MOTION FOR A RESOLUTION

with request for inclusion in the agenda for a debate on cases of breaches of human rights, democracy and the rule of law pursuant to Rule 144 of the Rules of Procedure

on the breach of the UN Convention of the Rights of the Child and the use of minors by the Moroccan authorities in the migratory crisis in Ceuta (2021/2747(RSP))

Jordi Cañas
on behalf of the Renew Group
The European Parliament,

- Having regard to its previous resolutions, in particular on the EU-Morocco Agreement of 19 January 2019, as well as to the European Parliament resolution of 26 November 2019 on children’s rights on the occasion of the 30th anniversary of the UN Convention on the Rights of the Child;

- Having regard to the EU-Morocco Association Agreement entered into force in 2000 and the privileged partnership developed between the EU and Morocco since, including the 2013 Mobility Partnership;

- Having regard to the EU-Morocco Joint declaration for the 14th meeting of the Association Council of June 29, 2019, calling for an enhanced consultation and balanced cooperation on mobility and migration;

- Having regard to the European Commission's Joint Communication on the renewed partnership with the Southern Neighbourhood establishing a new Agenda for the Mediterranean, notably its fourth chapter on migration and mobility, adopted on 9 February 2021;

- Having regard to the statement of 1 June 2021 of the King of Morocco on the repatriation of Moroccan children from EU territories, and the response from the European Commissioner in charge of the European Neighbourhood Policy;

- Having regard to Article 80 of the Treaty on the Functioning of the European Union (TFEU) and to Article 3(3) and Article 4(3) of the Treaty on European Union (TEU);

- Having regard to the Charter of Fundamental Rights of the European Union (the “Charter”);

- Having regard to the UN Convention on the rights of the child of 20 November 1989 (the “CRC”) ratified by all EU countries and Morocco;

- Having regard to the General Comments of the UN Committee on the Rights of the Child, the UN Guidelines for the Alternative Care of Children and the UN Global Study on Children Deprived of Liberty of July 2019;

- Having regard to the Council of Europe Action Plan on Protecting Refugee and Migrant Children in Europe (2017-2019);

- Having regard to the Commission Communication of 12 April 2017 on the protection of children in migration;
- Having regard to EASO’s practical guide on age assessment;

- Having regard to the European Parliament report on the implementation of the Dublin III Regulation (2019/2206(INI));


- Having regard to Rule 144 of its Rules of Procedure;

A. Whereas between the 17th and 19th of May 2021, more than 8,000 persons, including approximately 2,000 children and unaccompanied minors, illegally entered Ceuta, crossing the Spanish frontier from the Moroccan side, at a moment when Moroccan border guards opened the border and temporarily eased their controls;

B. Whereas images show migrants including children and unaccompanied minors taking advantage of the low tide to walk or swim, some of them putting their lives and wellbeing at risk, in order to reach Ceuta, while Moroccan border guards had intermittently opened the gate of the Moroccan side of the border; whereas some children were rescued by Spanish citizens; whereas three persons died of drowning, including an unaccompanied minor; whereas the humanitarian response of the Spanish security forced, Armed forced, NGOs and Ceuta citizens prevented an authentic tragedy from happening;

C. Whereas a hotline was put into place by the Spanish authorities in Ceuta to reunite children and unaccompanied minors with their families, which allowed 4400 calls; whereas it is not clear whether children and unaccompanied minors that crossed the border, did so without the knowledge of their parents or legal tutors;

D. Whereas in the following days, hundreds of unaccompanied minors were returned to Morocco by the Spanish authorities, still leaving over a thousand children and unaccompanied minors under the guardianship of the autonomous city of Ceuta, in order to have their identity, personal circumstances and vulnerabilities as well as the risk of persecution and irreparable harm assessed, without taking into account an undetermined number of children and unaccompanied minors who remain in hiding in order not to be returned to Morocco;

E. Whereas according to Amnesty International and other NGOs, part of the returns of migrants, including children, were forced and were not implemented with necessary legal guarantees; whereas an investigation has been launched by the Spanish prosecutor’s office in charge of minors;

F. Whereas according to Spain's Interior Ministry as of June 1 there remained an estimated 1,000 unaccompanied children in Ceuta hosted in the 3 centers of the Tarajal, Piniérs, and Santa Amelia, which host from 200 to 300 children; whereas 200 unaccompanied children...
are to be transferred to the Spanish mainland;

