



THE SPANISH-FRENCH BORDER

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1. Introduction: Why the Spanish-French Border

Known by many as the place where the great Republican exodus took place in January and February of 1939, the border crossing zone between La Jonquera and El Pertús, together with that of Irun, is still one of the most important today on the dividing line that separates Spain and France. The Hispano-French Observatory of Traffic in the Pyrenees, in its eighth edition, which was published in May 2018, shows that the average number of travellers crossing (by road) per day in 2015 was 59,360.

Although no official data exists in this respect, the intensification of readmission controls and processes during the summer of 2018¹ especially on the Irún - Hendaya side of the Spanish-French border, has led us to focus on the situation of the Catalan and Basque border area. News of the arrival in Catalonia of people hiding in trucks who were trying to enter France from Italy² or the return, under the readmission agreements of people who were trying to cross the border into France³ are becoming ever more frequent.

The control procedures are performed at different strategic points (tolls or stations) or on low-cost coaches (Flixbus, Ouibus, Isilines, etc.). In 2017, over 88% of all those sent to the Administrative Retention Centre (CRA) in Perpignan had been detained at the border, the vast majority of them in vehicles of this kind⁴. Furthermore, local observers continually state that these enclosed facilities are dark⁵. Since 2015 and with the restoration of internal border controls, these practices have increased and the police have more staff to man these checkpoints, as well as more legal means and temporary resources at their disposal.

¹ Europa Press (25/09/2018). Podemos denuncia "devoluciones en caliente en la frontera de Irún y Marlaska habla de "readmisiones". Recuperat de http://www.europapress.es/epsocial/migracion/noticia-podemos-denuncia-devoluciones-caliente-frontera-irun-marlaska-habla-readmisiones-20180925180432.html

² Soler, T. (29/05/2018). Refugiats en ruta. El Punt Avui.

Recuperat de http://www.elpuntavui.cat/punt-divers/article/4-divers/1400748-refugiats-en-ruta.html

³ Soler, T. (31/05/2018). Retornen 33 immigrants interceptats al Voló.

Recuperat de https://www.elpuntavui.cat/punt-divers/article/4-divers/1403690-retornen-33-immigrants-interceptats-al-volo.html 4 La Cimade (2018). Dedans, dehors: une Europe qui s'enferme: https://www.lacimade.org/wp-content/uploads/2018/06/La_Cimade_Schengen_Frontieres.pdf

⁵ L'independant (12/05/2018). Perpignan: Manifestation devant le centre de rétention ce samedi matin.

Recuperat de https://www.lindependant.fr/2018/05/12/perpignan-manifestation-devant-le-centre-de-retention-ce-samedi-matin,3988694.php

2. What does the Observation Mission comprise?

In late 2018 and early 2019, a team of human rights observers, formed by members of the Catalan Commission for Refugee Aid (CCAR) and SOS Racisme, visited the French municipal areas of Cerbère and Perpignan, and the Catalan towns of La Jonquera, Figueres, Portbou and Irun.

The aim of the mission was to observe the management of migration control and the situation regarding international protection at the overland access points of the border between France and Spain, in-person and on-site.

Apart from direct observation of events at border crossings, the team interviewed those currently following the journey, as well different actors and organisations that were working in field in both Spain and France (Amnesty International, the CIMADE, La Jonquera Town Hall and the Migrant Reception Network in Irun).

Using this material, together with previously-made reports, we have analysed the Spanish-French border and have denounced the human rights violations that are occurring throughout Europe.

3. Contextualization

• Irun

Irun is a municipality in the province of Guipúzcoa, in the Basque Country. The city borders France along the course of the River Bidasoa, which marks the boundaries of the municipality to the east. It is the second most important city in Guipúzcoa after the regional capital, San Sebastián, with a population of some 60,000 inhabitants. The economy of the city is based on its importance as a border crossing between France and Spain. It is also an important railway logistics and transport node, with significant trade and a certain level of industry in its economy.

