

Ceuta: an EU Constitutional Conundrum

Lorenzo Giuglietti

Executive Summary

- > The 2026 Ceuta incident exposed significant tensions between the European Union (EU)'s constitutional commitments – notably solidarity, sincere cooperation and free movement – and its capacity to respond collectively to pressure at its external borders.
- > 'Ceuta' illustrates how an external-border crisis can rapidly develop into an intra-EU constitutional and political challenge and to what extent the Union's constitutional principles risk becoming political aspirations rather than effective foundations of European resilience.
- > This is particularly concerning amid growing geopolitical tensions, as external actors may seek to exploit vulnerabilities at the Union's borders and leverage divisions between member states.
- > Against this backdrop, this brief argues that the European Commission should make fuller use of its supervisory and coordination powers, strengthen crisis preparedness and ensure that national responses remain consistent with EU law.
- > Ultimately, the Union's resilience depends not only on the availability of legal and institutional instruments, but also on the willingness of its member states and EU institutions to deploy them collectively.

The July 2026 events in Ceuta did more than test the European Union (EU)'s operational capacity at its external borders: they exposed a profound dilemma regarding the resilience of Treaty-based obligations and EU solidarity. The crossing of thousands of people from Morocco into the Spanish enclave, the subsequent frictions among European capitals and the reintroduction of internal border controls placed under strain a core premise of the EU legal order: that disputes are to be resolved through common rules,

institutional cooperation and mutual trust, rather than through retaliation and zero-sum bargaining.

While in the aftermath of these events, Commission President Ursula von der Leyen (2026) framed migration as "a European challenge that requires a European response" and stressed that "solidarity is fundamental", 'Ceuta' revealed a stark disjunction between the Union's political rhetoric and the extent to which its institutions and members translated treaty-based commitments into coordinated action.

By considering the extent to which the EU's obligations to respect solidarity, sincere cooperation, free movement and the Schengen *acquis* were challenged in this recent episode, this policy brief argues that 'Ceuta' is not merely a migration-related crisis, but a constitutional conundrum: the Union's response arguably fell short of its own objectives, laying bare inconsistencies with basic EU premises. It thus examines to what extent external shocks strain EU founding principles – most notably the duty of sincere cooperation under Article 4(3) Treaty on European Union (TEU) and the free movement of persons under Article 3(2) TEU – and what the EU, especially the European Commission, can do to prevent such crises in the future.

The brief contends that, where member states instrumentalise border controls for domestic political gain, the Commission must more assertively uphold treaty-based obligations, lest the Union's constitutional pillars be reduced to rhetorical aspirations. Furthermore, it argues that this vulnerability at EU external borders can potentially be leveraged to the advantage of external actors seeking to exploit EU-internal divisions to achieve political objectives.

The brief first reconstructs the events in Ceuta and the EU's (non-)response; it then assesses the compatibility of national measures with EU competences and the Schengen *acquis*; it subsequently analyses the implications for the EU's constitutional foundations before discussing the broader implications of 'Ceuta' for the EU; finally, it advances three policy recommendations and draws short conclusions.

The EU's (non-)response to Ceuta

On 30 and 31 July 2026, tens of thousands of people crossed from Morocco into the Spanish exclave of Ceuta within hours, with dozens dying during the attempt and most of those who entered subsequently returning to Morocco. Unconfirmed allegations suggest that the mass influx may have been facilitated or deliberately permitted by Moroccan authorities as a means of pressure on Spain (Jones et al. 2026). Reports also referred to the circulation of misleading online information, including information manipulation (Breton 2026). The scale, pace and apparent coordination of the crossing, combined with reports of online disinformation and possible failures of border enforcement, made it difficult to treat 'Ceuta' as merely an ordinary episode of irregular migration. At most, the available evidence supports describing it as a case of migration instrumentalisation or a potential hybrid threat by a third actor, namely Morocco.

