SPAIN

COUNTRY REPORT

2023 UPDATE
Acknowledgements & Methodology

Since 2018 and up to 2023, updates of this report were written by Teresa De Gasperis at Accem and were edited by ECRE. The 2017 update was written by Teresa De Gasperis, Jennifer Zuppiroli and Laura Carrillo at Accem, and was edited by ECRE. The first version of this report was written in 2016 by Magdalena Queipo de Llano and Jennifer Zuppiroli at Accem, and was edited by ECRE.

The information in this report was obtained through observations from Accem’s practice and engagement with relevant stakeholders, including UNHCR, Save the Children, and Fundación Cruz Blanca.

The information in this report is up-to-date as of 31 December 2023, unless otherwise stated.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is managed by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to-date information which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org It covers 23 countries, including 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and 4 non-EU countries (Serbia, Switzerland, Türkiye, and the United Kingdom). The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.

This report is part of the Asylum Information Database (AIDA), partially funded by the European Union’s Asylum, Migration and Integration Fund (AMIF). The contents of this report are the sole responsibility of ECRE and can in no way be taken to reflect the views of the European Commission.
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<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Desamparo</td>
<td>Declaration of destitution, triggering guardianship procedures for unaccompanied children</td>
</tr>
<tr>
<td>Tarjeta roja</td>
<td>Red card, certifying asylum seeker status</td>
</tr>
<tr>
<td>APDHA</td>
<td>Human Rights Association of Andalusia</td>
</tr>
<tr>
<td>CAED</td>
<td>Centre for Emergency Assistance and Referral</td>
</tr>
<tr>
<td>CAR</td>
<td>Refugee Reception Centre</td>
</tr>
<tr>
<td>CATE</td>
<td>Centre for the Temporary Assistance of Foreigners</td>
</tr>
<tr>
<td>CCSE</td>
<td>Spanish Constitutional and Socio-Cultural Knowledge test</td>
</tr>
<tr>
<td>CEAR</td>
<td>Spanish Commission of Aid to Refugees</td>
</tr>
<tr>
<td>CETI</td>
<td>Migrant Temporary Stay Centre</td>
</tr>
<tr>
<td>CIAR</td>
<td>Inter-Ministerial Commission of Asylum</td>
</tr>
<tr>
<td>CIE</td>
<td>Detention Centre for Foreigners</td>
</tr>
<tr>
<td>CREADE</td>
<td>Emergency and Referral Centres</td>
</tr>
<tr>
<td>DGSAPIT</td>
<td>Directorate General for the International Protection and Temporary Protection Reception System</td>
</tr>
<tr>
<td>ECCHR</td>
<td>European Centre for Constitutional and Human Rights</td>
</tr>
<tr>
<td>ECHR</td>
<td>European Convention on Human Rights</td>
</tr>
<tr>
<td>ECIHR</td>
<td>European Court of Human Rights</td>
</tr>
<tr>
<td>EDAL</td>
<td>European Database of Asylum Act</td>
</tr>
<tr>
<td>ERIE</td>
<td>Emergency Immediate Response Teams</td>
</tr>
<tr>
<td>EUAA</td>
<td>European Union Agency for Asylum</td>
</tr>
<tr>
<td>EYD</td>
<td>Assessment and Referral Phase</td>
</tr>
<tr>
<td>GRETA</td>
<td>Council of Europe Group of Experts on Action against Trafficking in Human Beings</td>
</tr>
<tr>
<td>IOM</td>
<td>International Organisation for Migration</td>
</tr>
<tr>
<td>JCCA</td>
<td>Central Administrative Judge</td>
</tr>
<tr>
<td>MISSM</td>
<td>Minister of Inclusion, Social Security and Migration</td>
</tr>
<tr>
<td>OAR</td>
<td>Office of Asylum and Refuge</td>
</tr>
<tr>
<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
</tr>
<tr>
<td>SEM</td>
<td>State Secretary for Migration</td>
</tr>
<tr>
<td>TP</td>
<td>Temporary Protection</td>
</tr>
<tr>
<td>TPD</td>
<td>Temporary Protection Directive</td>
</tr>
</tbody>
</table>
UTS  Social Work Unit | Unidad de Trabajo Social

VIS  Visa Information System

UNHCR  United Nations High Commissioner for Refugees
Overview of statistical practice

Statistics in Spain are collected by the Office on Asylum and Refuge (OAR), and published on an annual basis by the Ministry of Interior.

Applications and granting of protection status at first instance: figures for 2023

<table>
<thead>
<tr>
<th>Applications lodged in 2023 (1)</th>
<th>Pending for admission at 1st instance at end of 2023</th>
<th>Pending for decision at end of 2023</th>
<th>Total decisions 2023</th>
<th>Total in merit decisions</th>
<th>Total rejection</th>
<th>Refugee status</th>
<th>Subsidiary protection</th>
<th>Humanitarian protection (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>163,220</td>
<td>106,546</td>
<td>84,549</td>
<td>N/A</td>
<td>N/A</td>
<td>35,392</td>
<td>7,330</td>
<td>3,833</td>
</tr>
</tbody>
</table>

Breakdown by countries of origin of the total numbers

<table>
<thead>
<tr>
<th>Country</th>
<th>Applications lodged in 2023 (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Venezuela</td>
<td>60,534</td>
</tr>
<tr>
<td>Colombia</td>
<td>53,564</td>
</tr>
<tr>
<td>Peru</td>
<td>14,308</td>
</tr>
<tr>
<td>Honduras</td>
<td>3,685</td>
</tr>
<tr>
<td>Cuba</td>
<td>3,082</td>
</tr>
</tbody>
</table>


(1) Applications refers to the total number of applicants, and not only to first-time applicants.
(2) Humanitarian protection is foreseen by Article 46 of the Asylum Law, and it is granted by the same asylum authorities. It is commonly granted according to exceptional circumstances of vulnerability, health issues, psychological conditions, etc. The law does not foresee a closed list of circumstances determining the protection for humanitarian reasons, and the jurisprudence considers that such conditions have to be related to the return of the applicant to the country of origin and how this fact would impact his/her vulnerability. Applicants of international protection who are granted humanitarian protection have the right to remain in the country.

The top 5 countries of persons granted any form of international protection (refugee status and subsidiary protection) in 2023 were Mali (2,362), Afghanistan (1,120), Syria (1,053), Nicaragua (837), and Honduras (736), while the top 5 countries of persons who were granted protection for humanitarian reasons were Venezuela (40,674), Colombia (260), Peru (192), Chile (121), and Argentina (75).

The top 5 countries of applications rejected were Colombia (15,089), Morocco (3,787), Peru (3,197), Honduras (2,578), and Senegal (1,067).
Gender/age breakdown of the total number of applicants: 2023

<table>
<thead>
<tr>
<th></th>
<th>Men</th>
<th>Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>86,004</td>
<td>77,216</td>
</tr>
<tr>
<td>Percentage</td>
<td>52.69%</td>
<td>47.30%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Adults</th>
<th>Children (Accompanied and unaccompanied)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>131,791</td>
<td>31,429</td>
</tr>
<tr>
<td>Percentage</td>
<td>80.74%</td>
<td>19.26%</td>
</tr>
</tbody>
</table>


First instance and appeal decision rates: 2023

National authorities did not provide detailed statistics on first instance and second instance decisions at the time of writing of this report.
# Overview of the legal framework

Main legislative acts relevant to asylum procedures, reception conditions, detention and content of protection

<table>
<thead>
<tr>
<th>Title (EN)</th>
<th>Original Title (ES)</th>
<th>Abbreviation</th>
<th>Web Link</th>
</tr>
</thead>
</table>
Main implementing decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions, detention and content of protection

<table>
<thead>
<tr>
<th>Title (EN)</th>
<th>Original Title (ES)</th>
<th>Abbreviation</th>
<th>Web Link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Royal Decree 139/2020 of 28 January 2020 establishing the basic organisational structures of ministerial departments</td>
<td>Real Decreto 139/2020, de 28 de enero, por el que se establece la estructura orgánica básica de los departamentos ministeriales</td>
<td></td>
<td><a href="https://cutt.ly/OiwILX6">https://cutt.ly/OiwILX6</a> (ES)</td>
</tr>
<tr>
<td>Royal Decree 164/2014 of 14 March 2014 on the regulation and functioning of internal rules of the CIE Official Gazette No 64, 15 March 2014</td>
<td>Real Decreto 164/2014, de 14 de marzo, por el que se aprueba el reglamento de funcionamiento y régimen interior de los CIE. BOE núm. 64, de 15 de marzo</td>
<td>CIE Regulation</td>
<td><a href="http://bit.ly/1WRxts0">http://bit.ly/1WRxts0</a> (ES)</td>
</tr>
<tr>
<td>Royal Decree 497/2020 of 28 April establishing the organic structure of the Minister of Inclusion, Social Security and Migration</td>
<td>Real Decreto 497/2020, de 28 de abril, por el que se establece la estructura orgánica del Ministerio de Inclusión, Seguridad Social y Migraciones.</td>
<td>Asylum Reception Regulation</td>
<td><a href="https://bit.ly/3sACM69">https://bit.ly/3sACM69</a> (ES)</td>
</tr>
<tr>
<td>Royal Decree 220/2022 of 29 March which approves the Regulation governing the international protection reception system</td>
<td>Real Decreto 220/2022, de 29 de marzo, por el que se aprueba el Reglamento por el que se regula el sistema de acogida en materia de protección internacional</td>
<td></td>
<td><a href="https://bit.ly/3QR8SHo">https://bit.ly/3QR8SHo</a> (ES)</td>
</tr>
</tbody>
</table>
Overview of the main changes since the previous report update

The last version of this report was updated in April 2023.

International protection

❖ **Key asylum statistics:** A total of 163,220 persons applied for international protection in Spain in 2023. Venezuela, Colombia, Peru, Honduras and Cuba were the top five nationalities of applicants. Among them, 53.69% were men, while 47.30% were women. As regards decision making at first instance, a total of 35,392 applications were rejected, while the refugee status was granted to 7,330 persons, subsidiary protection to 3,833 persons and 41,487 were granted protection for humanitarian reasons. The recognition rate remained low, with only around 16.62% of cases being recognised international protection. It should however be highlighted that the overall recognition rate reaches almost the 40% if decisions granting humanitarian protection are taken into account. The top 5 countries of persons granted any form of international protection (refugee status and subsidiary protection) in 2023 were Mali, Afghanistan, Syria, Nicaragua, and Honduras. At the end of the year, 106,546 applications were still pending at first instance (see Statistics).

Asylum procedure

❖ **Access to territory and pushbacks:** In 2023, 56,852 migrants arrived to Spain by land and sea, which represents an increase of 82.1% compared to the 31,219 arrivals in 2022. ¹ The vast majority of arrivals were by sea (55,618) and the main route for sea arrivals were the Canary Islands, with 39,910 persons who arrived to the archipelago (see Access to the territory).

❖ **Situation on the Canary Islands and in the Mediterranean:** Regarding the number of deaths in the Mediterranean, several figures have been reported. The NGO Caminando Fronteras (Walking Borders) estimates that 6,618 persons died while reaching Spain in 2023, out of which 6,607 lost their life in the Canary route.² It further reported that 363 of victims were women, 384 were children, and that these 6,607 people died a total of 84 disappeared vessels (see Access to the territory).

❖ **Delays in the appointments for registering the asylum application:** During 2023, asylum seekers continued to face many challenges and long waiting times to obtain an appointment to express their intention to apply for asylum, and to formalise the application, mainly due to a lack of appropriate resources. This situation led to gatherings of asylum seekers in different cities to protest, the opening of an investigation by the Provincial Public Prosecutor Office in Valencia, a claim lodged in front of the Spanish Ombudsperson, and to the call made by the UNHCR Representative for Spain to the Government to allocate more resources to solve the problems experienced by individuals wanting to access asylum (see Registration of the asylum application).

Reception conditions

❖ **Continued support to reception authorities by the EUAA:** In June 2023, a new operational plan for 2023-2026 was agreed between Spain and the EUAA, which foresees a set of measures aiming at supporting and reinforcing the national reception authorities for the international protection, the temporary protection and the humanitarian assistance systems. In addition, compared to the previous operational plan, the new one foresees support to national authorities to foster common action in reception of unaccompanied migrant children in the Spanish territory, and to enhance the capacity of authorities and practitioners through training and professional development.

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Enhancing asylum reception capacity: To improve the asylum reception system, the Government established it would allocate a total of EUR 190 million between 2021 and 2023 through funds of the Recovery and Resilience Plan. In 2022, the Government announced the creation of 17 new reception facilities for migrants. The construction of some of these centres started in 2023. Following the municipal and regional elections, the right and right-wing parties which won in some cities and Autonomous Communities started to oppose the construction of new reception centres in their territories.

Detention of asylum seekers

Poor living conditions and overcrowding at the Madrid Barajas Airport: At the end of December 2023, there were reports regarding the poor living conditions of asylum applicants – due inter alia to overcrowding - held in the border facility at the Madrid Barajas Airport. Three judges asked the Minister of Interior to improve the situation. Due to the conditions, a total of 26 Moroccan asylum applicants escaped from the area of the airport in which they were held by breaking a window. The Spanish Ombudsperson called on the Government to guarantee decent conditions for asylum applicants at the airport, as well as the necessity to set up a proper space to accommodate them. Similarly, UNHCR expressed concerns on the situation and urged the Government to find a solution. The NGO ‘CEAR’ asked the Government to allow the exceptional access for humanitarian reasons of those asylum applicants to Spain. The Spanish Red Cross, which provides the social assistance to asylum applicants at the airport, decided to suspend its operations until minimum conditions and standards will be re-established, a decision not shared by the Minister of Interior. The Spanish Government blamed Morocco for the increasing number of applicants present at the airport, and asked the Moroccan Government to prohibit the boarding in the flights transiting in Spain to those passengers holding a passport from Senegal not in possession of a Schengen transit visa, which helped easing the situation by reducing the number of asylum applicants at the airport. CEAR criticised the request as a form of externalisation of borders management, and also highlighted the risks that migrants and refugees can face in the migratory route following such a requirement. In order to solve the situation, the Ministry of Interior allocated more resources and opened a new space (a fourth room) to accommodate asylum applicants at the airport, which will host 162 persons. At the beginning of February 2024, the Minister of Interior declared that the issue was resolved.

Content of international protection

Access to rights: Asylum seekers, migrants and refugees continued to face challenges in accessing rights, especially housing, employment, and financial services, partially due to discriminatory practices. Unaccompanied migrant children and LGTBIQ+ persons continued to face social discrimination.

Refugee participation: UNHCR reinforced community participation and two-way communication with a consolidated Refugee-Led Organizations Network in Spain, composed of over sixty associations, which met quarterly and continuously communicated through virtual channels. The network plays a pivotal role in identifying protection risks and needs, fostering an environment for information exchange, capacity sharing and networking among organizations. Leveraging their capacity as information and service providers and advocacy actors, these organizations contribute significantly to the inclusion and empowerment of refugees and asylum seekers. Furthermore, UNHCR signed new partnerships with Refugee-led organizations through two grants agreements, supporting projects aimed at promoting the inclusion of refugees and asylum seekers. These initiatives, benefitting over 384 displaced persons, focus on providing training and support to young refugees to foster critical thinking and a deeper understanding of the local context. Additionally, cultural and artistic heritage is used to facilitate the integration of refugees, encouraging their immersion into the local culture and fostering connections with other refugees and members of the local community.
Temporary protection

The information given hereafter constitute a short summary of the Spain Report on Temporary Protection, for further information, see Annex on Temporary Protection.

Temporary protection procedure

❖ Eligibility for temporary protection: In April 2023, the Supreme Court (Tribunal Supremo) issued a decision establishing that temporary protection shall only be granted to eligible individuals who do not already benefit from a different from of international protection.

Content of temporary protection

❖ Extension of validity: An order issued in February 2024 following the European Council's decision, extended the validity of residence permits granted to beneficiaries of temporary protection until 4 March 2025.

❖ Residence permits: Until 31 March 2024, a total of 198,537 beneficiaries of temporary protection were granted a residence permit.

❖ Access to education: A report published by the MISSM indicates that a total of 37,011 students displaced from Ukraine accessed school so far. 29,470 of them were minors. In addition, 2,830 students applied for admission at the university, with 1,801 registering in practice.

❖ Access to labour market: According to available data, more than 20,593 (53% women) Ukrainians with temporary protection were employed by 31 December 2023.
A. General

1. Flow chart

Asylum Procedure

Application at the border or in CIE
Border Police / OAR

Application on the territory
OAR

Application at diplomatic authorities
(Not applied in practice)

Inadmissibility
Rejection

Re-examination

Appeal for reversal
(Administrative)
Ministry of Interior

Appeal
(Judicial)
Administrative Court
High National Court

Admission

Regular procedure
(6 months)
OAR

Urgent procedure
(3 months)
OAR

Appeal for reversal
(Administrative)
Ministry of Interior

Appeal
(Judicial)
Administrative Court

Accepted

Refugee status
Subsidiary protection

Rejected

Appeal for reversal
(Administrative)
Ministry of Interior

Appeal
(Judicial)
High National Court
2. Types of procedures

<table>
<thead>
<tr>
<th>Indicators: Types of Procedures</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Which types of procedures exist in your country?</td>
</tr>
<tr>
<td>❖ Regular procedure: Yes ☐ No</td>
</tr>
<tr>
<td>❖ Prioritised examination: Yes ☐ No</td>
</tr>
<tr>
<td>❖ Fast-track processing: Yes ☐ No</td>
</tr>
<tr>
<td>❖ Dublin procedure: Yes ☐ No</td>
</tr>
<tr>
<td>❖ Admissibility procedure: Yes ☐ No</td>
</tr>
<tr>
<td>❖ Border procedure: Yes ☐ No</td>
</tr>
<tr>
<td>❖ Accelerated procedure: Yes ☐ No</td>
</tr>
<tr>
<td>❖ Other: Embassy procedure Yes ☐ No</td>
</tr>
<tr>
<td>2. Are any of the procedures that are foreseen in the law, not being applied in practice?</td>
</tr>
<tr>
<td>❖ Yes ☐ No</td>
</tr>
</tbody>
</table>

Up until 2020, applications for international protection could not be lodged at Spanish embassies or consular representations, even though Article 38 of the Asylum Act foresaw that possibility. This was due to the absence of a Regulation to the 2009 Asylum Act. As a consequence, the 1995 Regulation to the previous Spanish Asylum Act, not foreseeing the possibility to apply for international protection at embassies or consulates, was applied.6

Through a landmark judgement of October 2020, the Supreme Court finally clarified that the loophole resulting from the lack of an updated Regulation should not limit the exercise of the right to apply for international protection at Spanish Embassies and Consulates.7 The Court specified that Ambassadors and Consuls have the duty to assess whether the applicant’s safety is at risk, in which case they must be transferred to Spain.8 Thus, the judgment overturned previous practices and officially recognised the right to apply for asylum at embassies and consulates. For more than two years following the Court’s decision, no information was made available as to whether persons in need of international protection were able to apply for asylum at Embassies and Consulates.

According to Accem’s knowledge, more recently persons in need of international protection have been admitted to present their application at Spanish Embassies and Consulates. In particular, this applies to Afghan refugees who present their applications at the Spanish embassies in Pakistan and Iran, and there have been also some cases of Afghans applying at the Spanish embassy in Türkiye. As far as Accem is aware, the demand is high, but no official data on the number of applications presented through this channel is available. In March 2024, Accem started a pro bono project together with a law firm to provide legal support to persons applying at Spanish embassies. However, the use of the embassy procedure is currently not clearly regulated.

Following a parliamentary request, in April 2023 the Minister of Interior informed that 4,000 persons applied for international protection at Spanish embassies and consulates in the last two years.9

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3 For applications likely to be well-founded or made by vulnerable applicants.
4 Accelerating the processing of specific caseloads as part of the regular procedure.
5 Labelled as “accelerated procedure” in national law.
6 For an analysis of the previous practice on this regard, as well as relevant jurisprudence such as the N.D. and N.T.v.Spain judgement of the ECtHR, refer to the previous version of this report, available here: https://bit.ly/3J7X2b6, 17.
7 Supreme Court, Sala de lo Contencioso, STS 3445/2020, 15 October 2020, available in Spanish at: https://cutt.ly/whkz8eN.
9 Europa Press, ‘Más de 4.000 personas solicitaron protección internacional desde fuera de España en los últimos dos años, según Marlaska’, 26 April 2023, available at: https://tinyurl.com/ypw3n57
In January 2024, the political party ‘Sumar’ submitted a law proposal on access to asylum and the lodging of international protection applications at Spanish embassies and consulates.\textsuperscript{10}

3. List of authorities that intervene in each stage of the procedure

<table>
<thead>
<tr>
<th>Stage of the procedure</th>
<th>Competent authority (EN)</th>
<th>Competent authority (ES)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application</td>
<td>Border Police</td>
<td>Policía Fronteriza</td>
</tr>
<tr>
<td></td>
<td>Office of Asylum and</td>
<td>Oficina de Asilo y</td>
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<td>Tribunal Supremo</td>
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<td>Oficina de Asilo y</td>
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<td>Refuge</td>
<td>Refugio</td>
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4. Determining authority

<table>
<thead>
<tr>
<th>Name in English</th>
<th>Number of staff</th>
<th>Ministry responsible</th>
<th>Is there any political interference possible by the responsible Minister with the decision making in individual cases by the determining authority?</th>
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</thead>
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<tr>
<td>Office of Asylum and</td>
<td>N/A</td>
<td>Ministry of Interior</td>
<td>☑ Yes ☐ No</td>
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<tr>
<td>Refuge</td>
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All applications for international protection are examined by the Office of Asylum and Refuge (OAR) falling under the responsibility of the Ministry of Interior. The Ministry of Interior is responsible for a broad range of tasks involving national security, such as the management of national security forces and bodies – including police guards and Guardia Civil, which are responsible of border control activities – the penitentiary system, foreigners and immigration-related issues.\textsuperscript{11} Following the general elections of July 2023 and the creation of a new Government in November, the Minister of Interior granted the status of Directorate-General to the Office of Asylum and Refuge, with the new name of Directorate-General for International Protection.\textsuperscript{12} The aim is to strengthen the unit in charge of processing asylum claims, in light of the increase in asylum applications in the past years.\textsuperscript{13}

The OAR centralises the processing of all asylum applications which are officially lodged in Spain, both inside the country and at its borders, as well as the processing and decision-making concerning the cases of stateless persons. This Office also participates in a unit operating under the General Commissariat of Aliens and Borders of the Police concerning documentation and within another unit operating under the Ministry of Inclusion, Social Security and Migration, with authority over matters concerning the reception of asylum seekers.


\textsuperscript{12} Servimedia, ‘Interior crea la Dirección General de Protección Internacional ante el récord de solicitudes de asilo’, 5 December 2023, available at: https://tinyurl.com/4wft9ajc.
The OAR officers ("instructores") in charge of assessing asylum applications are organised according to geographical criteria and each of them oversees a certain number of countries. Moreover, cases are also allocated depending on the applicable procedure (i.e. at the border or on the territory).\(^\text{14}\) According to the information provided by the OAR, as of March 2020, there were 270 caseworkers taking decisions on applications for international protection at the OAR. Statistics on 2023 were not available at the time of writing of this report.

The examination of an application by the OAR culminates in a draft decision which is submitted to the Inter-Ministerial Asylum and Refugee Commission (CIAR),\(^\text{15}\) which will decide to grant or to refuse international protection. The resolution passed within said Commission must be signed by the Minister of the Interior, although it is standard practice for it to be signed by the Under-Secretary of the Interior by delegation of signature authority. According to Article 23.2 of the Asylum Law, the CIAR is composed by a representation of each of the departments having competences on: home and foreign affairs; justice; immigration; reception of asylum seekers; and equality. UNHCR also participates but may only express an opinion on asylum cases without the right to vote.

The OAR also developed internal guidelines on the decision-making process to be followed by its officers, that are not made public. Country of origin information (COI) as well as other relevant documentation published by certain organisations and institutions is also consulted during the decision-making process (e.g. UNHCR and EUAA publications).

### 5. Short overview of the asylum procedure

Any person willing to request international protection in Spain must make a formal application to the competent authorities. There are two main ways to apply for asylum: on the Spanish territory or at border controls. As explained in Types of procedures, asylum applications could not be lodged at embassies or consular representations outside the Spanish territory in practice up until 2020, although the Asylum Act foresees that possibility. As mentioned above, According to Accem’s practice and knowledge, practice has changed and persons in need of international protection can currently apply at some Spanish Embassies and Consulates.

In case asylum seekers are outside the Spanish territory, they must make a formal application to the border control authority, i.e. the Border Police.\(^\text{16}\) If the person is already on Spanish territory, asylum applications can be registered at the Office of Asylum and Refuge (OAR); any Aliens’ Office (Oficina de Extranjeros),\(^\text{17}\) in Detention Centres for Foreigners (CIE) or at police stations.\(^\text{18}\)

The OAR is the authority competent for examining asylum applications.\(^\text{19}\)

**Border procedure**

If an application for international protection is lodged at the borders or from a CIE, the border procedure applies. In this case, the OAR will have 4 days to declare the application admissible, inadmissible or unfounded. If this deadline is not met, the applicant will be admitted to territory in order to undergo the regular procedure.\(^\text{20}\)

Following the identification of irregularities in the processing of the asylum applications lodged at the borders, in July 2022 the Spanish Ombudsperson recommended the Minister of Interior to register and count all asylum applications lodged at the borders, and to present disaggregated data with respect to those who were not admitted, specifying how many applications were rejected despite having received a

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\(^{15}\) Article 23(2) Asylum Act.

\(^{16}\) Article 4(1) Asylum Regulation.

\(^{17}\) Aliens’ Offices are managed by the General Commissariat of Aliens and Borders (Comisaría General de Extranjería y Fronteras) of the Police.

\(^{18}\) Article 4(1) Asylum Regulation.

\(^{19}\) Article 23(1) Asylum Act.

\(^{20}\) Articles 21 and 25 Asylum Act.
positive supporting report issued by UNHCR. The General- Directorate of Internal Policy of the Minister of Interior has not answered to the recommendation at the time of writing of this report.21

In a decision taken in June 2023, the National Court (Audiencia Nacional) established that applications lodged at the CETIs of Ceuta and Melilla should not be processed in the border procedure, but as applications made on the territory.22

Admissibility procedure

For applications made on the territory, the OAR shall have one month to examine the admissibility of the application. If the OAR does not issue a decision within that time, it is understood that the application has been admitted. The decision shall determine whether the request is admissible or inadmissible. The Office may deem the application as inadmissible on the following grounds: (a) lack of jurisdiction for the examination of the application; or (b) failure to comply with admissibility requirements.23

Regular and urgent procedure

If the OAR declares the application admissible in the regular procedure, it will have a period of six months to examine the application on the merits. However, in practice this period is usually longer and can take up to 2 years. During this time, the applicant will receive new documentation certifying their status as asylum seeker, in the form of a red card (tarjeta roja). During the first 6 months, the red card authorises the asylum seekers to reside in Spain. After six months, the red card has to be renewed and further grants the asylum seeker access to employment.

The Inter-Ministerial Commission of Asylum (Comisión de Asilo y Refugio, CIAR) is competent to decide on the application, upon a draft decision of the OAR. Asylum applications must always be examined and decided upon, including in cases where the six months deadline is not met.

In case the application is made at the border or from a CIE, the procedure to be followed is the urgent procedure, even if the person is on Spanish territory. The OAR will have three months to decide on the application in the urgent procedure. The applicant can ask for the application of the urgent procedure, or the Ministry of Interior can apply the procedure ex officio under the following circumstances:24

(a) The application is manifestly well-founded;
(b) The application is made by a person with special needs, especially unaccompanied minors;
(c) The applicant raises only issues which have no connection with the examination of the requirements for recognition of refugee status or subsidiary protection;
(d) The applicant comes from a country considered a safe country of origin and has the nationality of that country or, in case of statelessness if they have residence in the country;
(e) The applicant makes the application after a period of one month;
(f) The applicant falls within any of the exclusion clauses under the Asylum Act.

The decision shall conclude the procedure with one of the following outcomes: (a) granting the status of refugee; (b) granting subsidiary protection; (c) denying the status of refugee or subsidiary protection and granting a residence permit based on humanitarian grounds; or (d) refusing protection.

In case of denial of international protection, the issuance of a return decision is not automatic. In addition, the competence to issue the international protection and return decisions lays with two different authorities.

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23 Article 20(2) Asylum Act.
24 Article 20(1) Asylum Act.
26 Article 17(2) Asylum Act.
In December 2021, the High Court (Tribunal Supremo) issued a decision establishing that an application for international protection implies the automatic suspension of the expulsion procedure for the irregular stay until the competent asylum authorities issue a decision which rejects or declares the application inadmissible. This means that the expulsion or return order cannot be executed before a decision on the asylum application has been taken, because during the decision-making period of the asylum application the stay of the applicant cannot be considered as irregular.27

In November 2022, the High Court (Tribunal Supremo) adopted a decision establishing the obligation for the administration to evaluate the existence - or lack of - humanitarian reasons to impede the applicant's return, and thus on the granting or not of the residence permit on such grounds. The High Court indicates that the administration is however obliged to consider such motives only if an explicit request has been made during the administrative phase of the asylum procedure, while in case of vulnerable applicants the administration is obliged ex officio to assess and determine the existence of humanitarian reasons.28

In February 2023, Article 3 of the asylum law was modified through the law for the equal opportunities of transgender persons and guarantees of rights of LGTBI+ people, in relation to the definition of ‘refugee’, by the introduction of ‘gender identity’ as one of the grounds of persecution.29

**Appeal**

Legal remedies against negative decisions on asylum applications include administrative and judicial appeals and vary depending on the type of decision challenged:

a. **Rejection on the merits**: A negative decision on the merits can be appealed before the National Court (Audiencia Nacional) within two months. An onward appeal against the Court’s decision can be submitted to the Supreme Court (Tribunal Supremo).

b. **Inadmissibility**: Decisions declaring the application inadmissible are appealable before one of the Central Administrative Judges (Juzgados Centrales de contencioso-administrativo) within the National Court. The single-judge decision can then be appealed before the National Court, and subsequently before the Supreme Court.

c. **Border procedure**: Rejection as manifestly unfounded or inadmissibility decisions in the border procedure can be challenged through a re-examination (re-examen) request before the OAR. If the OAR upholds the rejection or inadmissibility decision, the respective remedies mentioned in points (a) and (b) are available.

In all the above cases, it is possible for the asylum seeker to file before the OAR an administrative request for reversal (recurso de reposición) of its decision.

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B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs?  
   ![Yes](Yes) ![No](No)

2. Is there a border monitoring system in place?  
   ![Yes](Yes) ![No](No)

3. If so, who is responsible for border monitoring?  
   - National authorities  
   - NGOs  
   - Other

4. If so, how often is border monitoring carried out?  
   - Frequently  
   - Rarely  
   - Never

Arrivals in Spain, and in particular to the Canary Islands, have been increasing significantly in the last years, and the impact of COVID-19 restrictions on irregular arrivals was only temporary. In 2023, 56,852 migrants arrived to Spain by land and sea, which represents an increase of 82.1% compared to 31,219 arrivals in 2022. The vast majority of arrivals were by sea (55,618) and the main route for sea arrivals were the Canary Islands: 39,910 persons arrived by sea on the archipelago.

The sections below describe the numerous hurdles faced by migrants and asylum seekers in accessing Spanish territory and subsequently the asylum procedure. This includes incidents of push backs, collective expulsions, police violence (especially on the Moroccan side of the border), bilateral agreements with third countries to swiftly return persons back, and dangerous attempts by the concerned individuals to reach Spanish territory or cross over the border fences.

In December 2022, Ministers and high-level representatives of the partner countries and organisations of the Rabat Process met in Cádiz for the 6th Ministerial Conference of the Euro-African Dialogue on Migration and Development (the so called ‘Rabat Process’) to adopt the Dialogue’s new multi-annual cooperation programme for the next five years (2023-2027). During the event, the Cadiz Action Plan was adopted: it addresses five action areas, including on regular migration and mobility, on asylum and protection of persons in need of international protection, and on prevention and effective reduction of irregular migration, fight against migrant smuggling and trafficking in human beings.

In a meeting held in March 2023, the five members (Spain, Italy, Malta, Greece and Cyprus) of the Mediterranean Alliance agreed on preventing migrants’ deaths by impeding irregular departures from countries of origin through the reinforcement of bilateral agreements with third countries, as well as by increasing returns.

A study published by the Centre Delàs d’Estudis per la Pau reported about all the companies, including financial institutions, that have funded the militarisation and increased surveillance at the borders in the Mediterranean, including the Spanish borders in Ceuta and Melilla.

In May, five organisations accused France of violating the rights of migrants at the French-Spanish border. In addition, eight organisations requested the European Anti-Fraud Office (OLAF) to open an investigation on the possible use by Spain of the EU funds in activities violating human rights at the Southern borders.

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35 CEAR, ‘ONG piden investigar el posible uso de fondos europeos en vulneraciones de derechos humanos’, 10 May 2023, available in Spanish at: https://tinyurl.com/hysjpr3r,
A report published in July by EuroMed Rights and State Watch showcases the increase in funding for reinforcing borders through technology during recent years, and notably how Spain’s share will increase by 34% for the period 2021-2027, compared to the previous period (2014-2020), to reach some €325 million. In addition, it highlights how the Fundación Por Causa has been investigating the industry of migration control since 2020, and the working group of Spanish organisations coordinated by CEAR, aimed at monitoring the use of AMIF and IBMF funds for border control, especially in Ceuta and Melilla.

In April 2023, the National Police has been equipped with different technical tools including live scans, with the aim of speeding up the fingerprinting procedure.

The political and social crisis in Senegal which led to riots and deaths in June 2023 produced an increase in the number of boats departing from the country to reach the Canary Islands.

In view of the Spanish Presidency of the Council of the EU during the second semester of 2023, Amnesty International called the Spanish Government to foster, among others, effective migration and asylum policies, centred around rescuing persons in the sea, as well as the sharing of responsibilities among Member States in the protection of refugees.

In May, the UNHCR launched a campaign on LinkedIn asking to end pushbacks, which are an illegal practice according to international and European law.

In June, the ‘Minerva’ operation started in the Gibraltar Strait, concretely in the cities of Algeciras, Tarifa and Ceuta, with the aim of fighting against trafficking in persons and irregular migration. The operation was led by the Spanish National Police and coordinated by Frontex, involving police officers from 16 European countries, and lasted until the beginning of September. During 2022 the operation led to the 2,034 identifications in more than 1,900 interventions.

In January 2024, Frontex threatened to leave Spain, if the Government would not sign the agreement with the EU Agency. According to the information available, it seems that Spain is resisting in signing the agreement and the conditions set forth by Frontex, especially due to concerns regarding potential violations of migrants’ right to privacy in terms of data that should be shared with the EU Agency. Despite these initial concerns, an agreement was signed at the end of the same month.

A report published in the same month by the Centre Delàs and Irídia questions the work and budget of Frontex since its creation, the human rights violations committed by the agency in different EU orders, and especially the lack of an independent monitoring of its activities.

According to the information released by the Moroccan Minister of Interior, Morocco rescued around 2,000 migrants attempting to reach the Canary Islands between mid-May and mid-July, and thanks to its

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40 LinkedIn, Publicación de ACNUR ESPAÑA, May 2023, available in Spanish at: https://tinyurl.com/ykmv4mcd
surveillance of the coasts, prevented 25,519 migrants from departing from its territory during the first five months of 2023. Despite this, the lack of coordination in maritime rescues between the Moroccan and Spanish Governments has been identified as the cause of deaths on the route to the Canary Islands.

On the occasion of the World Refugee Day, the NGO ‘Diaconia’ launched the documentary series ‘Vidas en tránsito’ (Lives in transit), which is made of 12 videos in which 12 refugees count their lives and the reasons to flee their countries and apply for asylum.

At the end of October, an Egyptian national arrived to Bilbao hidden in the hold of a plane and applied for asylum on grounds of religious persecution. The Spanish Government denied his asylum application and returned him to Egypt.

In connection with the situation of bad conditions and overcrowding at the ad hoc spaces for asylum seekers at the Madrid Barajas Airport (for more information, see ‘Conditions in border facilities’), in February 2024 the National Police dismantled a smuggling network which facilitated the entrance to Spain of migrants from Senegal who had to impersonate minors and to apply for asylum at the airport.

1.1. Arrivals in the enclaves of Ceuta and Melilla

The number of persons arriving in Ceuta and Melilla by land in 2023 was 1,234, marking a decrease compared to 2022, when 2,289 persons entered the enclaves. In addition, a total of 273 persons arrived by sea to the enclaves, with 206 reaching Melilla (representing a +37% increase compared to 2022), and 67 Ceuta (a 57% decrease compared to the previous year).

<table>
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<tr>
<th>Arrivals in Spain by land: 2023</th>
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<tr>
<td>Point of entry</td>
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<tr>
<td>Ceuta</td>
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<tr>
<td>Melilla</td>
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<td>Total arrivals by land</td>
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<th>Arrivals in Spain by sea: 2023</th>
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<tbody>
<tr>
<td>Point of entry</td>
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<tr>
<td>Ceuta</td>
</tr>
<tr>
<td>Melilla</td>
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<tr>
<td>Total arrivals by sea</td>
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45 Atalayar, ‘Marruecos rescata a 2,000 migrantes del Atlántico en 2 meses, un 85 % subsaharianos’, 15 July 2023, available at: https://tinyurl.com/bdd2a54p
50 Madrid Diario, ‘Desarticulada una red que introduciera migrantes por Barajas simulando ser menores’, 15 February 2024, available at: https://tinyurl.com/4tek2k64.
In recent years, the main obstacles regarding access to the Spanish territory have been faced at the Ceuta and Melilla borders and checkpoints. These obstacles are mainly due to the impossibility for asylum seekers to cross the border and exit Morocco. There are several reported cases concerning refusal of entry, _refoulement_, collective expulsions and push backs, including incidents involving hundreds of people throughout, that continued throughout 2023. In its 2022 annual report, the Spanish Ombudsperson confirmed the impossibility for many persons fleeing their countries and seeking asylum to access in a regular and safe manner Ceuta and Melilla. In August 2020 the Government announced an enlargement of the asylum post at the border with a budget of €125,000, 2023, available at: https://rb.gy/8gk7o; APDHA, ‘Informe Sombra | España continúa incumpliendo los principios de la Convención Contra la Tortura’, 26 June 2023, available in Spanish at: https://tinyurl.com/59daa92f.

Similarly, the NGO ‘CEAR’ reiterated that persons from Sub-Saharan countries cannot access in a safe and regular manner the asylum offices located at the borders in Ceuta and Melilla. Thus, they resort to try and access Spain from Morocco by jumping the fence or by boat. The NGO continued to express concerns on pushbacks in Ceuta and Melilla.

One of the ways used by migrants and asylum seekers to enter the territory is the attempt to climb border fences in groups. The increasing number of attempts to jump border fences is linked to the fact that migrants and asylum seekers, and especially Sub-Saharan nationals, still face significant obstacles in accessing the asylum procedure at Spanish borders, as a result of border controls exercised by the Moroccan police on the Moroccan side of the border. This can be illustrated when looking at data provided by the Government on asylum claims lodged at the border, which indicates that no asylum application was made at Ceuta’s border crossing, and that persons from sub-Saharan countries are underrepresented among the nationalities of asylum seekers at Melilla’s border (see section on Access to the Territory).

In October 2023, a migrant entered Melilla using a paraglider. This marked the second time in 10 months that a migrant used such a mean to enter the city.

During the 2023 International Day in Support of Victims of Torture, different organisations submitted to the UN Committee against Torture a shadow report documenting the violations of the UN Convention against Torture committed by Spain. Among them, the NGOs denounced the mistreatments and the excessive use of force in the pushbacks occurring at the borders of Ceuta and Melilla as amounting to torture according to international principles and standards.

Following renovations at the Ceuta and Melilla fences that started in 2019 in order to remove the steel wire, different organisations have reported that the height of the fences was increased by 30%, thus further increasing the risk for life and safety for those attempting the jump, and the breaching of human rights standards. In August 2020 the Government announced an enlargement of the asylum post at the Melilla border with a budget of €138,000, and of the asylum post in Ceuta with a budget of €125,000, in Spanish at: https://cutt.ly/QjkYUYt; Huffington Post, ‘Un migrante entra en Melilla sobrevolando en parapente la valla’, 7 October 2023, available in Spanish at: https://cutt.ly/4rf8hu8k; Defensor del Pueblo, ‘Informe anual 2022 – Volumen I’, March 2023, available in Spanish at: https://cutt.ly/QhcBFWN; Público, ‘Menos concertinas y más altura: colectivos de Melilla y Ceuta denuncian que las nuevas vallas continúan vulnerando los derechos humanos’, 29 August 2020, available in Spanish at: https://cutt.ly/ihcZ7w0.
despite the fact that the latter has never been used since it was opened.\textsuperscript{59} Research carried out by the newspaper \textit{Público} and the \textit{Fundación por Causa} denounced the shadow industry of migration control in Spain, referring to more than € 660 million in 5 years, and 1,677 public contracts signed without public tenders.\textsuperscript{60} In July 2022, the Council of Ministers approved the plan to carry out additional renovations to the borderline fence in Ceuta, allocating a budget of EUR 4 million. Such renovations are part of the Plan to reinforce and modernize the land border protection system in Ceuta and Melilla, which started in 2019.\textsuperscript{61} By October 2023, the renovation works were still ongoing.\textsuperscript{62}

Similarly to the previous update of the report, which provided a list of incidents at the border in 2022, the following list provides an overview of several incidents that were reported at the border in 2023 and at the beginning of 2024:

- As detailed in the 2022 AIDA report, on 24 June 2022, around 2,000 persons attempted to enter Melilla from Morocco by jumping the fence, resulting in 37 persons dead and hundreds injured, while 133 individuals managed to enter the Spanish enclave.\textsuperscript{63} Despite different organisations expressing concerns regarding the use of indiscriminate violence in border management activities\textsuperscript{64} and asking for an independent investigation to be carried out in order to clarify the situation and to ascertain political accountability,\textsuperscript{65} in December 2022 the Public Prosecutor decided to close the file on the case and declared the Minister of Interior unconnected to the deaths, which were considered to be the responsibility of the Moroccan authorities, but decided to open a file against the officers who attacked and hit migrants with stones.\textsuperscript{66} More than 150 organisations denounced said decision for allowing impunity for national authorities.\textsuperscript{67} On the occasion of the launch of its 2022 annual report on Spain in January 2023, Human Rights Watch expressed concerns over the country’s response to the incident in Melilla and what could happen


\textsuperscript{60} Público, ‘El control migratorio en España: una oscura industria de más de 660 millones en cinco años’, 1 July 2020, available in Spanish at: https://bit.ly/2OPSsOV.


in the future in relation to pushbacks. In a hearing held at the European Parliament in January 2023, the Spanish Minister of Justice stated that the incident had been closed by the Public Prosecutor Office following a thorough investigation. In view of the high level meeting between Morocco and Spain, in February 2023 Amnesty International called the two countries to end the policy of impunity and exceptionality in place at the borders of Ceuta and Melilla, and installed 15 human shapes in front of the Presidency of the Spanish Government, to commemorate the deaths of the migrants on 24 June 2022. During the same month, the Congress approved a reprobation against the Minister of Interior for how he managed the situation that occurred that day in Melilla. The Spanish Ombudsperson concluded his investigation of the incident and concluded that the returns carried out that day were illegal according to the law. At the end of March, the Minister of Interior was heard at a hearing in front of the European Parliament.

On the occasion of the one-year anniversary of the event, Amnesty International denounced the concealment of the incident, as both the Spanish and Moroccan authorities continued to deny any responsibility and to frustrate any attempt to discover the truth. The organisation also denounced the lack of efforts in identifying the persons dead and those disappeared, and the impact and suffering that this causes to their family members in terms of truth, justice and compensation. The same claims have been made by the survivors of the event. CEAR urged the Government to put in place mechanisms to investigate and ascertain accountabilities for the at least 37 persons dead, the 77 disappeared and the 470 pushed back. 1 year after the event, the Moroccan authorities have identified and buried just one person, and sentenced 61 persons in relation to the jump. On 24 June, a demonstration with the participation of different NGOs and political parties was organised in Melilla to commemorate the deaths and disappearances, and to ask for justice.

In June 2023, different NGOs lodged a complaint before the judge in Melilla, asking for a detailed and thorough investigation of the facts that occurred during the jump. In July, the UN Committee against Torture released findings on four member States, including Spain, and urged the latter to thoroughly and impartially investigate the tragedy that occurred in Melilla in June 2022, to avoid a similar event in the future.
In December 2023, the NGO ‘CEAR’ criticised the Spanish Government for its lack of transparency in relation to the number of persons who died and disappeared while trying to cross the border on that day, and called for an independent investigation of the event.\textsuperscript{81}

In its 2024 annual report, Human Rights Watch denounced that no credible investigation, justice or reparation for those events has been undertaken so far by the Spanish Government.\textsuperscript{82}

- In December 2022, a Sudanese young man who was pushed back to Morocco on 24 June 2022 applied for asylum at the Spanish Embassy in Rabat, with the aim of challenging the declarations of the Minister of Interior regarding the possibility to apply for asylum at the Spanish Embassies and Consulates, as well as at the Spanish land borders of Ceuta and Melilla without jumping the fences.\textsuperscript{83} In March 2023, his asylum interview was held at the Spanish embassy in Rabat (Morocco).\textsuperscript{84} In occasion of the one-year anniversary of the jump and the deaths of 24 June 2022, he wrote a letter to the President of the Spanish Government to complain about the lack of a decision on his asylum application after six months since it was lodged.\textsuperscript{85} In December 2023, in the absence of a decision by the Spanish Government on his asylum application after 1 year from its lodging, the asylum applicant lodged an appeal to the National Court (Audiencia Nacional) to ask for a precautionary measure urging his transfer to Spain.\textsuperscript{86} In December 2023, the applicant lodged a claim for precautionary measures at the National Court (\textit{Audiencia Nacional}), that ruled in favour of his transfer to Spain.\textsuperscript{87}

- At the beginning of January 2024, Morocco claimed to have intercepted around 1,100 migrants in different towns close to the Spanish borders, and prevented their entrance to Ceuta and Melilla.\textsuperscript{88}

The above incidents illustrate how migrants and asylum seekers continue resorting to dangerous ways to enter \textit{Ceuta} and \textit{Melilla}, sometimes resulting in their deaths. Further incidents at the border are likely to continue in 2024.

\textbf{The persisting problem of pushbacks (\textit{devoluciones en caliente})}

The situation at borders and regarding access to territory has gradually worsened since March 2015, after the Spanish government adopted an amendment to the Aliens Act, introducing the possibility to “reject at borders” third-country nationals that are found crossing the border illegally.