The percentage of foreigners in the province of Guipúzcoa is 8.8% of the population, a figure similar to the other provinces in the Basque Country (Vizcaya 8% and Álava 10.5%). Irún has 7,357 people of foreign origin, which amounts to 11.9% of the total population, a percentage similar to that of the Bidasoa region to which it belongs, which is 11.1%.

In the province of Guipúzcoa there are many more detentions under immigration law than in the other two provinces: In 2016, 652 arrests were recorded in Bizkaia, in Álava 321 and in Guipúzcoa 1,334⁶. That year 35,882 arrests were made in Spain under its Immigration Law.

La Jonquera

La Jonquera is a municipal area of the Alt Empordà region in Catalonia. It lies a few kilometres south of the Spanish-French border at the Coll del Pertús. The local economy depends largely on the transit of goods and on the movement of people between France and Spain.

With a population of over 3,000 people, the percentage of foreigners in the population is 33.3%, which is slightly higher than the rest of the Alt Empordà (24.2%) and Catalonia in general $(13.78\%)^7$.

In the town itself, just beside the provisional police station of Mossos d'Esquadra, is the Red Cross reception centre, which attended over 50 people during 2017.

While it is true that the geographical location of La Jonquera makes it almost an obligatory point of transit for those trying to cross into France from Catalonia, the local council does not possess public figures on the number of returns made by the French police.

⁶ Barbero, I. (2017). La readmisión de extranjeros en situación irregular entre Estados miembros: consecuencias empírico-jurídicas de la gestión policial de las fronteras internas. CEFD

⁷ Idescat (2018). La Jonquera: https://www.idescat.cat/emex/?id=170865&lang=es#h40

The data from early 2018 provided by Red Cross staff reflects that Syria is the main country of origin with respect to those returnees attended by the entity, followed (to a much lesser degree) by migrants from Morocco, Nigeria and Palestine.



The reception centre for migrants administered by the Red Cross in La Jonquera. Photo: Fotomovimiento

Portbou

Portbou is a municipality in the Alt Empordà region in Catalonia, with a population of just over 1,000 inhabitants⁸.

Its main source of income is currently tourism, which has largely served to replace the income from the numerous people who travelled to France during the 20th century. Due to its location near the border with this country, Portbou has a train station in which approximately 79,000 regional rail passengers were registered in 2016 (34,000 got off and 45,000 got on) . Now, Spanish medium–distance and regional service trains depart from or go to Barcelona, Maçanet–Massanes or Cerbère.

• Cerbère

The village of Cerbère is in the Eastern Pyrenees, four kilometres from the Spanish border, and is very near to Portbou. With just over 1,200 inhabitants, the town is known for its train station, where both medium-distance trains operated by Spain's RENE company (Barcelona - Cerbère) and and where French SNCF national distance (Paris-Cerbère) and regional trains (Narbonne/Nimes/Avignon and Toulouse - Cerbère) run.

⁸ IDESCAT (2018). Portbou: https://www.idescat.cat/emex/?id=171387&lang=es

 $^{9\} Transport\ ferroviari.\ RENFE\ (2018).\ Viatgers\ a\ les\ l\'inies\ regionals:\ http://territori.gencat.cat/web/.content/home/01_departament/estadistic/anuari_estadistic/$

Its location as a connecting municipality for French and Spanish trains makes Cerbère a key location on the route of refugees seeking to cross from one country into another by train. As such, it is not uncommon to encounter the police at the station.

3. 2 The Sociopolitical Context

The Jihadist attacks of 2015 (in January against the offices of Charlie Hebdo magazine, in November in the Bataclan and other points in Paris) set off alarms across France. The government justified the internal control of its borders by once again deploying police and setting up army checkpoints. As such, it may be considered that from then on, all internal borders were restored.

However, this is not the first time that this type of procedure had been implemented by the French authorities. From October 2006 to September 2018, the reestablishment of the country's internal borders has been reported 15 different times¹⁰.

By 2016, coinciding with the celebration of sporting events such as the European Cup and the Tour de France, police controls had increased at border crossing points. Consequently, this also led to an increase in the number of returns and non-admissions of non-EU foreigners from Spain.

