausea, vomiting, irritation of the respiratory tract, tear ducts and eyes, spasms, chest pain, dermatitis or allergies, and thus affirm that any **repeated or prolonged exposure should be avoided.** Moreover, the effects

219 Diligencias de Investigación nº1/2022, Fiscal de Sala Coordinadora Extranjería, 22 de diciembre de 2022, 9-11. The role of the Policía Nacional is described by the Public Prosecutor's Office as merely supportive, insofar as it is the Guardia Civil which has exclusive powers to guard the perimeter of the fence. In this sense, it recognises the existence of verbal agreements of collaboration when there is a sighting of people seeking to cross the fence, in accordance with the provisions of the law.

220 *ibid*: p.11

221 El País and Light House Report, "Documental | Tragedia en la frontera de Melilla: el papel de Marruecos y España en las muertes del 24-J", El País, 29 November 2022, https://elpais.com/videos/2022-11-29/documentary-tragedia-en-la-frontera-de-melilla-el-papel-de-marevent_log=oklogin

of such gas are indiscriminate. To this end, **its use is restricted for dispersal purposes**, only when all other means have been exhausted in attempting to contain violent behaviour, and following prior warning.²²² As such, despite being presented as an open-air enclosure, all exits from the courtyard were blocked, thus not only preventing dispersion but *de facto* allowing the Moroccan authorities to maintain control of those gathered by less harmful means. It must be further remarked that the Moroccan security forces' total blockage of any exit routes prevented those who so wished from being able to return suitably and safely.

In turn, and acting simultaneously with Moroccan security forces, **an initial group of Guardia Civil officers (hereinafter, GC1) located at the intersection that runs parallel to the large courtyard made extensive use of tear gas** to contain a group of people who, once inside the courtyard, started to climb the fences that separate it from Melilla. The Prosecutor's Office makes specific mention of the use of smoke and tear gas equipment in its report. By the same criteria set forth above, it would appear clear that the deployment of these against people climbing a fence does not meet the purpose of dispersion, and at the same time increases the risk of them suffering serious injury were they to fall from the height which they had reached (6 metres). **Use of such equipment at the fence is therefore a violation of the principles of necessity and proportionality.**

In addition, the images captured by a Guardia Civil drone – and to which the Prosecutor's Office had access – show that **at least two officers located in the same area as the interviewee threw several dozen stones** at those perched on the fence, making use, therefore, of a completely unauthorised and indiscriminate weapon.

A second group of Guardia Civil officers (hereinafter GC2) was located in the small courtyard located on the other side of the metal gates which, according to the Spanish authorities, separate both countries. In order to prevent the group of people from breaking in, this group **used RSG and MK46 aerosols, also known as pepper spray**, a chemical irritant that the United Nations warns should not be used in environments where there is no feasible exit route, due to the risk of death or serious injury by suffocation²²³. It must be recalled that there was a large gathering of people around the gate and that, therefore, those who were targeted with this type of spray had no way out. In turn, **use of this equipment occurred when there was already an evidently high concentration of tear gas** which had been fired simultaneously by the Moroccan and Spanish police on both sides of the large courtyard. Given this, the Ombudsman acknowledges that “the fact that some Spanish officers targeted them [the people gathered] with a spray may have intensified an already-dangerous situation”.²²⁴

According to the Prosecutor's Office, between 08:41 and 08:42 a.m., those gathered inside the large courtyard managed to open the two border gates: one opened from the centre outwards, while the second was partially opened pulling to the right on one side and from top to bottom on the other, as determined by the Prosecutor's Office from the images taken from a Guardia Civil helicopter.²²⁵ This moment is key to understanding the chain of events which occurred next.

222 Office of the United Nations High Commissioner for Human Rights, United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement, (New York and Geneva, 2021); 33-35.

223 Ibid, 32-33.

224 Ombudsman, “Actuaciones y medidas de los Cuerpos y Fuerzas de Seguridad del Estado en Melilla”, 14 October 2022, <https://www.defensordelp Comunitad.es/resolutions/actuaciones-y-medidas-de-los-cuerpos-y-fuerzas-de-seguridad-del-state-en-melilla/>

225 Diligencias de Investigación nº1/2022, Fiscal de Sala Coordinadora Extranjería, 22 December 2022, 13.

The Prosecutor's Office does not specify the exact time that Moroccan security forces entered the compound, but agrees with the Lighthouse Reports investigation that they did so just after the gates had been breached. **The Moroccan police charge inside the large courtyard caused a stampede among the people inside the enclosure**, who ran towards the gates in an attempt to cross to Melilla. However, an unknown number of people were trapped, crushed and trampled.

According to the Prosecutor's Office, seven minutes before the group had managed to open the gates, GC2 withdrew from the area immediately adjacent. This is striking given the serious risk to their physical wellbeing (two officers may have been injured). However, the short time frame separating this moment from that of the entry of Moroccan security forces and the stampede of those trapped within the area in which the Guardia Civil had been until a few minutes earlier demonstrates that **the Spanish authorities had sufficient information on the ground** to appraise crowd control measures. This was acknowledged by the Ombudsman in the conclusions of their initial report on the events **in question, citing the foreseeable risks in the border gates at an early stage.**²²⁶

Moreover, the Prosecutor's Office detailed that, from 07:37 to 10:15 a.m., a Guardia Civil helicopter flew over the scene to record events as they occurred. **According to the Public Prosecutor, "the moment of the stampede can be seen in the images captured by the Guardia Civil helicopter".**²²⁷ In addition to the helicopter in question, a drone was flown overhead, recording footage from 08:07 to 09:35 a.m. according to the Prosecutor's Office, although it is not accounted for as having recorded the precise moment of the stampede. The above serves to **indicate the existence of a coordinated operation by the Spanish authorities that, by land and air, allowed them to oversee the situation at all times.** This is evidenced by the fact that, just one minute after the gates were opened (08:43 a.m.), GC1, located in the between-fence area, was notified of entry into Spanish territory, thus making its way to join a third group of Guardia Civil officers (hereinafter, GC3) situated outside the facilities, at the exit of the border post. At that point, several people, having passed the gates, began climbing the fence and trying to jump to Melilla. The aforementioned officers were joined by a fourth group (hereinafter, GC4) which, up until that time, had been stationed in another internal courtyard adjacent to the fence separating the border post of Nador, in an area Spain recognises as its own within the facilities.

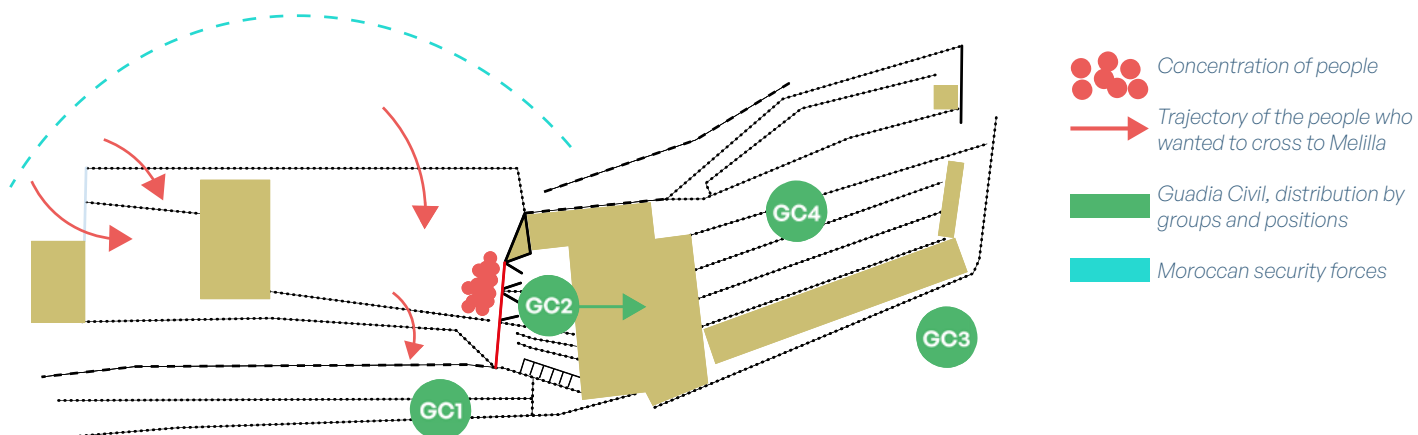
226 Ombudsman, "El Defensor avanza sus primeras conclusiones sobre lo sucedido en el perímetro fronterizo de Melilla 14 October 2022 <https://www.defensordelpueblo.es/noticias/sucesos-melilla/>

227 Diligencias de Investigación nº1/2022, Fiscal de Sala Coordinadora Extranjería, 22 December 2022, 13.

Graph displaying the succession of events that occurred on the morning of 24 June at the Barrio Chino border post

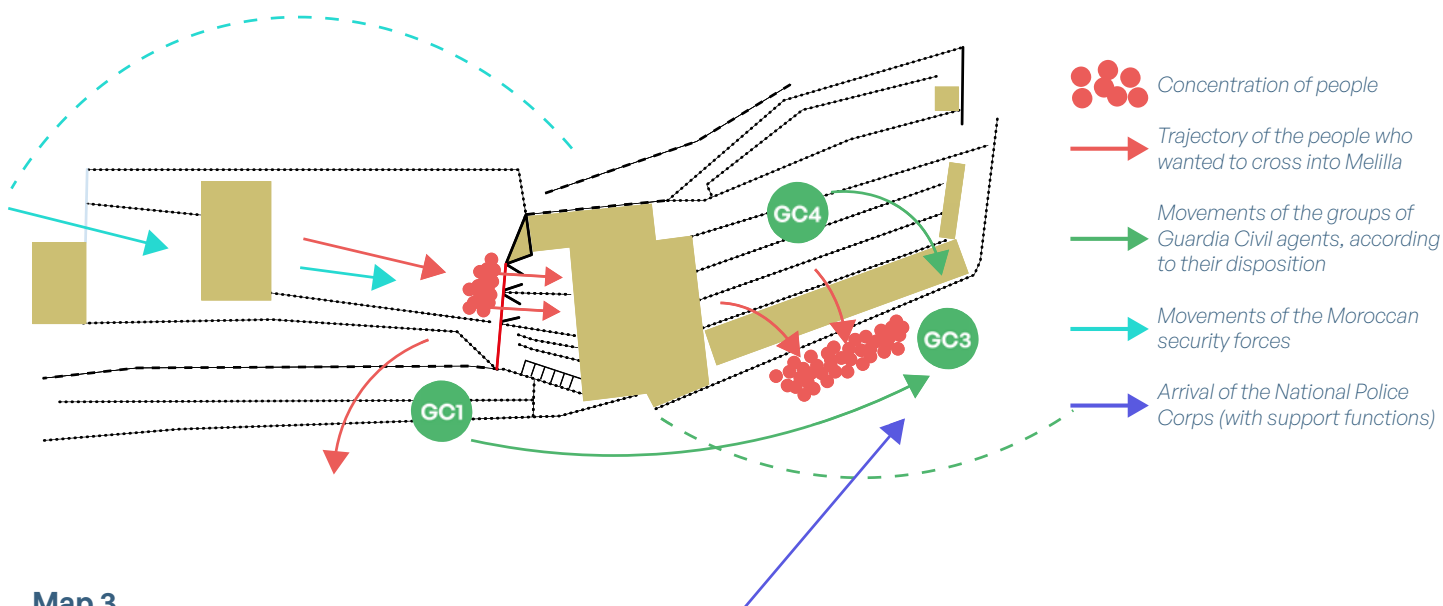
Map 1

Between 08.00 and 08.40 hours (approx.): **Jump into the border crossing point.**



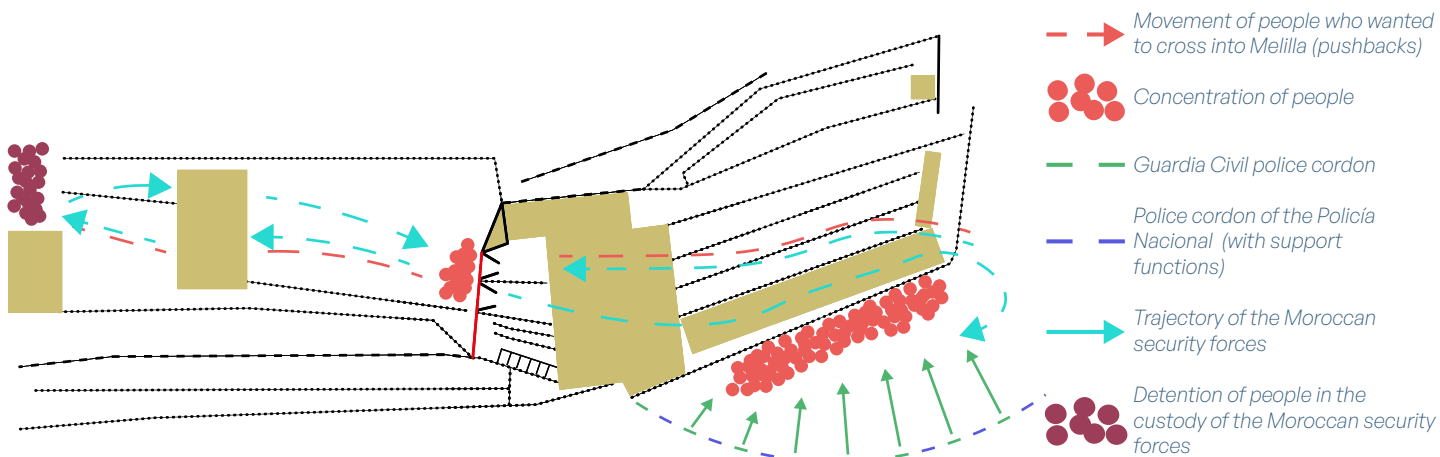
Map 2

Between 08:41 and 09:00 (approx.): **Opening of the metal gates.**



Map 3

From 9.00 a.m. (approx.): **Execution of the illegal pushbacks**



Regarding this stage of events, the Public Prosecutor’s report states: “The crew of the helicopter consisted of three officers, two of them pilots, one acting as commander of the vehicle, and a camera operator. **All of them observed, directly or via the screens installed in the helicopter (...), that there had been a breach of the gates** and that migrants were entering national territory, about which **the pilot informed the COC** [Complex Operational Centre] and of which **the acting officers were aware via radio-telephone communication**” [bold in the original report].²²⁸

This statement is fundamental insofar as it proves that there was full knowledge on the part of Guardia Civil officers of everything happening within the border post, and that **there was functional communication between the helicopter agents and the operational commanders on the ground.** As such, serious doubts exist as to why the Spanish authorities were able to give notice of the entry of migrants into Spanish territory, but not of the potential humanitarian disaster in the border gate area. The Public Prosecutor’s Office justifies this by validating the statements of the helicopter team, stating that, despite having seen the crowd, and even that some people were climbing on top of others, “they did not believe there was a risk to the wellbeing of those present”, at the same time as claiming that the size of the screens did not “allow them to perceive with sufficient clarity what was happening”. However, the credibility that the Public Prosecutor’s Office gives to these versions contrasts with its assertion, verbatim, that “the moment of the stampede can be seen in the images captured by the Guardia Civil helicopter”²²⁹.

The Ombudsman also differed from the argument of the Secretary of State for Security, who argued that police were unaware and unable to observe either directly or indirectly from the border perimeter the danger to which those gathered were exposed. Specifically, the Ombudsman states: “After viewing the images, especially those captured by the helicopter, these affirmations cannot be shared by this institution. In fact, it is observed that an indeterminate number of people are trapped and, in several cases, crushed at one of the entrances of the Barrio Chino border post (...) Likewise, the images captured by the drone and the camera at the fence show the increasingly dangerous situation about which the acting officers should have had constant information”.²³⁰

It is important to remember that the stampede occurred in conditions where it was difficult to breathe and in which many of those present were injured in vital areas such as the head, according to the testimony of one of the survivors of the events, as provided to Lighthouse Reports.²³¹ However, while the leaked images of the stampede only account for a few seconds, images of subsequent crucial moments have not been made public, despite the fact that the Guardia Civil made a full recording of events. The journalists behind the Lighthouse Reports investigation were able to view these images. Their conclusions are striking, aligning with those of the Ombudsman and differing from those of the Public Prosecutor’s Office: “[the] **helicopter camera zooms in on the stampede and shows how people are crushed in Spanish territory**”. Moreover, in their

²²⁸ Ibid, p.14.

²²⁹ Ibid .: pp. 16 and 13, respectively.

²³⁰ Ombudsman, “Actuaciones y medidas de los Cuerpos y Fuerzas de Seguridad del Estado en Melilla”, 14 October 2022, <https://www.defensordelpueblo.es/resoluciones/actuaciones-y-medidas-de-los-cuerpos-y-fuerzas-de-seguridad-del-estado-en-melilla/>

²³¹ Samir, refugee from Sudan and survivor of the 24 June tragedy in Melilla. Testimony gathered in: El País and Light House Report, “Documental | Tragedia en la frontera de Melilla: el papel de Marruecos y España en las muertes del 24-J”, El País, 29 November 2022, https://elpais.com/videos/2022-11-29/documental-tragedia-en-la-frontera-de-melilla-el-papel-demarruecos-y-espana-en-las-muertes-del-24-j.html?event_log=oklogin

analysis of drone footage – which did not directly record the scene in question but other simultaneous events – the journalists state: **“zooming in on the area behind the gate, we can see that there are still people [being] crushed. Moroccan police can be seen beating them with batons.”**²³²

Despite the evidence of these images obtained from the Guardia Civil itself, in addition to the presence of ambulances on both sides of the border, there is no evidence that any medical operation was activated to urgently treat these people, nor that the intervention of police officers with knowledge to perform rescue and first aid tasks was prioritised. On the contrary, the **Spanish authorities focused their action on the containment of those who had managed to break through the gate** and who, once through the enclosure, attempted to climb the fence that crosscuts the Melilla facilities. As stated above, at the time the gates were being opened, and following a warning from the helicopter team, the four groups of officers spread across the area gathered outside the border post, around the access and exit gates, from where they kettled those present and made use of their defensive weapons to prevent the people who had jumped the fence from advancing.

In a number of images released the same day by the JUCIL police union via Twitter, Guardia Civil officers can be seen firing warning shots, tear gas and rubber bullets²³³ against dozens of the people perched on the fence trying to access Spanish territory. It must be recalled that the use of rubber bullets is indiscriminate, insofar as it is impossible to foresee the trajectory of the projectile, which can impact upon vital areas of the body such as the upper trunk, head or neck in contravention of international regulations on the use of force and the recommendations of the United Nations on the use of potentially lethal weapons.²³⁴

The Chief Information Officer of the Guardia Civil, in a report dated 6 July 2022, assured that throughout the entire 24 June operation, officers used their individual defence weapons and fired a total of 270 warning shots, 28 ATF (Triple Smoke Grenade), 86 ATL (Triple Teargas Grenade), 65 rubber bullets, 41 RSG aerosols (700 ml personal defence spray) and 12 MK46 aerosols (riot police spray).²³⁵

Lighthouse Reports published leaked images in which a Guardia Civil officer is observed beating a person within the group – by that stage surrounded by police – with his baton and kicking them until they fell to the ground, despite the fact that said person had their arms raised as a sign of surrender, in an act of punishment that may constitute mistreatment. In turn, the Ombudsman has alerted that the non-time stamped images captured by drone show “how there are two bodies on the road, without evidence from the images of their receiving medical attention”.²³⁶

232 Ibid.

233 Jucil Nacional (@jucilnacional) ““Imágenes muy duras del violento salto masivo a la valla fronteriza de #Melilla, donde han resultado heridos varios agentes de la #GuardiaCivil. Situación que repetirá porque el ejecutivo sigue sin tomar medidas para proteger nuestras fronteras. #EquiparacionYa29Y30”, Twitter, 24 June 2022, <https://twitter.com/jucilnacional/status/1540324301131464705?s=46&t=UI-7VU-vlmzW-7AHtnyC0ZA>

234 Irídia and Novact, *Stop Balas de Goma*, (Barcelona, 2021). See also: Office of the United Nations High Commissioner for Human Rights, *United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement*, (New York and Geneva, 2021); 40-41.

235 Diligencias de Investigación nº1/2022, Fiscal de Sala Coordinadora Extranjería, 22 December 2022, 29

236 Ombudsman, “Actuaciones y medidas de los Cuerpos y Fuerzas de Seguridad del Estado en Melilla”, 14 October 2022, <https://www.defensordelpueblo.es/resoluciones/actuaciones-y-medidas-de-los-cuerpos-y-fuerzas-de-seguridad-del-estado-enmelilla/>

Witnesses to the events and various press images attest to the fact that, under the custody of the Moroccan police, those present were subsequently transferred one by one back to Nador.²³⁷ In total, the Spanish authorities have acknowledged up to 470 pushbacks at the border, a figure confirmed by **the Ombudsman, although it has warned that said pushbacks were carried out without considering their legality with respect to both national and international law**²³⁸, and in spite of the fact that several of those expelled were visibly injured. In contrast to the Public Prosecutor's Office, the Ombudsman argues that, from the images captured by helicopter, the video begins at 8:58 a.m., at which time "a large number of people can be observed on the embankment located next to the fence at the gate, and that arrests begin to be made. Just two minutes later, at 9:00 a.m., rapid pushbacks are observed at the fence. In their report, the Ombudsman added that "the two-minute period [in which events occurred] makes it impossible to assert that pushbacks were made at the border in accordance with minimum legal requirements."²³⁹

The presence of Moroccan security forces on Spanish soil is another matter which indicates a possible coordination between both police forces, and stands in contrast to the statements provided by the Interior Minister Fernando Grande-Marlaska.²⁴⁰ As such, the Public Prosecutor's Office maintains that, with the prior authorisation of the operational command, the Spanish authorities allowed the entry of Moroccan officers into Melilla in order to disperse those who had attempted to jump the fence, once the border gates had been breached. Furthermore, it asserts that the lieutenant colonel of the Guardia Civil in command of the operation reports having met with the competent Moroccan authority (Caid), with whom he agreed to the use for the expulsion of migrants of a specific area of the closed corridors of the Spanish border post, located about two metres from the entrance to Melilla. In this exchange, the Prosecutor's Office asserts that the Moroccan authorities did not report what happened, nor did the Spanish authorities make mention of the events in question, despite the fact that the helicopter pilots recorded these in their totality.²⁴¹

Moreover, **the images clearly show Moroccan security forces can be seen entering Melilla to take people in custody, and that they take control of the border post and expel those who were inside the facilities.** More specifically, they can be seen dragging unconscious people to the outskirts of the enclosure, just outside the entrance doors, in Nador, piling them up and keeping watching over them for several hours (3 to 5 hours, according to investigations by journalists from Lighthouse Reports). These people were held with their hands tied behind their backs, without shade or the provision of medical or any other type of attention, despite the presence of ambulances in the area and the

237 El País and Light House Report, "Documental | Tragedia en la frontera de Melilla: el papel de Marruecos y España en las", El País, 29 November 2022, https://elpais.com/videos/2022-11-29/documentary-tragedia-en-la-frontera-de-melilla-el-papel-de-marevent_log=oklogin

238 For more information on 'express deportations' and pushbacks at the border, see the express deportations section of this same report and Ombudsman, "El Defensor avanza sus primeras conclusiones sobre lo sucedido en el perímetro fronterizo de Melilla", 14 October 2022 <https://www.defensordelpueblo.es/noticias/sucesos-melilla/>

239 Ombudsman, "Actuaciones y medidas de los Cuerpos y Fuerzas de Seguridad del Estado en Melilla", 14 October 2022, <https://www.defensordelpueblo.es/resoluciones/actuaciones-y-medidas-de-los-cuerpos-y-fuerzas-de-seguridad-del-estado-enmelilla/>

240 Eds., "Marlaska ofrece las imágenes de la valla de Melilla sin editar pero reitera que en España no hubo "hechos trágicos", Europa Press, 8 November 2022, <https://www.europapress.es/nacional/noticia-marlaska-ofrece-imagenes-valla-melilla-editar-reitera-espana-no-hubo-hechos-tragicos-20221108181512.html>

241 Diligencias de Investigación nº1/2022, Fiscal de Sala Coordinadora Extranjería, 22 December 2022, 20.

fact that many of those held were visibly injured. In addition, the images recorded at the scene demonstrate how, despite being fully restrained, those present were beaten in a completely unjustified use of force.

Subsequently, Moroccan forces transported hundreds of survivors by bus to other remote points in the country. At least one person was killed along the way, according to the BBC and Lighthouse Reports.

The question that remains to be answered is whether any coordination also existed in the police operations carried out in the large courtyard, where the metal gates were located, given that the withdrawal of Guardia Civil officers from the area coincides with the entry, a few minutes later, of the Moroccan security forces, which led to the stampede of those concentrated there. Were this the case, the legal ramifications would be significant, not only in terms of the individual responsibility of the officers involved, but also – and especially so – of the police command and their political superiors.

Even if such coordination did not exist, the negligence evident in such a decision raises serious questions about the operational capacity of the law enforcement agencies which focused more on preventing border access than trying to save human lives. The Ombudsman has also acknowledged this, considering that closer coordination in crowd control in the areas immediately adjacent to the fence could have prevented a tragedy such as that which occurred on 24 June. Moreover, when such coordination has been attested to in previous situations, such as the mass attempt to cross the fence in March of the same year, the Secretary of State for Security referred to the actions of the “Spanish-Moroccan forces” in a report to the Ombudsman.²⁴² Fernando **Grande-Marlaska himself assured at the time that “the coordination in the control of our borders is seamless”, referring to that between Spain and Morocco.**²⁴³

Pending a full independent judicial investigation, what is evidenced by the images and the official account of the Public Prosecutor’s Office is that **no action was taken by Spanish officers on duty in order to avoid risk to the wellbeing of those gathered** on the other side of the border gates. Was any attempt made in conjunction with the Moroccan authorities to change the objectives of the operation from one of border control to safeguarding the lives of those present? Was the possibility of opening the border post in a controlled manner jointly assessed with the Moroccan police command in order to avert the increasing danger? How is it possible that such coordination existed for the express deportation of people yet not to intervene in the potential humanitarian disaster unfolding?

In the event that those who had accessed Spanish territory did so in contravention of the established legal requirements, they ought to have been expelled in accordance with the applicable international standards. This being the case, any tolerance of the potential for disaster can in no way **be justified, insofar as the priority of both police bodies should at all times have been to protect human life.** The course of the police’s action, therefore, violates the right to asylum contained in the Universal Declaration of Human Rights and the Geneva Conventions, on account of their failure to guarantee safe channels for application.

242 Ombudsman, “Actuaciones y medidas de los Cuerpos y Fuerzas de Seguridad del Estado en Melilla”, 14 October 2022, <https://www.defensordelpueblo.es/resoluciones/actuaciones-y-medidas-de-los-cuerpos-y-fuerzas-de-seguridad-del-estado-enmelilla/>

243 Eds., “Marlaska afirma que la coordinación con Marruecos en el control de las fronteras es “perfecta””, El País, 4 March 2022, <https://elpais.com/espana/2022-03-04/marlaska-afirma-que-la-coordinacion-con-marruecos-en-el-control-denustras-fronteras-es-perfecta.html>

In the end, some 134 migrants managed to cross the border between Morocco and Spain, according to figures released by both the Public Prosecutor's Office and the Ombudsman, the latter of which has indicated that all of these migrants requested international protection. In addition, all were transferred to the Temporary Stay Centre for Immigrants (CETI) in Melilla. Of these, 55 required medical attention and 9 were transferred to hospital. Despite the chain of events, the Public Prosecutor's Office maintained that the injuries were not the result of police action. For its part, Morocco has recognized an additional 77 people who were injured.

The omission of the duty to provide relief is another key chapter of this story. Both the Guardia Civil and the Public Prosecutor's Office have claimed ignorance of the facts in an attempt to absolve themselves of any type of responsibility. For their part, the Moroccan authorities have unilaterally concluded that operations were carried out in accordance with the international principles governing the use of force and that the necessary medical attention was provided²⁴⁴, a version that contrasts with investigations by journalists on the ground, who affirm that the ambulances present were only used for the transfer of the deceased.²⁴⁵ **In no case has a statement been provided giving an account of proactive efforts by the police forces to safeguard the lives and wellbeing of those attempting to cross the border.** Although it has been claimed that the Spanish ambulances present in the area were unable to act for security reasons, there is still no justification for the fact – as can be seen in the images available – that the officers on duty, with basic training in first aid, did not provide this.

A third key element is the non-activation of internal investigation mechanisms by the General Directorate of the Guardia Civil and, more specifically, by the Internal Affairs Service and the National Office for Human Rights, under the Ministry of the Interior's General Directorate for Coordination and Investigation. Almost a year after the events, at the time of publication of this report, it is unknown whether any internal investigation has been activated to shed light on what occurred. It is also unknown whether, in accordance with the provisions of the Public Prosecutor's Office, disciplinary proceedings have been opened against the officers of the Guardia Civil who threw stones at those gathered in the inter-fence area, on account of this representing the use of an entirely unlawful weapon with indiscriminate effects. This serves to highlight the lack of transparent accountability system for public oversight of Spain's police and security forces in cases which may constitute serious violations of human rights.