The amendment, introduced through the adoption of the Law “on the protection of citizen security”,\textsuperscript{89} includes a specific regulation within the Aliens Act concerning the “Special regime of Ceuta and Melilla”. This regime consists of three elements:

\begin{quote}
(1) It rules that “those foreigners who are detected at Ceuta’s and Melilla’s border lines when trying to pass the border’s contentious elements to irregularly cross the border, can be rejected to avoid their illegal entry in Spain”;
\end{quote}

\begin{thebibliography}{9}
\bibitem{81} El Faro de Melilla, ‘La CEAR solicita un informe independiente sobre la masacre de Melilla del año 2022’, 18 December 2023, available at: https://tinyurl.com/bk2m4u2z.
\bibitem{84} El Faro de Melilla, ‘\textit{Entrevistado el joven sudanés que pidió asilo en la Embajada española en Rabat hace tres meses}’, 6 March 2023, available in Spanish at: https://bit.ly/32MxjJl; Público, ‘\textit{El salvoconducto a España del sudanés que sobrevivió a la tragedia de Melilla ya está en manos del embajador en Marruecos}’, 8 March 2023, available in Spanish at: https://bit.ly/3YDmmlM.
\bibitem{86} Público, ‘\textit{Basir, superviviente de la tragedia de Melilla, recurre a la Audiencia Nacional tras un año ignorado por el Gobierno}’, 16 December 2023, available in Spanish at: https://tinyurl.com/426zsth8.
\bibitem{87} Público, ‘\textit{Basir, superviviente de la tragedia de Melilla, recurre a la Audiencia Nacional tras un año ignorado por el Gobierno}’, 16 December 2023, available at: https://tinyurl.com/38d473af.
\bibitem{88} El Debate, ‘\textit{Marruecos aborta un intento masivo de asalto a las vallas de Ceuta y Melilla}’, 1 January 2024, available in Spanish at: https://shorturl.at/zGJV5.
\bibitem{89} Organic Law 4/2015 of 30 March 2015 on the protection of citizen security.
\end{thebibliography}
(2) It declares that “these rejections will be realised respecting the international law on human rights and international protection ratified by Spain”;
(3) Lastly, it states that “international protection claims will be formalised at the ad hoc border point in line with international protection obligations.”

In practice, when a person is found within Spanish border territory, which includes the land between the Moroccan and Spanish border, they are taken outside the Spanish border through existing passages and doors controlled by border guards.

The amendment aimed at legalising the push backs (devoluciones en caliente) practiced in Ceuta and Melilla, and has been criticised for ignoring human rights and international law obligations towards asylum seekers and refugees by several European and international organisations such as UNHCR,90 the Council of Europe Commissioner for Human Rights,91 and the United Nations Committee against Torture. Critics regard the fact that people are not able to request asylum, and that the law mostly affects groups in vulnerable situation, including unaccompanied minors and victims of trafficking.

These circumstances made Spain one of the European countries with the highest numbers of refusal of entry at the border between 2017 and 2019.

In 2020, however, the number of refusals of entry for Spain dropped to 3,515, while in the EU-27 (UK already excluded) it was 137,840 in total. Even lower numbers were registered in 2021, with 2,290 refusals of entry were issued. This trend appears to continue up to the present, as both in 2022 and 2023 only 7,250 refusals of entry decisions were issued:92 while this represented an increase compared to the two previous years, it was in no way close to pre-pandemic numbers.

In previous years, several cases have been brought to court to challenge the conduct of Spanish border control patrols and guards.

N.D and N.T v Spain

One case before the European Court of Human Rights (ECtHR) concerned two Sub-Saharan men – from Mali and the Ivory Coast respectively – who alleged having been summarily and collectively expelled from

92 Eurostat; migr_eirfs.
Spanish territory on 13 August 2014 as part of a group of over 75 individuals. On 3 October 2017, the ECHR held unanimously that there had been a violation of the prohibition of collective expulsions of the right to an effective remedy in conjunction with said prohibition under Article 4 Protocol 4 and Article 13 of the European Convention on Human Rights (ECHR).  

On 13 February 2020, the Grand Chamber of the European Court of Human Rights (GC) published its judgment in the case of N.D and N.T v Spain concerning the immediate return of the two men to Morocco after attempting to cross the border of the Melilla enclave, overturning the 2017 judgment. The GC addressed whether the removal of the applicants amounted to an expulsion or ‘non-admission’ of entry. Moreover, the GC was not convinced that the State had failed to provide a genuine and effective access to means of legal entry, and concluded that the applicants had in fact placed themselves in jeopardy by participating in storming the border rather than using the existing procedures. In particular, the GC observed that the applicants could have applied for visas or for international protection at a border crossing point. It concluded that the applicants’ expulsions did not violate Article 4 Protocol 4.

Furthermore, the GC found that the applicants placed themselves in an unlawful situation by deliberately attempting to enter Spain as part of a large group rather than using available legal procedures. The lack of available individual procedures to challenge the removal was therefore deemed a consequence of the applicant’s unlawful attempt to gain entry. The GC held there was no violation of Article 13 in conjunction with Article 4 Protocol 4.

This GC’s decision has been heavily criticised by civil society organisations and other several stakeholders, including the Progressist Union of Public Prosecutors, who saw a lost opportunity in condemning the Spanish authorities for their pushback practices at the border.

In November 2022, Netflix launched the documentary ‘The Gourougou trial’ on the stories of two migrants from Africa, ND & NT, who in 2014 joined other 500 migrants to jump the fence in Melilla from Morocco to enter Spain, and that were pushed back.

For further details on the case, see AIDA Country Report: Spain 2020 Update.

The Constitutional Court's ruling of 19 November 2020

On 19 November 2020, the Spanish Constitutional Court (Tribunal Constitucional) endorsed the Organic Law on the protection of citizen security, which establishes a special regime for the rejection at the borders in Ceuta and Melilla. After analysing the constitutional doctrine and the ECHR’s jurisprudence, the Constitutional Court concluded that the law is in line with the Spanish Constitution. Regarding specifically the legal framework on Ceuta and Melilla, the Court concluded that the special regime foreseen is constitutional because it is in line with the ECHR’s jurisprudence on the material execution of a rejection at the border. Nevertheless, the Court underlined the importance of judicial control and effective remedies
to appeal a rejection at the border. In addition, the Court stated that a rejection decision at the border should be issued considering all the guarantees provided by national and international law, and that the procedure for allowing or refusing legal entry to Spain must be real and effective. The Court further held that law enforcement officials have to pay particular attention to vulnerable groups (i.e. children, pregnant women and elderly persons).

Following the decision, more than 80 NGOs asked the Government to “put an end to such practices, at least up until a legislative framework is adopted in line with the Constitutional Court’s requirements”.102

Other pushback cases and incidents

Pushback practices in Spain have been strongly condemned in recent years. This includes a decision adopted on 12 February 2019 by the United Nations (UN) Committee on the Rights of the Child regarding the case D.D. vs Spain.103

In February 2014, 15 migrants drowned after attempting to reach the Spanish enclave of Ceuta by sea and were repelled with rubber bullets and smoke grenades by officers from the Guardia Civil. Since then, the so known “El Tarajal” case was decided and removed from the register in different occasions, until in June 2022 the Supreme Court (Tribunal Supremo) rejected the cassation appeals lodged by different NGOs against the decision to remove the case from the register taken by the Provincial Court of Cádiz.104 Previous updates of this report provide more details on the case. (See AIDA Country Report on Spain – 2021 and 2020 Updates). In June 2023, the Constitutional Court (Tribunal Constitucional) admitted the appeal lodged by different NGOs against the removal of the case from the register decided by the High Court (Tribunal Supremo) and the Provincial Court of Cádiz.105 In February 2024, a 25-year-old Cameroonian national filed a complaint at the UN against Spain, for the multiple violations of the Convention against Torture occurred during the incident.106

Since the event in El Tarajal, each year many NGOs, groups of activists and other stakeholders join in Ceuta at the border, in order to commemorate the deaths and strive for justice.

Throughout 2023, and at the beginning of 2024, pushback practices continued to be reported.

The Dutch Council for Refugees started to work, in collaboration with the NGO Caminando Fronteras, on advocating against and exposing pushbacks practices at Spain’s southern borders and the Canary Islands, as well as in improving asylum policies in the country, by training their staff in project management and fundraising.107 At the beginning of 2023, the Dutch Council for Refugees selected eight organisations working for refugees and human rights at the European borders (i.e. Spain, Italy, Greece and Poland) to fund and support for one year their projects within the Step Up Fund. The selected NGOs in Spain are Irídia, whose project focuses on monitoring and exposing human rights violations at Spain’s borders together with activists and local organisations on the ground; and Caminando Fronteras whose Step Up project seeks to improve its communication, so that refugees can find the right information and that the media and researchers know how to find Caminando as a reliable source of information.108

105 Cadena Ser, ‘El Constitucional admite a trámite el recurso que presentaron varias ONG contra el archivo de la causa del Tarajal’, 28 June 2023, available in Spanish at: https://tinyurl.com/2s7mmyv85.
In March, a young man from Mali, who entered Spain by jumping the fence in Melilla in March 2022, lost vision from one eye after being struck with a baton by the officers from the Guardia Civil after the crossing. Consequently, he lodged a criminal claim against the Guardia Civil, arguing the treatment amounted to torture.⁹⁹

In April 2023, the Commissioner for Human Rights of the Council of Europe published a report following a country visit to Spain. The report addresses, amongst other things, the rights of refugees, asylum seekers and migrants. The Commissioner deplored the fact that access to protection varies significantly throughout the country and remains very challenging for many refugees and asylum seekers due to long waiting periods to access the asylum procedure, delays in the identification of special vulnerabilities, and obstacles in accessing social rights, including housing and health. She further stressed that there is no genuine and effective access to asylum at the border between Nador (Morocco) and Melilla.¹⁰⁰ The Commissioner also reiterated that, despite the right of each country to control its borders and the possible cooperation with other States in doing so, this must be carried out in full compliance with all applicable international human rights standards. As regards the cooperation of Spain with Morocco in the control of common borders, the Commissioner urged Spain to revise the current approach to access to the territory and asylum in Ceuta and Melilla, as well as to stop pushbacks, in order to meet those obligations.

In May, the Spanish Minister of Interior declared that the Government will not breach obligations on border management, and that no policy change in this respect is thus foreseen.¹¹¹

Following the arrival of around 8,000 migrants within 36-hours in mid-May 2021 – a quarter of them minors – into the city of Ceuta, at least 4,000 of them were immediately expelled by the police,¹¹² without any clarity as the procedure followed to carry out the expulsions.¹¹³ Different human rights organisations denounced this event as a pushback case¹¹⁴ that also involved migrant children, and highlighted how no access to information and legal assistance was granted to those affected.¹¹⁵ In August 2021, the Ministry of Interior announced having started returning to Morocco the children who had entered Ceuta in May.¹¹⁶ However, in February 2022, a judge in Ceuta (Juzgado de lo Contencioso Administrativo número 1) ordered the Government to bring back to Spain the children who were already returned to Morocco, establishing that the returns had been in breach of Spanish legislation, generating a serious risk for the children involved.¹¹⁷ In August 2023, some WhatsApp messages exchanged during those days between different Government representatives and the then-Vice-President of Ceuta (who was denounced by the

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¹¹¹ Cope, 'Interior asegura que el Gobierno no va incumplir su obligación de proteger las fronteras', 10 May 2023, available in Spanish at: https://tinyurl.com/22n3yke6.


¹¹⁶ Cadena Ser, 'Interior ordena la devolución a sus países de origen a los menores migrantes que cruzaron a Ceuta en mayo', 13 May 2021, available in Spanish at: https://bit.ly/3GxShs0h.

Public Prosecutor Office in June 2022, together with the Government-Delegate in the City for malfeasance in the illegal expulsion of Moroccan children[^118] were made public. The leaked messages showed their will to set up a procedure to return the unaccompanied migrant children to Morocco, and to overcome the position of the Public Prosecutor, who was demanding that they respect the rule of law as well as the rights and guarantees foreseen for children by Spanish legislation. In January 2024, the Supreme Court (Tribunal Supremo) ruled that the return to Morocco of around 50 children was illegal according to the Immigration Law. Following the decision, the NGOs ‘Fundación Raíces’ and ‘Coordinadora de Barrios’ informed they will take the appropriate measures to guarantee each child illegally deported is restored in their rights and to repair the damage suffered and the violation of their physical and moral integrity. The association ‘Jueces y Juezas para la Democracia’ (Judges for Democracy) asked the Government to assume responsibility following the Court decision.\[^122\]

In August 2023, a Spanish vessel of the Guardia Civil rescued 168 persons on route to the Canary Islands near Mauritania. The Guardia Civil tried to bring the migrants to the Nuidaú port in Mauritania, but the Mauritanian Government did not allow the disembarkation, despite the agreements on migration established between the two countries. Afterwards, the migrants were disembarked in Senegal, which the NGO CEAR indicated could constitute a case of collective expulsion. Similarly, Amnesty International remarked that collective deportations constituted a violation of human rights.\[^125\]

**Bilateral agreements with third countries**

Spain has signed different bilateral agreements with third countries such as Mauritania, Algeria, Senegal and Morocco, in order to swiftly return individuals back.

Since 2019, Mauritania has become the main country to receive deportation flights from Spain (chartered by Frontex), *inter alia* due to the increase of arrivals to the Canary Islands. This is based on a bilateral agreement signed back in 2003. In January 2020, 72 persons from Mali, out of which at least 14 were asylum seekers, were returned to Mauritania in the framework of a bilateral agreement with Spain, as Mauritania accepts returned migrants who have transited through its territory. One of the returned persons stated that they had not been provided food during three days; that they had been abandoned at Mali’s border with Mauritania; and that they were subject to mistreatment by the Mauritanian authorities. This case of return takes part as one of the seven flights that the Spanish Ministry of Interior has been carrying carried out since June 2019. As denounced by different organisations, these practices...
amount to indirect pushbacks, are in violation with the *no-refoulement* principle and are contrary to UNHCR’s call not to return Malians to their country of origin.\(^\text{129}\)

In February 2024, Spain and Mauritania, under the auspices of the EU, signed an agreement for 210 million Euros aimed at, among other objectives, fighting against irregular migration and smuggling.\(^\text{130}\)

In November 2020, Spain further resumed the expulsion of migrants, which had been suspended following the COVID-19 spread. Reports of returns from the Canary Islands realised without ensuring proper access to guarantees (i.e. legal assistance) and to the asylum procedure were made also in 2022.\(^\text{131}\) No further information on such cases was available regarding 2023.

In December 2020, Algeria joined Morocco and Mauritania among the countries accepting returns of their nationals from Spain.\(^\text{132}\) Thus, Algerian migrants were returned from Spanish CIEs.\(^\text{133}\) In the same month, Spain increased the deportation of Moroccan migrants arriving to the Canary Islands.\(^\text{134}\) In November 2020, Spain had also reached a similar agreement with Senegal.\(^\text{135}\) Consequently, the Government announced in February 2021 that it would resume return flights to Senegal by the end of the month.\(^\text{136}\)

The agreement also foresaw the reinforcement of the Spanish monitoring mechanism in Senegal against irregular migration, through the allocation of a Guardia Civil’s patrol boat and an airplane.\(^\text{137}\) The flight that the Minister of Interior organised at the end of February for repatriating migrants from the Canary Islands to Senegal was finally cancelled due to a COVID-19 outbreak at the CIE of Hoya Fria. It was then rescheduled to 10 March, but it was once more suspended.\(^\text{138}\) Apparently, the difficulties experienced in the organisation of the deportation flights were also due to Senegal’s resistance to carry them out in practice.\(^\text{139}\)

It should be further noted that the Government opened a €10 million tender to airlines wishing to realise return flights from Spain.\(^\text{140}\) Moreover, in 2020, the Minister of Interior announced that it was tripling financial support to African countries, aiming at stopping irregular migration.\(^\text{141}\) In November 2020, the


\(^{140}\) Voz Populi, ‘El Gobierno pagará hasta diez millones a las aerolíneas por devolver inmigrantes a sus países de origen’, 31 December 2020, available in Spanish at: https://cutt.ly/1jhBd3d.

Government also adopted a plan aimed at providing third countries (e.g. Senegal, Mauritania and Morocco) with equipment such as vessels, helicopters and airplanes in order to stop migration and increase expulsions of rejected applicants for international protection.142

In September 2022, Spain and Senegal started negotiations to resume returns of migrants irregularly staying in the Spanish territory.143 During the same month, the Directorate-General of the National Police announced the decision to send six systems for the identification of forged documents to Gambia, with the aim of fighting smuggling rings.144

According to a report published in 2022 by the European Migration Network (EMN), Spain has readmission agreements with some African countries (Cape Verde, Gambia, Guinea-Bissau, Guinea Conakry, Mali, and Niger).145 No information has been found on how widely they are applied nor how many persons are readmitted through such agreements.

In April 2023, the Spanish Prime Minister defined Morocco as an essential partner for the management of migration to Spain and to Europe.146

1.2. Arrivals by sea

In 2023, 55,618 persons and 1,817 boats reached Spain via sea routes.147

Out of the total number of persons arriving by sea, the vast majority (39,910 persons) disembarked on the Canary Islands, which has become one of the main destinations for boats since the last months of 2019, while 15,435 persons arrived on the mainland and the Balearic Islands. Only a few migrants disembarked in Ceuta (67 persons) and Melilla (206 persons).148

Regarding the number of deaths in the Mediterranean, several figures have been reported. The NGO Caminando Fronteras (Walking Borders) estimates that 6,618 persons died while reaching Spain in 2023, including 6,607 who lost their life on the Canary route.149 It further reported that 363 of victims were women, 384 were children, and that a total of 84 vessels disappeared with those 6,618 persons on board. In its 2023 annual report on human rights at the Southern borders, the ‘Asociación Pro Derechos Humanos de Andalucía - APDHA’ denounced that more than 40% of the total number of persons who died on route to Spain registered in the last 35 years occurred in the last 3 years, and that 2021 was the most lethal year so far, with at least 2,126 persons dead.150


In March 2024 the police dismantled a network that offered families of missing migrants false information about their location in exchange for money.\textsuperscript{151}

In November 2022, more than 100 organisations proposed to introduce a set of measures for a respectable treatment for migrants dead and disappeared in the sea and for their families. Among other measures, the proposal foresees the creation of an information office of the Ombudsperson, that would oversee providing comprehensive assistance to families of the dead and disappeared, as well as of managing a DNA database connected with Interpol. The proposal, led by the Asociación Pro Derechos Humanos de Andalucía (APDHA), is part of the campaign #VidasSinRastro (lives without track), and was sent to the Spanish Ombudsperson, the Government and to different parliamentary groups.\textsuperscript{152}

In 2021, the Spanish Bar Association published a practical guide for providing legal assistance during arrivals by sea, with the aim of guaranteeing migrants the best service and protecting their rights and liberties.\textsuperscript{153}

In 2022, the Spanish Red Cross implemented a pilot project in the Canary Islands, directed at identifying the persons who disappeared during the migratory maritime route to the archipelago. After investigating 45 shipwrecks, the organisation identified 101 persons disappeared.\textsuperscript{154}

In its 2022 annual report, the Spanish Ombudsperson underlined the increase of women with children in arrivals by sea in the last years, especially to the Canary Islands. The report also indicates that such change in the profile of newcomers has been the object of special interest and analysis by the institution, and that the necessity to improve the coordination among relevant stakeholders as well as the protocol for the humanitarian assistance with an age and gender perspective has been transmitted to the administration.\textsuperscript{155}

A report published by the Programa Ódos\textsuperscript{156} in June 2022 indicates that 61% of the children assisted were girls (mainly accompanied), mostly fleeing due to the risk of being subjected to female genital mutilation.\textsuperscript{157}

In June 2022, the Spanish Ministry of Foreign Affairs pushed to consider irregular migration as an ‘hybrid threat’ in the new NATO policy roadmap.\textsuperscript{158}

During 2023, different bodies of persons, including an 8-months-old Algerian baby, who died at sea while reaching Spain by boat, appeared on Spanish beaches sometime after their disappearance.\textsuperscript{159}


\textsuperscript{154} Nius Diario, ‘Cruz Roja implanta un proyecto de identificación de personas desaparecidas en ruta migratoria por vía marítima’, 29 August 2022, available in Spanish at: https://bit.ly/3QkUYvV; El Diario, ‘Cruz Roja identifica a más de 100 personas desaparecidas en la ruta migratoria hacia Canarias’, 29 August 2022, available in Spanish at: https://bit.ly/3KQK4vV.


\textsuperscript{156} Programa Ódos, see: https://programaodos.org/.


In July, the organisation ‘Caminando Fronteras’ asked the Public Prosecutor Office to open an investigation for the crime of failure to provide assistance to 36 persons who died after waiting ten hours to be rescued in their route to the Canary Islands by the Moroccan authorities, while a boat of the Spanish Salvamento Maritimo was at 1 hour navigating distance from the boat in distress.160

Situation on the Canary Islands

As demonstrated by the figures above, boats arrivals to the Canary Islands continued in significant numbers throughout 2023. It is very likely that the Canary Islands will continue to be one of the main point of entry to Spain for migrants and refugees throughout 2024, especially given the increased controls at the Ceuta and Melilla border points and the increased capacity of Morocco to control the Northern part of the country, inter alia through EU funds.161 This is also due to the political situation in Senegal.162

The ‘Canary route’ continues to be the deadlier route to reach Spain, with 6,607 out of 6,618 registered deaths of migrants trying to reach Spain in 2023 recorded on this route.163 Nevertheless, while the focus has continuously been on the Canary Island during the last years, the so-called ‘Algerian route’ has also recorded many arrivals since 2022, especially to the Balearic Islands, Murcia and Alicante. Such a route registered an increase also in deaths and disappearances in 2023.164

Serious concerns regarding the access to reception, overcrowding and poor living conditions on the Canary Islands are described in the Reception Chapter of this report (see Access and forms of reception conditions). Regarding access to the asylum procedure, several shortcomings were reported in 2020, especially regarding the lack of legal assistance for migrants arriving by sea to the Canary Islands, resulting in important violations of their rights and the law.165 In November 2023 the Government of the Canary Islands and the Bar Association of Santa Cruz de Tenerife reached an agreement aiming at assessing and guaranteeing a better quality of the legal assistance provided to migrants arriving by boat to the archipelago.166

According to a thematic report published by the organisation Irídia167 in May 2022, the discrimination in accessing rights, the lack of procedural guarantees and the permanent incompliance with existing norms at the borders are the main human rights violations identified by the organisation.168

As mentioned, to support the authorities in the early identification of international protection needs, in capacity building, in registration and assistance to newcomers, UNHCR deployed a team in the archipelago since January 2021. Similarly, EUAA (former EASO) deployed a team of experts to the Canary Islands in March 2021 with the aim of supporting the Spanish authorities to manage the reception centres, in light of the increase in arrivals of migrants and asylum seekers.169 The EUAA 2022-2023

167 Irídia, see: https://iridia.cat/es/.
operation plan for Spain aims at supporting national authorities in designing and implementing a new reception model, and to ensured that standardised reception processes and procedures are adopted across the country. Spain has received operational support by the EASO/EUAA since 2021. The 2022-2023 plan was amended in May 2022 to take into account the changes in the operational context in light of the invasion of Ukraine.

In June 2023, a new operational plan for 2023-2026 was agreed between Spain and the EUAA, which foresees a set of measures aiming at supporting and reinforcing the national reception authorities for the international protection, the temporary protection and the humanitarian assistance systems. In addition, compared to the previous operational plan, the new one foresees support to national authorities to foster common action in reception of unaccompanied migrant children in the Spanish territory, and to enhance the capacity of authorities and practitioners through training and professional development.

Throughout 2023, the EUAA deployed a total of 85 experts in Spain, 52 of which were temporary agency workers. This included 42 administrative assistants, 15 social workers, 8 reception training experts and 7 asylum and reception programme and project management experts as well as other monitoring, legal and administrative staff (e.g., reception coordinators, vulnerability experts, operation officers, and statisticians). As of 19 December 2023, there were 73 EUAA experts present in Spain, mainly social workers (13) and intermediate reception training experts (8).

In 2023, the EUAA delivered 94 training sessions to a total of 1,278 experts and personnel of national authorities, relevant partners and EUAA contracted personnel.

In August 2021, the Government of the Canary Islands, together with the Bar Association and in collaboration with UNHCR, started to implement a project to provide legal assistance to detained persons, migrants and asylum seekers, which was continued throughout 2022.

Following a needs assessment realised at the end of 2020, IOM started its operations in the Canary Islands at the beginning of 2021, aiming at addressing the significant increase in arrivals. IOM’s operation is based in Tenerife, where the organisation managed a facility with 1,100 reception places (reduced to 1,054 due to COVID-19 prevention measures). With a staff of 53 employers, IOM provided for humanitarian reception places and direct assistance to migrants reaching the archipelago. The organisation’s work includes provision of legal assistance as well as the identification of vulnerabilities and addressing protection needs. In June 2022, the organisation finalised its operations in the Canary Islands.

Search and Rescue (SAR) operations

Since April 2015, the NGO CEAR, in coordination with other NGOs (including Accem), is running the campaign ‘UErfanos’ to denounce the deaths in the Mediterranean Sea and the breaches to the right to asylum by the EU, which produce more ‘UEorphans’. The webpage of the campaign contains updated information on number of arrivals and deaths on the route to Europe and Spain.

Information provided by the EUAA, 26 February 2024. In the figures above, the same persons may have been included under different profiles, if a change of profile took place in the course of 2023.

Information provided by the IOM on 4 March 2022.

References:

173 EUAA personnel numbers do not include deployed interpreters by the EUAA in support of asylum and reception activities.
174 Information provided by the EUAA, 26 February 2024.
175 Information provided by the EUAA, 26 February 2024.
Maritime Rescue (Salvamento Marítimo), an authority under the Ministry of Transport, is responsible for search and rescue carried out in the search and rescue zone belonging to Spain and Morocco.\(^{179}\) The Police (Guardia Civil) usually participates along with the personnel of Maritime Rescue in Almería, but not in Algeciras. The Maritime Rescue always informs the Spanish Red Cross (Cruz Roja Española)\(^ {180}\) of arrivals. The Spanish Red Cross notifies its Emergency Immediate Response Teams (Equipos de Respuesta Inmediata en Emergencia, ERIE) that operate in Almería, Motril, Málaga, Tarifa and Ceuta, where migrants are taken upon their arrival.

In December 2021, the Government approved the new Plan for Security and Maritime Rescue 2021-2024, with a budget of more than EUR 173 million.\(^ {181}\)

The ERIE is composed of Red Cross staff and volunteers who are usually medical personnel, nurses and some intercultural mediators. Their first action consists in a health assessment to check the state of health and detect medical needs and the preparation of a health card for each of the newly arrived persons, which contains their personal data. As already mentioned, UNHCR also deployed personnel in different points of arrival in Spain. The main objective of the presence of UNHCR is to work in the field of identification, referral and protection of people who need international protection.

After this health screening, the ERIE distributes food, water, dry clothes and a hygiene kit. Normally, men are separated from women in shelters. The Spanish Red Cross further provides humanitarian and health care at this stage. This process must be carried out within a period of 72 hours in accordance with the maximum term of preventive detention foreseen by the Spanish legal system.

Several worrying developments regarding limitations to search and rescue operations have been noted since the beginning of 2019, notably through the criminalisation of SAR activities carried out by NGOs.

One such example was the persecution of the Spanish activist Helena Maleno, founder of the NGO Caminando Fronteras, accused in 2020 by Salvamento Marítimo of being responsible of the deaths of migrants,\(^ {182}\) even after the charges of migrant smuggling and human trafficking held against her, which were dropped in March 2019 by the Appeal Court of Tangier.\(^ {183}\) In April 2021, while entering Morocco through Tangier, where she has been living with her family for 20 years, she was expelled from the country. In an urgent press conference organised after the incident, she has explained the reasons for which these charges were held against her, and urged the Spanish and the Moroccan Governments to stop criminalising her as human rights defender\(^ {184}\). Following the incident, 700 organisations and 10,000 persons asked the Spanish Government to protect Helena Maleno.\(^ {185}\) In November 2021, the World Organisation against Torture included Helena Maleno among those activists in Europe who are criminalised for their solidarity with harassment, assault and torture.\(^ {186}\)

In January 2021, the Major of Barcelona expressed instead solidarity with NGOs involved in Search and Rescue activities. In the same month, the Municipality announced its intention to intervene as civil party in the criminal procedure in process in Palermo (Italy) against the former Italian Minister of the Interior Matteo Salvini, for impeding the disembarkation of the Open Arms boat in Italy. The Open Arms was

\(^{179}\) CEAR, ‘Refugiados y migrantes en España: Los muros invisibles tras la frontera sur’, December 2017, 8.

\(^{180}\) Cruz Roja Española, see: https://www2.cruzroja.es/.


\(^{182}\) Contrainformacion, ‘Helena Maleno, acusada de las muertes de personas migrantes por alertar de una patera en peligro’, 2 November 2020, available in Spanish at: https://cutt.ly/ChLbcN.


\(^{184}\) Cadena Ser, ‘La defensora de derechos humanos Helena Maleno, expulsada de Marruecos’, 12 April 2021, available in Spanish at: https://bit.ly/2Z0Z1DO.


carrying 130 migrants and refugees during the summer of 2019.\footnote{Europapress, 'Barcelona se personará en el juicio en Italia contra Salvini por el bloqueo del Open Arms', 27 January 2021, available in Spanish at: https://bit.ly/3r3CUJB.} The judgement started in Palermo in October 2021.\footnote{La Vanguardia, 'Arranca el juicio contra Salvini por bloquear el desembarco del Open Arms', 23 October 2021, available in Spanish at: https://bit.ly/34BeKR2.} The judgment is still pending at the time of writing of this report; hearings were held in 2022, at the beginning of 2023 and of 2024.\footnote{La Notizia, 'Proceso Open Arms, nuova udienza a Palermo per Salvini. Il vicepremier: “Rischio 15 anni di carcere”', 13 January 2023, available at: https://bit.ly/3ztnu2z.}

In September 2022, a senator of the political party Vox asked the Government to investigate some NGOs, which he accused of collaborating with criminal groups in migrants’ smuggling. The Minister of Interior expressed doubts regarding this statement, and responded he should present a formal report if he had evidence to support this claim.\footnote{Ansa, "Difeso la sicurezza nazionale", Salvini in aula per Open Arms', 12 January 2024, available at: https://tinyurl.com/yueuuyv6.}

It should be further noted that, in February 2019, the Spanish Ombudsperson addressed a recommendation to the Ministry of Interior, asking to modify the instructions related to irregular immigrants as they affect possible asylum seekers found in vessels navigating in Spanish territorial waters.\footnote{Diario Siglo XXI, 'Vox pide investigar ONG que "colaboran" en tráfico de migrantes y Marlaska responde: “Si tiene datos formalice denuncia”', 20 September 2022, available in Spanish at: https://cutt.ly/EeZQGsA.} The Minister of Interior accepted the recommendations.\footnote{Defensor del Pueblo, 'El Defensor del Pueblo recomienda al Ministerio de Interior modificar las instrucciones sobre polizones extranjeros para proteger a posibles solicitantes de asilo', 28 February 2019, available in Spanish at: https://cutt.ly/3r3CUJB.} In April 2022 however, the Minister of Interior reverted its decision and refused to adopt the changes proposed by the Ombudsperson.\footnote{Defensor del Pueblo, 'Polizones extranjeros. Tratamiento de solicitudes de asilo', available in Spanish at: https://bit.ly/3L2Cpue.}

In January 2023, the Maritime Captaincy of Valencia opened an administrative procedure against the Spanish NGO rescue vessel ‘Aita Mari’ for certain alleged deficiencies detected 3 years before in Italy and that, according to the NGO managing the vessel, were corrected in the meantime. The Aita Mari risks to be fined with a fee between EUR 60,000 and 80,000.\footnote{Público, 'Interior cambia de criterio y se niega a mejorar la protección de los polizones que piden asilo en España', 24.4.22, available in Spanish at: https://bit.ly/3YVDkn.}

\textbf{The role of Moroccan and Algerian authorities in migration and border control}

According to official data, in December 2023 the Moroccan Government declared having impeded the arrival of 70,000 migrants to Spain during the last 3 years, by impeding 70 jumps of the fences of Ceuta and Melilla.\footnote{El Diario, 'El buque de rescate “Aita Mari” se enfrenta a una multa de un millón de euros tras una denuncia de Italia de 2020', 27 January 2023, available in Spanish at: https://tinyurl.com/yc8bnmk2.} The decrease of arrivals of almost 26% in 2022 compared to 2021 has been connected also to the renewal of the cooperation between Morocco and Spain.\footnote{Heraldo, 'Marruecos impidió en los últimos tres años a 10.000 migrantes entrar en Ceuta y Melilla', 7 December 2023, available in Spanish at: https://tinyurl.com/yb4nyek4.} See the 2021 update of the AIDA report for more details on the issue on previous years.\footnote{Atalayar, ‘El acuerdo entre España y Marruecos hace descender la inmigración irregular en un 26%’, 4 January 2023, available in Spanish at: https://bit.ly/3GSnwe5.}

In 2020, Morocco reinforced its controls to prevent migrants from entering Spain,\footnote{El Español, ‘Marruecos cierra el paso de migrantes al sur de España: así es la nueva y peligrosa ruta a Canarias’, 16 August 2020, available in Spanish at: https://cutt.ly/VhLueuB.} and the two countries strengthened their alliance during the pandemic in the field of migration control.\footnote{Atalayar, ‘España y Marruecos refuerzan su alianza estratégica en tiempos de pandemia’, 16 July 2020, available in Spanish at: https://cutt.ly/qhlpsq2.} Regardless, some tensions between Spain and Morocco were reported throughout 2020 because of the situation in Ceuta...
and Melilla. Tensions between the two countries newly increased in May 2021 following the hospitalisation of the Sahrawi leader in Spain. To retaliate, the Moroccan government eased border controls, and around 8,000 persons entered Ceuta, swimming from Moroccan shores.

In November 2020, the Spanish Government announced it would provide the Moroccan Ministry of Interior with 130 vehicles for the purpose of border and migration control. The tender amounts to €7,150,000 without VAT and the contract lasted 12 months. This tender was part of the programme named “Support to the integrated management of borders and migration in Morocco” that started on 17 April 2019 and ended on 17 April 2022. Overall, it seems that the contract involves a total of €91 million. Additional information on funding to Morocco indicates that a total of 118 million Euros deriving from EU funding have been granted so far by Spain since 2019 to the beginning of 2024. The new allocation of funding seems to relate to the maintenance of three patrol boats of the Guardia Civil, five refrigerated trucks, and 190 thermal cameras.

As part of such programme, in May 2021 the Council of Ministers approved the allocation of EUR 30 million to the Moroccan Minister of Interior, for collaborating in funding the police with the aim of stop migrants before trying to cross the Mediterranean and reaching Spain.

Following the XII High Level Meeting between Spain and Morocco held at the beginning of February 2023, the two countries issued a joint declaration establishing the renewal and reinforcement of the cooperation in the fight against irregular migration, border management, the fight against smuggling and the readmission of migrants in irregular situations. Additional information on the details of such an agreement were not available at the time of writing of this report.

The closure of the Moroccan borders, along with the COVID-19 pandemic and the Spanish migration policy in the Mediterranean, are probably the main reasons for the notable increase in arrivals on the Canary Islands registered since the end of 2019, despite the higher risks that such a route involves. In November 2020, the Spanish Government further announced a joint mission with Frontex aimed at limiting arrivals and closing the ‘Canary migratory route’. In January 2021, Frontex and Spain agreed on renewing the activities of the EU agency for one more year, with 257 officers deployed covering the Gibraltar Strait and the Alborán Sea, as well as the Canary Islands.

On 17 June 2022, Frontex launched the operation ‘Minerva 2022’ in Algeciras, Tarifa and Ceuta; it lasted until mid-September, with 101 officers deployed by participant States. The joint operation ‘Minerva 2023’, led by the Spanish National Police and coordinated by Frontex, was carried out from mid-June to

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beginning of September, with the participation of 94 experts coming from 16 countries.\textsuperscript{210} During 2022, a total of 2,034 identifications and more than 1,900 police actions were realised.

In addition, Morocco (together with Algeria) became the new route for Sudanese refugees migrating to Europe, due to the serious political instability in Libya, the violence in such country and the militias controlling its territory.\textsuperscript{211}

In March 2022, the President of the Spanish Government changed the longstanding Spanish position on the right to auto determination of Western Sahara, by announcing its support Morocco’s proposal of granting a regime of autonomy to the area, that entails recognition of the Moroccan territorial sovereignty over said territories.\textsuperscript{212} The Association for Human Rights in Andalucía lamented the policy change adopted by the Spanish Government, and called for an immediately rectification of the declaration.\textsuperscript{213} Numerous gathering and demonstrations have been organised in various Spanish cities to support the Sahraui population and to protest against the new Government’s position.\textsuperscript{214} Consequently, in June 2022 Algeria suspended the friendship treaty and froze trade with Spain.\textsuperscript{215} In November 2023, Spain and Algeria resumed their economic relationship with the deployment of a new Algerian ambassador in Madrid. This will lead to resume also the cooperation among the two countries on common areas of work, such as prevention of irregular migration and the fight against Jihadism in the Sahel region.\textsuperscript{216}

In April 2022, an agreement on security cooperation and fight against crime reached between Spain and Morocco in February 2019 entered into force, in coincidence with the visit of the Spanish President of the Government to Rabat. The agreement, in force for an indefinite term, provides for the collaboration of the two countries in the fight against different forms of crime, including irregular migration.\textsuperscript{217} Migreurop and EuroMed Rights denounced its content for linking migration to border security and to criminality, with the risk of leading to more rights violations at the borders.\textsuperscript{218}

In August 2022, the EU announced the intention to allocate more than EUR 500 million to Morocco for the period 2021-2027, a budget that is 50% higher than the previous one, including for border management and police cooperation.\textsuperscript{219}

\textsuperscript{210} Ministerio del Interior, ‘Política Nacional coordina y dirige junto a FRONTEX la operación conjunta MINERVA en los puertos de Algeciras, Ceuta y Tarifa’, 23 June 2023, available in Spanish at: https://tinyurl.com/2cvm898u.


\textsuperscript{213} Asociación Pro Derechos Humanos de Andalucía (APDHA), ‘APDHA califica de “miserable” el cambio de posición del Gobierno respecto al Sáhara’, 21 March 2022, available in Spanish at: https://bit.ly/3DlxX4aE.


\textsuperscript{215} Cadena Ser, ‘Argelia suspende el Tratado de Amistad y Cooperación con España tras el “injustificable” giro de su postura en el conflicto del Sáhara’, 9 June 2022, available in Spanish at: https://bit.ly/3QeYcRS.

\textsuperscript{216} El País, ‘España y Argelia se reencuentran’, 4 November 2023, available in Spanish at: https://tinyurl.com/3fa3nj8j.


In October 2022, the Council of Ministers authorised a granting of EUR 30 million to Morocco within the international police cooperation framework, with the aim of supporting its deployment of personnel in the fight against smuggling and the migration management.220

In January 2023, the Civil Guard complained for the non-repayable EUR 120 million that the Spanish Government granted to Morocco for the management of borders during 2019 and 2022, and denounced the shortage of the resources received for the same purpose.221

In 2023, the Spanish Prime Minister reiterated the essential role that Morocco has in managing and controlling migration.222

The intensification of migration management efforts by Morocco led to an increase of arrivals from Algeria to Spain (especially to the Balearic Islands).223

Denial of asylum following disembarkation from the Aquarius vessel

In September 2019, the CIAR started to deny asylum to some of the persons rescued in the Mediterranean Sea by the vessel Aquarius in 2018. Similarly, persons disembarked in Barcelona from the Open Arms’ vessel were denied asylum and the right to reception conditions, thus raising heavy criticism from experts.224 By March 2020, the trend seemed to be confirmed, as 94% of asylum applications lodged by individuals who arrived with the Aquarius were denied, meaning that just 4 out of 62 cases decided by the CIAR so far have received international protection.225 A high number of negative decisions was issued throughout 2020.226

By November 2020, the Spanish government had granted international protection to only 9 persons out of 374 who applied for asylum, while 49 of them were denied any form of protection and 300 of them were still waiting an answer on their application after 2 years and a half.227 The same situation persisted during 2021.228 According to available information, in June 2022, just 58 persons out of 629 had received asylum, 200 applications were denied, and 93 were still pending.229 In June 2023 the President of the Association ‘Survivors of Aquarius’ denounced that, 5 years after their arrival, 80% of the asylum applications lodged by those who arrived with the vessel had been denied, while the vast majority of the others are still waiting for a decision on their asylum application.230

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226 La Vanguardia, ‘Siete denegaciones de asilo a refugiados del “Open Arms”’, 27 October 2020, available in Spanish at: https://bit.ly/2OU0k6E.


Police stations, CATE and CAED

All adults arriving to mainland by boat are placed in Detention for up to 72 hours in police facilities for identification and processing. This is also the case of families and women travelling with children, while children who arrive unaccompanied are usually taken to the competent protection centre.231

All persons rescued at sea are issued an expulsion order. If the person who irregularly entered Spain and received an expulsion order lodges an application for international protection, the expulsion order is suspended during the asylum procedure and resumes only in case of rejection of the application. If the person does not apply for international protection, but the order cannot be executed within a period of 72 hours, migrants are transferred to detention in a Foreigners Detention Centre (CIE) to proceed with the expulsion. Most migrants who are sent there are eventually not removed from the country,232 as Spain does not have bilateral agreements with the relevant countries of origin. Once the maximum 60-day Duration of Detention in CIE has expired, the person is released with a pending expulsion order.

Shortcomings concerning access to legal assistance for persons arriving by sea have been reported in recent years. This includes contacting lawyers only following the notification of the expulsion order rather than at the moment of arrival of migrants in Spain. Lawyers meet with clients once they are in the CIE, but these interviews are in most cases collective and are conducted in the presence of police officers. The 2022 annual report of the Spanish Ombudsperson confirms such challenges and shortcomings.233

Despite certain improvements put in place by the Government of the Canary Islands, a thematic report published by the organisation Irídia in May 2022 confirms the challenges that migrants still face in accessing legal assistance and asylum.234

In August 2021, the General Council of the Spanish Bar Association published guidelines on legal assistance during maritime arrivals, that contains practical guidance for lawyers on how to guarantee a quality legal assistance to newcomers, including information on how to access the asylum procedure, and the right to defence.235

In addition, in order to respond to the increasing number of arrivals, from 2018 the Spanish Government put in place resources in order to manage arrivals and to carry out the identification of persons’ vulnerabilities in the first days of arrival. Specific facilities for emergency and referral have been created: these are referred to as Centres for the Temporary Assistance of Foreigners (Centros de Atención Temporal de Extranjeros, CATE) and Centres for Emergency Assistance and Referral (Centros de Atención de Emergencia y Derivación, CAED).236

❖ CATEs are managed by the National Police and are aimed at facilitating the identification of persons by the police, i.e. recording of personal data, fingerprinting etc. In practice these are closed centres which function as police stations and all newly arrived persons must pass through CATE. The maximum duration of stay in CATE is 72 hours. As of the end of 2023, there were CATE in all the main points of sea arrivals: San Roque-Algeciras in Cádiz, Almería, Motril in Granada, in Málaga, Cartagena, Barranco Seco in Las Palmas de Gran Canarias, Tenerife, Arrecife in Lanzarote, Fuerteventura. CATE are usually

231 Ibid, 10.
large facilities; the one in San Roque has a capacity of about 600 places, for example. The one in Málaga has a capacity for 300 persons, with a space of 2.3m² per person, which is a 42.5% less than what is foreseen by the law for those detained in police station’s prisons. Concerns relating to the conditions of detention, i.e. overcrowding and violation of the right to free movement, have been raised in vain. The construction of a new CATE in Cartagena, announced in 2020, was due to be finalised in 2021, but its construction was finalised in September 2022. The Government further announced the construction of two additional CATEs in 2021, namely in Motril (Granada), which constructions work finalised in October 2022, but it still didn’t open at the time of writing of this report and in Las Palmas on the Canary Islands, which was opened in Barranco Seco with a capacity of 1,000 places.

Based on available information, the Government has not adopted (or at least not yet published) any legal instrument defining and regulating these centres created to manage sea arrivals. The same was highlighted also by the Spanish Ombudsperson in its capacity as National Mechanism for Prevention of Torture in its 2022 annual report, which underlines that such facilities are considered as an “extension” of the National Police stations on which they depend. Thus, they are subject to the same regime as police stations.

In December 2023, the Minister of Interior announced the that 1,980 places would be made available at the CATEs of El Hierro and Fuerteventura, as well as the opening of two new CATEs in Fuerteventura and Tenerife, with the aim of facing the increase in arrivals to the Canary Islands.

- **CAEDs** are open centres managed by NGOs, i.e. the Spanish Red Cross, Accem and CEAR, under the coordination of the Directorate-General for Inclusion and Humanitarian Assistance (Dirección General de Inclusión y Atención Humanitaria, DGIHA) Ministry of Inclusion, Social Security and Migration, and are usually large centres where certain assistance services are provided, including information, social and legal assistance. For example, the CAED in Chiclana de la Frontera, Cádiz is managed by the Spanish Red Cross and has capacity for 600-700 persons. Its aim is to establish the status of each newly arrived migrant and to facilitate them the possibility of contacting family members and friends across Spain and the EU.

As of February 2022, there was a total of eleven CAEDs managed by NGOs (i.e. CEAR, Red Cross, etc.). In 2023, the Directorate-General for Humanitarian Assistance and Social Inclusion of Migrants plans to reduce the number of such facilities as well as the number of reception places due to the decrease in the occupancy. The plan is to reduce the capacity from 1,410 to 1,060, and the number of facilities to 9.

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237 El Diario, ‘El nuevo centro de migrantes del puerto de Málaga dedica 2,3 m² por persona, la mitad que un calabozo para detenidos’, 28 July 2019, available in Spanish at: https://cutt.ly/AeLTIaq.


In April 2021, the Minister of Interior was allocated EUR 13.5 million through EU funding to improve police capacity (in particular, facilities and services) to respond to migrants’ arrival. Such budget will be used to improve the conditions and infrastructure of the CATE in Barranco Seco, create two additional mobile CATEs, as well as to provide services and other necessary assistance.\(^\text{249}\)

The 2022 annual report of the Spanish Ombudsperson acknowledges the improvements made at the CATEs of Barranco Seco, Lanzarote and Fuerteventura, while highlighting the necessity to adopt other measures to improve the infrastructures and the functioning regime of the last two. While regarding the centre in Barranco Seco, the institution considers it a model in terms of infrastructures and functioning regime, and it judged such CATE a model that could be copied by other similar facilities.\(^\text{250}\) As a good practice the institution refers also to the fact that migrants can use their mobile phones and that they can go to open air in an appropriate space of the facility.