Until then, according to police sources, the procedure for returning unaccompanied people had been carried out in an appropriate and bilateral manner. However, under the pretext of the terrorist threat, France began to act unilaterally, by rejecting those migrants who did not meet with requirements for entering the country. This means, as demonstrated in both Irun and in La Jonquera, that people who are refused entry become trapped between these border crossings.

It must be said that France is not the only European state that has chosen to establish enhanced control mechanisms at its borders. The increased number of arrivals in Europe (especially in the Mediterranean) of refugees during the summer of 2015 led to unilateral decisions being made by several countries on the management and control of their dividing lines with other neighbouring countries. Austria was the first, in September 2015, but nowadays more Schengen Area countries apply border control procedures. These countries are France, Germany, Austria, Denmark, Sweden and Norway (the latter is not an EU member, but it is in the Schengen Area).

In October 2017, a debate on the modification of the conditions of application established by the Schengen Implementation Convention for the restoration of internal border controls took place at a meeting of several ministers from their respective Interior and Justice departments¹¹. Two groups of countries were distinguished in these talks: those who wanted to reform Schengen in order to prolong these controls in the face of

 $^{10\} For\ more\ information,\ go\ to:\ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control/docs/ms_notifications_-_reintroduction_of_border_control_en.pdf$

¹¹ For more information, go to: https://www.consilium.europa.eu/es/meetings/jha/2017/10/12-13/

alleged threats, and those who defended the need to preserve a Europe without frontiers. While the discussion continued unresolved, many countries continued to request extensions in order to maintain control over their own borders, the last extension requested ended in May 2019.

3.3 Regulations

The legal framework that regulates the numerous cases of returns between both countries is the Agreement on Readmission of Persons in an Irregular Situation, which was signed by Spain and France in Malaga on 26 November 2002, and which became applicable on 21 December 2003¹². The agreement deals with the readmission of nationals from the signatory countries and of third-country nationals who have been identified in one of the signatory countries and who came from the other signatory country. However, some exceptions are established in Article 6:

- a) If they come from countries with a common border with the state rejecting them.
- b) If they have a visa or permit in the country that provides notification.
- c) If they have resided more than 6 months in the country that provides notification
- d) If they are recognised as refugees in the country that provides notification
- e) When the country providing notification is responsible for the first asylum application examination.
- f) Those who have already been expelled from the country that provides notification
- g) Persons who have a provisional permit in a Schengen country.

In this agreement, both countries undertake to accept people who are returned, if they are in an irregular situation and have been intercepted by the police in a period of no more than 4 hours from when they crossed the border.

In practice however, it appears that there are a significant number of returns made without the application of any established procedure, and migrants and refugees are being intercepted on the French side of the border are returned by the French police to Irún or La Jonquera without the authorities providing communication of their actions to the Spanish police¹³.

Calculating the total number of returns is very difficult, as official data cannot be found. However, according to the approach made by UPV lecturer Iker Barbero in 2017, there

¹² Ministerio de Asuntos Exteriores (2002). Acuerdo entre la República Francesa y el Reino de España sobre la readmisión de personas en situación irregular: https://www.boe.es/boe/dias/2003/12/26/pdfs/A46109-46117.pdf

¹³ En el cas del pas fronterer basc, la comissaria conjunta de Biriatou és el punt d'entrega i recepció d'aquestes persones, que desprès seran traslladades a la comissaria d'Irún on se'ls incoa un expedient d'expulsió per estada irregular a Espanya.

were 9,175 cases of rejection at the border, however, the official data that includes readmission from France to Spain in the framework of the bilateral agreement between the two countries (data obtained through a parliamentary question) details 2,690 readmissions made from France to Spain. By 2018 (until September), 9,018 had already been carried out, almost as many as for all of 2017¹⁴. This means that three times more readmissions were taking place outside the procedure legally established by the bilateral agreement.