Eventually, no unauthorised movement into mainland Spain or the wider Schengen area was recorded. Moreover, under the Schengen *acquis* and Spain's 1991 Declaration on Ceuta and Melilla (Article 41 of the Schengen Borders Code), a special border regime applies, which implies that entry into Ceuta does not entail unrestricted access to the Spanish mainland or to the Schengen area.

Nevertheless, the aftermath of the events in Ceuta developed into an intra-EU political crisis. On 1 August, the Italian government notified the European Commission about introducing one-month temporary border controls on non-EU nationals arriving from Spain by air and sea, justifying it with threats to public policy and internal security following the Ceuta events and the risk of secondary movements. Spain subsequently adopted reciprocal controls on air and sea travel from Italy (European Commission 2026a). Italy further extended the checks until the end of October 2026 (Reuters 2026). Besides Italy, Sweden and Austria reintroduced internal border controls expressly citing the events in Ceuta. The Italy-Spain dispute therefore produced a clear spillover effect, extending bilateral tensions into a wider challenge to free movement and the Schengen *acquis* (ibid.).

The checks substantially affected the practical operation of free movement between member states and the Schengen *acquis*. Under the Schengen Borders Code, Article 25 specifies that member states may exceptionally reintroduce internal border controls where a serious threat to public policy or internal security exists. However, such measures must remain exceptional, necessary, proportionate, time-limited and confined to what is strictly required as a measure of last resort. The absence of reported onward irregular movements from Ceuta raises questions as to whether the introduction of the checks was genuinely justified under EU law or primarily motivated by political retaliation.

Besides Italy, several other member states strengthened controls or signalled similar intentions in the days following the border crossing, transforming a localised border incident into a broader Schengen dispute. At that point, the Commission expressly confirmed that no onward movements towards continental Europe had occurred and that persons entering Ceuta irregularly could not freely travel onwards without undergoing the applicable checks (Genovese 2026).

Despite the Commission's acknowledgement, national political and ideological incentives largely prevailed over a common strategy. The result was an internally inconsistent EU response. Twenty-two member states, led by Italy and Denmark, called for an emergency meeting and a "coordinated European response" while criticising Spain's regularisation policy as a possible pull factor, warning against "uncontrolled mass crossings" and "hybrid threats" (Rennolds 2026a), and advocating the reinforcement or temporary reintroduction of internal controls.

The Commission's initial response left room for intra-state confrontation. On 31 July, Commissioner Brunner (2026) stressed the gravity of the situation, that he established close contact with the Spanish authorities, and that the Union had offered support from the first moment. Yet neither the Commissioner, nor the Commission itself initially articulated a public position on whether the temporary controls notified by Italy and Spain, and then Sweden and Austria, were necessary and proportionate or expressed any solidarity with Spain. This cautious approach was particularly notable given the Commission's own confirmation that there were no movements from Ceuta to mainland Europe or to other member states.

Only following the informal Justice and Home Affairs Council meeting of 4 August did the Commission and the Council explicitly articulate their solidarity with Spain and endorse a coordinated European response, with Commissioner Brunner (2026b) even declaring that 'Ceuta' was "a test of our European resilience". Furthermore, the Commission pursued enhanced *ad hoc* coordination with Europol and online platforms, including Meta and TikTok, in response to concerns over information manipulation and content facilitating migrant smuggling (Euronews 2026a).

By the time the Council and Commission reacted, however, the abovementioned unilateral measures had already placed Schengen under political strain. The strong politicisation of the crisis had transformed migration into a tool of both domestic competition and intergovernmental confrontation. National political and ideologically driven responses prevailed over European solidarity. Rather than treating Ceuta as a window of opportunity to activate common capacities, EU member state governments responded

through national retaliation, mutual recrimination and reciprocal restrictions.

A backlash vis-à-vis EU competences

The EU response sits uneasily with the treaty-based rules and EU regulatory framework applicable to the crisis.