Various international organisations have requested that Spain and Morocco open an independent, exhaustive, transparent and impartial investigation in relation to the events of 24 June 2022. These include the OHCHR²⁴⁶; the United Nations Committee for the Protection of Migrant Workers and their Families²⁴⁷; the United Nations Special Rapporteur on the human rights of migrants, Felipe

244 National Human Rights Council (Morocco), "Enfrentamientos sin precedentes en la valla de Melilla Conclusiones preliminares de la Comisión de información para la reconstrucción de los hechos", 13 July 2022, https://www.cndh.ma/sites/default/files/rapport_-enfrentamientos_melilla_enp_2022.pdf.

245 El País and Light House Reports, "Documental | Tragedia en la frontera de Melilla: el papel de Marruecos y España en las", El País, November 29, 2022, https://elpais.com/videos/2022-11-29/documentary-tragedia-en-la-frontera-de-melilla-el-papel-de-marevent_log=oklogin

246 OHCHR, "Migrants: Morocco-Spain and United States", 28 June 2022, <https://www.ohchr.org/en/press-briefing-notes/2022/06/migrants-morocco-spain-and-united-states>

247 OHCHR, "UN committee urges prompt investigation into deaths of migrants at Moroccan-Spanish border", 28 June 2022, <https://www.ohchr.org/en/press-releases/2022/06/un-committee-urges-prompt-investigation-deaths-migrants-moroccan-spanish>

González Morales²⁴⁸; the UN International Mechanism of Independent Experts (MIEI)²⁴⁹; the Council of Europe Commissioner for Human Rights, Dunja Mijatovic²⁵⁰; MEPs from different political groups²⁵¹, and the Chairperson of the African Union Commission, Moussa Faki Mahamat²⁵², as well as international human rights organisations such as Amnesty International and Human Rights Watch.²⁵³ At a national level, a range of Spanish parliamentary groups also requested the creation of an investigative committee in Congress, which was rejected on two occasions, among others, by the same political party (PSOE) to which the Minister of the Interior belongs.²⁵⁴

For its part, the Non-Nationals Unit of the Public Prosecutor's Office opened investigative proceedings which it finally closed, despite the existence of circumstantial evidence of offences having taken place. The Public Prosecutor's Office affirms that, in the main, events occurred outside Spanish jurisdiction and that this therefore absolves national police forces of the offences of reckless homicide and omission of the duty to provide relief, at the same time as asserting that their actions were proportional, congruent and appropriate, and that push-backs at the border were carried out in accordance with the law. This is despite the fact that the aforementioned investigation represents a phase prior to any criminal investigations in which, should there be clear indications of the commission of any offence, it is the investigative court which holds the competencies to decide on the nature of said offence and, therefore, whether the case should be brought to a judicial hearing. It is therefore surprising that, given the gravity of the events in question, the Prosecutor's Office acted as judge, deciding in advance to absolve the parties under investigation of criminal responsibility in its own investigative proceedings. The Public Prosecutor's Office has the duty, where there is sufficient evidence that an offence may have been committed, to transfer its investigation to the relevant investigative court so that this body can effectively and thoroughly investigate the case.

In turn, the investigative court, aware of the facts due to their broad public nature, as well as the evidence provided in the medical reports sent to the courts, also has the responsibility of opening initial investigations into them. Despite this, it is unclear that any judicial investigation has been opened in this regard. Similarly, the police have the obligation to inform and initiate the corresponding

248 Europa Press País Vasco, ““Relator Especial de Naciones Unidas reclama “investigaciones en profundidad” sobre el asalto a la valla de Melilla”, Europa Press, 4 November 2022, <https://www.europa-press.es/euskadi/noticia-relator-especial-naciones-unidas-reclama-investigaciones-profundidad-asalto-valla-melilla-20221104153556.html>

249 OHCHR, “UN experts call for accountability in Melilla tragedy”, 18 July 2022, <https://www.ohchr.org/en/press-releases/2022/07/un-experts-call-accountability-melilla-tragedy>

250 Council of Europe, “Commissioner calls on Spanish authorities to investigate the circumstances of the deaths and violence at Melilla border”, 13 July 2022, <https://www.coe.int/en/web/commissioner/-/commissioner-calls-on-spanish-authorities-to-investigate-the-circumstances-of-the-deaths-and-violence-at-melilla-border#>

251 Sílvia Ayuso, “Eurodiputados reclaman una investigación independiente y urgente de la muerte de migrantes en el salto a la valla de Melilla”, El País, 17 November 2022 https://elpais.com/espana/2022-11-17/eurodeputados-reclaman-una-investigacion-independiente-y-urgente-de-la-muerte-de-migrantes-en-el-salto-a-la-valla-de-melilla.html?event_log=oklogin

252 Jeyhun Aliyev, “African Union calls for probe after dozens die at Morocco-Spain land border”, AA Media, 27 June 2022, <https://www.aa.com.tr/en/africa/african-union-calls-for-probe-after-dozens-die-at-morocco-spain-land-border/2623212>

253 Human Rights Watch, “Morocco/Spain: Horrific Deaths of Migrants on the Melilla Border,” 30 June 2022, <https://www.hrw.org/en/news/2022/06/30/marruecos/espana-horrorosas-muertes-de-migrantes-en-la-frontera-de-melilla>

254 Irene Castro, José Enrique Monrosi and Aitor Riveiro, “PSOE y PP tumban la petición de comisión de investigación sobre la tragedia de Melilla”, EIDiario.es 18 November 2022, https://www.eldiario.es/politica/psoe-pp-tumban-peticion-comision-investigacion-tragedia-melilla_1_9723141.html

internal investigations into events which may constitute an offence. It is likewise unknown whether any such information has been passed to the competent investigating courts.

Episodes such as that which occurred in Melilla on 24 June 2022 show that the internal and external oversight mechanisms currently in place are insufficient for the purposes of ensuring transparent and comprehensive accountability in cases which may represent serious human rights violations. Institutions such as the Ombudsman carry out essential work, but their ability to influence matters via non-binding recommendations is limited. Given this situation, the creation of an external and independent body for the oversight and investigation of police actions is more necessary than ever, with Spain already having been urged to do so by the Committee against Torture and the United Nations Human Rights Committee, as well as the European Committee for the Prevention of Torture.

4.2. Canary Islands

4.2.1. General arrivals data

In 2021 and 2022, more deaths occurred in attempts to reach Spanish territory via the Canary Islands than any other route. A total of 7,692 people have lost their lives on this route in the last five years, according to a report by Caminando Fronteras. In 2022, 1,784 people died on this route, a figure which represents 74.6% of the total 2,390 people who lost their lives attempted to reach Spanish territory. In 2021, 3,939 people lost their lives on the Canary Islands route alone.²⁵⁵

In terms of arrivals, in 2022 15,682 people reached the islands.²⁵⁶ Of these, 2,056 were women (13.2%) and 2,209 children (14.1%).²⁵⁷ This number represents a decrease of 29.7% compared to the 22,316 people who arrived in 2021, of whom 3,221 were women (14.4%), and 3,151 children (14.1%). Arrivals in 2022 showed a 62.7% decrease compared to the 42,097 arrivals in 2020, 1,032 of whom were women (2.4%), and 3,159 children (7.5%).²⁵⁸

In graph 1 we can see how, from the period 2020 to 2021, the percentage of women and children among arrivals via the Canary Islands route grew exponentially. In absolute numbers, it can also be seen that the number of people identified as women multiplied by three between 2020 and 2021, despite the fact that the number of arrivals almost halved (47%).

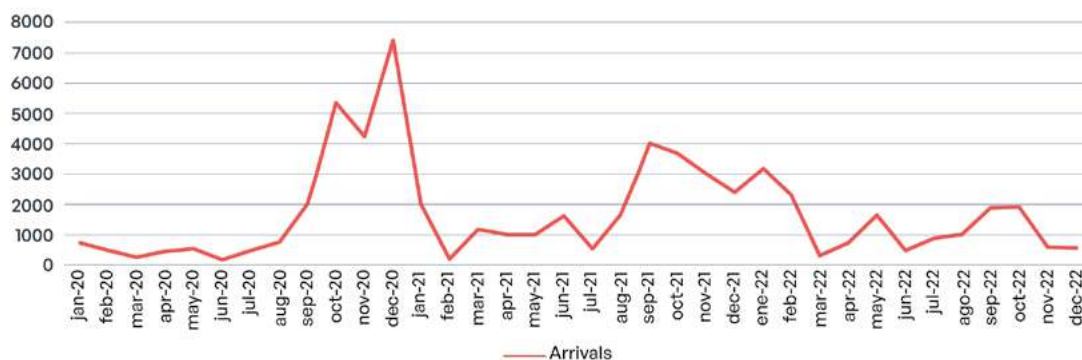
255 Caminando Fronteras, Monitero Derecho a la Vida. Año 2022 (2023), <https://caminandofronteras.org/wp-content/uploads/2023/01/Monitoreo-Derecho-a-la-Vida-2022-EN-v2.pdf>

256 Ministerio de Interior, "Informe Quincenal Inmigración Irregular 2022," https://www.interior.gob.es/opencms/export/sites/default/.galleries/gallery-de-prensa/documents-y-multimedia/balances-e-informes/2022/24_informe_quincenal_acumulada_01-01_al_31-12-2022.pdf

257 Annual arrival totals are from the Ministry of Interior. Data broken down by gender and age are from an internal source.

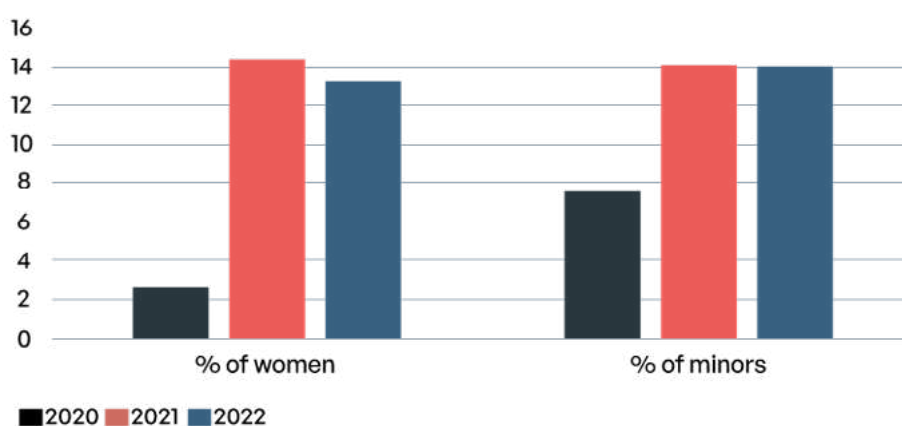
258 Ministerio de Interior, "Informe Quincenal Inmigración Irregular 2021," https://www.interior.gob.es/opencms/pdf/prensa/balances-e-informes/2021/24_informe_quincenal_acumulada_01-01_al_31-12-2021.pdf

Figure 1 - Monthly arrivals in the Canary Islands 2020-2022



Source: Ministry of the Interior.

Figure 2 - Change in the percentage of women and children among arrivals to the Canary Islands 2020-2022



Source: Internal sources and Ministry of the Interior

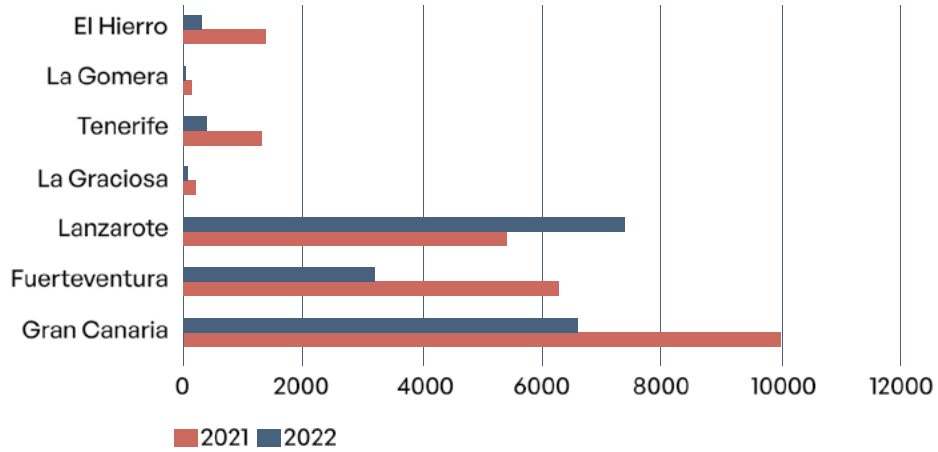
It is worth noting that, from 2022, there was a change in the rate of arrivals following the resumption of diplomatic relations between Spain and Morocco²⁵⁹, after the Spanish Government declared its support for Morocco’s autonomy plan for Western Sahara in a letter sent to King Mohamed VI on 18 March. From this moment on, **embarkments from Dahla and El Aiún, in Western Sahara, under Moroccan control, have faced mounting difficulties, with increased police control, arrests and forced displacements within the country, leading to involuntary blockades in Morocco.²⁶⁰ Furthermore, on 22 March of last year, only 4 days after the letter was sent, deportations from the Canary Islands to El Ayoun resumed.²⁶¹**

²⁵⁹ Miguel González and Francisco Peregil, “Pedro Sánchez y Mohamed VI ponen en marcha una nueva relación bilateral”, El País, 4 July 2022, <https://elpais.com/espana/2022-04-07/pedro-sanchez-y-mohamed-vi-ponen-en-marcha-una-nueva-relacion-bilateral.html>

²⁶⁰ For more information see chapter 7 on Morocco, where the issue of forced displacement is explained in depth.

²⁶¹ Eds., “España retoma los vuelos de repatriación de inmigrantes a Marruecos”, El País, 21 March 2022, <https://elpais.com/espana/2022-03-21/espana-retoma-los-vuelos-de-repatriacion-de-inmigrantes-a-mar>

Figure 3- Arrivals to the Canary Islands by island in 2021 and 2022



Source: APDHA Migration Balance²⁶²

Another change in trend in 2022 can be seen: departures from Dahla and El Aaiún decreased, with these being concentrated between Tarfaya, Izmin and Tan-Tan. This has led to an increase in arrivals to Lanzarote, the closest island to these areas, to the point that it became the island that received the most arrivals in 2022. Arrivals to Tenerife, Gran Canaria and El Hierro have also decreased, with more dinghies arriving than wooden boats.

²⁶² APDHA, Balance Migratorio Frontera Sur 2022 (Seville, 2023), <https://www.apdha.org/wp-content/uploads/2023/02/Balance-Migratorio-Frontera-Sur-2022-web.pdf>

4.2.2. Management of rescue and first aid upon arrival

Rescues under single command

The approval of the single command²⁶³ under the Guardia Civil's Regional Coordination Centre for the Canary Islands (hereinafter, CCRC)²⁶⁴ has led to the Maritime Rescue Service (a civil service body of the Ministry of Development) taking a subordinate role under the police force, which has been **authorised to manage border control and the evaluation of potential emergencies.**²⁶⁵ Similarly, in a manner which tends towards the reduction of rescue missions, and as Alarmphone has pointed out, the recent recognition of Moroccan sovereignty over Western Sahara could lead to a significant extension of the Moroccan search and rescue teams off the shores of the Sahara, thus reducing their Spanish counterparts' area of intervention.²⁶⁶

The fact that rescue calls and shipwreck notices do not directly lead to the activation of the Maritime Rescue Service can cause delays of up to several hours, which has resulted in the loss of lives at sea, as was the case of the small boat that capsized on 25 January 2022 near the coast of Lanzarote, leaving 19 people missing.²⁶⁷

Salvamento Marítimo.
(2022).

Valentina Lazo



²⁶³ Asociación Unificada de Guardias Civiles, “Mando Único Operativo para la inmigración ilegal”, 6 August 2018, https://www.augc.org/unico-operativo-comando-para-la-inmigracion-ilegal_13754_102.html

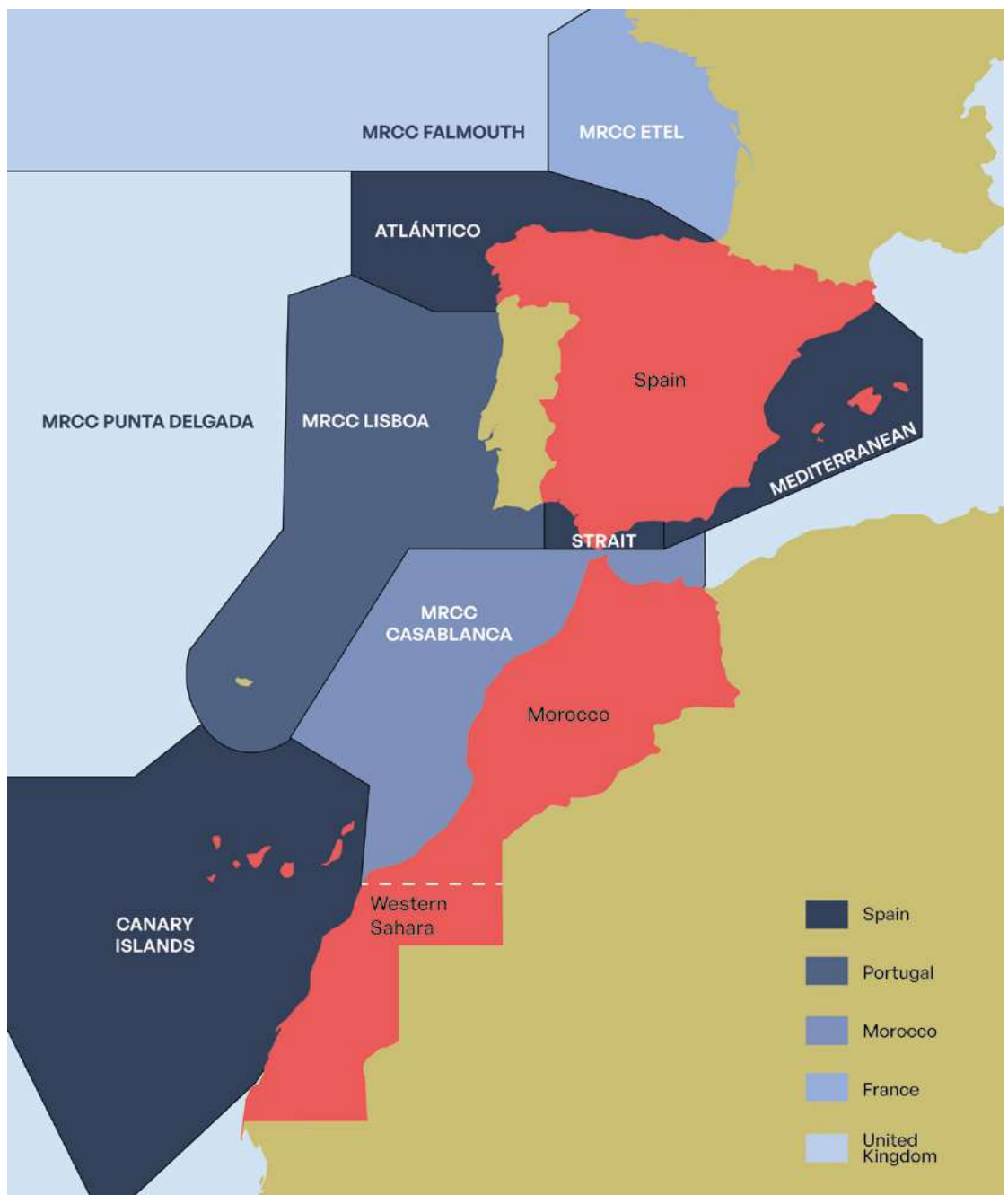
²⁶⁴ Since the implementation of the single command in 2018, rescues in the Spanish Maritime Search and Rescue Areas of Responsibility (SAR) have been coordinated by the Guardia Civil, under the orders of the Ministry of the Interior.

²⁶⁵ Migratlantes. Encuentro de migraciones atlánticas, “Salvamento Marítimo: 150.000 personas rescatadas después”, Youtube Video, 03:08:52, posted 24 November 2022, https://www.youtube.com/watch?v=7PCCUf_kd0E

²⁶⁶ Alarm Phone, “The criminalisation of people on the move”, 4 September 2022, <https://alarmphone.org/en/2022/09/04/the-criminalisation-of-people-on-the-move/>

²⁶⁷ EFE, “Podemos pregunta al Gobierno por el naufragio de una patera con 19 fallecidos”, Cadena SER, 9 February 9, 2022, <https://cadenaser.com/2022/02/09/podemos-question-governament-por-el-naufrago-de-una-patera-con-19-fallecidos/>

As reported by Maritime Rescue sources, before a boat or shipwreck is sighted in an area near Moroccan waters and the alarm raised, the CCRC makes initial contact with the Moroccan coast guard to carry out the rescue. The CCRC only activates Maritime Rescue operations if no response is received, the rescue is not carried out, or a second warning call is received. By contrast, when in the past warnings reached Maritime Rescue without passing through the CCRC, and when it had the power to activate operations without prior approval from police commanders via the Operations Management and Information System (SIGO), it was able to ensure that within 20 minutes of the warning (or 30 minutes at night) a boat was ready to leave. Now, however, with prior contact with the Moroccan authorities needing to be made, there may be a delay of between 3 and 5 hours from the sighting, which makes it enormously difficult to locate the boat once at sea.



Source: Maritime Rescue.

Action Coordination Protocols upon arrival

Multiple actors are involved in dealing with boat crossings, including police forces, the Red Cross, the Canary Islands Emergency Service (SUC) and Maritime Rescue. This multiplicity of actors entails challenges in coordination.

Nevertheless, only the islands of Gran Canaria²⁶⁸ and Tenerife²⁶⁹ have a joint port action protocol agreed to by the different stakeholders involved, with the aim of pooling health care resources for new arrivals. In the case of Gran Canaria, this protocol was agreed to in October 2021 and updated in February 2022, while in the case of Tenerife, it was published in 2023.

These protocols are a key resource in ensuring the right to health insofar as they clearly establish health care responsibilities upon initial arrival and formally delineate the allocation of resources and referrals. Nevertheless, **they have not been introduced in the other islands of the archipelago, nor do any general recommendations exist at a regional level on how to provide initial medical attention on arrival, or for the drafting of protocols adapted to the characteristics of each island.**

Initial medical attention

When a boat is spotted, and if the CCRC notifies Rescue Maritime, the emergency services are also informed, who in turn send an alert to the Red Cross Emergency Service and the Canary Islands Emergency System (hereinafter, SUC). The SUC decides which resources to call upon in accordance with the indications of Maritime Rescue: it can send Basic Life Support to the dock where the disembarkation is carried out, which consists of an ambulance without a doctor or nurse, or Advanced Life Support with medical personnel with the means to deal with emergencies on site and transfer patients to hospital should their life be in danger. In turn, the Red Cross sends an Immediate Emergency Response Team for Humanitarian Aid to Immigrants (ERIE-AHI).

In most cases, only Basic Life Support is provided. As a consequence, initial emergency response is carried out exclusively by the Red Cross personnel, most of them volunteers, without the presence of health professionals being guaranteed. The Canary Islands Red Cross does not employ doctors, and any such professionals among its ranks act on a purely voluntary basis. Nurse positions are not always filled and, where volunteers are available, these take priority in delivering first aid. The initial response team deployed by **the Red Cross therefore cannot guarantee the presence of medical or nursing professionals, nor professionals specialised in childcare. Failure to ensure the presence of health personnel upon arrival may constitute a violation of the right to health.**

Health services have been made available to a greater or lesser extent over time for the care of arrivals on each of the islands. This notwithstanding, access to health care for arriving adults remains particularly limited.²⁷⁰ Given the significant movement of people between and within the islands and the peninsula, even when they are able to initially access the health system, follow-up care is challenging. This is particularly worrying insofar as it affects pregnant women.

268 Government of the Canary Islands. “Atención sanitaria a migrantes recién llegados a Gran Canaria en situación irregular por vía marítima”. 2022. <https://drive.google.com/file/d/1DlxNJKUb-sTk-q3801aRgNAtUzP2kYS6/view?usp=sharing>

269 Government of the Canary Islands. “Atención sanitaria a migrantes recién llegados a Gran Canaria en situación irregular por vía marítima”. <https://drive.google.com/file/d/1L9h9tkLnm8PIWpFtdNDY-JSAg-SHYZev/view?usp=sharing>

270 Interview CA14.

Shortcomings have also been identified in the detection of cases of female genital mutilation. Moreover, where such cases are detected, no reports are made by public health professionals which can subsequently serve to strengthen applications for international protection.²⁷¹

In terms of mental health, it should be noted **that there is currently no active psychological care protocol for shipwreck survivors. This implies that those who have lost family or friends during migration are transferred directly to the CATE without receiving psychological care.** There is only one known occasion on which the Psychological Intervention Group in Disasters and Emergencies (GIPDE) of the Official College of Psychology of Las Palmas (CO-PLP) was activated in response to an arrival on 8 February. Sources close to the intervention point out that this was an exceptional case resulting from the initiative of the nurses providing primary health care. Intervention was provided for a mother whose daughter had disappeared the night before the rescue.²⁷²

Red Cross staff are responsible for carrying out the registration of new arrivals. In this process, the presence of interpreters is not guaranteed. At the time of disembarkation, Policía Nacional or Guardia Civil and Frontex officers are also present, and collect the data gathered by the Red Cross.

4.2.3. Detention: CATEs, CIEs and prisons

CATEs

Upon arrival to the Canary Islands, those not transferred to hospital are detained and transferred to the CATEs from the dock where they have disembarked. Starting in 2021, these centres have been set up in Arguineguín²⁷³ and Barranco Seco in Gran Canaria, Adeje and the Los Cristianos police station in Tenerife, Arrecife in Lanzarote, the Aula de la Naturaleza and the Valverde-San Andrés sports centre in El Hierro, and the Puerto del Rosario Pier and the Nave del Queso in Fuerteventura.²⁷⁴ As mentioned above, Temporary Reception Centres for Migrants (CATE) can be put into operation in police stations and other existing buildings, or simply in field tents in dock areas.

The research team involved in drafting this report requested visits to the CATEs in Arrecife and Barranco Seco, a request which in both cases was refused by the Ministry of the Interior (ANNEX 1). In case of the Barranco Seco CATE, improvements in facilities were observed remotely after prefabricated cabins were installed, replacing the previous canvas tents. On the islands of El Hierro, Fuerteventura and La Gomera, there are no permanent facilities, with CATEs established in non-equipped spaces such as industrial warehouses and sports facilities.

The Lanzarote CATE came to be known as the “warehouse of shame”, and was closed at the end of February 2022 following a recommendation from the Ombudsman. This centre was set up in a bus company building which showed serious structural and sanitary flaws. Following this closure, a new CATE was

²⁷¹ Ibid.

²⁷² Efe / Canarias Ahora. “Ocho muertos en una travesía de tres días en una balsa neumática, el saldo de la última tragedia en ruta hacia Canarias” Eldiario.es, 8 February 2023, [//www.eldiario.es/canarias-sahora/migraciones/ocho-muertos-balsa-neumatica-tragedia-ruta-canaria_1_9936300.html](https://www.eldiario.es/canarias-sahora/migraciones/ocho-muertos-balsa-neumatica-tragedia-ruta-canaria_1_9936300.html)

²⁷³ The 2021 Ombudsman Report on the situation in the Canary Islands mentions the docks and warehouses used at the time of the greatest number of arrivals as detention centres. Among others: the Arguineguín dock, the Puerto de las Palmas warehouse, and the Aula de la Naturaleza on El Hierro.

²⁷⁴ Some of these centres are recorded in the Ombudsman’s report, *La migración en Canarias*, (2021), https://www.defensordelpueblo.es/wp-content/uploads/2021/03/INFORME_Canarias.pdf. In other cases, these are spaces that are temporarily set up at times of arrival on the islands, especially on El Hierro and Fuerteventura.

opened in Arrecife. In March 2022, the latter was flooded after heavy rainfall.²⁷⁵ In April 2022, 38 Moroccan nationals detained in this CATE were transferred to the deportation area of the airport where they spent the night lying on the ground, waiting for a flight for their transfer to the island of Gran Canaria. This was apparently due to a lack of security personnel to prevent escape attempts. Since July, a wall surrounds the enclosure of the CATE.²⁷⁶ In November 2022, the new 200-capacity centre reached saturation point.²⁷⁷

Construction of a wall around the CATE in July 2022.

La Voz de Lanzarote



In the CATE installed in the San Andrés sports centre in El Hierro, 162 people who disembarked on 27 November 2022 were detained for at least 48 hours without sleeping spaces, and without the provision of a specific space for women and children. This case was brought to public attention by grassroots activists.²⁷⁸

In its 2022 report, the Ombudsman points out that, except on the island of Lanzarote, the Canary Islands are failing to comply with the recommendation to refer children, pregnant women or people who have expressed their intention to apply for international protection to reception services upon interception, instead of placing them in detention.²⁷⁹

Many of the violations which occur in CATEs relate to the right to defence and legal aid, the right to access information and the right to asylum. Several such issues have been detected in the centres present on the Canary Islands.