This bilateral agreement today deserves certain considerations. As detailed below:

- a) The uncertainty regarding the regulation and the lack of jurisprudence means that it is difficult to define if all police identification procedures take place without taking the ethnic profile of the individual questioned into account. As such, the need arises to identify racially-motivated police behaviour as part of border control procedures.
- b) The convention includes the concept of "readmission without formality". This action is provided without legal assistance, although it is a right recognised in Spanish legislation for all types of deportation. As such, it may be said that the right to effective protection is violated, as established in Article 24 of the Spanish Constitution.¹⁵
- c) While it is true that the agreement was signed between Spain and France, the lack of any real control over its application may entail a violation of human rights. This leads to the question as to what extent an agreement between two countries prevails over international law.

3.4 The Local Context

• The Irun Border Crossing

A turning point was reached in June 2018, when a coach from the south of Spain arrived at San Sebastián bus station with a total of 46 people of sub-Saharan origin, they had come from Andalusia, which In previous weeks, had seen high numbers of entries made by foreigners.

Why did they arrive in San Sebastián? On the one hand, the migratory flow to the south increased over the summer, not only due to better weather conditions, but also due to the impossibility of using other safe, legal routes. However the proximity of the region with the French border makes it a strategic point: a transit route or a place to stay for a while, before crossing (or trying to cross) the border.

¹⁴ Napal, J. y Azurmendi, I. (29/11/2018). Francia ordena al mes 760 devoluciones de migrantes a Irun sin garantías jurídicas. Noticias de Álaba. Recuperat de https://www.noticiasdealava.eus/2018/11/29/sociedad/francia-ordena-al-mes-760-devoluciones-de-migrantes-a-irun-sin-garantias-jurídicas

¹⁵ Article 24. The Spanish Constitution of 1978: http://www.congreso.es/constit/constitution/indice/titulos/articulos.jsp?ini=24&tipo=2

Shortcomings in the response of administrative bodies

The arrival of these people brought a situation that was already present into the light, however, the fact that more individuals in this situation were concentrated in the area revealed the lack of attention and the situations of vulnerability to which no response was being given to a much greater extent.

According to SOS Racisme, some of the main shortcomings identified were

- Lack of vacancies in hostels and resources to accommodate all those in transit: many people ended up sleeping in the street or in stations.
- The lack of coordination between the different administrative bodies involved: government, state, regional authorities, county authorities, and councils.
- The lack of coordination between different organisations offering aid to persons in transit (from their arrival from the south and during their entire journey to the border).
- The actions of the authorities did not respond to the situation in practice.
 - Informing and evaluating people with respect to their legal situation.
 - Detecting cases of greater vulnerability (human trafficking, unaccompanied minors, single women with minors in their charge, etc.)
 - Providing responses to people who wanted to stay in Spain.

The role of society: the public support network in Irun

Faced with the lack of response from the administrative bodies involved, and above all for reasons of support and with the aim of transforming society the means to advance and provide a response was sought, as were ways to accompany those arriving at the border area between France and Spain (both those who wanted to continue their journey, as well as those considered staying).

At the end of June 2018 a Reception Network was created in late June 2018 in order to help and cover the needs of these people. In January of 2019, there were over 140 people actively combining actions involving both assistance and the reporting of shortcomings¹⁶.

¹⁶

⁻ Breakfast of support in front of the Irun city council building – protesting the fact that 15 people had been sleeping in the street for a week.

⁻ Pressure on institutions to facilitate more resources and respond to real needs (e.g., with respect to those days of stay limited to 3 days until October).

⁻ Demand for the opening of a day centre, as the facilities and public resources meant that people in transit were only able to stay one night in the centre, a worrying situation when the cold weather came.

⁻ Report of the fact that women and minors do not receive comprehensive and adequate attention in possible situations of greater vulnerability.

This network, which is divided into a reception group¹⁷, a food group¹⁸, a clothing group¹⁹, an assessment group²⁰ and a gender group²¹, attended over 2,500 people between the end of June and the end of October 2018, totalling an average of 25 every day Among them, over 15 unaccompanied minors were cared for, although this data is not reliable, as many of them prioritise their migration project and do not state their real ages. Out of the total number, around 16 decided to stay and live in Guipúzcoa²².