Police officers working at the CATE in Cartagena reported that it lacked of electricity and internet when it was opened in September 2022.\(^\text{251}\)

In September 2022, the Spanish Ombudsperson denounced the serious deficiencies of CATEs and called the Government to adopt a regulation for them, including also guarantee for migrants to denounce mistreatments.\(^\text{252}\)

### 1.3. Border monitoring

UNHCR carries out monitoring activities at Spanish borders, including through its presence in Melilla (with a team of three persons), Algeciras (with a team of three persons covering Ceuta and the province of Cádiz), Málaga (where a team of two covers the provinces of Málaga, Granada and Almería), and in the Canary Islands (with a team of three persons).

UNHCR’s work at the borders aims at supporting the authorities in the early identification of the international protection needs and specific needs of persons arriving by land and sea, and in fostering the access to the asylum procedure of persons in need of international protection. The activities that UNHCR implements are mainly provision of information on asylum, training addressed at different stakeholders on international protection and refugee’s rights, and support to different actors responsible for the registration, documentation, reception and assistance of asylum seekers. In addition, UNHCR promotes a fair and fast procedure allowing a border management in line with the international obligations that Spain has, including the UN Refugee Convention.

Through its presence at main entry points and in Madrid, UNHCR provided information to 26,730 individuals who were newly arrived or seeking asylum. This support was delivered through face-to-face counselling, group information sessions, helplines and email correspondence and during UNHCR’s monitoring visits to reception centres and detention centres for sea arrivals. Information was also disseminated through adapted materials such as videos in various languages.

Monitoring is carried out by visiting and assessing the situation in border facilities. This includes documenting refoulement related incidents, the profiles of sea and land arrivals and their specific needs and international protection needs, assessing the conditions in the facilities, the access to information on asylum, the way in which asylum interviews are carried out, as well as the access to interpretation and legal assistance. UNHCR generally supports, advises and recommends authorities and NGOs on how to

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\(^\text{249}\) La Moncloa, ‘Interior obtiene 13.5 millones de euros de la UE para el refuerzo de las capacidades de atención policial a los migrantes’, 16 April 2021, available in Spanish at: https://tinyurl.com/5n8xf6jb.


\(^\text{251}\) La Opinión de Muercia, ‘El CATE provisional de Cartagena abrió sin luz ni Internet y carece de zona de desembarco’, 9 October 22, available in Spanish at: https://bit.ly/42EH5PW.

improve access to territory and the procedure, in compliance with international and national legal standards. **253**

Based on the needs of persons arriving to the **Canary Islands**, in June 2022 Accem started to implement a project providing an interpretation service funded by the UNHCR. Such a service was directed at supporting the authorities and other actors involved in the reception of sea arrivals, including in detention and reception centres and in the provision of medical services, with the aim of improving the identification of persons in need of international protection among those arriving by boat and of fostering their access to the asylum procedure and to specialized assistance. The service initially counted with a team of 12 interpreters (8 men and 4 women) speaking different languages and dialects, i.e. Arabic, English, French, Dahiya, Hassanal, Bambara, Soninke, Pular, Wolof and Diola. The interpreters had been trained on international protection, prevention of and response to gender-based violence, child protection, protection of LGTBIQ+ persons, the psychological impact of migration process, as well as on the role of interpreters and on professionalism. During 2023 the service deployed a team of 6 interpreters (4 men and 2 women), who covered the following languages: Dahiya, Arabic, Soninke, Bambara, Pular, Diola, Wolof, English, French and Hassaniya. The project ended at the end of December 2023. Through this service, a total of 22,993 persons were assisted in 1,798 interventions. The main nationalities of those assisted were Senegalese, Moroccan and Malian, and the main languages Wolof, Dahiya, Bambara and Pular. **254**

The project significantly improved communication possibilities in the applicants' native languages and enhanced the identification of persons with specific needs and in need of international protection and referrals to services and the asylum procedure. Continuous training in interpretation within a refugee context, including specific areas such as gender, child protection, and LGTBIQ+ issues, further professionalized interpreters. **255**

Monitoring is carried out by visiting and assessing the situation in border facilities. This includes assessing the conditions in the facilities, the access to information on asylum, the way in which asylum interviews are carried out, as well as the access to interpretation and legal assistance. UNHCR generally supports, advises and recommends authorities and NGOs on how to improve access to territory and the procedure, in compliance with international and national legal standards.

**1.4. Legal access to the territory**

At the end of 2021, the Government approved the National Refugees Resettlement Program for 2022, which foresaw the resettlement in Spain of 1,200 refugees during the year A total of 1,112 refugees were finally resettled in 2022, mainly Syrians coming from Lebanon (but also Iranians, Eritreans, Nigerians, Sudanese and Afghans). **256** In May 2022, 201 Syrian refugees were transferred to Spain from Lebanon, of which 95 were women, 21 men and 85 children. **257**

Resettled refugees access the asylum reception system and are entitled to reception conditions as asylum applicants. In relation to the procedure, they arrive with a decision already taken on their status. As soon as they arrive, they receive the notification of the decision (in some cases also directly at the airport upon arrival) and thus, once in Spain, they just have to apply for receiving accommodation and receiving a work permit.

Newly resettled families were also channelled into the regional community sponsorship programmes and positive integration outcomes were registered for those families who completed the programmes, especially related to language learning, rapid access to employment and local inclusion. UNHCR supported the resettlement programme through its participation in the national resettlement coordination

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**253** Information provided by UNHCR in April 2024.

**254** Information provided by Accem in February 2024.

**255** Information provided by UNHCR in April 2024.


group and the community sponsorship initiative through a specific consultancy, which informed discussions on the way forward for these programmes in the future. Expansions to established community sponsorship programs were agreed in the Basque Country and Navarra. A positive evaluation of the programme in Valencia prompted interest in resuming it in 2024. Other regions expressed interest in implementing similar schemes.

In February 2023, the Council of Ministers approved the National Programme for Resettlement of Refugees in Spain for 2023, foreseeing a quota of up to 1,200 persons. At the beginning of March 2023, a total of 89 Syrian refugees living in Türkiye and affected by the earthquake were resettled to Spain. Very few cases of humanitarian visa have been issued by Spain for Afghans after the evacuation, but it is not a commonly applied measure. In May 2023 the Government announced the programme’s extension for next three years, with the aim of receiving more refugees, specifically those coming from Central and South America. In December 2023 the Government allocated 1.8 million Euros for the resettlement of 1,200 refugees from Costa Rica, Lebanon and Türkiye. In February 2024, the Government announced the programme’s enlargement, with the aim of including other 1,500 refugees coming from Central and South America in 2024 and 2025.

In October 2023, the Minister of Inclusion, Social Security and Migration started to implement a project, together with Accem and the Council of the City of Valladolid to foster access to the job market for more than 100 Nicaraguan refugees resettled from Costa Rica to Spain, specifically in the field of renewable energies. In December, 74 persons arrived to Spain within this framework.

During the X Parade for Dignity organised in Ceuta to commemorate the incidents occurred at the borders of the city on 6 February 2014, which resulted in the death of at least 14 migrants who were beaten back by the Guardia Civil, a call to the EU for the creation of safe and legal pathways was made.

In April, Spain informed about its participation, together with Canada and Mexico, in the US program to foster regular pathways of migration for persons coming from Central and South America.

During the same month, the Commissioner for Human Rights of the Council of Europe published a report following a country visit to Spain. The report addresses, amongst other things, the rights of refugees, asylum seekers and migrants, and the Commissioner urges the authorities to make sure that those in need of protection can access the territory through legal and safe ways.

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258 Information provided by UNHCR in March 2023. See also ECRE, ‘Pathways to Protection: Mapping visa schemes and other practices enabling people in need of international protection to reach Europe safely’, March 2024, available at: https://tinyurl.com/367erzj.
259 Information provided by UNHCR in April 2024.
261 IOM Spain, ‘OIM y ACNUR dan la bienvenida al reasentamiento acelerado de refugiados sirios de Turquía en España tras el terremoto’, 5 March 2023, available in Spanish at: https://bit.ly/3yiAzQV.
266 Accem, ‘Accem recibe a 70 personas refugiadas de Nicaragua en el marco de un proyecto piloto para trabajar en el sector de las renovables’, 12 December 2023, available in Spanish at: https://tinyurl.com/2cqj55sd.
267 Europa Press, ‘La X Marcha por la Dignidad exige en Ceuta “vías legales y seguras” para migrar “que no pongan en riesgo a las personas”’, 4 February 2023, available in Spanish at: https://tinyurl.com/mxkk46w.
In occasion of the World Refugee Day, the NGO ‘Accem’ reiterated its call to create legal and safe pathways for refugees to reach Spain and Europe, such as the possibility to apply for asylum at Embassies and Consulates, as well as at borders, the provision of humanitarian visas, the simplification of criteria for family reunification, the strengthening of the resettlement program, and the use of the temporary protection directive for persons fleeing other conflicts.270

After the earthquake in Morocco and the flooding in Libya in September 2023, the NGO ‘CEAR’ called for the European Union and Spain to guarantee the protection to those refugees fleeing the two countries, also by granting humanitarian visas, facilitating the lodging of asylum at embassies and consulates, and by making the criteria for family reunification more flexible.271 The same organisation called for guaranteeing protection and legal pathways for Palestinians fleeing from Gaza following the forced expulsion of the population by Israel in October 2023.272

In November, 167 Syrian refugees arrived in Spain from Lebanon and Türkiye. So far, a total of 699 were resettled in Spain in 2023 within the resettlement programme.273

In 2023 UNHCR continued to support the implementation of Spain’s resettlement programme through participation in the national resettlement coordination group. In the context of resettlement, Spain achieved a 92% implementation rate of its committed quota of 1,200 places, comprising 302 Syrians from Türkiye and Lebanon and 96 Nicaraguans from Costa Rica. UNHCR advocated for Spain's participation in resettlement initiatives from the American continent, resulting in the resettlement of Nicaraguans from Costa Rica. Another 72 Nicaraguans arrived from Costa Rica under a labour mobility pilot project, which was linked to Spain's participation in the Safe Mobility Offices Initiative.

Spain responded swiftly to UNHCR’s call for prompt resettlement upon the tragic earthquakes in Türkiye, by executing an urgent resettlement operation, providing assistance to 302 earthquake affected refugees, with UNHCR promoted resettlement coordination group playing a crucial role.274

In January 2024 the Government approved the National Programme for the Resettlement of Refugees in Spain, with the commitment to resettle 1,200 refugees in Spain during 2024.275

In its 2024 annual report, Human Rights Watch remarked that the Government’s pushback policy and failure to offer legal routes to claim asylum at its borders continued to contribute to deaths at sea.276

As specified in the section on Differential treatment, after the Taliban takeover in Afghanistan, Spain started to transfer persons fleeing the country, also by issuing visa to Spain to Afghans at the embassies and consulates in Iran and Pakistan.

Family reunification is another complementary pathway offered by Spain for legal access to territory.

Accem, ‘Preocupación por la deriva europea que dificulta el acceso de las personas refugiadas a la protección internacional’, 19 June 2023, available in Spanish at: https://tinyurl.com/mt88bj9b

CEAR, ‘CEAR pide protección para las personas afectadas por el terremoto de Marruecos y las inundaciones de Libia’, 21 September 2023, available in Spanish at: https://tinyurl.com/ph24884y.


Accem, ‘España recibe a 167 personas refugiadas procedentes de Libano dentro del programa de reasentamiento’, 2 November 2023, available in Spanish at: https://tinyurl.com/4htz4fjw

Information provided by the UNHCR in April 2024.


2. Registration of the asylum application

<table>
<thead>
<tr>
<th>Indicators: Registration</th>
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| 1. Are specific time limits laid down in law for making an application? Yes ☒ No ☐  
  - If so, what is the time limit for lodging an application? 1 month |
| 2. Are specific time limits laid down in law for lodging an application? Yes ☐ No ☒  
  - If so, what is the time limit for lodging an application? |
| 3. Are registration and lodging distinct stages in the law or in practice? Yes ☒ No ☐ |
| 4. Is the authority with which the application is lodged also the authority responsible for its examination? Yes ☐ No ☒ |
| 5. Can an application for international protection be lodged at embassies, consulates or other external representations? Yes ☒ No ☐ |

The Asylum Regulation provides that the authorities responsible for the lodging of asylum claims on the territory are: the Office of Asylum and Refuge (OAR), any Aliens Office under the General Commissariat for Aliens and Borders (Comisaría General de Extranjería y Fronteras) of the Police, Detention Centre for Foreigners (CIE), Spanish Embassies and Consulates, or police station. In practice, “registration” and “lodging” of asylum applications entail different procedural steps.

2.1. Rules on making (presentación), registering and lodging (formalización)

Persons willing to seek international protection in Spain must make a formal application during their first month of stay in Spain. When this time limit is not respected, the law foresees the possibility to apply the urgent procedure. In practice however, the competent authority will reject any asylum application that does not comply with the 1-month deadline when it considers that no valid justification exists for the delay.

The process begins with the presentation (“making”) of the application, which the applicant shall present in person or, if this is not possible, with representation by another person. For persons disembarking in ports, the intention to apply for international protection is registered by the police, usually following the intervention of NGOs.

Upon the registration of the intention to apply for asylum, the applicant receives a paper-form “certificate of intention to apply for asylum” (Manifestación de voluntad de presentar solicitud de protección internacional).

After registration has been completed, the applicant is given an appointment for the formalisation (“lodging”) of the application, which consists of an interview and the completion of a form, and shall be always be realised in the presence of a police official or an officer of the OAR. Upon the lodging of the application, the person receives a “receipt of application for international protection” (Resguardo de solicitud de protección internacional), also known as “white card” (tarjeta blanca). This document is later replaced by a “red card” (tarjeta roja), issued after the asylum application has been deemed admissible by the OAR.

In January 2022, nine persons were detained for forging “red cards” and selling them for EUR 300-400.

According to the Asylum Act, all registered asylum applications are communicated to UNHCR, which will be able to gather information on the application, to participate in the applicant’s hearings and to submit

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277 Article 4(1) Asylum Regulation.  
278 Article 17(2) Asylum Act.  
279 Ibid.  
Due to the increase in asylum applications in Spain in recent years, which slowed down the functioning of the Spanish asylum system, applicants have to wait long periods of time before getting an appointment to be interviewed by the OAR. Since 2017 and until the end of 2020, there were long queues of asylum seekers waiting to register their application for international protection at the Aluche police station in Madrid. This was further exacerbated during the COVID-19 pandemic, rendering it difficult to respect the distancing rules, as pointed out by the trade union Comisiones Obreras (CCOO) in the 38 reports it issued in this regard. In 2021, a telematics system to request an interview was put in place; some problems affecting such system were reported, due in particular to the limited places available for interviews, and to technical problems encountered when operating such system. As mentioned below, the same problems persisted in 2023.

To shed light on the situation, the Spanish Ombudsperson opened an investigation looking into the measures taken by the General Commissariat for Aliens and Borders (Comisaría General de Extranjería y Fronteras) of the Police to avoid long queues. The investigation further assesses the conditions to which asylum seekers in Madrid are confronted when lodging their application. In February 2023, the Minister of Interior informed that the national Ombudsperson started to examine new internal coordination mechanisms aiming at reducing the waiting time between the lodging and the registration of the asylum application.

The average waiting time for an appointment vary depending on the province. In certain provinces, waiting times could range from 8 months to more than 1 year in practice. Detailed statistics on the average waiting time per province is not available, but practice suggests that they can vary from one month to another or even one week to another, depending on the workload for asylum interviewers have. In 2021, waiting times generally decreased also thanks to the telematics system put in place to ask for the appointment. Even so, in some cases there were no free places for the appointment for the asylum interview, which made waiting times longer for those specific cases.

In order to reduce timeframes, the administration was set to increase the personnel in charge of registering asylum applications at police stations. However, no significant changes have been observed in this respect.

In May 2022, the UNHCR Representative for Spain expressed concerns for the long waiting time for obtaining an asylum interview appointment, especially in certain provinces, and affirmed that the resources allocated to ensuring access asylum in Spain are not adequate.

Due to a computer mistake, all asylum applications lodged from the end of January to the end of March 2022 in the province of Valencia went lost.

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281 Articles 34-35 Asylum Act.  
282 Article 6(4) Asylum Regulation.  
284 Information provided by the legal service of Accem in March 2022.  
287 Information provided by Accem’s legal services in March 2022.  
In 2022, it was reported that asylum appointments were sold on the black market, with offers published also in Wallapop. This situation led to gatherings of asylum seekers in different cities to protest, the opening of an investigation by the Provincial Public Prosecutor Office in Valencia, a claim lodged by asylum seekers concerned in front of the Spanish Ombudsperson, and a call by the UNHCR Representative for Spain to the Government to allocate more resources to solve the problems experienced by individuals wanting to access asylum.

In order to improve access to the asylum procedure through prior appointment, and to ensure that the waiting time does not exceed 1 month, the Commission of Internal Affairs of Congress approved a legislative proposal at the end of 2022.

The situation persisted during 2023 and at the beginning of 2024. In January 2023, obstacles and long waiting times to apply for asylum in Burgos was also reported. Similarly, in Málaga waiting times of up to 20 months were reported. In February, around 50 persons gathered in front of the Ministry of Inclusion, Social Security and Migration to ask for accommodation while waiting to obtain an appointment for registering their asylum application. In addition, some NGOs lodged different claims in front of the Ombudsperson, asking to intervene with the competent institutions regarding the situation. The UNHCR’s Representative defined access to asylum in Spain as critical.

In April it was reported that the change in the online system to ask for an appointment implemented by the Police in Valencia with the creation of the two telephone lines aiming at ending with the illegal market was collapsed and not working properly.

In May the Police dismantled a network which used a bot software able to block the telematics system and to create available appointments for the asylum applications, which were later sold between EUR 30 and 200 by intermediaries.

In April, a representative of the Spanish Ombudsperson met the Director-General of Internal Policy to assess the claims that the institution has received in relation to the asylum procedure, and reiterated the concerns of the institution regarding the access to the asylum appointments.

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292 Tercera Informacion, ‘“Sin citas no hay derechos”: Solicitantes de protección internacional sin derecho a serlo registran quejas dirigidas al defensor del Pueblo y se concentran frente al Ministerio del Interior’, 13 December 2022, available in Spanish at: https://bit.ly/3j2XOK.


300 Levante, ‘El cambio en el sistema de asilo para frenar a las mafias colapsa la oficina de Extranjería de València’, 14 April 2023, available in Spanish at: https://tinyurl.com/3xte64t.

301 Newtral, ‘Cuando las citas de extranjería se convierten en negocio: la Policía desmantela una red que había hackeado el sistema’, 19 May 2023, available in Spanish at: https://tinyurl.com/4pnmxth8; Ministerio del Interior, ‘La Policía Nacional desmantela un entramado que bloqueaba el sistema de citas online de extranjería mediante un bot informático’, 12 May 2023, available in Spanish at: https://tinyurl.com/2kne65sz.

302 Defensor del Pueblo, ‘Patricia Bárcena se reúne con la directora general de política interior’, 12 April 2023, available in Spanish at: https://tinyurl.com/mssn863.
In June, around 20 organisations lodged a claim at the European Commission to denounce the collapse of the system of appointments to apply for asylum in Spain.\textsuperscript{303} In August the illegal selling of appointments for EUR 100 was denounced in Valladolid.\textsuperscript{304}

In occasion of the World Refugee Day, the NGO ‘CEAR’ denounced the serious difficulties to access asylum in Spain, estimating that around 70,000-80,000 persons are waiting to access asylum, and asked the Government to solve the deficiencies of the system to ask for the asylum appointment.\textsuperscript{305} Similarly, Caritas called the Government to improve the asylum system and to facilitate the access to the procedure both at borders and the territory.\textsuperscript{306}

In occasion of the World Refugee Day, the UNHCR Representative denounced the gradual worsening of the access to the asylum procedure in the last three years in Spain, and declared the situation very critical.\textsuperscript{307}

In December, it was reported that asylum appointments were being sold for EUR 90 on the platform ‘Milanuncios’.\textsuperscript{308} During the same month, the network of Immigration Lawyers drafted an action protocol regarding the impossibility to obtain appointments to apply for asylum, which includes also the option of suing the Minister of Interior.\textsuperscript{309}

In March 2024, around 100 asylum seekers and 20 NGOs lodged a joint claim in front of the Spanish Ombudsperson.\textsuperscript{310} During the same month, around fifty persons in need of international protection started a hunger strike in Chiclana de la Frontera (Andalucía) to ask for their access to the asylum procedure.\textsuperscript{311} The same month, a young Moroccan asylum seeker died while in hunger strike to protest against the lack of access to asylum appointments. The Spanish Ombudsperson asked information about the incident to the Public Prosecutor and the State Secretary of Migration.\textsuperscript{312} The General Council of Spanish Lawyers denounced the violation of the right to asylum due to the impossibility to obtain an appointment via Internet.\textsuperscript{313}

Difficulties in accessing the asylum procedure remained one of the main challenges in the Spanish asylum system in 2023. UNHCR observed a uniform system at state level to access the procedure would be needed. In particular, care should be given to ensure that the system is accessible, secure, and sensitive to all persons wanting to seek asylum in Spain and particularly to those with specific needs. UNHCR also observed that challenges regarding access the asylum procedure impact access to associated rights, in

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\textsuperscript{303} Europa Press, ‘ONG de migrantes denuncian ante la Comisión Europea el “colapso” del sistema de citas para solicitar asilo en España’, 22 June 2023, available in Spanish at: https://tinyurl.com/2s3vmn46.


\textsuperscript{307} Vivir Ediciones, ‘Acnur alerta de que el acceso al sistema de asilo en España está en una situación crítica’, 18 June 2023, available in Spanish at: https://tinyurl.com/22k9u4ps.

\textsuperscript{308} Diario Vasco, ‘«Mafias organizadas han vendido citas para la solicitud de asilo en ‘milanuncios’ por 90 euros»’, 17 December 2023, available in Spanish at: https://tinyurl.com/3b686ya1.


particular access to reception conditions, and increase the risk of asylum seekers’ rights violation, including for those with specific needs.

In 2023, in the context of UNHCR’s collaboration with the Ministry of the Interior, UNHCR supported the Spanish Office for Asylum (OAR) with a specialized consultancy to improve access and quality of the asylum procedure. During its development, multiple support documents and proposals were produced to improve access to the asylum procedure and to support the management and processing of asylum cases and decisions with improved quality, efficiency, and greater fairness. Through this consultancy, different tools were also designed to facilitate prompt and safe identification of persons with specific needs and support them through the asylum procedure in conformity with national and EU law, including enhancing coordination with asylum reception authorities to guarantee their referral to adequate reception spaces. Implementation of these tools throughout 2024 is expected to positively impact the system in these areas.314

According to practices observed by Accem, asylum seekers have to request an appointment to express their intention to apply for asylum; only after the appointment, they can register their asylum application. Obtaining an appointment resulted however extremely complicated in practice, especially for what concerned long waiting times:

<table>
<thead>
<tr>
<th>PROVINCE</th>
<th>MECHANISM TO ACCESS THE APPOINTMENT</th>
<th>WAITING TIME</th>
</tr>
</thead>
<tbody>
<tr>
<td>CADIZ</td>
<td>Internet</td>
<td>6 Months</td>
</tr>
<tr>
<td>MALAGA</td>
<td>Internet and by phone</td>
<td>3 Months</td>
</tr>
<tr>
<td>OVIEDO</td>
<td>Internet</td>
<td>2 Weeks</td>
</tr>
<tr>
<td>ÁVILA</td>
<td>Internet</td>
<td>Changeable</td>
</tr>
<tr>
<td>BURGOS</td>
<td>Internet</td>
<td>Different days</td>
</tr>
<tr>
<td>SALAMANCA</td>
<td>Internet</td>
<td>Different days (managed by NGOs)</td>
</tr>
<tr>
<td>GIJON</td>
<td>Internet</td>
<td>2 Months</td>
</tr>
<tr>
<td>VALLADOLID</td>
<td>Internet</td>
<td>1-2 Months</td>
</tr>
<tr>
<td>VITORIA</td>
<td>Internet</td>
<td>2-3 Months</td>
</tr>
<tr>
<td>CACERES</td>
<td>Internet</td>
<td>3-4 Weeks</td>
</tr>
<tr>
<td>CARTAGENA</td>
<td>Internet. Email of NGOs</td>
<td>No appointments available on internet. 1 months if appointments are managed by NGOs</td>
</tr>
<tr>
<td>MURCIA</td>
<td>Internet. Email of NGOs</td>
<td>No appointments available on internet. 1 months and a half if appointments are managed by NGOs</td>
</tr>
<tr>
<td>SEGOVIA</td>
<td>Internet</td>
<td>2-3 Months</td>
</tr>
<tr>
<td>ALMERIA</td>
<td>By phone</td>
<td>1-2 Months</td>
</tr>
<tr>
<td>CORDOBA</td>
<td>By phone</td>
<td>2-3 Weeks</td>
</tr>
<tr>
<td>GUADALAJARA</td>
<td>By phone and internet</td>
<td>No appointments available</td>
</tr>
<tr>
<td>VIGO</td>
<td>By phone</td>
<td>1 month and a half</td>
</tr>
<tr>
<td>LEON</td>
<td>By phone</td>
<td>2-3 weeks</td>
</tr>
<tr>
<td>CASTELLÓN</td>
<td>By phone</td>
<td>10 months</td>
</tr>
<tr>
<td>VALENCIA</td>
<td>By phone. Email of NGOs</td>
<td>1 month</td>
</tr>
<tr>
<td>ALICANTE</td>
<td>General email.</td>
<td>No appointments available</td>
</tr>
</tbody>
</table>

314 Information provided by UNHCR in April 2024.
<table>
<thead>
<tr>
<th>Province</th>
<th>Method</th>
<th>Waiting Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEVILLA</td>
<td>By email</td>
<td>Different months</td>
</tr>
<tr>
<td>ZARAGOZA</td>
<td>By email</td>
<td>2-3 weeks</td>
</tr>
<tr>
<td>TERUEL</td>
<td>By email</td>
<td>5-6 months</td>
</tr>
<tr>
<td>HUELVA</td>
<td>By email</td>
<td>3-4 months</td>
</tr>
<tr>
<td>TOLEDO</td>
<td>By email</td>
<td>8 months</td>
</tr>
<tr>
<td>LA CORUNA</td>
<td>By email</td>
<td>2-3 months</td>
</tr>
<tr>
<td>LUGO</td>
<td>By email</td>
<td>3-4 months</td>
</tr>
<tr>
<td>ALBACETE</td>
<td>Internet</td>
<td>No appointments available</td>
</tr>
<tr>
<td>CIUDAD REAL</td>
<td>In presence</td>
<td>The same day or the following ones</td>
</tr>
</tbody>
</table>

Source: Accem, February 2024.

It has to be noted that waiting times in the table are counted until the applicant obtain the appointment for the manifestation of the intention to apply for asylum. In light of Accem’s practice, we reiterate the existing serious difficulties to obtain the mentioned appointments, especially in those cities where they are given via the Internet, as well as in those cities where appointments are given by phone. It is also deemed necessary to underline that in Madrid and in Barcelona the system implemented doesn’t foresee the necessity of an appointment for the manifestation of the intention to apply for asylum, as the appointments given to applicants (by phone) are directly for the registration of the asylum application.\(^{315}\)

<table>
<thead>
<tr>
<th>Waiting Time for Registration (Since the Obtainement of the Manifestation of Intention to Apply for Asylum)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>WAITING TIME</strong></td>
</tr>
<tr>
<td>More than 1 year</td>
</tr>
<tr>
<td>1 year</td>
</tr>
<tr>
<td>8-12 months</td>
</tr>
<tr>
<td>8 months</td>
</tr>
<tr>
<td>5-6 months</td>
</tr>
<tr>
<td>3-7 months</td>
</tr>
<tr>
<td>4-5 months</td>
</tr>
<tr>
<td>4 months</td>
</tr>
<tr>
<td>3-4 months</td>
</tr>
<tr>
<td>3 months</td>
</tr>
<tr>
<td>2-3 months</td>
</tr>
<tr>
<td>2 months</td>
</tr>
<tr>
<td>1-2 months</td>
</tr>
<tr>
<td>1 month</td>
</tr>
<tr>
<td>15 days - 1 month</td>
</tr>
</tbody>
</table>

Source: Accem, February 2024.

Access to the procedure in Ceuta and Melilla

Beyond the mainland, most shortcomings concerning the registration of asylum claims in Spain relate to the autonomous cities of **Ceuta** and **Melilla**, due to the difficulties in the **Access to the Territory**. Since November 2014, the Ministry of Interior established asylum offices at the borders’ crossing points in Ceuta and Melilla,\(^{316}\) and UNHCR guaranteed its presence starting from mid-2014.

\(^{315}\) Information provided by Accem in February 2024.

Since its establishment, the border checkpoint in Melilla became one of the main registration points for asylum applications in Spain. 317 Conversely, there has been virtually no asylum claim made at the Ceuta border point. This is mainly due to the impossibility faced by migrants and asylum seekers to exit the Moroccan border due to the severe checks performed by Moroccan police, as mentioned in Access to the territory and push back. This issue also affects Melilla but mainly impacts on the nationalities that can access the Spanish border rather than on the number of asylum claims overall. In fact, most of persons on the Moroccan side are stopped following racial profiling, meaning that nationalities such as Syrians cross the border more easily than persons from Sub-Saharan countries (see section on Access to the Territory).318

Access to the procedure from detention

Shortcomings have also been reported concerning the possibility to claim asylum from administrative detention due to the difficulties faced by detained persons in accessing legal assistance.319 In this regard, the Spanish Ombudsperson recommended the General Commissariat for Foreigners and Borders to adopt instructions to establish an appropriate system for registration of asylum applications in CIE in accordance with the law.

In particular, the Ombudsperson highlighted the difficulties faced by detainees in applying for asylum at CIEs. In particular, in Madrid, individuals are instructed to put their written intention to apply for asylum in a mailbox and to wait until the mailbox has been opened for the asylum procedure to start, and the fact that many persons have been expelled without having had access to the asylum procedure.320 In July 2018, the General Commissariat for Aliens and Borders of the Police issued instructions to all CIE to adapt their systems for registration of asylum applications to the existing law, following a recommendation made by the Spanish Ombudsperson.321 This included establishing a register and provide applications with a receipt of their application for international protection. The Ombudsperson thus reiterated its recommendation to the General Commissariat for Aliens and Borders of the National Police. It seems that the access to the procedure has slightly improved since then, and that detainees are provided information on the right to asylum by the Spanish Red Cross.

Access to the procedure on the Canary Islands

As already explained in the Arrivals by sea section, the Canary Islands were under significant pressure also in 2023 following the increase of arrivals and the lack of available resources. This hindered the access to registration and to the asylum procedure. Some individuals further seem to decide not to apply for asylum because they believe that receiving a pre-expulsion order will facilitate their onward travel to the mainland, as the order contains an identification number that allows access to the irregular migrant reception system and can be used as an identifying document in travel.

In a report on the human rights violations in the Canary Islands published by the NGO Irídia on May 2022, the organisation denounced the practice of detaining migrants who go to police stations to request information on asylum.322

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C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

<table>
<thead>
<tr>
<th>Indicators: Regular Procedure: General</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance: 6 months</td>
</tr>
<tr>
<td>2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? ☐ Yes ☒ No</td>
</tr>
<tr>
<td>3. Backlog of pending cases at first instance at the end of 2023: 106,546</td>
</tr>
<tr>
<td>4. Average length of the first instance procedure in 2023: From 3 months to 3 years</td>
</tr>
</tbody>
</table>

The Asylum Act provides that, where applicants do not receive a final notification on the response to their first instance asylum claim after 6 months, the application will have to be considered rejected. In practice, many applications last much longer than 6 months. In these cases, an automatic notification of denial is usually not provided by the OAR and applicants prefer to wait until the final decision instead of asking for a response to the authority, as they risk receiving a denial and having reception conditions and benefits withdrawn. If the applicant so wishes, however, they can lodge a judicial appeal when no response on the asylum claim is provided in time.

The duration of the asylum process varies significantly depending on the nationality of applicants, and can last from 3 months to 2 years, and can even reach 3 years in certain cases.

During 2021, the OAR expedited the decision-making of certain applications, also in light of certain nationalities (i.e. Colombia, Venezuela, etc.), and the average time decreased (i.e. 4-6 months). This has not been considered as an overall positive development, as in many cases the process was aimed at expediting applications with a high likelihood of being rejected.

The backlog of asylum applications in Spain has been an important concern in recent years. As stated by the Spanish Ombudsperson in previous annual reports, the high number of pending cases accumulated over the years is due inter alia to the historical lack of human and material resources of the OAR and the very few measures adopted to tackle the issue. In its 2022 annual report, the body continued to express concerns on the delays in deciding the asylum applications and the impacts this has on the lives and rights of asylum seekers. Despite the Government announced that the Annual Budget of the Ministry of Interior would be doubled in 2021, the number of pending cases in the last year continues to be concerning. As indicated below, the number of pending cases increased from around 35,000 cases in 2017 to more than 111,740 cases in 2019. A decrease was registered in 2021, but a significant number of cases (72,271) were still pending at the end of the year. In 2023 the number of pending cases continued to increase.

324 Article 24(3) Asylum Act.
325 Information provided by Accem’s legal service on March 2022.
to increase, with 106,546 cases pending at first instance and 84,549 pending for a resolution at the end of 2023.  

<table>
<thead>
<tr>
<th>Backlog of pending cases at first instance: 2019-2023</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>111,740</td>
</tr>
</tbody>
</table>


In its 2023 annual report, the NGO CEAR continued to highlight the challenges that the Spanish asylum system still faces, both in terms of access to the territory and access to the procedure. While acknowledging the increase of the recognition rate in 2022 (16.5% compared to 10.5% in 2021), the organisation reiterated its concerns regarding the very low international protection recognition rate in Spain compared to the average rate at EU level (38.5% in 2022).

In February 2021, the Spanish Congress asked the Government to acknowledge “climate refugees” among those persons in need of international protection, and to put in place strategies and plans to foster the protection of persons displaced for environmental reasons. The political party Ciudadanos submitted a proposal to the plenary session of the Congress to update the Asylum Act, with the aim of including the protection of persons fleeing their countries for ground connected to the environmental change. A report published in October 2021 by the NGO CEAR and Greenpeace also urged the Spanish Government to recognise the refugee status to those persons fleeing their countries for such reason, and to grant them a residence permit for humanitarian reasons. On February 2022, the political party Unidos Podemos called the Government out at the Congress, requesting that it assesses and defines a juridical framework aiming at guaranteeing protection to climate refugees.

A report published in December 2022 by ‘Ecologistas en acción’ denounced the lack of accountability of Spain and the EU in acknowledging climate change as an increasing ground for displacement and for granting of protection, basing such a conclusion also on the case-studies of two persons (one from Colombia and one from Senegal) who fled their countries due to climate change.


This figure includes both pending cases for resolution (92,152) and pending cases for admission (29,883).


Ibidem, 74.


Ecologistas en Acción, ‘Migraciones forzadas por motivos ambientales un enfoque sociopolítico’, December 2022, available in Spanish at: https://tinyurl.com/26vak3m8h.
On the occasion of the World Refugee Day, the NGO ‘CEAR’ denounced the fact that Spain is the third country in the EU denying the most asylum applications.\textsuperscript{338} Similarly, the Spanish General Bar Council denounced Spain’s low asylum-granting rate, and called for an effective protection of refugees, including through access to legal assistance.\textsuperscript{339} The Minister of Interior reported that the OAR’s asylum recognition rate had doubled compared to 10 years ago.\textsuperscript{340}

\textbf{1.2. Prioritised examination and fast-track processing}

Article 25 of the Asylum Act lays down the urgent procedure, a prioritised procedure whereby the application will be examined under the same procedural guarantees as the regular procedure, but within a time limit of 3 months instead of 6 months.\textsuperscript{341}

The urgent procedure is applicable in the following circumstances:\textsuperscript{342}
(a) The application is manifestly well-founded;
(b) The application was made by a person with special needs, especially unaccompanied minors;
(c) The applicant raises only issues which have no connection with the examination of the requirements for recognition of refugee status or subsidiary protection;
(d) The applicant comes from a safe country of origin and has the nationality of that country or, in case of statelessness has residence in the country;
(e) The applicant applies after a period of one month, without justification; or
(f) The applicant falls within any of the exclusion grounds under the Asylum Act.

The urgent procedure is also applied to applicants who have been admitted to the in-merit procedure after lodging a claim at the border or within the CIE.\textsuperscript{343} Recent statistics on the use of the urgent procedure were not available at the time of writing of this report.

The authority in charge of the asylum decision is the Ministry of Interior, like all the other asylum procedures in Spain. CIAR, which is responsible for the case examination, will be informed of the urgency of the cases.\textsuperscript{344}

\textbf{1.3. Personal interview}

<table>
<thead>
<tr>
<th>Indicators: Regular Procedure: Personal Interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure?</td>
</tr>
<tr>
<td>❖ If so, are interpreters available in practice, for interviews?</td>
</tr>
<tr>
<td>2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision?</td>
</tr>
<tr>
<td>3. Are interviews conducted through video conferencing?</td>
</tr>
<tr>
<td>4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender?</td>
</tr>
</tbody>
</table>

Article 17 of the Asylum Act states that asylum applications are formalised by the conduct of a personal interview, which will always be conducted individually. This legislative provision is respected in practice,
as all asylum seekers are interviewed.\textsuperscript{345} The law also provides the possibility of carrying out other interviews with the applicant after the initial one foreseen for the formalisation of the asylum claim. These interviews can take place any time during the procedure after the claim is declared admissible.

The same disposition further provides that, when necessary, the authorities will take measures to provide an adequate treatment during the interview based on the gender of the asylum seeker or in case of the other circumstances foreseen in Article 46 of the Asylum Act (i.e. the applicant is a pregnant woman, a victim of trafficking, an unaccompanied child, asylum seekers with mental disabilities, etc.). As the Asylum Regulation has not been adopted so far, no other details are provided by law. In practice, gender issues are in general taken into consideration for asylum interviews (interviewer and interpreter) as far as possible, but the availability of interpreters depends on the city where the interview is being conducted. The asylum seeker can require gender issues are taken into consideration during asylum interviews as far as he/she is informed about such right he/she is entitled to.

When applicants go to their registration appointment with the OAR, they undergo a first interview, with or without a lawyer, given that the assistance of a lawyer is mandatory only for applications lodged at borders and CIE. The interview is held in private offices which generally fulfil adequate standards with regard to privacy and confidentiality, but this situation can vary from one region to another. For example, in Córdoba, Almería, Zaragoza, and Albacete spaces adequate to guarantee the necessary privacy are not available. One of the offices in Barcelona was also considered as not appropriate in this respect. Similarly, in certain police stations in Madrid, Castellón, Valladolid, Alicante, Cartagena and Murcia adequate privacy standards are not granted.\textsuperscript{346}

The interview is not carried out by the case examiners but rather the auxiliary personnel, using documents prepared by the case examiner. The Ombudsperson reports that the documents contain the questions which the official must take into account during the interview. The purpose of these questions is to detect fraudulent applications, and instructions are included for the case in which it is required to pass the nationality test to prove the country of origin of the applicant in case doubts exist.\textsuperscript{347}

Police and border guards also have the competence of registering asylum applications, for which in these cases they are the authority in charge of conducting the asylum interview. This mostly happens to asylum claims made at borders and from the CIE, but also for asylum claims lodged on the territory given the lack of capacity and resources of the OAR. They do not decide on the application for international protection, however, as this is the sole responsibility of the OAR.

When the case is then forwarded to the OAR for examination, the caseworker in charge may decide to hold a second interview with the applicant when they consider the information in the case file to be insufficient.\textsuperscript{348} The case examination reports do not systematically refer to whether a second interview is necessary, although the law states that the decision to hold further interviews must be motivated. After a stop at the beginning of the pandemic, second interviews were resumed in person in 2021 and the situation was still similar to pre-pandemic years.\textsuperscript{349} Nevertheless interviews with the Social Work Units (UTS) are carried out by phone. The Ombudsperson has already stated in 2016 that a mandatory second interview must always be held when the first one has not been conducted by an OAR caseworker,\textsuperscript{350} given that the person conducting the interview might not be sufficiently trained.\textsuperscript{351}

Interviews are always conducted individually. As far as the author is aware, indicators to detect vulnerabilities are used for cases of trafficking at the airports. No public information on whether specific guidelines are used to detect other vulnerabilities is available. The author is also aware that the OAR has

\textsuperscript{345} Information provided by Accem’s legal service in March 2023.
\textsuperscript{346} Information provided by Accem’s legal service in March 2023.
\textsuperscript{348} Article 17(8) Asylum Act.
\textsuperscript{349} Information provided by Accem in March 2023.
\textsuperscript{351} Ibid.
been creating thematic groups of specialized officers (i.e. on children), in order to better assess cases accordingly. In relation to the interview of children seeking asylum, the general practice is that just UAMs are interviewed.

These observations remained valid in 2023, since arrangements vary according to the province where the interview takes place. In the 2022 Annual Report, the Spanish Ombudsperson provided information on the main complaints received throughout the year. First of all, on the role of National Police in carrying out the asylum interview and the necessity to avoid that members of the Police force are involved in the assessment of the asylum claim. Some concerns emerged also regarding the place were interviews are held (i.e. lack of privacy, appropriate interpretation, etc.) and the fact that asylum applicants are in some cases requested to present documentation (i.e. registration of residency) that is not required by the law as a prerequisite to submit an application.\textsuperscript{352}

In a decision taken in July 2023, the National Court (\textit{Audiencia Nacional}) annulled a resolution denying international protection to an applicant for defencelessness, as the asylum interview was carried out only with phone interpretation and without a lawyer.\textsuperscript{353}

In its 2023 annual report, the EUAA reported that personal interviews in Spain were not carried out by the determining authority but by police officers without adequate training, in an inadequate environment and without the necessary legal counsel and information. In addition, it highlighted that some applicants were not provided with copies of their statements at the end of the interview, and that the online portal through which applicants may submit additional observations does not function properly and it was not guaranteed that additional documents were received. In order to improve the quality of interviews, UNHCR provided the police with a training plan on interviewing techniques. Together with the EUAA, a new training programme was developed in 2022 for new OAR case officers.\textsuperscript{354}

In 2023, UNHCR carried out a wide range of training and capacity building activities on international protection addressed to asylum actors and on interviewing techniques for police officers carrying out asylum interviews in the asylum procedure in key locations.\textsuperscript{355}

\textbf{1.3.1. Interpretation}

Article 18 of the Asylum Act provides the right of all asylum seekers to have an interpreter. This is respected in practice.

Since June 2016, the Ministry of Interior entrusted services on the provision of interpreters to the OAR and all police offices to the Oflingua-Seprotec translation private company. Since then, several shortcomings have been reported, mainly due to the lack of knowledge of the asylum and migration field. In addition, a lack of proper expertise in interpretation techniques has been detected in many cases. It is thus common for some interpreters to make personal comments going beyond their interpretation role in front of the interviewer and with the risk of including subjective considerations in the asylum interview. There are also interpreters who do not speak adequate Spanish, so in many circumstances the statements made by the asylum seeker are not properly reflected in the interview. In addition, interpreters who were working before with NGOs have reported a reduction of pay and deterioration of working conditions, thereby potentially affecting the quality of their work.

In cases of less common languages, asylum interviews are postponed and the concerned asylum seeker is not informed in advance but only on the day of the cancelled interview. In some cases, interpretation during asylum interviews has been carried out by phone, because the company did not consider arranging the deployment of the interpreter from their city to the place of the interview.

\textsuperscript{353} Audiencia Nacional, SAN 3949/2023, 12 July 2023, available in Spanish at: https://tinyurl.com/2s3ham52.
\textsuperscript{355} Information provided by UNHCR in April 2024.
Following the COVID-19 outbreak in 2020, interpreting services were adapted accordingly, mainly through the increase in the use of technological tools (i.e. phone and programmes such as Meet, Zoom, Teams), with overall positive outcomes. Challenges arose in some cases, however, due to the difficulty for asylum seekers to access computers or accessing internet connection. Some provinces can still face difficulties in providing interpreters for some languages (such as, among others, Persian, and Fula) on time and when needed. Due to this, sometimes lawyers and asylum seekers are asked to move from the place they are to the closest place where interpretation can be provided.

Video conferencing for the purpose of interpretation is rare, as it is usually carried out by phone. Video conferencing is used in the cases of asylum seekers who are in prison or in the case of applications made from the enclaves of Melilla or Ceuta.

1.3.2. Recording and transcript

While the first interview is never audio-or video recorded, this is always the case for the second interview. As a rule, the minutes of the interview are transcribed verbatim, although there have been cases in which interviews were not transcribed verbatim or in which a summary was drafted without necessarily reflecting all the statements made by the asylum seeker, no particular issues have been raised regarding the transcription of interviews. It should be further noted that interviewers are allowed to assess whether or not certain issues expressed by the asylum seeker during the interview should be included to the transcript, which is thus completely arbitrary.

1.4. Appeal

1.4.1. First appeal before the National Court

When the asylum applicant wants to appeal against the first instance decision, there are two types of appeals they can lodge:

(a) An administrative appeal for reversal (Recurso de reposición); or
(b) A judicial appeal before the National Court (Audiencia Nacional).

None of the appeals have automatic suspensive effect, and none of them foresee a hearing of the applicant.\(^\text{356}\)

The first type of appeal should be submitted before the OAR under the Ministry of Interior, within 1 month from the notification of refusal.\(^\text{357}\) It marks the end to the administrative procedure, and therefore it is optional as the lawyer can appeal directly to the courts. This first option for appealing is based on points of law and does not assess the facts. For this reason, the applicant and their lawyer may prefer to file the contentious administrative appeal. An increase of administrative appeals has been registered in the last couple of years, as it allows for the application of cautionary measures and for the request of the suspension of the expulsion order, as foreseen by the administrative procedure.\(^\text{358}\)

An appeal against a negative decision on the merits of the claim can be filed before the Administrative Chamber of the High National Court (Audiencia Nacional) within 2 months term from the notification of

\(^{356}\) Article 29(2) Asylum Act.
\(^{357}\) Article 29(1) Asylum Act.
\(^{358}\) Information provided by Accem’s legal service on March 2023.
Decisions of the Audiencia Nacional are publicly available in the CENDOJ database.

Nonetheless, it should be kept in mind that there is no deadline for the Court to decide, and that the average time for ruling is from 1 to 2 years, closer to 2 years in the last years. During this period, if the applicant has expired it maximum duration within the asylum reception system (18 months), the person will have no reception conditions.

The length of asylum appeals remains an area of concern for national authorities and is criticised by some civil society organisations. For example, the NGOs ‘Progestión’ and Convive-Fundación Cepaim have highlighted that the duration of the appeals procedure is excessively lengthy in Spain.

For this reason, most applicants and their lawyers prefer to collect more documentation to support the asylum application, in order to start a new asylum claim from scratch. In fact, the Asylum Act does not set a limit number of asylum applications per person, and as mentioned in the section on Subsequent Applications, it does not establish a specific procedure for subsequent applications.