²⁷⁵ Eds., “Se inunda el CATE de Arrecife”, Cadena SER, 15 March 2022, <https://cadenaser.com/2022/03/15/se-inunda-el-cate-de-arrecife/>

²⁷⁶ Eds., “El centro de migrantes de Arrecife, amurallado”, La Voz de Lanzarote, 29 July 2022, https://www.lavozdelanzarote.com/actualidad/politica/centro-inmigrantes-arrecife-amurallado_213461_102.html

²⁷⁷ Salvamento Marítimo was forced to disembark people rescued near the island of Lanzarote in Fuerteventura, in violation of the regulations to disembark in the nearest safe harbour. See Norte Gran Canaria “Localizada una nueva neumática al suroeste de Lanzarote con 34 inmigrantes y trasladados a Fuerteventura”, Norte Gran Canaria, 17 October 2022, <https://nortegrancanaria.com/2022/localizada-una-nueva-neumatica-al-suroeste-de-lanzarote-con-34-inmigrantes-y-trasladados-a-fuerteventura/>; <https://www.diariodecanarias.es/noticia/“no-hay-prevision-ni-gestion-para-reforzar-con-mas-unidades-los-rescates>

²⁷⁸ Eds., “Más de 160 migrantes llegaron esta madrugada en un cayuco a El Hierro”, Cadena Ser, 27 November 2022, <https://cadenaser.com/nacional/2022/11/27/mas-de-160-migrantes-lavaron-esta-madrugada-en-un-cayuco-a-el-hierro-cadena-ser/>

²⁷⁹ NPM, Informe anual 2022 Mecanismo Nacional de Prevención (2023), 170, <https://www.defensor-delpueblo.es/wp-content/uploads/2023/03/Defensor-del-Pueblo-Informe-anual-2022.pdf>

As the Ombudsman has highlighted, **cases of mass legal assistance²⁸⁰ provided to groups by an interpreter on the basis of a shared language, which is to say, assistance without the possibility of privacy, have been identified.** It is clear that these conditions affect people's safety in general, and they may be especially egregious where there is a need to communicate complex or taboo issues, or matters that may place the person in danger should other people hear them. **This especially affects women, children and persons of diverse sexual and/or gender identity,** even if they are not subject to persecution. Reports have been made of the Policía Nacional causing difficulties for lawyers who ask to conduct interviews in private.

It has been found that the right to international protection is not mentioned in all rights readings, as noted by the National Mechanism for the Prevention of Torture (hereinafter, NPM) in its 2021 report.²⁸¹ In addition, a number of organisations have referred to obstructive conduct by the Policía Nacional which hinders the work of legal professionals, especially when the latter have requested that the minimum conditions for the guarantee of the right to asylum and information – such as individual aid, privacy and translation – be met.

The lack of access to CATEs available to independent lawyers or grassroots organisations for the carrying out of legal advisory work is especially concerning. Various professionals have attested to the difficulties they have faced in interviewing persons detained in the CATE, under the pretext that they have already been assigned a lawyer.

In addition, as **part of the criminalisation of migration,** new arrivals detained in CATEs are being interrogated without legal assistance by officers of the National Police Corps and Frontex agents in order to obtain information about people trafficking, modern slavery and terrorism. This information is then shared by Frontex with the appropriate national authorities, Europol and other European agencies. Interrogation by the Policía Nacional and Frontex concerns potentially incriminating acts in criminal proceedings, particularly as regards people smuggling, as provided for in Article 318 Bis of the Spanish Criminal Code.²⁸²

Such interrogations beyond any formal statement taken without legal assistance constitute a serious violation of fundamental rights, in particular Article 17.3 of the Spanish Constitution, which guarantees the right to the assistance of a lawyer during police and judicial proceedings – insofar as the persons in question are de facto in police custody – and Article 24, which establishes the right to defence and legal assistance. In any case, any decision by the detainee which could affect their fundamental rights and seriously compromise their defence must be made in the presence of a lawyer, as is established by the Judgments of the Supreme Court (STS) issued on 11 December 1998 and 2 July 1993. Such interrogations also represent a serious violation of the right to a fair trial, established in Article 6 of the European Convention on Human Rights (hereinafter ECHR).

It has been found that, at times, the relevant bar associations may not have been informed of the need to provide legal aid to CATE detainees until after Frontex and Policía Nacional officers had carried out their work. This is all the more

280 Ombudsman, *La migración en Canarias* (2021), 62, https://www.defensordelpueblo.es/wp-content/uploads/2021/03/INFORME_Canarias.pdf

281 Ombudsman, *Informe Anual 2021. Mecanismo Nacional de Prevención* (2022) https://www.defensordelpueblo.es/wp-content/uploads/2022/05/Informe_2021_MNP.pdf

282 Article 318 bis of Act 10/1995 23 November, concerning the Criminal Code of Spain. *Boletín Oficial del Estado*, 281, 25 November 1995, <https://www.boe.es/buscar/act.php?id=BOE-A-1995-25444>

worrying when it comes to people who are in shock after a traumatic experience, who in no case can be considered fit to be questioned.

These practices have been specifically identified in the CATE in Lanzarote, in which **human rights organisations allege that requests to the bar association to provide legal assistance to detainees are made, on average, approximately 48 hours after they are detained there.** Human rights organisations on the ground attest to possible cases of detainee's mobile phones being searched, and photographs and videos recorded made during their journey being used against them in court proceedings, along with drone footage and oral testimony. Local authorities have reported the case of a diabetic person who fainted upon arrival on the island of Lanzarote and, upon waking in a hospital, had been accused of being the skipper of the boat in which they had arrived.²⁸³ In this case, it was possible to prove the innocence of the accused.

Prison

In **recent years, there has been an exponential increase in incarcerations for human trafficking** for each boat arriving on the islands (350 in 2022, and 542 in 2021).²⁸⁴ In 2021, the Policía Nacional reported that 202 people were arrested for allegedly acting as skippers of boats arriving in the Canary Islands.²⁸⁵ This offence typically carries a penalty of 8 years imprisonment, where no deaths or injuries are incurred. Should this be the case, the crimes of reckless homicide and causing injury are also added to the charge, increasing the sentences handed down. A significant part of the Canary Islands prison population is thought to include non-nationals who, having recently arrived in small boats, are held in preventive detention – in addition to those currently serving a sentence – for the simple fact of possessing a compass, GPS device or being at the boat's helm. Those accused are in almost all cases held in pre-trial detention, where they spend between 1 and 4 years (for this type of offence, pre-trial detention can be prolonged for up to 2 years, and thereafter extended by another two years), under the auspices that there is a high risk of their absconding.

Migrants who have just arrived and end up in prison are at a greater comparative disadvantage than the rest of the prisoners in that they do not have the personal resources or links to allow them to access visits, and their relatives cannot transfer money to their prison accounts. Legal aid associations highlight cases of malpractice by lawyers acting ex officio who fail to exhaust all the avenues for the defence in the interest of the accused (requests for evidence, interviews with the defendant, etc.), and advise their clients to sign statements of consent without being sufficiently informed of the consequences, by which they accept the charges in order to receive a reduced sentence.²⁸⁶

In addition, language barriers and solitary confinement can have serious effects on the mental health of those whose migratory journey has been brought to an end. An example of this is the lack of interpreters where legal assistance is provided to accused persons in prison. According to sources consulted, obtaining an interpreter for interviews between ex officio lawyers and their clients in prison

283 Interview CA14.

284 Ministerio del Interior, "Informe quinquenal. Migración Irregular 2022"; 2023, https://www.interior.gob.es/opencms/export/sites/default/.galleries/galeria-de-prensa/documentos-y-multimedia/balances-e-informes/2022/24_informe_quincenal_acumulada_01-01_al_31-12-2022.pdf

285 EFE, "Detenidos 202 patrones de naves que llegaron a Canarias de modo ilegal", La Vanguardia, 3 January 2022, <https://www.lavanguardia.com/vida/20220103/7965652/detenidos-202-patrones-naves-lavaron-canarias-ilegal.html>

286 Interview CA14.

can take months.²⁸⁷ In these cases, acting in the defence of the accused is particularly complex insofar as it entails finding witnesses who can attest that the individual in question is not the skipper of the boat. Given that the trial may take place up to 2 years after events, and often a list of crew members is not provided, it is very difficult to contact possible witnesses who are able to testify at trial. In addition, organisations on the ground report that they have identified highly vulnerable individuals serving prison sentences for people smuggling, such as the case of an adolescent who was imprisoned despite not having reached the age of 18.²⁸⁸

CIEs and deportations

Persons who are to be deported from the country are held in Immigration Detention Centres (CIEs). At the time of writing this report, the CIEs present and in operation on the Canary Islands are Barranco Seco (Gran Canaria) and Hoya Fría (Tenerife), the latter of which is currently temporarily closed for refurbishment.

Despite rulings by the tribunals of Las Palmas and Santa Cruz de Tenerife in April and March 2021 that a deportation order cannot be acted upon after 72 hours following its issue – or after 60 days, in the case of those interned in a CIE²⁶ – it has been found **that internments in CIE and deportations by police without the appropriate documentary justification continue to occur. These deportations have occurred on the basis of months-old orders**, and after the person affected has already been freed from custody. In 2022, the research team documented two such cases affecting detainees in the CIE in Gran Canaria. Legal sources have also confirmed that this is not an isolated practice.²⁷ This constitutes a violation of the right to effective judicial protection. In addition, on at least one occasion the right to defence has been impeded due to the speeding up of proceedings.²⁸

With regard to access to legal assistance at the CIE, the sources consulted point **to the difficulties lawyers face in meeting or otherwise communicating with their clients in circumstances conducive to the provision of legal aid**. At the time of writing this report, in the Barranco Seco CIE, lawyers are only allowed to the courtyard, meaning that legal assistance is carried out outdoors and without privacy. The lack of access for legal professionals to other spaces within the CIE makes it difficult to monitor human rights on the premises.

With reference to the right to asylum, the presence of Senegalese police forces at the Barranco Seco CIE has been recorded, as part of law enforcement cooperation agreements with Senegal. The enforced contact of potential applicants for international protection with the police authorities of their country of origin may be considered as being in violation of Article 3 of the ECHR.

In terms of in-facility conditions, in May 2022 a group of 15 inmates at the Barranco Seco CIE staged a hunger strike which lasted three days. This was done **to protest the lack of health care, poor quality of food and the lack of respect for the needs of those following Ramadan, as well as to denounce cases of mistreatment and harassment**.²⁸⁹

²⁸⁷ Interview CA14.

²⁸⁸ Iridia and Novact, *Vulneraciones de derechos en la respuesta institucional a las llegadas de personas migrantes en Canarias*. Abril – Mayo 2022 (2022), https://iridia.cat/wp-content/uploads/2022/05/informe_vulneracion_derechos_canarias_abril_mayo_22-1.pdf

²⁸⁹ EFE “Migrantes mejoran su atención en el CIE de Barranco Seco, tras hacer huelga de hambre,” *Canarias 7*, 2 May 2022, <https://www.canarias7.es/canarias/gran-canaria/las-palmas-de-gran-canaria/migrantes-mejoran-atencion-20220502124407-nt.html>

Deportations to Morocco resumed on 21 March 2022,²⁹⁰ four days after the letter sent by the Spanish Government supporting the Moroccan position regarding Western Sahara, which led to the resumption of relations between the two countries after the diplomatic crisis which arose in April 2021. Since then, deportations from Spain to Morocco have continued to be carried out, with the expulsion of 20 people a week via what have been referred to as “special commercial flights” (one or two per week), and which stop over in the Canary Islands.

These flights, operated by Air Nostrum, depart from the peninsula, stopping over in Las Palmas, with transfer to Laayoune via flights operated by Air Maroc. According to the State Campaign for the Closure of CIEs and the End of Deportations, these flights do not fall under the remit of the Ombudsman who, in their role as NPM, holds powers to inspect the transfers of persons in detention.

There is a significant lack of transparency regarding these routes, given that no public tender has been issued for the provision of such flights from the Canary Islands to Laayoune, and no information on the cost of the contract signed by the Ministry of the Interior with the company Royal Air Maroc is available.²⁹¹

In 2022, the first deportation of a person from a third country to Morocco was detected. This is contemplated in the Spanish-Moroccan agreement of 1992 and applicable to any person who the authorities assume may have transited through Morocco as a migrant, but until now had only been applied in cases of deportation by land via Ceuta and Melilla, and not from other Spanish territories. On 9 September 2022, an Ivorian national was deported to Morocco despite the fact that the investigating judge had ordered the suspension of the deportation.²⁹² **This practice is alarming from a human rights perspective, firstly because it opens the door to a deportation “domino effect”²⁹³ – and, therefore, to the violation of the principle of non-refoulement** – and secondly, because the fact of having left the country by irregular means is a punishable criminal offence in Morocco under Law 02/03 (Dahir No. 1-03-196).²⁹⁴

In addition to these special commercial flights, the sources consulted point out that deportations have continued to occur on regular commercial flights to other African countries, and in some specific cases, to other cities in Morocco such as Casablanca.²⁹⁵ With the reactivation of deportation flights after the pandemic, this has led to widespread fear of being deported among migrants.²⁹⁶ Investigations into allegations of torture or ill-treatment in the context of deportation are especially complicated given that, once the affected person is deported, it

290 María Martín and Óscar López-Fonseca, “ España retoma los vuelos de repatriación de inmigrantes a Marruecos”, El País, 21 March 2022, <https://elpais.com/espana/2022-03-21/espana-retoma-los-vuelos-de-repatriacion-de-inmigrantes-a-marcó.html>

291 Interview ESTI.

292 Natalia G. Vargas, “Dos organizaciones denuncian la deportación de un marfileño a Marruecos desde Gran Canaria”, Eldiario.es, 9 September 2022 https://www.eldiario.es/canariasahora/migraciones/organizaciones-denuncian-deportacion-marfileno-marruecos-gran-canaria_1_9301803.html

293 Daniela Lo Coco and Eloísa González-Hidalgo “La doble lógica de la externalización europea: protección y deportación en Marruecos”, Revista CIDOB d’Afers Internacionals n.129 (2021): 79-106

294 Dahir no. 1-03-196 du 16 ramadan 1424, portant promulgation de la loi no. 02-03 relative à l’entrée et au séjour des étrangers au Royaume du Maroc, à l’émigration et l’immigration irrégulières.no. 5162, 20 November 2003. To consult the law, see: <https://adala.justice.gov.ma/production/legislation/fr/penal/immigration%20clandestine.htm>

295 Interview ESTI.

296 Irídia and Novact, Vulneraciones de derechos en la respuesta institucional a las llegadas de personas migrantes en Canarias. Abril – Mayo 2022 (2022), https://iridia.cat/wp-content/uploads/2022/05/informe_vulneracion_derechos_canarias_abril_mayo_22-1.pdf

is very difficult to be able to proceed appropriately and gather evidence and witness statements. There is a lack of sufficient mechanisms for administrative and judicial oversight, transparency and evaluation to guarantee this.²⁹⁷

According to sources consulted, and despite the jurisprudence established by the Supreme Court in its judgment no. 173/2021²⁹⁸ regarding asylum seekers' right to free movement in Spain, **2021 and 2022 saw continued examples of the violation of the right to freedom of movement for those seeking international protection.** Ethnic-racial profiling and stop-and-searches are a common practice, especially in ports and airports.²⁹⁹

Ferry companies operating between Spain's islands have been identified as assuming migration control responsibilities far beyond their competences, and above all, outside the current legal framework, denying boarding to people who present their international protection claim in order to travel.³⁰⁰ These restrictions on freedom of movement make it difficult for people to travel to their consulates to complete procedures related to their documentation and/or residency status.

This investigation has also encountered evidence of **cases of racist discrimination by the ferry company Naviera Armas,** which forced the 162 people who arrived in El Hierro on 27 November 2022 to travel in the bow of the ship, without heating and without being able to move freely on the boat like the rest of the passengers.

Lastly, ethno-racial police raids and identifications have been identified in the areas surrounding centres belonging to the Canary Islands Plan, as well as points of access to basic services and community support such as soup kitchens. The sources consulted point out that this ethno-racial profiling has in several cases led to the arrest, transfer to the CIE and subsequent deportation of those affected.³⁰¹

4.2.4. Canary Islands Plan

In 2020, migration resumed via the Canary Islands route, with 23,023 arriving to the islands. Although this did not exceed the record number of arrivals registered in 2006 – when 31,863 people arrived to the islands – a combination of a lack of planning, a shortage of reception places, measures in place to tackle COVID-19 and a wider containment policy led to serious human rights violations. Of particular concern are those which arose in the Arguineguín port area between August and November 2020, which were the subject of censure by the Ombudsman and numerous national and international human rights organisations.^{302 303}

297 Irídia and Novact, Vulneraciones de derechos humanos en las deportaciones, 2020, https://iridia.cat/wp-content/uploads/2020/11/Deportaciones_FinalMOD_Imprimir-2.pdf

298 STC 173/2021, 10 February 2021 (R. CASACION Nº: 4516/2019), https://sjme.org/wp-content/uploads/2021/02/210212_TS_SENTENCIA_Libertad-movimiento-Melilla_SJM.pdf

299 Irídia y Novact Vulneraciones de derechos en la respuesta institucional a las llegadas de personas migrantes en Canarias (2022), https://iridia.cat/wp-content/uploads/2022/05/informe_vulneracion_derechos_canarias_abril_mayo_22-1.pdf

300 Complaint to the Ombudsman, N.E. 21014626, presented by the Lanzarote migrant solidarity network, 2 June 2021.

301 Interview CA10.

302 Human Rights Watch, “Spain; must respect the rights of people arriving by sea to the Canary Islands”, 11 November 2020, <https://www.hrw.org/en/news/2020/11/11/espana-debe-respetar-los-derechos-de-las-personas-que-llegan-por-mar-las-islas>

303 Irídia, Vulneraciones de Derechos en la Frontera Sur: Gran Canaria y Melilla (2021), <https://iridia.cat/wp-content/uploads/2021/01/INFORME-DDHH-FRONTA-SUR-2021.pdf>

On 28 November 2022, a ruling by the General Directorate of Humanitarian Care and Social Inclusion for Immigrants was published in the Official State Gazette (BOE) dated 14 November³⁰⁴, establishing the planning of aid, actions and services to be provided as part of the humanitarian care programme for concerted action over the years 2023–2026, replacing the fixed annual grants system. In this ruling, the Ministry of Inclusion, Social Security and Migration proposed the withdrawal of the Canary Islands Plan, with a reduction in emergency reception centre capacity in the Canary Islands, and plans to dispense with them by 2024.

The publication specifically points to the closure of the Las Canteras camp (500-person capacity) in Tenerife, and El Sebadal (Nave Bankia) in Las Palmas. At the time of writing, the first of these has been closed, and those resident transferred to the Las Raíces camp, also in Tenerife, which currently holds around 500 people.

As has been repeatedly highlighted by the Ombudsman³⁰⁵ and human rights organisations³⁰⁶, the holding capacity given over to the Canary Islands Plan involved the use of infrastructures such as military facilities (barracks), vacant lots (Canarias 50, Las Raíces, Las Canteras) and former bank offices (Nave Bankia). After detention in the CATE, those not subject to transfer by judicial order to a CIE are referred to one of these primary reception centres, or to another service specific to their circumstances.

Tenerife (2022).

Valentina Lazo



As was pointed out in Irídia’s report “Vulneraciones de derechos en la respuesta institucional a las llegadas de personas migrantes en Canarias”³⁰⁷, **these facilities do not meet the requirements for satisfactory primary reception.** Two

304 Ruling 19819 of the Directorate General for Humanitarian Aid and Social Inclusion for Immigrants, issued 14 November 2022, by which the budget, action plan and services available as part of the humanitarian action plan are established via steps to be taken during the financial period 2023–2026. Boletín Oficial del Estado, 285, 28 November 2022, <https://www.boe.es/boe/dias/2022/11/28/pdfs/BOE-A-2022-19819.pdf>

305 Ombudsman, La migración en Canarias (2021), https://www.defensordelpw.es/wp-content/uploads/2021/03/INFORME_Canarias.pdf

306 Irídia and Novact “Vulneraciones de derechos en la respuesta institucional a las llegadas de personas migrantes en Canarias (2022)”, https://iridia.cat/wp-content/uploads/2022/05/informe_vulneracion_derechos_canarias_abril_mayo_22-1.pdf

307 Ibid.

years after being set up, the facilities provided by the Ministry remain in a dilapidated state: some camps continue to consist of nothing more than tents in which rain, cold and humidity enter (such as Las Raíces), or where beds are cloth hammocks, with an inherent and absolute lack of privacy and intimacy. Despite their status as emergency facilities, at the time of writing this report, people reside in these centres between 45 and 90 days before being transferred. There are also no available means to establish contact between new arrivals and their families.

In relation to vulnerability and unsatisfactory conditions, local organisations have denounced the risks to which those residing in these centres are exposed, for example in the Las Raíces camp in La Laguna, Tenerife, where cases of sexual exploitation and abuse have been reported.³⁰⁸

Throughout 2021, poor conditions led to protests and conflicts in the camps, with the intervention of private security services and police forces being requested in response, leading to police brutality and the pressing of criminal charges against some of those resident for their role in the protests. In Gran Canaria, on 22 November 2022, the Provincial Court of Santa Cruz de Tenerife acquitted eight people arrested in 2021 during protests at the migrants camp in Las Raíces.³⁰⁹ After one year of pre-trial detention, it was ruled that there was no evidence to support the charges of assault and battery made against them.

The public company responsible for the infrastructural provisions of these centres is TRAGSA, to which food, cleaning, security and maintenance services have also been outsourced. In May 2021, the Council of Ministers approved an annual tender from July 2021 to July 2022, at a value of 51 million euros.³¹⁰

4.2.5. Right to asylum

There are considerable delays across Spain in obtaining an initial asylum claims appointment. More than something circumstantial, this report postulates that the geographical differences in response which have emerged around Spain over time with respect to the deadlines for asylum applications and the availability of appointments exist as another tool at the disposal of the state for the purposes of controlling migratory movement.³¹¹ The long wait for appointments constitutes a breach of the right recognised in Article 6 of Directive 2013/32/EU on common procedures for granting or withdrawing international protection, which provides for a period of 3 days (extendable to 6 days) for registration and submission of an application as soon as possible.

Organisations on the ground in Tenerife and Lanzarote indicate that there is a wait of between 3 and 11 months, and that the chances of obtaining an appointment vary depending on whether or not the individual resides in an official Plan

308 RTVC, ““Hombres migrantes son inducidos a prostituirse a las puertas del centro de acogida de migrantes de Las Raíces, en Tenerife”, RTVC, 4 March 2023, <https://rtvc.es/denuncian-que-migrantes-de-las-raices-son-inducidos-a-prostitucidos-por-comida-alcohol-o-ropa/>

309 Natalia G. Vargas, “Absueltas las ocho personas detenidas en 2021 por una reyerta en el campamento para migrantes de Las Raíces”, *Eldiario.es*, 22 November 2022, https://www.eldiario.es/canaria-sahora/migraciones/absueltas-ocho-personas-detenido-2021-reyerta-campamento-migrantes-raices_1_9732935.html

310 Europa Press “El Gobierno aprueba contratar a Tragsa para la acogida de migrantes en Canarias por un valor de 51 millones” *Europa Press*, 11 May 2022, <https://www.europapress.es/epsocial/migracion/noticia-consejo-gobierno-aprueba-contratar-tragsa-acogida-migrantes-canarias-valor-51-millones-20210511145350.html>

311 Iker Barbero, “Refugiados en contención: lógicas de (in)movilidad en materia de derecho de asilo en la Frontera Sur”, *Revista CIDOB d’Afers Internacionals* n.129 (2021); 179-202

Canarias centre. In Tenerife, the digitalisation of the asylum appointment process within the wider non-nationals appointments system obstructs the right to asylum.

According to those consulted, **police engage in the express deportations of individuals who have manifested their intention to seek asylum within 72 hours**, demonstrating inadequacies in the safeguarding of rights such as the right to asylum, legal assistance or effective remedy.³¹²

In Lanzarote, there have been cases of individuals seeking international protection³¹³ not being provided with documentation in the interim period between going to a police station to renew their asylum applications and the moment in which they are summoned to collect their proof of status. In Tenerife, there has been at least one case of a person who, upon presenting their application for international protection for the second time, had their passport withheld and a preliminary expulsion order served on them, without any official deportation proceedings being filed.

In Lanzarote, the practice of requiring presentation of a passport and registration certificate on the day of the appointment for the request or renewal of international protection has been identified in several cases. This stands in contravention of the Order issued by the Secretary of State for Security and the Undersecretariat of the Ministry of the Interior for the formalisation of applications for international protection, which states that the presentation of any one specific form of documentation cannot be requested as a condition for access to the procedure.

In addition, delays in processing applications mean that many applicants have been transferred or have travelled to the peninsula by the time they receive an appointment. Policía Nacional officers have also been identified as hindering attempts to change the location of the appointment to cities in peninsular Spain. This implies that people are forced to formally manifest their intention to claim asylum upon first arrival. **All these bureaucratic obstacles suggest “a deterrence approach”³¹⁴ that seeks to discourage and hinder the application for asylum within Spain.**

4.2.6. Unaccompanied children

Since 2019, a considerable percentage of displaced people in the Canary Islands are children and adolescents, who have either migrated with relatives or in the care of other adults, or who have done so unaccompanied.³¹⁵ In 2022, 2,209 children arrived in the archipelago (14.1% of all arrivals). In 2020, this figure stood at 3,159 (7.5%). Between 2020 and 2022, the percentage of children who have arrived via the Canarian migratory route almost doubled.

312 Iker Barbero and Mariona Illamola Dausà, “Dausà, “La insuficiencia de mecanismos de denuncia efectiva ante la vulneración de derechos fundamentales en los procedimientos de deportación de extranjeros “, Revista Catalana de Dret Públic n.57 (2018): 113- 127

313 Interview CA14.

314 Iker Barbero, “Refugiados en contención: lógicas de (in)movilidad en materia de derecho de asilo en la Frontera Sur”, Revista CIDOB d’Afers Internacionals n.129, (2021): 179-202

315 UNICEF, Canarias: niños y niñas migrantes en una de las rutas más peligrosas del mundo (2021), <https://www.unicef.es/sites/unicef.es/files/resources/report-menores-migrantes/report-canarias-infancia-migrante.pdf>

In January 2021, the General Directorate for the Protection of Children (DGPI) of the Canary Islands government announced that there were 2,656 unaccompanied children and adolescents in the regional care system. As of 15 November 2022, according to the Ministry of Social Rights, this figure stood at 2,538.³¹⁶ Taking into account that in 2019 this figure was 498, the number of children in the regional care system has grown exponentially.³¹⁷ An increase in arrivals of children was, of course, not entirely new; in 2006 and 2007 respectively, 928 and 752 unaccompanied migrant children and adolescents arrived in the Canary Islands.³¹⁸

As early as 2021, the Ombudsman highlighted the emergency the Canarian child protection services were facing³¹⁹, with insufficient resources from the regional government to provide for the reception of these children and adolescents.

On 24 March 2022, the Ombudsman (Report 22003939) asserted that emergency centres for foreign children were functioning in practice as long-term care centres. In addition to obstacles in accessing the asylum system faced by non-adults in need of international protection, the Ombudsman highlighted the presence of non-adults in adult centres and adults in juvenile centres, despite official documentation verifying their age. Additionally, **the Ombudsman has raised concerns regarding the delay in receiving results of age testing³²⁰ and the fact, as related previously, that these tests are not always accurate.** The Ombudsman also drew attention in a 2022 report to the worrying practice of the refusal to issue a registration card to unaccompanied non-national children and young people who are unable to obtain official identification documents before reaching adulthood.³²¹

Cases of ill-treatment and sexual abuse have been reported in several protection centres. One of the centres, Puerto Bello, managed by the Siglo XXI Social Response Foundation, was closed after such complaints in June 2022. In July 2022, the Public Prosecutor's Office filed a complaint against six directors and workers at the centre.³²²

UNICEF points out the need for provisions that enable the comprehensive protection of the rights of the child in the humanitarian response to migration, with the aim of moving towards an arrivals management model in which “the principle of the best interests of the child” dictates all protocols and procedures, in addition to the need to standardise the criterion for co-responsibility

316 Parlamento de Canarias, “Derechos Sociales, Igualdad, Diversidad y Juventud”, parcan.es video, published 15 November 2022, <https://www.parcn.es/video/search/?fecha=15%2F11%2F2022>

317 UNICEF, Canarias: niños y niñas migrantes en una de las rutas más peligrosas del mundo (2021), <https://www.unicef.es/sites/unicef.es/files/resources/report-menores-migrantes/report-canarias-infancia-migrante.pdf>

318 Nuevo Sol Foundation (2009). MENAS. Estudio sobre la migración internacional de Menores Extranjeros No Acompañados Subsaharianos hacia las Islas Canarias Francisco Legaz Cervantes, 9, cited in <https://www.unicef.es/sites/unicef.es/files/resources/informe-menores-migrantes/informe-canarias-infancia-migrante.pdf> and Ombudsman, La migración en Canarias (2021), https://www.defensordelpueblo.es/wp-content/uploads/2021/03/INFORME_Canarias.pdf

319 Ombudsman, La migración en Canarias (2021), https://www.defensordelpueblo.es/wp-content/uploads/2021/03/INFORME_Canarias.pdf

320 Ombudsman, Informe anual 2022 Mecanismo Nacional de Prevención, (2023), 166 <https://www.defensordelpueblo.es/wp-content/uploads/2023/03/Defensor-del-Pueblo-Informe-anual-2022.pdf>

321 *Ibid.*, 167.

