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Spain/Morocco: Rights of migrants and asylum-seekers still at risk one year after Ceuta and Melilla

One year after 13 migrants were killed and hundreds were wounded while trying to enter the Spanish enclaves Ceuta and Melilla, investigations into the actions of the Spanish and Moroccan security forces involved have still not been concluded and no preventive measures adopted.

In a new report based on victims' testimonies and Amnesty International's contact with the authorities of Spain and Morocco in the last two years, the organization voices concern that there are no guarantees that investigations will be thorough, impartial and effective and no disciplinary action has been taken for the deaths and ill-treatment of migrants. This means effective impunity so far.

"The authorities of Spain and Morocco not only used excessive force to forcibly return migrants and asylum-seekers, in many cases they expelled them immediately and *en masse* to countries where they could be at risk of torture or other ill-treatment," said Nicola Duckworth, Director of Europe and Central Asia Programme at Amnesty International.

"Many individuals had left war-torn states where extreme poverty and disease prevail, and among them were people exercising their right to seek asylum. By expelling them, both countries violated their national and international obligations in relation to migrants and asylum-seekers."

Three more people were killed as late as July 2006 when they tried to enter Spain from Morocco. On the following day, the Spanish Minister of the Interior agreed to provide Amnesty International with updated information on the investigation of this and past incidents, which so far has not been received by the organization.

"The Minister of the Interior of Spain should act on his words and provide Amnesty International with results of the investigations and ensure that the rules on the use of force are consistent with international law and standards." Nicola Duckworth said.

"A fully resourced independent agency should be established to investigate all allegations of serious human rights violations by law enforcement officers."

Amnesty International has repeatedly expressed its concern about allegations of ill-treatment and excessive use of force by the Spanish Civil Guard, including use of firearms and heavy rubber bullets at

close range, when confronting migrants and asylum-seekers attempting to climb over the fences into Ceuta and Melilla.

Moreover, when people are intercepted by Spanish Civil Guards in the area between the two border fences, they are often immediately unlawfully expelled through one of the gates in the fence closest to Moroccan territory. At no point do they have the opportunity to obtain legal advice nor are they given access to an interpreter as required by Spanish law. Amnesty International finds unacceptable the claim by the Spanish authorities that the Spanish aliens' law does not "fully" apply between the two border fences.

"People cannot be left in legal limbo. Their legal status must be decided," Nicola Duckworth said.

On the other side of the border with Spain, this year, as in previous years, thousands of people suspected of being irregular migrants have been arrested by the Moroccan authorities and expelled to the border with Algeria near the city of Oujda. Those arrested continue to be expelled shortly after their arrest, without the chance to appeal the decision to deport them or to examine the ground on which the decision was taken, despite these rights being guaranteed by Moroccan law. Once in Algeria, they are often dealt with in the same way by the authorities there, who summarily expel them back to the border with Morocco or other neighbouring countries.

"Immediate and collective expulsions must be stopped. They are unlawful as they fail to examine each case and identify asylum-seekers. Moreover, the manner in which they are conducted often puts those expelled in physical danger," Nicola Duckworth said.

Amnesty International continues to receive reports that asylum-seekers are among those arrested and expelled, although in fewer numbers this year than last. Of particular concern are allegations that Moroccan officials have confiscated UNHCR documents confirming that the individuals are asylum-seekers and then destroyed the papers in front of them.

Amnesty International urges the European Union (EU) to ensure that its member-state Spain conducts prompt, thorough, independent and impartial investigations into the excessive use of force or firearms by law enforcement officials; as well as to ensure that adequate human rights provisions are inserted in any EU-Morocco readmission agreement.

Background

In October 2005 an Amnesty International delegation visited the cities of Ceuta and Melilla in Spain, and Nador, Oujda, Rabat and Tangiers in Morocco to investigate the allegations of these abuses committed by the Spanish and Moroccan authorities against asylum-seekers and migrants. During its mission, Amnesty International received disturbing reports of human rights violations against people trying to cross the border.

For further information, see:

Spain and Morocco: Failure to protect the rights of migrants -- Ceuta and Melilla one year on (AI Index: EUR 41/009/2006) <http://web.amnesty.org/library/index/engeur410092006>

Spain/Morocco: The authorities must be held accountable for the violation of migrants' rights (AI Index: EUR 41/016/2005) <http://web.amnesty.org/library/index/engeur410162005>

Spain/Morocco: Migrants rights between two fires (AI Index: EUR 4/011/2005) <http://web.amnesty.org/library/index/engeur410112005>

Spain: The Southern Border - The state turns its back on the human rights of refugees and migrants (AI Index: EUR 41/008/2005) <http://web.amnesty.org/library/index/engeur410082005>

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