First, under Articles 77, 78 and 79 of the Treaty on the Functioning of the EU (TFEU), external border management falls within the Union's competences and Article 80 TFEU establishes solidarity and the fair sharing of responsibility as governing principles. The pressure placed on Spain at the Union's external border therefore provides a particularly relevant context in which to assess the practical meaning of Article 80 TFEU. As illustrated above, the EU responses failed to translate into practical solidarity and a fair sharing of responsibility. Instead, they revealed a structural tension between political expressions of solidarity and the actual implications of solidarity under EU law.

Second, the crisis unfolded immediately after the full application of the New Pact on Asylum and Migration, in particular Regulation (EU) 2024/1359 on situations of crisis and *force majeure* in the field of migration and asylum, which expressly addresses the instrumentalisation of migration. The allegations surrounding the Ceuta events – possible facilitation or tolerance by Moroccan authorities, the circulation of misleading information and the sudden scale of the crossing – made the Regulation potentially relevant. Yet, it was not activated. The non-use of this newly available crisis framework therefore raises the question of whether, and to what extent, political, institutional or diplomatic considerations affected the choice not to invoke it. Consequently, it is worth considering the extent to which relations between a member state and third actors and a preference for addressing the situation through bilateral channels rather than activating an EU-level crisis-management mechanism made the EU regulatory toolbox less appealing to Spain.

In sum, the Ceuta episode reveals a gap between the EU's regulatory toolkit and its political deployment. While the treaties and secondary law provide instruments for solidarity, crisis management and supervision of border controls, their activation and enforcement remain contingent on member states' willingness and the Commission's readiness to assert its supervisory role.

EU constitutional foundations at stake

The inconsistent EU responses, the intra-EU political crisis, and the limited mobilisation of existing regulatory instruments ultimately implied that the Ceuta episode challenged EU constitutional foundations.

First, the episode raises questions concerning compliance with Article 4(3) TEU. Central to the EU legal order, this

provision enshrines the principle of sincere cooperation and requires member states to facilitate the Union's tasks and to refrain from measures that could jeopardise the achievement of its objectives. Pursuant to this principle, the Union and the member states shall, in full mutual respect, assist each other in carrying out tasks enshrined in the treaties, and exercising their respective powers in a manner that supports, rather than frustrates, the Union's shared responsibilities (Klamert 2014).

In the context of the Ceuta incident, this arguably required ensuring the effective management of pressure at an EU external border, giving practical effect to Article 80 TFEU, and preventing adverse spill-over effects on the Union's internal dimension. In that respect, the EU's failure to demonstrate effective solidarity towards Spain, combined with member states' retaliation raises the question of whether member states' conduct remained compatible with the broader requirements of sincere cooperation under Article 4(3) TEU. Political competition or intra-EU tensions does not establish a breach of Article 4(3) TEU by default. Rather, it depends on whether the exercise of those powers by a member state was consistent with the broader obligation to preserve the effectiveness of Union law and avoid measures capable of going against common EU objectives.

Second, the free movement of persons, the absence of internal borders and the Schengen *acquis* – Article 3(2) TEU and Articles 26(2) and 67(2) TFEU – constitute one of the Union's major integration achievements, forming a central component of the Union's area of freedom, security and justice. The temporary reintroduction of border controls in the aftermath of 'Ceuta' raises several serious legal issues both for the member states and the Commission. If the events in Ceuta did not themselves generate a threat to the Schengen area, as confirmed by the Commission itself (Krupa 2026), the reciprocal character of the Italian and Spanish measures and the spillover effect to other member states, notably Sweden and Austria, arguably risk transforming an exceptional safeguard into an instrument of bilateral political pressure at the expenses of one of the pillars of the EU integration process.

Against this backdrop, it is equally legitimate to ask whether the Commission, as guardian of the Treaties under Article 17 TEU, fully assumed its responsibilities. The Ceuta events suggest that the Commission played an ambivalent role. Under Article 27 of the Schengen Borders Code, the Commission exercises important supervisory and political responsibility: it may request additional information and may engage in consultations with the member states in order to assess whether the reintroduction of checks satisfies the statutory threshold, and whether the measures are genuinely necessary and proportionate.