G. Whereas since 20 May the flow of migrants entering Ceuta has stopped, Moroccan authorities are preventing people to cross the border illegally and returning migrants who were turned back to their home towns; Whereas the crisis was initially understood as a punitive response from Morocco, after Spain decided on 22 April 2021 to provide urgent medical treatment for humanitarian reasons to the leader of the Western Sahara Polisario Front, Brahim Ghali, after he contracted Covid-19 in Algeria at the age of 73;

H. Whereas the Moroccan Minister of Foreign Affairs, in a statement to the Moroccan Press Agency MAP on May 20 acknowledged that the real "reasons of the crisis" of the massive entry of thousands of people, including children, resided in Madrid welcoming the leader of the Polisario Front;

I. Whereas an official statement from the Moroccan Ministry of Foreign Affairs, published on May 31, 2021, requested that Spain "unambiguously clarifies" its "positions" on Western Sahara, a territory in the process of decolonisation according to United Nations doctrine, accusing Spain of "conspiring with the enemies of the Kingdom", denouncing "the damaging strategies of Spain towards the Sahara question", and threatening political consequences; whereas the same day, the Ministry published a new declaration where he said that “Morocco has repeatedly stressed that the bilateral crisis is not related to the migration issue”

J. Whereas Morocco published in another official statement that “it regrets, once again, that the issue of migration, including that of minors, is being used as an alibi to avoid the real causes of the current political crisis with Spain, whose origins and fundamentals are well known”;

K. Whereas the European Commission has unequivocally stated that Ceuta is Europe and that its border is a European border, whose protection and security concerns the whole of the European Union; Whereas the EU-Moroccan partnership for shared prosperity set forth in 2019 is based on, amongst other equally important priorities, an enhanced cooperation in the field of mobility and migration;

L. Whereas following rising diplomatic tensions on 1 June 2021 the King of Morocco announced his intent to repatriate unaccompanied but identified Moroccan children from EU Member States;

M. Whereas Commissioner for Neighbourhood and Enlargement Oliver Varhelyi on June 2 welcomed this “important announcement regarding readmission of unaccompanied minors” and expressed his willingness to continue to cooperate with Morocco to tackle the challenge of migration and to improve the bilateral partnership;

N. Whereas irregular migration poses higher risks when affecting children, especially unaccompanied minors, and once in the territory of a Member State unaccompanied minors can freely travel around the Schengen area, thus placing themselves in a situation of extreme vulnerability and with a complete lack of protection, including the risk of falling in marginalization, in the hands of smugglers or trafficking organisations;
O. whereas this can lead to further risks of not fully enjoying fundamental rights, such as the right to education and the right to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity, as enshrined in the Declaration of the Rights of the Child;

P. Whereas EU and international law prohibit EU Member States from deporting unaccompanied children without a thorough examination of their situation;

Q. Whereas Morocco has been the largest recipient of EU financial assistance amongst all the countries of the Southern Neighbourhood and a strong and valuable partner of the European Union in the fight against radicalization, terrorism and human trafficking; whereas Morocco has been, for a number of years, a country of destination of illegal migrants and not only a country of transit or origin; Whereas in addition the European Commission adopted a new cooperation programme in December 2019 to strengthen the management of land and sea borders, with 101.7 million euros in extra funding for Morocco as part of the EU Trust Fund for Africa, amounting to 236 million euros to implement the Moroccan Strategy on Migration and Asylum; Whereas this strategy aims at protecting vulnerable migrants and refugees, accompany voluntary returns and reintegration, and supporting legal pathways as alternatives to irregular migration;

R. Whereas both an enhanced protection of the right to rights of the child and a more effective border management by all EU Member States constitute essential priorities of the European Union;

S. Whereas the Commission underlined in the 2017 Communication on the protection of migrant minors and in the recent EU Strategy on the Rights of the Child that the special vulnerability of migrant minors requires additional and specific protection and support;

T. Whereas the EU Strategy on the Rights of the Child intends to complement and reinforce the actions foreseen in the EU Strategy in the fight against trafficking of human beings;

U. Whereas in the EU Strategy on the Rights of the Child, the Commission recommended that Member States strengthen their guardianship systems for unaccompanied minors, in particular by participating in the activities of the European Guardianship Network;

1. Regrets that Morocco has used border control as political pressure against a Member state of the European Union, and that translated into irregular arrivals of migrants, especially children, in Ceuta.

