

URGENT ACTION

SENATE MUST STOP IMMIGRATION LAW AMENDMENT

The new Law on Public Security, which would modify the immigration law has been passed by the Spanish Congress. It is now up to the Senate to prevent its entry into force. This amendment would facilitate automatic and collective expulsion of migrants, refugees and asylum-seekers from the borders of the two Spanish enclaves in North Africa, Ceuta and Melilla, exposing them to the risk of serious human rights violations.

The ruling Popular Party (Partido Popular), that holds the majority in the Spanish Congress, managed to pass the draft Law on Public Security (Ley Orgánica para la Protección de la Seguridad Ciudadana) on 11 December, amid almost unanimous opposition from other parties and strong public criticism. This law which will modify Organic Law 4/2000 on the rights and freedoms of foreigners in Spain and their integration, would allow automatic rejection of migrants, asylum-seekers and refugees at the borders of Spain's two enclaves in North Africa, Ceuta and Melilla. This would deprive them of relevant procedural safeguards exposing them to serious human rights violations.

The amendment to the immigration law, currently reads "foreigners detected on the boundary line of the territorial demarcation of Ceuta and Melilla attempting, in group, to overcome the border containment elements in order to irregularly cross the border, may be rejected in order to prevent their illegal entry into Spain." As it stands, this provision does not detail the procedure for "border rejections" or provide any human rights safeguards. This failure will deprive asylum seekers of access to the asylum procedure in Spain and could result in refoulement by exposing migrants, asylum-seekers and refugees to the risk of serious human rights violations in Morocco. The adoption of the draft law that includes this amendment to the immigration law would also lead to violations of the prohibition of collective expulsions, the right to an effective remedy and reparation for victims of human rights violations.

To become applicable, the law has to also be passed by the Spanish Senate. The Senate is expected to vote on the law in February 2015. Before the final vote, the law will be discussed by the Senate's Home Affairs Commission, which has the power to amend it.

Please write immediately in Spanish, English or your own language:

■ Calling on Popular Party representatives in the Senate's Home Affairs Commission to repeal the first of the final provisions of the draft law on Public Security, Initiative 121/000105 (Disposición Final Primera de Proyecto de Ley de Seguridad Ciudadana), which allows rejections at Spain's borders in Ceuta and Melilla, as this provision would lead to violations of the rights of migrants, asylum-seekers and refugees and constitute a breach of Spain's obligations under European and international human rights law.

PLEASE SEND APPEALS BEFORE 15 FEBRUARY 2015 TO:

Popular Party Spokes Person

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Salutation: Dear Mr Barreiro

And copies to:
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Public Security Law Rapporteur

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Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date. This is the first update of UA 273/14. Further information:

<http://www.amnesty.org/en/library/info/EUR41/006/2014/en>

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ADDITIONAL INFORMATION

Amnesty International, and other human rights organisations have been documenting excessive use of force, and summary and collective expulsions at the borders of the two Spanish enclaves in North Africa, Ceuta and Melilla, where migrants and refugees are being pushed back by Spanish Civil Guards to Morocco.

On 6 February 2014, for example, at least fifteen migrants swimming from Morocco drowned in waters off Ceuta after the Spanish Civil Guards fired rubber projectiles and tear gas in their direction in an attempt to prevent their entry to Spain. A judicial investigation into these deaths is still ongoing. On the same day, 23 people who had survived the swim across and reached the Spanish beach had immediately been returned to Morocco, apparently without access to any formal procedure.

The Minister of the Interior claimed that it was legal to deport the 23 because they had not yet crossed the Spanish border, which he stated was the human border made by the Civil Guard officers. Such statements demonstrate that the Spanish authorities are willing to redefine where Spanish territory begins on a case by case basis in order to deflect from their international obligations. The government of Spain has repeatedly asserted, for example, that the area between the triple-fence in Melilla's border with Morocco is not Spanish territory, in order to justify ongoing summary returns from this enclave to Morocco despite an affirmation by a Spanish court that the areas between the fences are Spanish territory. However, regardless of where push-backs occur, Spain is responsible as long as it exerts any control or jurisdiction over individuals through the actions of Spanish Civil Guard officers. Statements aimed at limiting Spanish responsibility over its territory, raise serious concerns that the government could apply "border rejections" introduced in the amendment not only to migrants and refugees at Spain's borders but also to those who have already entered Spanish territory.

Expulsions, which deny individuals an opportunity to appeal their return and explain their individual circumstances, are prohibited under international law and may lead to violations of the right to seek asylum and the non-refoulement obligation. Implementation of the proposed amendment would also be in breach of the Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), Council Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on minimum standards on procedures in Member States for granting and withdrawing international protection (recast), the European Convention on Fundamental Rights and Freedoms and its 4th Protocol, the International Covenant on Civil and Political Rights, and the Charter of Fundamental Rights of the European Union.

The modification introduced through the draft Law on Public Security would introduce further exceptions to Spain's immigration law, which prohibits summary returns and guarantees irregular migrants the right to legal counsel and an interpreter during expulsion proceedings. Law 12/2009, on the right of asylum and subsidiary protection, guarantees to all those present on Spanish territory the right to apply for international protection. Rejection at the border as envisioned in the draft law would deprive of these legal safeguards migrants and asylum seekers at the borders of Ceuta and Melilla.