The success rate of appeals is generally low (an average of 90% of cases has been rejected in 2019, 2020 and 2021). During 2021, a total of 27,431 appeals were lodged: this refers both to administrative (15,002) and judicial (12,429) appeals. In 2022, 484 administrative and 2,817 judicial appeals were rejected. Figures for 2023 are not available at the time of writing, as the OAR usually publishes such information in the second half of the year.

In a decision taken in November 2022, the Supreme Court (Tribunal Supremo) established that, while a decision on the appeal is pending, all the benefits granted during the processing of the asylum application (concretely the residence and work permit) should be extended.

UNHCR developed a (monthly) COI bulletin and a quarterly Judicial update summarising relevant international and national judicial decisions on asylum and distributed them among asylum authorities and counterparts including the judiciary.

1.4.2. Onward appeal before the Supreme Court

In case of a rejection of the appeal, a further onward appeal is possible before the Supreme Court (Tribunal Supremo), which in case of a positive finding has the power to grant the applicant with an international protection status.

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363 Iustel, ‘Declara el Supremo que mientras se resuelve el recurso sobre la solicitud de asilo se han de prorrogar los beneficios concedidos provisionalmente durante la tramitación del procedimiento’, 22 February 2023, available in Spanish at: https://tinyurl.com/4msj2yj8.
364 Information provided by UNHCR in April 2024.
365 Article 29(2) Asylum Act.
1.5. Legal assistance

<table>
<thead>
<tr>
<th>Indicators: Regular Procedure: Legal Assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Do asylum seekers have access to free legal assistance at first instance in practice?</td>
</tr>
<tr>
<td>✔️ Yes ☐ With difficulty ☐ No</td>
</tr>
<tr>
<td>❖ Does free legal assistance cover:</td>
</tr>
<tr>
<td>✔️ Representation in interview ☐ Legal advice</td>
</tr>
<tr>
<td>2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?</td>
</tr>
<tr>
<td>✔️ Yes ☐ With difficulty ☐ No</td>
</tr>
<tr>
<td>❖ Does free legal assistance cover</td>
</tr>
<tr>
<td>✔️ Representation in courts ☐ Legal advice</td>
</tr>
</tbody>
</table>

Spanish legislation and Article 18(1)(b) of the Asylum Act guarantee the right to legal assistance to asylum seekers from the beginning and throughout all stages of the procedure. This assistance will be provided free of charge to those who lack sufficient financial means to cover it, both in the administrative procedure and the potential judicial proceedings. It is also established that NGOs can provide legal assistance to asylum seekers.

When expressing the will to apply for international protection, and depending on where the person is applying for asylum, the applicant is informed about the right to free legal assistance during the procedure, about the possibility to be assisted by a lawyer from an NGO, from a Bar association or a private lawyer (generally paid), and the person is provided with the relevant contacts (i.e. NGOs working at local level and provincial Bar association). In many cases, it is the lawyer present at the reception facility that provides legal assistance to asylum seekers.

Legal assistance to asylum seekers generally includes case file preparation, provision of information, preparation to the asylum interview as well as assistance during asylum interviews. In addition, lawyers can play a consultative role in the determination procedure by submitting written reports on individual cases.

In March 2021, the organisations Sira and Red Acoge published a guide containing advice on how to draft reports to support asylum claims addressed to the different professionals providing support to asylum seekers (i.e. social workers, teachers, psychologists, etc.).

In a decision taken in November 2022, the High Court (Tribunal Supremo) set a jurisprudential precedent in relation to legal assistance during the asylum procedure, by establishing that, as far as the applicant has been informed in a complete and correct manner on their rights and on the supports required, and the information sheet has been signed by them, the fact that the applicant does not tick certain boxes means that they have renounced to such a support, unless legal assistance is compulsory.

1.5.1. Legal assistance at first instance

Shortcomings in access to legal aid have been registered in the last years for persons arriving by sea. As mentioned in Access to the territory and push backs, in 2020 there was a general lack of legal assistance for migrants and refugees reaching the Canary Islands. In 2022, the Government of the archipelago started to work together with the UNHCR, with the aim of improving the provision of legal assistance to migrants and asylum seekers. In addition, the Government of the Canary Islands increased

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369 Cadena Ser, La mayoría de los inmigrantes que llegan a Canarias en las últimas semanas no reciben asistencia jurídica, 11 November 2021, available in Spanish at: https://cutt.ly/rjknOYx.
the budget for the provision of legal assistance and decrease the number of persons assisted by each lawyer of the legal aid roster.  

Besides, in terms of capacity building, in 2021 the Council of Europe, together with the Bar Association of Tenerife (ICATF) and Spain’s General Council of Lawyers, launched a free online course on ‘Asylum and Human Rights’,

To guarantee asylum seekers’ rights, some Bar Associations from the southern cities of Andalucía have created ad hoc teams of lawyers. Nonetheless, assistance has been undermined by obstacles such as the lack of information on asylum to newly arrived persons and the lack of possibility to access a lawyer (see Access to the Territory). The CATE and CAED facilities established for newly arrived persons in 2018 did not significantly improve the possibility to access legal assistance for new applicants, although in the CAED operated by CEAR asylum seekers are reported to receive legal assistance.

In 2022, the Bar Association of Madrid and UNHCR agreed to improve the service to provide legal assistance to persons in need of international protection, as well as to refugees and statelessness persons. In light of such agreement, the Bar Association of Madrid has created a specialised unit on international protection, which foresees to attend more than 2,000 persons and facilitate access to their rights, including the right to be documented, the freedom of movement, as well as the rights to reception, employment, health, education and any other rights fostering their protection in Spain. A similar agreement was established between the Bar Association of Murcia and UNHCR, including through the creation of a specialized Legal Guidance Service on International Protection within the Bar Association. The same initiative was implemented with the Bar Association of Almería. Thanks to the agreements, 1,436 refugees, asylum seekers and stateless persons were assisted.

In 2023, UNHCR continued its agreements with the Bar Associations of Madrid, Almería and Murcia, to provide legal counselling and assistance, thus providing support to 4,107 asylum seekers and refugees. This support facilitated access to the asylum procedure, documentation and associated rights. Moreover, two specialized legal aid services for international protection commenced in Almería and Murcia, promoted and supported by UNHCR projects, serving as a noteworthy practice at the national level, with other provinces in Spain expressing interest in similar initiatives.

At the beginning of 2023, the Spanish General Council of Lawyers started a service to support Bar Associations in the different Spanish provinces on immigration and international protection, with the aim of assuring a quality service, to unify criteria of legal support to migrants and asylum seekers, and increase the knowledge on the situation and needs of newcomers.

The Supreme Court has highlighted the obligation of the State to provide effective access to legal assistance during the procedure, without which the individual is in a state of “real and effective helplessness, which is aggravated in the case of foreigners who are not familiar with the language and Spanish law, and which may have annulling effect on administrative acts”. Beyond merely informing

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375 Information provided by UNHCR in March 2023.
376 Information provided by UNHCR in April 2024.
applicants of the possibility to receive legal aid, the authorities are required to indicate in the case file whether the asylum seeker has accepted or rejected legal aid in the procedure.\textsuperscript{379}

Since 2018, no information was provided by the OAR on the number of requests.

1.5.2. Legal assistance in appeals

Legal aid is also foreseen for subsequent judicial reviews and appeal procedures. Free legal aid for litigation must be requested through the Bar Association Legal Assistance Service (Servicio de Orientación Jurídica del Colegio de Abogados) or through NGOs specialised in asylum.

The Audiencia Nacional has clarified that deadlines for appealing a negative decision are suspended pending the outcome of a legal aid application. The asylum seeker must also be duly notified of the outcome of the legal aid request.\textsuperscript{380} Legal aid is generally granted during appeal proceedings in practice.

The Bar Association of Madrid has a specialised roster of lawyers taking up asylum cases. While this bar association generally represents most appeals lodged in any part of Spain, other bar associations have also organised similar rosters since 2015.

The level of financial compensation awarded to legal aid lawyers is established by each bar association. It does not differ based on the type of cases – asylum-related or other – taken up by lawyers.

2. Dublin

2.1. General

Dublin statistics: 1 January – 31 December of 2023:

<table>
<thead>
<tr>
<th>Incoming procedure</th>
<th>Requests</th>
<th>Accepted</th>
<th>Transfers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>9,164</td>
<td>6,083</td>
<td>N/A</td>
</tr>
<tr>
<td>France</td>
<td>2,932</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Germany</td>
<td>2,859</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Italy</td>
<td>1,051</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


* In relation to the figures above, it should be noted that 6,083 out of the total 9,164 requests received were accepted, while 2,266 out of the total were denied.

The OAR rarely applies the Dublin Regulation. It only issued 10 outgoing requests in 2016, 11 in 2017, 7 in 2018,\textsuperscript{381} and 120 in 2019.\textsuperscript{382} Thus, the Dublin Regulation usually concerns incoming requests and transfers to Spain. In 2019, the country received a total of 17,086 requests and 1,917 transfers, while only 5 outgoing transfers were carried out.\textsuperscript{383} In 2022, Spain issued 633 requests to other EU Member States,

\textsuperscript{381} Information provided by OAR, 28 February 2017; 2 March 2018; 8 March 2019.
\textsuperscript{383} Ibidem, 61.
and a total of 5 transfers were carried out.\textsuperscript{384} Figures on the number of outgoing requests in 2023 were not available at the time of writing.

In August 2018, Germany and Spain concluded a bilateral agreement entitled “Administrative arrangement on cooperation when refusing entry to persons seeking protection in the context of temporary checks at the internal German-Austrian border”.\textsuperscript{385} More details are provided in the 2021 update of this report.

\subsection*{2.1.1. Application of the Dublin criteria}

Given the limited use of the Dublin Regulation by the OAR, there is not sufficient practice to draw upon for an analysis of the way in which criteria are applied.

The OAR has edited two leaflets in three languages (Spanish, English and French). One leaflet provides information about the Dublin Regulation for applicants for international protection pursuant to article 4 of Regulation (EU) No 604/2013.\textsuperscript{386} The other leaflet contains information for applicants for international protection found in a Dublin procedure, pursuant to article 4 of Regulation (EU) No 604/2013.\textsuperscript{387} The OAR’s edited leaflet providing information to asylum seekers on the Dublin Regulation states that having family members living in a country is one of the factors that will be taken into account for establishing the Member State responsible for the processing of the asylum application.

In general, family unity criteria are applied in practice. For unmarried couples, it is even sufficient to provide – in the absence of a legal document – an official declaration of the partners demonstrating their relationship.

\subsection*{2.1.2. The discretionary clauses}

The sovereignty clause is rarely applied, for the cases of vulnerable people or to guarantee family unity. According to the European Commission’s evaluation of March 2016, Spain also undertakes responsibility for unaccompanied children, even where there is evidence that the Dublin family criteria could apply.\textsuperscript{388} However, the sovereignty clause was not applied in 2017.\textsuperscript{389} There is no information available on the application of the sovereignty clause in 2023.

Concerning the humanitarian clause, it appears that no case has met the relevant criteria on the basis of Article 17(2) of the Regulation. In 2016 and 2017, the OAR has not applied the dependent persons and humanitarian clauses.\textsuperscript{390} There is no information available on the application of the humanitarian clause in 2022.

No specific procedure is applied in the cases of vulnerable individuals.

\subsection*{2.2. Procedure}

\begin{center}
\begin{tabular}{|l|c|}
\hline
\textbf{Indicators: Dublin: Procedure} & \textbf{\begin{tabular}{c}
1. Is the Dublin procedure applied by the authority responsible for examining asylum applications? \\
Yes & No
\end{tabular}} \\
\hline
\textbf{2. On average, how long does a transfer take after the responsible Member State has accepted} & \\
\textbf{responsibility?} & Not available \\
\hline
\end{tabular}
\end{center}

\textsuperscript{385} The agreement is available at: \url{https://bit.ly/2G2lZ7E}.
\textsuperscript{386} Oficina de Asilo y Refugio (OAR), 'Information about the Dublin Regulation for applicants for international protection pursuant to article 4 of Regulation (EU) No 604/2013', available at: \url{https://bit.ly/3q9vu6l}.
\textsuperscript{387} Oficina de Asilo y Refugio (OAR), 'Information for applicants for international protection found in a Dublin procedure, pursuant to article 4 of Regulation (EU) No 604/2013', available at: \url{https://bit.ly/3sEJPtI}.
\textsuperscript{389} Information provided by OAR, 2 March 2018.
\textsuperscript{390} Information provided by OAR, 28 February 2017; 2 March 2018.
The Asylum Act does not provide specific elements regarding the Dublin procedure. In practice, it consists of an admissibility assessment with the same characteristics and guarantees foreseen for other applicants. The only difference is the length of the process. In the Dublin procedure, the phase is 1 month longer in accordance with the Dublin Regulation. There are no legal provisions regulating this at national level, however.

Asylum seekers are systematically fingerprinted and checked in Eurodac.

The OAR has also produced and published a leaflet with relevant information on the Dublin procedure. However, the leaflet is only available in Spanish, English and French.  

2.2.1. Individualised guarantees

There are very few outgoing requests made by Spain. No specific guarantees have applied to these cases.

2.2.2. Transfers

According to the OAR an average duration of the Dublin procedure is not available for 2017. The OAR implemented 2 transfers in 2016, 2 in 2017, 2 in 2018, 5 in 2019 and 5 in 2022. Figures on the number of transfers in 2023 were not available at the time of writing.

2.3. Personal interview

The same rules as in the Regular Procedure: Personal Interview apply. According to the authorities, the interview is never omitted. In practice, during the registration of the application, the OAR official or the Police ask the person questions about identity and travel route.

2.4. Appeal

The same rules as in the Regular Procedure: Appeal apply.

2.5. Legal assistance

The same rules as in the Regular Procedure: Legal Assistance apply.

2.6. Suspension of transfers

<table>
<thead>
<tr>
<th>Indicators: Dublin: Suspension of Transfers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries?</td>
</tr>
<tr>
<td>❖ Yes</td>
</tr>
<tr>
<td>❏ If yes, to which country or countries?</td>
</tr>
<tr>
<td>❏ No</td>
</tr>
</tbody>
</table>

Transfers of asylum seekers to Greece under the Dublin Regulation have been suspended since 2014. Spain makes very rare use of the Dublin procedure in practice.

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391 Oficina de Asilo y Refugio (OAR), Información para los solicitantes de protección internacional sobre el reglamento de Dublín de conformidad con el artículo 4 del Reglamento (UE) nº 604/2013, available in Spanish at: https://cutt.ly/We9RJSn.

392 Information provided by OAR, 20 August 2017.

393 Information provided by OAR, 28 February 2017; 2 March 2018; 8 March 2019.


396 It has to be noted that Public data just refer to requests received, those accepted and those refused. See: Ministerio del Interior, ‘AVANCE de datos de protección internacional, aplicación del Reglamento de Dublín y reconocimiento del estatuto de apátrida. Datos provisionales acumulados entre el 1 de enero y el 31 de diciembre de 2021’, 2022, available in Spanish at: https://bit.ly/3vWg9gD.

397 European Commission, Evaluation of the implementation of the Dublin III Regulation, March 2016, 12.
2.7. The situation of Dublin returnees

The number of incoming procedures to Spain is far higher than the number of outgoing procedures. In 2023, Spain received 9,164 requests, mainly from France (2,932), Germany (2,859), and The Netherlands (1,051).  

The Dublin Unit does not provide guarantees to other Member States prior to incoming transfers, although upon arrival of an asylum seeker through a Dublin transfer, the OAR coordinates with the Ministry of Inclusion, Social Security and Migration, responsible for reception. Nevertheless, civil society organisations have witnessed particular difficulties with regard to victims of trafficking returning to Spain under the Dublin system, mainly from France. These are due to different factors, i.e. the fact that victims of trafficking are not effectively identified as such, the lack of an effective mechanism to register and identify trafficked persons before return, as well as to identify victims among Dublin returnees once they arrive in Spain. The lack of coordination among the Spanish competent authorities (Dublin Unit, OAR, Ministry of Inclusion, Social Security and Migration in charge of reception) is another factor.

In recent years, including in 2019 and 2020, there have been reports of Dublin returnees not being able to access reception conditions due to a lack of places in asylum reception facilities (see Reception Conditions: Criteria and Restrictions). This has resulted in a homelessness and destitution in certain cases. In a series of rulings, the Superior Court (Tribunal Superior de Justicia, TSJ) of Madrid condemned the Spanish Government for denying reception to asylum seekers returned to Spain within the Dublin procedure. For this purpose, the Ministry of Labour, Migration and Social Security issued an instruction establishing that asylum seekers shall not be excluded from the reception system if they left voluntarily Spain to reach another EU country.

In practice, Dublin returnees face the same obstacles in accessing the procedure and reception conditions as any other asylum applicant.

The organisation “Neighbours Coordinator” (Coordinadora de Barrios) has been supporting Dublin returnees in Spain since 2015. During the summer of 2020, they supported and documented at least 15 cases of Dublin returnees in Madrid that were not able to access reception as a result of a lack of available places, thus resulting in homelessness. This issue persisted in Spain throughout 2022 as the Spanish Ombudsperson confirmed in its 2022 annual report, by expressing concerns on many asylum seekers living on the streets or in precarious situations, as a consequence of the delays in the appointments for the formalisation. Especially worrying, according to the Ombudsperson, was the situation in Madrid.

While Dublin returnees face important obstacles in accessing the reception system, they may also face obstacles in re-accessing the asylum procedure given the persistent general deficiencies of the asylum system described throughout this report. The OAR prioritises their registration appointment for lodging an asylum application. If their previous asylum claim has been discontinued, they have to apply again for asylum. However, that claim is not considered a subsequent application.

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399 Information provided by OAR, 20 August 2017.


402 Information provided by Coordinadora de Barrios, 22 January 2021.

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

The asylum procedure in Spain is divided into two phases: an admissibility procedure, followed by an evaluation on the merits in case the claim is admitted. For claims made on the territory, the admissibility assessment must be conducted within one month of the making of the application and 2 months for Dublin cases. When these deadlines are not met, the applicant will be automatically admitted to the asylum procedure in territory.

As provided in Article 20(1) of the Asylum Act, applications can be considered inadmissible on the following grounds:

(a) For lack of competence, when another country is responsible under the Dublin Regulation or pursuant to international conventions to which Spain is party;
(b) The applicant is recognised as a refugee and has the right to reside or to obtain international protection in another Member State;
(c) The applicant comes from a Safe Third Country as established in Article 27 of Directive 2005/85/EC;
(d) The applicant has presented a subsequent application but with different personal data and there are no new relevant circumstances concerning their personal condition or the situation in their country of origin; or
(e) The applicant is a national of an EU Member State.

Since mid-2019, the admissibility procedure is no longer applied in practice, because the 1-month deadline provided by law to decide on the admissibility of the asylum claim cannot be complied in practice due to the high number of asylum applications. Thus, asylum seekers are documented with the white paper during the first 6 months, instead of being documented with the red card after 1 month.

3.2. Personal interview

The same rules as in the Regular Procedure: Personal Interview apply.

3.3. Appeal

**Indicators: Admissibility Procedure: Appeal**

- Same as regular procedure

1. Does the law provide for an appeal against an inadmissibility decision?
   - If yes, is it judicial?
   - If yes, is it automatically suspensive?

The inadmissibility decision may be appealed in two different ways:

(a) Asylum seekers have two months to appeal against an inadmissibility resolution before the Central Administrative Judges (Juzgados de lo contencioso administrativo); or
(b) In cases where new pieces of evidence appear, the person has one month to present a revision appeal before the Minister (Recurso de Reposición), in which case a decision should be taken within two months.

Both types of appeals have no automatic suspensive effect.

3.4. Legal assistance

The same rules as in the Regular Procedure: Legal Assistance apply.

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404 Article 20(2) Asylum Act.
### 4. Border procedure (border and transit zones)

#### 4.1. General (scope, time limits)

**Indicators: Border Procedure: General**

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities?  
   - Yes  
   - No

2. Where is the border procedure mostly carried out?  
   - Air border  
   - Land border  
   - Sea border

3. Can an application made at the border be examined in substance during a border procedure?  
   - Yes  
   - No

4. Is there a maximum time limit for a first instance decision laid down in the law?  
   - Yes  
   - No  
   - If yes, what is the maximum time limit?  
     - 4 days

5. Is the asylum seeker considered to have entered the national territory during the border procedure?  
   - Yes  
   - No

The border procedure is applied to all asylum seekers who ask for international protection at airports, maritime ports and land borders, as well as CIE. As long as the border procedure is pending, the applicant has not formally entered the Spanish territory, i.e. a fiction of non-entry applies. This is not the case in applications submitted in Migrant Temporary Stay Centres (Centros de Estancia Temporal para Inmigrantes, CETI) in Ceuta and Melilla, which are considered to be made on the territory and fall under the regular procedure rather than the border procedure, as clarified by the Audiencia Nacional.

In 2023, a total of 3,386 persons applied at a border post and 877 at a CIE. Border procedures represented around 2.61% of the total caseload of the Office for Asylum and Refuge (OAR) in 2023, and around 3.06% in 2022. This low number is indicative of the obstacles faced by asylum seekers in accessing the procedure at the border and the issues of push-backs (see Access to the territory and push backs).

In 2019, for the first time, the Government had applied the border procedure to asylum seekers who had jumped the fence. However, this had been applied only to two collective jumps that occurred in Ceuta in 2019, while in Melilla the determination of the applicable procedure to such cases was arbitrary, i.e. the border and regular asylum procedure were applied arbitrary to the different persons. This practice has not been reported during 2020. This also likely to be due to the fact there were only a few attempts to jump over the fences due to the COVID-19 pandemic. As previously indicated, the Asylum Law foresees the application of the border procedure to asylum claims lodged at airports, maritime ports, land borders and expulsion centres (CIE), but it had never been applied before in such a situation. Discretionality in the application of such practice was observed also in 2022. For example, the border procedure was applied for people jumping the fence in Melilla at the beginning of March, but that was not the case for a similar occurrence in June of the same year.

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405 Land borders in this case mainly refers to the Ceuta and Mellila borders as well as CIEs, as all applicants held in CIEs are subject to a border procedure.


411 Articles 21 and 25 Asylum Act.
It should also be noted that since January 2020, Spain started to require a transit visa for nationals originating from Yemen.\textsuperscript{412} The measure is still in place as of March 2024. In addition, Spain requires such a transit visa also for nationals from Palestine and Syria.\textsuperscript{413} In practice, this means that they cannot access Spain if coming by plane without a visa. For those who manage to board a Spain-bound plane in any case, their application will be processed at the airport of arrival.

**Grounds for applying the border procedure**

The aim of the border procedure is to assess whether an application for international protection is admissible or inadmissible and whether the applicant should be granted entry to access the asylum procedure. As provided in Article 20(1) of the Asylum Act, applications can be considered inadmissible on the following grounds:

- (a) When another country is responsible under the Dublin III Regulation or pursuant to international conventions to which Spain is party;
- (b) The applicant is recognised as a refugee and has the right to reside or to obtain international protection in another Member State;
- (c) The applicant comes from a safe third country as established in Article 27 of Directive 2005/85/EC;
- (d) The applicant has presented a subsequent application but with different personal data and there are no new relevant circumstances concerning their personal condition or the situation in their country of origin; or
- (e) The applicant is a national of an EU Member State.

According to information shared by the Spanish authorities, the Dublin III Regulation is not applied in application lodged at Spanish border posts.

Nevertheless, in the border procedure, additional grounds to those mentioned under the Admissibility Procedure are applied to establish the so-called reasons for denial of the application on the merits. In fact, applications at borders can be denied as manifestly unfounded in the following circumstances:\textsuperscript{414}

- (a) The facts exposed by the applicant do not have any relation with the recognition of the refugee status;
- (b) The applicant comes from a Safe Third Country;
- (c) The applicant falls under the criteria for denial or exclusion sent under Article 8, 9, 11 and 12 of Asylum Act;
- (d) The applicant has made inconsistent, contradictory, improbable, insufficient declarations, or that contradict sufficiently contrasted information about country of origin or of habitual residence if stateless, in manner that clearly shows that the request is unfounded with regard to the fact of hosting a founded fear to be persecuted or suffer serious harm.

Almost in all cases, the border procedure involves an examination of the facts presented by the applicant for substantiating their request for international protection.

This leaves a high level of discretion in the decision of the competent authority on the admissibility of the application, as the law does not clarify which criteria should be considered to establish whether the facts presented by the applicant inconsistent, contradictory or improbable. In addition, this assessment is carried out within very short time limits, compared to the regular procedure. However, in 2017 the Audiencia Nacional stressed that an asylum application cannot be rejected on the merits in the border procedure unless it is manifestly unfounded. In that respect, a claim is not manifestly unfounded where it

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\textsuperscript{412} CEAR, ‘España comienza el año exigiendo visado de tránsito a las personas de Yemen’, 3 January 2020, available in Spanish at: https://cutt.ly/5rc3wI7.

\textsuperscript{413} Information provided by Accem’s legal service on March 2023.

\textsuperscript{414} Article 21(2)(b) Asylum Act.
is not contradicted by country of origin information or where UNHCR has issued a positive report supporting the granting of protection.415

If the application is not considered as manifestly unfounded, the person can enter the territory and the application is processed through an urgent procedure (3 months - see section on Regular Procedure: Fast-Track Processing) where the application has been lodged at a Detention centre for foreigners (CIE), and through the ordinary procedure (6 months) if the application has been lodged at a border post.

**Time limits**

The border procedure foreseen under Spanish Asylum Act is characterised by its strict time limits, which cannot exceed 4 days for a first instance decision and another 4 days for appeals. Similarly to all asylum requests, the only authority in charge of the admissibility decision is the Ministry of Interior. The decision on admissibility must be notified within 4 days from the lodging of the application,416 and the applicant has 2 days to ask for a re-examination of the application in case the latter was denied or not admitted. Once again, the answer to the re-examination will have to be notified within another 2 days.417 Article 22 of the Asylum Act states that the applicant must remain in the ad hoc dedicated facilities during the admissibility assessment of their asylum claim at the border (see Place of Detention).418

The 4-days’ time limit for the OAR to issue its decision can be extended to 10 days by the Ministry of Interior on the basis of a reasoned decision if UNHCR so requests.419 This applies to cases where the Ministry of Interior intends to reject the application from examination considering that the applicant falls under one of the reasons for exclusion or denial from protection within the Asylum Act.420

In 2017, the OAR started applying the criteria set by the Audiencia Nacional concerning the appropriate counting of the deadline established by the Asylum Act for completing the border procedure, 96 hours from the moment the application is made.

**Quality of the procedure**

Applications at borders and in CIE are, in general, likely to be refused or dismissed as inadmissible compared to applications made on the territory, thus increasing the vulnerability of applicants concerned. This fact was highlighted in the past by several organisations in Spain,421 who denounce the low number of admissions in border procedure compared to the regular procedure, and has also been supported by the jurisprudence of the Supreme Court.422 Since 2020, the Office for Asylum and Refuge (OAR) did not provide statistical information on the outcome of the border procedure (for information on the years 2015 to 2019, see AIDA Country Report on Spain – 2020 Update).

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416 Article 21(2) Asylum Act.

417 Article 21(4) Asylum Act.


419 Article 21(3) Asylum Act.

420 Article 21(3) Asylum Act.


4.2. Personal interview

Indicators: Border Procedure: Personal Interview

☐ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the border procedure?
   ✗ Yes ☐ No
   ❖ If so, are questions limited to nationality, identity, travel route?
     ☐ Yes ✗ No
   ❖ If so, are interpreters available in practice, for interviews?
     ✗ Yes ☐ No

2. Are interviews conducted through video conferencing?
   ☐ Frequently ☐ Rarely ☐ Never

The personal interview at border points is carried out by police officers, as is generally the case in the Regular Procedure: Personal Interview. OAR officers may request, however, to conduct a second interview with the asylum seeker if they deem it necessary. In practice, an additional interview is conducted in cases where there are doubts or contradictions resulting from the first interview or from the documentation submitted. If everything seems clear, however, the OAR caseworker can examine the application and take a decision on the merits solely on the basis of the interview that has been conducted with police officers.

Procedural safeguards for the interview are the same concerning the presence of interpreters, gender sensitivity and so forth.

Interviews in border and regular procedures mainly follow the same rules and format, even though they can vary according to the city and professionals who carry them out. For example, in the case of interviews at the Madrid Barajas Airport, interviews are usually carried out by OAR officers, who have a different level of expertise on asylum matters compared to police officers.

4.3. Appeal

Indicators: Border Procedure: Appeal

☐ Same as regular procedure

1. Does the law provide for an appeal against the decision in the border procedure?
   ☐ Yes ☐ No
   ❖ If yes, is it
     ☐ Judicial ☐ Administrative
   ❖ If yes, is it automatically suspensive
     ☐ Yes ☐ Some grounds ☐ No

4.3.1. Request for re-examination (re-examen)

The border procedure foresees the possibility to ask for the re-examination (re-examen) of the application for international protection when the latter has been declared inadmissible or rejected from examination (‘denegar la solicitud’). This type of administrative appeal is only foreseen in the context of border procedures. The request for re-examination has automatic suspensive effect and must be requested in front of the Minister of Interior within 2 days from the notification of the decision to the applicant. The National High Court has clarified that this time limit must be calculated in hours rather than in working days.

In May 2019, the Supreme Court ruled on the effects of submitting a re-examination of an asylum claim to another authority as well as on the calculation of time limits, i.e. as of when the time limit of 2-days starts to run. As regards the competent authority, the Supreme Court noted that the Asylum Act does not indicate where re-examination requests should be filed. It therefore ruled that the general rules and guarantees applicable to the administrative procedure under the general Spanish Administrative

423 Article 17 Asylum Act.
424 Article 21(4) Asylum Act.
425 Audiencia Nacional, Decision SAN 2591/2017, 8 June 2017; Decision SAN 2960/2017, 30 June 2017.
Procedures Law applied to such cases. This means that the application for re-examination does not have to be filed where the applicant lodged an asylum claim and that it can be filed at any registry or public office of the Ministry of Interior. Moreover, the Court stated that the calculation of the two-day deadline starts at the moment of receipt by the competent authority of the request for re-examination.426

The re-examination is performed under the direction of the lawyer, without the presence of any officer. There is no time limit beyond the referral within 48 hours from the notification.

Through this procedure, it is possible to incorporate new arguments, new documentation and even new allegations, other than those expressed in the application (even though it is a good idea to explain the reasons for this change of allegations, as well as the late addition of other documents to the record). However, it is not possible to provide further clarifications on statements expressed in the application. The notice of review therefore consists of an extension of allegations that detail and clarify those aspects that are not clear in the initial application, with particular emphasis on the facts and information from the country of origin that have been queried.

4.3.2. Onward judicial appeals

Against the decision to dismiss the re-examination, which would exhaust administrative channels for appeal, the applicant can lodge a judicial appeal (Recurso contencioso-administrativo). In the case of an inadmissibility decision, the applicant may submit a judicial appeal before the central courts (Juzgados centrales de lo contencioso). Conversely, in the case of rejection on the merits, the judicial appeal will have to be presented before the National Court (Audiencia Nacional). In practice, the first type of appeal will be denied in the vast majority of cases, for which the second should be considered more effective.

In these second-instance appeals, no automatic suspensive effect is applicable. Instead, interim measures will have to be taken and asked by the applicant's lawyer to avoid the removal of the applicant despite having lodged an appeal.

Organisations working with migrants and refugees criticise this latter element, as it represents an additional obstacle faced by international protection seekers detained at the border posts and in CIE to accessing effective judicial protection. The tight deadlines foreseen in the border procedure, and on the other hand the fast execution of removals and forced return once admission is refused, represent an obstacle in practice to filing a judicial appeal.

4.4. Legal assistance

Access to free legal assistance in the border procedure is mandatory and guaranteed by law.427 As opposed to the regular procedure, applicants for international protection are thus always assisted by a lawyer during their interviews with the border police and the OAR in the context of border procedures, as well as during appeal proceedings. The National High Court (Audiencia Nacional) further held that the mandatory nature of legal assistance at the border entails an obligation to offer legal aid to the applicant that is in the process of lodging the application for international protection, even if they do not ask for it or rejects it.428 The same rules as in the Regular Procedure: Legal Assistance apply. The Asylum Act provides reinforced guarantees in this context, however, as it states that legal assistance is mandatory for applications lodged at the border.429

The main obstacles regarding access to legal assistance in practice concern cases of applications at borders, notably in the Ceuta and Melilla border control checkpoints. In fact, there are several reported cases concerning refusal of entry, refoulement, collective expulsions and push backs at the Spanish

427 Article 16(2) Asylum Act, citing Article 21.
429 Article 16(2) Asylum Act, citing Article 21.
borders. Obviously, during these operations, a case-by-case assessment of individual protection needs is not carried out, and legal assistance is not provided. Although UNHCR and other organisations decry these practices, asylum seekers, and mostly Sub-Saharan nationals who try to cross land borders without permit, continue to be subjected to such practices.

As discussed in Access to the Territory, obstacles to effective legal assistance in points of disembarkation intensified in areas such as Almeria, Tarifa and Motril in 2017. Access to legal assistance improved since then, with some Bar Associations issuing specific guidance in this regard. At the moment, there are different organisations providing legal assistance to migrants and asylum seekers in the different islands belonging to the archipelago of the Canary Islands (i.e., CEAR, Accem, Spanish Red Cross, Cáritas, Fundación Cruz Blanca, etc.). In addition, the Service for Equal Opportunities and Gender Violence of the town hall of Gran Canaria provides legal counselling; similar support is offered by the seven Commissions for Free Legal Aid of the Government of the Canary Islands, which also offer support and counselling on the asylum procedure.

As regards the provision of legal assistance at Madrid Barajas Airport, the main concerns relate to private lawyers, i.e. the lack of specialisation in asylum-related issues and paid services; since asylum seekers have the right to free legal aid provided by NGOs or Bar Associations. CEAR has a team of lawyers assisting asylum seekers at the Madrid Barajas Airport.

Difficulties in the provision of effective legal assistance are also caused by the tight deadlines foreseen in the procedure at borders and in CIE, and on the other hand the fast execution of removals and forced return once admission to the procedure is refused.

Another important element to bear in mind relates to the absence of legal assistance at the external borders. This does not necessarily concern persons who have been channelled into the border procedure, but rather the thousands of persons who have no access thereto as they are being pushed-back and/or refused entry at the border. Legal assistance in this context is undermined by obstacles such as the lack of information for newly arrived persons and the lack of possibility to access a lawyer. Concerns continued to be raised by the Spanish Ombudsperson, in its capacity as National Prevention Mechanism against Torture in its 2022 annual report. The body highlighted the deficiencies in terms of lack of individual and private interviews with newcomers, limited information provided on their rights, lack of interpreters, and impossibility to contact with the assigned lawyer due to lack of their contact information.

5. Accelerated procedure

The Asylum Act foresees an urgent procedure, which is applicable inter alia on grounds transposing the predecessor of Article 31(8) of the recast Asylum Procedures Directive. However, since it does not entail lower procedural guarantees for the applicant, the urgent procedure is more accurately reflected as a prioritised procedure rather than an accelerated procedure. For more information, see Regular Procedure: Fast-Track Processing.

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431 Cáritas, see: https://bit.ly/42hMMTE.
432 Fundación Cruz Blanca, see: https://www.fundacioncruzblanca.org/.
433 Information provided by Accem - Tenerife in April 2022.
D. Guarantees for vulnerable groups

1. Identification

<table>
<thead>
<tr>
<th>Indicators: Special Procedural Guarantees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers?</td>
</tr>
<tr>
<td>☐ Yes ☐ For certain categories ☒ No</td>
</tr>
<tr>
<td>❖ If for certain categories, specify which:</td>
</tr>
<tr>
<td>2. Does the law provide for an identification mechanism for unaccompanied children?</td>
</tr>
<tr>
<td>☒ Yes ☐ No</td>
</tr>
</tbody>
</table>

The Asylum Act does not provide a specific mechanism for the early identification of asylum seekers that are part of most vulnerable groups. Article 46(1) of the Asylum Act makes specific reference to vulnerable groups when referring to the general provisions on protection, stating that the specific situation of the applicant or persons benefiting from international protection in situations of vulnerability, will be taken into account, such in the case of minors, unaccompanied children, disabled people, people of advanced age, pregnant women, single parents with minor children, persons who have suffered torture, rape or other forms of serious violence psychological or physical or sexual, and victims of human trafficking.

1.1. Screening of vulnerability

In these cases, the Asylum Act encourages the adoption of necessary measures to guarantee a specialised treatment to these groups. These provisions, however, do not really concern procedural arrangements. Instead, the law makes a reference to protection measures and assistance and services provided to the person. In addition, due to the lack of a Regulation on the implementation of the Asylum Act to date, Article 46, as other provisions, is not implemented in practice.

Early risk assessment and other types of vulnerability identification are either conducted by asylum officers or police officers during the applicant’s asylum interview, or by civil society organisations that provide services and assistance during the asylum process and within asylum reception centres. In addition, the increase in the number of asylum seekers since 2017 exacerbated difficulties in the identification of vulnerabilities. The OAR does not collect disaggregated statistics on vulnerable groups.

UNHCR plays an important consultative role during the whole asylum process. Under the Asylum Act, all registered asylum claims shall be communicated to the UN agency, which will be able to gather information on the application, to participate in the applicant’s hearings and to submit reports to be included in the applicant’s record. In addition, UNHCR takes part in the Inter-Ministerial Commission of Asylum and Refuge (CIAR), with the right to speak but not to vote, playing a central role in the identification of particular vulnerabilities during the decision-making process.

Moreover, UNHCR’s access to asylum seekers at the border, in CIEs or in penitentiary facilities enables the monitoring of most vulnerable cases considering procedural guarantees. These are crucial places for the identification of most vulnerable profiles due to the existing shortcomings and limitations that asylum seekers face in accessing to legal assistance. In asylum claims following the urgent procedure and in the case of an inadmissibility decision on border applications, UNHCR is able to request an additional 10 days term to submit a report to support the admission of the case.

The framework of Migrant Temporary Stay Centres (CETI) in Ceuta and Melilla might be regarded as a missed opportunity for early identification of vulnerable profiles within mixed migration flows. These centres manage the first reception of undocumented newly arrived migrants and non-identified asylum seekers, before they are transferred to the Spanish peninsula. For this reason, CETI could provide an opportunity for the establishment of a mechanism of early identification of most vulnerable collectives. NGOs and UNHCR who work in the CETI try to implement this important task, but the limited resources,
frequent overcrowding of the centres and short-term stay of the persons prevent them from effectively doing so.

The lack of a protocol for the identification and protection of persons with special needs in CETI has always been criticised and continues to be a concern in 2023. Vulnerable groups such as single women, families with children, LGBTI+ people, and religious minorities, cannot be adequately protected in these centres.\textsuperscript{437} In addition, it is stressed that such factors of vulnerability, coupled with prolonged and indeterminate stay in the CETI, has a negative influence on the mental health of residents and serious personal consequences.

Regarding sea arrivals, identification of vulnerabilities should in principle be carried out in the CATE where newly arrived persons are accommodated (see Access to the territory). Save the Children started to deploy teams of professionals in some parts of the coast of Andalucía, in order to monitor sea arrivals, especially in relation to children. In particular, since 2018, the organisation works with migrant and refugee children arriving by boat to Algeciras, Almería and Málaga providing child-friendly spaces and counselling, and since 2022 also in the Canary Islands The organization also has a child friendly space at the land border in Melilla since 2014.\textsuperscript{438}

In relation to persons with disabilities, UNHCR and the Spanish Committee of Representatives of Persons with Disabilities (Comité Español de Representantes de Personas con Discapacidad – CERMI) underlined the importance of reinforcing guarantees for disabled asylum seekers and refugees. The organisations announced that they are preparing guidelines in order to assist persons with disabilities in the context of the international protection procedure from a human rights perspective.\textsuperscript{439} Guidelines to guarantee equal treatment and no discrimination of asylum seekers, statelessness applicants, refugees and stateless people with disabilities were published in May 2021.\textsuperscript{440}

In a report launched in June 2023, the State Observatory of Disabilities at the Ministry of Social Rights and Agenda 2030 called for the implementation of measures, protocols and tools aiming at improving the asylum procedure and the asylum reception system in line with the needs of persons with disabilities, and removing those barriers that impede their inclusion.\textsuperscript{441} In terms of obstacles persons with disabilities face in accessing asylum and the procedure, the report highlights the lack of provision of individualised information on rights and obligations of asylum seekers, the access to services for persons with disabilities, emotional needs disregarded, exclusion in the participation and decision making processes. Positive developments were reported in 2020 regarding identification of vulnerabilities related to the fact that the OAR now considers Female Genital Mutilation as an indicator for gender persecution, that LGBTQI+ cases are better assessed (especially those of Sub-Saharan asylum applicants), and that there has been an increase in recognition of a form of international protection to Moroccan women victims of gender-based violence. These positive improvements continued in 2023.

In July 2023 the Spanish Committee of Representatives of Persons with Disabilities (Comité Español de Representantes de Personas con Discapacidad – CERMI), Amnesty International and the ONCE Foundation signed an agreement with the aim of tackling the needs of persons with disabilities in the

\textsuperscript{438} Information provided by Save the Children on March 2023.
promotion and protection of human rights, with a specific focus on the international protection of persons with disabilities.\textsuperscript{442}

In 2023, UNHCR signed an agreement with the ONCE Foundation and the Spanish Committee of People with Disabilities for the inclusion of impaired persons. Moreover, the Forum “Spain with the Refugees” organised by UNHCR in advance to the Global Refugee Forum (GRF) recorded six pledges in favour of persons with disabilities, to improve access to information, assistance, referral to adequate services, and protection with a special focus on the inclusion of refugees with disabilities by strengthening their access to training and employment.\textsuperscript{443}

In addition, the UN Agency hosted, jointly with the Council of Europe, a seminar on the Protection of asylum-seekers and refugees with specific needs. The event brought together over 400 participants and speakers from the CoE, UNHCR, NGOs, academia, and competent authorities, including the police, the Ministry of Inclusion, Social Security and Migrations, and the Asylum Office. Among the topics addressed were the Council of Europe and UNHCR standards regarding the protection of asylum seekers and refugees with specific needs, the ECtHR case law of relevance, the identification and access to procedures, the referral mechanisms and the reception system. The event served to advocate for the strengthening of the protection of asylum seekers and refugees with specific needs in Spain.\textsuperscript{444}

**Human trafficking victims**

Major shortcomings are still registered regarding the treatment of trafficking victim’s cases; however, various improvements have been reported in recent years. Despite the adoption of two National Plans against Trafficking of Women and Girls for the purpose of Sexual Exploitation,\textsuperscript{445} and of a Framework Protocol on Protection of Victims of Human Trafficking,\textsuperscript{446} aiming at coordinating the action of all involved actors for guaranteeing protection to the victims, several obstacles still exist. The fight against trafficking is focused on girls and women trafficked for the purpose of sexual exploitation. In addition, not only is early identification of victims of trafficking very difficult, and their assistance and protection still challenging, but they also face important obstacles in obtaining international protection. The low number of identified victims of trafficking who have been granted refugee status in Spain highlights this fact. The first successful asylum claim on trafficking grounds was reported in 2009.

A report published in December 2022 by the organisation ‘Diaconía’ underlines the challenges that trafficked persons continue to face in Spain in accessing the information on asylum and the asylum procedure itself.\textsuperscript{447} In his 2022 annual report, the Spanish Ombudsperson continues to highlight the challenges in identifying trafficked persons and in the granting them international protection.\textsuperscript{448}

A report published by the network ‘Alarm Phone’ in January 2023 described the sexual and labour exploitation that migrants suffer in transit and destination countries around the Western Mediterranean, that is Spain, Morocco and Algeria, showing how similar conditions and mechanisms of exploitation exist on both sides of the Mediterranean and Atlantic areas.\textsuperscript{449}
An analysis of case-studies published in May 2023 by the NGOs ‘Proyecto Esperanza’ and ‘Sicar.Cat’ on the international protection needs of trafficked persons led to a set of recommendations to improve their rights, assistance and protection, concretely the need to generate common agreements or Memorandums of Understanding (MoU) between organisations, authorities and key actors in Southern European countries, which are the gateway to the EU for refugees and migrants, and organisations, authorities and key actors located in the countries of subsequent reception. Also, a Standard Operating Procedure (SOP) for transnational referral to ensure that transnational referral procedures are coordinated, consistent and centered on the rights of the victims or potential victims needs to be established. And finally, the training of key actors should be strengthened (both traditional and non-traditional), to improve the early identification of potential victims of trafficking, in the context of asylum procedures, and their ability to refer victims or potential victims safely and quickly. Awareness of the transnational dimension of human trafficking among frontline professionals is critical to advancing access to rights for trafficked persons.450

In order to improve the identification and referral of trafficked persons at the Madrid Barajas Airport, the Directorate-General for Integration and Humanitarian Assistance of the Ministry of Inclusion, Social Security and Migration signed the adoption of a specific procedure in October 2019, together with the State Delegation for Gender Violence of the Ministry of the Presidency, Relation with the Parliament and Equality.451 The new procedure foresees a collaboration framework with five NGOs working in the reception of asylum seekers and in the detection of - and assistance to - trafficked persons. The aim is to foster and guarantee a swift access to adequate support services, before and independently from their formal identification as victims of human trafficking. The NGOs participating to the procedure are the Spanish Red Cross, Proyecto Esperanza-Adoratrices, Association for the Prevention, Rehabilitation and Care for Women Prostituted (APRAMP), Diaconía and the Fundación Cruz Blanca. The initial idea was to extend the pilot project to other Spanish airports such as Barcelona and Málaga, but the Protocol was finally not formally extended.452 Despite the lack of a formal protocol, guidelines on detection, identification, referral and coordination are in place at the airport of Barcelona among relevant actors.453

Concerns about the identification of trafficked persons and the need for more proactive detection of victims of trafficking among asylum seekers and migrants in an irregular situation have been highlighted by relevant international organisations, such as the Council of Europe Special Representative on Migration and Refugees,454 and the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA).455 They also stressed the need of providing the staff working in CETI with training on the identification of victims of trafficking in human beings and their rights.

The Spanish Network against Trafficking in Persons (Red Española contra la Trata de Personas) and the Spanish Ombudsperson agree on the fact that this is due to a malfunctioning of the protection system because the victims, after being formally identified by Spanish security forces, are given a residence permit based on provisions of the Aliens Act, instead of taking into consideration their possible fulfilment of the requirements for refugee status. The latter would of course guarantee greater protection to victims of trafficking.

Since the start of 2017, the OAR started considering Nigerian women as part of a “particular social group” according to refugee law, and as such as possible beneficiaries of international protection due to individual persecution suffered as connected to trafficking. This continues to be positively observed since then; the

452 Information provided by Fundación Cruz Blanca, 11 January 2021.
453 Information provided by Fundación Aipip-Acam in March 2023.
OAR also granted asylum to a Colombian man victim of trafficking in 2021. There were also cases, in the past years, in which refugee status was granted to persons trafficked for the purpose of labour exploitation.