322 Guillermo Vega, “La Fiscalía se querrela contra los responsables de un centro que acogió a menores migrantes en Gran Canaria”, El País, 30 June 2022, <https://elpais.com/espana/2022-06-30/la-fiscalia-se-querrela-contra-los-responsables-de-un-centro-que-acogio-a-menores-migrantes-en-gran-canaria.html>

between Spain's autonomous communities for the effective referral to other national protection centres.³²³

Finally, it is worth highlighting the risks faced by those who reach adulthood while in the care system, or by those who enter juvenile protection centres and are expelled after an age test declares them overage. Local grassroots organisations point **to a lack of resources for young adult support and the Canary Islands' autonomous government's non-compliance with its obligations regarding young people who have left care.** There have been cases in which young adults leave juvenile centres without having obtained full residency status or a work permit, despite prior reform of immigration law to deal with these issues. In the vast majority of cases, these young people end up homeless.

4.3 Andalusia, Balearic Islands, Valencia and Murcia

The so-called Western Mediterranean route refers to the routes through the Strait of Gibraltar and the Alboran Sea (extending from the coasts of Morocco and Algeria to Andalusia), as well as to those reaching the Spanish Levante and departing from the coasts of Algeria, with boats arriving in Andalusia, Murcia, Valencia and the Balearic Islands.



In 2022, there were 12,955 arrivals to the peninsula and the Balearic Islands by sea, 25% less than in 2021, when the figure was 17,341. In turn, Frontex indicates that arrivals to Spain via the Western Mediterranean route increased in 2021 compared to previous years, reaching 18,466 people, with Algeria being the principal country of departure.³²⁴

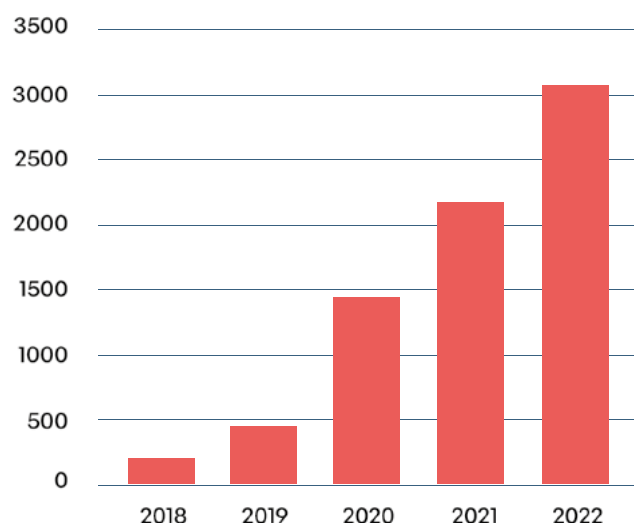
323 Canarias: niños y niñas migrantes en una de las rutas más peligrosas del mundo”, <https://www.unicef.es/sites/unicef.es/files/comunicacion/Informe-Canarias-Infancia-Migrante.pdf>

324 Frontex, “Western Mediterranean Route”, 2023, <https://frontex.europa.eu/we-know/migratory-routes/western-mediterranean-route/>

If we break this data down territorially, in 2022 there were 7,350 arrivals on the coasts of Andalusia via the Strait of Gibraltar and Alboran Sea (mainly to Almeria, with 4,033 arrivals, followed by Cadiz, Granada and Malaga), and 6,356 arrivals by the Levantine route (2,810 to Murcia, 3,055 to the Balearic Islands and 494 to Alicante).³²⁵ In 2021 there were 12,456 arrivals on the Andalusian coasts, with Almeria again being the focal point with 7,012 arrivals, followed by Cádiz, Granada, Malaga, Huelva and Gibraltar. Arrivals to Levante, including the coasts of Murcia, Alicante and the Balearic Islands, totalled 5,191.³²⁶

Between 2021 and 2022, arrivals via the Strait of Gibraltar and Alboran Sea routes dropped by 41%, while arrivals via the Levantine route increased by 22%. Of particular note is the **increase in arrivals to the Balearic Islands over the past five years**. According to data collected by the national Government Delegation in the Balearic Islands and obtained by journalists, 187 people reached the Balearic coasts in 2018. This increased to 453 in 2019, 1,426 in 2020³²⁷, and 2,167 people in 2021, reaching 3,055 counted by the APDHA in 2022, a figure 16 times higher than arrivals in 2018.

Figure 4 – Arrivals to the Balearic Islands 2018-2022



The increase in arrivals via the Levantine route is a consequence of the externalisation of border control and the instrumentalisation of migration, specifically the change in Spanish foreign policy regarding the conflict³²⁸ between Morocco and Western Sahara, and the subsequent suspension by Algeria of its Treaty of Friendship and Good Neighbourliness and Cooperation with Spain.³²⁹ This treaty entered into force in 2002, and one of its central points was the collaboration and exchange of information on police and migration matters between the two countries. The Campaign for the Closure of Immigration Detention Centres and an End to Deportations points out that there is no record of deportations to Algeria in 2022, although these have not officially been ceased.

³²⁵ APDHA, “Balance Migratorio Frontera Sur 2022”, <https://www.apdha.org/wp-content/uploads/2023/02/Balance-Migratorio-Frontera-Sur-2022-web.pdf>

³²⁶ APDHA, “Balance Migratorio Frontera Sur 2021”, <https://www.apdha.org/wp-content/uploads/2022/02/Balance-migratorio-Frontera-Sur-2021-web.pdf>

³²⁷ Enrique Recio, “La llegada a Baleares de pateras procedentes de Argelia se dispara un 628% en el último lustro”, *The Objective*, 21 September 2022, <https://theobjective.com/espana/2022-09-21/pateras-argelia-baleares/>

³²⁸ Francisco Peregil, “Argelia rompe el tratado de amistad y buena vecindad con España suscrito hace 20 años”, *El País*, 8 June 2022, https://elpais.com/espana/2022-06-08/argelia-rompe-el-tratado-de-amistad-y-buena-vecindad-con-espana-suscrito-hace-20-anos.html?event_log=oklogin

³²⁹ Tratado de amistad, buena vecindad y cooperación entre el Reino de España y la República Argelina Democrática y Popular, de 8 de octubre de 2002. Boletín Oficial del Estado, 270, 11 November 2003, https://www.boe.es/diario_boe/txt.php?id=BOE-A-2003-20616

In terms of mortality on the Western Mediterranean route, Caminando Fronteras has documented 564 fatalities: 464 on crossings in the Levante area, 75 in the Alboran sea and 25 in the Strait of Gibraltar.³³⁰ In 2021 there were also 388 fatalities on this same route: 191 in the Levante, 95 in the Alboran Sea, and 102 in the Strait of Gibraltar.³³¹

In the last five years, the Levante route has become the second deadliest access route to Spanish territory (the first being the Canary Islands), with figures showing at least 1,562 deaths and disappearances on this route between 2018 and 2022.³³² Between 2021 and 2022, there was a two-fold increase in reported mortality on the Levante route, increasing from 3.7% of arrivals in 2021 to 7.3% in 2022.

Strict policing of migration in the area has forced people who undertake journeys to Spain via these routes to leave from points of departure which are increasingly further from the Iberian peninsula, with increased distances resulting in greater risks in making crossings. Boats which leave from Algeria no longer do so exclusively from Oran or from the cities closest to the Iberian peninsula. Crossings are now also being made from Tipasa and Dellys, points further to the east of the country and therefore at a greater distance from any point on the peninsula or the Balearic Islands, the latter being a more direct crossing.³³³

4.3.1. Detention: CATEs and CIEs

In 2020, the NPM pointed to the existence in **Andalusia** of CATEs in San Roque – better known as Crinavis (Port of Algeciras) – Motril (Granada), Malaga and Almeria. In Algeciras, Malaga and Almeria, Policía Nacional stations are used as CATEs. At the time of writing this report, the most active CATE – in terms of being the focal point for both arrivals and transfers from other parts of Andalusia – is that located in San Roque.

As in the rest of the country, recurrent examples of legal aid being provided collectively and without privacy to CATEs detainees have been identified in Andalusia. Sources consulted point to the example of the San Roque CATE and its constantly changing legal aid provisions, which impede the provision of private, individualised assistance.

At the time of writing, collective legal aid is provided to groups of 6 people, clustered by language, in the presence of an interpreter where translation is required, although there have been cases where translation into the language of the person receiving assistance has not been provided. In addition, the response by Policía Nacional officers to requests from lawyers to carry out interviews privately or for specific translation services has led to a climate of tension and the hindrance of legal aid provision.³³⁴

330 Caminando Fronteras, “Monitoreo Derecho a la Vida. Año 2022”, 2022, <https://caminandofronteras.org/wp-content/uploads/2023/01/Monitoreo-Derecho-a-la-Vida-2022-ES-v2.pdf>

331 Caminando Fronteras, “Monitoreo del Derecho a la Vida en la Frontera Occidental Euroafricana, Año 2021”, 2021, https://caminandofronteras.org/wp-content/uploads/2022/01/MONITORE-DALVES_v05.pdf

332 Caminando Fronteras, “Ruta Argelia”, 2022, <https://caminandofronteras.org/rutas/ruta-argelia/>

333 Agustín Pérez, “Cómo ha crecido la ruta balear de la migración, que bate récord de llegadas en 2022”, Nius Diario, 29 December 2022, https://www.niusdiario.es/sociedad/inmigracion/20221229/como-aumentado-ruta-balear-migracion-lar-inmigrantes-baleares-record-ano-2022_18_08333774.html

334 Interview EST3.

In **Murcia**, the Escombreras dock has been used as a CATE since 2020. Both human rights defence organisations and police officers' unions³³⁵ have denounced the serious lack of sanitation and running water, and exposure to extreme temperatures and dangerous substances. In July 2022, the organisation *Convivir Sin Racismo* registered a complaint with the Public Prosecutor's Office and the Ombudsman in which it described the centre as "an unsuitable and dangerous location for the detention of children with special protection needs, who are housed with adults who in certain cases are not their relatives, outdoors, in insalubrious and hazardous conditions."³³⁶ Local organisations also attest to a lack of individualised legal aid and privacy.³³⁷

Faced with complaints about the conditions in the Las Escombreras CATE, a new provisional centre was opened in El Espalmador in September 2022. This centre faced several problems, lacking electricity or internet connection³³⁸ a month after opening, in addition to the difficulties in transport from the nearby dock areas. Access by a narrow road on which buses cannot circulate has led to migrants making part of the journey on foot, with the port closest to the CATE not being deep enough for Marine Rescue boats to dock there, according to the port authorities.³³⁹ In addition, the lease for use of the land on which the CATE has been built has expired, meaning that it will need to be moved to a new location, the current proposal for which is a hard-to-reach area in Monte Galera.

It should also be noted that in December 2022 CATE facilities were not made available after an arrival by boat, with the new arrivals exposed to the elements during a 15-hour wait, until they could be transferred to Guardia Civil police facilities in Cartagena. According to the AUGC union of Guardia Civil officers, even though the assistance and transfer of people from the provisional CATE in Las Escombreras to Cartagena was authorised, orders were received to take them to the barracks of the Guardia Civil in Cabo de Palos once they had been seen to by the Red Cross. The transfer took place, although it was reported that the barracks did not have the facilities or materials necessary for primary assistance (water, food, blankets, medicines).³⁴⁰ In addition to external organisations, police officers have sought the introduction of a coordination protocol for the shared handling of arrivals to the Murcian coasts between the different actors involved.³⁴¹

335 Macu Alemán, "Los sindicatos policiales denuncian condiciones inhumanas en el campamento de Escombreras"; *Onda Regional*, 13 June 2022, <https://www.orm.es/informativos/noticias-2022/los-sindicatos-polciales-denuncian-condiciones-inhumanas-en-el-campamento-de-escombreras/>

336 Lázaro Giménez, "Denuncia ante la Fiscalía y el Defensor del Pueblo la situación de los menores llegados en patera a Cartagena", *Cadena SER*, 28 July 2022, <https://cadenaser.com/murcia/2022/07/28/denuncia-ante-la-fiscalia-y-el-defensor-del-ppop-la-situacion-de-los-menores-lavados-en-patera-a-cartagena-radio-cartagena/>

337 Marta Nevot, Manuel Bernabéu and Fundación por Causa, "CATE de Cartagena: migrantes entre ratas y despilfarro de dinero público", *Público*, 3 October 2022, <https://www.publico.es/sociedad/cate-cartagena-migrantes-ratas-despilfarro-dinero-publico.html>

338 Jaime Ferrán, "El CATE provisional de Cartagena abrió sin luz ni Internet y carece de zona de desembarco", *La Opinión de Murcia*, 9 October 2022, <https://www.laopiniondemurcia.es/sucesos/2022/10/09/cate-provisional-cartagena-abrio-luz-77002596.html>

339 Ana Lucas, "La Policía obligada a trasladar a pie a los inmigrantes hasta el CATE de Cartagena", *La Opinión de Murcia*, 29 October 2022, <https://www.laopiniondemurcia.es/comunidad/2022/10/29/policia-obligada-trasladar-pie-inmigrantes-77883306.html>

340 AUGC Murcia "AUGC Murcia pide responsabilidades al Delegado del Gobierno ante el mal funcionamiento del Centro de Atención Temporal de Extranjeros de Cartagena", 29 December 2022 https://www.augc.org/actualidad/augc-murcia-pide-responsabilidades-delegado-gobierno-mal-funcionamiento-centro-atencion-temporal-extranjeros-cartagena_21654_102.html

341 *Ibid.*

In the **Valencian Community**, a CATE has been set up in the port of Alicante. On 18 January 2022, the Council of Ministers agreed to the improvement of the facilities that had been set up at the Poniente pier, next to the ferry terminal to Oran (Algeria), at a budget of 1,600,000 euros.³⁴²

Lastly, in the **Balearic Islands**, a CATE has been set up in Palma de Mallorca, located in the old barracks of Son Tous³⁴³, with capacity for 150 people. The land was ceded by the Government of the Balearic Islands to the Policía Nacional in mid-year 2021³⁴⁴, given that the police facilities located in Palma and Manacor which had until then been used for these purposes were completely overwhelmed. At that stage, in addition to cell areas, the parking complexes of the police stations were being used for triage and even overnight stays.³⁴⁵

In terms of CIEs, the Algeciras centre in **Andalucía** is currently operational. In April 2022, the grassroots organisations Algeciras Acoge, Asociación Pro Derechos Humanos de Andalucía and Asociación Claver reported to the ombudsman that CIE officials had engaged in blackmail of asylum-seeking internees, allegedly offering release in exchange for the waiver of their application for international protection.

There has been an increase in investment in CIEs covering the period 2021-23, with €27,170,000 set aside in successive National Budgets³⁴⁶ for the construction of a new CIE in Algeciras³⁴⁷ which will replace the current centre in the same city and the centre previously located in Tarifa which closed in June 2020. The new CIE is scheduled to have a capacity of 500 detainees, making it the largest in Spain and one of the largest in Europe.³⁴⁸ On 22 February 2021, a tender was publicly granted (dated 4 February) to the temporary joint venture made up of the companies Ortiz Construcciones y Proyectos, S.A. and Díaz Cubero, S.A. for a value of 21,003,071.39 euros.³⁴⁹ Grassroots organisations have rejected the project and called for the closure of the facilities.³⁵⁰

342 Government of Spain. “Referencia del Consejo de Ministros”. 2022. <https://www.lamoncloa.gob.es/consejodeministros/referencias/Paginas/2022/refc20220118.aspx>

343 Europa Press Nacional, “Interior quiere acabar en agosto el centro temporal para migrantes en Mallorca, clave por si aumenta la ruta argelina”, Europa Press, 9 June 2022, <https://www.europapress.es/nacional/noticia-interior-quiere-acabar-agosto-centro-temporal-migrantes-mallorca-clave-si-aumenta-ruta-argelina-20220609185647.html>

344 347Eds., “Ceden a la Policía el cuartel de Son Tous para albergar a inmigrantes”, Diario de Mallorca, 21 August 2021, <https://www.diariodemallorca.es/mallorca/2021/08/21/ceden-policia-cuartel-son-tous-56406913.html>

345 Eduardo Colom, “El Gobierno monta un campamento de inmigrantes en Mallorca tras la última oleada de pateras argelinas”, El Mundo, 18 October 2021, <https://www.elmundo.es/baleares/2021/10/18/616d679021efa0ad238b45d5.html>

346 SJM, Informe CIE 2021. Territorio hostil: formas diversas de hostilidad en los CIE (2022), https://sjme.org/wp-content/uploads/2022/05/Informe-CIE-2021-SJM_reduc.pdf

347 Ministerio de Interior, “Proyecto de Ejecución del nuevo Centro de Internamiento de Extranjeros (CIE) de Algeciras (Cádiz)”, 2020, https://contrataciondelestado.es/wps/wcm/connect/77543bc5-c900-4e13-883d-41e09feb5e5c/DOC2020111155831PPT.pdf?||UNTRANSLATED_CONTENT_START||-MOD=AJPERES

348 Escuela de Periodismo UAM, “España apuesta por los CIE y las expulsiones exprés”, El País, 29 July 2021, https://elpais.com/masterdeperiodismo/2021-07-29/espana-apuesta-por-los-cie-y-las-expulsiones-expres.html?event_log=oklogin

349 Plataforma de Contratación del Sector Público, “Obra del nuevo Centro de Internamiento de Extranjeros (CIE) de Algeciras (Cádiz)”, 22 February 2021, https://contrataciondelestado.es/wps/wcm/connect/223e3c5d-195e-4b5b-8581-2f498de43835/DOC_CAN_ADJ2021-611604.html?MOD=AJPERES

350 APHDA, “ APDHA Campo de Gibraltar denuncia la inutilidad e inhumanidad del CIE de Algeciras”, 6 July 2021, <https://www.apdha.org/apdha-campo-de-gibraltar-denuncia-la-inutilidad-e-inhumanidad-del-cie-de-algeciras/>

In **Murcia**, the Sangonera CIE was closed for refurbishments in July 2021, and detainees transferred to the Zapadores CIE in **Valencia**, which reopened that same month after a long period of closure due to the COVID-19 pandemic. According to the Government Delegation in Murcia, refurbishment works at the CIE ended in July 2022³⁵¹, but at the time of writing of this report, no reopening date for the facilities has been set. Over the last two years, grassroots organisations have raised several concerns regarding the Zapadores CIE in Valencia and the lack of privacy in interviews with lawyers³⁵², the warnings made by the Ombudsman about the lack of a suicide prevention protocol at the centre³⁵³, and at least two cases of police brutality in July³⁵⁴ and September 2022.³⁵⁵

351 Ana Lucas, “Concluyen las obras del CIE de Murcia: tendrá un salón comunitario, una sala de rezos, aseos en las celdas...” La Opinión de Murcia, 23 October 2022, <https://www.laopiniondemurcia.es/comunidad/2022/10/23/concluyen-obras-cie-murcia-tendra-77572200.html>

352 Gonzalo Sánchez, La campaña CIEs NO denuncia a la Policía Nacional por espiar sus reuniones con internos dentro del CIE”, Levante: El Mercantil Valenciano, 20 July 2022, <https://www.levante-emv.com/comunitat-valenciana/2022/07/20/campana-cies-denuncia-policia-nacional-espiar-68524444.html>

353 Lucas Marco, El Defensor del Pueblo detecta que el CIE de Valencia no tiene protocolo antisuicidio tras el ahorcamiento de un interno”, Eldiario.es, 20 July 2022, https://www.eldiario.es/comunitat-valenciana/defensor-puebl-detecta-cie-valencia-no-protocolo-antisuicidio-ahorcamiento-interno_1_9185819.html

354 El Salto País Valencià, “Un interno del CIE Zapadaores denuncia a cuatro policías por darle una paliza al pedir asistencia médica”; 28 July 2022, <https://www.elsaltodiario.com/cie/interno-cie-zapadores-valencia-denuncia-cuatro-policias-por-darle-paliza-pedir-asistencia-medica>

355 Miguel Giménez, “Segunda denuncia en poco más de un mes por agresión de cuatro policías a internos del CIE de València”; Eldiario.es, 14 September 2022, https://www.eldiario.es/comunitat-valenciana/segunda-denuncia-mes-agresion-cuatro-policias-interno-cie-valencia_1_9314204.html

5. Psychosocial impacts on the Southern Spanish- Northern African border: the harm of the southern border from a psychosocial perspective (Grupo de Acción Comunitaria)

With the externalisation of borders and the different multilateral agreements for development, cooperation and militarisation made with third-party states, migrants have become a bargaining chip. The fortification of both physical and administrative borders has forced people to choose alternative, irregular routes that put them at an increased risk of physical and psychological harm.

Those who make it to the southern border often show signs of psychological and physical damage as a result of their migratory journey, on top of those related to the situation that drove them to leave their home. Special attention must also be given to those belonging to particularly vulnerable groups.

As we have seen throughout this report, a state of exceptionalism concerning borders leads to actions that, in other contexts, would be considered institutional negligence, human rights abuse or punitive and discriminatory conduct. Beyond the socio-political analysis of migration, it is essential to evaluate the impacts that this form of border management has on people looking for ways to cross them.

It is the very accumulation of human rights violations at the point of origin, in transit, at the border and upon reception that serves to give an idea of the suffering of those who migrate.³⁵⁶

The impact is wholesale, from the individual to the collective and from the physical to the psychological.

A psychosocial approach seeks to understand how violence affects the different facets of people's lives, and whether there are political, economic, social and cultural factors at the root of this violence.³⁵⁷

A psychosocial perspective appraises physical and psychological sequelae, but also family, community, cultural and social impacts. As part of such an approach, identifying the harm caused inevitably leads to calls for it to be redressed. To this end, the recognition of human rights violations and the provision of justice and resources for victims' recovery is essential.³⁵⁸

Throughout this chapter, we analyse the various impacts that migration management and control policies have on people on the move. In addition, we make a number of recommendations for how to redress the damage done.

5.1. Impacts of irregular migration

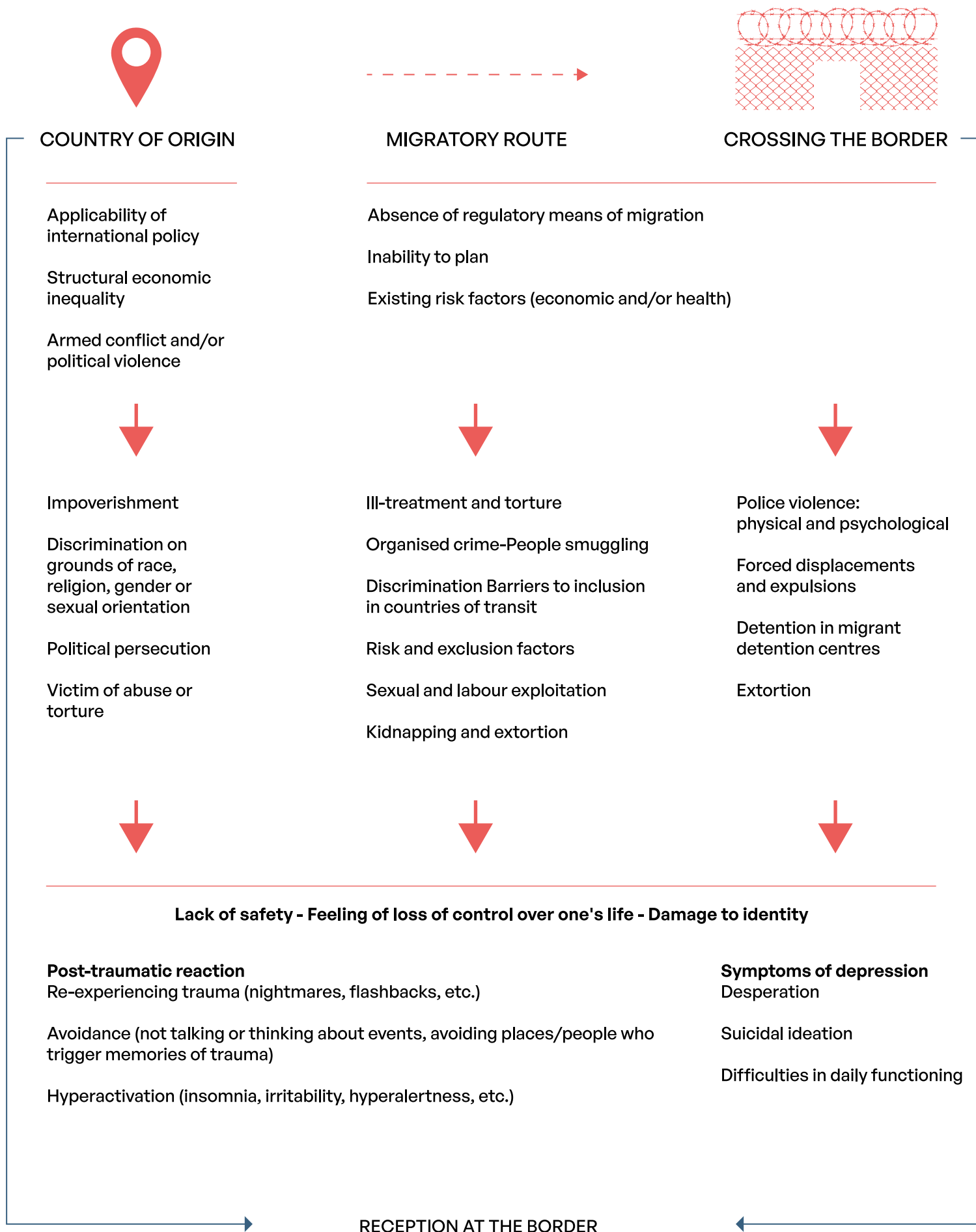
In most cases, those who migrate by irregular routes have already suffered prior to arrival to border areas. Below are some of the most frequently identified characteristics identified among those leaving the African continent with Europe as their final destination.

356 Pau Pérez-Sales, "Migration and Torture: Building a Map of Knowledge," in *Tortura e migrazioni*, ed. By Fabio Perocco (2019); 361-379

357 Pau Pérez-Sales et al. "Trauma, culpa y duelo: hacia una psicoterapia integradora" (2007). See also: Carlos Beristain, *Manual sobre Perspectiva Psicosocial en la Investigación de Derechos Humanos*, Instituto de Estudios sobre Desarrollo y Cooperación Internacional, (2010)

358 Ignacio Martín Baró, "Psicología social de la guerra", (El Salvador: UCA, 1990)

Figure 1. Map of the psychosocial impacts prior to reception at the border



Origin

Departure from the country of origin is in most cases forced, either by structural causes linked to economic inequality or by discrimination and persecution for a variety of reasons. Departure is usually accompanied by multiple risk factors that make it difficult or impossible to continue to reside safely and satisfactorily in the country of origin. In addition, many of those forced to migrate have already experienced extreme violence that has had an initial impact on their perception of safety and control over their lives. Likewise, people are driven to migrate in the face of authorities' impunity and a lack of protection in their country of origin, which brings its own impacts in terms of how they see the world. Their migration is a response to a need for safety, protection and a dignified and full life.

Circle of Silence in Ceuta (2022).

Valentina Lazo



Migratory transit

The impossibility of migrating by regular means brings with it the need to resort to trafficking networks which come with additional and greater risks, including: wholesale ill-treatment and torture, workplace and sexual exploitation, kidnapping, extortion, sexual violence, and discrimination. Barriers to inclusion in transit countries result in social and psychosocial exclusion^{359 360} (poor housing, and limited access to food, drinking water, medicines and medical care) that increase migrants' vulnerability, with negative knock-on effects on their physical health. These impacts can, in some cases, have functional consequences which directly affect their subsequent adaptation process and all areas of their personal and professional lives.

In recent decades, the journey itself has become one of the most onerous factors in terms of the psychosocial impact on those who migrate.

359 OMCT, "The Torture Roads – The Cycle of Abuse against People on the Move in Africa", 2021, <https://www.omct.org/site-resources/files/The-Torture-Roads.pdf>

360 UNHCR, "Travesías desesperadas: refugiados e inmigrantes llegan a Europa y a las fronteras española", 2019, <https://www.acnur.org/5c5110f94.pdf>

The violations of rights and the violence experienced in transit carry as a consequence an increased perception of lack of safety deriving from longstanding vulnerability and the attendant risks to physical wellbeing, causing fear and distrust towards other people and institutions. The fact that violence during transit is exercised by multiple actors in very different contexts leads in most cases to a crystallisation of a negative view of other people and the world. Loss of control over the circumstances that affect them, and the impossibility in practice of developing effective coping strategies, causes people to feel both helpless and hopeless. People also suffer a significant deterioration of their sense of identity after living in hiding, suffering discrimination and having experienced extreme violence, such as torture and sexual violence – in many cases for years on end – in a way that erodes their human dignity. This leads to feelings of humiliation, guilt, shame and loss of self-worth as their life plans are pulled apart and rendered impossible to rebuild, something which totally derails the majority of sufferers.

X March for Dignity in Ceuta (2023).