The La Jonquera Border Crossing

On 9 February 2018, four Tunisian men arrived in Girona hidden in a lorry trailer. Six days later, in Celrà, eight people (3 children and 5 adults) appeared in another truck from Italy. In total, between February and May 2018, at least seventy African people had arrived in Catalonia in similar situations²³. Most of them did not intend to stay in Spain, but wanted to go on to France, or other countries in northern Europe. While some of them (the adults) were returned to France within the framework of the Bilateral Readmission Agreement, the children were placed in the care of the Directorate General for Child and Adolescent Assistance (DGAIA). In these cases, those returns of asylum seekers that had been made by the French police, and which were detected during their journeys from Spain to France were added to these figures. On the other hand, one of the most worrying points in recent years has been the lack of effective protocols involved in managing these types of returns²⁴.



Two people waiting at the Figueres train station. Photo: Fotomovimiento

- 17 EIt travels to the border area to collect and inform those who have been returned by the French police.
- 18 It serves around 30 lunches a day, and provides to over 3,000 between July and October.
- 19 It has distributed more than 2,000 articles, provided by local residents from Irun.
- 20 It reports on the legal situation and what procedures can be implemented.
- 21 It focuses on how to give specific responses to women, and introduces gender perspectives in all the work carried out by the network.
- 22 All data has been provided by sources from the Citizen Support Network of Irun.
- 23 Soler, T. (29/05/2018). Refugiats en ruta. El Punt Avui. Recuperat de http://www.elpuntavui.cat/punt-divers/article/4-divers/1400748-refugiats-en-ruta.html
- $24\ Veure\ exemple\ en\ la\ següent\ noticia:\ Brujats,\ P.\ (09/03/2017)\ França\ retorna\ refugiats.\ Cadena\ Ser.\ Recuperat\ de\ https://cadenaser.\ com/emisora/2017/03/09/radio_girona/1489063318_423878.html$

The rise of detentions on the border

The increase in control procedures carried out by the Spanish police (such as the small patrols of no more than 5 officers in strategic passing places, such as roads and train stations), increased security measures and the suspension of free movement between both countries has resulted in a larger number of identifications at the border crossings at La Jonquera. As the team has been able to observe (and through conversations with staff at the border stations) patrols carry out almost daily checks on those trains en route to France. The lack of the use of protocols by the police to detect unaccompanied minors who are not identified as such is a cause for concern.



Officers from the Spanish National Police Force making checks at Portbou train station. Photo: Fotomovimiento

The local response

In anticipation of an increase in the number of arrivals from France, La Jonquera municipal council began to cooperate with the Red Cross, which now manages a reception centre in the town.

According to data provided by the Red Cross itself, a total of 107 people were returned by the French authorities during 2018. However, it is impossible to obtain reliable data on the total number of crossings.

The role of the public

In general terms, the area of the Eastern Pyrenees, both on the Catalan and French sides, is characterised by low levels in terms of local solidarity initiatives in support of refugees and border municipalities do not have refuges coordinated by any known local volunteers. However, this aspect is not justified by the lack of crossings, but in the scarce visibility any volunteers currently have. An Administrative Retention Centre (CRA) and a reception centre for minors may be found just a few kilometres from Perpignan. Looking at public support initiatives on the French side that are known through the media or web platforms, it can be seen that only the Cimade is only acknowledged by the Libération newspaper, although some specific members of the public do offer their homes or support through platforms like aiderlesrefugies.com, usually under the umbrella of the public movement SINGA²⁵.

4. The Journeys of Refugees

Crossings in the Irun and La Jonquera areas, may be made by both road and train. In 2017 most of those arrested at the border and sent to the Administrative Retention Centre (CRA) in Perpignan had been found on low-cost buses, like as Flixbus, Ouibus and Isilines²⁶.