The Commission does not possess a general power to prohibit a member state from introducing controls. However, it examines the information provided by member states, assesses whether the relevant legal conditions appear to be satisfied and, where appropriate, engages with the member state concerned and pursues further action under EU law. Additionally, the Commission's role in the Schengen *acquis* framework is further reinforced by the existence of instruments through which it can periodically monitor its implementation, namely the Schengen Evaluation and Monitoring Mechanism and the Schengen Country Reports instruments. They form an established toolbox through which persistent or structural problems in the application of Schengen rules can be identified, documented and followed up on.

Although the Commission stated that no unauthorised onward movement from Ceuta to mainland Europe had occurred and it publicly acknowledged receipt of the notifications submitted by Italy and Spain, and then Sweden and Austria, it did not clarify, in its public communications, whether there were sufficiently concrete bases for the reintroduction of internal border controls, nor did it publicly articulate whether the measures appeared necessary and proportionate. Therefore, the Commission's restrained approach in dealing with the temporary suspensions could be perceived as signalling tolerance of potentially unjustified restrictions on internal free movement and, more broadly, a reluctance to safeguard the Schengen *acquis* at a politically sensitive moment.

'Ceuta' as a warning

'Ceuta' should not be treated as an isolated incident. It illustrates how pressure at the EU's external borders, combined with information manipulation and the possible instrumentalisation of migration can lead the EU to distance itself from its own constitutional premises. It represents a wider institutional and political challenge affecting a major EU integration pillar and ultimately weakening the EU's capacity to respond collectively. This trend becomes particularly significant where evidence points to the possible direct or indirect involvement of third-country actors.

The Union has already faced comparable situations, although the political and institutional responses differed significantly. The 2021 crossing in Ceuta and the 2021 Belarus crisis provide instructive comparisons. In May 2021, between 8,000 and 9,000 people entered Ceuta from Morocco over a short period of time, amid heightened diplomatic tensions between Spain and Morocco (Euronews 2021). The EU's reaction at the time was more restrained and it responded from the outset by expressing support for Spain and treating the events as a matter concerning the EU's external border (ibid.). Compared with the events of July 2026, the 2021 crossings were considerably smaller in scale, involving fewer persons and no dispute over the Schengen framework. By

contrast, in the Belarus case, substantial migration pressure developed at the EU's Eastern border, with large numbers of third-country nationals arriving in Belarus and attempting to cross into EU territory. The EU attributed a substantial role to the Lukashenko regime and adopted the position that Belarus had facilitated the movement of migrants towards the EU's external border. The Union subsequently framed the organised movement of third-country nationals towards its Eastern border as the instrumentalisation of migration for political purposes and as a hybrid threat to its borders (EU Council 2021). Its responses were combined operational support, diplomatic action, sanctions and legislative initiatives.

'Ceuta' 2026 presents a more difficult scenario. First, the number of crossings was significantly higher than during the 2021 events. Second, neither Spain, nor the EU, unlike with Belarus, attributed a role to Morocco – potentially because the latter remains a strategic partner in migration management, trade, counterterrorism and regional security (EEAS 2026, 1).

Finally, the intra-EU divisions that emerged in 2026 and the ensuing intergovernmental retaliation are unprecedented. They reveal a central policy problem, namely that the effectiveness of EU crisis governance and respect for EU principles should not be solely contingent on diplomatic relationships or domestic political incentives. The Union's response to a crisis and ultimately its own resilience should remain anchored in the constitutional principles that must always underpin its actions. Otherwise, EU action would call into question its credibility, resilience, capacity to react and, ultimately, the very premises on which it is founded. It is therefore imperative to tackle any possible non-compliance with the EU foundational principles and to address them through the systematic, effective and resolute use of the EU's available instruments.

