



THE EU'S EXTERNALISATION OF BORDERS IN MOROCCO: HISTORICAL PATH AND MAIN CONSEQUENCES

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Geography of the externalisation of the European Union's borders. Who are the border guards of the EU and what are the risks that this practice brings with it?

INTRODUCTION

This article intends to analyse the risks related to the policy of the externalisation of the management of the external borders, as put in place by the European Union. In particular, the attention will be drawn on the relationship between the European Union and the Kingdom of Morocco with regards to the undocumented immigration in the EU,



which comes through the borders between Spain and Morocco, namely through the territories of Ceuta and Melilla.

On the one hand, the author will briefly try to identify what have been the steps of the fortification of the border between the two countries, analysing both juridical and concrete actions that were put in practice in the last decades. Secondly, the attention will be shifted to the consequences of the reliance on Morocco as a guardian of EU's borders, as it is a crucial partner in the region for the management of the flux of migrants from sub-Saharan countries.

Indeed, what is at stake for the Union in externalising its borders - in general and -, in Morocco in particular? Which are the risks that the reliance over a third country about such a delicate matter encompass? Two types of effects will be underlined: first, from a political standpoint, we assist at the loss of political bargaining of the European Union towards Morocco. Second, from a humanitarian point of view, migrants that are hindered (by laws and fences) in their path towards the EU, are thus obliged to find new and risky routes to enter the Union, in order to exercise their right of asking for asylum and searching for a better life.



Map's author: Gianmaria Dall'Asta.
Title: Sub-Saharan migratory routes through Morocco.



EXTERNALISATION OF EUROPEAN UNION'S BORDERS: A HISTORICAL INSIGHT WITH FOCUS ON SPANISH-MOROCCAN BORDER

As Withol de Wenden (2017) lists them, the main instruments carried out by the European Union and its member countries in order to control the immigration from (poorer) third countries are 1) the establishment of border guards and buffer zones outside Europe; 2) police cooperation agreements and readmission agreements; 3) the visa system.

In other words, what the European Union has put in place since many years now is the fortification of its external borders, also through the externalisation of their management to neighbouring countries such as Turkey, Libya, Tunisia and Morocco, principally in order to halt the flux of migrants willing to reach Europe. Definitely, the EU has built a “*security belt*” (Ascher, 2005: 1), in order to “protect” itself against unwanted immigration.

According to the Italian Association for Juridical Studies on Immigration¹ the practice labelled as “externalisation of the borders” is

“the set of [...] actions, mainly extra-territorial, put in place by national or supranational actors [...], aiming at stopping or hindering the entrance of migrant people within the borders of the States, where they could benefit from the guarantees (also juridical) granted in that State”
(ASGI, 2020: 3).

The history of the externalisation of European borders can be traced back to the first decade of the 2000s; the first readmission agreement² negotiations started in 2000, while the first agreements

¹ ASGI - Associazione per gli Studi Giuridici sull'Immigrazione.

² According to the IOM “*Readmission agreements are binding bilateral or multilateral agreements between States that establish and facilitate the bases,*



was signed in 2002 (with Hong Kong) and entered into force in 2004 (European Commission, 2005).

Beyond the agreements that the EU signed with third countries, single member states also signed bilateral treaties with the countries of origin and transit of the migrants that were directed to Europe, in some cases even in the 1980s and early 1990s.

For instance, in 1992, Spain and Morocco signed the *"Agreement between the Kingdom of Spain and The Kingdom of Morocco on the movement of people, the transit and the readmission of foreigners who have entered illegally"*. This is the first readmission agreement between Spain and Morocco, and as such, it stipulates the expulsion (*de facto*) from Spain and the readmission in Morocco of foreigners that entered Spain from there, without a valid permission (art.1).

Spain has always been an important country of destination for Moroccans, but in the last four decades it has become more and more difficult for Moroccans to legally enter the country:

"Before 1985, a visa was not required to enter to Spain [...]. In 1985, Spain created the first foreigners' law (La Ley de Extranjería). This highly restrictive law, coinciding with, and as a requirement for, the entry of Spain in the EU, was created mainly for police control over migration, punishing people in irregular administrative situation" (Empez Vidal, 2007: 9 - 10).

Morocco is a crucial actor for Spain and the European Union in the matter of migration, as it is the only land border between Europe and Africa. In particular, the two cities of Ceuta and Melilla are Spanish exclaves within Moroccan borders. As in 1986, Spain joined the European Communities (EC), that became the border between the

procedures and modalities for one State to promptly and in an orderly manner return non-nationals who do not or no longer fulfil the conditions for entry or stay on its territory".