In April 2021, the Government launched a public consultation for the adoption of a law on trafficking, focusing on the sexual exploitation of women and girls. In 2022 the Government, through the Minister of Justice, designed and approved a proposal for a comprehensive law to address trafficking in all its forms and in relation to all victims. Due to the general elections held in 2023 and the negotiations to form a new Government, the proposal was not adopted. In March 2024, the Council of Ministers adopted a new comprehensive law proposal.

In December 2021, the Minister of Interior adopted the National Strategic Plan on Trafficking in Human Beings and Exploitation for the period 2021-2023, aimed at guaranteeing adequate protection and assistance to all victims of trafficking and exploitation. The Plan makes reference to the Asylum Act, specifically for what concerns the differential treatment foreseen by Article 46 for certain groups – among which trafficking victims - in the asylum procedure. Additionally, the plan addresses the topic of international protection needs as regards certain trafficked persons.

Another relevant instrument adopted in the same month is the ‘National Action Plan against Forced Labour: compulsory labour relations and other forced human activities’. Even though it does not explicitly refer to asylum, the Action Plan represents an important step forward in tackling forms of trafficking different from trafficking for sexual purposes, and in addressing all victims.

In 2021, the Group of Experts on Action against Trafficking in Human Beings (GRETA) of the Council of Europe started its third evaluation round of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Spain. The country visit was carried out in July 2022 and the evaluation report was published in June 2023. Among the recommendations made, GRETA urged the Spanish authorities ‘to put in place and operationalise a National Referral Mechanism (NRM) and to ensure that, in practice, formal identification of victims does not depend on the presence of sufficient evidence for the initiation of criminal proceedings’. It also called on the Spanish authorities to strengthen the proactive detection of victims of trafficking among asylum seekers and migrants arriving in Ceuta, Melilla and the Canary Islands.

On the occasion of the World Day against Trafficking in Persons, the Forum for the Social Integration of Migrants (Foro para la Integración Social de los Inmigrantes) asked the new Government formed following the general elections to make the fight against trafficking a priority and to increase the State budget to guarantee assistance and protection to all victims, independently of the purpose of exploitation.

463 Ministerio de Inclusión, Seguridad Social y Migraciones, ‘Declaración del Foro para la Integración Social de los Inmigrantes (FISI) sobre el día mundial contra la trata de seres humanos’, 30 July 2023, available in Spanish at: https://tinyurl.com/utmazv7b
NGO ‘CEAR’ also called on the Government to adopt the proposal for a comprehensive law against trafficking, to put in place measures for the identification and protection of trafficked persons through multidisciplinary teams, and to guarantee trafficked persons access to the asylum procedure. The same call for the adoption of the proposal for a comprehensive law against trafficking was made also by Amnesty International and the Spanish Network against Trafficking in Persons in May 2023.

1.2. Age assessment of unaccompanied children

A specific Protocol regarding unaccompanied children was adopted in 2014 in cooperation between the Ministries of Justice, Interior, Employment, Health and Social Services and of Foreign Affairs along with the Public Prosecutor (Fiscalía General), which aims at coordinating the actions of all involved actors in the Spanish framework in relation to unaccompanied children. It should be highlighted that, due to the territorial subdivision of competences, the Protocol only represents a guidance document for all actions involving unaccompanied minors, which aims at being replicated at lower regional level. In fact, children-related issues fall within the competence of the Autonomous Regions between which governance is divided in Spain.

The Protocol sets out the framework for the identification of unaccompanied children within arrivals at sea and defines the procedure that should be followed for the conduct of age assessment procedures in case of doubts about the age of the minor.

It establishes that children’s passports and travel documents issued by official authorities have to be considered as sufficient evidence of the age of the person, but it also sets out the exceptions to this rule and the cases in which the child can be considered undocumented, and accordingly be subjected to medical age assessment. These circumstances are the following:

(a) The documents present signs of forgery or have been corrected, amended, or erased;
(b) The documents incorporate contradictory data to other documents issued by the issuing country;
(c) The child is in possession of two documents of the same nature that contain different data;
(d) Data is contradictory to previous medical age assessments, conducted at the request of the public prosecutor or other judicial, administrative or diplomatic Spanish authority;
(e) Lack of correspondence between the data incorporated into the foreign public document and the physical appearance of the person concerned;
(f) Data substantially contradicts circumstances alleged by the bearer of the document; or
(g) The document includes implausible data.

Concerning the fourth condition relating to previous age assessments, it is important to note that these age determination tests are not precise and make an estimation of the date of birth of the young migrant, which would imply cases where the two dates of birth would never coincide. In those cases, the Protocol would justify the application of a second age assessment test and the non-consideration of the officially issued document of the person.

Medical methods and consideration of documentary evidence

Under Article 35(3) of the Aliens Act, the competence to decide on the application of medical tests aimed to remove the doubts about the majority or minority of age of undocumented children is exclusive of the Public Prosecutor’s Office. The medical assessment foresees the application of X-ray tests to assess the maturity of the minor’s bones.

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464 CEAR, ‘Detectar e Identificar a las víctimas de trata, un paso urgente para acabar con esta lacra’, 28 July 2023, available in Spanish at: https://tinyurl.com/mu2azp53
465 Amnistía Internacional, ‘AI: Por una Ley Integral contra la Trata de Seres Humanos’, 16 May 2023, available in Spanish at: https://tinyurl.com/2mrwbk2
468 Chapter II, para 6 Protocol on Unaccompanied Minors.
When the medical test has been performed, the age of the person will match with the lower value of the fork; the day and month of birth will correspond to the date in which the test has been practiced.

These tests have resulted in very problematic age determinations and have attracted many criticisms from international organisations, NGOs\(^{469}\), academics, the UN Committee on the Rights of the Child, as well as administration officers and the Spanish Ombudsperson.\(^{470}\) The main concerns regard the inaccurate nature of the tests, their lack of accuracy if applied to persons with different ethnicities mainly due to the lack of professionals’ medical knowledge on the physical development of non-European minors, the lack of provision of information to the minor on how tests work and on the whole procedure. In addition, it has been proven by several documents that, while these tests limit children’s access to their dedicated protection system, they do not limit adults’ access to the minors’ system.\(^{471}\) The most criticised aspect of the practical application of the tests for the determination of age is the lack of legislative coherence and the excessive discretion of the authorities.

The Law on the protection of children from violence adopted in 2021 establishes the obligation to apply the presumption of minority of age when age cannot be determined, and that integral nudes, genital explorations or other invasive examinations cannot be carried out under any circumstances.\(^{472}\)

The provisions of the Protocol do not follow the recent Spanish Supreme Court ruling, which has provided clarification and the right interpretation of Article 35 of Aliens Act, which provides that “in case it is not possible to surely assess the age, tests for age determination can be used”.\(^{473}\)

In this judgment, the Supreme Court ruled that, when the official documentation of the minor states the age minority, the child must be sent to the protection system without the conduct of medical tests. In the cases when the validity of the documentation is unclear, the courts will have to assess with proportionality the reasons for which the mentioned validity is questioned. In that case, medical tests can be conducted but always bearing in mind that the doubts based on the physical aspects of the minor must be read in their favour. In the same way, documented unaccompanied minor migrants cannot be considered undocumented if they hold an official document issued by their country of origin. As said above, this latter aspect is contradicted by the Protocol.

Between 2017 and 2021, the United Nations Committee on the Rights of the Child granted interim measures in cases concerning medical age assessments of unaccompanied children in Spain\(^{474}\), and issued several decisions condemning Spain for its illegal practices and methodologies used for carrying out the procedure.\(^{475}\)

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\(^{471}\) Clara Isabel Barrio Lema, María José Castaño Reyero and Isabel Díez Velasco, Instituto Universitario de Estudios sobre Migraciones, Universidad Pontificia Comillas, ‘Colectivos vulnerables en el sistema de asilo’, December 2019, available in Spanish at: [https://cutt.ly/3r1JJP5](https://cutt.ly/3r1JJP5).


In practice, medical age assessment procedures are used as a rule rather than as an exception, and are applied to both documented and undocumented children, no matter if they present official identity documentation or if they manifestly appear to be minors; the benefit of the doubt is also not awarded in practice. Children are also not given the benefit of the doubt if they present documentation with contradictory dates of birth.

In a decision issued in June 2020, the Spanish High Court (Tribunal Supremo) reiterated the necessity to ensure the validity of the documentation issued by Embassies and Consulates to children, in light of the principles and guidance made by the UN Committee on the Rights of the Child on age-assessments in Spain.\(^\text{476}\)

With three decisions issued in May and June 2021, the Supreme Court (Tribunal Supremo) established the validity of the documentation of the child’s country of origin to prove his/her minority of age, also when it’s posterior to the Public Prosecutor’s decree establishing the majority, as far as the documentation is not considered forged or manipulated. It is hoped that the jurisprudence set by the Supreme Court will finally revert the trend existing so far in Spain.\(^\text{477}\)

As underlined by Save the Children, the main difficulties for children arriving to Spain concern their identification and age assessment and the detection of their vulnerability. Also, the presumption of minority at entry points has proven to be difficult, especially when involving adolescents or girls and boys close to turning 18. Where the border police have doubts over a child’s age, and no identification documents are provided, the children are not systematically integrated under public minor protection system until their age is assessed. This means that some of them have to wait inside CATEs (which are de facto detention centres managed by the police) until they are taken to the nearest hospital to have their age assessed through radiographies of their wrist, collarbone or teeth. The age assessment procedure (e.g. using X-ray examination) is subject to many criticisms both from scientific and civil society sectors as they are not reliable, with a margin of error of the age that can vary from down to up to 2 years.\(^\text{478}\)

In addition, several NGOs denounce the discriminatory application of the procedure, which, for example, is always applied to Moroccan unaccompanied young migrants based solely on their nationality, and the only original documentation that is considered as valid is the one that states that the migrant has reached the major age. Some organisations have expressed their concerns and denounced the fact that most of the unaccompanied migrants are declared adults, following several applications of the tests until the result declares the person of major age.\(^\text{479}\) In this way, the Autonomous Communities would avoid taking charge of the children.

At the beginning of 2021, the Spanish Ombudsperson translated into several languages an animated video elaborated by the EUAA and the Council of Europe on age assessment procedures that must respect and comply with children rights standards. It was translated into Wolof, Bambara and the Moroccan Arabic.\(^\text{480}\) The Spanish Ombudsperson shared the video with all relevant authorities involved in identifying and protecting children, and recommended its use in particular on the Canary Islands.

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\(^{479}\) Information provided by Save the Children, 1 April 2020.

In April 2022 the Government adopted the law proposal for the regulation of the age assessment procedure which provides, i.e., for the establishment of the presumption of minority age while the procedure is on-going, for the realisation of a civil judicial procedure instead of an administrative one, for guaranteed legal assistance during the procedure, and the prohibition of invasive methods, such as integral nudes and genital examinations.\textsuperscript{481} Civil society organisations welcomed the law proposal as it improves the existing situation, but they consider that some modifications should be made, for it to be fully in line with existing jurisprudence as well as with the recommendations made by the UN Committee on the Rights of the Child.\textsuperscript{482} Similarly, while welcoming the proposal, Save the Children stressed that there it still raises some concerns, such as the provision regarding the urgency of the procedure which leads to tight deadlines, the lack of mandatory request of child documentation to consulates and embassy of origin, the impossibility to appeal and change the results of the evaluation. Additionally, it highlighted the possible obstacles to the application of the presumption of minority age when children have just arrived by sea and are detained within CATE where no lawyers nor guardians are appointed have been underlined.\textsuperscript{483}

In view of the General Elections, the Platform for Childhood (\textit{Plataforma de Infancia}) and UNICEF sent to the political parties a set of proposals, which includes, among others, the call to reform the age assessment procedures.\textsuperscript{484}

Within the reporting procedure of the UN Committee for the Rights of the Child, one of the questions presented to the Spanish Government in the List of Issues Prior to Reporting refers to the measures put in place to end with the human rights violations that occur with the age assessment procedure.\textsuperscript{485}

At the end of 2022, the Constitutional Court (\textit{Tribunal Constitucional}) examined a case regarding appealing against age assessment decisions. The court considered that the opportunity to challenge an age assessment decision was a requirement for the right to effective judicial protection to be upheld.\textsuperscript{486}

\textbf{Other obstacles in practice}

The Protocol does not foresee legal assistance for minors from the moment they come into contact with the authorities. The minor, who is in charge of signing the authorisation to be subjected to the tests of age determination, can only count on the right to an interpreter to explain to him or her the procedure. On the contrary, the possibility to be assisted by a lawyer is not foreseen.

It should be highlighted that one of the main problems regarding the age of unaccompanied children, and in particular those arriving in Ceuta and Melilla, is the fact that many prefer to declare themselves as adults because of the deficiencies of the minors’ protection system and the restriction of movement to which they are subject in the two autonomous cities. This means that unaccompanied children prefer to be transferred to the Spanish peninsula as adults, thereby not being able to access the \textit{ad hoc} protection system there, instead of remaining as children in Ceuta and Melilla. Once in the peninsula, these children find it almost impossible to prove they are minors as they have already been registered and documented as adults.

\textsuperscript{481} Ministerio de Justicia, ‘El Consejo de Ministros aprueba el Anteproyecto de Ley por el que se Regula el Procedimiento de Evaluación de la Edad’, 12 April 2022, available in Spanish at: \url{https://bit.ly/3mMIXWj}.
\textsuperscript{482} Plataforma de Infancia, ‘Organizaciones sociales proponemos modificaciones al Anteproyecto de Ley sobre el procedimiento de evaluación de la edad de los niños y niñas no acompañados’, 10 May 2022, available in Spanish at: \url{https://bit.ly/3JAhAxj}.
\textsuperscript{483} Information provided by Save the Children in March 2023.
Due to the increase of arrivals to the Canary Islands, the time needed to carry out age assessment procedures significantly increased in 2020.487 These issues persisted at the beginning of 2021 as thousands of children continued to be accommodated in adult reception facilities pending the age assessment procedure.488 The Government of Canarias had already urged the Autonomous Communities in November 2020 to relocate around 500 unaccompanied children; the first relocations were carried out from March 2021.489 Regardless, transfers carried out throughout 2021 have not been sufficient to solve the situation, as just 208 minors were transferred to mainland. At the beginning of 2022, 2,600 unaccompanied migrant children were still under the protection of the Canary Islands.490 In May 2022, 976 children (40% of the children under the guardianship of the Autonomous Community) continued to wait their age assessment.491

Similarly, Save the Children asked the Government to urgently act to protect migrant children arriving to the Canary Islands and to speed up their transfer to mainland, inter alia by adopting a protocol on sea arrivals adapted to children’s needs.492 One of the main reasons for the delay in age assessment procedures seems to be the lack of human resources.493 In order to speed up the tests, the Public Prosecutor of Gran Canaria authorised the possibility to carry out age assessments in private medical centres.

In May 2022, the UNHCR Representative for Spain expressed concern for the situation of the more than 2,300 unaccompanied children under the guardianship of the Autonomous Community of the Canary Islands, and on the challenges they face in accessing asylum, especially considering that many of them are fleeing conflict in their countries, such as Mali.494

In February 2024, a judge decided to release a Senegalese migrant who had been detained for almost 60 days for allegedly having driven illegally a boat to the Canary Islands, by declaring him as a minor. The child had declared to be a minor and provided his birth certificate to competent authorities; regardless, he had been assessed as an adult after age assessment procedure.495 The Ombudsperson of the Canary Islands opened an investigation to clarify the situation occurred, and urged the Government of the archipelago to carry out in an immediate timeframe since the arrival. To this date, 5,500 migrant children are waiting for the result of their age assessment procedures.496

In February 2024, the UN Committee on the Rights of the Child urged Spain to transfer to a minors’ reception facility a 14 years old unaccompanied child from Gambia who had been living on the street for four days in the Autonomous Community of Madrid. Despite providing his birth certificate, his passport and his childlike appearance, he was treated as an adult and left in a situation of abandonment.497 Regarding unaccompanied children in need of international protection, UNHCR conducted trainings directed at more than 1,000 professionals from central and regional government and NGOs working in

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child protection centres, resulting in an increased sensitivity and attention to their specific needs and enhanced collaboration among relevant actors to speed up their referrals to the asylum procedure. UNHCR, with the support of the University of Comillas, developed a Practical Guide for Professionals working with Unaccompanied and Separated Refugee Children, a practical tool for professionals who play a role in the protection and assistance of refugee children arriving in Spain, and started its dissemination with the police, child protection services, the Office for Asylum and Refugee (OAR), NGOs and lawyers.  

As the 2021 Public Prosecutor annual report underlined, despite the efforts put in place by the competent institutions, 1,064 decisions on age assessments were still pending in 2021. A report published by UNICEF informs that, at the beginning of July 2021, out of 2,528 presumed minor children under the guardianship of the government of the Canary Islands, 1,753 children were still waiting for their age to be assessed.

In a hearing in front of the Senate in April 2021, the Spanish Ombudsperson requested the Autonomous Communities to collaborate and to show solidarity in the protection and reception of unaccompanied migrant children who arrived at the Canary Islands. Nine Autonomous Communities (Cataluña, Navarra, Cantabria, Valencia, Castilla y León, Extremadura, Galicia, Asturias and Aragón) accepted the request to take in 200 children. The Ombudsperson also stressed the necessity for the Public Prosecutor Office to reform the age assessment procedure, in order to accelerate it.

Statistics on age assessments are always published in the month of September of the following year: i.e. figures on 2023 will only made available in September 2024. From 2017 to 2022, the Prosecutor concluded the following age assessment examinations:

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</thead>
<tbody>
<tr>
<td><strong>Total assessments conducted</strong></td>
<td>5,600</td>
<td>12,152</td>
<td>7,745</td>
<td>5,038</td>
<td>6,677</td>
<td>4,805</td>
</tr>
<tr>
<td>Determined as adult</td>
<td>2,205</td>
<td>3,031</td>
<td>2,477</td>
<td>1,562</td>
<td>1,654</td>
<td>1,264</td>
</tr>
<tr>
<td>Determined as minor</td>
<td>2,751</td>
<td>4,558</td>
<td>3,732</td>
<td>2,446</td>
<td>3,245</td>
<td>2,163</td>
</tr>
<tr>
<td>Cases filed</td>
<td>644</td>
<td>4,563</td>
<td>1,037</td>
<td>855</td>
<td>1,778</td>
<td>1,378</td>
</tr>
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</table>


Registration of unaccompanied minors

Another important issue relates to the registration of unaccompanied minors, and over the years different organisations and bodies (i.e. Ombudsperson) have raised concerns on the issue. In March 2019, the National Court ruled that the conditions for the registration of Spanish children before municipalities must be equally applied to foreign children. The claim had been lodged by the NGO Caritas-Spain, and resulted in a decision of the Supreme Court (Tribunal Supremo) in April 2022, establishing that the requirement of a visa for registration of Moroccan children was illegal and discriminatory compared to Spanish children or children of other nationalities. Despite that, in October 2022 the NGO 'Solidarity

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498 Information provided by UNHCR in March 2023.
504 Tribunal Supremo. Sala de lo Contencioso, Decision n° 473/2022, 25 April 2022, available in Spanish at: https://tinyurl.com/375j45ah.
Wheels’ warned that the authorities in Melilla continued to ask for a visa in order to register Moroccan children.\textsuperscript{505}

In view of the reform of the Ruling of the Immigration Law, in early 2021 different organisations presented a set of proposals for reforming the provisions related to unaccompanied migrant children, especially regarding their registration and documentation in order to ensure their effective integration in Spain.\textsuperscript{506} The reform was finally adopted in October 2021. It facilitates access to residence and work permits for unaccompanied migrant children, as well as those for who arrived as children and aged out and are between 18 and 23 years old, and allows access to work also for children turning 16.\textsuperscript{507} The change is expected to improve living conditions and integration prospects for thousands of young people. From the entry into force of the reform in November 2022 until 30 June 2023, a total of 16,211 children and young adults aged between 16 and 23 years old had a residence permit. In addition, the 60\% of them were in the labour register.\textsuperscript{508}

2. Special procedural guarantees

<table>
<thead>
<tr>
<th>Indicators: Special Procedural Guarantees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Are there special procedural arrangements/guarantees for vulnerable people?</td>
</tr>
<tr>
<td>❖ If for certain categories, specify which:</td>
</tr>
</tbody>
</table>

The law does not foresee specific procedural guarantees for vulnerable asylum seekers, except for the special rule on unaccompanied asylum-seeking children who are entitled to have their application examined through an urgent procedure, which halves the duration of the whole process. As explained in Regular Procedure: Fast-Track Processing, the urgent procedure reduces time limits for the whole asylum process from 6 months to 3. Beyond this, the existing protocols on unaccompanied children and victims of trafficking do not imply special guarantees.

The OAR states that its staff is trained on EUAA training modules, but that there are no specialised units dealing with cases from vulnerable groups.\textsuperscript{509}

In view of the General Elections, in its set of proposals to the political parties, the Platform for Childhood (Plataforma de Infancia) asked to guarantee the rights of children, notably asking that the asylum procedure and the asylum reception system are adapted to the needs of children, and that they guarantee their rights, including the right to be heard, to be informed, and that their best interest is assured in any decision affecting the child.\textsuperscript{510} A similar proposal was made by UNICEF.\textsuperscript{511}

Several concerns regarding the measures and provisions regarding identification, age assessment and protection of unaccompanied children are discussed in Identification. In October 2022, UNHCR and Universidad Pontificia Comillas published guidelines addressed to professionals dealing with separated and unaccompanied migrant children.\textsuperscript{512}

\begin{thebibliography}{9}
\bibitem{505} El Salto Diario, ‘Melilla: ¿se cumple el derecho de la infancia migrante a empadronarse?’, 25 April 2023, available in Spanish at: https://tinyurl.com/3y73sfzk.
\bibitem{506} La Merced Migraciones, ‘Garantizar el derecho a documentarse de los niños y niñas que llegan solos a España’, February 2021, available in Spanish at: https://bit.ly/2ZEDsKo.
\bibitem{508} Ministerio de Inclusión, Seguridad Social y Migración, Observatorio Permanente de la Inmigración, ‘Menores no acompañados y jóvenes extutelados con autorización de residencia’, available in Spanish at: https://tinyurl.com/3mcst25.
\bibitem{509} Information provided by OAR, 20 August 2017.
\bibitem{512} ACNUR, Universidad Pontificia Comillas, ‘Guía para profesionales que trabajan con niños y niñas refugiados no acompañados’, October 2022, available in Spanish at: https://bit.ly/3JIJc3J.
\end{thebibliography}
Although the Asylum Act does not foresee the exemption of persons with special needs from the Border Procedure, in practice the OAR makes exceptions for applicants such as pregnant women or persons requiring medical assistance, presumed trafficking victims, who are admitted to the territory.\footnote{Information provided by Accem’s legal service in April 2023.}

### 3. Use of medical reports

<table>
<thead>
<tr>
<th>Indicators: Use of Medical Reports</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the law provide for the possibility of a medical report in support of the applicant’s statements regarding past persecution or serious harm?</td>
</tr>
<tr>
<td>2. Are medical reports taken into account when assessing the credibility of the applicant’s statements?</td>
</tr>
</tbody>
</table>

Neither the Asylum Act nor the Asylum Regulation mention explicitly the possibility to have medical reports supporting the applicant’s allegations. Nonetheless, the law does state that the competent authority will be able to ask any institution or organisation to provide a report on the situation of the applicant.\footnote{Article 24(2) Asylum Regulation.} In practice, medical reports are often used and included in the applicant’s asylum file.

The examinations are paid through public funding, as all asylum seekers have full and free access to the Spanish public health system. The examination may be requested by either the applicant or the OAR itself in case it deems it necessary, although this rarely happens in practice.

It should be noted that medical reports on the conditions of asylum seekers in Spain are not only relevant under the asylum process but also in case the asylum application is denied, to provide the possibility to receive a residence permit based on humanitarian grounds.\footnote{Articles 37(b) and 46(3) Asylum Act.}

There are no ad hoc organisations or specialised bodies carrying out the medical assessment for asylum seekers, or writing medical reports for asylum applications.

The methodology recommended under the Istanbul Protocol is not always applied. Its application depends on the characteristics of the patient and their past experiences, and it is up to the doctor’s discretion whether to follow the Protocol.

### 4. Legal representation of unaccompanied children

<table>
<thead>
<tr>
<th>Indicators: Unaccompanied Children</th>
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</thead>
<tbody>
<tr>
<td>1. Does the law provide for the appointment of a representative to all unaccompanied children?</td>
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</table>

The guardianship system in Spain is governed by the Spanish Civil Code, which establishes the conditions and defines the actions foreseen in the following different situations: measures in situations of risk, measures in situations of homelessness/distress, guardianship and family reception. The competence of minors’ protection departments corresponds to the Autonomous Community or city which is responsible for the appointment of a legal guardian to its public entity of children protection. The process of guardianship starts with the Declaration of Abandonment (Declaración de Desamparo) by the Autonomous Communities, which is the declaration of the homelessness/helplessness of the minor, and represents the first step not only for undertaking the guardianship of the child but also to guarantee their access to the minors’ protection system and services. This procedure has different durations depending on the Autonomous Community in which it is requested, but a maximum time limit of three months must be respected for the assumption of the guardianship by the public entity of protection of minors, as set by the Protocol.\footnote{Chapter VII, para 1(2) Protocol on Unaccompanied Minors.}

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After the declaration of Desamparo, the public administration grants the guardianship, and the minor is provided with clothing, food and accommodation. Guardianship is usually left to entities such as NGOs or religious institutions, which are financed by Minors’ Protections Services. It implies the responsibility of protecting and promoting the child’s best interests, guaranteeing the minor’s access to education and proper training, legal assistance or interpretation services when necessary, enabling the child’s social insertion and providing him or her with adequate care. Concerning the specific issues of asylum applications, the Protocol states that the guardians will take care of providing the minor with all needed information and guaranteeing him or her access to the procedure.

Shortcomings have been highlighted regarding the guardianship systems for unaccompanied minors, mostly due to the excessive length of the procedures for issuing an identification document when children are undocumented. Moreover, serious concerns have been reported regarding children who have been under the guardianship of the Autonomous Communities and are evicted from protection centres once they turn 18 even if they have not been documented or have not yet received a residence permit. In these cases, children are left in the street, homeless and undocumented. As previously mentioned, in October 2021 the Regulation of the Immigration Law has been reformed and it facilitates access to residence and work permits for unaccompanied migrant children, as well as those for who arrived as children and “aged out” during the procedure, but are between 18 and 23 years old; moreover, it allows access to work also for children turning 16. So far, the reform is having a positive impact on the lives of children, by making sure they are not left undocumented, as well as to avoid situations of homelessness, and it is hoped that such positive effects will continue.517

In its thematic report on the migration situation in the Canary Islands, Amnesty International reported on the lack of proper protection that unaccompanied migrant children face, including the delays in undergoing age assessment procedure and the risk of homelessness.518 Similarly, different organisations had previously reported on problems faced by UAMs in Spain.519

Concerning the right to apply for asylum, Article 47 of the Asylum Act establishes that unaccompanied children shall be referred to the competent authorities on children protection. In addition to this provision, the National Protocol on unaccompanied children makes specific reference to the cases of children in need of international protection, with the aim of coordinating the actions of all involved actors and guarantee access to protection.

Nevertheless, it should be highlighted that there are very few asylum applications made by unaccompanied children. In 2020, 45 unaccompanied migrant children applied for international protection,520 while in 2021 they were 50521 and in 2022 they were 94.522 Statistics on the year 2023 were not available at the time of writing.

In relation to the low numbers of asylum applications by UAMs, it is worth to mention that they are protected under the Law on Child Protection, and that the identification of their international protection needs has represented a significant challenge in Spain since many years. Thus, even though UAMs stay

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in Spain, the vast majority of them do not apply for asylum, due to multiple factors (i.e. lack of information of the right to asylum they have, lack of identification of their international protection needs by the authorities competent on child protection, etc.). Even though among all the UAMs who arrive to Spain, some of them can decide to move to other countries, the lack of identification of their international protection needs represents the main reasons of such low numbers.

Given the increasing numbers of arrivals in Spain, the low numbers on unaccompanied children seeking asylum highlight the existence of shortcomings concerning their access to protection. This is mostly due to the lack of provision of information on international protection within the minors’ protection systems of the Autonomous Communities.

In 2023, UNHCR observed progresses in the identification of unaccompanied children in need of international protection by competent authorities, as well as regarding facilitating their access to the asylum procedure. Over 900 professionals from central and regional government bodies and NGOs working in child protection centers received intensive training from UNHCR. In some locations, regional child protection authorities promoted priority channels with the police – competent for registration of asylum claims-, supported by UNHCR. Moreover, UNHCR established two working groups with child protection services in Andalusia and the Canary Islands to enhance capacity in identifying and referring children in need of international protection. UNHCR continued disseminating its 2022 Practical Guide for Professionals working with Refugee Children aimed to enhance the capacity of regional child protection authorities. UNHCR has widely disseminated the guide among regional child protection authorities including through extensive online sessions jointly organized with the Ministry of Social Rights to present this tool to over 60 professionals from reception centers, and in protection-focused training sessions conducted in collaboration with the European Union Agency for Asylum, Save the Children and the Spanish Committee of UNICEF. In addition, UNHCR provided technical support for the development of support tools addressed to asylum officials and the Police dealing with child asylum applicants.⁵²³

E. Subsequent applications

<table>
<thead>
<tr>
<th>Indicators: Subsequent Applications</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the law provide for a specific procedure for subsequent applications?</td>
</tr>
<tr>
<td>2. Is a removal order suspended during the examination of a first subsequent application?</td>
</tr>
<tr>
<td>☑ At first instance</td>
</tr>
<tr>
<td>☐ At the appeal stage</td>
</tr>
<tr>
<td>3. Is a removal order suspended during the examination of a second, third, subsequent application?</td>
</tr>
<tr>
<td>☑ At first instance</td>
</tr>
<tr>
<td>☐ At the appeal stage</td>
</tr>
</tbody>
</table>

The Asylum Act does not provide for a specific procedure for subsequent applications and does not set a limit number of asylum applications per person.

When the OAR receives the new asylum claim, in practice, the second application submitted by the same applicant will not be deemed admissible in the first admissibility phase if it does not present new elements to the case.

Being considered as new asylum claim, and not as a subsequent application, the applicant will have the same rights as any other first-time asylum applicant, including the right not to be removed from Spanish territory. Consequently, the person is allowed on the territory until they receive a response on the admissibility of their file and the correspondent timing during the available appeals foreseen under the Asylum Act, which is when the lawyer asks for precautionary measures to be taken to avoid the removal.

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⁵²³ Information provided by UNHCR in April 2024.
According to Eurostat, 3,245 subsequent applications were presented in Spain in 2021, 1,805 in 2022, and 1,965 in 2023.524

Usually, people that are beneficiaries of protection in other EU Member States (as often happens for beneficiaries of international protection coming from Italy) do not apply for asylum in Spain. A solution for regularisation is instead often found via the Immigration Law. It should be noted, however, that such a situation is registered in a very limited number of cases.

Before the Taliban takeover, Afghans nationals were often denied asylum in Spain. After the evacuation, Afghans already living in Spain started receiving some form of international protection (most commonly subsidiary protection). Those arrived through the evacuation operation, are in general receiving refugee status.525 In addition, Afghans are now arriving through the application of Article 38 of the Asylum Law, that allows them to apply for asylum at embassies and consulates, and they are receiving refugee status.

F. The safe country concepts

Indicators: Safe Country Concepts

1. Does national legislation allow for the use of “safe country of origin” concept?
   - Is there a national list of safe countries of origin?
   - Is the safe country of origin concept used in practice?

2. Does national legislation allow for the use of “safe third country” concept?
   - Is the safe third country concept used in practice?

3. Does national legislation allow for the use of “first country of asylum” concept?

1. Safe third country

The concept of “safe third country” is defined with reference to Article 27 of the Asylum Procedures Directive and where appropriate with an EU list of safe third countries, as a country where the applicant does not face persecution or serious harm, has the possibility to seek recognition as a refugee and, if recognised, enjoy protection in accordance with the Refugee Convention. The law also requires the existence of links in the form of a relationship with the safe third country, which make it reasonable for the applicant to be returned to that country.526 The applicability of the “safe third country” concept is a ground for inadmissibility (see section on Admissibility Procedure).

The OAR has increasingly applied the “safe third country” concept in recent years. In 2020, the concept was also applied to Venezuelans, as the authorities consider that any other South American country should be considered as a safe third country for the applicants coming from the country. The same situation continued to persist in 2022. Since the second half of 2023, the concept has stopped to be used for Venezuelans staying in other Latin America countries.527 The Government does not expressly refer to the “safe third country” concept, but the motivation of the dismissal of the application is essentially based on it. The concept has been applied in 2018 especially in cases of mixed marriage between Moroccan and Syrian nationals. In 2019, 2020 and 2021 it was also been applied to Syrians who have lived in Morocco for a period of time, even though they did not hold any residence permit. These designations have been upheld by several rulings of the Audiencia Nacional.528 According to Accem’s knowledge, the criteria have not changed for Syrians, even though there are currently few Syrian applicants in Spain, and they are mainly reaching the country through its resettlement programme. In a decision of 2018, the

524 Eurostat, migr_asyappctza.
525 Information provided by Accem’s legal service on April 2024.
527 Information provided by Accem’s legal service in April 2024.
Audiencia Nacional refers to Morocco as a “safe third country”, indicating that the Court has reiterated this position on many occasions.  

1.1. Safety criteria

According to the Audiencia Nacional, the obligation to examine asylum applications on the merits “ceases to exist when the applicant can or should have presented the application in another country which is also signatory to the Geneva Convention, as the latter must also guarantee the application of the Convention.” In principle, both the ratification and the application of the Geneva Convention are necessary conditions for the application of the safe third country concept.

The Court has ruled that Morocco is a safe third country at various occasions. It referred inter alia to the country’s “advanced status” under the European Neighbourhood Policy as indication of its safety. The same reasoning was used in a case concerning Algeria. As far as the author is aware, the same situation persists in the case of Morocco, while no information is available with regards to Algeria.

It is important to note, however, that although it has stressed several times the necessity for a third country to have ratified the Geneva Convention to be considered as safe, the Audiencia Nacional stated that Lebanon is a safe third country in a 2018 case.

Since 2019, no statistics on the main nationalities receiving inadmissibility decisions were publicly available (see Admissibility Procedure).

1.2. Connection criteria

Although Article 20(1)(d) of the Asylum Act refers to the existence of a connection between the applicant and the third country, the aforementioned rulings of the Audiencia Nacional have not referred to the connection criteria when concluding that Morocco is a “safe third country”.

In a ruling of February 2018, however, the Audiencia Nacional noted that an asylum application cannot be dismissed on the sole basis of transit through a third country signatory of the Geneva Convention. The authorities have to assess whether the applicant stayed in the country for a reasonable period of time, so as to establish a connection with the country.

2. Safe country of origin

The notion of “safe country of origin” is defined with reference to the conditions for “safe third countries” laid down in Article 20(1)(d) of the Asylum Act. The application of the safe country of origin concept is a ground for applying the urgent procedure (see Regular Procedure: Fast-Track Processing).

There is no widespread practice on the use of this concept, although the Audiencia Nacional reasoned in 2016 that Morocco and Algeria qualify as a “safe countries of origin” on the ground that they are “safe third countries”, without referring to separate criteria. It seems that the concept is rarely used in practice.
However, it has to be underlined that in the last years, the Spanish Government is granting protection to Moroccan nationals in specific cases, such as when, political grounds (i.e. those coming from the Rif region), LGTBI+, and gender-based violence grounds of persecution are deemed to exist.

G. Information for asylum seekers and access to NGOs and UNHCR

1. Provision of information on the procedure

<table>
<thead>
<tr>
<th>Indicators: Information on the Procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice?</td>
</tr>
</tbody>
</table>

❖ Is tailored information provided to unaccompanied children? ☐ Yes ☑ No

The Asylum Regulation, which gives practical application to the previous version of the Asylum Act, makes specific reference to the provision of information to asylum seekers on their rights.\(^\text{538}\) It provides that the Spanish administration, in collaboration with UNHCR and other NGOs who work with refugees, will elaborate leaflets for the provision of relevant information to asylum seekers in several languages.

The Ministry of Interior has published a leaflet, available online and handed to all applicants at the moment they express the will to ask for international protection, so that they can contact any organisation that provides support and assistance.\(^\text{539}\) The information is available in English, French, Spanish and Arabic.

In addition, the Asylum Regulation specifies that information on the asylum procedure and on applicants’ rights will be given orally by the authority in charge of the registration procedure, and in particular on their right to free legal assistance and interpretation service.\(^\text{540}\)

Besides institutional information channels, other organisations design and disseminate information leaflets and brochures regarding the asylum procedure and related rights. The information may be provided in several languages, depending on the entity promoting the material.

During COVID-19, NGOs continued to support asylum seekers via remote tools such as phones or video calls. After the first lockdown, assistance in person was also ensured in accordance with COVID-19 measures. After the declaration of the State of Alarm in Spain, NGOs in Spain have been declared as essential activities and were allowed to continue their activities in person. In 2021, NGOs provided assistance both remotely and in person, in line with changes in COVID-19 measures in force and depending on the situation of each Autonomous Community.

On the International Woman Day, on March 2021, UNHCR launched a video to prevent gender-based violence against refugee and asylum seeker women. The video is available in 4 languages (Spanish, English, French and Arabic), and is aimed at preventing and identifying possible situations of gender-based violence, and informing refugee and asylum seekers women on what to do and where to refer in such cases.\(^\text{541}\) In addition, in April 2021, UNHCR launched two animated videos to inform persons reaching Spain about international protection. The videos are available in Spanish, English, French and Arabic, and they explain to newcomers what international protection is and how to access the procedure in Spain, both at the borders and in territory.\(^\text{542}\)

\(^\text{538}\) Article 5(1) Asylum Regulation.
\(^\text{539}\) The leaflet is available at: https://bit.ly/2RCKcqL.
\(^\text{540}\) Article 5(2) Asylum Regulation.
\(^\text{541}\) UNHCR/ACNUR, ACNUR presenta un vídeo para ayudar a prevenir la violencia de género en mujeres refugiadas y solicitantes de asilo, 5 March 2021, available in Spanish at: https://bit.ly/3mqTjJm.
UNHCR enhanced access to relevant information through different channels and initiatives. Of particular relevance were the updates made in UNHCR’s HELP web portal, which witnessed a steady increase in visits, with over a million page views recorded in 2023, the launch of a virtual Newsletter for Refugees and Stateless People which enables to disseminate information and opportunities to the community, furthermore enabling to reach out to forcibly displaced populations outside the reception system, or the Know Your Rights annual program in collaboration with DLA Piper in Spain which has benefitted over 350 participants from 15 different countries this year.  

2. Access to NGOs and UNHCR

### Indicators: Access to NGOs and UNHCR

<table>
<thead>
<tr>
<th></th>
<th>Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>☐ Yes ☑ With difficulty ☐ No</td>
</tr>
<tr>
<td>2</td>
<td>☐ Yes ☑ With difficulty ☐ No</td>
</tr>
<tr>
<td>3</td>
<td>☑ Yes ☐ With difficulty ☐ No</td>
</tr>
</tbody>
</table>

In general, asylum seekers at the borders are the ones that face most difficulties in accessing not only information, but the asylum process itself. Access of NGOs to border facilities is not foreseen by law. According to the OAR, NGOs are usually provided access to border facilities in order to assist vulnerable applicants, although there is no further information available on this. The NGOs CEAR and the Red Cross have presence at the airports of Madrid and Barcelona, and UNHCR conducts monitoring activities to several border facilities. UNHCR has established its presence in Andalucia, in order to monitor arrivals by boat, and at the border points in Ceuta and Melilla. For more information, refer to section on Border Procedure.

Migrants arriving in ports or Spanish sea shores are assisted by the police and the ERIE teams of the Spanish Red Cross, which carries out the first medical screening. As mentioned, UNHCR and CEAR are present in different parts of Andalucia in order to support the authorities in detecting persons with vulnerabilities and special needs, as well as in informing persons about the right to international protection. Save the Children also has team of professionals that monitor sea arrivals. In November 2020, UNHCR and OIM announced plans to open an office in the Canary Island. As already mentioned, both organisations started to work in the archipelago at the beginning of 2021, but IOM’s operation was finalised in June 2022.

The second category with most difficult access to information and NGO counselling are third-country nationals willing to apply for asylum from detention within CIE. For more information, please see the section on Detention.

Overall, it is important to note the important role of UNHCR during the asylum procedure. As already mentioned, the OAR must inform UNHCR of all the asylum applications lodged and the latter participates in the asylum procedure by being part of the CIAR, where it has the right to intervene but not to vote.

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543 Information provided by UNHCR in April 2024.
544 CEAR, see: https://www.cear.es/.
545 Cruz Roja Española, see: https://www2.cruzroja.es/.
546 Information provided by the OAR, 14 September 2020; Accem, 29 September 2020.
H. Differential treatment of specific nationalities in the procedure

<table>
<thead>
<tr>
<th>Indicators: Treatment of Specific Nationalities</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Are applications from specific nationalities considered manifestly well-founded? □ Yes □ No</td>
</tr>
<tr>
<td>❖ If yes, specify which:</td>
</tr>
<tr>
<td>2. Are applications from specific nationalities considered manifestly unfounded? □ Yes □ No</td>
</tr>
<tr>
<td>❖ If yes, specify which:</td>
</tr>
</tbody>
</table>

In practice there are no specific nationalities automatically considered to be presenting well-founded or unfounded applications.

**Venezuelans**

In 2018, the Audiencia Nacional provided additional guidance on the legal status of **Venezuelans** in Spain. According to the judgments, the socio-politic and economic crisis in Venezuela entitles Venezuelan asylum seekers to a residence permit in Spain under humanitarian reasons.\(^{548}\)

In 2023, out of a total of 41,487 first instance decisions on humanitarian grounds, 40,674 Venezuelans obtained a residence permit on humanitarian grounds, while no information is available on how many Venezuelans obtained any form of international protection at the time of writing, as Venezuela is not within the top 5 nationalities disaggregated in the available figures.\(^{550}\)

Lawyers have expressed deep concerns regarding the individual assessment of asylum claims lodged by **Venezuelans**, as some of them were granted a residence permit on humanitarian grounds despite being entitled to refugee status (e.g. in the case of political opponents). In addition, it appears that some applications for international protection have been rejected because asylum seekers have a police record (not a criminal record).\(^{551}\)

In a decision taken in March 2021, the Supreme Court (Tribunal Supremo) established that the general situation of crisis in Venezuela does not amount to an individual persecution or to a serious harm justifying the recognition of international protection. Instead, the Court established that the severe economic conditions of the country – affected by food shortages and high unemployment rates – justify granting a residence permit for humanitarian reasons.\(^{552}\)

It has to be noted that the number of rejections for Venezuelans increased significantly in the last years, with 10,431 rejected applications in 2022.\(^{553}\)

**Syrians**

Another non-official practice of differential treatment concerned, until 2020, applications presented by **Syrian** nationals, who were in their vast majority granted subsidiary protection, and no case-by-case assessment was realised on the requirement to receive international protection. It should be noted, however, how this trend seemingly inverted in 2021, when 460 refugee statuses were recognised to

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\(^{548}\) Whether under the “safe country of origin” concept or otherwise.


\(^{550}\) Ministerio del Interior, ‘Avance de datos de protección internacional, aplicación del Reglamento de Dublín y reconocimiento del estatuto de apátrida. Datos provisionales acumulados entre el 1 de enero y el 31 de diciembre de 2023’, January 2024, available in Spanish at: [tinyurl.com/34jtmrh8]

\(^{551}\) Information provided by the legal services of Accem on February 2021.

\(^{552}\) Tribunal Supremo, Decision 352/2021 (STS 1052/2021), 11 March 2021, available in Spanish at: [bit.ly/3qFWqNK].

\(^{553}\) Ministerio del Interior, Oficina de Asilo y Refugio (OAR); ‘Asilo en cifras 2022’, November 2023, available at: [tinyurl.com/3uey9a7h]
Syrian nationals, compared to 265 cases in which subsidiary protection was recognised.\(^{554}\) The same trend continued in 2022, when 1,019 Syrians were granted refugee status\(^{555}\), which might be partly due to the fact that very few Syrian applicants’ cases were examined.

**Hondurans and Salvadorians**

Another situation that can be highlighted is that of persons fleeing from gangs (Maras) in Central American countries, who were not granted international protection in previous years. In 2017 the Audiencia Nacional recognised subsidiary protection in different cases regarding asylum applicants from Honduras and El Salvador.\(^{556}\) At the beginning of 2018, the Audiencia Nacional issued another important decision on the matter and revised its jurisprudence in relation to asylum applicants from Honduras.\(^{557}\) In light of the 2016 UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Honduras, the Court concluded that the situation in Honduras can be considered as an internal conflict and that the Honduran State is not able to protect the population from violence, extortion and threats carried out by the Mara Salvatrucha gang.

In different decisions adopted in July 2022, the Audiencia Nacional denied protection to asylum applicants from Honduras and El Salvador who fled their countries due to threats from the maras. The Court agreed with the criterion used by the Minister of Interior, considering that such threat is a matter of common criminality which does not amount to persecution, and recognising the efforts that the two countries are carrying out to fight against such violence.\(^{558}\)

Only some applicants from Honduras and El Salvador with specific profiles (i.e. former police officers, former staff of law enforcement agencies, human rights defenders, LGTBI+ individuals, gender-based violence victims) were granted protection.\(^{559}\)

**Colombians**

In the last years, asylum seekers from Colombia frequently received a differential treatment due to nationality, as they were systematically denied asylum as the situation in the country is considered to be critical only because of the widespread criminality, instead of acknowledging the presence of organised armed groups. In addition, similar cases of persecution (i.e. for political grounds) have received different outcomes (i.e. granting of international protection or denial).\(^{560}\) Accem noticed improvements in the recognition of international protection to women victims of gender-based violence.\(^{561}\)

**Afghans**

After the withdrawal of US troops from Afghanistan in mid-August 2021, Spain started to evacuate Afghans who had worked with Spanish troops and aid workers. The plan (Operación Antígona), managed by the Ministers of Interior, Foreign Affairs and Defence, entailed their transfer from Kabul to Spain with different flights,\(^{562}\) as well as their reception and granting of either refugee status or subsidiary

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\(^{555}\) Ministerio del Interior, Oficina de Asilo y Refugio (OAR); ‘Asilo en cifras 2022’, November 2023, available at: https://tinyurl.com/3uey9a7h


\(^{559}\) Information provided by Accem’s legal service in April 2023.

\(^{560}\) Information provided by the legal service of Accem on February 2022.

\(^{561}\) Information provided by Accem’s legal service in April 2024.

protection. The Spanish military base in Torrejón (Autonomous Community of Madrid) worked as a hub for the Afghan refugees who were later transferred to the US or other EU countries. Different Spanish Autonomous Communities offered places for the reception of Afghans, with a special concern for women and children. After the temporarily reception of maximum 72-hours at the Torrejón military base, Afghan refugees were referred to centres or apartments in the framework of the international protection reception system. At the Torrejón facility, the Spanish Red Cross provided the first temporary assistance to refugees.