This is all the more important when the Ceuta incident is placed in a broader context: the EU operates in an increasingly competitive international environment in which geopolitical pressure may also be exerted through the Union's external borders – or even through the territory of its member states. The instrumentalisation of migrants at the Belarusian border, Russia's continuing pressure on member states and the US administration's threats concerning Greenland illustrate the increasingly diverse forms of geopolitical pressure confronting Europe. Although these cases differ in nature, they share a common feature: external actors may seek to exploit European vulnerabilities and turn internal divisions into political leverage. This risk is particularly serious where third-country actors explicitly pursue strategies designed to exploit divisions within the Union, a scenario that can no longer be dismissed as merely hypothetical. The 2025 US National Security Strategy, for

example, calls for “cultivating resistance to Europe’s current trajectory within European nations” (The White House 2025).

Policy recommendations

Against this backdrop, the EU must ensure that it is equipped to respond promptly and effectively to such circumstances. If ‘Ceuta’, as argued by Commissioner Brunner, was indeed a test of European resilience, the EU arguably did not pass it. The events in Ceuta offer an important lesson: the availability of existing regulatory and crisis management tools may be of little consequence where the Union’s constitutional principles are called into question by intra-EU competition and retaliation. In such circumstances, the EU may struggle to respond at the necessary pace, thereby risking falling short of its own objectives. The erosion of the EU’s constitutional principles can therefore undermine its resilience and capacity to effectively confront crises.

Recent initiatives by member states, including the letter signed by eleven member states calling for an end to the veto in the Common Foreign and Security Policy (Euronews 2026b), reflect growing awareness of the necessity to reinforce Union’s constitutional pillars to respond to the current geopolitical environment. Yet, the Union must translate these pledges into an actual strategy. If it cannot uphold sincere cooperation and the Schengen *acquis* during a crisis that potentially falls within its own competences already, these principles risk becoming political aspirations rather than effective instruments of European resilience and strategic autonomy.

‘Ceuta’ should therefore be understood as a warning. To address the shortcomings it exposed, this policy brief advances three recommendations:

- The Commission should move beyond the voluntary *ad hoc* platform-based mechanism to address information manipulation towards a permanent, cross-sectoral framework for crisis preparedness and *ex ante* coordination. Rather than creating new tools, such as a new “European Emergency Response Framework” (European Commission 2026b), this framework should connect and integrate existing EU instruments and bodies, involve member state authorities, and combine digital resilience, intelligence-sharing, anti-smuggling cooperation and fundamental-rights safeguards. Concretely, this could take the form of a standing ‘Border Crisis Preparedness Unit’ with a clear mandate to issue

rapid risk assessments and coordinate responses in such cases.

- The Commission should adopt a more principled approach. According to its obligations under the Treaty, it must exercise its institutional role as an impartial and credible guardian of the treaties. This entails, on the one hand, consistently exercising its supervisory and enforcement responsibilities under the treaties and applicable secondary legislation. Otherwise, where it is perceived as aligning with specific member states or political positions, its capacity to coordinate crisis responses and to serve as a trusted platform for resolving intra-EU disputes is fundamentally compromised. On the other hand, this approach translates into a more systematic use of its monitoring and supervisory powers to ensure compliance with the treaties and the Schengen *acquis*, including fuller use of the Schengen Evaluation and Monitoring Mechanism and Schengen Country Reports, with targeted evaluations and systematic follow-up of identified deficiencies.
- European leaders should commit politically to a long-term strategy rather than rely on day-to-day crisis management. Member states should commit to solidarity and sincere cooperation as guiding principles of a clear strategy for responding to crises at the Union’s external borders. Continued politicisation risks turning the Union’s constitutional premises from binding obligations into rhetorical aspirations, leaving the EU structurally exposed to scenarios more serious than the events in Ceuta and their aftermaths.

Conclusion

The Ceuta episode shows that external shocks can rapidly become constitutional stress tests for the EU. Where member states prioritise domestic political gains over treaty-based obligations and the Commission refrains from acting according to primary-law obligations, the Union’s foundational principles are at risk. The Commission, as guardian of the treaties, has both the mandate and the instruments to prevent such dynamics from becoming entrenched, but must be willing to use them more consistently. Without a clearer strategy and stronger enforcement, the EU’s constitutional pillars risk being reduced to political rhetoric, leaving Europe exposed to future crises and internal backlash.