Communities (that in 1993 were transformed in the European Union) and Africa.

Interestingly, this land border is a very unequal one, if considered on the basis of the per capita GDP of the two countries. According to World Bank's data in 1975 Moroccan per capita GDP was \$502.8, while the Spanish one was \$3.209,8; so, the gap was more than six-fold in the year in which Francisco Franco died and *"la transición"* towards democracy began. In 2021, the difference had terrifically augmented, as Moroccan p.c. GDP was \$3.496,8 and the Spanish one was \$30.115,7.

In the last 40 years, not only juridical measures have been gradually introduced in order to hinder the arrival of new migrants in Spain and the EC, but also concrete barriers were built. In the particular cases of Ceuta and Melilla; as Saddiki reports: *"in 1993 [...] these enclaves' perimeters began to be marked by fences. As these initial fences were relatively easy to cross, the construction of a more secure system was begun in autumn 1995. From that time, the Spanish government has continued to reinforce the fences physically and through the use of advanced technologies, like infrared cameras"* (2017: 6). As the author reports, the fences of Ceuta and Melilla have these characteristics:

- Respectively length of 7.8 kilometres and 10.5 kilometres and a height of 3.5 metres of the external fence and a height of 6 metres of the internal one;
- Both hold a double border fence and are divided into three sectors;
- Fences are equipped with barbed wire

In addition to these to the fences, Spain implanted the SIVE - System of External Surveillance. The technologies used for the strategy of hindering immigration include *"long-distance radar systems, advanced sensors that can detect heartbeats from a distance, thermal cameras, night vision cameras, infrared optics, helicopters and patrol boats"*. (idem: 12).



In the 2000s, the relationship between Spain and Morocco related to migration management continued, and a reinforcement of the collaboration on the fortification of Spanish border is testified by a treaty in 2012³, when *"a cross-border police cooperation agreement between Spain and Morocco established centres of police coordination in Tangier and in Algeciras in order to fight irregular migration and trafficking"* (EuroMed Rights, 2021: 10).

After the 2015 "refugee crisis", then, the EU signed significant agreements with its neighbouring countries - probably the most renowned is the one with Turkey of 2016, in order to ask concrete help in arresting the flux of would be asylum seekers.

Morocco, too, was asked by the EU to strengthen the control of the borders, in exchange of the funds of the Union; in December 2019, the EU and Morocco signed "new cooperation programmes" worth €389 million "in support to the Kingdom of Morocco". As the European Commission points out, €101.7 million are explicitly meant to *"support border management"* (European Commission, 2019). Also, Spain itself has invested in Moroccan help; as the Ngo Statewatch remembers, after Spain granted €30 million to Morocco in October 2022, *"Morocco has now received €123 million from Spain for migration control since 2019"* (2022).

In 2019, then, a new agreement on "cooperation in the fight against crime" was drafted. But before it came into force the political relationship between Madrid and Rabat had the time to dramatically deteriorate (in 2021) and, then, to get restored (in 2022), as we will see by analysing the consequences of this reliance on Morocco on the migration issue.

³ Acuerdo entre el Gobierno del Reino de España y el Gobierno del Reino de Marruecos en materia de cooperación policial transfronteriza, hecho ad referendum en Madrid el 16 de noviembre de 2010.



THE CONSEQUENCES OF THE EXTERNALISATION OF EU'S BORDERS IN MOROCCO

Morocco is not only a country of origin of migrants, it is also an important transit country for sub-Saharan migrants (Khachani, 2020), the *"transmigrants"* (Alioua, 2005; 2011; 2013), that are willing to reach the Union. Indeed, it is considered by some a stepping stone towards Spain (Enríquez and Ramón: 2011); in particular there are two ways used by sub Saharans to exploit the position of Morocco and to try to enter the Spain (thus the European Union). The first one is the *"Trans-Saharan route"*, which starts in West African countries and is directed to Morocco and then to the Spanish enclaves of Ceuta and Melilla (Schapendonk, 2012). The other way is the Atlantic way, which encompasses heading to Canary Islands by facing the Atlantic Ocean. As the European Council on Refugees and Exiles comments *"The Atlantic route remains one of the deadliest migratory routes to Europe"* (ECRE, 2022).

The intensification of the policies meant to seal off the borders of the EU, led to a very dangerous situation, in which migrants are forced to try risky routes or dangerous assaults (for them and for the authorities) to the fences of Ceuta and Melilla, in order to enter the Union and ask for asylum. Basically, because of the cooperation between the Moroccan and Spanish authorities, *"with ample use of high-tech surveillance [...] and 'pushback' operations"* (Carrera et al., 2015: 8-9), *"[t]here are no safe and lawful routes available for these people"* (Amnesty International, 2020) to reach the EU.