Caleidoscopia
Proyectos



This multitude of impacts manifests itself in a state of imbalance, what in traditional medicine is alluded to as emotional distress and illness. In Western medicine, we might talk about symptoms and disorders, some of these extremely severe, such as suicidal ideation and attempted suicide, and the symptomatology associated with Posttraumatic Stress Disorder (flashbacks, repeated memories and thoughts, hyperalertness, etc.) with a very high incidence of sleep disorders (nightmares, insomnia) and somatic responses (headaches, gastrointestinal problems and generalised musculoskeletal pain). Severe dissociative symptoms (loss of connection with reality) and psychotic symptoms (hallucinations, delusions, etc.) may also occur.³⁶¹

Migration through irregular routes, with attendant exposure to numerous human rights violations and violence, is itself a high-risk factor from a psychosocial point of view insofar as it exacerbates the impacts felt prior to migration, and generates new symptoms of a traumatic and ontological nature which are difficult to address. Migratory transit can undermine one's sense of security and control

361 Grupo de Acción Comunitaria, "Laberintos de tortura. Violencias e impactos en el tránsito migratorio desde África hasta España", (Madrid: Irredentos Libros, 2022)

over one's life and wellbeing. As such, it adds to the uncertainty that begins in the country of origin, something which becomes increasingly difficult to manage.

People arriving at the North African-Southern Spanish border are, in most cases, highly physically and psychologically vulnerable.

5.2. Psychosocial impacts on the Southern Spanish - Northern African border

In border areas, migrants repeatedly suffer **damage to their safety**, a reduction **of their perceived control over their lives**, and **attacks on their identity**. Below is an outline of the most commonly-identified human rights violations, and the impacts they cause:

Figura 2.
Mapa de vulneraciones e impactos psicosociales en la Frontera Sur

Violations		
Crossing the border		
Risk of death in attempting to cross the border in the absence of regulatory routes	Police violence Detention and imprisonment	Risk of express deportation Difficulties in requesting international protection
Reception at border		
Unsatisfactory conditions in reception facilities: — Lack of water and food, lack of hygiene products and clean environment — Overcrowding - Increase in conflict and lack of privacy — Difficulties in communication with the outside	Poor health care Lack of resources to deal with those significantly at-risk Dehumanising treatment in the services provided by organisations given lack of resources Separation of family members	Political narratives and practices concerning tightening of borders Discrimination - Perceived dehumanisation by authorities / police and security forces Administrative obstacles Restrictions on free movement
Regulations within the reception centres: — Lack of clarity regarding rules (absence of regulation) — Sanctions and punishments (including deprivation of liberty and expulsion from centre)	Lack of legal support — Exceptional measures - Arbitrariness in procedures — Absence of legal representation during international protection application process — Lack of information	Difficulties in obtaining employment Discrimination by local residents

Impacts		
Individual		
Lack of safety	Loss of control	Damage to identity
<ul style="list-style-type: none"> – Fear – Mistrust 	<ul style="list-style-type: none"> – Helplessness – Deconstruction of life plans – Depressive symptoms – Lack of support – Despair – Suicidal ideation or attempted suicide 	<ul style="list-style-type: none"> – Feelings of humiliation and anger – Deterioration of image of oneself – Impact on system of beliefs – Negative view of the world – Loss of purpose
POST-TRAUMATIC REACTION (prolonged and aggravated by the lack of safe and secure conditions for rehabilitation)		
Family-Community		
Broken bonds Cultural disconnection Reduction of role in the family system Destructuring of the family system Constant concern for family in country of origin		
Social-Public Imagination		
Stigmatisation of people who migrate Social polarisation Xenophobia - Hate speech Criminalisation of migrant “invasion” to justify migration policies		

Crossing the border

Migration routes cross multiple border crossings where these specific risks and impacts have been identified. Crossing a border is not only the physical act of crossing a fence or a body of water, but also the wait in the border area and the previous attempts one has made.

Violence, detention, being held in migration spaces and deportation are all features of borders. The separation of families and deaths are major impacts not only where and when they occur, but also in terms of the fear they cause. In psychological terms, this leads people to feel on edge, helpless and distrustful. Physical injuries resulting from the violence suffered are also seen in some cases. Remaining in intermediate territories where there is high discrimination and social exclusion can lead people to question their own identity. At borders closer to Europe, this impact increases, due to the accumulation of violence and the previous trust placed in Europe in general and Spain in particular as a country believed to be a guarantor of human rights offering an environment of safety and respect.

If we focus on the North African or Southern Spanish border, the factors that most impact people in transit vary. In the case of Ceuta and Melilla, these impacts relate to violence suffered during the crossing itself, express deportations from Spanish to Moroccan territory, and forced transfers to other cities in the country. In the case of the Canary Islands, the main impacts are the attendant risks of maritime travel and the neglect shown by authorities in responding to shipwrecks.

This experience is traumatic in most cases. Despite the resilience and coping strategies of those in transit, with a hyper-normalisation or acceptance of such violence as a part of their migratory journey – significant psychological suffering can be associated with this phase.

A key element is the **rupture** arising from people's initial **perception** of **civil servants** as figures of trust and protection who in many cases, despite their duty to guarantee and uphold the rights of people in transit, assault and abuse them. In Spanish territory, this perceived lack of protection and discrimination holds true, with racial profiling in policing, negligence in the handling of applications for international protection, difficulties in accessing services, a lack of solutions for obtaining legal residency status, etc.

5.3. Impacts upon reception in border areas

The reception model deployed at Spain's southern border is driven by the narrative of a humanitarian emergency, mediated at the same time by political discourse surrounding migration. Migration as a phenomenon is thus treated as a matter of crisis, in a land that represents one of the gateways to the European continent, and in which migration has historically been cyclical. This approach has led to the deployment of macro-camps and massive accommodation centres, a lack of resources for holistic care, administrative and institutional barriers, and the social perception of people in transit as a threat. This has implications at different levels in terms of psychosocial impacts.

In 2021, the Community Action Group carried out an investigation into the impact of reception conditions at Spain's southern border.³⁶² Individual, family, community and social impacts were observed.

Individual impacts

This research identifies insufficient reception conditions that **undermine the basic needs of any human being**. There is a limitation on free and sufficient access to food, water and personal hygiene (products and hot water), as well as substandard infrastructures for sleeping and protection against inclement weather (cold, heat and rain). The main associated impact is fatigue and general discomfort. In addition, the existence of specific triggers which lead to **insecurity and fear** (for example, overcrowding or lack of security in facilities), **helplessness or loss of control** (for example, lack of understanding of the rules, legal exceptionalism, difficulty in accessing basic services such as education and health) and **attacks on identity and dignity** (for example, limitation of communication with the outside world and non-personalised attention) were observed.

Insecurity and fear

The large-scale reception of people in massive camps and centres impedes upon the provision of an adequate space for daily living, good care and individualised attention. We found overcrowding that prevented rest and, according to our research, led to increased difficulties in coexistence and conflicts. The lack of individual space undermines privacy and facilitates robberies when there is no separate space for the storage of belongings.

These elements add up to a perception of insecurity that creates feelings of **fear** in people who, as described above, in many cases may already be experiencing fear in non-specific or even non-threatening situations on a recurring basis as a consequence of previous traumas. This further leads to hyperalertness, excessive worry about possible negative outcomes, exaggerated fight-or-flight responses, difficulty concentrating and irritability. The perception of constant

362 Grupo de Acción Comunitaria, "El limbo de la frontera. Impactos de las condiciones de la acogida en la frontera sur española", (Madrid: Irredentos libros, 2021) <https://www.psicosocial.net/investigacion/2022/06/16/arquitectura-de-la-tortura-en-europa-2/>

insecurity and lack of protection feeds into a view of the world as a hostile environment in which dangerous situations predominate, further consolidating a **negative outlook on life**.

Overcrowding and insecurity are closely related **to difficulties in trusting other people**. This impacts on people's ability to establish and maintain interpersonal relationships with friends and partners, and causes a loss of interest in socialisation in general, leading to significant loneliness.

Minors centre "Piniers" in Ceuta (2022).

Valentina Lazo



Helplessness or loss of control over life

Certain elements of reception facilities have been seen to undermine people's control over their own lives, with an absence of clear guidelines favouring disinformation and an arbitrary application of centre rules. There are also difficulties in accessing services which are basic rights (living spaces, health care, etc.).

Another element that undermines people's perception of control over their lives is the lack of legal support for people in transit in border areas. There is insufficient legal representation and a lack of information and resources for the processing of applications for international protection and legal residency status, lack of access to basic services and widespread legal exceptionalism, with rules and laws ill-defined and constantly subject to change. This first became clear in 2020 and has continued over subsequent years, with the limitations imposed upon migrants seeking to exit border areas, prohibiting them from leaving even when they are applicants for international protection.³⁶³ As such, people have been unable to fully exercise their right to freedom of movement as a result of changing factors which have nothing to do with their conduct. Not knowing whether it is possible to leave or not has led to feelings of helplessness, bewilderment and psychological suffering that severely inhibit any long-term planning for the future.

The **destruction of one's hopes and dreams**, or the impossibility of recovering these, impacts especially on those who were already forced to abandon these

363 SJM, *Buscar salida. Informe frontera sur (2020)*, https://sjme.org/wp-content/uploads/2021/02/Buscar-salida_Informe-Frontera-Sur-2020-SJM_logo-nuevo.pdf

once when they fled from their home country, those who have arrived with greater expectations in the host country than are necessarily the case, or those who, owing to a greater economic responsibility in terms of those they have left at home, need to find work urgently. The reality of reception, with all its hostility, lack of agency and little possibility of a better future, produces feelings of **helplessness and hopelessness** which are characterised by a loss of a sense of the meaning and value of life itself. Faced with this situation, it is very difficult to develop the coping strategies which are essential for psychological wellbeing.

The sense of loss of control over one's life is a clear risk factor in the development of both physical and emotional malaise, and is therefore an important determinant of people's health.³⁶⁴ Symptoms of depression such as sadness, demotivation, difficulty experiencing positive emotions or undertaking daily activities are linked to this. To ease this malaise, people may rely on harmful avoidance strategies such as self-injury, substance abuse, etc. In the most extreme cases, despair can lead to **suicidal ideation or suicide attempts**. If these situations are not addressed through specialist care, there is a serious risk to the person's life, as was recently observed in the sad case of the suicide of a young man who had been expelled from a CETI.³⁶⁵

Damage to identity and deterioration of dignity

Reception conditions in massive camps and centres are substandard in many areas, notably in terms of the lack of privacy and access to personal and environmental hygiene. Likewise, the large number of people brought in, added to the shortage of staff, makes offering one-to-one attention, identifying vulnerabilities or supporting people in a dignified way impossible, thus leading to dehumanised intervention.

There is an evident deterioration of dignity associated with the marginalised areas in which facilities are located (given the need for large spaces out of the public view), in many cases close to areas where residents suffer social exclusion, further hindering any opportunities for migrants to escape this exclusion themselves.

In general, there is a shared perception of not being listened to or treated with respect as individuals, as well as a sense that living conditions are unacceptable, cultural values are not respected, etc. This undermines trust in institutions and the state as guarantors of human rights.

The media's treatment of the reception of migrations often heightens this perception of there being an attack on their dignity. On occasion, the way in which new arrivals are handled triggers conflicts between the public in the host country and those in transit.

The undermining of one's identity as a person has negative consequences for one's adaptation to a new environment, insofar as it causes difficulties in decision-making due to the emergence of feelings of self-devaluation and lack of agency.

364 Michael Marmot, "Status syndrome" *Significance*, n.1 (2004): 150-154

365 CAD, "Oenegés piden que se depuren responsabilidades tras el suicidio de un inmigrante expulsado del CETI", *Ceuta al día*, 27 January 2023, <https://www.ceutaldia.com/articulo/sucesos/oeneges-piden-depurar-responsabilidad-suicidio-inmigrante-expulsado-ceti/20230127200930257334.html>

The significance of these factors lies in their implications in terms of dignity and their impact on people’s quality of life and physical and psychological suffering.

Clinical impacts

From a clinical point of view, the following impacts were identified in this study:

The impact is never solely individual, and we have identified family, community and social impacts:

Territory	
Melilla (N=53)	Canary Islands (N=57)
<ul style="list-style-type: none"> – 13.2% fear on a regular or continuous basis – 9.5% anger on a regular or continuous basis – 15.1% apathy on a regular or continuous basis – 20.7% hopelessness on a regular or continuous basis – 15.1% functional difficulties on a regular or continuous basis 	<ul style="list-style-type: none"> – 19.3% fear on a regular or continuous basis – 5.4% anger on a regular or continuous basis – 18.2% apathy on a regular or continuous basis – 18.5% hopelessness on a regular or continuous basis – 25.9% functional difficulties on a regular or continuous basis
<ul style="list-style-type: none"> – 20.8% report a worsening in mood since arrival in Spain – 32.1% report a perception that conditions negatively influence their mood 	<ul style="list-style-type: none"> – 19.3% report a worsening in mood since arrival in Spain – 59.1% report a perception that conditions negatively influence their mood

Family and community impacts

A number of the conditions of the reception facilities impact on people’s ability to communicate with their families, friends and others. The lack of plugs to charge mobile phones, or of an internet network able to be used by multiple people at the same time, are just some examples.

Likewise, there are also practices that directly lead to the **breakdown of networks and family systems**, such as the separation of members of the same family unit through transfer to different reception facilities. Similarly, the aforementioned restrictions on movement hinder and break collective migratory projects, with it being impossible to reunite with relatives and others located in other parts of Spain or Europe.

The impossibility of starting afresh undermines families in that it inhibits their ability to support those who remain in the country of origin. The loss of the role of provider within the family structure can lead people to feel guilt and significantly disrupt their sense of identity.

Stigmatisation, discrimination and exclusion of people in transit on account of their being a “migrant” is an **attack on the collective humanity** of such people. It cannot be forgotten that many of these people flee their home country due to their identity not being accepted in their social context (e.g. LGBTQI+ identity, belonging to an ethnic group or to a certain religion, etc.). Discrimination faced during reception in many cases causes many people to attempt to downplay their own cultural identity in order to adapt to the host society, impacting further on their collective identity.

Social impacts – the public imagination

The application of containment and deterrence policies in the territories surrounding the southern Spanish border has direct consequences on the host society and the public imagination. Political decisions and speeches back the actions of the authorities, and fail to take people in transit into consideration as subjects worthy of human rights. This has a dehumanising effect that goes beyond the impact on the people who migrate themselves. It also affects the host society, where hate speech has grown, leading to social polarisation with unpredictable consequences.

The lack of foresight, coordination and institutional organisation contributes to the idea of a deluge and a sense of fear and loss of control among the host population, who identify people in transit as a threatening problem, leading to the emergence of anti-immigration and xenophobic discourse. This fuels social conflict and is exacerbated where there is no constructive intervention.³⁶⁶

366 Comisión Española de Ayuda al Refugiado, "Migración en Canarias, la emergencia previsible", 2021, https://www.cear.es/wp-content/uploads/2021/04/Informe-CEAR_CANARIAS.pdf

6. Surveillance technologies on Spain's southern border

Nearly 1,000 police and dozens of video surveillance cameras guard the crossing between Morocco and the cities of Ceuta and Melilla. The technologisation of Spain's southern border, begun in the mid-1990s, has become a central part of the European Union's fortification of its external borders, with sophisticated video surveillance systems, artificial intelligence and biometric technology in place to close down migration routes and control population inflow and outflow from non-member states. The progressive fortification of the southern border has led to enforced changes in routes, with increasingly riskier and more costly options (both in economic and human terms) being taken. The technologisation of the fence which separates Moroccan and Spanish territory is, additionally, a multi-million euro business. Investments of more than 100 million euros have been made, benefitting some twenty companies, many of them also involved in the arms industry. Three in particular stand out: Indra, Dragados (ACS) and Ferrovial.³⁶⁷

What follows is a historical and current overview of the material and artificial technologies that have made Spain's southern border one of the most automated, unequal and deadly in the world.

6.1. The technological construction of Spain's southern border (ODHE)

The Southern Spanish-North African Border, the gateway to the European continent, has since the mid-1990s become a laboratory for the application of military and security technology, which complements the fortress strategy of the European Union. It is in Ceuta and Melilla, in fact, where the first border wall in Europe since the fall of the Berlin Wall was built under the government of José María Aznar, of the People's Party³⁶⁸, and where the strategy of external fortification of the EU would begin, which would later be replicated by other member states, such as Hungary. The first was a double-wired fence, with one fence six metres in height and others three metres high, which was later reinforced in its upper part with barbed wire known as **concertinas**. In October 1995, 100 Guardia Civil officers were deployed for border surveillance and an 8-kilometre-long, 6-metre-wide surveillance road was built around Ceuta with EU support and funding, with an integrated system for the automatic detection of persons, video cameras and a public address system for warning messages.

In 2002, **the Integrated External Surveillance System (hereinafter, SIVE)** was introduced in **Algeciras**. This is an early warning system based on stations with sensors used to detect and identify vessels approaching the coasts of Spain. Subsequently, the SIVE, operated from Guardia Civil command centres, would be extended to a considerable number of the major coastal cities of the country.

The implementation of this alert system contributed to the main migratory route moving from the Strait of Gibraltar to the Canary Islands. Following the installation of the SIVE in some cities on the archipelago, this gateway route to Spain was diverted again to Ceuta and Melilla³⁶⁹. In 2005, given the increase in migratory pressure in these enclaves and the narrative that arose around this phenomenon, the Spanish government announced the **construction of a third fence**,

367 Fundación Por Causa. "La industria del control migratorio. ¿Quién gana con las políticas fronterizas de la Unión Europea?" 2020. porcausa.org/industriacontrolmigratorio/

368 Ainhoa Ruiz Benedicto, "Fronteras, muros y violencia, militarización y securitización del espacio fronterizo". (Doctoral Thesis, Universitat Jaume I, 2021) www.tdx.cat/bitstream/handle/10803/673314/2021_Tesis_Ruiz%20Benedicto_Ainhoa.pdf?sequence=1&isAllowed=y

369 Comisión Española de Ayuda al Refugiado (CEAR). Refugiados y migrantes en España: Los muros invisibles tras la frontera sur (2017), www.cear.es/wp-content/uploads/2018/02/INFORME-FRONTERA-SUR.pdf

providing it “with the most advanced technology to prevent the entry of irregular migrants”³⁷⁰, with the **installation of new cameras** at points along the border perimeter that separates Ceuta from Morocco. In addition to spearheading the initial technification of the wall, then-President José Luís Rodríguez Zapatero ordered the Ministry of Defence to deploy the army in support of the Guardia Civil. Between 2000 and 2008, the European Union and Spain invested 230 million euros in deploying and implementing the SIVE, in addition to 72 million euros set aside for the automation and expansion of the fences around Ceuta and Melilla between 2005 and 2013.³⁷¹ These two core strategies later coalesced around the most significant business niche in border control in Spain.

The year 2013 is key in terms of the technification and militarisation of Spain’s southern border. On the one hand, the Spanish government announced the reinforcement of the triple-fence around Ceuta and Melilla with an **“anticlimb” metal mesh and the reintroduction of the barbed wire** which had been withdrawn in 2007 due to public pressure given the injuries it was causing. In addition, the Guardia Civil was provided with a second surveillance helicopter, and the first equipped with a **body heat camera and a powerful lens**.³⁷² All this happened at the same time as the implementation of the European Border Surveillance System, Eurosur, which enables surveillance at the borders of the European Union – and outsourcing to third countries – by land, sea and air, and the exchange of information between the national authorities that guard the borders of the Member States, the European Union and the European Border and Coast Guard Agency, better known as Frontex, created in 2004. In technological terms, Eurosur is a network of nodes based in each National Coordination Centre and an application for sharing satellite images, data graphs, information and intelligence between the agencies of all Member States and with Frontex. In practice, Eurosur has facilitated – under the guise of fighting crime, human and drug trafficking and “illegal immigration” – **the deployment of satellites for border surveillance purposes, in addition to drones and other unmanned systems on the southern border**.

In addition, a process of automation and extension of intelligent systems – based largely on biometrics – was introduced into migration and border management systems in 2013, accompanied by a review of existing methods. These were Eurodac, the Visa Information System, and the Schengen Information System, the main databases of the European security network, with a fourth database added later. Thus, together with the new EU Agency for Freedom, Security and Justice (EU-LISA) created in 2011, the management of these computer systems was unified, with new funding avenues for tenders and contracts made available. In 2012, Eurodac was reformed – as had been approved in 2000 – to include the collection and storage of the personal data and fingerprints of asylum seekers. These reforms also enabled the collection of biometric data from the entire national population of third countries who do not have identification documents or who arrive in Europe by irregular means. This sensitive data, added to that stored via the Visa Information System (VIS), allows Schengen states to share visa data and store fingerprints and facial photographs. The Schengen Information System (SIS II), reformed in 2013 and which also stores fingerprints and facial photographs, allows Member States’ police, customs and border control

370 Interpress Service, “MIGRACIONES- ESPAÑA: Del muro de Berlín a Ceuta y Melilla”. IPS. 5 November 2005. ipsnoticias.net/2005/10/migraciones-espana-del-muro-de-berlin-a-ceuta-y-melilla/

371 Laura Delle Femme, “El negocio millonario del control de fronteras.” El País, 8 August 2017. elpais.com/internacional/2017/08/05/actualidad/1501963986_656529.html

372 Desalambre, ““El Gobierno instala una nueva malla ‘antitropa’ y alambre de cuchillas en la valla de Melilla”. El Diario.es. 29 October 2013/www.eldiario.es/desalambre/blindajes-melilla-alambre-blasillas-antitropa_1_5189586.html

authorities – and also Europol – to carry out checks both within the Schengen area and at borders, and to issue alerts regarding persons wanted for serious crimes or missing persons, as well as missing objects and stolen vehicles. Lack of clarity concerning its regulatory oversight has also enabled the monitoring of individuals for other types of activities considered criminal by Member States, including those of a political nature, leading to the criminalisation of activists.³⁷³

Melilla (2022).

Valentina Lazo



That notwithstanding, the major aim for EU-LISA for the coming years is the **Entry-Exit System (hereinafter EES)**, which will use biometric technologies to register all third-country residents entering the European Union, recording the times and dates when the person enters and leaves. The system will automatically calculate the length of stay to facilitate deportations when this period has expired. The EES, which was due to come into operation in 2020, will finally enter into force at the end of 2023 and will be connected to the VIS, allowing access to information to Frontex³⁷⁴ and law enforcement agencies. At Spain's southern border, the introduction of the EES will see the deployment of facial recognition controls for people crossing the border both by regular and irregular means.

The technification of border control in the European Union has gone hand-in-hand with a notable enlargement of the Frontex agency following the mass migratory movements of the years 2014–2015, when more than a million people clandestinely entered Europe seeking refuge from conflict or in search of a better future. In three years, the EU spent 17 billion euros to stop the arrival of more migrants³⁷⁵, also boosting the budget of Frontex, which has multiplied by 77, and whose workforce has been boosted in recent years with the hiring of 10,000 new border guards. Among the territories in which Frontex is being pressured to deploy more resources in the coming years are Ceuta and Melilla.

373 Nora Miralles, “La frontera és ara al cos: biometria i control a la Unió Europea”. *La Directa* (n. 452). May 2018. centredelas.org/actualitat/la-frontera-es-ara-al-cos-biometria-i-control-a-la-unio-europea/

374 SchengenVisa News, “Frontex to Have Access to Large-Scale EU Databases Once They Start Operating”. *Schengen Visa News*. 9 February 2023 www.schengenvisa.info.com/news/frontex-to-have-access-to-large-scale-eu-databases-once-they-start-operating/

375 Overseas Development Institute. “Europe’s refugees and migrants. Hidden flows, tightened borders and spiralling costs”. ODI. 2016. cdn.odi.org/media/documents/10887.pdf

6.2. Surveillance technologies on Spain's southern border, and the companies making a profit

In January 2019, the Spanish Council of Ministers³⁷⁶ approved a package of measures for the reinforcement and modernisation of the land border protection system in the autonomous cities of Ceuta and Melilla, with the objective of acting more forcefully against irregular immigration, improving the efficiency and safety of police and state security forces, and ensuring full respect for human rights.

The package responded to the supposed need to update border infrastructure and facilities in Ceuta and Melilla, as well as the security systems in place there, which were seen as suffering from significant obsolescence and deterioration. These facilities had been built in 1988, with the last major reform dating back to 2005, with only a small number of the scheduled work carried out. Some elements, such as barbed wire or concertinas, are no longer seen a meaningful obstacle to irregular entry to Spanish territory, despite their posing a high risk to the physical wellbeing of migrants.

Ceuta (2022).

Valentina Lazo



Short-term measures include a new closed-circuit television (CTTV) system on the Ceuta border perimeter and an upgrading of the fibre-optic network and expansion of the video surveillance system on the Melilla border perimeter; the modernisation and reinforcement of security infrastructure along Spain's border perimeters with Morocco in the cities of Ceuta and Melilla; the conditioning of foot traffic zones and other improvements at the Tarajal border post in Ceuta, and the implementation of a facial recognition subsystem at the Tarajal border crossing in Ceuta and Beni Enzar in Melilla. In the medium term, a new "intelligent" border is expected to be installed at the Beni Enzar border crossing in Melilla, in addition to comprehensive reform and expansion of the Tarajal border post in Ceuta.

376 Government of Spain, 2019. Refuerzo y modernización del sistema de protección fronteriza terrestre de Ceuta y Melilla”, www.lamoncloa.gob.es/consejodeministros/Paginas/enlaces/180119-enlace-ceutaymelill.aspx

The goal of these changes is to fully survey every person who tries to cross the border, collecting especially sensitive information, in the least outwardly invasive manner possible.

After the elimination of the concertinas in 2019 due to public pressure, particularly given the injuries caused during several attempts to scale the fence, Spain has continued with its policy of installing both architectural and technological barriers to prevent migrants and refugees from accessing national territory. These systems are backed by a multi-million euro budget that is concentrated in the hands of 10 companies who have, Fundación Por Causa has highlighted³⁷⁷, swallowed up almost 7 out of every 10 public euros spent on migration management.

In terms of the types of material and artificial technologies installed and the companies who have profited from this³⁷⁸, we find:

- **Physical fences:** companies such as **Ferrovial** and **Indra**, two of the major beneficiaries of the business of border control in Spain and in Europe, have participated in the construction of the fences in Melilla and Ceuta, built in the 1980s, and expanded and made more dangerous on several occasions since. Public pressure led in 2019 to the withdrawal of the infamous concertinas, manufactured by the company **European Security Fencing**, a subsidiary of the Mora Salazar group.³⁷⁹ The company in charge of removing³⁸⁰ the concertinas and placing new anti-intrusive elements (“inverted combs”) is **Transformación Agraria SA (TRAGSA)** and its subcontractor Quickfence.

By February 2021, barbed wire had been removed from more than 8 kilometres of the border perimeter fence with Morocco. In its place, so-called “inverted combs”³⁸¹ now crown most of the fence on Spanish soil, where work is being done to increase the height of the fence to 10 metres. These elements make scaling the fence extremely difficult. In fact, recent attempts have been occurring at the parts of the fence where these have not yet been installed.

It is important to remember that infrastructure of this kind can mean serious injuries to people if they fall. Medical professionals have pointed out that falls from the fences can lead to significant injury to all parts of the body. Resulting injuries can be manifold, including cuts, bone fractures, soft tissue tears and, finally, injuries to internal organs.

With regard to skeletal injuries, were an individual to fall facing downwards, their head would hit the ground first. In this case, cranioencephalic injuries resulting from a fractured skull, in addition to injury to the vertebrae, would most likely occur. Those falling from a significant height may otherwise land on their buttocks or feet. In these cases, injuries to the lower extremities in the form of pelvic, femur, tibia, fibula and foot fractures are likely. Dislocations and fractures of the vertebrae are also common, and can be accompanied by serious

³⁷⁷ Fundación por Causa. 2020. Quote 1

³⁷⁸ EFE “ El Plan para la valla de Melilla tras los últimos saltos: “peines invertidos”, sensores y cámaras El Confidencial, 9 March 2022, www.elconfidencial.com/espana/2022-03-09/valla-melilla-3-meses-peines-invertidos-intrusion-saltos_3388680/

³⁷⁹ Agustín Rivera, “Interior acelera los trabajos de retirada de las concertinas de Ceuta y Melilla”, El Confidencial, 22 January 2020, www.elconfidencial.com/espana/andalucia/2020-01-22/ministerio-interior-retira-concertinas-vallas-cueta-melilla_2421884/

³⁸⁰ Carmen Echarri, “Interior retira las concertinas de la valla de Ceuta”. El Faro de Ceuta 3 December 2019, elfarodeceuta.es/interior-retira-concertinas-valla-ceuta/

³⁸¹ This is a new metal structure of semi-circular bars that prevents access to the other side of the fence without supposedly having such harmful consequences.

or fatal spinal cord injuries. If the person falls on the side of their body, multiple rib fractures may occur. Vertebral fractures are also not uncommon.

Finally, regardless of the form of the fall, ruptures of thoracic and abdominal tissue are particularly frequent. The most common are ruptures of the liver, spleen and brain, although injuries affecting the lungs, kidneys and other organs are not uncommon. Heart trauma has also been noted. Visceral injuries often lead to profuse internal haemorrhages, in many cases rapidly fatal. Serious nervous system (brain and spinal cord) injuries also explain in many cases the instantaneous or very rapid death after a fall.