Further Reading

- Breton, T. 2026. "Après la crise de Ceuta l'Europe doit apprendre à sécuriser ses frontières numériques". *Le Grand Continent*, 4 August 2026.
- Brunner, M. 2026a. "Update on the situation in Ceuta". Post on X. 31 July 2026. <https://x.com/magnusbrunner/status/2083173286251233706> (last accessed on 20/10/2026).
- Brunner, M. 2026b. "Press conference opening remarks by Commissioner Magnus BRUNNER following the extraordinary VTC of the ministers of home affairs." European Commission Audiovisual Service. 4 August 2026. <https://audiovisual.ec.europa.eu/en/media/video/l-293316?utm> (last accessed on 20/10/2026).
- European External Action Service. 2026. "The European Union and Morocco". 28 January 2026.
- European Council. 2021. "Belarus: Declaration by the High Representative on behalf of the European Union on the situation at the European Union border". 10 November 2021.
- Regulation (EU) 2016/399 of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code).
- Proposal for a Regulation of the European Parliament and of the Council addressing situations of instrumentalisation in the field of migration and asylum. 2021/0427(COD). 14 December 2021.
- Euronews. 2021. "US and Europe react to migrant crisis in Ceuta". 18 May 2021.
- Euronews. 2026a. "The EU is mobilising Meta and TikTok to combat 'false promises' made to migrants: crisis protocols have been activated for Ceuta". 11 August 2026.
- Euronews. 2026b. "11 EU countries demand end to 'obstructive' vetoes on foreign policy". 1 September 2026.
- European Commission. 2026a. "Temporary reintroduction of border control". https://home-affairs.ec.europa.eu/policies/schengen/schengen-area/temporary-reintroduction-border-control_en (last accessed on 20/10/2026).
- European Commission. 2026b. "EP Plenary Session State of the European Union Debate 2026 – #SOTEU2026 Statement by Ursula von der Leyen, EC President". 16 September 2026.
- Genovese, V. 2026. "Migrants in Ceuta cannot move to other countries, EU says". *Euronews*, 31 July 2026.
- Jones S., Giuffrida A. & Krupa J. 2026. "At least 57 people die as tens of thousands cross to Spanish enclave of Ceuta from Morocco". *The Guardian*, 31 July 2026.
- Klamert, M. 2014. *The Principle of Loyalty in EU Law*. Oxford: Oxford University Press.
- Krupa, J. 2026. "Italy says it's temporarily suspending EU Schengen arrangement with Spain after 60,000 migrants reach Ceuta – as it happened". *The Guardian*, 31 July 2026.
- Reuters. 2026. "Italy prolongs Schengen suspension with Spain, talks loom". 16 October 2026.
- Rennolds, N. 2026. "22 EU leaders call for emergency talks over Ceuta migrant crisis". *Euronews*, 1 August 2026.
- Sheftalovich, Z. and Hernández-Morales, A. 2026. "Ursula von der Leyen rallies to support Spain after Ceuta crisis". *POLITICO*, 3 August 2026.
- The White House. 2025. "National Security Strategy". November 2025.

About the Author

Lorenzo Giuglietti is a Policy Advisor (APA) to the LIBE Committee Vice-Chair at the European Parliament, Brussels. Prior to this, he was a Policy Advisor (APA) to the Vice-President of the European Parliament. He is a former Academic Assistant in the European Political and Governance Studies Department (POL) at the College of Europe, Bruges. He obtained an MA in EU International Relations and Diplomacy Studies (IRD) at the College of Europe in Bruges (2019-2020, Arendt promotion).

Views expressed in the College of Europe Policy Briefs are those of the authors only and do not necessarily reflect positions of either the series editors or the College of Europe. Free online subscription at www.coleurope.eu/CEPOB.