2. Deplores the raise of tensions between Spain and Morocco; considers that bilateral disagreements between close partners should be addressed through diplomatic dialogue and by no means by using the fate of migrants; calls for an appeasement of recent tensions; Stresses the European Union’s full solidarity with and support for Spain and reiterates that Spain’s borders are also the EU’s external borders;
3. Deplores that Morocco, a longstanding strategic and reliable partner of the European Union, took the sudden decision to ease borders controls with Ceuta, enabling a temporary flow of migrants, among them children and unaccompanied minors, who took risks to reach Ceuta three of whom reportedly drowned;

4. Welcomes the recent statement by which the King of Morocco expressed his intention to repatriate unaccompanied minors; calls on Spain and Morocco to work closely to allow for the readmission of remaining unaccompanied minors who reached Ceuta while fully respecting necessary legal guarantees;

5. Reminds that the best interests of the child should be a primary consideration in all decisions concerning children in migration and that the principle of family unity and the right to family reunification shall be safeguarded; Stresses that the use of children and unaccompanied minors as political retaliation against a close partner is utterly inappropriate and that all the European institutions must carry this message in defence of protection and child welfare as a central policy of the EU;

6. Considers unacceptable the instrumentalisation of migration by Morocco, particularly concerning children and unaccompanied minors, and the use of border management, control of irregular immigration and collaboration in anti-terrorism matters due to disagreements, differences and discrepancies in matters related to foreign policy with any of the member states;

7. Considers that irregular migration poses higher risks when affecting children and unaccompanied minors, given their particular status of vulnerability; Expresses its deep concern for the lack of legal protection of children and unaccompanied minors, given their particular status of vulnerability, and calls for a European approach oriented to address specific policies needed in order to guarantee their rights, particularly that of family reunification;

8. Reiterates that, from the moment of their arrival and immediate identification in an EU Member State, and given their particular status of vulnerability, unaccompanied children should benefit from all appropriate protection measures such as effective guardianship and shall receive adequate accommodation, care, and assistance appropriate to their age, gender and personality, in accordance to the EU “Charter” and to the UN “CRC”; asks the guardian to be involved in all stages of procedures, be it the asylum procedure or of the return procedure, including the best interest assessment, to find a durable solution that is in the best interests of the child; moreover, recalls that children shall receive all information regarding their situation in a child-friendly manner and in a language they can understand;

9. Urges, therefore, the Commission and its Member States to make effective use of Article 80 TFEU and Article 4(3) TEU, to coordinate further solidarity measures, sharing relevant tasks and pooling resources at EU level in line with the current CEAS in place, in order to guarantee that Spain has the sufficient human and technical capacities in place to cope with the arrival of refugees and irregular migrants to its borders, especially with the most vulnerable; highlights the operational support that the EU agencies, such as EASO, the European Border and Coast Guard and other relevant agencies can and should provide to support frontline Member States; calls on Member States to urgently reactivate and step up relocations of unaccompanied minors;
10. Calls on Morocco to continue to respect its longstanding commitment to enhanced cooperation on border management and migration mobility; Reaffirms its full support for deeper cooperation in all fields beyond migration; Commends the efforts from both Morocco and the EU to further develop bilateral relations, including by supporting a strong and sustainable economy on both sides of the Mediterranean; stresses the importance of strengthening this partnership, in which the needs of both partners are taken into account in a balanced manner and on equal footing;

11. Calls on the European Commission to provide emergency funding to address the situation in Ceuta, including by funding additional shelter capacity for unaccompanied children; Welcomes the protection provided to unaccompanied children by Spanish authorities in accordance with EU law and the UN Convention on the rights of the Child;

12. Urges EU Member States to fully and better implement the current Common European Asylum System framework, pending the adoption of the new Pact on Migration and Asylum presented by the Commission on September 2020, in order to improve conditions for all children in migration, and in particular unaccompanied children in the EU;

13. Reiterates the importance of swiftly agreeing on an effective solidarity mechanism, that includes relocation among Member States to relieve frontline Member States; stresses the urgent need for more safe and legal pathways towards the EU, without which such crisis will keep on repeating themselves; adds that this crisis must also be seen in the context of an ineffective common European migration policy;

14. Considers indispensable the signing of Agreements with countries of origin in order to guarantee the full legal protection of children and unaccompanied minors; Urges, therefore, the Commission and the Kingdom of Morocco to cooperate and conclude formally an EU-Morocco readmission agreement; Considers furthermore that the exchange of best practices among Members States, such as a common registry of unaccompanied minors is vital in order to achieve this objective;

15. Instructs its President to forward this resolution to the Council, the Commission and the High Representative of the Union for Foreign Affairs and Security Policy, the UN Secretary General, the Secretary-General of the African Union, the Parliament and Government of Spain and Morocco;