In short, any fall, due to the serious injuries it produces, very often results in death, by the following means: internal haemorrhage, due to ruptures of the viscera; cerebral and meningeal haemorrhage, as well as brain injuries due to contusion, and spinal and bulbar injuries, due to vertebral fractures or traumatic shock.

In May 2022, the company **Eulen** was awarded a two-year contract by the Ministry of the Interior for the maintenance of the facilities on the border perimeter located in the autonomous cities of Ceuta and Melilla.³⁸²

The tender is valued at 4.1 million euros, and includes the infrastructural analysis and repair of both border perimeters, including the lighting network and command and control centres, border crossings and patrol posts, through to enclosures and computerised field equipment.

The company is to carry out comprehensive maintenance of the 10 km Melilla border perimeter, as well as the approximately 8.7 km fence that separates the Benzú pier from the Tarajal border crossing. The tender consists of two contracts, one covering Melilla and the other Ceuta, with budgets of 2.3 and 1.7 million euros, respectively.

In addition, as part of the Border Security Improvement Plan and wider reforms, planning has been made for “the reinforcement of certain points of the external fence using “anticlimbing” mesh, the demolition of three intermediate surveillance checkpoints located in the area between fences, the installation of locking mechanisms, and the relocation of closed circuit TV (CCTV) systems to improve oversight of the border perimeter.”³⁸³

- **Maritime and land surveillance:** The existence of sensors on fences is not new. As far back as 2005, Spain installed radar sensors with the ability to detect movement at distances up to 2,000 metres³⁸⁴ (the SIVE system), notably benefitting companies such as **Amper, SENER, Isdefe** and Indra.

This sensor system was recently renewed. In 2022, Guardia Civil commanders in Melilla awarded the company **Thales Programs** a contract for the installation of a new land and maritime surveillance system along the border perimeter

382 InfoDefense. “Eulen mantendrá las vallas e instalaciones fronterizas de Ceuta y Melilla.” Infodefensa. 3 May 2022, www.infodefensa.com/texto-diario/mostrar/3584918/eulen-mantendra-vallas-e-instalaciones-fronterizas-ceuta-melilla-41-millones

383 InfoDefense. Interior reforzará la valla de Ceuta. Infodefensa. 20 July 2022, www.infodefensa.com/texto-diario/mostrar/3831781/interior-reforzara-valla-ceuta-malla-antitropa-nuevas-esclusas-cuatro-millones

384 Fotografía El País. “Así será la nueva valla de Ceuta y Melilla”, El País, 7 October 2005, elpais.com/elpais/2005/10/07/album/1128673017_910215.html#foto_gal_4

in Melilla.³⁸⁵ The aim of this installation is to improve the detection, control and monitoring of attempts to enter Spanish territory by migrants and refugees.

The Guardia Civil indicates in the contractual documents that the acquisition of this comprehensive surveillance system is necessary to detect “the swell of immigrants” concentrated on the Moroccan side of the Melilla border “who try to enter Spanish territory by illicit means, either through border posts, the perimeter fence or the breakwaters of the maritime border”.

The project includes the installation of five fixed surveillance stations (EFV) with state-of-the-art cameras and sensors in different parts of the city. **Thales Programs** won this contract with an offer valued at 1.85 million euros. The system will be connected to a command post located in the Operational Service Centre (COS) of the Guardia Civil command in Melilla and will have the ability to detect and identify individuals both during the day and at night, and in adverse weather conditions. To do this, each station will have a modular and adjustable sensor scope, equipped with a thermal camera, daytime camera, telemetric laser and a visible laser illuminator.

The station will also incorporate a ‘Rack’ type cabinet with an individual monitor, computer, digital video recorder, keyboard and ‘joystick’, all of which make up a control panel with access to the full range of observation and surveillance system functions. The system will also include video and photographic recording, and automatic scanning of predefined areas in scanning mode. It will also be capable – as per the requirements established by the Guardia Civil – of “automatically tracking images from both cameras (visible and thermal) as well as performing searches according to various pre-programmed patterns in the system”.

- **Video surveillance cameras:** the modernisation plan approved by the Council of Ministers in January 2019 included proposals for the improvement of closed circuit television (CCTV) systems on both borders. This has led to the implementation of a new CCTV system in Ceuta and the expansion of the CCTV system in Melilla, as well as the improvement of the fibre optic network.

Improvements in Ceuta led to the replacement of 41 Dome cameras and 11 fixed cameras with an equivalent number of new and higher-performance devices, in addition to the installation of 14 new technical cameras and a control platform for the up-to-date CCTV system.³⁸⁶

In mid-2021, the Government responded to a question from the VOX Parliamentary Group in which it referred to Gunnebo España, SAU as having been awarded the contract for the new CCTV system at the Ceuta border.³⁸⁷ The company responsible for implementing this new CCTV system was **Gunnebo Iberia**, a Spanish-Portuguese subsidiary of the Swedish company Gunnebo, which specialises in security products, solutions and services, and which in 2019 reinforced the entire closed perimeter of Ceuta by renovating all CCTV

385 Contratación del Estado. Anuncio de formalización de contrato. Plataforma de contratación del sector público. 2023. contractaciondelestado.es/wps/wcm/connect/e974c6cb-7cd2-4c28-89ef-54f7474c5b0a/DOC_FORM2023-429226.html?MOD=AJPERES&CACHE=NONE&CONTENTCACHE=NONE (accessed: 26 February 2023)

386 CAD. “Marlaska presenta a las delegadas de Ceuta y Melilla las nuevas cámaras de vigilancia de la frontera”. Ceuta al Día. 30 May 2019, www.ceutaldia.com/articulo/politica/nuecas-camaras-vigilancia-frontera/20190530201943201488.html

387 Congress of Deputies. Government Response. 2021 www.congreso.es/entradap/I14p/e13/e_0135462_n_000.pdf

systems at the request of the Ministry of the Interior, as part of its Reinforcement and Modernisation Plan for the Ceuta and Melilla borders.

At the end of 2022, the Spanish government refused to respond to a question from a parliamentary representative belonging to the EH Bildu party regarding the number and location of fixed cameras, alleging that this was a confidential matter. The government stated that the Council of Ministers had ruled in 1986 and 1994 that matters related to the surveillance of Spain's borders were to be classified as secret, and that the Official Secrets Act covered the protection of national border perimeters.³⁸⁸

- **Air surveillance:** in 2015, the Air Force acquired four MQ-9 Predator-Bs³⁸⁹, manufactured in the United States by **General Atomics Aeronautical Systems**.³⁹⁰ The Air Force website defines this model as “the first attack UAV designed for long-duration, high-altitude surveillance”. As of 2023, according to Air Force sources, drones will have to be equipped to carry missiles and be able to carry out attack operations on specific targets.³⁹¹

In addition to these drones exclusively for military use, in 2022 the Guardia Civil Command in Ceuta began to use drones with thermal cameras to survey the border perimeter in Ceuta.³⁹² The force acquired two more identical unmanned aircraft to carry out the same work in Melilla, at a price per unit of 50,000 euros. These drones have been distributed in Spain by the company **Stock RC Aeromodelismo**³⁹³, official distributor of DJI drones, and which in February 2022 was awarded a contract totalling approximately 200,000 euros. The model is not indicated in the contract, but is likely to be a DJI drone, given the company's role as official distributor and tech support provider for the products of this Chinese manufacturer.

- **Smart borders and biometric technologies**³⁹⁴: in 2017, the European Union adopted new guidelines³⁹⁵ for the deployment of a biometric Entry-Exit Registration (EES) system for Member States with the aim of strengthening and modernising the borders of the Schengen area. Throughout the coming year, Schengen Member States will be required to put in place a biometric entry and exit system to register non-European citizens crossing EU external borders.

The EES system will benefit from the tender that EU-LISA, responsible for the implementation and management of the EES system in Europe, awarded to

388 R.T.O., “El Gobierno dice que es “secreto” el número de cámaras que hay en las vallas de Ceuta y Melilla”. *The Objective*. 10 November 2022, theobjective.com/espana/2022-11-10/camaras-melilla-valla-ceuta/

389 Aeronaves militares españolas. MQ-9 Predator B.. MQ-9 PREDATOR B | AERONAVES MILITARES ESPAÑOLAS (aeronavesmilitaresespanolas.com)

390 Ejército del Aire. Detalle aeronave. ejercitodelaire.defensa.gob.es/EA/ejercitodelaire/es/aeronaves/avion/MQ-9-Predator-B/

391 Benjamín Carrasco, “El Ejército del Aire español armará sus drones Predator y estudia su despliegue en el Índico”, *Infodefensa*. 6 February 2023, retrieved 28 February 2023, www.infodefensa.com/texto-diario/mostrar/4159086/ejercito-aire-espanol-armara-drones-predator-estudia-depldeco-indico

392 Europa Press, “La Guardia Civil empieza a utilizar drones para controlar el perímetro de Ceuta”. *Europa Press*. 14 May 2022, www.europapress.es/ceuta-y-melilla/noticia-guardia-civil-emizia-utilizar-drones-controlar-perimeter-fronterizo-ceuta-20220514164723.html

393 Info Dron. “La Guardia Civil compra de urgencia drones para detectar asaltos a las vallas de Ceuta y Melilla” *InfoDron*. 15 February 2022, www.infodron.es/texto-diario/mostrar/3529166/guardia-civil-compra-urgencia-drones-detectar-asaltos-vallas-ceuta-melilla

394 Ministry of Territorial Policy, “El paso de Beni-Enzar implementará el sistema Europeo Entry/Exit System”. 2022, https://mpt.gob.es/ca/portal/delegaciones_gobierno/delegaciones/melilla/actualidad/notas_de_prensa/notas/2022/10/2022-10-17.html

395 Regulation (EU) 2017/2226 establishing an Entry/Exit System for recording data of third-country nationals crossing the external borders of the European Union

the consortium formed by the companies **Idemia and Sopra Steria**, for the development of a shared biometric information system (SBMS). Upon completion, the SBMS will be one of the largest biometric systems in the world, with a database of more than 400 million third-country nationals containing their fingerprints and facial images. Based on European biometric technology, this new system will primarily serve the identification needs of the new European Entry-Exit System, thus forming the cornerstone of the protection of European borders.³⁹⁶

- **First phase: testing of facial recognition technology** In 2019, Spain's Government Delegation in Melilla announced the installation of facial recognition cameras on the border between Melilla and Morocco as part of the preliminary launch of the "smart border".³⁹⁷
- **Second phase: implementation of the entry-exit system (EES)**. Manual Control Points (PCMs) set up in staffed border checkpoints will be equipped with Thales' EES border control software and document verification and fingerprint recognition devices, with both of these being built into a totem or facepod with a facial recognition system. **Thales**, in collaboration with the company **Zelenza**, has been awarded a contract by the Spanish Ministry of the Interior to provide more than 1,500 devices that will be installed in the PCMs at all border crossings.

Work will be completed in the next eight months, during which these modern systems will be deployed in airports, ports and land crossings throughout Spanish territory. Funding will be provided via the country's Interior Security Fund.³⁹⁸

In addition, **NTT Data**, better known as **Everis Spain SLU**³⁹⁹, was awarded a tender for systems management, software, hardware and the necessary development for its use, for the implementation of a new electronic entry-exit registration system and its connection to the central EES. The contract awarded is worth more than 7 million euros, and covers a period of 4 years.⁴⁰⁰

Far from being neutral, the deployment of controversial biometric technologies – in a move that may also be a first step prior to its extension to all security areas – has alarmed experts, researchers and activists, among them, those who published a manifesto signed by more than 40 organisations in January 2022. The manifesto warned of the risks to fundamental rights posed by installing and standardising this type of technology which, in addition to gathering highly sensitive data without consent, shows clear racist biases.⁴⁰¹

396 Neil Walker, "IDEMIA and Sopra Steria chosen by eu-LISA to build the new Shared Biometric Matching System (sBMS) for Border Protection of the Schengen Area". Border Security Report, 2020, www.border-security-report.com/idemia-and-sopra-steria-chosen-by-eu-lisa-to-build-the-new-shared-biometric-matching-system-sbms-for-border-protection-of-the-schengen-area/

397 Europa Press "Instalan cámaras de reconocimiento facial en la frontera entre Melilla y Marruecos. Europa Press, 1 December 2019, www.europapress.es/ceuta-y-melilla/noticia-instalan-cameras-reconocimiento-facial-frontera-melilla-marón-mejora-paso-pedatonal-20190819163148.html

398 Alberto R. Aguilar, "Las fronteras inteligentes de Ceuta y Melilla empezarán a hacer controles de reconocimiento facial a partir de mayo de 2023". Business Insider. 1 December 2022, www.businessinsider.es/espana-tendra-facial-recognition-fronteras-may-2023-1162810

399 Contratación del Estado. Anuncio de formalización de contrato. Plataforma de contratación del sector público. 2023. contractaciondelestado.es/wps/wcm/connect/94659291-438f-4904-a9bf-a905932a5126/DOC_FORM2021-688548.pdf?MOD=AJPERES

400 Government of Spain. Consejo de Ministros. October 2022, www.lamoncloa.gob.es/consejodeminstros/referencias/documents/2022/refc20221004cc.pdf

401 Manifiesto 'Fronteras Digitales'. "La implantación de la Inteligencia Artificial en frontera y la vulneración de derechos". January 2022, fronterasdigitales.wordpress.com/

7. Current migration issues in Morocco

Morocco is considered a country of origin, transit and also reception of migrants, mainly from West and Central Africa. In addition, it receives not only Moroccan nationals deported from the European Union, but also deportees from third countries removed from Spain, in accordance with the 1992 agreement between the two countries. Morocco is also a country marked by emigration. According to the United Nations, approximately three million Moroccans live in EU countries, and each year an estimated 20,000 people pass through Moroccan territory on their way to the EU. In this context, the number of Moroccan nationals arriving in Spain by irregular routes – via both Ceuta and Melilla and the Canary and Balearic Islands – is significant.⁴⁰² In addition, young Moroccans and other North Africans, as well as Yemenis and Syrians, continue to risk their lives in order to reach Ceuta and Melilla. Migration analysis in Morocco is therefore complex and involves taking into account the situation of Moroccan and third-country nationals and their distinct migratory backgrounds.

According to the United Nations High Commissioner for Refugees (UNHCR), Morocco currently hosts 18,102 refugees and asylum-seekers from 48 different countries, the majority Syrians⁴⁰³, but with a significant number from other countries in Africa. **Morocco’s migration policy is complex, and can only be understood by taking into account the country’s role in the management and governance of outsourced and instrumentalised international migration, and the country’s relations with its African counterparts.**⁴⁰⁴ It is also important to take into account the human rights situation in the country, both for Moroccans and for third-country nationals. In short, Morocco represents a highly complex backdrop in terms of the migration of those who depart from its territory on their way to the EU and Spain.

Tarajal beach (2023).

Caleidoscopia
Proyectos



Morocco is home to the African Observatory for Migration (AOM) – established in December 2020 by the Moroccan Government together with the African Union (AU) – and has a National Migration Observatory. However, these institutions

402 Martín M, and Grasso, D. “Radiografía de los desembarcos en patera” <https://elpais.com/espana/2020-08-16/radiografia-de-los-desarcos-en-patera.html>, El País, 17 August 2020

403 UNHCR, “Morocco factsheet 2023” <https://reporting.unhcr.org/document/4446>

404 See Chapter 1, regarding instrumentalisation of migration and outsourcing of borders.

do not systematically publish information on migration or on the situation of migrants in the country, nor do they provide data on the arrest or deportation of migrants. Data is scarce and fragmented and therefore does not allow for comprehensive study. A lack of disaggregated data also hinders analysis from a gender and intersectional perspective, insofar as it does not allow for the appraisal of human rights violations that specifically affect especially vulnerable groups such as migrant women, children and LGBTQI+ people. Nevertheless, the monitoring work and information provided by local and international organisations facilitates an analysis of the current overall human rights situation of migrants in the country.

Over recent decades and as a neighbouring country of the EU, Morocco has developed a system of protection for migrants and refugees, and, in parallel, a regulatory framework for security and deportation. **Migration policy has materialised against a backdrop of externalisation via formal and informal agreements with other countries – both EU and African – as well as a permanent diplomatic dialogue that has directly influenced migration control.** In other words, since the 2000s and as part of the externalisation of border control, Morocco has progressively developed a protection system and in parallel a system of control, containment and deportation of unwanted migration.

7.1. Containment of migration and deportation in Morocco

Containment and deportation are formalised in Law 02-03⁴⁰⁵ “on the entry and stay of foreigners in the Kingdom of Morocco, irregular emigration and immigration” (Dahir No. 1-03-196), with a **clear focus on national security and, by extension, the criminalisation of migration.**⁴⁰⁶ This law was taken to task by human rights organisations, mainly because it criminalises migration by irregular means and any facilitation thereof. **This means that people leaving the country by irregular means, whether Moroccan nationals or otherwise, can be charged and tried as criminals.**

Melilla (2022).

Valentina Lazo



405 Maroc: Loi n° 02-03 relative à l'entrée et du séjour des étrangers au Royaume du Maroc, à l'émigration et l'immigration irrégulières, 11 November 2003

406 Nadia Khrouz, L'Étranger au Maroc. Droit et pratiques, (Paris: L'Harmattan, 2019)

This law makes provisions for deportation in its Articles 21 (return to the border) and 25 (expulsion), while protecting pregnant women and children (Article 29). **In practice, both returns to the border and expulsions are carried out unlawfully.**⁴⁰⁷ Despite backing from the courts, human rights organisations have spoken out against arbitrary practice in expulsions and returns to the border and a lack of registration, notification and documentation of these, in violation of the law itself and in flagrant disregard of international human rights treaties.

The **use of non-formal detention and internment centres for the management of deportations and forced displacement to the interior of the country by the Moroccan authorities has been identified.**⁴⁰⁸ Such displacements are usually made by bus from police facilities or non-formal detention centres to regions far from the points at which the majority of departures to Spanish territory start. As such, they tend to be made from cities in the north (Nador, Tangier) and eastern regions of the country (Oujda), as well as from Laayoune and Dajla, to inland cities such as Taza, Chefchouen, Beni Melal, Casablanca and Rabat. **Once in these cities, the authorities force migrants to disembark, and abandon them without any resources or means of subsistence.**

A range of renowned human rights organisations such as Euromed Rights⁴⁰⁹, Amnesty International⁴¹⁰ and Human Rights Watch and specialist UN agencies⁴¹¹ **have pointed out the serious human rights violations affecting black migrants in Morocco in particular.** As pointed out by Médecins Sans Frontières (MSF), this has been recurring for decades, with the organisation highlighting that “abuse, humiliating treatment and violence against sub-Saharan migrants by Moroccan and Spanish security forces [has] skyrocketed”.⁴¹² **Multiple acts of violence, raids, forced displacements, express deportation, assaults and/or deportations have continuous and long lasting impacts on migrants.**⁴¹³

This was seen again in Nador in the periods both before and after 24 June 2022, with a particular increase in pressure, raids and violence in the days leading up to events. Some 48 hours beforehand, increasing brutality placed those who had fled to surrounding woodland areas in danger.⁴¹⁴ According to local authorities, efforts were made to evacuate these areas within 24 hours. This already unsustainable situation may have spurred people to head towards the fence, specifically in the Barrio Chino area.

Research for the present report has shown that this practice continues, at the very least, in Nador, Oujda, Dajla, and El Aaiún. In particular, a witness interviewed during this investigation stated that they were pushed back by the Guardia Civil

407 Daniela Lo Coco and Eloísa González-Hidalgo, “La doble lógica de la externalización europea: protección y deportación en Marruecos”, *Revista CIDOB d’Afers Internacionals*, n.129 (December 2021), 79-106.

408 *Ibid.*

409 EuroMed Rights, Chapter 2 “Returns Spain to Morocco” (2021), https://euromedrights.org/wp-content/uploads/2021/04/EN_Chapter-2>Returns-Spain-to-Morocco_Report-Migration.pdf

410 Human Rights Watch, “Morocco and Western Sahara Events of 2022”, (2023), <https://www.hrw.org/world-report/2023/country-chapters/morocco-and-western-sahara>

411 OHCHR, A/HRC/41/54/Add., “Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance”, 28 May 2019 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/148/73/PDF/G1914873.pdf?OpenElement>, p. 16

412 Médecins Sans Frontières, Violence, Vulnerability and Migration: Trapped at the Gates of Europe, (2013), 3 https://www.msf.es/sites/default/files/legacy/adjuntos/InformeMarcó2013_CAST.pdf

413 Daniela Lo Coco and Eloísa González-Hidalgo “La doble lógica de la externalización europea: protección y deportación en Marruecos”, *Revista CIDOB d’Afers Internacionals*, n.129 (December 2021), 79-106

414 Caminando Fronteras, Masacre Nador-Melilla 24 de junio de 2022, (2023), <https://caminandofronteras.org/wp-content/uploads/2023/01/Informe-Masacre-Nador-Melilla-EN.pdf>

from Melilla after crossing the border on 2 March 2023 and handed over to the Moroccan authorities, who detained them at a police station along with approximately 20 other individuals, pending forcible displacement by bus. The vehicle was entirely occupied by black migrants who had been detained in the city of Nador and areas near the fence. None received medical care during detention or forced displacement, nor did they receive legal aid as provided for by Law 02-03.

Belyounech (Morocco) seen from Ceuta (2022).

Valentina Lazo



Upon arriving in Chefchouen, the witness states that they were abandoned without shoes nor any means of survival. This type of displacement, a flagrant violation of human rights, chiefly affects black migrants, asylum seekers, refugees and even children and adolescents. Subsequently, this modus operandi was applied in the cities of Dajla and El Aaiún to the north, particularly with the reactivation of the Canarian route from 2020, and following the growing gridlock in the north of the country.

In Morocco, sustained and continued recourse to these practices by the authorities has specifically affected black migrants who, especially in the Nador region, are forced to dwell in woodland areas adjacent to urban centres.⁴¹⁵ Some of these people manage to access housing through their own efforts. Lack of protection for vulnerable migrants, especially women and children, is particularly worrying. Forced displacements by authorities reflect and call into question the inadequate protection afforded to black migrants, refugees and asylum-seekers, who are among the most affected.

7.2. Protection in Morocco

With regard to international protection and asylum, Morocco ratified the 1951 Geneva Convention relating to the Status of Refugees in 1956, with Royal Decree 5-57-1256 laying down provisions for its implementation. The legal and administrative protection of refugees is entrusted to the Office of Refugees and

⁴¹⁵ Daniela Lo Coco and Eloísa González-Hidalgo, “La doble lógica de la externalización europea: protección y deportación en Marruecos”, *Revista CIDOB d’Afers Internacionals*, no. 129 (December 2021), 79-106

Stateless Persons (BRA)⁴¹⁶, which grants refugee status to those under UNHCR's mandate or who meet the criteria of the definition of 'refugee' as stipulated in the Geneva Convention. The application of these laws was suspended from 2004 to 2013, following new migration policy announced by Morocco, as set out below.

In 2011, the Moroccan Parliament amended the Constitution, reaffirming the country's commitment to human rights and establishing the primacy of international conventions over domestic law. In addition, 2013 saw the proposed introduction of the National Immigration and Asylum Strategy (SNIA), which consisted of the extraordinary regularisation of about 50,000 people and the strengthening of the role of UNHCR in asylum procedures and the social integration of migrants and asylum seekers. As such, since 2013 Morocco has acknowledged management of refugee claims by UNHCR at its sole headquarters in the city of Rabat, and in the rest of the country by the BRA.

However, **legislative changes in the protection of migrants and refugees in Morocco have not translated into practice in a way which upholds human rights for these people.** Indeed, beyond these groups in particular, **the overall situation of human rights in Morocco⁴¹⁷ gives cause for concern on a number of grounds.** A number of human rights organisations have identified possible causes for the forced displacement of both nationals and non-nationals to other countries. Examples of these include **issues related to political and social activism, freedom of expression, sexual freedom, gender discrimination and the criminalisation of LGBTQI+ people⁴¹⁸** via Article 489 of the Criminal Code, which criminalises consensual sexual relations between persons of the same sex/gender. These examples of discrimination constitute a serious violation of the rights of those affected insofar as they constitute reason for persecution and, therefore, may result in forced displacement of both Moroccan nationals and non-nationals who find themselves in the country.

Lastly, it is worth highlighting **the situation of healthcare access for migrants, in particular, pregnant women.** Human rights organisations have noted that, despite legislative guarantees for health care during pregnancy and childbirth, there are obstacles in accessing free-of-charge public health services. Many pregnant migrant women travel to Nador in order to be able to receive free care during childbirth and in the postpartum period from religious charities. Organisations working in Laayoune and Dajla also note that some women choose to move to the city of Nador to give birth. **Healthcare provision for migrants is poor, and often involves travel that puts these people at increased risk.**

7.3. Routes

The outsourcing of border control, coupled with the lack of legal and safe routes, pushes migrants to take extremely long and dangerous journeys. Migration routes to the EU from Asia or Africa sees people arrive in Greece, Poland, Italy, the Balkans or Spain in search of protection and a better life. These routes are interdependent. This means that, when border control policies lead to the closure of one of them, pressure is put on the others. **Interdependence between routes is a fundamental factor in understanding migratory movements.**

416 CEAR, "Informe Marruecos", 2015 https://www.cear.es/wp-content/uploads/2016/11/informe_mar%C3%A9_2015_definitivo.pdf

417 HRW, "Morocco", <https://www.hrw.org/middle-east/north-africa/morocco/western-sahara>

418 Kif Kif, Informe sobre la situación del colectivo LGTBI en Marruecos, (2022), <https://kifkif.info/wp-content/uploads/2022/02/Informe-pai%CC%81s-Morocco.pdf>

Passage through Libya

On 24 June 2022, refugees from Sudan, South Sudan, Chad and Niger, among other countries, were dwelling in woodland areas in Nador. Those who find themselves in these areas, seeking protection, had arrived via Libya. In March 2023, the United Nations High Commissioner for Human Rights expressed concern about migrants' human rights in Libya, citing evidence of systematic torture of migrants and refugees, sexual slavery and crimes against humanity committed against them.⁴¹⁹ It is important to highlight that these people had already travelled to and were deported from Melilla's Barrio Chino area. **The concentration of people seeking to cross into Spain from Morocco is directly linked to increasing European efforts to close the Central Mediterranean route through Libya**, in an attempt to alleviate the situation of human rights violations of migrants currently living in the country.⁴²⁰

A Sudanese man consulted during this investigation, provided testimony in which he explained that the quickest route out of Sudan is to Libya. On his migratory journey, he crossed through Libya with other companions trying to reach Italy via the Mediterranean. **He explained that, during his time in Libya, he suffered robberies and arrests by the country's militias, in addition to being pushed back several times from the coast.** These pushbacks led him and his companions to try their luck in Morocco. His statements provided further evidence for the dangers faced by migrants as a result of a lack of legal and safe pathways, specifically in Libya: "if you are detained, you are deported back to Sudan." "Migrants suffer a lot in Libya", he asserts. "When you try to cross the Mediterranean Sea, if the militias catch you, they take you to jail. The situation in Libya is very tough. People are really suffering, but they cannot return to Sudan, and this is why they continue on their way to Tunisia or look for another way to reach Algeria."

In September 2022, the research team also met with three survivors of the events of 24 June in Melilla, together with members of the European Parliament on an official visit. These survivors explained that, while passing through Libya, **they were deported on several occasions by Libyan militias operating at sea, in addition to reporting being held in detention centres in inhumane conditions.** It was at this point that they decided to continue to Morocco in order to apply for asylum in Spain. This **points to a direct relationship between the closure of the EU's external borders and the Central Mediterranean route through the externalisation of borders in Libya and the arrival of people from Sudan and South Sudan to Morocco and, subsequently, to the border with Spain.** The EU has committed to the outsourcing of migration management to the Libyan authorities⁴²¹ despite continued warnings from the United Nations regarding the flagrant human rights violations and crimes against humanity affecting migrants and refugees in the country.⁴²²

419 OHCHR, "Libya: Urgent action needed to remedy deteriorating human rights situation, UN Fact-Finding Mission warns in final report", 27 March 2023, <https://www.ohchr.org/en/press-releases/2023/03/libya-urgent-action-needed-remedy-deteriorating-human-rights-situation-un>

420 Human Rights Watch, "Already Complicit in Libya Migrant Abuse, EU Doubles Down on Support", 8 February 2023, <https://www.hrw.org/news/2023/02/08/already-complicit-libya-migrant-abuse-eu-doubles-down-support>

421 ECRE, "Med: EU Report Calls for Continued Cooperation with Libya, UN SG Warns of Thousands Illegally Detained in 'Inhumane' Conditions, Civilian Rescues Continue Yet Death Toll Mounts", 28 January 2022 <https://ecre.org/med-eu-report-calls-for-continued-cooperation-with-libya-un-sg-warns-of-thousands-illegally-detained-in-in-inhumane-conditions-civilian-rescues-continue-yet-death-toll-mounts/>

422 OHCHR, "Migrants and refugees crossing Libya subjected to 'unimaginable horrors'", 28 December 2018 <https://www.ohchr.org/en/press-releases/2018/12/migrants-and-refugees-crossing-libya-subjected-unimaginable-horrors-un>

Recent research points to direct cooperation between Frontex and Libyan militias in the detection and interception of migrant boats fleeing Libya in order to send them back to the country.⁴²³ The three survivors interviewed report having undertaken such journeys by sea to Italy, and having been returned by Libyan militias. They also claim to have been held in detention centres in Libya, a fact that may have proven decisive in changing their route to Morocco in search of protection.