4.1 The Border at Irun

Regarding arrivals and returns at Irun, the main migrant nationalities can be ascertained by using data on those attended by the Citizen Support Network. In this case, half of those attending said they came from Guinea Conakry, while those from the Ivory Coast totaled 40%, while the remaining numbers were divided between nationalities such as Yemen, Sierra Leone and a smaller group of numerous Arab countries.



Google. (s.f). Map of the border at Irun

²⁵ For more information, go to: https://www.singafrance.com/presentation 26 La Cimade (2018). Dedans, dehors: une Europe qui s'enferme: https://www.lacimade

²⁶ La Cimade (2018). Dedans, dehors: une Europe qui s'enferme: https://www.lacimade.org/wp-content/uploads/2018/06/La_Cimade_Schengen_Frontieres.pdf

4.2 The Border at La Jonquera

The most commonly-used route by car between Spain and France is via the A2 motorway. However the alternative route on the N260 road may be used to complete the route by car or combine it with trains arriving or departing from Cerbère or Portbou. Although in the short term, refugees want to arrive in Perpignan, their main objective is to continue their journey on to Paris, the United Kingdom or other regions in northern Europe.

The main migrant nationalities, can be ascertained by using data on those attended by the Red Cross in La Jonquera, in which Syrians are noteworthy, followed to a much lesser extent by Moroccans and Nigerians.



Google. (s.f). Map of the border near La Jonquera

The nationality of those attended				
Syria	53	Eritrea	3	
Morocco	9	Ivory Coast	2	
Nigeria	9	Romania	2	
Palestine	7	Ghana	1	
Guinea Conakry	5	Comoros	1	
Lebanon	5	Senegal	1	
Yemen	4	Mali	1	
Algeria	4			

Source: Creu Roja, La Jonquera

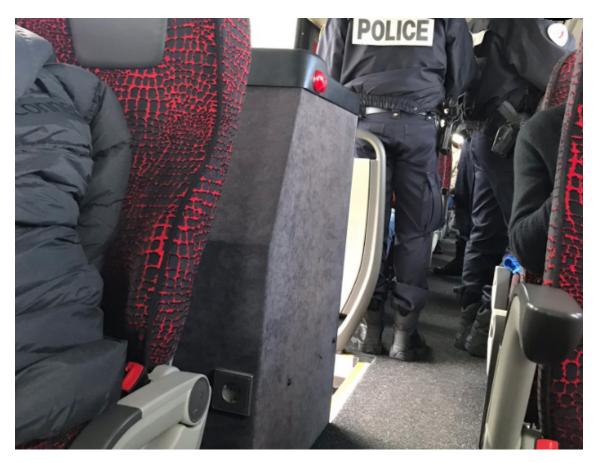
People returned by the French police and attended by the Red Cross at La Jonquera between 01/01/2019 and 12/02/2019. Source: The Red Cross in Girona

5. Causes for Concern Identified at the Border

5.1 Ethnic Profiling at Border Checks

On the border of Irun, it has been possible to find out how systematic police controls are made that are based on ethnic profiling: people who are discriminated against on a racial basis, especially those with black skin, are stopped, identified and returned.

According to a diagnosis of cross-border work carried out by the Euroregion (New Aquitaine – Basque Country – Navarra), a total of 3,863 people cross the border every day in order to go to work and they are not subject to identification processes. If police control procedures on the border are motivated in order to prevent terrorism, then it is clear that these border checks are based on ethnic profiles. With respect to La Jonquera, the identification of people according to their skin colour is also evident on train checks. Police procedures at the Portbou train station involve requesting documentation from people with respect to their physical characteristics, and security workers at the Figueres and Portbou train stations have confirmed this to the observation team. With regard to buses, the team has found that the French police carry out control checks during the entire journey without discriminating on the basis of ethnic profile.



French police officers checking coaches that cross the border en route to Perpignan.

