



INTERNATIONAL

SEA PIRATES: SURRENDER (ZAPATERO) OR FIRMNESS (SARKOZY)

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“We have laid the foundations to ensure that something like this does not happen again”. These are the conclusions María Teresa Fernández de la Vega, the Vice-President of the Government, has reached after all the published information revealed that the government had paid a ransom, the conditions of which were not disclosed, to a group of pirates who had hijacked the Spanish trawler ‘Playa de Bakio’. Once again, Zapatero has made a mistake in his analysis of reality and confirms that giving in to the blackmail of criminals is his preferred way of dealing with the threats to the security of Spain and the Spanish population. If the government has indeed paid a ransom — and there are well-founded reasons for suspecting that National Intelligence agents were involved in the payment — it would represent a crime and a misuse of public funds. There is still plenty to clarify.”

This was a predictable situation

The possibility of a hijack in this turbulent area of the Indian Ocean was considered possible since long ago. This is what the fishing sector had stated, and the matter was discussed in the Foreign Affairs Commission of the House of Representatives on 3 October 2007. Bernardino León, then Secretary of State for Foreign Affairs, dismissed protecting the fishing fleet in that area due to the high cost that the deployment of the navy would entail. However, the significant number of Spanish boats based in the Seychelles and fishing in this part of the Indian Ocean suggested that it would have been indeed advisable.

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The International Maritime Organization also announced in January that the number of incidents involving pirates had increased by 10% in 2007 compared to the previous year, from 239 to 263, in part due to the internal tensions in Nigeria and Somalia. The geostrategic importance of these waters turns the ships into an easy prey for pirates and terrorists because the Horn of Africa is the convergence point of the commercial and fishing routes that cross the Persian Gulf on the way toward the Suez Canal, and of those coming from the Indian Ocean via the Gulf of Aden.

The Government mistook its approach

In a situation such as this, the main objective is to rescue the whole crew unhurt, and to recover the vessel with the least amount of damage possible. The pirates should then be captured so that they can be tried. This is the only way of safeguarding the safety of sailors with the due protection of the prestige and interests of Spain.

The Government simply wanted to find a peaceful solution to the situation, renouncing from the outset to the legitimate use of force in order to free the boat and its crew. Logically, the priority was the crew's freedom. No-one can blame Zapatero for that, but declining from the outset to arrest the hijackers does deserve criticism.

Furthermore, this stance weakened the position of strength of the Somali authorities, who always declared their willingness to collaborate with Spain in freeing the hostages and arresting the pirates. As did the Government of Puntland, the autonomous region that aspires to lead a future federal Somalia. Although the internal situation in Somalia is extremely agitated, on April 22 Somali troops managed to free an oil tanker from Dubai, the *Al-Khaleej*, which had also been hijacked by pirates.

The management of the crisis was based from the start on a good-natured premise: paying the ransom would secure the freedom of the crew. But, why would a bunch of criminals who see that their demands have been easily met stop at this initial booty? Who says they are not going to commit even more atrocious crimes when they know that those who should be fighting resolutely against them are not going to hinder their plans? This is the case of the pirates of the Strait of Malacca, who board vessels, steal all the merchandise and the navigation instruments which are most valuable, and murder the whole crew.

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Ignacio Abal, the trawler’s first official, said that the moment of release had been very tense because the pirates kept the crew on deck at gunpoint for several hours in fear that the Spanish frigate *Méndez Núñez* would attack the boats in which they were to leave.

In any case, the Government handled an urgent need such as this crisis with the least possible threshold of risk in order to bring the hijack to an end. However, from that point on, Zapatero showed that his perception of reality was askew. For two reasons: firstly, a hijack is a situation of uncertainty which calls for the management of extremely volatile factors. This is why paying a ransom did not guarantee any specific result. Secondly, the opinion of the Government was that an operation based on the use of force was too risky, even though the military personnel on board of the frigate *Méndez Núñez* had a plan of action to free the crew.

Different ways of facing up to a crisis

Zapatero’s handling of the crisis is shown in an even worse light when compared with that of Sarkozy in freeing the yacht *Le Ponant IV*. The French Government deployed an impressive number of forces to guarantee the liberation of the boat’s crew. They also demonstrated a genuine willingness to use them to arrest the hijackers and recover the ransom paid. Zapatero, on the other hand, ordered one of the Spanish navy’s most sophisticated frigates to cover an enormous distance just to act as a stone guest, while the pirates were allowed to escape. This frigate, with its capabilities and its crew, could have prevented the hijackers from escaping with the money. This was not done.