Oujda-Algeria border

The border between Algeria and Morocco is currently closed due to the conflict between the two countries over the sovereignty of Western Sahara. This border is delimited by a fence and a moat about 4 metres deep that extends alongside it.⁴²⁴ Despite the closure of this border, given the lack of legal and safe routes, many people cross irregularly from Algeria to Morocco.

Both local organisations and migrants report that, due to the repression to which they are subjected on this journey by the authorities of both countries, crossings **have moved from a lower-lying and more clement area near the city of Oujda towards Ras Asfour**, a mountainous area about 30 km to the south which sits at an altitude of some 1,146 metres. **Altitude and extreme cold have been the cause of many deaths, although according to local organisations many more people disappear on the way, with their deaths going unrecorded.**

Over December 2022, at least 7 people died in attempts to cross the Ras Asfour mountains in Oujda.⁴²⁵ The Association for Aid to Migrants in Difficult Situations in Oujda (AMSVO) undertakes the work of identifying bodies and searching for missing migrants in collaboration with their family members. AMSVO has spoken out about deaths on this border of third-country nationals travelling from Algeria to Morocco, as well as of Moroccan nationals leaving for Algeria in order to attempt to cross the Mediterranean in small boats via the Algerian route who die on the way or at sea.

One Sudanese interviewee explained that the moats surrounding the fence and the violence exerted by the authorities make it very difficult to cross the border at its points closest to the city. For this reason, they decided to enter Morocco via the mountain pass, something they described as “truly horrible”. The border areas closest to the city of Oujda, sitting at a lower altitude and with a more temperate climate, are very dangerous. The police of Morocco and Algeria, according to the interviewee, “don’t hold back”. They added that “the police are very dangerous for migrants.” The situation in Algeria is similarly harsh, with permanent risk of arrest and deportation. “The Algerian police stop you and send you to Niger.” There are regular deportations from Algeria to Niger: “They take you by bus regardless of whether you are injured or sick [and] they deport you”.

People who enter Morocco from Algeria through the city of Oujda tend to be on their way to other places in Morocco or Europe. Consequently, many of those in transit pass through the city and only stop to regain strength before continuing on their way. Migration from Sudan is relatively new in Morocco. According to

423 Lighthouse Reports, “Frontex in the Central Mediterranean”, 29 April 2021, <https://www.lighthouse-reports.nl/investigation/frontex-in-the-central-mediterranean/>

424 Algeria Watch, “Frontière algéro-marocaine: Après le grillage... le mur en acier”, 13 August 2016 <https://algeria-watch.org/?p=37112>

425 Infomigrant, “Sept migrants retrouvés morts à la frontière entre l’Algérie et le Maroc”, 28 December 2022 <https://www.infomigrants.net/fr/post/45732/sept-migrants-retrouves-morts-a-la-frontiere-entre-lalgerie-et-le-maroc>

local organisations, an increase in immigration from Sudan was observed during 2022. These people spend the night in Oujda on the street and in informal camps, with support and basic essentials provided by local residents, before continuing on their way to other cities. This situation may be a consequence of the lack of connection of the Sudanese community with Francophone and Anglophone migrant communities, whose migratory history in Morocco is longer standing. The Catholic Church in Oujda also offers migrants in transit support and a place to rest, recover and be able to continue their journey. It also provides specific support for women in general, and mothers in particular.

Border between Morocco and Spain

Following the events of 24 June 2022, Moroccan authorities arrested dozens of migrants around the border perimeter and in the city of Nador. Those arrested and tried in accordance with Law 02-03 were aided by NGOs, namely the Association Marocaine des Droits Humains (hereinafter AMDH) and the Groupe Antiraciste de Défense et d'Accompagnement des Étrangers et Migrants (GADEM). As part of their work, these organisations monitored the criminal proceedings and noted any human rights violations. **AMDH and GADEM provided assistance to around 75 migrants who were detained on 24 June and brought before the courts in Nador for criminal or minor offences.**⁴²⁶ Their cases have been brought before the Lower Courts and the Court of Appeal in the Moroccan city of Nador. Of these 75, 15 people faced the highest possible penalties, having been accused of ten different crimes including “obstructing” security forces during raids on the eve of the Melilla tragedy, on 23 June, in the Iznuden woodland area about 20 kilometres south of the Spanish city.

The detained migrants were accused of clandestinely organising or facilitating the entry and exit of nationals and non-nationals from national territory, an offence under Article 52 of Law 02-03. 33 people were sentenced for this crime and for harassment of public officials on 19 July, in the city of Nador, and handed a fine of 500 MAD (approximately 50 euros). On 4 August, 14 people were sentenced to eight months in prison for crimes such as violence against the authorities, disobedience and insulting public officials. On 17 August, the Nador Court of Appeal sentenced another 13 migrants to two and a half years in prison for their involvement in attempting to breach the border fence. Finally, 13 were sentenced for crimes of criminal conspiracy to organise clandestine emigration, violence against public officials, disobedience and armed agglomeration. The penalties for these offences set out in Article 52 range from 10 to 15 years imprisonment (Article 53). Nevertheless, the organisations following these trials point out that, by and large, these sentences were lighter than those seen in trials of migrants for other offences. They highlight that these were express trials, with sentences of between 6 months and two years in prison.

Beyond that faced by those directly affected by the events of 24 June, **the repression of black migrants by the Moroccan authorities has been especially widespread and severe in the north of the country.** Police raids and brutality, along with arrests and forced displacements, have closed off the entrance to Melilla from Nador and complicated black migrants’ transit in the North and Eastern regions of Morocco. According to the organisations consulted, after 24 June, pressure has intensified on black migrants, who are forbidden from buying train or bus tickets or accessing any other type of transport to the cities in the north of the country.

⁴²⁶ Agencias, “Juzgados o condenados en Marruecos 75 emigrantes por el salto a Melilla”, La Vanguardia, 10 September 2022 <https://www.lavanguardia.com/vida/20220910/8515077/juzgados-condenados-marruecos-75-emigrantes-salto-melilla.html>

Human rights organisations attest to increased **raids, arrests and forced displacements of women and children following 24 June**, a practice already in place over the past decade.⁴²⁷ Research for the present report confirms the arrest and forced displacement of black migrant women in buses, following the same system of displacement of men mentioned previously. **Some of the women detained and displaced are carers for children and adolescents, leading to increased vulnerability of those affected. Local organisations have reported 2 cases of women caring for children who were arrested and displaced from Nador, resulting in the children being separated from them and placed at extreme risk.**

Forced displacement of black migrants from woodland and urban areas in the north to cities in the south has led to the construction of settlements such as the one in Ouled Ziane near the bus station in Casablanca. As local organisations have highlighted, these settlements are characterised by unsanitary conditions⁴²⁸ and the indiscriminate criminalisation of those who reside there, something which – on top of the specific criminalisation of the Sudanese community in Morocco and the authorities’ lack of attention to deteriorating conditions – has contributed to rising racism against settlement residents.⁴²⁹ **This was reflected in the violence employed by the Moroccan authorities in attempts to evict the settlements in January 2023.**

As a result of increased repression in the north, the route of the mostly black migrants has moved south in an attempt to reach European territory via the Canary Islands route.⁴³⁰

Melilla (2022).
Valentina Lazo



427 OHCHR, A/HRC/26/37/Add.3 Informe de la Relatora Especial sobre la trata de personas, especialmente mujeres y niños, Joy Ngozi Ezeilo, 1 April 2014 <https://undocs.org/A/HRC/26/37/Add.3>

428 Salaheddine Lemaizi, “Ouled Ziane, Réalités des squats de migrants”, Ennas, 17 January 2023 <https://enass.ma/2023/01/17/ouled-ziane-realites-sur-les-squats-de-migrants/>

429 GADEM, “Journée internationale pour l’élimination des discriminations raciales – 2023”, <https://www.gadem-asso.org/journee-internationale-pour-lelimination-des-discriminations-raciales-2023/>

430 See Chapter 4. Human rights violations on Spain’s southern borders, section 4.2. Canary Islands.

8. Conclusions

1. Context and Framework

1. In 2022, the United Nations High Commissioner for Refugees (UNHCR) publicly expressed their concern about the increase in violence and human rights violations in the EU and the growth of “dehumanising tactics” in migration governance. **Human rights violations on borders are a direct consequence of the action or inaction of state authorities**, given that border control and management is their responsibility. It is the authorities themselves – in exercising physical and psychological force, with the attendant consequences these can have on the physical and psychological wellbeing and fundamental rights of migrants – who create the conditions for human rights violations on borders. **Without states which act to prevent people’s movement, there are no migratory crises.**
2. It is undeniable that there is a link between the implementation of restrictive immigration policies and the deaths and disappearances of thousands of people. Current migration policies push those who migrate towards extremely dangerous routes. They also lead to the denial of the fundamental rights of groups of people from regions in the global South, as part of what has been called necropolitics. **Restrictive migration control measures and the daily litany of deaths and disappearances along the border can only be understood by applying a post-colonial analysis which links migration policies with the racist structures and history of colonial domination that precede them.** As part of this worldview, some lives are worth more than others, and racialised bodies, classed as inferior, are at the mercy of disproportionate levels of violence and exceptionalism. **In Spain, the Immigration Act provides for the disenfranchisement, detention and deportation of the groups racialised by it, who by and large come from countries historically subject to colonial domination.**
3. Likewise, human rights violations and deaths at borders have become a fundamental part of migration management. Despite the fact that access to truth, justice and reparation are basic principles of a democratic and law-abiding country, there is no political will in Spain to investigate and facilitate access to information on these matters. On the contrary, at present, we are seeing intolerable levels of impunity and exceptionality in the face of serious violations of rights at the border, as evidenced by the repeated shelving of investigations into the deaths which occur there. Against the backdrop of widespread violations of fundamental rights, UN human rights monitors point to the need to establish fully-independent national border oversight mechanisms.
4. The “instrumentalisation of migration” is a consequence of the externalisation of border control, and is therefore something which occurs in countries bordering the EU. The term refers to the use of migration as a weapon for political pressure in a wider context. When border management is handed over to third countries, the ability to exert political pressure and influence in other matters is likewise transferred to them. Understanding this is essential if we are to be able to analyse the relations between the EU, Spain and Morocco, as well as Algeria, insofar as these relations are determined by geopolitical strategic interests. As such, **in order to understand what is happening in relation to migration on Spain’s southern border, we must understand the political agenda behind it.**

5. **EU migration policy has deepened a drive towards outsourcing and containment on its external borders, creating areas where people are virtually immobilised or, at the least, see their movement significantly hindered.** This hindrance or containment of movement is the result of the restrictions made on them, in the form of bureaucratic measures as well as arrest, detention, deportation and blockades. Such phenomena can be found both within Spanish territory – usually at border crossings – and in transit countries, as is the case of Morocco. **The containment of migration is exercised via mechanisms and structures through which freedom of movement is limited or directly blocked: fences, trenches, checkpoints, bureaucratic procedures, arrests and deportations.**

2. An overview of Spain's southern border: containment

1. **Containment facilities are characterised by opacity in terms of the legislation that governs them, as well as their internal protocols and practices. In Spain, these facilities include Immigration Detention Centres (CIE, in Spanish), Temporary Stay Centres for Immigrants (CETI), Temporary Reception Centres (CATE) and other migration centres.** Together, they form a complex bureaucratic web that makes it very difficult for migrants to know where they stand legally, who their lawyers are and where to find them, how long they might remain in the facility, when they might be deported, and how to communicate with their relatives. The opacity surrounding these centres underpins arbitrary conduct by the authorities and causes migrants feelings of uncertainty, distress and loss of control. Case backlogs have a significant impact on the mental health of migrants who are subject to inhumane conditions and high levels of uncertainty for up to years at a time.
2. Human rights organisations and reports by Spain's national ombudsman, acting as the country's National Preventive Mechanism against torture (NPM), have repeatedly pointed to **CATEs as spaces in which human rights violations occur.**
3. To mention only a few such examples, the 2017 NPM report highlights shortcomings in facilities, overcrowding and inappropriate cells for reception. In 2018, the NPM reiterated the "need to implement joined-up facility management that guarantees fundamental rights". Separately but also in 2018, the NPM reported "an absence of suitable space for legal visits, which were carried out in a few minutes and without the possibility of confidential conversation between the lawyer and those to whom assistance was provided". **This forms part of a pattern which must be addressed in order to ensure that human rights violations are not repeated.** In 2021, the NPM signalled that **"the detention of migrants should be exceptional and proportionate"** and that **"it should only be used as a last resort, after a thorough examination of each case on an individual basis"**, adding that the use of detention should be periodically examined and alternative non-custodial measures considered and adopted, particularly given that "those rescued at sea or detained on the coast require specific and differentiated attention".

3. Methodology: difficulties in human rights monitoring on Spanish borders

1. Many obstacles can emerge when carrying out human rights research into the institutional violence suffered by migrants in border regions. The fundamental challenge is attempting to access information on institutional violence, given the **lack of political appetite – despite professed democratic ideals – for bringing such cases into the public spotlight**. Official, publicly accessible information on irregular crossings is hard to come by, and official data is fragmented and incomplete. Moreover, **data is not broken down according to nationality, gender, age or place of arrival, making intersectional analysis difficult**.
2. In the absence of official data, **networking and collaboration between human rights organisations and activists engaged in monitoring on Spain’s southern border** have been key in collecting and systematising information and highlighting the human rights violations which take place there. **This report is based on complementary information provided through joint work by a range of organisations using various methods, including the sharing of complaints to the Ombudsman** made from different areas along the border.
3. Monitoring of the Ombudsman’s rulings as part of a wider appraisal of the human rights situation on the southern border has **shown that many of the recommendations issued do not materialise in real changes where migration issues are concerned**. Recommendations are repeated over the years without any substantial or preventive efforts to address human rights violations being made by the authorities.

4. Human rights violations on Spain’s southern borders

1. Ceuta and Melilla share similar characteristics in terms of migration control measures and facilities: technology, fences, surveillance systems and police presence along the border perimeter. These territories form the only land border between the African continent and the European Union. This has seen the two cities become the focal point of **repeated human rights violations, with express deportation practices, lack of clarity regarding access to asylum, shortcomings in reception, lack of protocols and transparency in CETIs and repeated, disproportionate and – on occasion – unauthorised use of force by state security forces all having been identified**. For decades, these two cities have been singled out as an example of continuous exceptionalism, and for the recurrent violations of migrants’ rights that occur within their boundaries.
2. In 2021, 2,588 people entered Ceuta and Melilla by non-official and unsafe channels. In 2022, this figure was 2,582, according to data from the Ministry of the Interior. 3,157 asylum applications were made in Ceuta and 3,277 in Melilla in 2021. There is no homogeneous, nationwide asylum procedure in Spain. While in the rest of the country people face great difficulties in accessing asylum services, in Ceuta and Melilla there are no delays. In terms of claiming asylum, the principal difficulty for people in Morocco, and in particular for non-nationals and black people, is crossing the border itself. As such, “there is no genuine and effective access to asylum at the border, unless life is put at risk [by] swimming or jumping the fence”, as the Council of Europe’s Human Rights Commissioner pointed out on their last visit. Secondly, there is a degree of

arbitrary application both at the border and within Spanish territory of asylum protocols established in Act 12/2009, of 30 October, which sets out the right to asylum and subsidiary protection.

3. **Both in Ceuta and Melilla, summary or express deportations are carried out without an individualised analysis of cases and without a thorough identification of possible vulnerable persons such as children, victims of trafficking or applicants for international protection.** This represents a failure to uphold international agreements, as well as the jurisprudence of Spain's Constitutional Court (TC) and the European Court of Human Rights (ECHR). Moreover, such actions could be construed as a violation of the rights to life, physical wellbeing and protection from degrading treatment, as well as the right to asylum and the right to effective judicial protection. Despite two years having passed, the Ministry of the Interior has still not adapted the protocols governing state security forces' operations to the Constitutional Court ruling STC 172/2020, of 19 November 2020. This has given rise to a situation of overwhelming legal uncertainty, with potentially unconstitutional border push-backs and expression deportations such as those identified by the ombudsman in relation to events on 24 June 2022, when 470 people were deported.
4. **Express deportations do not only occur at land borders: the practice has also been detected at sea.** One example of this occurred in August 2021, when 41 people arrived on Isla de la Tierra, in the Alhucemas archipelago. Of these, 20 were women (3 of them pregnant), and 6 were children. A Guardia Civil Underwater Activities Group (GEAS) was deployed and transferred by helicopter to the island to proceed with their deportation, with the aid of the Gendarmerie of the Kingdom of Morocco (GRM).
5. **Moroccan nationals are not generally admitted to CETIs in Spain.** In addition, there is evidence of recurrence of expulsion as a punitive measure against CETI residents. It has been found that residents expelled from these centres have been left homeless for varying periods of time. At least three cases of unlawful violence perpetrated by private security guards in the CETI located in Melilla have been identified.
6. Ceuta and Melilla are the two autonomous communities of Spain with the highest rate of children in the care system in relation to their overall population. Shortcomings in temporary resettlement centres for non-adults in these cities cause many children in care to leave them, leading to situations of neglect. **Despite the existence of police action protocols for dealing with non-adults who have disappeared, organisations working in Ceuta and Melilla claim that these are not applied when children abandon their assigned resettlement centre.** This results in child and adolescent homelessness, without any measures being taken to locate them for their protection. Another significant risk for children and adolescents is the phenomenon known locally as "risky", denoting any attempt to cross the Strait of Gibraltar by stowing away in the undercarriage of a transport vehicle. **Attempts to deal with this phenomenon have turned the ports of Ceuta and Melilla into hot spots of violence against children and adolescents by the Policía Nacional, the Guardia Civil and port authorities.**
7. The deaths of at least 40 people, the disappearance of about 80, and the extrajudicial deportation of a further 470, added to the several dozen injured who attempted to access the autonomous city of Melilla on **24 June 2022** constitute, without a doubt, **the most serious mass human rights violation**

in which Spain has been involved in the last decade, as well as the greatest tragedy in terms of number of deaths at a European Union land border. The magnitude of events contrasts, however, with the responses from Spanish, Moroccan and European authorities, all of whom have failed to carry out prompt, thorough and exhaustive investigations.

8. The actions of state security forces focused on the containment of those who had managed to cross the initial checkpoint and who, once through the enclosure, attempted to climb the fence surrounding Melilla's border facilities. Officers **did not focus their attention at any time on trying to rescue people who were initially in danger and subsequently at risk of death** as a result of the surge caused when a gate was torn down during baton charges by Moroccan security forces. **The serious consequences of the joint police intervention by forces from both countries may fall under the offences of injury, degrading treatment, obstruction of justice, failure in the duty to assist and even manslaughter, and must be investigated by the courts.** Without precedent, the Prosecutor's Office has failed to transfer its investigation proceedings to the Investigating Court of Melilla, which is undoubtedly aware of the case as a result of public interest in it, as well as the medical records it has handled. This court is responsible for opening a judicial inquiry into the case, yet there is no evidence that such action has been taken. Similarly, the police have the obligation to inform and initiate the corresponding internal investigations into events which may constitute an offence. It is likewise unknown whether any such information has been passed to the competent investigating courts.
9. **In 2021 and 2022, more deaths occurred in attempts to reach Spanish territory via the Canary Islands than any other route.** A total of 7,692 people have lost their lives on this route in the last five years, according to a report by Caminando Fronteras. In 2022, 1,784 people died on this route, a figure which represents 74.6% of the total 2,390 people who lost their lives attempting to reach Spanish territory. In 2021, 3,939 people lost their lives on the Canary Islands route alone.
10. Multiple actors are involved in dealing with boat crossings, including police forces, the Red Cross, the Canary Islands Emergency Service (SUC) and Maritime Rescue. This multiplicity of actors entails challenges in coordination. Nevertheless, **only the islands of Gran Canaria and Tenerife have a joint port action protocol agreed to by the different stakeholders involved, with the aim of pooling health care resources for new arrivals.**
11. In terms of health care for arrivals by sea, it should be noted that in most cases only Basic Life Support is provided for. As a consequence, initial emergency response is carried out exclusively by the Red Cross personnel, most of them volunteers. **The initial response team deployed by the Red Cross cannot guarantee the presence of medical or nursing professionals, nor professionals specialised in childcare.** Failure to ensure the presence of fully qualified health personnel upon arrival may constitute a violation of the right to health. In terms of mental health, it should be noted that there is currently no active psychological care protocol for shipwreck survivors.
12. Upon arrival to the Canary Islands, those not transferred to hospital are detained and transferred to the CATEs from the dock where they have disembarked. **2021 and 2022 saw numerous human rights violations in these**

short-term detention centres, the paradigmatic case being the CATE that was constructed in a bus company warehouse on Lanzarote, known colloquially as “the warehouse of shame”. Many of the violations which occur in CATEs relate to the right to defence and legal aid, the right to access information and the right to asylum. Cases of mass legal assistance provided to groups by an interpreter on the basis of a shared language – which is to say, assistance without the possibility of privacy – have been detected at these centres. It has also been found that arrivals are not always informed of their right to international protection. In addition, as part of the criminalisation of migration, **new arrivals detained in CATEs are being interrogated without legal assistance** by officers of the National Police Corps and Frontex agents in order to obtain information about people trafficking, modern slavery and terrorism.

13. Despite rulings by the tribunals of Las Palmas and Santa Cruz de Tenerife in April and March 2021 that a deportation order cannot be acted upon after 72 hours following its issue – or after 60 days, in the case of those interned in a CIE – it has been found that **internments in CIEs and deportations by police without the appropriate documentary justification continue to occur.** These deportations have occurred on the basis of months-old orders, and after the person affected has already been freed from custody.
14. Organisations on the ground in Tenerife and Lanzarote indicate that there is a wait of between 3 and 11 months for an appointment to claim asylum, and that the chances of obtaining an appointment vary depending on whether or not the individual resides in an official Plan Canarias centre. In Tenerife, the digitalisation of the asylum appointment process within the wider non-nationals appointments system obstructs the right to asylum. According to those consulted, police engage in the express deportations of individuals who have manifested their intention to seek asylum, demonstrating **inadequacies in the safeguarding of rights such as the right to asylum, legal assistance or effective remedy.**
15. Since 2019, a considerable percentage of displaced people in the Canary Islands are children and adolescents, who have either migrated with relatives or in the care of other adults, or who have done so unaccompanied. Emergency accommodation centres for non-nationals under adult age act as shelters. In addition to **obstacles in accessing the asylum system faced by non-adults in need of international protection, the presence of non-adults in adult centres and adults in juvenile centres has been identified**, despite official documentation verifying their age. Additionally, the ombudsman has raised concerns regarding the **delay in receiving results of age testing**; moreover, this testing is not always accurate. The Ombudsman also drew attention in a 2022 report to the worrying practice of the refusal to issue a registration card to unaccompanied non-national children and young people who are unable to obtain official identification documents before reaching adulthood.
16. The so-called Western Mediterranean route refers to the routes through the Strait of Gibraltar and the Alboran Sea (extending from the coasts of Morocco and Algeria to Andalusia), as well as to those reaching the Spanish Levante and departing from the coasts of Algeria, with boats arriving in Andalusia, Murcia, Valencia and the Balearic Islands. In 2022, there were 12,955 arrivals to the peninsula and the Balearic Islands by sea, 25% less than in 2021, when the figure was 17,341. In turn, Frontex indicates that arrivals to Spain via the Western

Mediterranean route increased in 2021 compared to previous years, reaching 18,466 people, with Algeria being the principal country of departure.

17. In terms of mortality on the Western Mediterranean route, Caminando Fronteras has documented 564 fatalities: 464 on crossings in the Levante area, 75 in the Alboran Sea and 25 in the Strait of Gibraltar. In 2021 there were also 388 fatalities on the Western Mediterranean sea route: 191 in the Levante, 95 in the Alboran Sea, and 102 in the Strait of Gibraltar. In the last five years, the Levante route has become the second deadliest access route to Spanish territory (the first being the Canary Islands), with figures showing at least 1,562 deaths and disappearances on this route between 2018 and 2022. Between 2021 and 2022, there was a two-fold increase in reported mortality on the Levante route, increasing from 3.7% of arrivals in 2021 to 7.3% in 2022.
18. **Strict policing of migration in the area has forced people who undertake journeys to Spain via these routes to leave from points of departure which are increasingly further from the Iberian peninsula**, with increased distances resulting in greater risks in making crossings. Boats which leave from Algeria no longer do so exclusively from Oran or from the cities closest to the Iberian peninsula. Crossings are now also being made from Tipasa and Dellys, points further to the east of the country and therefore at a greater distance from any point on the peninsula or the Balearic Islands, the latter being a more direct crossing.
19. In terms of CIEs, the Algeciras centre in Andalusia is currently operational. In April 2022, the grassroots organisations Algeciras Acoge, Asociación Pro Derechos Humanos de Andalucía and Asociación Claver reported to the ombudsman that CIE officials had engaged in blackmail of asylum-seeking internees, allegedly offering release in exchange for the waiver of their application for international protection. **There has been an increase in investment in CIEs covering the period 2021-2023, with €27,170,000 set aside in successive National Budgets for the construction of a new CIE in Algeciras** which will replace the current centre in the same city and the centre previously located in Tarifa which closed in June 2020. The new CIE is scheduled to have a capacity of 500 detainees, **making it the largest in Spain and one of the largest in Europe.**

5. Psychosocial impacts on the Southern Spanish-Northern African border. The psychological harm of the southern border

1. **After having suffered severe violations of their human rights, migrants arrive at Spain's southern border in vulnerable conditions.** In addition to the damage caused by experiences in their country of origin and in migratory transit, they also face specific issues at border crossings – with risks to their wellbeing and their lives – and upon reception. The reception process is an opportunity for restitution and rehabilitation. States not only have an ethical responsibility to offer comprehensive support as a means of harm reduction, but also a legal responsibility in accordance with international law. Issues arising at reception can be grouped according to three main factors: perceived risk of physical and psychological harm, loss of control (due to disinformation), and inhumane conditions and degrading treatment.
2. **The inhuman, cruel and degrading treatment received upon reception at Spain's southern border is embedded rather than exceptional, and causes significant psychological harm**, frequently resulting in apathy and

demotivation, anger, hopelessness, fear and – in at least one in four cases – self-harm or ideas of suicide. Severe suffering, as defined by the United Nations Convention on torture, arises from conditions upon reception, as well as from the actions taken by the authorities directly responsible for these conditions. In addition, there are indications that a punitive and discriminatory approach is being taken for the purposes of deterring migration. This would appear intentionally so, given that various indicators and data have attested to severe suffering having continued to take place without any effort to revert the situation.

3. **From a psychosocial standpoint, there is a need to offer greater clarity and flexibility upon reception to those arriving on our shores**, as well as to understand the impact of migratory processes and **ensure harm reduction resources are in place in order to guarantee human rights and justice at the border**, and to work to build an inclusive and humanist outlook shared by society as a whole.

6. Surveillance technologies on Spain's southern border

1. **Nearly 1,000 police and dozens of video surveillance cameras guard the crossing between Morocco and the cities of Ceuta and Melilla.** The technologisation of Spain's southern border, begun in the mid-1990s, has become a central part of the European Union's fortification of its external borders, with sophisticated video surveillance systems, artificial intelligence and biometric technology in place to close down migration routes and control population inflow and outflow from non-member states. **The progressive fortification of the southern border has led to enforced changes in routes, with increasingly riskier and more costly options (both in economic and human terms) being taken. The technologisation of the fence which separates Moroccan and Spanish territory is, additionally, a multi-million euro business. Investments of more than 100 million euros have been made, benefiting some twenty companies, many of them also involved in the arms industry. Three in particular stand out: Indra, Dragados (ACS) and Ferrovial.**
2. In January 2019, the Council of Ministers approved measures for the reinforcement and modernisation of the land border protection system in the autonomous cities of Ceuta and Melilla. Since February 2021, the more than 8 kilometres of border fence with Morocco are no longer topped by concertina wire on the Spanish side (such wiring does remain on the Moroccan side). In its place, **so-called "inverted combs" now crown most of the fence on Spanish soil, where work is being done to increase the height of the fence to 10 metres.** These elements make scaling the fence extremely difficult, **increasing the risks to the physical wellbeing and life of those who attempt to do so.**
3. The centrepiece commitment of EU-LISA (European Agency for the Operational Management of Large-Magnitude Computer Systems in the Area of Freedom, Security and Justice) for the coming years is the **Entry-Exit System (EES), which will use biometric technologies to register all third-country residents entering the EU**, recording the entries and exits of each person. The system will automatically calculate the length of stay to facilitate deportations when this period has expired. The EES will enter into force at the end of 2023 and will be connected to the Visa Information System (VIS), allowing

Frontex and law enforcement officials access to this information. **At Spain's southern border, the introduction of the EES will see the deployment of facial recognition controls for people crossing the border both by regular and irregular means.**

7. The migration situation in Morocco

- The human rights of migrants in Morocco is a matter of significant concern. **The repression of migration has materialised in surveillance measures which are especially applied to black migrants. Extra-legal raids, arrests and deportations or forced displacements have become a constant practice in the last decade**, affecting women, children and asylum seekers. In addition, the human rights situation in Morocco has also led to the forced displacement of nationals beyond the country's borders.