Photo: The Catalan Commission for Refugee Aid

5.2 Returning without Guarantees increases the Vulnerability of Refugees

Without losing sight of the fact that the starting point of the Schengen Borders Code is based on the absence of control procedures, and that the restoration of internal borders in only foreseen for specific cases. The readmission agreement between the French state and the Spanish state is an instrument that is used to return people who are in an irregular administrative situation who are intercepted in France to Spain. However, when checks do occur, this agreement does not offer sufficient guarantees to ensure the right to information, legal defence or an appeals proceeding, as detailed in Point 3.3 of this report.

5.3 Movements in both Directions

As activist groups interviewed at the La Jonquera border area warn, migratory flows occur in both directions, from Spain to France and from France to Spain. In the former case, the largest number of known and, therefore, visible crossings occurs in the Irun area (a great deal of ignorance exists regarding flows in the La Jonquera area). In the latter case, despite being lower in numbers, most cases are related to arrivals and involve people who are likely to be recognised as potential international protection applicants from the French-Italian border.

5.4 The Invisible Nature of Human Trafficking for Sexual Exploitation

Unfortunately, there are cases linked to people trafficking for exploitation at the Spanish-French border, and especially sexual exploitation, either in brothels or in public areas²⁷. In order to tackle this issue, La Jonquera Council was one of the first municipal authorities in Spain to fine both prostitutes in public areas and their clients. However this policy was stopped, as it was not effective, and because the fines themselves increased the debts of the prostitutes to the criminal organisations²⁸ who were controlling them, which together with the clandestine nature of their existence, made it even more difficult for them to leave these exploitation networks²⁹.

The existence of groups willing to illicitly take people (among whom are minors) across the border in a privately-owned vehicle, in exchange for an unspecified charge is a consequence of the increased number of control procedures and returns made between the two countries. If these crossings occurred in a totally secure context for all those involved, the migrants would not be forced to choose routes that involve serious dangers, among which is human trafficking for the purpose of exploitation.

²⁷ Veure exemple: 20 minutos (21/05/2019). Desarticulan una red internacional de explotación sexual de mujeres en La Junquera y liberan a 13. Recuperat de: https://www.20minutos.es/noticia/3646597/0/desarticulan-una-red-internacional-de-explotacion-sexual-de-mujeres-en-la-jonquera-y-liberan-13/#xtor=AD-15&xts=467263

²⁸ Reguero, P. (03/11/2017). Las ordenanzas que sancionan la prostitución penalizan a las mujeres. El salto.

Recuperat de https://www.elsaltodiario.com/trabajo-sexual/encarna-bodelon-ordenanzas-prostitucion-mujeres-multas-derechos 29 Martín-Arroyo, Javier. (03/09/2016). Denunciados un millar de prostitutes y clientes tres un año de la "ley mordaza".

El País. Recuperat de https://elpais.com/politica/2016/09/02/actualidad/1472839814_078043.html

5.5 The Lack of Actions by the Authorities in the Face of Migrant and Refugee Vulnerability

The different administrative organisations (with different levels of action and responsibilities), are not responding to the situation and the needs of these people: their circumstances and specific requirements, and are doing so in a way that betrays self-interest:

- Those who are the most vulnerable are not being identified, such as unaccompanied minors, women with dependent children, or victims of trafficking.
- Refugees travel a long way before coming into contact with different administrative administrations, organisations, public and private bodies that do not act to counter their vulnerability and lack of protection. The goal is to undertake management while these people are in transit, to prevent them from remaining and becoming a major problem.
- The situation of unaccompanied minors is highly worrying:
 - Because they are not given sufficient guarantees that allow respect for our legal-normative framework that are in the minor's best interests and therefore their protection as a minor above any other conditions.
 - There is an obvious risk involving the non-identification to minors entering Spain. This entails the risk that the different police bodies involved (at the border, the police station, in the regular identification procedures being made, etc.) as well as the public and private group of actors, who attend them do not identify them as minors or provide them with the protection established by law.
 - The child protection system in Spain has shortcomings, dysfunctions and limitations that may in part cause many children to slip through the system or to experience more failures and disappointments. It is imperative that the system identifies them, but it must then be able to protect them.