In the French case, after a ransom of some 200,000 euros had been paid, Sarkozy authorised the use of the military forces that had been deployed to capture several pirates. Aware that negotiations with hijackers do not commit public authorities, the French President ensured that the hostages had been freed before acting as a statesman should in defending national interests. In the Spanish case, however, Zapatero decided at the very outset that the hijack would be resolved via the payment of a ransom. And

that was that. He did not take into account that the safety of the crew was fully compatible with the protection of national interests.

Zapatero's Government gave precise orders to the frigate *Méndez Núñez* to take no action, thus allowing the hijackers to escape with their booty without any risk whatsoever. Zapatero has therefore converted the Armed Forces into a mere prop in this crisis. What must the Spanish military personnel have felt when receiving orders from their Government to allow the criminals to escape?

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In order to negotiate the release of the crew, the Ambassador of Spain in Kenya travelled to Mogadishu with the GEOS (special police forces) and with the Ugandan troops that the African Union has in Somalia. This level of protection contrasts with the meagre deployment of forces around the area where the *Playa de Bakio* tuna fishing boat had been hijacked. There was also no wish to negotiate the use of a nearby base with France so that the fighter planes and the supply vessel itself could refuel and intercept the pirates.

The ransom paid is still not known. Although the amount that has filtered to the media is some 1.2 million dollars (766,000 euros), no-one has officially confirmed or denied such a figure.

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There is similarly no information regarding who paid the ransom or where it took place. Although the Ambassador of Spain in Kenya travelled to Mogadishu to negotiate the release of the crew, the media have considered other hypotheses. The possibility that the negotiations were conducted via a London-based law firm is particularly worrying or, even worse, that CNI agents acted as go-betweens to pay the ransom in Djibouti.

It has also been suggested that the owner of the ship paid the ransom. But this has not been confirmed or denied by him. Equally unclear is where the funds came from, i.e. whether the Government itself provided them. In face of this lack of clarity, the procedure surrounding the release of the sailors will have to be investigated by the Law.

All the mysteries must be cleared up. The Supreme Court of Justice announced the opening of preliminary proceedings to ascertain whether it has jurisdiction to rule on this matter and to examine whether payment of the ransom could be a source of liability. The trade union *Manos Limpias* has accused Zapatero's Government of concealment, forgoing of duties and failure to pursue crimes, since it considers that it facilitated the perpetration of several crimes included in both the Criminal Code (illegal seizure, bearing of arms...) and in international legislation.

“The short-sightedness of this Government has once again served to make this country a target of those who benefit from the destruction of Law, in this case international Law”

Articles 100 and 105 of the United Nations Convention on the Law of the Sea set out the duty to cooperate in the repression of piracy and in the possibility of seizing a pirate ship on the high seas. The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation also envisages a State's need to act to ensure the safety of the ships bearing its flag.

The Association of Judges for Democracy (JpD in its Spanish acronym) has already rushed to Zapatero's help. JpD has assumed that the ransom was paid by the families of the sailors and that, in doing so, they have no criminal responsibility. They are covered by the “necessary payment” grounds for acquittal, since they aimed to avoid a greater evil by agreeing to pay the amount required.

Why do the Government's legal allies make the assumption that the families paid the ransom? Do they know something the rest of us Spaniards are unaware of? But, – what a coincidence – they do remain silent regarding the responsibility of a Government that, obliged to arrest criminals, encourages sea piracy instead via its actions and omissions.

Spain sets a bad precedent and once again places itself in the line of fire

With its appeasement and surrender to the blackmail of pirates the Government of Spain has once again become the centre of everyone's attention, including that of terrorists and pirates on the lookout for objectives and easy prey which pay rapidly and without risks, and which reinforce the image of the aggressors as crime lords of the seas.

Impunity is the most effective way of luring violence. When the pirates take to the seas again, will Spanish vessels now have more or less of a chance of being assaulted? Spanish sailors and Spanish companies will now probably suffer the consequences of this bazaar for crime.