By the end of August 2021, the Spanish Government had transferred more than 2,200 Afghans to Spain. Around 1,700 applied for international protection, and many were referred to the reception asylum system. One-third of them were under 15 years of age.

The MISSM concluded the referral of Afghans to different reception facilities across the countries by mid-November, and the military base of Torrejón was dismantled. Afghans applicants in Spain have been required to make an asylum application through the usual channels. The Asylum Office (OAR) prioritised the first interview with Afghans applicants for the formalisation of the international protection application. It has to been underlined that interviews were carried out in a complete and detailed manner, also taking into account different characteristics (i.e. belonging to a minority group) and vulnerabilities of applicants. Additionally, the assessment phase was quicker than usual.

In January 2022 the National High Court adopted a decision granting subsidiary protection to the appellant as it considered that, as far as the conflict in Afghanistan continues and it is not possible to find an internal flight alternative due to the total control of the country by the Taliban regime, the existing violence creates a real risk of suffering serious and individual threats against the life or security of civil population, and that sometimes this real risk may simply exist due to the presence of the applicant in the territory. Such a decision represents a change of criteria in relation to the international protection mechanisms for Afghan nationals in Spain, and has been adopted taken into consideration the UNHCR recommendations after the evacuation of August 2021.

At the end of 2022, a group of 27 Afghan female public prosecutors arrived to Spain from Pakistan together with their families, in an action coordinated by the Spanish Minister of External Affairs and thanks to the initiative of a group of Spanish judges and public prosecutors.
In December 2022, the political party Unidas Podemos presented a parliamentary request aimed at gathering more information and devising solutions in relation to the problems that Afghan nationals are facing at the Spanish embassies in Pakistan and Iran for applying for asylum.574

Following a parliamentary request, in March 2023 the Government reported that 1,500 Afghans arrived to Spain since August 2021 after applying for asylum at Spanish embassies in Iran and Pakistan.575

In October 2023, the NGO CEAR denounced the return from Pakistan to Afghanistan of seven Afghans who are family members of an Afghan refugee in Spain, who had been waiting for 2 years for the Spanish authorities to decide on their family reunification request.576

In 2023, a total of 1,120 Afghans were granted international protection.577

In January 2024, the Supreme Court (Tribunal Supremo) urged the immediate transfer of eight Afghans from Pakistan to Spain, who were already granted a safe conduct by the Spanish Ministry of Foreign Affairs and were waiting for their transfer since 2021.578

In February 2024, the Public Prosecutor Office asked the National Court (Audiencia Nacional) to transfer to Spain an Afghan public prosecutor who was working on counterterrorism, as her life is in danger.579

The National Court ordered the Spanish Ambassador in Pakistan to provide the woman and her son the appropriate documents to reach Spain.580

Additional information on the initiatives and actions put in place for the protection of Afghan refugees can be found in the previous update of this report (AIDA 2022 update).

Russians

Following the call to arms by the Russian President in November 2022, around 200 Russian draft evaders reached Spain to seek protection.581 No information on the treatment of such cases is available at the time of writing. In any case, they would have the possibility to access the asylum procedure.

Ukrainians

Concerning the response to the outbreak of war in Ukraine in February 2022, see the Temporary protection Annex to the report.

574 Mundo Obrero, ‘UP alerta sobre los problemas de las personas huidas de Afganistán que solicitan asilo en las embajadas de Pakistán e Irán’, 30 December 2022, available in Spanish at: https://bit.ly/3kFEK5Q.
576 CEAR, ‘CEAR denuncia la devolución de una familia a Afganistán que había solicitado ser reagrupada en España’, 17 October 2023, available in Spanish at: https://tinyurl.com/yc7hp848.
578 La Razón, ‘El TS ordena a la embajada española en Pakistán el traslado urgente de ocho afganos que tienen un salvoconduco de Exteriores’, 9 February 2024, available at: https://tinyurl.com/5czd7sts.
580 Poder Judicial, ‘La Audiencia Nacional ordena al embajador en Pakistán que dote a una fiscal antiterrorista afgana y a su hijo de documentación para trasladarse a España’, 11 April 2024, available at: https://tinyurl.com/54tx5ck.
Reception Conditions

Short overview of the reception system

The coordination and management of the reception of asylum seekers falls under the responsibility of the State Secretary for Migration (Secretaría de Estado de Migraciones, SEM) of the Ministry of Inclusion, Social Security and Migration. The SEM also supervises and coordinates the Directorate General of Migration (Dirección General de Migraciones), the Directorate General for the Humanitarian Assistance and Social Inclusion of Migrants (Dirección General de Atención Humanitaria e Inclusión Social de la Inmigración) and the Directorate General for the International Protection and Temporary Protection Reception System (Dirección General del Sistema de Acogida de Protección Internacional y Temporal). The SEM is competent for developing the Governmental policy on foreigners, immigration and emigration. In addition, through the DGSAPIT, it develops and manages the comprehensive system for reception and integration of asylum seekers, refugees, stateless person, persons with temporary protection, and beneficiaries of the subsidiary protection.

The Asylum Act provides that reception services shall be defined by way of Regulation. During many years, and until 2022, detailed rules on the functioning of the Spanish reception system were provided through a non-binding handbook as the Regulation implementing the Asylum Act was pending from 2009. Finally, on March 2022, the Government adopted the Royal Decree 220/2022 of 29 March, approving the Regulation governing the international protection reception system. The new Regulation entered into force on 31 March 2022. It provides that the 2021 Reception Handbook and its Annex (version 5.0) on the procedure on managing the international protection reception plan will be applicable in case certain rules are not developed and detailed by the same Regulation. The DGSAPIT, through the General-Sub direction of Programs of International Protection, is working on a new version of the Reception Handbook (version 6.0) together with the NGOs participating in the asylum reception system. The new handbook is expected to be published and implemented in the course of 2024.

In principle, applicants for international protection are granted reception conditions and thus referred to a shelter as soon as they apply for asylum. Nevertheless, there have been major shortcomings in the reception system in recent years, rendering the access to reception difficult in practice (e.g. waiting periods reaching up to 1 month) and resulting in homelessness in certain cases.

The duration of reception conditions (accommodation, assistance and financial support) should last 18 months, which can reach a maximum of 24 for vulnerable cases, following the exceptional authorisation by the competent authority. The reception system is currently divided into three phases: 1) initial assessment and referral; 2) reception; 3) autonomy.

On 15 December 2022, the SEM adopted an instruction detailing the requirements for accessing and staying in the international protection reception system. Among other issues, the instruction foresees that the phase of initial assessment and referral, despite being part of the reception system, does not count while calculating the 18-month (or 24-month) period of stay, and that just the other two phases are taken into consideration for the calculation of the duration.

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583 Articles 30(2) and 31(1) Asylum Act.
584 The first version of the Reception Handbook was published in January 2016 and other four versions were published in the following years. Please refer to previous updates of this report for more information on this regard.
585 Boletín Oficial del Estado, ‘Real Decreto 220/2022, de 29 de marzo, por el que se aprueba el Reglamento por el que se regula el sistema de acogida en materia de protección internacional’, available in Spanish at: https://bit.ly/3QR8SHo.
586 Information provided by Accem’s reception service on March 2024.
In July 2023 the Disciplinary Regime of the asylum reception system entered into force.\footnote{Boletín Oficial del Estado, “Ministerio de Inclusión, Seguridad Social y Migraciones - Orden ISM/922/2023, de 6 de julio, por la que se desarrolla el régimen disciplinario del sistema de acogida en materia de protección internacional”, 3 August 2023, available in Spanish at: https://cutt.ly/DwdgC0Dn}

The State Secretary for Migration of the Ministry of Inclusion, Social Security and Migration directly manages four reception facilities for asylum seekers, which are collective centres. In addition, 20 NGOs run reception centres for asylum seekers, through funds granted by the State Secretary for Migration. Many of these facilities are apartments. It has to be noted that in 2022 there has also been a change for what concerns funding of reception facilities managed by NGOs, with the provision of direct funding to certain organisations.\footnote{Ministerio de Inclusión, Seguridad Social y Migraciones, ‘Subvenciones de concesión directa en el área de protección internacional’, 2022, available in Spanish at: https://bit.ly/3kz7ZqY; Ministerio de Inclusión, Seguridad Social y Migraciones, ‘Real Decreto 1059/2022, de 27 de diciembre, por el que se modifica el Real Decreto 590/2022, de 19 de julio, por el que se regula la concesión directa de subvenciones a determinadas entidades para la financiación del Sistema de Acogida de Protección Internacional’, 28 December 2022, available in Spanish at: https://bit.ly/3GY9NkR.}

To address the situation at the external borders, the European Commission continued to provide support to frontline Member States by offering financial assistance and operational responses in coordination with EU agencies, international organisations and other relevant stakeholders. Assistance was provided on different matters (i.e. managing arrivals, setting up adequate reception, ensuring efficient asylum and return procedures, improving border management, protecting unaccompanied minors and other groups with vulnerabilities, etc.), and Spain was one of the EU countries targeted by such initiative. Support to Spain focused on the reform of the national reception system to increase its capacity in facing increases in arrivals. EU funding has also supported the reform of the Spanish Asylum Office, which included recruiting additional case officers. In addition, in August 2022 the European Commission awarded EUR 171 million for projects to support the reception, asylum and return systems in Cyprus, Spain, Greece, Italy and Poland, through a competitive call under the Asylum, Migration and Integration Fund (AMIF). Support for Spain would reinforce the capacity of the reception system in Ceuta and on the Canary Islands.\footnote{EUAA, Asylum report 2023, July 2023, available in Spanish at: https://bit.ly/3PAIFOb, 39-40.}

As highlighted by the EUAA in its 2023 annual report, Spain allocated additional funds to improve reception conditions. Concretely, EUR 50 million were allocated for the improvement of reception conditions on the Canary Islands, focusing on the care of unaccompanied minors, education, healthcare and supporting countries of origin. In addition, EUR 10 million were allocated to reinforce the asylum and reception systems in Ceuta, financed 90% from EU funds. The arrival of displaced persons also prompted the activation of an extraordinary budget of EUR 1.2 billion to strengthen the Spanish reception system overall.\footnote{Ibidem, 185.}


Following a proposal made by the Minister of Inclusion, Social Security and Migration, in July 2023 the Council of Ministers approved the funding of EUR 1.5 million until 2026 to the Spanish Olympic Committee with the aim of promoting sports within the reception systems for migrants and refugees.\footnote{Europa Press, ‘Aprobada una subvención al COE de 1.5 millones para favorecer el deporte en los centros de acogida’, 4 July 2023, available in Spanish at: https://tinyurl.com/yc3truz2.}

In November the Spanish Ombudsperson suggested to the Government Delegation in Santa Cruz de Tenerife (Canary Islands) cancel a fine of EUR 14,529 that was addressed to the NGO ‘CEAR’ for allowing
migrants accommodated in its facilities for the humanitarian assistance to enrol in the municipality register (empadronamiento) using the address of such centres.\textsuperscript{594}

In February 2024, the Government reached an agreement with the Autonomous Community of the Basque Country to transfer to the latter the competence on the reception of migrants, asylum seekers and refugees, as well as their integration.\textsuperscript{595}

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

<table>
<thead>
<tr>
<th>Indicators: Criteria and Restrictions to Reception Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the law allow for access to material reception conditions for asylum seekers in the following stages of the asylum procedure?</td>
</tr>
<tr>
<td>- Regular procedure</td>
</tr>
<tr>
<td>- Dublin procedure</td>
</tr>
<tr>
<td>- Admissibility procedure</td>
</tr>
<tr>
<td>- Border procedure</td>
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<tr>
<td>- First appeal</td>
</tr>
<tr>
<td>- Onward appeal</td>
</tr>
<tr>
<td>- Subsequent application</td>
</tr>
</tbody>
</table>

2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? | ☒ Yes | ☐ No

Article 30(1) of the Asylum Act provides that if they lack financial means, “applicants for international protection will be provided a shelter and social services in order to ensure the satisfaction of their basic needs in dignified conditions”. The system has an integral character, which assists the applicant / beneficiary from the time of the submission of the application for asylum until the completion of the integration process.

1.1. Right to reception in different procedures

Material reception conditions under national legislation on asylum are the same for every asylum seeker, no matter the profile of the applicant nor the type of asylum procedure they are channelled into. According to the reception regulation, the reception system foresees an 18-month period of accommodation, assistance and financial support generally in the same province where the asylum claim was lodged (apart from a few exceptions). This can reach a maximum of 24 months for vulnerable cases following the exceptional authorisation by the competent authority (see Special Reception Needs).

For applicants under an outgoing Dublin procedure, reception conditions are provided until the actual transfer to another Member State. Reception is offered for no longer than one month after the notification of the inadmissibility decision, subject to a possible extension.

Access to reception conditions is conditional to the applicant’s inclusion within official asylum reception places, which give access to all other services provided. This means that applicants who can afford or decide to provide themselves with independent accommodation are in practice cut off the system, and have no guaranteed access to financial support and assistance foreseen in reception centres.

According to the 2022 Regulation, people who arrive in Spain from the Moroccan border and have to be initially hosted within the Ceuta and Melilla’s Migrant Temporary Stay Centres (CETI) to be later

\textsuperscript{594} EFE, ‘El Defensor pide retirar una multa a CEAR por empadronar a migrantes en centros de acogida’, 29 November 2023, available in Spanish at: https://tinyurl.com/386zfw9.

transferred to the Spanish peninsula. This provision represents a change of the previous situation as in practice persons applying for asylum in Ceuta and Melilla started benefitting the full services provided within the reception system only when transferred to mainland, but not during their stay in the CETI.

In September 2023, eight asylum applicants from different South American countries (including a 4-year old girl) were denied access to the CETI of Melilla and had to live on the street outside the facility during several days, despite approx. 700 reception places being available. After the organisation ‘Solidarity Wheels’ denounced the situation, the asylum seekers were given access to the CETI.596

Shortcomings and delays regarding access to the reception system have been reported during 2023.

In his 2022 Annual Report, the Spanish Ombudsperson continued to highlight the inadequacy of the asylum reception system to assure the necessary places to all asylum seekers, also due to the delays in the appointments to express the will to apply for asylum and to the duration of the asylum procedure, which greatly exceed the duration legally foreseen.597

Cases of asylum seekers living on the streets because of the saturation of the reception system and the delays in the formalization of the asylum applications have been reported in 2023 and at the beginning of 2024.598 In January 2023, the EU Commission started an infringement procedure against Spain for not having transposed completely and correctly the EU norms on reception conditions, giving to Spain a 2 months deadline to address the deficiencies of its system.599 No further developments on the case were registered at the time of writing of this report.

In a report published in February 2022, the organisation CEAR highlights the challenges experienced by the Spanish asylum reception system and proposes a set of suggestions on how to improve it.600

A report published by the organisation Sira describes the serious inadequacy of reception facilities in Melilla and the Canary Islands in terms of guaranteeing basic rights, such as food, water, hygiene, etc., and how this negatively impact on the psychological well-being of migrants and refugees.601

Asylum seekers returned to Spain under the Dublin Regulation continue to face difficulties in accessing reception since 2018. Following judgments of the TSJ of Madrid,602 the DGIAH issued instructions in January 2019 to ensure that asylum seekers returned under the Dublin Regulation are guaranteed access to reception (see Dublin: Situation of Dublin Returnees).603 The Reception Handbook was amended accordingly.

In August 2022 the Government announced the plan to open a Migrant Temporary Stay Centre (CETI) in Algeciras, which has been opposed by the city’s major, political parties, residents, etc.604 According to
the NGO *Asociación Pro Derechos Humanos de Andalucía (APDHA)*, the main objection from the city’s major is just due to the preoccupation that it would increase the presence of migrants in the city; notably, he did not oppose the Government’s plan to build an additional CIE in the city.\(^5\) The organisation *Algeciras Acoge* instead highlighted that it would be more useful to invest in infrastructures necessary for all the population.\(^6\) In a letter sent to the Municipality, the Vice-Director General of Emergencies and Migration Centres of the Minister of Inclusion, Social Security and Migration explained that the assistance to asylum seekers is an obligation for the Government, and that one of the objectives of the Recovery, Transformation and Resilience Plan is the expansion of the national network for the reception of migrants and asylum seekers. To that purpose, the Vice-Director General of Emergencies and Migration Centres asked the Municipality of Algeciras to look for another space to build such centre.\(^7\)

In January 2023, the Government announced the construction of a reception centre for asylum seekers in Vitoria (País Vasco), with a budget of EUR 14.1 million and a capacity of 350 places.\(^8\) The plan has encountered the opposition of the city major, as the decision appears to have been taken unilaterally by the central Government. By February 2023, however, an agreement was found.\(^9\)

### 1.2. The assessment of resources

The latest publicly available Reception Handbook from 2021 and the Reception Regulation specifies that the lack of sufficient resources is one of the requirements for receiving reception conditions.\(^10\) At any stage of the reception phase, asylum seekers have the obligation to declare the incomes they receive. Only actual incomes are verified, while savings are not, because it is expected that asylum seekers applying for reception conditions do not have sufficient economic resources to provide to their subsistence.

### 1.3. Three-phase approach to reception

The reception system is divided into three main phases, which the asylum seeker follows even if they obtain international protection in the meantime. The three phases are as follows.\(^11\)

1. “Initial assessment and referral phase” (*Fase de valoración inicial y derivación*): the aim of this phase is to assess the person’s profile and their needs, at to refer them to a suitable facility in the minimum time possible. The stay in such facilities should last the time necessary for carrying out the needs’ assessment and the referral to another facility, and should not exceed 1 month. This phase does not count for the calculation of the duration of reception conditions;

2. “Reception phase” (*Fase de acogida*): applicants are provided with accommodation within: (a) a Refugee Reception Centre (*Centro de Acogida a Refugiados*, CAR); (b) or NGO-run reception facilities located all over the Spanish territory; or (c) reception facilities under the humanitarian assistance system (*acogida para la Atención Humanitaria de personas inmigrantes*). More details are provided in *Types of Accommodation*. During these months of temporary reception, applicants

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\(^10\) *DGPPPIAH, Reception Handbook*, June 2021, Boletín Oficial del Estado, ‘Real Decreto 220/2022, de 29 de marzo, por el que se aprueba el Reglamento por el que se regula el sistema de acogida en materia de protección internacional’, available in Spanish at: https://bit.ly/3QR8SHo.

\(^11\) *Ibidem*
receive basic cultural orientation, language and job training which aim to facilitate their integration within the Spanish society. The stay in such facilities should last until the end of the international protection’s or statelessness’ procedure (that according to the Asylum Law is 6 months). For vulnerable asylum seekers, such timeframe can be extended for another 6 months;

3. “Autonomy phase” (Fase de autonomía): applicants move out of reception centres and receive financial support and coverage of basic expenses to start their autonomous life. Intensive language courses and access to employability programmes are offered at this stage. It is also possible to offer the person financial support for certain expenses (ayudas puntuales) such as health, education, training, birth. The duration of this phase is 6 months, that can be extended for another 6 in case of vulnerable applicants.

The total duration of reception phases cannot exceed 18 months, subject to a prolongation to 24 months for vulnerable persons.612

In December 2022 the SEM issued a new instruction613 regarding the access to and stay in the asylum reception system establishing, for example, that applicants whose asylum claim has been denied can access the reception system if they have lodged a second asylum application or have challenged the denial with an administrative appeal.

Since the 2015 increase of available places for refugees’ reception, the Spanish government has reformed the system regarding financing for NGOs service providers for asylum seekers and refugees. In 2023, the asylum reception system counted 24 organisations, which were granted direct funding for the reception of asylum seekers:614

1. Accem
2. Adoratrices Esclavas del Santísimo Sacramento y Caridad
3. Fundacion Solidaridad Amaranta
4. Federacion Andalucía Acoge
5. Fundacion Apip-Acam
6. CEAR
7. Cepaim
8. Coordinadora Estatal De Plataformas Sociales Salesianas
9. Cesal
10. Asociacion Columbares
11. Cruz Roja Española
12. Asociacion Creando Huellas
13. Diaconia
14. Fundacion La Merced Migraciones
15. Fundacion Arco Iris
16. Obra Social Santa Luisa de Marillac Hijas de la Caridad de San Vicente de Paul
17. MPDL
18. Asociación Evangélica Nueva Vida
19. Asociación Para La Promoción Y Gestión De Servicios Sociales Generales Y Especializados (Progestión)
20. Entidad Provivienda
21. Red Acoge

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612 Article 11.7 of the Reception Regulation.
614 Ministerio de Inclusión, Seguridad Social y Migraciones, ‘Subvenciones de concesión directa en el área de protección internacional, aprobadas por el Real Decreto 590/2022, de 19 de julio’, 19 July 2022, available in Spanish at: https://tinyurl.com/7vhawj2x; Information provided by Accem in March 2024.
It should be noted that the list undergoes frequent changes, as NGOs can enter or exit from the asylum reception system according to the funding available, to the decision taken by the Minister of Inclusion, Social Security and Migration, to the individual decision to be part of the system, etc. According to available data, the system counts with a total of 28,200 reception places, divided as follows:

- Initial assessment and referral phase: 6,516 places;
- Reception phase: 17,500 places;
- Reception phase of vulnerable applicants: 300 places;
- Reception phase of vulnerable applicants reinforced: 39 places;
- Autonomy phase: 2,900 places;
- Interventions of support, assistance and accompaniment: 945 places.

The new Reception Regulation has introduced a new mechanism for funding NGOs’ reception facilities, by establishing a concerted action between the SEM and NGOs for the duration of 4 years, both for the asylum reception system and for the humanitarian assistance.

In December 2020, the EUAA launched a new operation plan aiming to support the Spanish authorities in developing and implementing a new model for the reception of asylum seekers. The Operating Plan follows a Joint Rapid Needs Assessment (JRNA) carried out by EUAA and the Spanish Ministry for Inclusion, Social Security and Migration, between mid-September and the end of October 2020. At the beginning of 2021, EUAA carried out a needs’ assessment on the Canary Islands with the aim of quickly start implementing effective reception support.

Following an additional mission conducted in May 2021, EUAA’s Executive Director acknowledged Spain’s commitment to reform its asylum reception system in line with EU standard. To support the country in achieving this objective, the EU Agency will provide support in reforming the reception system and in improving the reception capacity in the Canary Islands, it will assist in activities such as information provision, and will work on capacity building directed at reception personnel. Further details on the EUAA’s operation in Spain are contained in the section on the Situation on the Canary Islands.

As mentioned in the section Access to procedure and registration, UNHCR also established a team dedicated to work on the Canary Islands, and focusing on the provision of support to the authorities in the early identification of the international protection needs of migrants arriving by boat and in fostering the access to the asylum procedure of those persons in need of international protection.

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615 Boletín Oficial del estado, Ministerio de Inclusión, Seguridad Social y Migraciones, ‘Resolución de 8 de noviembre de 2022, de la Dirección General de Gestión del Sistema de Acogida de Protección Internacional y Temporal, por la que se establece la planificación extraordinaria de prestaciones, actuaciones o servicios del sistema de acogida en materia de protección internacional para atender mediante acción concertada las necesidades derivadas del desplazamiento de personas como consecuencia de la guerra en Ucrania’, 11 November 2022, available at: https://tinyurl.com/2xasxn2z.

616 Europa Press, ‘El Gobierno autoriza a CEAR, ACCEM y ACOGE, entre otras, a gestionar plazas de acogida a migrantes los próximos 4 años’, 31 October 2022, available in Spanish at: https://bit.ly/3JsXaPS; Derecho.com, ‘Resolución de 8 de febrero de 2023, de la Dirección General de Atención Humanitaria e Inclusión Social de la Inmigración, por la que se modifica la de 14 de noviembre de 2022, por la que se establece la planificación de prestaciones, actuaciones y servicios que deben atenderse dentro del programa de atención humanitaria mediante acción concertada para los ejercicios 2023-2026’, 8 February 2023, available in Spanish at: https://bit.ly/42tAW98.


As previously stated, IOM also started its operations in the Canary Islands at the beginning of 2021, concretely in Tenerife, where the organisation manages a facility with 1,100 reception places (reduced to 1,054 due to the necessity to assure anti Covid19 measures). With a staff of 53 employers, IOM provides for humanitarian reception places and direct assistance to migrants reaching the archipelago. The work includes also legal counselling, including on international protection, as well as identification of vulnerabilities and follow-up of protection needs.\(^{620}\) IOM’s operations in the archipelago finalised in June 2022.

2. Forms and levels of material reception conditions

<table>
<thead>
<tr>
<th>Indicators: Forms and Levels of Material Reception Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Amount of the monthly financial individual allowance/vouchers granted to asylum seekers (out-of-pocket expenses) as of 31 December 2023 (in original currency and in €): €56</td>
</tr>
</tbody>
</table>

Reception conditions for asylum seekers in Spain include the coverage of personal expenses for basic necessities and items for personal use, transportation, clothing for adults and children, educational activities, training in social and cultural skills, learning of hosting country language, vocational training and long-life training, leisure and free time, child care and other complementary educational type, as well as aid to facilitate the autonomy of the beneficiaries.

The Reception Regulation elaborates the different forms of reception conditions offered in each phase of the reception system:

1. Assessment and referral phase: Applicants receive: (a) basic information on the reception system; (b) basic and immediate assistance i.e. hygiene kits, baby food, health check and care; (c) legal and psychological assistance; (d) temporary accommodation until a place is available in the reception system; (e) translation and interpretation if needed.\(^{621}\)

2. Reception phase: Applicants receive, *inter alia*: (a) reception; (b) legal, psychological, cultural, and social support; (c) language course; (d) socio-labour counselling and access to vocational trainings; (e) translation and interpretation if needed; (f) schooling for children; etc.

3. Autonomy phase: Applicants receive, *inter alia*: (a) financial support for covering basic needs according to individual necessities; (b) legal, psychological, cultural, and social support; (c) language course; (d) socio-labour counselling and access to vocational trainings; (e) translation and interpretation if needed; etc.

Financial allowances and further details are decided on a yearly basis and published by the Minister of Inclusion, Social Security and Migration. These amounts are based on the available general budget for reception of the Directorate-General. It is worth to note that financial allowances have not been increased in the last years.

All asylum seekers hosted in the reception phase are given the amount of €56 per month per person (to cover personal out-of-pocket expenses), plus €22 per month for each minor in charge. In addition to this pocket money they receive on a monthly basis, other necessities are also covered after presenting a receipt of the expense when it regards: public transport, clothing, health related expenses, education and training related expenses, administration proceedings related expenses, translation and interpretation fees.

During the autonomy phase, protection holders are not provided with accommodation anymore; they live in private apartments and housing. They receive no pocket money, although expenses for the rent are covered by the asylum system. They can also receive additional financial support for covering basic needs (*Atención a las necesidades básicas*). The maximum amount of the latter varies according to the number

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\(^{620}\) Information provided by the IOM on 4 March 2022.

\(^{621}\) Article 16 of the Reception Regulation.
of persons composing the family and further depends on whether they benefit from additional financial support for other types of expenses (ayudas puntuales) such as health, education, training, birth.

Financial assistance to asylum seekers could be considered as adequate or sufficient during the reception phase, as it is aimed to cover all basic needs. However, during the autonomy phase, conditions and financial support are not meant to be adequate, as they are conceived as extra assistance for supporting refugees’ gradual integration in the host society.

Main obstacles for asylum applicants present after passing the reception phase, as the system foresees an initial degree of autonomy and self-maintenance which is hardly accomplishable in 6 months’ time, and almost impossible in the case of applicants who have difficulties in learning and speaking the Spanish language, and thus face greater barriers to access to employment.

3. Reduction or withdrawal of reception conditions

<table>
<thead>
<tr>
<th>Indicators: Reduction or Withdrawal of Reception Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the law provide for the possibility to reduce material reception conditions? □ Yes □ No</td>
</tr>
<tr>
<td>2. Does the law provide for the possibility to withdraw material reception conditions? □ Yes □ No</td>
</tr>
</tbody>
</table>

Article 33 of the Asylum Act provides that asylum seekers’ access to reception conditions may be reduced or withdrawn in the following cases, where:

a. The applicant leaves the assigned place of residence without informing the competent authority or without permission;
b. The applicant obtains economic resources and could deal with the whole or part of the costs of reception conditions or has any hidden economic resources;
c. The resolution of the application for international protection has been issued, and is notified to the interested party;
d. By act or omission, the rights of other residents or staff of the centres are violated;
e. The authorised programme or benefit period has finished.

Usually, asylum seekers are rarely expelled from reception facilities, unless they accumulate breaches to the rules of conduct of the centres, causing the necessary mandatory abandonment of the centre. In this case, the management authority will start a procedure which foresees the hearing of the subject, who can make allegations or give explanations within a 15-day period, after which a decision is taken. Legal assistance is not foreseen during this process, as this is an internal procedure.

According to the Reception Regulation, beneficiaries of protection and asylum seekers can have their reception conditions reduced in case they possess economic resources overcoming the limit foreseen by the law to access financial support, they abandon the facility without informing the managers, and in case of violation of the basic rules of the centre or the rights of other residents when they do not amount to cases of withdrawal. In both cases, beneficiaries sign a “social contract” where they commit to participate in these measures and accept this as a requirement to benefit from the different sources of support provided. In other cases, asylum seekers are warned in writing but there are no consequences such as reduction or withdrawal of reception conditions.622

Reception conditions are never limited due to large numbers of arrivals. Instead, emergency measures are taken and asylum seekers are provided new available places where they can be hosted (see section on Types of Accommodation).

Withdrawal of reception conditions is foreseen in case of lack of formalisation of the asylum application or in case of non-admission, denial or withdrawal of the asylum, statelessness or TP application; in case of cessation or revocation of refugee status or subsidiary protection; for the expiration of the duration of

622 Article 31 of Reception Regulation.
reception conditions; in case of abandonment of the facility without informing the managers; in case of violation of the basic rules of the centre or the rights of other residents when they amount to cases of withdrawal; in case of accessing economic resources overcoming financial support that the applicant is receiving.623

4. Freedom of movement

<table>
<thead>
<tr>
<th>Indicators: Freedom of Movement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is there a mechanism for the dispersal of applicants across the territory of the country?</td>
</tr>
<tr>
<td>□ Yes □ No</td>
</tr>
<tr>
<td>2. Does the law provide for restrictions on freedom of movement?</td>
</tr>
<tr>
<td>□ Yes □ No</td>
</tr>
</tbody>
</table>

In the Spanish system, asylum seekers are placed in the reception place which better fits their profile and necessities. A case by case assessment is made by the NGOs responsible and/or by the Social Work Unit (Unidad de Trabajo Social, UTS), the unit in charge of referring asylum seekers to available reception facilities. The UTS falls under the Ministry of Inclusion, Social Security and Migration and is based at the OAR. After assessing the availability of reception spaces and the integral features of the applicant (age, sex, household, nationality, existence of family networks, maintenance, personal necessities, presumed trafficked person or a vulnerable woman, etc.), if feasible, the person is placed in the place that best responds to their needs. This placement is done informally as a matter of administrative practice, without a formal decision being issued to the asylum seeker. Once the applicant is given a place within the reception system, they must remain in the same province.624 Most of asylum seekers and refugees who are hosted in official reception facilities live in Andalucía, Madrid and Catalonia.

Normally asylum seekers do not move within the Spanish territory, as they do not have many reasons to do so, as they are normally placed with family members or close to any other contact they have in the country. The situation is different in cases of family members who reach separately the Spanish territory or access independently the asylum reception system. Difficulties may arise in the possibility for family members to join each other, particularly when they are in a different phase of the three-stage asylum reception process (see Criteria and Restrictions to Access Reception Conditions). In this case, there are obstacles to being hosted together (e.g. administrative burden, lack of capacity in certain centres etc.).

Asylum seekers that have made their asylum application in Ceuta or Melilla undergo different rules on freedom of movement. As a result of the special regime applied by the authorities to these two autonomous cities, applicants have to wait for the decision regarding the admissibility of their claim in order to be transferred to the Spanish peninsula and its asylum reception system, together with an authorisation issued by the National Police allowing them to be transferred to the mainland. Limitations are also applied to asylum applicants who pass the admissibility phase, and should be entitled to free of movement in the rest of the Spanish territory. These limitations are informally imposed on asylum seekers. The new Reception Regulation foresees the application of reception conditions also in the facilities in Ceuta and Melilla.

As documented in the previous updates of this report, there has been extensive case law and litigation on the matter in recent years, with various Spanish courts regularly recognising the right to freedom of movement of asylum seekers.625 By way of illustration, the limitation to the right to freedom of movement across Spanish territory has been declared unlawful by Spanish courts in more than 18 cases from 2018 to 2021.626

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623 Ibidem.
624 Reception Regulation.
In practice, however, the authorities continued to restrict asylum seekers’ access to the mainland up until 2020.

According to the information currently available, the practice started to change from November 2021, and asylum seekers admitted at 1st instance were transferred to the mainland.627 In mid-December, for example, 18 asylum seekers were transferred from Melilla to the mainland and referred to reception facilities in Cataluña, Andalucía and Castilla y León after their applications were admitted at first instance. The asylum seekers were authorized to leave the enclave thanks to the appeals lodged by three NGOs (CEAR, the Spanish Red Cross, and Cepaim). It is hoped that such practice will continue, and that legislation and jurisprudence will be finally correctly applied.

In August 2022, Amnesty International reiterated its call to not limit the freedom of movement of migrants and asylum seekers in Ceuta and Melilla, and to guarantee the transfer to mainland of vulnerable persons.628

Similar issues were also reported for what concerned the Canary Islands and in February 2021 the Spanish Ombudsperson reminded the Ministry of Interior its duty to ensure asylum seekers’ freedom of movement within the national territory.629 He addressed “a reminder of legal duty” to the Directorate General of the Police, pointing to “its legal duty to prevent any limitation of the fundamental rights to free movement and residence of applicants for international protection who wish to move from the autonomous cities of Ceuta and Melilla or from the autonomous community of the Canary Islands to the mainland”. The reminder responds to a complaint raised in early 2020 following the prevention of departure to the mainland of an asylum seeker in Gran Canaria. The Spanish Ombudsperson also asked the National Police to provide information on the reasons to block migrants from reaching the Canary Islands as well as the impossibility to access flights and boats to mainland, even for persons holding identification documents and passports.630 Following a judicial decision in the Canary Islands, according to which migrants with a passport or an application for international protection may travel to the mainland, UNHCR and NGOs reported improvements in relation to freedom of movement for migrants and asylum seekers who reached the archipelago. UNHCR reported, however, that NGOs managing the reception facilities are still required to ask for authorisation from police to transfer asylum seekers to the mainland.631

B. Housing

1. Types of accommodation

<table>
<thead>
<tr>
<th>Indicators: Types of Accommodation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Number of reception centres:332</td>
</tr>
<tr>
<td>- CAR: Not available</td>
</tr>
<tr>
<td>- CETI: 2</td>
</tr>
<tr>
<td>- NGOs participating in reception: 24</td>
</tr>
<tr>
<td>2. Total number of places in the reception system as of 31 December 2023: 28,200</td>
</tr>
<tr>
<td>3. Type of accommodation most frequently used in a regular procedure:</td>
</tr>
<tr>
<td>- Reception centre</td>
</tr>
<tr>
<td>- Hotel or hostel</td>
</tr>
<tr>
<td>- Emergency shelter</td>
</tr>
<tr>
<td>- Private housing</td>
</tr>
<tr>
<td>4. Type of accommodation most frequently used in an urgent procedure:</td>
</tr>
<tr>
<td>- Reception centre</td>
</tr>
<tr>
<td>- Hotel or hostel</td>
</tr>
<tr>
<td>- Emergency shelter</td>
</tr>
<tr>
<td>- Private housing</td>
</tr>
</tbody>
</table>

As mentioned in Criteria and Restrictions to Access Reception Conditions, the Spanish reception system is designed in three phases. Types of accommodation vary in the EYD phase and the “first phase”, while during the “second phase” persons are no longer accommodated in the reception system.

As already mentioned, shortcomings in the reception system are chronic and have been registered by various sources in recent years. The same problems persisted in 2023. The 2022 Annual Report of the Spanish Ombudsperson denounced that many asylum seekers are obliged to live on the streets or in precarious conditions due to the challenges of the reception system as well as of the asylum procedure.634

As a response to the issue of overcrowding, as mentioned, EUAA started supporting Spain in the reform of its asylum reception system, including by increasing the number of reception places in the Canary Islands.635 Aiming at assessing and investigating the provision of material reception conditions, the EUAA launched the Assessment of Reception Conditions (ARC) tool. Spain was one of the Member States who started testing the tool in 2021.636

In addition, already in early 2020 the Ministry of Inclusion, Social Security and Migration started to negotiate with a private company (Sociedad de Gestión de Activos procedentes de la Restructuración Bancaria - Sareb) the possibility of using empty apartments for the reception of asylum seekers and undocumented migrants.637

As previously mentioned, in the 2022 Annual Report the Spanish Ombudsperson called for additional resources to be allocated for the asylum reception system, and underlined that in many occasions asylum seekers are temporarily accommodated in emergency shelters and other kind of emergency accommodation (i.e. hotel) while waiting to be referred to a place within the asylum reception system.638

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332 Centres during the first phase of reception. The CAR are the centres run by the Ministry, and have the same function and services as those managed by NGOs. There are also two CETI in Ceuta and Melilla but these are not directly aimed at hosting asylum seekers, even though in practice they do.

333 Boletín Oficial del estado, Ministerio de Inclusión, Seguridad Social y Migraciones, ‘Resolución de 8 de noviembre de 2022, de la Dirección General de Gestión del Sistema de Acogida de Protección Internacional y Temporal, por la que se establece la planificación extraordinaria de prestaciones, actuaciones o servicios del sistema de acogida en materia de protección internacional para atender mediante acción concertada las necesidades derivadas del desplazamiento de personas como consecuencia de la guerra en Ucrania’, 11 November 2022, available at: https://tinyurl.com/2xasxn2z.


In August 2022, the Mayor of Madrid denounced that 318 asylum seekers were still accommodated in municipal temporary shelters instead of being referred to the asylum reception system. Thus, he called the Ministry of Inclusion, Social Security and Migration to assume his responsibility and to respect his compromise to refer them to the asylum facilities, also considering that the municipal resources are overcrowded.

Despite the increase in reception capacity, various asylum seekers were still left homeless in 2023 and at the beginning of 2024, also due to the mentioned problems in accessing asylum procedure and appointments to register asylum applications.

In February 2024, almost 140 persons arrived to Huesca (Aragón) from the Canary Islands denounced the risk to sleep on the streets.

To improve the asylum reception system, the Government established it would allocate a total of EUR 190 million between 2021 and 2023 within the Recovery and Resilience Plan. In October 2022, the Government announced that EUR 215 million of the Plan would be used to build 17 reception facilities for migrants and asylum seekers, with a capacity of 6,100 places. In 2022, the Government announced the creation of 17 new reception facilities for migrants, 7 out of them located in the Canary Islands. This will allow the reception system to increase with 5,700 additional places.

During 2023 the construction of such facilities in different cities was announced and/or started (i.e. in Mérida, Alicante, Vitoria-Gasteiz, Valladolid, Lleida, Lugo, and Soria). Following the municipal and regional elections, the right and right-wing parties which won in some cities and Autonomous Communities started to oppose the construction of new reception centres in their territories. Similarly, the Popular Party (Partido Popular - PP) opposed the construction of a reception centre for asylum seekers in Logroño (La Rioja), by highlighting that they rather counted on other measures to offer competent and adequate protection to refugees.

The increase in arrivals registered in 2023 led the Government to declare a status of ‘migration emergency’ in October, which determined to maintain different kinds of emergency shelters open, despite

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640 Aragón Noticias, ‘Los inmigrantes llegados a Huesca y Sabiñánigo denuncian que el sistema de acogida está colapsado’, 3 February 2024, available at: https://tinyurl.com/3k52tn7s.
646 La Vanguardia, ‘El PP rechaza un Centro de Acogida de Refugiados y afirma que cuenta con otras fórmulas de atención “competentes”’, 7 September 2023, available in Spanish at: https://tinyurl.com/xy5esfu6.
the intention was to close all of them by the end of 2023. In addition, the MISSM had to adopt different measures and plans to face such increase in arrivals, especially to the Canary Islands (i.e. by shortening the maximum length period of stay at the reception places within the humanitarian assistance program; by foreseeing to extend the stay for vulnerable migrants; by the allocation of more economic resources for creating new reception places within the humanitarian assistance program; by the creation of new reception places; etc.). In January 2024, the declaration of the migration emergency was extended, and the Council of Ministers approved an allocation of 60.6 million Euros. Before this new declaration and since October 2023, a total of 10,000 new reception places within both the asylum and the humanitarian assistance programs, and a total of almost 100 million Euros have been employed to face such a situation. An additional allocation of funds to assist newcomers has been approved in March by the Council of Ministers, for a total of 286 million Euros since the migration emergency was declared.

In January 2024, the Minister of Inclusion, Social Security and Migration announced the creation of new reception places for asylum seekers and migrants, also with specific places for persons with disabilities, and strengthening those responding to the specific needs of LGTBI+ asylum seekers and victims of gender-based violence.

1.1 Assessment and referral (EYD) phase

In 2018, the rise in asylum claims resulted in applicants having up to 4 months in some cases hosted in hotels instead of asylum accommodation. No information is available on 2023 apart from what has been mentioned under Access and forms of reception conditions, as well as in the previous paragraphs and under Access to the asylum procedure.

1.2 Reception phase

Accommodation during the reception phase can take place in:

- Refugee Reception Centres (Centros de acogida de refugiados, CAR) managed by DGSAPIT;
- Reception facilities managed by NGOs, subcontracted by DGSAPIT.

The typologies of reception places vary depending on the institution or entity that manages the centre. The reception system relies on places within big reception centres and apartments, but some reception places are in urban neighbourhoods while other are located in rural areas. The different types of available accommodation also differ from the point of view of provided services and spaces.

The Ministry directly manages the Refugee Reception Centres (CAR), part of the first phase reception centres for asylum seekers. There is a total of 4 CAR on the Spanish territory, with a total capacity of 425 reception places.

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648 Information provided by Accem in February 2024.
652 Boletín Oficial del estado, Ministerio de Inclusión, Seguridad Social y Migraciones, ‘Resolución de 8 de noviembre de 2022, de la Dirección General de Gestión del Sistema de Acogida de Protección Internacional y Temporal, por la que se establece la planificación extraordinaria de prestaciones, actuaciones o servicios del sistema de acogida en materia de protección internacional para atender mediante acción concertada las necesidades derivadas del desplazamiento de personas como consecuencia de la guerra en Ucrania’, 11 November 2022, available at: https://tinyurl.com/2xasxn2z.
There are two Migrant Temporary Stay Centres (CETI) in the autonomous cities of Ceuta and Melilla. This type of centre hosts any migrant or asylum seeker that enters the Spanish territory undocumented, either by land or by sea and arrives in the Ceuta and Melilla enclaves.

Every third country national who enters irregularly the Spanish territory through the two cities is placed in one of the two centres before being moved to the peninsular territory as an asylum seeker or an economic migrant. The capacity of the CETI is 512 places in Ceuta and 782 in Melilla, including places in tents in the latter. Overcrowding in such facilities and the poor living conditions has been a persisting problem in Spain, as explained in Arrivals in the enclaves of Ceuta and Melilla and below under Conditions in CETI.

Moreover, reception places for asylum seekers are available inside the reception centres and private apartments managed by NGOs, funded by the Ministry. At the beginning of 2023, the reception system counted 24 organisations, as listed above.

The process of assigning reception places takes into consideration the availability of places and the profile of the asylum seekers, giving special attention to vulnerable persons.

2. Conditions in reception facilities

<table>
<thead>
<tr>
<th>Indicators: Conditions in Reception Facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? ☒ Yes ☐ No</td>
</tr>
<tr>
<td>2. What is the average length of stay of asylum seekers in the reception centres? Not available</td>
</tr>
<tr>
<td>3. Are unaccompanied children ever accommodated with adults in practice? ☐ Yes ☒ No</td>
</tr>
<tr>
<td>4. Are single women and men accommodated separately? ☒ Yes ☐ No</td>
</tr>
</tbody>
</table>

While the increase in arrivals of asylum seekers throughout 2018 and 2019 has exacerbated difficulties in accessing reception, the actual conditions in reception facilities have not deteriorated since reception capacity was increased. The problem asylum seekers face on some occasions is the long waiting time before they can be placed in accommodation facilities.

2.1. Conditions in CAR and NGO accommodation

The majority of available places for asylum seekers in Spain are in reception centres, during the first phase of reception, which lasts for a maximum of 6 months. As stressed, during the second phase they are placed in private housing, as the final aim is their autonomy within the Spanish society.

In general, there have not been reports of bad conditions of reception. In fact, there are no registered protests or strikes by applicants. Unless they are placed in private housing, asylum seekers are not able to cook by themselves during the first phase of reception, as meals are managed by the authority in charge of the centre.

Hosted applicants have access to several types of activities, which may vary from trainings or leisure programmes. In general, particular conditions or facilities within the reception centre depend on the authority managing the reception places. As the majority of centres are managed by specialised NGOs, generally the staff that works with asylum seekers during their reception is trained and specialised.

The accommodation of every asylum seeker is decided on case by case basis, in order to prevent tensions or conflicts (such as nationality or religious based potential situations), vulnerability or violence. Single

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women for example are usually placed in female-only apartments, while the same happens for single men. In this context, the unity of families is also respected, as family members are placed together.

The usual length of stay for asylum seekers inside the reception facilities is the maximum stay admitted, which is 18 months, extendable to 24 months for vulnerable persons. This is due to the fact that the system is divided into 3 main phases that gradually prepare the person to live autonomously in the host society.

2.2. Conditions in CETI

Overcrowding in the CETI in Ceuta and Melilla is a serious issue that has persisted in recent years, resulting in poor or substandard reception conditions for asylum seekers and migrants.

The two CETI are reception facilities that receive the most criticism from organisations and institutions that monitor migrants’ and refugees’ rights, starting from 2016. Accommodation standards were described as inadequate and concerns were expressed regarding the exposure of women and children to violence and exploitation due to the continuous overcrowding have been highlighted. In light of this, the Council of Europe Special Representative of the Secretary General on Migration and Refugees expressed the necessity for the Spanish authorities to “ensure that CETIs in Ceuta and Melilla have the same standards in terms of living conditions, education, health care, language and training courses which asylum-seekers are entitled to and receive in mainland Spain”. In 2020, IOM and UNHCR asked the Spanish authorities for an urgent coordinated response to the reception conditions at the CETI of Melilla, that they qualified as “alarming”. Both organisations recommend to adopt a rapid assessment procedure and adequate measures which would facilitate the transfer of asylum seekers to the mainland, voluntary return, family reunification etc. The Council of Europe Commissioner for Human Rights also urged the Spanish authorities to find alternatives to accommodation for migrants and asylum seekers living in substandard conditions in Melilla. In its World Report 2021, Human Rights Watch expresses the same concerns on overcrowding at the CETI in Melilla and at a temporary shelter set up in a local bullring. The continuous problems of overcrowding especially at the CETI of Melilla worsened in 2020 following the COVID-19 outbreak. Despite the transfers of vulnerable persons to mainland being carried out, following – among others - the Ombudsperson’s recommendations, the situation was far from being resolved.