The most recent events concerning migration and the relationship between Spain and Morocco are the evidence of how the outsourcing of the management of migration made from the EU produces several undesired effects, both for migrants and the European Union. In this section, the purpose is to identify two kinds of negative consequences: one from the humanitarian standpoint and the other from a political standpoint.



For instance, what happened in 2021 can be framed in what Greenhill (2011) described as the use of migrants as a weapon. In May, Spain, whose positions were notoriously against the recognition of Moroccan sovereignty over Western Sahara, granted the healing of the chef of the Polisario Front, the Sahrawi nationalist liberation movement. As a retaliatory action, Moroccan authorities permitted the transit of some 8000 migrants from the gates of Ceuta (Bachir, 2021; Marinoni, 2021). The vast majority was very soon pushed back into Moroccan territories and two people died.

The following year the relations between the two Kingdoms improved, because of the surprising change of position that Spain had over the multi-decade-dispute, that led the Socialist Prime Minister of Spain Pedro Sánchez to declare *"Moroccan autonomy initiative, presented in 2007, as the most serious, realistic, and credible to solve this conflict"*⁴. Thus, Morocco committed fiercely to the task which is demanded of halting migrants (ECRE, 2022b) and in June 2022, a group of migrants assaulted the fences of Melilla and this action was brutally repressed by the border police. It resulted in 23 to 37 casualties (depending on the sources) and hundreds of wounded (CNDH, 2022); on 29th June 2022, the UN Secretary General António Guterres twitted his shock for the excessive use of the force performed by Spanish and Moroccan authorities.

⁴ Translated in English from the original declaration: *"España considera la iniciativa de autonomía marroquí, presentada en 2007, como la base más seria, realista y creíble para resolver este diferendo"* contained in the Joint declaration named *"Nueva etapa del partenariado entre España y Marruecos"* signed in Rabat on April 7th, 2022.



CONCLUSIONS

As Spain joined the European Communities in 1986 and the Schengen space in 1991, it was demanded to the country to manage its borders with Morocco in a stricter way. The development of the relationship between Spain and Morocco on migration passed through agreements and the implementation of fences separating the cities of Ceuta and Melilla from the rest of the Arab country.

Not only Spain, but the European Union itself started relying on Morocco in order to halt the flux on unwanted immigrants, just as it does with Turkey, Tunisia and Libya.

However, this reliance on Moroccan authorities for the management of the EU's borders poses several problems. In this article evidence was given mainly about two; one from a political standpoint and the other from a humanitarian standpoint. In particular, the two events that occurred at Ceuta and Melilla, respectively in May 2021 and June 2022, clearly show these two risks that the policy of border externalization brings with it.

Firstly, as Morocco disputed with Spain over the issue of Western Sahara, it threatened and blackmailed the whole European Union with the regulation of the migratory flux. As Khalid Mouna said with regards to the events that took place in May 2021, definitely Morocco was telling the EU *"your only ally and guardian in the [North African-Atlantic] region is Morocco. Morocco can keep the migratory flux closed in order to halt [persons coming to the EU], or it can open the stream"* (L'Obs, 2021).

This is the evidence that, as Morocco is demanded to manage the flux of migrants, it acquires an impressive political bargaining on the detriment of the European Union, that is *de facto* exposed to threats, blackmails and retaliations, just like in this case. Migrants, in this case, have been used as a weapon.



The second, humanitarian effect is clearly shown by what happened at Melilla's border in June 2022. As Spain surprisingly endorsed Moroccan ambitions on Western Sahara and Morocco became a harsher guardian of Spanish enclaves, migrants that tried to pass the fences were massacred by Moroccan and Spanish police; at least 23 people died in the confrontation with Moroccan authorities and hundreds were blessed among migrants and members of the public forces.

As migrants are blocked in this way, they search for other risky routes, like the Atlantic one; which means leaving from Senegal, Mauritania or Southern Morocco and heading towards the Spanish Canary Islands, thus facing the Atlantic Ocean with inflatable boats.

In conclusion, it is important to underline the risk that migrants face in trying to reach the European Union. As the December 2022 report from the Spanish Ngo *Caminando Fronteras* stresses: "*In the last five years, 11.286 people have lost their lives on migration routes leading to the Spanish State. This corresponds to a total of six deaths per day*" (2022: 10).

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