9. Recommendations

To the UN Special Rapporteur on the Human Rights of Migrants, the European Committee for the Prevention of Torture, the EU Agency for Fundamental Rights and the Council of Europe’s Commissioner for Human Rights

1. In view of the situation presented in this report, we recommend **these bodies make an emergency visit to the territories which collectively make up Spain’s southern border**, especially Ceuta, Melilla, Canary Islands and other points of the peninsular coast, to analyse in situ respect for migrants’ rights and evaluate the degree of compliance by Spain with its obligations under international human rights law.

To the European Commission, the Council of Europe and the European Parliament

1. **Change approach to migration policy, with the aim of creating safe and legal migratory routes, guaranteeing rights for migrants, and ensuring accountability for human rights violations** – including the violation of the principle of non-refoulement – and compliance with the right of asylum by Member States. The negative human rights impacts of the outsourcing of migration, asylum and current border management policies must be addressed, with a paradigm shift culminating in the drafting of a new pact for migration from the European Union (hereinafter, EU). As part of this pact, a genuine mechanism for protection, inclusion and safe access to European territory must be at the heart of any strategy, increasing safe and legal pathways to the EU.
2. Consider the **creation of accountability mechanisms** to ensure the implementation of the Code of Conduct and fundamental rights in deportation operations undertaken by Frontex.

To the Public Prosecutor’s Office

1. The **opening of investigative proceedings into possible offences alluded to in the report**, on the basis of the information provided herein. More specifically, agreement should be reached to reopen investigations into the events which occurred in Melilla on 24 June, given the existence of clear indications of unlawful action. Moreover, efforts should be made to open a full investigation by the courts in Melilla as a means of compliance with Spain’s international obligations as regards international human rights law.
2. The Public Prosecutor’s Office must undertake the **relevant actions to safeguard the rights of migrant children and adolescents** in the territories that make up Spain’s southern borders.

To the Ombudsman

1. The **inclusion of the information provided by this report in the cases opened by the institution** both in its day-to-day functions and in its role as National Mechanism for the Prevention of Torture.

To the Spanish Government

1. **Repeal the Immigration Act and pass legislation ensuring that the management of migration is human rights-compliant, in addition to comprehensive legislation to combat racism and all forms of discrimination.** Until such action is taken, an amendment to the Immigration Act should be made to shut down Immigration Detention Centres (hereinafter, CIEs) and thus end medium-term imprisonment as a precautionary measure in cases of deportation and sanction, and to facilitate a process by which those living in Spain can

obtain legal residency status. Likewise, the period in which expulsion orders remain valid must be limited, establishing their expiration in a maximum time of two years, without taking into account any period of prohibition of entry, which should also be reduced.

2. **Legal and safe routes for entry** to Spain must be created for those seeking international protection or a better life. What follows are a number of proposals for the creation of legal and safe entry routes:
 - Requests for protection should be handled in embassies and consulates in countries of origin and transit.
 - Humanitarian visas should be issued in countries of origin and transit.
 - Family reunification for displaced persons should be sped up and made easier.
 - Humanitarian corridors should be established from countries of origin or transit in humanitarian emergencies.
 - Effective resettlement and relocation programmes should be implemented within Spain.
 - Effective measures should be taken to ensure that academic visas can be requested and issued prior to entry.
3. On the basis of the information contained in this report, an **investigation must be carried out by those responsible for internal oversight of the police forces regarding the events which occurred at the Barrio Chino border crossing in Melilla on 24 June**, with the results of this investigation passed to the Investigative Courts of Melilla. These same steps must be taken when faced with any allegations or evidence of criminal or unlawful conduct concerning the country's police and security forces.
4. The Government must **cease the practice of summary express deportations, either by land or sea**. A protocol for action must be created in line with international human rights law, ECHR rulings, and the Constitutional Court ruling STC 172/2020, dated 19 November 2020, for as long as border pushbacks are not repealed by law. In relation to this practice, the judgment of N.D vs N.T of the European Court of Human Rights is also important. Due health care must be guaranteed, as well as the individual analysis of each case regarding possible risk factors, age (child or adult) and exposure to possible trafficking in order to guarantee access to the right of asylum effectively, respecting the principle of non-refoulement enshrined in international regulations at all times.
5. A dedicated group must be created within the Policía Nacional for the identification of deceased or disappeared persons during migration and for the investigation of these cases. By the same token, **a public office for the care of relatives of victims of shipwrecks must also be created, with the development of a protocol for the search for missing persons that includes care for families** and a review of the protocol for the identification and handling of bodies.

6. The Ministry of Health must draw up **an action protocol in conjunction with the Ministry of the Interior for rescue and response to shipwrecks of small boats**, clearly setting out the health and psychological aid to be provided in such cases. This protocol must provide for the presence of health professionals and specialised personnel for children as part of the Immediate Emergency Response Team of Humanitarian Aid to Immigrants deployed by the Red Cross, in addition to translation services to aid in the identification of people in situations of vulnerability (pregnant women, children and/or people who need hospital care or other specific services).
7. The Government **must respect the principle of non-refoulement**, consisting of the prohibition of expulsion or deportation of an individual to the territory of any country in which their life or freedom is in danger, or in which they may suffer torture, inhuman or degrading treatment, or any other violations of their human rights as contained in Article 33.1 of the Geneva Convention, as well as in Article 3 of the European Convention on Human Rights. It is essential and urgent that the Government of Spain consolidates its foreign relations with Morocco and establishes respect for international law and the defence of human rights as the basis of these. On these diplomatic bases, the agreement ratified in 1992 and subsequent years implementing the externalisation of border management as policy must be reversed.
8. Prior to the arrival of migrants via unauthorised routes, **health and psychological care must be prioritised above any police action, adopting alternatives to custody upon arrival**. On this basis, detention must be an exceptional response only after the careful and individual examination of each case, and in no case should the system activated following arrivals at the coast be based on the systematic detention of persons. In the case of where detention upon arrival is made, the appropriate legal, health and psychological care must be ensured, and the detainee held in appropriate conditions and in line with Memorandum 12/2015 of the Secretary of State for Security regarding the conditions of police facilities.
9. A **system for the periodic gathering of transparent and accessible data in relation to migration must be created**. By extension, the number of arrivals, places of entry and stays in migration facilities such as those of the Canary Islands Plan and the Temporary Stay Centres for Immigrants (CETIs) must be made public. Likewise, the number of detainees in the Temporary Reception Centres for Migrants (CATEs) and in the CIEs, cases of refusal of entry, refoulement and deportation (and how many have been executed), and push-backs at the border must be made public and disaggregated on the basis of age, gender and nationality.
10. **Criteria for admission to CETIs must be clarified and made public, and not limited by criterion of nationality**, complying with the legal duty to admit Moroccan citizens to the centre even without their having a claim for asylum in process, as means of guaranteeing the protection of all persons and in particular of asylum seekers. Likewise, the internal regulations of the CETI must be clarified and clearly set out, and measures taken so that those expelled from these centres do not end up homeless and without recourse to essential services.
11. **Specific regulation for the CATEs** must be created and appropriate standards set for reception, movement and care (legal, psychological and health)

that meet the necessary material and other conditions corresponding to the legal status of those rescued at sea, in accordance with guidelines set out by the European Committee for the Prevention of Torture (CPT). This regulation must ensure:

- The safeguarding of the fundamental rights of detainees, especially with regard to the right to legal assistance and effective judicial protection (Article 24 of the Spanish Constitution), the right to information, and the right to asylum, guaranteeing adequate facilities that ensure privacy, in which these rights can effectively be upheld.
 - Said regulations must be published in different languages and provided to those detained in these centres. In addition, should any additional guidelines exist within the centres themselves, these must also be translated in order to ensure the proper provision of information to those in detention.
 - The detention of children must be banned, with alternatives sought for families with children who migrate, and guarantees made to ensure that they can stay together after the trauma they may have experienced in transit.
12. Appropriate measures must be taken to **bring to an end informal interrogations by Frontex or other law enforcement officials** of recent arrivals detained in CATEs without the presence of a lawyer.
 13. **Individuals accused of people smuggling upon their arrival by small boats must be provided with effective judicial protection, upholding their right to information and to legal aid**, which necessarily entails making translation services available to them while they are detained.
 14. **Centres must be set up to ensure that migrants are received in appropriate conditions**, with access to essential services, and safeguarding the right to privacy and intimacy, limiting to a minimum the time spent in macro-centres and spearheading the transition towards a model of smaller facilities distributed more evenly across the country, allowing for greater involvement in community life.
 15. **Clear instructions must be issued to law enforcement officials regarding their responsibility to uphold decision 1.128/2020 of the Supreme Court concerning the freedom of movement of those soliciting international protection.** An internal investigation must be carried out by the General Directorate of Police to identify possible irregularities in compliance with this decision. Freedom of movement must be respected by eliminating police controls at airports and ports.
 16. **A protocol against racial and ethnic discrimination must be agreed to and implemented by police and security forces**, prohibiting and eradicating it in police practice. Measures must be introduced to ensure that any police stop-and-searches are justified in writing using standardised documents. Likewise, a training plan must be rolled out for officers to ensure the correct implementation of the protocol in the line of duty.
 17. **Compliance with the legal deadlines provided for the issuance of documentation to children** in the care system in the autonomous cities of Melilla

and Ceuta must be monitored, ensuring their registration in the census. They should be provided with a Non-National Identification Card once they reach adulthood, so that they can live normally as residents in Spain, with their freedom of movement throughout the country ensured.

18. The recommendations of the Committee of Ministers of the Council of Europe concerning the principles and guidelines for age testing as this applies to migration must be ratified, including **the principle of presumption of childhood** for those subject to such tests, with the best interests, rights and dignity of children taking precedence in the procedure.
19. **Appropriate face-to-face and individualised legal aid must be guaranteed to those subject to a deportation order, in addition to translation services** while this aid is provided, including the meetings between the individual and their legal representation.
20. Measures for the upholding of the rights of women pregnant persons must be safeguarded and built upon, guaranteeing **access to voluntary termination of pregnancy in Ceuta and Melilla regardless of one's residency status.**

To the parliamentary groups represented in the Congress of Deputies and in the Senate:

1. **The Popular Legislative Initiative *Regularización Ya*** must be debated and passed in order to pave the way for the concession of full legal status to the more than 500,000 people in legal limbo in the country. This uncertainty acts as a deterrent when it comes to reporting cases of institutional violence, hindering people's right to the truth, justice, reparation and guarantees of non-repetition.
2. To ensure the accountability of the police forces, it is necessary to **enshrine in law the creation of an independent public body for the oversight, investigation and appraisal of police actions** which puts the defence of human rights at the centre. This body must have complete operational independence, without political interference or links with the police forces, and the appointment of those responsible must be made in accordance with their professional skills as part of a transparent selection process. This body must be afforded the capacity to analyse, review and investigate all areas of police work, both ex officio and on the basis of complaints, and its resolutions binding. In addition, it must have a sufficient budget to carry out the work it is assigned.
3. The government must be urged to create a **transparent and accessible system for data collection regarding migration, particularly in relation to deportations**, showing on a monthly basis: the number of persons identified and detained on related matters; the number of refusals of entry; the number of expulsions ordered; the number of persons detained in CIEs, and the number of persons deported, all disaggregated by age, gender and nationality.
4. The **use of biometric surveillance systems as applied to the public at large, and migrants in particular**, must be limited and made subject to regulations guided by respect for human rights, given that at present these systems represent a mechanism for permanent recognition which violates the right to individual privacy and identity.

5. **Appropriate face-to-face and individualised legal assistance must be guaranteed to those subject to a deportation or expulsion order.** Likewise, a translation service must be provided during all legal assistance, including meetings between the person and their legal representation.
6. The **creation of an Examining Committee to investigate possible human rights violations which may have been committed between January 2021 and the present day on Spain's southern border** must be agreed to. This committee must analyse, among many other issues, the events of 24 June 2022 which took place at the Barrio Chino border crossing in Melilla, the expulsion of children from Ceuta in 2021, and the use of the Arguineguín docks as an open-air detention centre.
7. The **Citizens' Security Act must be repealed.** This must be done with particular attention to the tenth additional provision which it introduced to Act 4/2000 concerning the rights and freedoms of non-nationals in Spain and their social integration, regarding the introduction of the border pushbacks.
8. The government must be urged to **prohibit by law the use of rubber bullets by police**, given their potential for harm and lack of traceability. By the same token, the use of dangerous public order armourey such as sprays, smoke grenades and tear gas in border areas must be explicitly prohibited when there is no risk to the lives of third parties, regardless of possible damage to property. Migrants' and asylum-seekers' right to life and wellbeing must be upheld, with there being no circumstances to justify the use of such weapons on those merely crossing the border.

Annex 1

List of interviews			
		Response (location of interview, where granted)	Code
Public authority	Consulate of Spain in Rabat (Morocco)	An initial response was received, referring us to another email address from which we were unable to obtain any further response.	
Melilla (May-June 2022)			
Public authority	Government Delegation, Sabrina Moh Abdelkader	Melilla	
Public authority	CETI Directorate, Ministry of Inclusion, Social Security and Migration	Negative	
International organisation	UNHCR	Melilla	
NGOs, organisations, groups, activists	Red Cross	Negative	
NGOs, organisations, groups, activists	CEAR	Melilla	
NGOs, organisations, groups, activists	Melilla Acoge	Melilla	
NGOs, organisations, groups, activists	Guem Doudu	Melilla	
NGOs, organisations, groups, activists	Solidary Wheels	Melilla	
NGOs, organisations, groups, activists	Jesuit Service for Migrants (SJM)	Melilla	
NGOs, organisations, groups, activists	Mec de la Rue (M.D.L.R)	Melilla	
Supervivientes 24J	Together with EuroMed Rights and MEPs from the Confederal Group of the European United Left/ Nordic Green Left, we had the opportunity to meet with three people who witnessed events on 24 June 2022	Melilla	
Ceuta (May-June 2022)			
Public authority	Government Delegation, Ceuta	Ceuta	
Public authority	CETI Directorate, Ministry of Inclusion, Social Security and Migration	Negative	
NGOs, organisations, groups, activists	CEAR	Ceuta	

NGOs, organisations, groups, activists	Maakum	Ceuta	
NGOs, organisations, groups, activists	Elín	Ceuta	
NGOs, organisations, groups, activists	No Name Kitchen	Ceuta	
NGOs, organisations, groups, activists	Andalusia Acoge	Ceuta	
NGOs, organisations, groups, activists	Red Cross	Negative	
Canaries			
Public authority	Maritime Rescue, Gran Canaria	Gran Canaria	CA1
Public authority	CATE, Ministry of the Interior	A request for a meeting with the Ministry of the Interior received a negative response.	CA2
Public authority	Government Delegation	A request for meeting was originally met with a positive response, but the meeting was cancelled 24 hours before it was due to take place	CA3
NGOs, organisations, groups, activists	Daniel Arencibia, lawyer	Gran Canaria	CA4
NGOs, organisations, groups, activists	Louella Mint, lawyer	Lanzarote	CA5
NGOs, organisations, groups, activists	Redescan	Gran Canaria	CA6
ONG, entitats, col·lectius, activistes	Association of African Women	Gran Canaria	CA7
NGOs, organisations, groups, activists	Farmacia Comunitaria	Tenerife	CA8
NGOs, organisations, groups, activists	Aquí Estamos, Tenerife	Tenerife	CA9
NGOs, organisations, groups, activists	Secretariat for Migration	Gran Canaria	CA10
NGOs, organisations, groups, activists	Vicky Fotabon, activist	Tenerife	CA11
NGOs, organisations, groups, activists	ATLES	Gran Canaria	CA12
NGOs, organisations, groups, activists	Fundación Cruz Blanca	Gran Canaria	CA13
NGOs, organisations, groups, activists	Lanzarote Migrants Solidarity Network	Lanzarote	CA14

NGOs, organisations, groups, activists	Frontera Sur	Gran Canaria	CA15
NGOs, organisations, groups, activists	Asociación pro Derechos Humanos de Canarias	Lanzarote	CA16
NGOs, organisations, groups, activists	Assembly for Migrant Support Tenerife	Tenerife	CA17
NGOs, organisations, groups, activists	Ismael Furió, Secretary General of Sea and Ports of the CGT trade union and Maritime Rescue worker	Online	CA20
NGOs, organisations, groups, activists	Soda Niasse, activist	Gran Canaria	CA21
NGOs, organisations, groups, activists	CEAR	Gran Canaria	CA22
NGOs, organisations, groups, activists	Médicos del Mundo	Gran Canaria	CA23
International organisation	IOM	A meeting was requested, but no response obtained	
Other	Illustrious Bar Association of Las Palmas	A meeting was requested, but no response obtained	
In situ observation	Land border, area surrounding CETI, area surrounding CATE Gran Canaria, protest at the CETI, migrant children and adolescents in situation of homeless, border crossings, asylum point in Beni Enzar, border perimeters, Northern Morocco, Rabat and Casablanca		
Iberian peninsula and Balearic Islands			
NGOs, organisations, groups, activists	National Campaign for the Closure of CIÉs and an End to Deportations	Online	EST1
NGOs, organisations, groups, activists	APDHA	Online	EST2
NGOs, organisations, groups, activists	Andalucía Acoge	Online	EST3
Morocco			
In Morocco, interviews were conducted with human rights organisations and campaign groups, with a focus on migrants, activists and experts, in the cities of Nador, Oujda, Rabat and Casablanca. For security reasons, we have decided to maintain the anonymity of the organisations and people interviewed. A total of 11 interviews were conducted.			
Testimony	We wish to thank the people who provided us with their testimony		

List of testimonials

Melilla

Date, place of interview	Profile	Incident	Code
May 2022, Melilla, area surrounding the CETI	Two men of Sudanese nationality, aged 19 to 23	Protest at CETI	ME1
May 2022, Melilla, area surrounding the CETI	Sudanese man, 23 years old	Protest at CETI	ME2
May 2022, Melilla, area surrounding the CETI	8 males	Protest at CETI	ME3
May 2022, Melilla	Three men from Burkina Faso and Mali	Situation within the CETI	ME4
May 2022, Melilla, area surrounding the CETI	Sudanese man, CETI protest spokesman, asylum seeker	Situation within the CETI	ME5
May 2022, Melilla	Woman residing at the CETI	Situation within the CETI	ME6
May 2022, Melilla, area surrounding the CETI	Man, Guinea-Conakry	Situation within the CETI	ME7
May 2022, Melilla, area surrounding the CETI	Group of men from Mali and Côte d'Ivoire aged between 19 and 26	Situation within the CETI	ME8
May 2022, Melilla	Two young people, Moroccan nationals, homeless, seeking asylum	Homeless	ME9

Ceuta

Date, place of interview	Profile	Incident	Code
June 2022, Ceuta, area surrounding the CETI	Group of three young people at the entrance of the CETI from Guinea-Conakry, Cameroon, Yemen and Sudan	Situation in the CETI, two of them claim to have been subjected to express deportations to Morocco from Ceuta on multiple occasions	CE1
June 2022, Ceuta.	Two members of Elin from Cameroon and Guinea-Conakry	Various attempts at entering Ceuta, several deportations, reception process on arrival. Police stop and search for identity documents, description of the space where they are held, arrival at the CETI and conditions therein.	CE2
June 2022, Ceuta.	Six men, members of Elin, one Malian, two Sudanese, three Cameroonians	Conditions in the CETI Access to legal aid and asylum information Subject to multiple summary deportations	CE3
June 2022, Ceuta.	A man and a woman, Moroccan nationals, cross-border workers in Ceuta	Problems suffered by cross-border workers and the consequences of the closure of the border from 2020	CE4
January 2023, Casablanca, Morocco	A man of Senegalese nationality without official residence status in Morocco	Subject to express deportation in Melilla on March 2, 2022	MarE1

Annex 2

List of questions presented to be asked in parliament or through the Transparency Portal

Foreign policy

1. Under what arrangements are the deportations and expulsions of Moroccan nationals from Spain to Morocco carried out?
2. Under what arrangements are the deportations and expulsions of third-country nationals from Spain to Morocco carried out?

Application STC 172/2020

3. Does any protocol governing police operations along the Ceuta and Melilla border exist which upholds the Constitutional Court ruling 172/2020, issued on 19 November of that year, and according to which any "expulsions at the border" are to be made in accordance with law as per the following three requirements: their "application on an individual basis, full judicial oversight and compliance with international obligations in matters of asylum and human rights"?
4. What procedures have been put in place to identify vulnerable persons and the potential need for protection of people at the border?
5. The Ombudsman, in their decision on 14 October 2022 concluded that 470 migrants were pushed back at the border "without national and international legal requirements being met". How will the Spanish government ensure that this does not happen again? Have measures been drawn up to hold anyone to account for this, given that it constitutes a serious offence against international law and the principle of non-deportation?
6. How many people have been deported to Morocco by land or sea, according to gender, age and nationality each year from 2018 to 2023?
7. How many people have been denied entry in the cities of Ceuta and Melilla by land outside of border posts in operation each year from 2018 to 2023, disaggregated by gender, age and nationality?

Information on assistance provided in incidents with multiple victims

8. Is there any protocol for the assistance provided to victims in emergencies at land or sea borders?
9. What procedures are in place to ensure healthcare provision in life-threatening situations which may occur at the border (multiple casualty accidents, crushes, etc.)? Are there differentiated protocols for when these situations occur at the border?
10. Have the survivors of the 24 June 2022 catastrophe who find themselves in Spanish territory received any type of psychosocial support after what occurred?

Information concerning actions by state security forces and bodies

11. Are there any protocols governing the actions of the state security forces and bodies that operate at the border between Spain and Morocco? What response protocols exist for the Civil Guard and National Police Corps regarding irregular entries to Spanish territory? What protocols exist for the use of serious disorder response resources in border areas?

Ceuta and Melilla

12. What are the requirements for access to the CETIs in Ceuta and Melilla? What is the criterion for denying access to CETI to Moroccan nationals or nationals of other Maghreb-majority countries?
13. What steps do the autonomous cities of Ceuta and Melilla take to guarantee access to shelters, showers and canteens for those who have migrated by irregular channels, asylum seekers or undocumented persons who are not permitted entry to the CETI?
14. What protocol governs the response to the arrival of people in Ceuta and Melilla by sea? Which bodies and stakeholders are involved upon arrival? How are the bodies of the deceased who wash up on the coasts of Ceuta and Melilla registered, and what protocols exist for communication with the families of the victims?
15. How many deaths have been recorded in attempts to access Ceuta and Melilla by swimming, disaggregated by sex and nationality each year from 2018 to 2023?
16. What protocol governs the response to the arrival of people in Ceuta and Melilla by land? Which bodies and stakeholders are involved upon arrival?
17. What is the range of resources and services which a person is obliged to avail of upon arrival in Ceuta/Melilla?
18. What protocol exists for transfer to the peninsula from the CETIs in Ceuta and Melilla?
19. How many people in the CETIS of Ceuta and Melilla receive psychosocial support? How many psychological support staff are there? Are there mediators, translators and interpreters?
20. What personnel do the CETIs in Ceuta and Melilla have in place to provide care to those who reside there (psychologists, translation, social services)? What changes have been made in service contracting over the past five years?

Ceuta May 2021

21. What action protocols were followed for the management of arrivals and returns on 17, 18 and 19 May 2021? What was the role of the army in events on these days? What role did the Red Cross play?
22. How many deportations were carried out during the aforementioned and subsequent days, disaggregated by gender, nationality and age?

Local census

23. What services are available to families residing in Ceuta/Melilla who are not registered on the local census in either of the autonomous cities? Are they allowed to register using a passport, as permitted by law?

Frontex and Smart Borders

24. How does Frontex's presence in Operation JO MINERVA affect police action in Ceuta and port oversight? What justification exists for the transfer of more than 180 agents of different nationalities to Ceuta on an annual basis? What have been the annual results of this operation over the period 2018-2022?
25. What stage is the "smart border" in Ceuta and Melilla at, and what consequences will it have for migrants once the system is introduced?

Canary Islands - Arrivals

26. How many people have arrived each year in the Canary Islands by irregular routes, disaggregated by gender, nationality and age, during the period 2018-2022? How many have arrived on each of the islands?
27. How do police forces coordinate with health services in responding to arrivals at ports? What bodies and organisations are involved?
28. Is there an action protocol for security forces and bodies regarding how identification should be carried out, and what questions are asked upon initial arrival when primary response is provided?
29. What role does Frontex play in police operations when a boat arrives? Do any protocols or regulations exist that outline its role and how it ought to coordinate with national police forces?
30. Where Frontex carries out interrogations upon arrival at the port, what legal assistance is available to those subject to interrogation?
31. At what point are lawyers notified of the arrival of persons in need of assistance as detainees? What is the maximum time within which this notification can be provided? When does this time start to be counted?
32. We request to see the protocol governing coordination between the different actors at ports upon initial arrival on the island of Gran Canaria (police forces, Red Cross, Canarian Emergency Services, Maritime Rescue, etc.)
33. At what point is this coordination protocol activated at ports on the islands of Lanzarote and Fuerteventura?
34. Is there any protocol of action and psychological care for survivors of shipwrecks upon arrival on the Canary Islands?

Canary Islands - CATE

35. Which CATE are currently active on the Canary Islands, and what was the date when they first became active?
36. On the islands of El Hierro, La Gomera and La Palma, what spaces were used as a CATE in 2022 and how many people were detained there over the year, disaggregated by gender, age and nationality? How many asylum applications have been made by those interned in these CATEs?
37. How many people were interned in the following CATEs in 2022, broken down by gender and nationality?
 - Gran Canaria - CATE Barranco Seco
 - Tenerife – CATE Adeje
 - Lanzarote – CATE Arrecife
 - Fuerteventura – CATE la Nave del Queso
38. How many non-adult persons were interned in the following CATEs in 2022, broken down by gender and nationality?
 - Gran Canaria – CATE Barranco Seco
 - Tenerife – CATE Adeje
 - Lanzarote – CATE Arrecife
 - Fuerteventura – CATE la Nave del Queso

Canary Islands- CIE and Deportations

39. How many people were interned in 2020, 2021 and 2022 in the Hoya Fría CIE in Tenerife and the Barranco Seco CIE in Gran Canaria, broken down by gender and nationality? How many people are currently interned in each of these centres, disaggregated by gender and nationality?
40. How many people were deported – and to which countries – from the Hoya Fría CIE in Tenerife and the Barranco Seco CIE in Gran Canaria in 2022, broken down by gender and nationality?
41. How many deportations of third-country nationals have been made to Mauritania or Morocco, and which nationalities did the deported hold?
42. Which cities in Morocco are deportation flights made from the Canary Islands?
43. Which airlines carry out deportation flights from the Canary Islands? Under what tender or agreements do they do so?
44. Have commercial flights from the Canary Islands been used for deportations and, if so, how many? Which airlines were used? Which countries did these flights go to? How many people have been deported on these flights?
45. Have any deportation flights chartered by Frontex been made from the Canary Islands? What was their point of origin and destination? How many people have been deported on these flights?

Criminalisation

46. How many people are currently in detention awaiting trial after being arrested on trafficking charges as boat skippers? Disaggregated by autonomous community, prison, nationality, age and gender. What other associated offences are they charged with?
47. How many people are currently in prison after being charged with crimes against the rights of foreign citizens, injuries or reckless homicide after being arrested as alleged skippers of small boats arriving in the Canary Islands? Disaggregated by autonomous community, prison, nationality, age and gender.

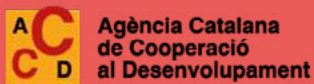
Children

General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin by the UN Committee on the Rights of the Child (CRC/GC/2005/6) defines "unaccompanied children" (also referred to as "unaccompanied minors") as those who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so. In turn, "separated children" denotes those separated from both parents or their legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.

Bearing these definitions in mind:

48. How many unaccompanied children arrived in Spain in the years 2021 and 2022?
49. How many separated children arrived in Spain in the years 2021 and 2022?
50. How many children accompanied by an adult arrived in Spain in the years 2021 and 2022?
51. Which children's centres are currently in operation in Ceuta, Melilla and the Canary Islands, and what is the capacity of each of these centres? How many children did these centres take in, disaggregated by gender and nationality, each year over the period 2018-2022? Are there protocols or procedures in place for response when a child abandons one of these centres? What are they, and what do they consist of?
52. How many children were under local authority care each year over the period 2018-2022? What current child protection plans are in place, and who oversees them?
53. How many non-adults were detained at the Punta Blanca Juvenile Detention Centre in Ceuta each year over the period 2018-2022? What were the principal reasons for their detention?
54. How many non-adults were detained at the Melilla Juvenile Correctional Facility each year over the period 2018-2022? What were the principal reasons for their detention?
55. What measures are in place for dealing with young people who reach adulthood in juvenile centres and are left without support in Ceuta, Meilla and the Canary Islands?

With the collaboration of:



Supported by:



This work is licensed under the Attribution-NonCommercial 4.0 International of Creative Commons