At the beginning of July 2021, the number of residents at the CETI of Melilla was 877 (mostly from Tunisia and Egypt). For the first time since 2017, it did not surpass the threshold of 1,000 hosts but still surpasses the actual capacity of the facility. Since 2022, the facilities registered very low numbers of residents, it seems it is due to the increase of transfers of asylum applicants to mainland following the

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656 ibid.


decision of the High Court in 2020 (See Freedom of movement). During 2023, the CETI in Ceuta accommodated a total of 1,093 migrants during all the year, which represents the lowest number since 2010.

It can be noted that, on top of overcrowding, CETIs do not provide satisfactory conditions for family units and overall for families with minors. As a result, families are separated and children stay with only one of their parents. In both centres, the shortage of interpreters and psychologists has also been criticised.

2.3. Conditions in other reception facilities

Living conditions on the Canary Islands

In the last years, many challenges in providing adequate reception conditions to migrants and asylum seekers continued to be reported in particular on the Canary Islands. This is due to the significant increase of arrivals as described in Arrivals by sea, but also because of the overall lack of reception facilities and the deficient humanitarian assistance system on the Canary Islands. Thus, already in 2020, different temporary reception options have been adopted on an ad hoc basis, such as encampments, hotels, using parts of the CIE as reception facility, or using buildings belonging to the Ministries of Defence and Home Affairs for the purpose COVID-19 quarantine.

The encampment at the dock of Arguineguín (Gran Canaria), created impromptu in August 2020 to address the increase of arrivals and to provide temporary reception to 400 persons, ended up hosting up to 2,600 persons. The deplorable living conditions were also denounced, with migrants sleeping on blankets in the open, without the possibility of changing clothes and with no access to showers – in some cases, persons could not access showers for more than 20 days.

After the calls for its closure by different human rights organisations and institutions, the Arguineguín encampment was finally dismantled at the end of November 2020 and newcomers were brought to a new encampment, located at a military site in Barranco Seco (Gran Canaria). In January 2022, the Provincial Court of Las Palmas ruled on the case lodged against the inhumane treatment of migrants at the Arguineguín camp. Despite acknowledging the terrible conditions of the encampment, the judge considers that the situation was not caused by a voluntary action of the authorities to violate migrants’ rights. The NGO CEAR condemned the decision, in arguing that human rights violations should always be recognised as such.

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664 It has to be noted that migrants and asylum seekers/persons in need of international protection can be hosted in the same facilities at the Canary Islands, and in many occasions the sources do not distinguish properly between the two categories. Maybe sources speak about migrants, but also asylum seekers/persons in need of international protection can be included in such label.


Already in 2020, many stakeholders, such as the Spanish Ombudsperson or the NGO CEAR, repeatedly called upon the authorities to transfer migrants and asylum seekers from the Canary Islands to appropriate reception facilities on the mainland. The deterrence policy followed by the Government on the Canary Islands was similar to the one applied for several years in Ceuta and Melilla, whereby only a minority of transfers were carried out to mainland. Contrarily to this longstanding policy, in the last year transfer to mainland have increased consistently.

In his 2022 Annual Report, the Ombudsperson warned about the deficiencies of some reception facilities for women with children arriving by boat to the Canary Islands, which resulted in the lack of identification of their needs, as well as of cases of international protection, trafficking, rapes, FGM, etc.

In mid-January 2021, the Ministry of Inclusion, Social Security and Migration announced the opening of a new reception facility at the former military regiment Canarias 50, with a reception capacity of 442 places. This is the second facility that is foreseen by the Government’s Canarias Plan, which aims to create a total of 7,000 reception places. Doctors of the World warned that the new facilities that the Government plans to build on the Canary Islands are likely to replicate the situation of the Arguineguín dock.

Since the end of 2020, different NGOs started to open reception facilities on the Canary Islands under the humanitarian programme funded by the Ministry of Inclusion, Social Security and Migration. Accem opened a reception facility in Tenerife under the humanitarian programme and within the Plan Canarias. It was initially planned that the facility would count 2,400 places, but it finally was created with 1,500 places, and employing 220 professionals. The organisation provides a comprehensive assistance to migrants (i.e. legal support, psychological assistance, interpretation, health assistance, etc.). The centre hosts solely men, the vast majority coming from Morocco and Senegal. In November 2021, Accem opened also an emergency humanitarian assistance and referral centre in Lanzarote with 1,000 places, within the Plan Canarias and from August 2021 it started to manage four flats with a total of 18 places in Tenerife within the programme for the humanitarian assistance of migrants. The flats host women and women with children.

The Fundación Cruz Blanca opened one centre in Las Palmas de Gran Canaria with 140 places for women and mothers with underage children, which increased in 2023 up to 238 places, and another facility with a capacity of 32 places for men with children. The organisation Fundación Cruz Blanca, which is specialised in the assistance to trafficked persons, has also opened two centres in Las Palmas de Gran Canaria. One centre has 40 places available and aims to provide comprehensive assistance to women and their children presumed to be victims of human trafficking; while the other centre had 25 places and is dedicated to women presumed to be victim of trafficking. As previously mentioned, IOM also started its operations on the Canary Islands at the beginning of 2021, more specifically in Tenerife.

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674 Information provided by Accem in April 2024.
678 Information provided by Accem-Canarias on 17 February 2022.
679 Information provided by Fundación Cruz Blanca in March 2024.
680 Information provided by Fundación Cruz Blanca on 11 February 2022 and confirmed in March 2024.
where it managed a facility counting with 1,100 reception places (reduced to 1,054 due to the necessity to assure anti COVID-19 measures). The IOM finalised its operation in the archipelago in June 2022.

In April 2021 the Administrative Court (Juzgado de lo Contencioso Administrativo) nº 5 of Las Palmas de Gran Canaria established that a migrant can fly from Canarias to the mainland using his/her passport or asylum application, and that this is compatible with the COVID-19 restrictions measures to movement. Transfers increased to mainland in April 2021, when the Government transferred 1,800 persons during 5 weeks, being 4,385 those transferred since the beginning of the year.

In 2021, Amnesty International denounced that, despite the approval of the Canarias Plan, reception conditions continue to be inadequate. Thanks to the transfers to mainland, at the end of May 2021 the reception facilities at the Canary Islands consistently reduced the numbers of migrants hosted. The organisation also called the Government to take measures in order to guarantee decent reception conditions, as well as access to the asylum procedure, the right to information and to legal assistance, together with fostering transfers of vulnerable persons to mainland. Similarly, in a thematic report published that same year Amnesty International denounced the failure of the migration policy and of the asylum system at the Canary Islands, and alleged that Spanish authorities did not guarantee adequate reception conditions nor access to a fair and efficient asylum procedure to migrants and refugees reaching the archipelago by sea.

The Canary Islands continue to lack the capacity to face the rapid increase in sea arrivals; this negatively impacts also centres for unaccompanied minors, that struggle to provide adequate reception conditions and services. This situation persisted in 2023, and worsened in the fall of 2023, when the archipelago experienced a huge increase in sea arrivals. In order to overcome the lack of appropriate and sufficient reception facilities, newcomers were transferred in different reception places across the mainland, including in hotels and encampments put in place to that purpose. Due to this situation, the NGO ‘CEAR’ called on the Autonomous Communities for more solidarity among them in sharing the welcoming and reception of the migrants who arrive to the Canary Islands.

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681 Information provided by the IOM on 4 March 2022.
It has been underlined that the emergency approach adopted in dealing with the situation on the islands leads to severe delays in procedures such as age assessment, access to residence permits for children, enrolment in training and vocational courses. Lack of accommodations places targeting ageing out adolescents has caused a great vulnerability of youth migrants when leaving minors protection centres when aging out. Coordination with the other Spanish autonomous communities is needed, and support by the central government is vital to deal with the situation in the long term.

A report published by the Mixed Migration Centre, Save the Children and Médicos del Mundo found that the lack of standardized or comprehensive protocol for managing arrivals and screening often renders children difficult to identify for the authorities. Identification is a challenge as lawyers and interpreters are not systematically present when children arrive, so is common for refugees and migrants not to be properly counselled and informed. In addition, children do not receive adequate information about their rights, including the right to asylum. Furthermore, professionals at the reception centres are not trained to recognize those who could apply for asylum, resulting in a very few asylum requests. Access to specialized psychosocial support for children is also needed, considering the migration route’s difficulty and that many of them have suffered violence on previous migratory phases.

A thematic report published by the organisation Irídia in May 2022 denounced the human rights violations and the discrimination of migrants arriving at the Canary Islands in accessing their rights, as well as the general inadequacy of the reception facilities in terms of infrastructures and precarious conditions.

Moreover, as already mentioned above, the EUAA started to support Spanish asylum authorities, after having agreed upon an operational plan mainly focused on support to reception. This includes providing enhanced capacity to reception services in the Canary Islands. In January 2021, the EUAA carried out a needs assessment mission at six sites in the Canary Islands, which have received a high number of persons with international protection needs in recent months. The mission was carried out in order to enable the Agency to tailor its support to the specific needs in the region, and the results were discussed with the State Secretary for Migration of Spain. The Operation Plan on Special Support to reception agreed between the EUAA and Spain foresees a set of areas where the EU agency can support the Spanish Government, including assessing ‘the need for actions in support of emergency reception facilities with a specific focus on the Canary Islands’. As mentioned above, a new operational plan for 2023-2026 has been agreed between Spain and the EUAA, with foresees measures also aimed at strengthening the reception system in the archipelago.

Living conditions in Cañada Real of Madrid

An informal settlement of Cañada Real has been set up in Madrid where many migrants and other persons live. The living conditions are extremely poor and, since the last quarter of 2020, there is no electricity available. This situation affects around 4,600 persons, including 1,800 children, many of them of a young age. The situation persisted at the beginning of 2023. The responsible authorities have not taken any measures to address this issue yet.

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692 Information provided by Save the Children on 11 February 2022.
695 EASO, ‘Spanish State Secretary for Migration visits EASO following launch of new operation in the country’, 1 February 2021, available at: https://bit.ly/3gJkJFA.
Since 2020 different relevant national and international stakeholders (i.e. the Spanish Ombudsperson and different UN Rapporteurs) have denounced the seriousness of the situation and its impact on the health of children, as well as the violation of the conventions ratified by Spain.

The case opened at the end of 2020 against the Autonomous Community of Madrid and Naturgy/Unión Fenosa (the company providing the service) is still ongoing at the time of writing. Detailed information on the issue can be found in the 2020 and 2021 updates of this report.

In December 2021, Amnesty International launched a campaign to collect signatures to request the Autonomous Community of Madrid and the Municipalities of Madrid and of Rivas Vacia-Madrid to urgently act to guarantee electricity and contracts at Cañada Real, where around 4,000 persons (including 1,812 children) are living in dire conditions since they were deprived of electricity.

At the end of October 2022, the Committee on Social Rights of the Council of Europe urged the Spanish Government to restore the electricity in the area, and established a deadline on 15 December for the government to provide information on the measures implemented to comply with such requirement. The day after the expiration, Save the Children reported that national authorities had not respected their commitments.

In December 2022, Save the Children launched the campaign #LUZPARALACAÑADA, with the aim of collecting 60,000 signatures and of asking national and local institutions (i.e. the Spanish Government, the Autonomous Community of Madrid and the Municipality of Madrid) to restore immediately the energy supply, and to double the efforts to unblock the delay of Naturgy in the energy provision. In addition, many persons gathered in from of the Assembly of Madrid to protest against the lack of electricity in the settlement for two years. In October 2023, the Cañada Real continued to be without electricity after 3 years.

Living conditions in other informal settlements

The situation in informal settlements across Spain (especially in Andalucía) continued to be a concern in 2023. Many migrants, asylum seekers/refugees/persons in need of international protection and seasonal migrant workers live in these settlements in poor living conditions and with no access to basic services. Many of them are victims of trafficking, forced labour and forced prostitution.

For more detailed information, see AIDA, Country Report: Spain – Update on the year 2022, April 2023, available at: https://bit.ly/3SaHE0K

Defensor del Pueblo, El Defensor exige a la Comunidad de Madrid y a la Delegación de Gobierno una solución urgente para restablecer la luz en la Cañada Real, 21 December 2020, available in Spanish at: https://bit.ly/3qDSxHK


Cadena Ser, ‘El informe pericial de un juzgado concluye que Naturgy tiene limitadores eléctricos que provocan los cortes de luz en la Cañada Real’, 18 March 2021, available in Spanish at: https://bit.ly/3ZKo2Ig


Save the Children, ‘¡Políticos, devolved la luz a los niños y niñas de la Cañada Real!’ December 2022, available in Spanish at: https://bit.ly/3kwvotm


In January 2023 the police evicted more than 50 persons still remaining in the informal settlement of ‘El Walili’ (Almería), following a judicial decision establishing the eviction. In August, the NGO ‘La Carpa’ lodged a claim before the Spanish Ombudsperson denouncing the discriminatory treatment received by migrants living in informal settlements during a forest fire close to Huelva. In fact, while the population was included in the evacuation and temporary reception plan, migrants living in the affected informal settlements were not accommodated in the sports centres used to host evacuees. In September a fire destroyed more than 200 shacks in Huelva.

In November 2023, the NGO Andalucía Acoge met with different Members of the European Parliament in Brussels, to present its thematic report on the situation of informal settlements published in 2022, and to address the violation of the rights that migrant workers living in the informal settlements in Huelva and Almería face, and to urge the Parliament to monitor compliance with the EU framework for the protection of migrants.

A study published in June 2023 underlined the situation of physical and social exclusion that persons living in informal settlements face, the lack of appropriate living conditions, the scarcity of infrastructures and the lack of access to basic rights and services (i.e. health, housing, etc.).

In August 2023 the First Strategic Plan to eradicate informal settlements and substandard housing and to foster the social inclusion of persons (basically migrants) living in agricultural areas in Andalucía was approved by the Autonomous Community’s Government.

At the beginning of 2024, the Government of Andalucía allocated almost EUR 2 million to the Municipalities of Lepe, Moguer and Lucena del Puerto, with the aim of improving living conditions for temporary migrant workers in informal settlements.

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713 La Vanguardia, ‘Denuncian ante el Defensor el trato dado a inmigrantes afectados por el fuego de Bonares’, 6 August 2023, available in Spanish at: https://rb.gy/9itbb.
716 Iseak, Fundación Secretariado Gitano, ‘Estudio sobre el perfil y la situación de las personas en los asentamientos chabolistas y de infravivienda en España’, June 2023, available at: https://tinyurl.com/4t39c9eh
C. Employment and education

1. Access to the labour market

<table>
<thead>
<tr>
<th>Indicators: Access to the Labour Market</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the law allow for access to the labour market for asylum seekers?</td>
</tr>
<tr>
<td>❖ If yes, when do asylum seekers have access the labour market?</td>
</tr>
<tr>
<td>2. Does the law allow access to employment only following a labour market test?</td>
</tr>
<tr>
<td>3. Does the law only allow asylum seekers to work in specific sectors?</td>
</tr>
<tr>
<td>❖ If yes, specify which sectors:</td>
</tr>
<tr>
<td>4. Does the law limit asylum seekers’ employment to a maximum working time?</td>
</tr>
<tr>
<td>❖ If yes, specify the number of days per year</td>
</tr>
<tr>
<td>5. Are there restrictions to accessing employment in practice?</td>
</tr>
</tbody>
</table>

Asylum seekers are legally entitled to start working 6 months after their application for asylum is officially accepted, while their application is being examined.

Once the first 6-month period is over, applicants may request the renewal of their “red card” (tarjeta roja), in which it will appear that they are authorised to work in Spain with the term of validity of the document that has been issued.\(^{719}\) There are no other criteria or requirements for them to obtain a work permit, which is valid for any labour sector.

Due to this, and to facilitate their social and labour insertion, reception centres for asylum seekers organise vocational and host language training.

Labour integration supportive schemes offered to asylum seekers within the reception system include services like personalised guidance interviews, pre-employment training, occupational training, active job seeking support.

However, asylum seekers face many obstacles to accessing the Spanish labour market in practice. Many of them do not speak Spanish at the time they receive the red card. In addition to that, the recognition of their qualifications is a long, complicated and often expensive procedure. Lastly, they face discrimination due to their nationality or religion.\(^{720}\)

In March 2020, the State Secretary for Migration adopted an instruction addressed to the Autonomous Communities (which are in charge of the protection and guardianship of unaccompanied migrant children), with the aim of providing work permits to adolescents aged between 16 and 18. The measure aims at improving the situation of unaccompanied migrant children and at assuring them the access to the labour market within the same conditions as Spanish nationals.\(^{721}\)

Moreover, in response to the COVID-19 situation, the Government announced in May 2020 the automatic prolongation for 6 months of the work and residence permits that would have expired during the State of Alarm declared in Spain.\(^{722}\) Many NGOs asked the Government to take a further step by regularising all

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\(^{719}\) Article 32 Asylum Act; Article 13 Asylum Regulation.


\(^{722}\) Gobierno de España, Orden SND/421/2020, de 18 de mayo, por la que se adoptan medidas relativas a la prórroga de las autorizaciones de estancia y residencia y/o trabajo y a otras situaciones de los extranjeros en España, en aplicación del Real Decreto 463/2020, de 14 de marzo, por el que se declara el estado de alarma.
undocumented migrants in Spain. They denounced the inadequacy of measures to ensure access to employment to migrants and refugees, especially regarding the sectors of health and agriculture.

During the same month of May 2020, the Council of Ministers adopted a Royal Decree, which grants a work and residence permit for 2 years (renewable for an additional 2 years) to young migrants who have arrived as unaccompanied minors and are regularly present in Spain and who work in the agricultural field. Moreover, in September 2020 the Ministry of Inclusion adopted an instruction providing that, all those that worked in the agricultural field in accordance with the mentioned instruction can maintain their residence and work permit for an additional 2 years, and work also in other job sectors.

During 2020, domestic workers further called on the Spanish Government to ratify the 189 ILO Convention on domestic workers to guarantee their rights. In February 2021, the Government announced that it will start carrying out inspections to employers who hire domestic workers full time without having updated the professional minimum wage. Domestic workers’ groups welcome the measure as a step to guaranteeing them better rights. At the beginning of 2022, the Labour Inspectorate launched a campaign aiming at the regularisation of salaries and contributions of part-time domestic workers, by sending more than 35,000 letters to those employers who have been identified in committing possible irregularities in the contracts. In June 2022, the Congress voted the ratification of the 189 ILO Convention.

2. Access to education

<table>
<thead>
<tr>
<th>Indicators: Access to Education</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the law provide for access to education for asylum-seeking children?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Are children able to access education in practice?</td>
<td></td>
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Children in Spain have the right to education, and the schooling of children is compulsory from age 6 to 16. This right is not explicitly regulated by the Asylum Act but it is guaranteed by other regulations concerning aliens and children.

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1. **Access to Education**

Children in Spain have the right to education, and the schooling of children is compulsory from age 6 to 16. This right is not explicitly regulated by the Asylum Act but it is guaranteed by other regulations concerning aliens and children.
Minors’ protection-related issues fall within competence of the Autonomous Communities, which manage education systems on their territory and must guarantee access to all minors living thereon. Asylum seeking children are given access to education within the regular schools of the Autonomous Community in which they are living or they are hosted in.

The scheme followed for integrating asylum seeking children in the school varies depending on the Autonomous Community they are placed in, as each regional Administration manages and organises school systems as they rule. Some Communities count on preparatory classrooms, while others have tutors within the normal class and some others do not offer extra or specialised services in order to ease the integration within the school.

In practice, asylum seeking children are usually enrolled in school, even during the first reception phase, during which they are accommodated in asylum facilities.

Nonetheless, shortcoming concerning children accessing education have been reported concerning children hosted in the CETI in periods of overwhelmed conditions due to extreme overcrowding. Moreover, in August 2019, the association of immigration lawyers published a press release denouncing the deliberate lack of schooling for children in Melilla. Following various denounces by the Ombudsperson, UN bodies and NGOs, in February 2022 the Minister of Education changed the legislation with the aim of guaranteeing the access to education for all children residing in Ceuta and Melilla.

Moreover, due to increase in arrivals on the Canary Islands, hundreds of presumed unaccompanied children waiting to undergo age determination procedures were not able to access to education as of the beginning of 2021. A thematic report on the situation of children in the Canary Islands published by UNICEF in July 2021 underlines that, while some reception centres guarantee the immediate access to schooling for migrant children, the same cannot be said for other reception facilities; that is often due, among other reasons, to the lack of preparation for both reception centres and schools in managing such situations and to the lack of available places in schools.

The Royal Decree adopted in March 2022 establishing the Regulation for the Reception Conditions guarantees children in the Stateless Determination Procedure access to education and other integration programmes.

D. Health care

<table>
<thead>
<tr>
<th>Indicators: Health Care</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation? ☒ Yes ☐ No</td>
</tr>
<tr>
<td>2. Do asylum seekers have adequate access to health care in practice? ☒ Yes ☐ Limited ☐ No</td>
</tr>
<tr>
<td>3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice? ☐ Yes ☒ Limited ☐ No</td>
</tr>
<tr>
<td>4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care? ☒ Yes ☐ Limited ☐ No</td>
</tr>
</tbody>
</table>

737 Boletín Oficial del Estado, Real Decreto 220/2022, de 29 de marzo, por el que se aprueba el Reglamento por el que se regula el sistema de acogida en materia de protección internacional, available in Spanish at: https://www.boe.es/buscar/act.php?id=BOE-A-2022-4978.
Spanish law foresees full access to the public health care system for all asylum seekers. Through this legal provision, they are entitled to the same level of health care as nationals and third-country nationals legally residing in Spain, including access to more specialised treatment for persons who have suffered torture, severe physical or psychological abuses or traumatising circumstances.

Since the 2012 reform of access to the Public Health System, which limited the previously guaranteed universal access to health care, asylum seekers had been facing problems in receiving medical assistance, even though it is provided by law. In particular, some asylum seekers were denied medical assistance, because medical personnel were not acquainted with the “red card” (tarjeta roja) that applicants are provided with, or they did not know that asylum seekers were entitled to such right.

In September 2018, the Government approved a decree reinstating universal access to the Public Health System, thus covering irregular migrants as well.

In 2020, the Ministry of Health announced a law proposal establishing measures for the equality, the universality and the cohesion of the national health system, and launched a public consultation. The proposal was sent to the Parliament by the Council of Minister on June 2022 and was approved in May 2023.

Although access to special treatment and the possibility to receive treatment from psychologists and psychiatrists is free and guaranteed, it should be highlighted that in Spain there are no specialised structures for victims of severe violations and abuses like the ones faced by asylum seekers escaping war, indiscriminate violence or torture. There are no specialised medical centres that exclusively and extensively treat these particular health problems.

Currently, there are different NGOs in charge of places for asylum seekers with mental health needs. For about 5 years, Accem, in collaboration with Arbeyal, a private company, managed the “Hevia Accem-Arbeyal” centre, specialised in disability and mental health. In 2018, it opened the Centre for the Reception and Integral Assistance to Persons with Mental Health Problems (Centro de Acogida y Atención Integral a Personas con Problemas de Salud Mental), and is dedicated to asylum seekers and beneficiaries of international protection in a situation of vulnerability. The purpose of the residential centre is to promote the highest level of mental and physical well-being to people whose mental illness hinders their integration process.

In addition, CEAR also manages places specialised in asylum seekers with mental conditions. La Merced Migraciones Foundation also provides reception places for young adult asylum seekers who need special assistance due to mental health-related conditions. Other NGOs have also developed specific resources to assist and accompany asylum seekers with mental health needs, such as Bayt al-Thaqafa (which is member of the Federación Red Acoge) in Barcelona, Progestión, Provivienda and Pinardi. The NGO Valencia Accull (which is member of the Federación Red Acoge) has opened a reception facility in

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738 Article 15 Asylum Regulation.
744 See the dedicated website at: http://www.accemarbeyal.com/.
745 Federación Red Acoge, see: https://redacoge.org/.
746 Information provided by Federación Red Acoge on 1 March 2022.
747 Asociación Progestión, see: https://progestion.org/.
748 Provivienda, see: https://www.provivienda.org/.
Valencia for single female asylum seekers/refugees. Federación Red Acoge also runs a new facility with 7 places for asylum seekers with addictions or dual pathology. In information on organisations providing such services in Spain is not public.

In April 2021, the Fundación Cruz Blanca opened a new reception facility in Guadalajara, dedicated to the assistance of migrants affected by mental health issues.

In a report published in February 2021, Amnesty International underlines the increasing obstacles that undocumented migrants faced in accessing health services during the COVID-19 pandemic. Such barriers are essentially due to the legislation that does not foresee the universal access to the National Health System, the insufficiency of adequate measures implemented by the Autonomous Communities, and the language barrier in order to access medical assistance by phone. In May 2021, six NGOs called on the Minister of Inclusion, Social Security and Migration to reform the Regulation of the Immigration Law in a way that guarantees adequate protection to all migrants, especially in light of the COVID-19 pandemic, as more than half million persons cannot exercise their right to health due to their impossibility to fulfil administrative requisites, given their lack of valid documents.

Various obstacles were registered regarding access to the vaccination campaign for migrants, generally due to linguistic barriers and lack of access to digital services. Even though the migrant population – comprising also undocumented migrants – was included in the Spanish vaccination strategy, the administration often delegated to NGOs the responsibility in terms of information provision and facilitation in access to the campaign. The NGO APDHA urged the Government of Andalucía to adopt a comprehensive vaccination strategy which includes undocumented migrants, including those persons who do not hold a healthcare card. The call derives from the concern that the public vaccination strategies in Andalucía do not include specific plans to address the specific situation of undocumented migrants living in the Autonomous Community. Stateless persons were instead included in vaccination plans.

A report published in March 2023 focused on the challenges that asylum seekers and refugees face in accessing health, especially due to administrative barriers (i.e. the necessity to be enrolled at the municipality).

UNHCR observed an increasing need to address mental health and psychosocial support (MHPSS) related needs of asylum seekers and refugees in the asylum system. In June, UNHCR organized a protection dialogue on the mental health of refugees, asylum seekers and stateless persons in Madrid, aimed to identify challenges and opportunities for improving refugees’ mental health and psychosocial support. Special emphasis was placed on the need to strengthen coordination among key actors, incorporate an intercultural perspective in the services provided, promote specialized training and care for professionals, and promote the effective participation of refugees. Following the Protection Dialogue, UNHCR established a reference group on mental health with key stakeholders, including authorities, NGOs, and refugee-led organizations, to assist UNHCR in implementing its strategy related to MHPSS.

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749 Information provided by Federación Red Acoge on 1 March 2022.
750 Information provided by Fundación Cruz Blanca on April 2021.
to strengthen the network and identify initiatives and measures to reinforce refugees’ wellbeing and mental health.\textsuperscript{757}

E. Special reception needs of vulnerable groups

<table>
<thead>
<tr>
<th>Indicators: Special Reception Needs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is there an assessment of special reception needs of vulnerable persons in practice?</td>
</tr>
<tr>
<td>☑ Yes □ No</td>
</tr>
</tbody>
</table>

In the Spanish reception system, efforts are made to place asylum seekers in the reception place which best fits their profile and needs depending on their age, sex, household, nationality, existence of family networks, maintenance, etc.\textsuperscript{758} A case by case assessment is made between OAR and the relevant NGO in charge of the reception centres and, after assessing the availability of reception spaces and the individual characteristics of the applicant, the person is placed in the place that responds to their needs. As asylum seekers’ placement is made on case by case basis, there is an ongoing monitoring mechanism which takes into consideration the response to reception needs of each person concerning the mentioned profiles.\textsuperscript{759}

In addition, based on vulnerability factors referred to under the Asylum Act, most vulnerable profiles are entitled to a longer stay in reception facilities compared to the normal 18-month period. For vulnerable groups, reception can reach a total of 24 months, following an exceptional authorisation from the competent authority.\textsuperscript{760}

Nonetheless, available resources are not allocated with a view to provide for the specific needs of more vulnerable asylum applicants, who are referred to external and more specialised services in case of need. The Spanish reception system in fact does not guarantee specialised reception places addressed to asylum applicants such as victims of trafficking, victims of torture, unaccompanied asylum-seeking children or persons with mental disorders. As mentioned in Health care, some NGOs offer receptions facilities and services for asylum seekers with health mental problems. In addition, some NGOs have specific places in their reception facilities specifically addressed to trafficked women. These NGOs can also provide tailored services targeting specific vulnerable groups (i.e. trafficked persons, asylum seekers with mental health needs), to facilitate their access to education, labour market and healthcare.

Reception places for asylum-seeking victims of trafficking are very few, and their number is not made public by the MISSM. The new Regulation on Reception specifically includes the prevention, detection and referral of victims of trafficking as one of the main principles governing any action within the reception system, and it also considers trafficking as a situation of vulnerability.

The Spanish reception system’s lack of focus on vulnerability has been criticised by several organisations in recent years. The Spanish Ombudsperson expressed its concerns regarding the serious deficiencies in the humanitarian assistance programmes for migrants.\textsuperscript{761} In its 2022 Annual Report, the Ombudsperson reiterated the concerns, formerly outlined in a thematic report of 2016,\textsuperscript{762} regarding the deficiencies of the

\textsuperscript{757} Information provided by UNHCR in April 2024.
\textsuperscript{758} DGIAH, Reception Handbook, November 2018, A. 6.
\textsuperscript{759} DGIAH, Reception Handbook, November 2018, G.2 (22), G.3 (24).
\textsuperscript{761} Asociación Pro derechos Humanos de Andalucía, El Defensor del Pueblo advierte “significativas carencias” en el diseño de los programas de acogida humanitaria, 7 August 2020, available in Spanish at: https://bit.ly/2LUnrI.
\textsuperscript{762} Defensor del Pueblo, El asilo en España: La protección internacional y los recursos del sistema de acogida, June 2016, available in Spanish at: https://goo.gl/Jrg3k, 64.
asylum reception system and its impossibility in assuring places for all those who need it.\textsuperscript{763} In its 2022 annual report on asylum, the organisation CEAR highlighted some deficiencies of the Spanish asylum reception system, such as the lack of appropriate response to specific needs and vulnerabilities due to a lack of flexibility of the system in adapting and responding to such needs.\textsuperscript{764}

In July 2022, the Spanish Committee of Representatives of Persons with Disabilities (\textit{Comité Español de Representantes de Personas con Discapacidad - Cermi}) published guidelines for providing an adequate assistance to women and girls with disability in situations of armed conflicts and humanitarian emergencies. The document provides practical guidance and suggestions on how to conduct actions directed at fostering social inclusion for women and girls with disability seeking asylum.\textsuperscript{765}

On February 2022 the Minister of Inclusion, Social Security and Migration, together with UNHCR, started the implementation of an action protocol on gender-based violence within the reception system, with the aim of improving the prevention, risks mitigation and response for gender-based cases, in line with international and EU laws.\textsuperscript{766} A leaflet explaining the protocol has been also published in different languages (i.e. Spanish, English, French, Arabic, Ukrainian),\textsuperscript{767} together with a pocket guide for the professionals working in the asylum reception system.\textsuperscript{768} Thanks to the protocol, 90 victims of gender-based violence were identified within the asylum reception system between January and June 2022.\textsuperscript{769}

UNHCR supported the Ministry of Inclusion, Social Security and Migrations (MISSM) and NGOs managing reception centres for refugees and asylum seekers in the implementation of national standard operating procedures to prevent and respond to gender-based violence in the reception system, enhancing the reception personnel capacity to adequately detect, refer, and intervene in GBV cases with a survival-centre approach. A few guidelines (data collection tool, pocket guide, a leaflet for professionals, and posters and leaflets for refugees, asylum seekers and stateless persons) were developed.\textsuperscript{770} A plan to disseminate the guidelines through targeted trainings will be rolled out in 2023.\textsuperscript{771} In April 2023, the implementation of such a protocol was extended to the facilities for humanitarian assistance to migrants.\textsuperscript{772}

UNHCR supported competent authorities in developing a protocol for the prevention of and response to violence against women in first-line reception centres for sea and land arrivals. The protocol was signed by the Secretary of State for Migration in November 2023. UNHCR facilitated a participatory process through a Gender-Based Violence Working Group involving competent authorities, the European Union Asylum Agency (EUAA), NGOs and reception centres in Ceuta and Melilla, ensuring that the protocol


\textsuperscript{53}.


\textsuperscript{766} ACNUR, ‘Inclusión implementa junto a ACNUR el Protocolo de actuación sobre violencia de género en el sistema de acogida’, 23 February 2022, available in Spanish at: https://bit.ly/3PZD0zO.

\textsuperscript{767} ACNUR, Ministerio de Inclusión, Seguridad Social y Migraciones, ‘Protocolo de actuación ante la violencia contra las mujeres solicitantes y beneficiarias de protección internacional y temporal’, available in Spanish at: https://bit.ly/3PWMQCA.


\textsuperscript{769} Europa Press, ‘España detectó a 90 víctimas de violencia machista entre las refugiadas acogidas entre enero y junio de 2022’, 24 November 2022, available in Spanish at: https://bit.ly/3znPK1W.

\textsuperscript{770} Ministerio de Inclusión, Seguridad Social y Migraciones, ‘Inclusión y ACNUR extienden el protocolo de actuación sobre violencia de género a los centros de atención humanitaria’, 18 April 2023, available in Spanish at: https://tinyurl.com/52azcn3t.
addresses the real needs of women and the challenges faced by personnel in this complex context. The protocol for the prevention of and response to GBV encompasses all forms of violence against women in accordance with the Istanbul Convention and applies to cases of violence against women in Spain, their country of origin, during their journey, and any foreseen risks of violence in a potential third country of destination. It includes a chapter on asylum as a key protection mechanism for women and 18 annexes, including a data collection tool and a guide to developing standard operating procedures to prevent sexual exploitation and abuse. UNHCR created a pocket guide for its practical application by professionals and organized online interactive working sessions with over 200 GBV actors in Melilla, Ceuta, Cadiz, the Canary Islands, Malaga and Almeria, reinforcing networking, capacity building and collaboration.773

In June 2023 the Directorate-General of the Management of the Asylum Reception System at the Minister of Inclusion, Social Security and Migration renewed an agreement with Save the Children until the 30 of June 2024 in order to implement the programme ‘0-6’ at the CAR of Mislata (Valencia).774 The project aims at tackling the emotional and psychosocial protection of children aged 0-6, their physical protection, at fostering access to education and learning, and the relation with parents and the community.

In October 2023 the NGO Kifkif, specialised in providing assistance to LGTBIQ+ migrants and asylum seekers, closed due to alleged embezzlement by its founder.775

Children and unaccompanied minors

There are no specialised resources for unaccompanied asylum seeking-children, and they are thus hosted in general centres for unaccompanied children or left destitute. In a report submitted to the Committee on the Rights of the Child in the occasion of the 7th cycle of assessment of the implementation of the Convention on the Rights of the Child, the Platform for Childhood (Plataforma de Infancia) underlined the necessity to create, especially in the Canary Islands, Andalucía, Ceuta and Melilla, appropriate reception centres to respond to migrant children’s international protection needs. It adds that such centres should provide for legal assistance, interpreters with proper training, and to foster quick referral to other facilities if in the best interest of the child776 (See also Legal representation of unaccompanied children). A report published in May 2023 by EuroMed Rights denounced the ‘extremely inadequate and unequipped conditions of reception services for unaccompanied migrant children to deal with large numbers of pending applications and age assessments, with poor sanitary conditions and a lack of access to health and education services’.777

The situation of unaccompanied children in the Canary Islands started to raise concerns since 2020, when more than 2,000 children were reportedly not receiving adequate assistance and protection.778

Following the call by different stakeholders including the Government of the Canary Islands and the Spanish Ombudsperson, the General Directorate for Children of the Ministry of Social Rights and the 2030 Agenda approved in 2022 a Management Model for migration contingencies for unaccompanied children and adolescents.779 The model is aimed at providing a tailored response for of migratory pressure on minors’ protection systems at border territories such as the Canary Islands, Ceuta, Melilla or Andalucía. For these situations, the model foresees the possibility to activate different Response Plans for Children

773 Information provided by UNHCR in April 2024.
774 Derecho, ‘Resolución de 22 de junio de 2023, de la Secretaría General Técnica, por la que se publica la Adenda de prórroga al Convenio entre la Dirección General de Gestión del Sistema de Acogida de Protección Internacional y la Fundación Save The Children, para el desarrollo del programa 0-6 en el CAR de Mislata’, 1 July 2023, available in Spanish at: https://tinyurl.com/2xjrijkak.
and Adolescents, with the aim of referring and distributing children at national level. The beneficiaries of such measures are unaccompanied migrant children and adolescents, who have entered Spain through an Autonomous Community whose child protection system is overwhelmed and thus are unable to comply with the best interests of these minors at that time. Several stakeholders advocated for this “solidarity or responsibility sharing mechanism” for many years. Following such a plan, the Government and the Autonomous Communities agreed to transfer 400 UAMs from Ceuta and the Canary Islands to reception facilities in mainland, due to the situation of overcrowding. In addition, other 374 UAMs will be transferred in 2023. In November 2022, the Government of the Canary Islands established a budget increase for the assistance to UAMs of around EUR 1.4 million.

Due to the increase in arrivals to the Canary Islands in 2023, especially during the fall, many (presumed) UAMs arrived to the archipelago, including young children (i.e. less than 14 years old). This resulted in the UAMs’ protection system in the Canary Islands accommodating more than 4,400 UAMs in November 2023, and the accommodation of many UAMs in facilities for adults because they were not identified as minors. Following the challenges that arose because of the substantial increase, different organisations (i.e. the Platform for Childhood, UNICEF, and Save the Children) expressed concerns about the situation, and asked different institutions to take effective measures to guarantee children’s rights. Similarly, Amnesty International denounced the situation in the archipelago and the lack of guarantees of UAMs’ rights, concretely the lack of information provision on their rights, including the right to asylum, the lack of age assessment procedures, the accommodation of presumed UAMs in centres for adults, the lack of legal assistance and appropriate interpretation, etc. In October, all the Autonomous Communities reached an agreement to share the reception of 450 UAMs from the Canary islands. The Government of the archipelago assessed the agreement positively, but considered the number of UAMs to be transferred very low compared to the migratory situation it is facing. As for February 2024, the transfer has not been carried out yet, being just four the Autonomous Communities who informed to be available for such a transfer of a total of 112 children.

During the last years, problems and challenges in carrying out age assessment procedure to UAMs in the Canary Islands have been reported, with around 2,000 unaccompanied migrant children waiting to undergo the procedure. In its 2022 annual report, the Spanish Ombudsperson continued to express concerns on the issue, as hundreds of UAMs keep on waiting the Public Prosecutor Office to issue the decree determining their age. In February 2024, there were 5,500 migrant children waiting to undergo the procedure and/or for a response.

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780 Information provided by Save the Children in March 2023.
783 El SaltoDiario, ‘Urga garantizar los derechos de la infancia migrante que llega a Canarias, apuntan las organizaciones’, 6 November 2023, available in Spanish at: https://tinyurl.com/yut8awyx.
786 EFE, ‘Canarias inicia el proceso para intentar el reparto obligatorio de los menores migrantes’, 11 February 2024, available at: https://tinyurl.com/mn3bu5f.
In June 2021, the Law on the protection of children against violence - an important step forward in guaranteeing children rights and protection against any form of violence - was approved. The Platform of Childhood published a guide to disseminate the content of the law to different stakeholders, as well as to identify the next steps necessary to assure the effective and practical implementation of the law. Among others, the law established the obligation for the personnel of certain centres/facilities (i.e. health centres, schools, sport and leisure centres, social services) to communicate situations of violence against children. Professionals working at protection centres for unaccompanied migrant children, asylum reception facilities and centres for the humanitarian assistance of migrants are subjected to such obligation. In addition, the law reiterates the obligation of the competent authorities to guarantee children in need of international protection access to territory and to the asylum procedure, independently of their nationality and of the means used to access the Spanish territory, in accordance with the Asylum Act. In November 2022 the Strategy to eradicate violence against children was adopted. As outlined by the Spanish Ombudsperson in his 2022 annual report, the Autonomous Communities started to develop and put in place different actions aiming at implementing such a law (i.e. protocols on detection and reporting of cases of violence against children, trainings to professionals, etc.).

In October 2021, the Government adopted the reform of the Regulation of the Immigration Law, aimed at fostering the integration of unaccompanied migrant children and young adults. Many stakeholders advocated for the reform of the Regulation of the Immigration Law, including many former UAMs, and they regarded it as an extremely positive development. After one year of implementation, the reform allowed almost 17,000 UAMs and young adults to obtain a residence and work permit. In this respect, the Spanish Ombudsperson acknowledged the positive impact of such a reform.

In November 2022, the Government adopted the National Action Plan for the implementation of the European Child Guarantee for the period 2022-2030, which includes a set of measures addressing also refugee children, asylum seeking children and UAMs. As far as the author is aware, Autonomous Communities are still working on its operational implementation at regional level, as the Communities have competence on child protection.

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791. Ley Orgánica 8/2021, de 4 de junio, de protección integral a la infancia y la adolescencia frente a la violencia, 4 June 2021, available in Spanish at: https://bit.ly/3ra6wqG.
As detailed in previous updates of this report, another issue denounced relates to the separation of children from their parents. This was a practice of the Public Prosecutor following boat arrivals at Las Palmas de Gran Canaria (Canary Islands). Children were separated from their parents during many months in order carry out DNA tests, which was heavily criticised. During this time, children were hosted in centres for unaccompanied migrant children, while their parents were in centres for adults. In the case of one family, in January 2023 the High Court of Justice of the Canary Islands (Tribunal Superior de Justicia de Canarias) condemned Canary Islands Government to pay a EUR 210,000 compensation for the moral suffering of the parents deriving from the separation from their three children during 14 months.  

In May 2023, the Council of Ministers adopted the National Strategy for the Rights of Childhood for the period 2023-2030, with the aim of fully guaranteeing such rights. Among other things, the strategy foresees a set of measures to protect migrant children, including those in need of international protection.

Following the general elections in July 2023, the Ministry of Youth and Children was created. It is hoped that this will strengthen the protection of children in Spain and to align policies and practices among the different Autonomous Communities. The Minister commented on the necessity to put in place a comprehensive plan for the assistance, protection and social inclusion of migrant children, including young adults who have been under the guardianship of the public authority.  

A report published in December 2023 by the Platform for Childhood highlighted the challenges faced by accompanied children in the asylum system. In relation to reception conditions, the publication referred to the lack of a child perspective in the whole asylum reception system, and concretely, i.e., the lack of specialized lawyers and psychologists, the lack of specific activities and economic support for children, the lack of friendly specific and appropriate spaces for children in the reception facilities, etc.

In a report published in February 2024, UNICEF asked the Government to provide a quick and effective response to the needs of the 5,500 unaccompanied migrant children in the Canary Islands, as it did for the children displaced from Ukraine.

Discrimination and hate crimes

Discrimination and hate crimes against migrants and refugees continued to be a reason of concern in 2023.

In a press release published in occasion of the 2023 International Day for the Elimination of Racial Discrimination, Amnesty International highlighted the discriminatory practices occurring in the context of migration and especially in relation to border management, and denounced how such practices demonstrate the institutional racism existing in Spain.

Several developments relating to discrimination and hate crime were reported throughout 2023 and at the beginning of 2024.

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803 Portal de Transparencia, Ministerio de Juventud e Infancia, available at: https://tinyurl.com/42y8z6wa.
An attack on three churches in Algeciras, which resulted in the death of a priest and the injury of four persons, committed by a Moroccan man in January 2023, was used by the far-right wing party ‘Vox’ to blame migrants and to justify its position on migration. In light of that, different organisations expressed concerns regarding the hate and xenophobic messages expressed by leading politicians. In March, a group of activists placed different banners on the external walls of the CIE of Aluche in Madrid to denounce the deprivation of liberty suffered by migrants, as well as the mistreatments and tortures. In May, the organisation ‘CEAR’ denounced the structural racism existing in Spain and its increase in terms of accessing basic rights, such as education, housing and employment, as well as the issue of underreporting of racist incidents. In June, Accem denounced the increase in discrimination, racism and xenophobia against migrants in Ávila and the barriers they face in accessing their rights. In July, different organisations and groups in Cataluña issued a press release under the slogan ‘#DoyConEIPerfil’, to denounce the racism in the investigations carried out by the police. During the same month, two organisations denounced the aggression of a Moroccan migrant residing in Nijar (Almería) by the police while attempting to enter the patronal feasts. In addition, the Municipality of Ripoll (Girona) reported on Twitter the deportation of a migrant in an irregular situation as a victory. Following that, a member of the Municipality Government from the political party Candidatura de Unidad Popular – CUP presented a motion of censure against the far-right political party Aliança Catalana, which governs the Municipality, and asked for the dismissal of its Major.

In September 2023, the First Instance Court nº 33 of Madrid condemned a school to pay EUR 10,000 for its insufficient action and protection of a Vietnamese girl who received racist insults during 5 years. During the same month, six police officers belonging to the Cataluña’s ‘Mossos d’Esquadra’ have been condemned and expelled from the police corps for the racist aggression of a migrant in 2019.

In April 2022, the Government adopted the Second Action Plan to Fight against Hate Crimes for 2022-2024, while in July it approved the comprehensive law on equal treatment and discrimination, welcomed by the organisations forming the Alliance for the Law on Equal Treatment as a step forward in the fight against discrimination. Nevertheless, the Alliance highlighted that the law remained lacking in some areas, mainly due to the failure to introduce additional mechanisms - such as accompaniment and translation - to guarantee an effective and comprehensive protection of victims. In addition, the Alliance voiced concerns on the lack of measures to tackle discrimination in certain contexts, such as the action of law enforcement agencies and the education. The Spanish Ombudsperson indicated to have initiated all the necessary steps to monitor the implementation of the law, and to foster access to the body to all those persons victims of discrimination in any public context.

