

Country : Spain\_ defense file\_ written procedure

Commission : ICJ

Case : Respect of International Obligations in the Protection of Migrants and in Maritime Border Control Operations

### Position of Spain before the International Court of Justice -

Spain appears before the International Court of Justice as a Member State of the European Union and a frontline State at the Union's external borders. Due to its geographical position, including the Western Mediterranean maritime route, the Atlantic route to the Canary Islands, and the land borders of Ceuta and Melilla, Spain faces sustained and complex migratory pressure.

Spain is a party to the 1951 Geneva Convention relating to the Status of Refugees, its 1967 Protocol, the European Convention on Human Rights, and the United Nations Convention on the Law of the Sea (UNCLOS). Spain reaffirms its full commitment to these legal instruments and firmly rejects the allegation that its migration management policies systematically violate international law.

In recent years, Spain has experienced significant numbers of arrivals, often through dangerous maritime crossings organized by transnational smuggling networks. Many of these journeys place migrants' lives at serious risk. Spanish authorities regularly conduct search and rescue operations in accordance with international maritime obligations and provide access to asylum procedures for those seeking protection.

Migration management at Spain's borders frequently occurs within joint European operations coordinated by Frontex. These operations involve shared responsibilities between Member States and European institutions. Allegations of violations must therefore be examined carefully, taking into account the operational complexity and the shared nature of decision-making.

While Spain recognizes that managing sudden and large-scale arrivals presents serious challenges, these difficulties do not amount to deliberate or systematic breaches of international obligations.

Firstly, under international law, States possess the sovereign right to control their borders. Border management is a lawful exercise of sovereignty, provided it is carried out in compliance with fundamental rights. International law regulates migration control, it does not prohibit it.

Secondly, Spain fully recognizes and applies the principle of non-refoulement as enshrined in Article 33 of the 1951 Refugee Convention, as well as the prohibition of collective expulsions under the European Convention on Human Rights. Spanish law guarantees access to asylum procedures and requires individual examination of protection claims.

Therefore, migration operations coordinated by Frontex involve both national authorities and European structures. In accordance with the principles reflected in the Articles on the Responsibility of International Organizations (ARIO), responsibility must be clearly attributed before liability can be established. Spain cannot be automatically or solely held accountable for conduct arising from multinational operations without proper legal determination of attribution.

What's more is that Spain faces organized smuggling networks and, in certain cases, violent attempts to cross borders. Measures adopted to preserve public order and protect human life are legitimate when proportionate and consistent with human rights standards. Security concerns and humanitarian obligations must be balanced within the framework of the law.

Spain respectfully requests the Court to:

1. Reject the allegation that Spain systematically violates international migration law.
2. Recognize that border control constitutes a legitimate exercise of State sovereignty when conducted in compliance with international obligations.
3. Clarify the rules governing attribution of responsibility in joint operations involving Member States and European agencies.

4. Encourage strengthened cooperation, transparency, and oversight mechanisms without undermining lawful border management.

In conclusion, Spain does not deny the humanitarian dimension of migration. It acknowledges the human suffering involved and remains firmly committed to the protection of fundamental rights. However, safeguarding borders and protecting human dignity are not incompatible objectives.

Spain respectfully submits that international law requires balance: a system that preserves State sovereignty while fully respecting the rights and dignity of those seeking protection. The Kingdom of Spain remains committed to that balanced and lawful approach.