

## CCBE Statement following the deaths of migrants attempting to cross from Morocco to Melilla

04/08/2022

The Council of Bars and Law Societies of Europe (CCBE) represents the bars and law societies of 46 countries, and through them more than 1 million European lawyers.

The defence of the rule of law, the protection of the fundamental and human rights and freedoms, and the protection of the democratic values inextricably associated with such rights are one of the main missions of the CCBE. Through the work of its Migration Committee, the CCBE monitors European and national developments on migration issues and focuses its work on the protection of migrants' and asylum seekers' fundamental rights, including the right to legal assistance.

With regard to the alarming reports of the death of at least 23 migrants<sup>1</sup>, the deaths of two police officers, and many injured at the border between Morocco and Melilla, the CCBE stresses that the loss of human lives and violence at EU borders are unacceptable.

The CCBE expresses its worry about and opposes the wide-spreading tendency to use violence against people seeking asylum at EU borders and condemns the instrumentalisation of migrants.

Although it is aware of the highly politicised situation at the borders between Spain and Morocco, the CCBE stresses the importance of respecting and applying fundamental rights, like the right to life, and other principles applicable in the field of migration and asylum, at EU borders.

Whilst it must be recognised that there can undoubtedly be very significant pressure placed on some EU Member States or some neighbouring countries and their authorities, this cannot be a justification to violate human rights.

The CCBE reiterates that the right to asylum and the principle of non-refoulement are fundamental rights that are non-derogable even on such eventualities. We strongly recommend to apply and protect these principles at EU borders, adopt a human rights-centred approach to solve the situation and allow persons in need of protection to access the territory and the procedures in compliance with EU and international law, the Common European Asylum System (CEAS) and international human rights laws. The respect for these principles should be considered when EU Member States conclude agreements

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<sup>1</sup> See BBC, "[Melilla migrant deaths spark anger in Spain](#)", 27.06.2022. Other sources reported higher numbers – 37, see for example Le Monde, "[Melilla tragedy: 'Morocco was ready to do anything to stop migrants'](#)", 02.07.2022.

with third countries in the field of migration and should be ensured when these agreements are applied.

The CCBE recalls that the right to apply for international protection in the European Union and at its frontiers is a fundamental right guaranteed by Article 18 of the Charter of Fundamental Rights of the European Union and by European Union law through its asylum acquis.

The CCBE recalls that the right to asylum is guaranteed under the Geneva Convention on the Status of Refugees of 1951, the EU Charter of Fundamental Rights and the Treaty on the Functioning of the European Union, as well as the relevant provisions of the CEAS, which can only be effectively ensured by providing adequate access to legal assistance to all people potentially in need of international protection.

Moreover, the CCBE recalls the jurisprudence of the European Court of Human Rights which stipulates that “in order for the State’s obligation under Article 3 of the Convention to be effectively fulfilled, a person seeking international protection must be provided with safeguards against having to return to his or her country of origin before such time as his or her allegations are thoroughly examined. Therefore, the Court considers that [...] a State cannot deny access to its territory to a person presenting himself or herself at a border checkpoint who alleges that he or she may be subjected to ill-treatment if he or she remains on the territory of the neighbouring state, unless adequate measures are taken to eliminate such a risk”.<sup>2</sup>

Taking into account the above-mentioned elements, the CCBE calls on all the actors involved to respect these principles when undertaking their activities at the borders.

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<sup>2</sup> See [M.K. and Others v. Poland, \(Applications nos. 40503/17, 42902/17 and 43643/17\)](#)