5.6 The Maximum Detention Period in France has Increased

From 2 January 2019, the maximum detention period for foreigners in France doubled from 45 to 90 days. This means that the authorities have 3 months to expel people deprived of freedom who are living in a CRA. According to the Cimade, at least 50,000 people are detained without having committed any form of crime. France issues more expulsion orders than any other European country; over 100,000 per year³⁰.

30 Cimade (2019). 3 mois d'enfermement en rétention: 2019 marque un tournant dans la répression des personnes étrangères: https://www.lacimade.org/3-mois-denfermement-en-retention-2019-marque-un-tournant-dans-la-repression-des-personnes-etrangères



The Perpignan Administrative Retention Centre. Photo: Fotomovimiento

6. Conclusions.

As Iker Barbero states³¹, in Spain the current Public Security (LO 4/2015) regulation, in articles 13.1, 16 and 17 allow certain identity and documentation control procedures to be carried out, in line with the previously-existing Organic Law 1/1992 However, such police practices have been questioned by agencies such as the European Commission against Racism and Intolerance (2006 and 2011) and the United Nations Committee on the Elimination of Racial Discrimination (2011). As such new protocols that ensure non-discrimination on the grounds of skin colour need to be put into practice at border controls.

To date, the violation of fundamental rights by Spain is has been made invisible in terms of those identified on the Spanish-French border. Beyond the difficulties encountered in accessing specific figures, the readmission agreement for people in irregular situations that was signed between Spain and France on 21 December 2003 gives legal coverage to what amount to 'hot returns' on establishing certain criteria under a return may be made from one country to another "without any formality". This concept of "without any formality" does not include the possibility of accessing information, a legal defence or an appeal, contrary to Article 24 of the Spanish Constitution. According to Iker Barbero himself, all deportation figures explicitly acknowledge the right to legal aid, especially when foreigners "find themselves in Spain" (Art. 22 LOEx). Eliminating the concept of "without any formality" is essential if actions are to be made in accordance with the fundamental values established in the Lisbon Treaty, such as human dignity, freedom, democracy, equality and human rights.

³¹ Barbero, I. (2017). La readmisión de extranjeros en situación irregular entre Estados miembros: consecuencias empírico-jurídicas de la gestión policial de las fronteras internas. CEFD

It is necessary to stay aware of the need to protect the potential victims of trafficking that cross or work just a few kilometres from the French border. A trafficking victim has the right to receive international protection (asylum or subsidiary protection) if there is a risk of persecution or serious harm should he/she return to his/her country of origin. Access to international protection procedures should be taken into account as one possible form of protection, as they are the highest-level guarantee that may be granted to someone. Victims who request asylum are usually re-housed in areas where they receive care and assistance that is adapted to their needs. However, it is must be made clear that trafficking victims have different needs, such as:

- The need for a safe space that responds to the needs of protection, intimacy, gender, the presence of minors and maternal care, when necessary.
- The need for adapted psychological and health attention.
- The need for empowerment, including by promoting financial sustainability, independence in daily life and future perspectives (training and work).

However the need to highlight those risks faced by unaccompanied minors must be noted. There is a growing trend of minors who are vulnerable to becoming human trafficking victims, who identify themselves as being aged over 18 and who are registered as adults ³².



A person waiting in the Figueres bus station. Photo: Fotomovimiento

 $^{32\} The\ Spanish\ Commission\ for\ Refugee\ Aid\ (2018).\ Tracks:\ https://www.cear.es/wp-content/uploads/2018/03/TRACKS-consolidated-Report-January-2018.pdf$

Finally, the Catalan Commission for Refugee Aid and SOS Racisme recall that human mobility is a fact of life and that freedom of movement is a right. Unfortunately, at borders, security has been imposed to the detriment of freedom of movement and fundamental rights. The current policy of closing and controlling borders must be turned around and new proposals must be defined in order to respond to human mobility: guaranteeing safe, legal paths, reception policies that respond to the needs of those who decide to stay and guaranteeing equal rights and opportunities.

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