There has been no need to wait very long. Jaime Candamil, a crew member of the Spanish trawler, has already told how they were about to be hijacked after their release by another group of pirates. Only the nearby frigate *Méndez Núñez* prevented a repetition of the situation. But the pirates have learnt their lesson and know that Spanish boats make a tasty prey.

Similarly, terrorists have not let this opportunity pass. On “The Islamic Faluya” website, Al-Qaeda calls for its followers to “attack the Crusaders by sea”, especially European sea targets, and “Yihad Express” considers that maritime terrorism is a “strategic necessity”. These statements expressly name the *Playa de Bakio* trawler incident. From the Red Sea, via the Gulf of Aden and the Arabian Sea, to the Indian Ocean, terrorism and piracy are joining and rising as a new threat.

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If the Government has so easily yielded before a group pirates, what would it do in the event of a hijack by a terrorist organisation? If Zapatero submits to the demands of a group of organised criminals in the high seas, what would he do if a person were hijacked in Spain? The following question can now be raised with every justification: why must we give in to blackmail in the case of some people but not in the case of others?

The short-sightedness of this Government has once again served to make this country a target for those who benefit from the destruction of the Law, in this case international Law. Decisive action could have avoided this situation, but the decision was taken to apply an apparently safer solution. This has been the only hijack that has been resolved without the use of force on the part of the affected nation.

Spain’s allies are also in danger

This has not only damaged the credibility of Spain abroad, but also that of its allies. The solution of the crisis is an affront to the countries whose vessels travel through or fish in the area, and has damaged NATO’s anti-piracy efforts due to the chaotic use of the frigate *Méndez Núñez* away from the rest of the fleet.

Somalia is another of the damaged parties in this crisis. Paying the ransom has weakened the efforts of the Transitional Federal Government of Mogadishu to bring piracy to an end. The latter has joined forces with Ethiopian troops to fight against the Islamist forces that are attempting to take control of the country once again.

By handing over money to the pirates, Zapatero has directly contributed to funding piracy and organised crime, indirectly supporting radical Islamism. The same Islamism whose immediate objective when it governed Somalia was to impose sharia law and start a war with Ethiopia, on which it proclaimed a *jihād*.

The Government also demonstrates its intellectual incoherency when it pays a ransom to the pirates, and the PSOE's Spokesperson for International Policy, Elena Valenciano, publicly states that international piracy "is causing serious problems to trade and, above all, hampering the delivery of humanitarian aid to many countries".

Once again the socialists say one thing and do quite the opposite. The way to genuinely help the development of Somalia, one of the countries with the greatest number of pirates, would be to free it from the scourge of these organised criminal groups and Islamism.

“Insurance companies have announced that if Spain starts paying ransoms, risks such as those of piracy shall not be covered anymore”

Although Spain is now attempting to compensate for the damage caused by generating discussions in the United Nations and the European Union on measures to combat sea piracy, France was the first country to put forward these proposals. Once again, the socialist government is trying to appropriate measures that are not its own.

The consequences of a crisis that was badly handled and resolved in an even worse manner

Zapatero acted correctly in seeking the release of the hostages, but made a mistake in failing to arrest the pirates. Spain is now the target of all those criminals who seek to benefit from blackmail and coercion. Spanish vessels have no guarantee that this will not happen again. As things stand right now, no Spanish boat must come within 350 miles of the Somali coast.

“Benjamin Franklin: ‘those who sacrifice liberty for security deserve neither’ ”

The insurance companies have announced that if Spain starts paying ransoms, risks such as those of piracy shall not be covered anymore. It was the increase of this activity in the South China Sea and the Strait of Malacca, between 2005 and 2006, that increased the insurance premiums for the boats that sailed these waters, or led to the conversion of insurance policies into war risk policies.

The negative consequences for the maritime interests of Spain have yet to be seen, but insecurity has already manifested itself among the fishermen and companies. The cost is finally passed on to the consumer, because the Indian Ocean fishing grounds and the trade routes that cross them are of vital importance to Spanish boats.

Once again, the current Government's management has not been up to the challenge. It has not known how to correctly analyse the seriousness of the situation and has turned Spaniards into a logical criminal target. Anyone with sufficient initiative knows that they can threaten Spaniards and escape unhurt.

It is no exaggeration to think that a new 'call effect' has been started, this time for hijacks in the high seas. For this reason, it is appropriate to recall the words of Benjamin Franklin: "those who sacrifice liberty for security deserve neither".