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809 CEAR, ‘Organizaciones hacen un llamamiento a la responsabilidad política para promover la convivencia, la igualdad y la cohesión social’, 27 January 2023, available in Spanish at: https://tinyurl.com/vkddwbv.
810 El Salto Diario, ‘“Rompen” una de las paredes del CIE de Aluche para denunciar el racismo institucional’, 20 March 2023, available in Spanish at: https://tinyurl.com/5cuv2cer.
813 SOS Racisme, ‘Comunicado: #DoyConEIPerfil - Convocatoria contra la discriminación racial en las investigaciones policiales’, 17 July 2023, available in Spanish at: https://tinyurl/5vb0j01.
816 El Salto Diario, ‘Un colegio concertado, condenado a pagar 10.000 euros por el acoso xenófobo que recibió una alumna’, 19 September 2023, available in Spanish at: https://rb.gy/7qz01k.
820 Accem, ‘La Alianza por la Ley de Igualdad de Trato celebra por fin su aprobación en el Congreso’, 1 July 2022, available in Spanish at: https://bit.ly/3MJhIM.
A report published in March 2023 by *SOS Racisme* in Cataluña denounced that migrants are three times more likely to be identified by the police than Spanish nationals.\(^{822}\)

The results of a survey published in May and carried out between November 2022 and January 2023 by the NGO ‘Rights International Spain’ showed the widespread and endemic existence of ethnic and racial profiling put in place by police in Spain.\(^{823}\)

During the same month, a report published by the NGO ‘Asociación Pro Derechos Humanos de Andalucía’ denounced the discrimination faced by migrants and ethnic minorities to access housing in Córdoba.\(^{824}\)

The annual report published by the organisation ‘SOS Racismo’ warned about the increase of 41.49% in cases of discrimination, racism and xenophobia compared to the previous reporting period, especially in relation to aggressions, access to social allowances, to public and private services, and to employment.\(^{825}\)

In July the Council of Ministers approved the Strategic Framework for Citizenship and Inclusion against Racism and Xenophobia for the period 2023-2027, which contains a set of measures also related to the humanitarian assistance of migrants and the reception conditions of asylum applicants, including vulnerable persons.\(^{826}\)

During the increase in arrivals to the Canary Islands in the fall of 2023, the Popular Party (*Partido Popular*) joined the discriminatory and racist discourse of the far-right wing party *Vox* in relation to migration.\(^{827}\)

The NGO ‘Médicos del Mundo’ identified 176 cases of institutional racism in Ibiza from January to November 2023. These refer to the barriers that migrants face in accessing rights and services. The organisation particularly underlines the obstacles in accessing health services and the enrollment in the municipal register (*empadronamiento*). The vast majority of the migrants affected by these issues were women.\(^{828}\)

On the occasion of the International Migrants Day, the NGO ‘CEAR’ denounced the discrimination that migrants, asylum seekers and refugees face in accessing rights and the inclusion process.\(^{829}\)

Following the announcement to build a facility for asylum seekers in *Azuqueca de Henares* (Guadalajara), around 200 persons gathered to protest the assignment of a parcel to that purpose.\(^{830}\)

Unaccompanied children also continued to face serious discrimination in Spain in 2023. A report published by the organisation ‘Solidary Wheels’ denounced the violence that unaccompanied migrant children suffer
Asylum seekers, refugees and migrants in Spain continue to suffer from financial exclusion and discrimination, because of the challenges often faced while trying to open bank accounts. In February 2022, different organisations urged the Government and the Bank of Spain (Banco de España) to adopt urgent measures to make banking institutions comply with the law and to end a practice that impedes the financial and social inclusion of asylum seekers, refugees and migrants.\(^{833}\)

In 2022, within the project ‘Don’t call out, claim’ (No clames, reclama), the Federation of Consumers and Users (Federación de Consumidores y Usuarios – CECU) published a practical guide for vulnerable users (including asylum seekers) on their rights regarding the opening of a bank account. The document is available in Spanish, English, French and Arabic.\(^{833}\) A report published in March 2023 by the organisation CEAR highlighted the challenges that asylum seekers face in opening a bank account, especially connected to the amount of documentation they are legally required.\(^{835}\)

Similarly, migrants continued to face challenging in accessing health, especially pregnant women and children, despite the legislation guarantee them such a right.\(^{836}\)

**LGBTQI+**

Discrimination and incidents against LGBTQI+ persons (including asylum seekers and migrants) increased in 2023. The 2023 ILGA report referred to an increase in the use of transphobic speech and anti-LGBTI hate crimes in Spain.\(^{837}\)

In January 2023 the regional police of Cataluña Mossos d’Esquadra initiated an investigation on a homophobic aggression suffered by a trans person in Barcelona.\(^{838}\) In June, a canvas representing a hand throwing to the garbage different flags, including the LGTBI+ one, was shown in Madrid by the far-right political party ‘Vox’ in view of the Spanish General Elections. The Electoral Commission of the city ordered its removal.\(^{839}\) In July, a LGTBI+ flag was burnt at the Municipality of Purullena (Granada).\(^{840}\)

In December 2022 the NGO ‘La Merced Migraciones’ launched the documentary film ‘Resistencias’ which collects testimonies of LGTBI+ migrants and refugees to raise awareness on their situation, as well as on the challenges and the discrimination they face in their inclusion process.\(^{841}\)

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\(^{841}\) La Merced Migraciones, ‘Resistencias cuenta las historias de 15 personas LGTBI migrantes’, 22 December 2023, available in Spanish at: https://tinyurl.com/58fu9dfk.
In occasion of the 2023 World Day against LGTBI-phobia, the National Federation of Lesbians, Gays, trans, Bisexual, Intersexual and More (FELGTBI+⁸⁴², according to its initials in Spanish) published the results of a survey denouncing that more than 280,000 LGTBI+ persons suffered aggressions in the last 5 years in Spain.⁸⁴³ Despite the advanced legislation on the matter in Spain, LGTBI+ migrants and refugees continue to suffer discrimination in accessing their rights.⁸⁴⁴

UNHCR continued its collaboration with the Spanish Federation of LGTBIQ+ Associations (FELGTBI+) launching a joint training course on asylum for LGTBIQ+ NGOs, providing observations to the Law on the real and effective equality of transgender people and the rights of LGTBIQ+ people which included an article on International Protection, and the presentation of a pledge in the Forum “Spain for Refugees”.⁸⁴⁵

In view of the General Elections, Amnesty International asked all the political parties an unambiguously commitment to consolidate LGTBI+ rights after the elections.⁸⁴⁶

In June 2022, the Government approved a law on the equality of transgender individuals and on additional guarantees of LGTBI+ persons’ rights, which also foresees the right self-determination and the possibility of gender rectification at the Civil registry.⁸⁴⁷ Amnesty International welcomed the proposal as a step to advance in guarantee LGTBI+ rights.⁸⁴⁸ The National Federation of Lesbians, Gays, Trans, Bisexuals, Intersexual+ (Federación Estatal de Lesbianas, Gais, Trans, Bisexuales, Intersexuales y más - Felgtbi+)⁸⁴⁹ called the Government to guarantee the right to change gender at the register to all trans migrants, independently of their administrative situation.⁸⁵⁰ The law was approved in March 2023.⁸⁵¹

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

Article 17(2) of the Asylum Act provides that, at the time of making of the asylum application, the person shall be informed, in a language they can understand, about the rights and social benefits to which they have access based on their status as applicants for international protection.

The provision of information on the reception system is given orally and in written copy at the moment of expressing the will to apply for asylum. The leaflet regarding asylum related issues and procedures also provides information on the right of the person to be hosted in reception places. At the same time, persons are informed on the codes of conduct and other details when they are welcomed in the reception places.

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⁸⁴⁵ Information provided by UNHCR in April 2024.


2. **Access to reception centres by third parties**

<table>
<thead>
<tr>
<th>Indicators: Access to Reception Centres</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. <strong>Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?</strong></td>
</tr>
<tr>
<td>□ Yes</td>
</tr>
</tbody>
</table>

Family members are not allowed to enter reception centres or apartments. Any external actor who wishes to visit any of the facilities within the official reception system must ask for authorisation from the managing authority. As mentioned in *Types of Accommodation*, most of the centres are managed by NGOs, and for this reason this type of personnel is already inside the centres.

**G. Differential treatment of specific nationalities in reception**

Persons held within the CETI in **Ceuta** and **Melilla** are not free to move outside the two cities, also due to their geographical location. In order to be transferred to the peninsula applicants and migrants have to wait for the permission of the Ministry of Inclusion, Social Security and Migration, which manages the centres, and of the Ministry of Interior which authorises their departure. In two decisions taken in July 2020, the Supreme Court (*Tribunal Supremo*) recognised the right to free movement of asylum seekers from Ceuta and Melilla across Spanish territory.\(^{852}\) Despite the ruling, reports of asylum seekers denied to freely leave Ceuta and Melilla continued to be reported up until the beginning of 2021 (see *Freedom of Movement*). As above mentioned, two additional decisions the Supreme Court reaffirmed the existence of this right in 2021.\(^{853}\) According to available information, it seems that the practice started to change at the end of 2021, to become more aligned with the jurisprudence on the matter.

There is a persisting general lack of transparency concerning the criteria followed by the CETI for transferring people to the Spanish peninsula, which has been repeatedly criticised by human rights organisations. In particular, organisations have persistently denounced discriminatory treatment based on countries of origin for the issuance of permits to allow transfer to the peninsula. For years, transfers to the mainland from **Ceuta** have been provided to nationals of Sub-Saharan countries who did not apply for asylum, whereas asylum seekers and nationals of countries such as Pakistan, Bangladesh and Sri Lanka often waited for more than a year in the enclave. In **Melilla**, on the other hand, nationals of Sub-Saharan countries and Syria benefitted from transfers to the mainland, but Moroccans, Algerians and Tunisians did not.\(^{854}\) As previously mentioned, since the end of 2021 the practice of transfers to mainland seems to have changed. Asylum seekers have started to be transferred to mainland independently of their nationality. Such practice continued in 2023.


Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Total number of persons detained in 2023: Not available
2. Number of persons in detention at the end of 2023: Not available
3. Number of detention centres: 7
4. Total capacity of detention centres: N/A

In recent years, the following numbers of individuals have been subjected to immigration detention:

<table>
<thead>
<tr>
<th>Year</th>
<th>2017</th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of persons in detention</td>
<td>8,814&lt;sup&gt;855&lt;/sup&gt;</td>
<td>7,855&lt;sup&gt;856&lt;/sup&gt;</td>
<td>6,473&lt;sup&gt;857&lt;/sup&gt;</td>
<td>2,224&lt;sup&gt;858&lt;/sup&gt;</td>
<td>1,841&lt;sup&gt;859&lt;/sup&gt;</td>
<td>2,082&lt;sup&gt;860&lt;/sup&gt;</td>
<td>N/A</td>
</tr>
</tbody>
</table>

According to the 2022 Annual Report of the Spanish Ombudsperson, 2,082 migrants were detained in 2022.<sup>861</sup>

Persons already undergoing an asylum procedure are not detained. However, people who apply for asylum after being placed in detention, both in detention centres for foreigners, called Centros de Internamiento de Extranjeros (CIE), and in penitentiary structures, remain detained pending the decision on admission to the asylum procedure. Thus, CIEs centres are theoretically not designed for the detention of asylum seekers, but rather for the detention of migrants who are found to be living without residence permit on the Spanish territory, or for those who are found to have entered irregularly the Spanish territory, and have to be expelled or repatriated under the Aliens Act. In 2023, 877 persons applied for asylum from CIEs.<sup>862</sup>

The competent authority to authorise and, where appropriate, annul the placement in a CIE is the Provincial Court (Audiencia Provincial) which has territorial jurisdiction over the place where detention is imposed. Moreover, the arrest of a foreigner shall be communicated to the Ministry of Foreign Affairs and the embassy or consulate of the person detained, when detention is imposed with the purpose of return as a result of the refusal of entry.<sup>863</sup>

If the applicant is detained, the urgent procedure will be applied, which halves the time limits for a decision (see Prioritised Examination). The quality of the asylum procedure when the application is made from detention is affected mostly in relation to access to information on international protection, which is not easily available, and access to legal assistance, as communication is not as easy as for asylum seekers at liberty. In addition, several shortcomings are due to the urgent procedure to which applicants are

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<sup>855</sup> Ibidem.
<sup>856</sup> Ibidem.
<sup>861</sup> Ibidem.
<sup>863</sup> Articles 60(4) and 62(5) Aliens Act.
subject, as it hinders access to appeals once the application is rejected, and a subsequent order of removal is applied.

In practice, asylum seekers can also be detained if their international protection needs are not identified or if they have not access to the asylum procedure. By way of illustration, a former Algerian soldier and activist who arrived to Almería by boat in mid-February 2022, applied for asylum at the CIE of Valencia by claiming he was victim of torture in his country of origin. His two asylum applications were denied, so he lodged an appeal in front of the National Court (Audiencia Nacional), based **inter alia** on different reports issued by UNHCR, Doctors of the World and Phycologists without Borders which stated his delicate physical and psychological conditions, requesting his release. Despite the National Court ruling against his expulsion in mid-March, the expulsion order was executed. The director of the CIE informed that the deportation was carried out because of a mistake in the interpretation of the National Court’s decision. Different organisations, such as Amnesty International, not to deport him, as he would be at risk of torture in case to return to Algeria. After his return, the applicant was sentenced to the death penalty and confined while in prison. Amnesty International and the campaign ‘CIEs NO’ asked Spain to pressure Algeria to free the activist. He finally obtained a visa to return to Spain.

In Spain there are 7 CIEs which are under the responsibility of the Ministry of Interior. These facilities are located in **Algeciras**, **Barcelona**, **Las Palmas**, **Madrid**, **Murcia**, **Tenerife**, and **Valencia**, making up a total capacity of 1,288 places, according to data from 2021. It has to be noted that the total capacity can vary according to possible improvements’ works, temporary closures, maintenance works, etc. Between the end of 2017 and the beginning of 2018, a prison in **Archidona** (near Málaga) was provisionally used as a CIE in order to respond to the increase in sea arrivals, while the CIE of **Tarifa** was permanently closed in 2020.

There have been several developments in 2023 and beginning of 2024 regarding CIEs:

- In January 2023, the reform of the CIE of **Madrid** started, with an estimate budget of more than EUR 800,000. After the closure of the facility, inmates have been transferred to another CIE, returned to their countries of origin or freed.
- During the same month, 21 out of the 22 migrants who fled from an airplane in Palma de Mallorca in November 2021 after the plane carried out an emergency landing in the island for an alleged medical emergency, will be transferred to the CIE of **Barcelona**. This is due to the decision taken by the Provincial Court of Baleares which ruled they should be freed after the reform of the crime of sedition. The migrant who faked the medical urgency was instead freed, as his deportation to Morocco cannot be carried out as he was charged with the crime of smuggling and is waiting for the result of the criminal proceeding. At least three among them applied for asylum at the CIE,

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alleging the risk of persecution (for political reasons and for sexual orientation) if returned to Morocco.873

- In February 2023, the unit for women at the CIE of Barcelona was opened despite the lack of prior announcements. Twelve women, coming from different parts of Spain, were detained in it at the time of its opening. More than 100 organisations denounced the lack of transparency regarding such an opening and asked for its closure.874

- During the same month, the General Council of Judiciary Power (Consejo General del Poder Judicial – CGPJ) in plenary endorsed unanimously the protocol for the forensic medical examination to be applied to persons in prison, as well as to persons detained at CIEs.875

- The right-wing party registered a law proposal at the Congress which aims at prohibiting the right to apply for asylum at the CIE.876

- In March 2023, the Platform CIEsNO reported that a young Moroccan man, who had been under the guardianship of the Autonomous Community of Madrid while underage, was detained for 1 month at the CIE of Valencia, despite the High Court of Madrid (Tribunal Superior de Justicia de Madrid) suspending his deportation.877 The political party Unidas Podemos also criticised the issue before the Congress.878 Following a claim lodged by the campaign CIEsNO, the Ombudsperson started an investigation into this detention.879

- During the same month, the campaign CIEsNO denounced the risk for a homosexual man from Kosovo detained at the CIE of Valencia to be subjected to degrading and inhuman treatment if deported to Serbia.880 The man was detained despite the fact that he applied for international protection and was waiting for a decision on the claim.881

- At the end of the month, the Coordination of the campaign CIEsNO of Cádiz organised a gathering in front of the CIE of Algeciras asking for the closure of CIEs and a decent welcome and reception of migrants.882

- The construction works of a new CIE in Algeciras continued in 2023. The declarations of the Major of the Municipality, according to which the facility will be the most ‘social and human’ CIE in Spain, raised critics and concerns.883 During a visit carried out to the construction site, MEP Miguel Urbán defined the facility as the biggest prison in Europe and compared it to Guantanamo.884 It is expected that the new facility will start functioning before summer 2024,885

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880 El Diario, ‘Un homosexual kosovar encerrado en el CIE de Valencia, en riesgo de “tratos inhumanos” si es deportado a Serbia’, 15 March 2023, available in Spanish at: https://tinyurl.com/3ThiCMI.

881 Levante, ‘Ordenan la expulsión a un solicitante de asilo por su orientación sexual que no puede regresar a Kosovo’, 15 March 2023, available in Spanish at: https://tinyurl.com/3YMVlxf.


884 Europa Sur, ‘Miguel Urbán denuncia que el nuevo CIE de Algeciras será “un auténtico Guantánamo “’, 26 April 2023, available in Spanish at: https://tinyurl.com/bdfyep9z.

probably during the spring period. The total cost for the construction of the facility has been 22 million Euros and took 10 years.886

- On the occasion of the Day against the Expulsion Centres, a call for the immediate and definitive closure of such facilities was made.887 The call was presented also in view of the municipal and regional elections in the Autonomous Community of Valencia by the campaign CIEsNO.888

- In November, the Coordinator of the Platform CIEsNO organised a walk from the CIE of La Piñera in Algeciras to the new facility in construction at Botafuegos to protest against such facilities.889

- After 11 months since its closure, the CIE of Aluche in Madrid reopened in December, following a refurbishment of the facility. The Platform CIEsNo expressed its opposition to the reopening.890

- In commemoration of International Migrants’ Day, the Platform CIEsNO organised a protest in Valencia to ask for the closure of all CIEs and to denounce the lack of guarantees of migrants detained in such facilities.891

In its 2022 annual report, the Spanish Ombudsperson continued to express concern over the conditions at CIEs, especially in relation to the access of inmates to health assistance and to the access to complaint mechanisms for mistreatments.892

As regards deportations, an important decision was issued by the CJEU in October 2020. The Court ruled that, in light of the Immigration Law, Spain cannot expel migrants just for being undocumented, and that expulsion should be carried out only when aggravating circumstances exist.893 According to the 2022 annual report of the Public Prosecutor Office, almost half of the deportations of migrants detained in CIEs cannot be executed, thus the body recommended the National Police to carry out deeper investigations prior to detention, as well as to opt for alternative measures as set forth in the Immigration Law.894 The same conclusion is indicated in an article published in April 2023, which also refers to evidence of deportations of persons in need of international protection or victims of trafficking.895

Asylum seekers may also be de facto detained in “areas of rejection at borders” (Salas de Inadmisión de fronteras) at international airports and ports for a maximum of 8 days, until a decision is taken on their right to enter the territory. A total of 3,386 persons applied at a border post or transit zone in 2023.896

In October 2022, the Constitutional Court upheld the appeal lodged by a Moroccan migrant who arrived in the Canary Islands in December 2020; the Court established that his fundamental rights had been


888 Cadena Ser, ‘Reclaman a los partidos valencianos más presión para que el Gobierno central cierre el CIE de Zapadores’, 6 May 2023, available in Spanish at: https://tinyurl.com/ye9x7eyn.


violated by the Police and the Instruction judge nº 5 of Las Palmas de Gran Canaria, which did not grant him access to legal assistance while in the return procedure.\textsuperscript{897}

In June 2023, an investigation against the Chief of the National Police of \textit{Irún} (Basque Country) was opened after he issued an order providing for days off to police officers who apprehended undocumented migrants.\textsuperscript{898}

In the same month, the passengers on a flight from Gran Canaria to Casablanca (Morocco) prevented the deportation of a migrant from Guinea Conakry.\textsuperscript{899}

\section*{B. Legal framework of detention}

\subsection*{1. Grounds for detention}

\begin{table}[h]
\centering
\begin{tabular}{|c|c|c|}
\hline
\textbf{Indicators: Grounds for Detention} & & \\
\hline
1. In practice, are most asylum seekers detained & \ding{51} on the territory: & \xmark Yes \xmark No \\
& \ding{51} at the border: & \xmark Yes \xmark No \\
\hline
2. Are asylum seekers detained during a regular procedure in practice? & & \\
\hline
\hline
3. Are asylum seekers detained during a Dublin procedure in practice? & \ding{51} Frequently & \xmark Rarely \xmark Never \\
\hline
\end{tabular}
\end{table}

The legal framework of administrative detention of third-country nationals in Spain is set out by the Aliens Act.

\subsection*{1.1. Pre-removal detention}

The only grounds for detention included within the Aliens Act are the following, and they are not meant to be applied to asylum seekers:

1. For the purposes of expulsion from the country because of violations including, being on Spanish territory without proper authorisation, posing a threat to public order, attempting to exit the national territory at unauthorised crossing points or without the necessary documents and/or participating in clandestine migration;\textsuperscript{900}

2. When a judge issues a judicial order for detention in cases where authorities are unable to carry out a deportation order within 72 hours;\textsuperscript{901}

3. When a notification for expulsion has been issued and the non-national fails to depart from the country within the prescribed time limit.\textsuperscript{902}

In its 2021 Annual Report, the Spanish Ombudsperson, in its capacity as National Prevention Mechanism against Torture, continued to highlight the necessity to shut down permanently the CIEs and to express concerns about the presence of unaccompanied migrant children not identified as minors in such facilities, and the ill-treatment and harassment to inmates at the CIE of Madrid.\textsuperscript{903}


\textsuperscript{899} El Diario, ‘Un motín de los pasajeros de un avión de Air Maroc frustra la deportación de una persona migrante de Guinea Conakry desde Gran Canaria’, 3 June 2023, available in Spanish at: https://tinyurl.com/c8a4y33n.

\textsuperscript{900} Articles 53-54 Aliens Act.

\textsuperscript{901} Article 58(6) Aliens Act.

\textsuperscript{902} Article 63(1)(a) Aliens Act.

The Jesuit Refugee Service also underlined, in its 2022 Annual Report on the situation of CIEs, several elements which need to be significantly improved to ensure adequate conditions and guarantee the rights of detainees. Issues reported included the challenges experienced in reporting and investigating cases of aggression and mistreatment by the police, shortcomings in relation to medical assistance and obstacles for NGOs to visit inmates.\footnote{Servicio Jesuita a Migrantes, ‘Informe CIE 2021. Territorio hostil. Formas diversas de hostilidad en los CIE’, May 2022, available in Spanish at: \url{https://bit.ly/3GhWNH0}.}

Asylum seekers are not detained during the Dublin procedure. It should be recalled that Spain initiates very few Dublin procedures (see \textit{Dublin}).

Where persons apply for asylum from CIE before their expulsion, or from penitentiary centres, they will also remain detained pending the asylum decision. If the application is admitted to in-merit proceedings, the asylum claim will be examined under the urgent procedure, for which the notification decision must be made within 3 months.

1.2. Detention at the border

Persons who apply for asylum at borders or in airports must remain in \textit{ad hoc} spaces (\textit{Salas de Inadmisión de Fronteras}) with restricted freedom of movement, until their application is declared admissible.\footnote{Article 22 Asylum Act.} This amounts \textit{de facto} to deprivation of liberty, since applicants are not allowed to leave those spaces.

From the moment an asylum application is made, there is a period of 4 working days to issue a decision of admission, non-admission or rejection. This period may be extended up to 10 days in some cases (see \textit{Border Procedure}).

In its 2022 Annual Report, the Spanish Ombudsperson, in its capacity as National Prevention Mechanism against Torture, denounced some deficiencies of the ad hoc space at the Madrid Barajas Airport, in terms of, \textit{inter alia}, lack of maintenance and hygiene of the infrastructure, absence of natural light, lack of access to public telephones, the impossibility to change money and buy products to the automatic dispenser, etc.\footnote{Defensor del Pueblo, ‘Informe anual 2022 – Anexo A - Informe Completo del Mecanismo Nacional De Prevención (MNP)’, March 2023, available in Spanish at: \url{https://bit.ly/439YdgI}.}

2. Alternatives to detention

<table>
<thead>
<tr>
<th>Indicators: Alternatives to Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Which alternatives to detention have been laid down in the law?</td>
</tr>
<tr>
<td>☒ Reporting duties</td>
</tr>
<tr>
<td>☒ Surrendering documents</td>
</tr>
<tr>
<td>☒ Financial guarantee</td>
</tr>
<tr>
<td>☒ Residence restrictions</td>
</tr>
<tr>
<td>☒ Other</td>
</tr>
</tbody>
</table>

2. Are alternatives to detention used in practice? ☒ Yes ☒ No

There are no provisions under Spanish law regarding alternatives to detention for asylum seekers; meaning applicants in CIE, penitentiary centres or \textit{ad hoc} spaces at borders.

Under the Aliens Act,\footnote{Article 61 Aliens Act.} the only cautionary alternative measures that can be taken concern foreigners that are subject to a disciplinary proceeding, under which removal could be proposed, and they are the following:

(a) Periodic presentation to the competent authorities;

(b) Compulsory residence in a particular place;


\footnote{Article 22 Asylum Act.}

\footnote{Article 61 Aliens Act.}
Withdrawal of passport or proof of nationality;
Precautionary detention, requested by the administrative authority or its agents, for a maximum period of 72 hours prior to the request for detention;
Preventive detention, before a judicial authorisation in detention centres;
Any other injunction that the judge considers appropriate and sufficient.

These alternatives are not applied in practice. As confirmed by the Global detention Project, there are long-standing concerns that authorities routinely fail to consider all criteria before imposing detention measures.908

Throughout 2020, many stakeholders called on the Government for the implementation of alternatives to migration detention, in particular following the closure of CIEs from March to September 2020 due to the COVID-19 outbreak in Spain.909 However, a report published by Caritas in December 2020 demonstrates that alternatives to detention are not applied by the police nor by judges in Spain.910

The same calls were made in 2021. In March, the Coordinator of the Platform “CIEs NO” called for the closure of the CIE in Algeciras, remarking that the closure of such facilities during the first phase of the pandemic did not produce any disorder nor relevant issue hindering social coexistence.911 In a roundtable organised by the Jesuit Migrant Service in April 2021, the organisation stated that the programs funded by the public administration and run by NGOs are the real alternative to detention in Spain, as they demonstrated during the COVID-19 pandemic, when the CIEs were closed and migrants were referred to such programs.912 The annual report on detention published by the Jesuit Migrants Service also highlights that the existence of CIEs is not necessary, has shown by their 5 months-closure during the COVID-19 pandemic.913 In the CEAR annual report on 2022, the organisation called for the use of alternative measures to detention as foreseen in the Immigration Law.914

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?
   - Frequently
   - Rarely
   - Never

   ❖ If frequently or rarely, are they only detained in border/transit zones?
   - Yes
   - No

2. Are asylum seeking children in families detained in practice?
   - Frequently
   - Rarely
   - Never

Children shall not be detained as a rule,\textsuperscript{915} but the Aliens Act foresees the possibility of detaining families with children.\textsuperscript{916} Similarly, as already mentioned, unaccompanied or separated migrant children are never detained in CIEs, unless they are not identified as minors before detention.

Although detention of asylum seekers or vulnerable categories is not explicitly allowed by law, in practice several exceptions have been reported concerning unaccompanied children and victims of trafficking. This is due to the lack of identification of the minor age of the person, or of their status of victim of trafficking. For example, according to the annual report issued by the Ombudsperson in its capacity of National Prevention of Torture Mechanism, 11 persons were identified as minors at CIEs in 2022, the highest number being detained in the CIEs of Valencia (7) and Barcelona (3).\textsuperscript{917} In its 2022 report on CIEs, the Jesuit Refugee Service highlighted the persistent problem of detention of presumed unaccompanied migrant children, asylum seekers with an application lodged in other EU member States, women victims of gender-based violence, EU citizens, etc.\textsuperscript{918}

Nonetheless, when they are identified as minors or victims of trafficking while they are in detention, they are released and handled to the competent protection systems. In addition, applicants such as pregnant women or persons requiring assistance may be exempted from the border procedure and admitted to the territory in specific cases.

4. Duration of detention

<table>
<thead>
<tr>
<th>Indicators: Duration of Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. What is the maximum detention period set in the law (incl. extensions):</td>
</tr>
<tr>
<td>- CIE: 60 days</td>
</tr>
<tr>
<td>- Border detention facilities: 8 days</td>
</tr>
<tr>
<td>2. In practice, how long in average are asylum seekers detained?</td>
</tr>
<tr>
<td>Not available</td>
</tr>
</tbody>
</table>

The maximum detention period that a person can stay in a CIE is 60 days, after which they must be released.\textsuperscript{919} The maximum detention duration for an asylum seeker who has applied for asylum from the CIE is the 4-day admissibility phase. If they are admitted, they will continue their asylum claim outside detention.

Persons issued with detention orders upon arrival are detained in police stations for a maximum period of 72 hours. Where return has not been carried out within that time limit, they have been transferred to a CIE. In its 2022 annual report, the Jesuit Migrant Service indicated that in 2022, the average duration of detention was of 30.20 days.\textsuperscript{920}

The maximum duration of persons’ \textit{de facto} detention and their obligation to remain in border facilities is 8 days. When this time limit is not respected, the applicant is usually admitted to territory, and will continue their asylum claim through the regular procedure.

\textsuperscript{915} Article 62(4) Aliens Act.

\textsuperscript{916} Article 62-bis(1)(i) Aliens Act. The part of this provision, referring to the need for CIE to guarantee family unity, has been set aside by the Supreme Court: Tribunal Supremo, Application 373/2014, 10 February 2015.


\textsuperscript{919} Article 62(2) Aliens Act.

C. Detention conditions

1. Place of detention

<table>
<thead>
<tr>
<th>Indicators: Place of Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)?</td>
</tr>
<tr>
<td>2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure?</td>
</tr>
</tbody>
</table>

1.1. Foreigner Detention Centres (CIE)

As already explained above in the General section on detention, there are 7 Centros de Internamiento de Extranjeros (CIE). These facilities are located in Madrid, Barcelona, Valencia, Murcia, Algeciras, Las Palmas, and Tenerife.

Media have reported on the costs incurred by the government for the CIE of Fuerteventura. More than €4 million have been spent to maintain the centre, even though no individual was detained in the facility since May 2012. Taking into consideration the high costs and the fact that it remained empty for 6 years, the CIE was closed in June 2018. However, as previously mentioned, the CIE of Gran Canaria was partially reopened in November 2019, and in November 2021 it was announced that the CIE of Fuerteventura would be reopened part as a CIE and part as a CATE after being used as a reception centre for migrants under the humanitarian programme from February to November 2021. The works for the partial reform of the facility as CIE are still ongoing at the time of writing.

1.2. Police stations and CATE

Persons arriving in Spain by sea and automatically issued with detention orders are detained in police stations for a period of 72 hours with a view to the execution of removal measures. Police stations in Málaga, Tarifa, Almería and Motril are mainly used for that purpose.

As mentioned in Access to the Territory, in June 2018 the Spanish Government put in place new resources to manage arrivals and to carry out the identification of persons’ vulnerabilities in the first days of arrival. Specific facilities for emergency and referral include the Centres for the Temporary Assistance of Foreigners (Centros de Atención Temporal de Extranjeros, CATE) and the Centres for Emergency Assistance and Referral (Centros de Atención de Emergencia y Derivación, CAED). While CAED are open facilities, CATE operate under police surveillance and persons cannot go out until they have been identified. As reported by the Spanish Ombudsperson, CATEs are not properly regulated and do not fall under specific protocols, as they are considered as “extensions” of National Police stations.

After the closure of the Arguineguín dock, which was used as the first place for reception of migrants reaching the Canary Islands, the CATE of Barranco Seco was opened. In its 2022 annual report, the

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Public Prosecutor office noted that some improvements could be observed in the conditions of different CIEs visited by the Public Prosecutor Offices.  

In its 2022 annual report, the Spanish Ombudsperson reported that improvements were made for what concerned the detention conditions of persons arriving by sea to the Canary Islands, especially at the CATE of Barranco Seco, and made similar observations concerning the CATEs of Almería, Motril (Granada), Málaga and Cartagena (Murcia). It also remarked that the State Secretary for Security started developing an action protocol - targeting law enforcement agencies - dedicated to pregnant women and other persons in need of specific protection in detention. Information on observations and recommendations made by the institution to the CATEs are mentioned in the section on Arrivals by sea.

UNHCR continued to highlight the need to improve the mechanisms at the CATEs, with the aim of ensuring the possibility for persons in need of protection to apply for asylum during their initial 72 hours in the country, which has so far been hindered.

1.3. Border facilities

Applicants at borders are also detained in ad hoc facilities during the admissibility phase and in any case for no more than 8 days. According to the OAR, operational transit zones are mainly those in Madrid Barajas Airport and Barcelona El Prat Airport, accommodating up to 200 and 10 people respectively.

There is evidence of one “non-admission room” (Sala de Inadmisión de Fronteras) in Barcelona El Prat Airport, one room in Málaga Airport and two rooms in Terminals 1 and 4 of the Madrid Barajas Airport. These rooms are owned by the public company AENA and are guarded by agents of the National Police.

2. Conditions in detention facilities

2.1 Conditions in CIE

According to Article 62-bis of the Aliens Act, CIEs are public establishments of a non-penitentiary nature. Admission to and stay in these facilities shall be solely for preventive and precautionary purposes, safeguarding the rights and freedoms recognised in the legal system, with no limitations other than those applying to their freedom of movement, in accordance with the content and purpose of the judicial detention order of admission.

Article 62-bis of the Aliens Act further entails a list of rights recognised to the detained individuals. This includes the right to be informed and to have access to a lawyer, to an interpreter, to appropriate medical and health support as well as access to NGOs working with migrants. They also have the right to have their life, physical integrity and health respected, and to have their dignity and privacy preserved. The conditions for the access to NGOs as well as the access to adequate social and health care services must be laid down by way of regulation.

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927 Fiscalía General del estado, 'Memoria de la Fiscalía General del estado (Ejercicio 2022)', September 2023, available at: https://tinyurl.com/46a2ae2j.
929 Ibidem.
931 Information provided by OAR, 8 March 2019.
The CIE Regulation,\textsuperscript{933} adopted in 2014, provides in its Article 3 that:

\begin{quote}
“The competences on direction, coordination, management and inspection of the centres correspond to the Ministry of the Interior and they are exercised through the General Directorate of the police, who will be responsible for safety and security, without prejudice to judicial powers concerning the entry clearance and control of the permanence of foreigners.”
\end{quote}

The Ministry of the Interior is also responsible for the provision of health and social care in the centres, notwithstanding whether such service can be arranged with other ministries or public and private entities.

On the operation and living conditions within the CIE, there is scarce official information provided by the administrations responsible for their management. Due to this lack of transparency, during the last years several institutions and NGOs have developed actions of complaint and denounce shortcomings in the functioning of the CIE. Examples of these activities are the specialised annual reports by the Ombudsperson (and its respective representatives at regional level), by the State Prosecutor,\textsuperscript{934} and by several organisations of the third sector, academic institutions\textsuperscript{935} and media. In addition, valuable information is contained in the rulings of the judicial bodies responsible for controlling stays in the CIE (\textit{Jueces de Control de Estancia}).

While the CIE Regulation was long awaited, it was established with many aspects to be improved and ignoring many of the recommendations formulated by the aforementioned entities. This is reflected by the decision of the Supreme Court, which, right after the adoption of the Regulation, cancelled four of its provisions as contrary to the Returns Directive, regarding the need to establish separated units for families, procedural safeguards on second-time detention and prohibition of corporal inspections.\textsuperscript{936}

In its 2022 annual report, the Jesuit Migrants Service indicated that the different rules existing in each CIE creates inequality of rights. Thus, the organisation recommends to design internal rules for each facility which should be harmonised by the General-Directorate of the National Police and make them public.\textsuperscript{937}

**Conditions and riots**

Even though under the law CIE do not have the status of a prison, the reality in practice suggests otherwise and conditions of detention therein are still not satisfactory. CIE continued to be the object of high public scrutiny and have attracted media and NGO attention during 2023 due to several incidents that took place throughout the year. The section below provides an overview of incidents recently reported in the CIEs between 2023 and the beginning of 2024.

Various issues emerged regarding the conditions in CIEs due to the Covid pandemic: for more information see AIDA reports \textit{2020} and \textit{2021}.

Throughout 2023 and at the beginning of 2024, the following developments and incidents were registered:

- In February 2023 the supervising judge of the CIE of \textit{Valencia} opened an investigation following reports made by NGOs on the lack of privacy of inmates during meetings with the same organisations, and on the spying of conversations by the police.\textsuperscript{938}

\begin{flushleft}
\textsuperscript{933} Real Decreto 162/2014, de 14 de marzo, por el que se aprueba el reglamento de funcionamiento y régimen interior de los centros de internamiento de extranjeros.
\textsuperscript{934} See e.g. http://bit.ly/1MgSHz2.
\end{flushleft}
El juzgado pide a Interior que aclare si hay quejas en los CIEs por mal estado de la comida que se da a los internos’, 15 April 2023, available in Spanish at: https://tinyurl.com/4ayvn64p.

El juez suspende la deportación de un migrante boliviano enfermo tras un mes encerrado en el CIE, 14 June 2023, available in Spanish at: https://tinyurl.com/rs82v8bu.

‘El juzgado pide al CIE que respete la privacidad de entrevistas de los internos con sus familiares, ONG y letrados’, 4 April 2023, available in Spanish at: https://tinyurl.com/mpvau38t.

‘CIEsNO Valencia denuncia otra agresión de un policía a un interno en Zapadores (Valencia)’, 14 September 2023, available in Spanish at: https://tinyurl.com/3sj6rc2m.

El Defensor del Pueblo investiga las intromisiones de la policía en las visitas en el CIE de Zapadores, 14 September 2023, available in Spanish at: https://tinyurl.com/yck2e9rm.


El Diario, ‘CIEs NO Valencia exige la liberación de un interno en Zapadores que fue maltratado en el CIE de València’, 23 June 2023, available in Spanish at: https://tinyurl.com/3s6gr2m.


El Diario, ‘CIEs NO Valencia pide a Interior que aclare si hay quejas en los CIEs por mal estado de la comida que se da a los internos’, 15 April 2023, available in Spanish at: https://tinyurl.com/4ayvn64p.

‘CIEsNO Valencia denuncia la expulsión de 36 internos detenidos en el CIE de Valencia, a raíz de la huelga de hambre que realizaban para denunciar el mal trato que reciben’, 23 June 2023, available in Spanish at: https://tinyurl.com/4ayvn64p.

El Defensor del Pueblo investiga las intromisiones de la policía en las visitas en el CIE de Zapadores, 14 September 2023, available in Spanish at: https://tinyurl.com/yck2e9rm.

‘Sumar traslada al CIE de València a un migrante que denunció agresiones policiales’, 5 July 2023, available in Spanish at: https://tinyurl.com/3sj6rc2m.


Europa Press, ‘El juzgado pide al CIE que respete la privacidad de entrevistas de los internos con sus familiares, ONG y letrados’, 4 April 2023, available in Spanish at: https://tinyurl.com/mpvau38t.


‘El juzgado pide al CIE que respete la privacidad de entrevistas de los internos con sus familiares, ONG y letrados’, 4 April 2023, available in Spanish at: https://tinyurl.com/mpvau38t.


During the same month, the parliamentary group ‘Sumar’ asked the acting Government about the reports submitted by different NGOs about the alleged spying on inmates’ visits by the National Police.448 In addition, the Spanish Ombudsperson started an investigation on the issue.449

In November the Platform ‘CIEsNO’ called for the release of a 68-year-old man detained at the CIE of Valencia, due to their serious health conditions and the impossibility for him to access appropriate medical assistance and treatment at the facility.450 Despite that, the Minister of Interior instead decided to anticipate their expulsion to Bolivia.451 The political party ‘Compromís’ denounced the fact that the hastening of the deportation was decided without any justification.452
Following a claim lodged by the inmate’s lawyer, the first instance Judge nº 28 of Valencia suspended his deportation due to health reasons.\(^{953}\)

In February 2024 the Platform CIEsNO informed that around 50 migrants detained at the CIE of Aluche (Madrid) lodged a claim at the competent judge, denouncing the assaults received by the police. The judge opened an investigation.\(^{954}\) Following such a report, different organisations called for the closure of the facility.\(^{955}\)

Information on the conditions within detention centres is available in the reports from the CIE visits conducted by the Spanish Ombudsperson, including those within its responsibilities as National Prevention Mechanism against Torture. The findings, facts and recommendations concerning the CIE visited by the Ombudsperson are available in the Annual Report of 2022, published in 2023.\(^{956}\) as well as in the report issued by the Spanish Ombudsperson in his capacity of National Prevention Mechanism against Torture.\(^{957}\)

In its 2021 annual report, the Spanish Ombudsperson in his capacity as National Prevention Mechanism against Torture informed that the Directorate-General of the National Police rejected the recommendation made by the body to adopt a protocol so submit and manage claims and reports of abuses and mistreatments by inmates at CIE.\(^{958}\) In the 2022 annual report, the Ombudsperson once more reported that no answer on the matter was provided by the Directorate-General of the National Police.\(^{959}\) As already mentioned, the supervising judges of the CIE of Madrid adopted a set of measures in 2022 providing for the obligation of the authorities in, establishing a protocol for the processing of claims and reports of mistreatments suffered by inmates, as well as the obligation to transfer the complainant at the supervising judge in order to guarantee his/her right to effective remedies.\(^{960}\) In its 2022 annual report, the Spanish Ombudsperson acknowledges that such decisions are in line with the recommendations made by the body in the past years and with the main claims it received in 2022.\(^{961}\)

Moreover, the annual report of the Jesuit Migrants Service on CIEs in Spain provides relevant information on conditions and their situation, based on visits carried out by the organisation.\(^{962}\) In its 2023 report, the NGO continued to highlight the serious deficiencies of living conditions and the lack of guarantees within those facilities. Concretely, the organisation denounced assaults on and mistreatments of inmates, and the difficulties they face reporting such acts. It also continued to denounce the lack of adequate health services, and the impact of detention on the mental health of inmates. The JMS expressed concern regarding the detention of persons that cannot be detained at CIEs according to the law, such as EU citizens, applicants for international protection in other countries, presumed minors, victims of gender-based violence, etc. It also criticised how the lack of common rules between CIEs results in different regimes in each facility and thus inequalities in the rights of inmates.

\(^{953}\) Ibidem.


Visits to the CIE of Aluche in Madrid are regularly carried out by the organisation SOS Racismo, with the objective, among others, of providing legal and psychological support to detainees.\footnote{SOS Racismo, see: https://sosracismo.eu/sos-racismo-madrid/}

Additionally, the annual report of the Public Prosecutor office informs about the conditions at the CIEs, in light of the visits that the institution carries out.

A report published in March 2023 by the NGO Mundo en Movimiento focusing on the presence of women at the CIEs, highlights that the 42 out of the 43 women assisted by the organisation during 2021 and 2022 suffered violence (mistreatment or assault) during their stay in these facilities.\footnote{Mundo en Movimiento, ‘Represión y encierro. Análisis interseccional de la violencia en el internamiento de personas extranjeras’, March 2023, available in Spanish at: https://tinyurl.com/xfsa5vy9.}

In November 2020, the Spanish Government acknowledged for the first time its responsibility in the death of Samba Martine, a migrant detained at the CIE of Madrid who died in 2011. The decision taken by the Government determined that the death was linked to the malfunctioning of the CIE of Madrid, the CETI of Melilla and the private company SERMEDES S.L. in charge of providing medical assistance at the CIE. After 8 years of litigation, the Ministry of Interior, the Ministry of Inclusion, Social Security and Migration, and SERMEDES S.L. accepted to compensate Samba Martine’s family.\footnote{El Salto Diario, ‘El Estado español admite su responsabilidad en la muerte de Samba Martine’, 17 November 2020, available in Spanish at: https://bit.ly/2NHLkrK.}

**Activities, health care and special needs**

The CIE Regulations governs the provision of services for sanitary assistance,\footnote{Article 14 CIE Regulation.} including access to medical and pharmaceutical assistance (and hospital assistance when needed), and contains provisions concerning clean clothes, personal hygiene kits and diets that take into account personal requirements.\footnote{Articles 39-47 CIE Regulation.}

In the same way, Article 15 of the Regulation concerns the provision of services for social, legal and cultural assistance, which can be provided by contracted NGOs. Detained third-country nationals can receive visits from relatives during the established hours,\footnote{Article 42 CIE Regulation.} and have access to open air spaces.\footnote{Article 40 CIE Regulation.}

As regards families with children in detention, although the Regulation did not initially foresee ad hoc facilities, the 2015 ruling of the Spanish Supreme Court obliged the detention system for foreigners to provide separated family spaces. Officially recognised unaccompanied minors are not detained in CIE, although there have been several reported cases of non-identified minors in detention.

Notwithstanding legal provisions, and the improvement in conditions after the adoption of the CIE Regulation, each centre still presents deficiencies, as the establishment of specific available services depends on each of the CIE directors.

In general, shortcomings have been reported concerning structural deficiencies or significant damages which may put at risk the health and safety of detained persons, overcrowding, absence of differentiated modalities for persons who have committed mere administrative infractions, restrictions to visits or to external communications, frequent lack of material for leisure or sports activities. In addition, the provision of legal, medical, psychological and social assistance is limited and not continuous; detained persons often lack information regarding their legal situation, their rights or the date of their return when removal is applicable. Also, interpreters and translators are often not available in practice.

Concerning the situation in 2022, the Spanish Ombudsperson recalled the necessity for the CIE of Madrid to ensure access to psychological support for inmates.\footnote{Defensor del Pueblo, Informe Anual 2022 – Volumen I, March 2023, available in Spanish at: https://bit.ly/3ZZLB9d.} Similarly, in its 2022 annual report on the situation of CIEs, the Jesuit Migrant Service continued to highlight deficiencies in the provision of medical
services, such as the fact that the health conditions of certain inmates would have recommended not to detain the person, the lack of assistance to mental health problems, the lack of provision of medicines needed by inmates, etc.971

In November 2022, the Supervising Judges of the CIE of Aluche (Madrid) agreed on a set of measures to improve the health assistance provided to inmates, such as allowing the use of the infirmary also during the night, the provision of psychological assistance and the digital health record. Such judicial decision obliges the Directorate-General of the Police, who oversees the CIE’s management, to improve these aspects.972

In September 2022, the Municipality and the Bar Association of Barcelona signed an agreement on the provision of legal assistance to inmates at the CIE of Barcelona.973

In its 2023 annual report, the Jesuit Migrants Service denounced the lack of adequate assistance to inmates with mental health needs, as well as the deportation of some migrants with mental health issues without the report of forensic doctor, and how the mental health of some inmates deteriorated during detention.974

A report published by the University of Seville and the Jesuit Migrants Service in January 2024 warned that CIEs are spaces where migrants face a high risk of developing or aggravating their mental health conditions. The study underlined that 70% of the persons interviewed showed symptoms of anxiety and depression.975

### 2.2 Conditions in police stations

Migrants detained in police stations after arriving in Spain by sea face dire conditions.

In 2022, the Spanish Ombudsperson, in its capacity as National Mechanism for Prevention of Torture, visited 4 CATEs and continued to call for the necessity to establish a regulation of such facilities. In addition, the body highlighted certain deficiencies of the facilities visited (i.e. lack of ventilation in the cells, of basic furniture, of curtain in the showers, etc.).976

### 2.3 Conditions in border facilities

Border facilities have been visited and monitored by the Spanish Ombudsperson, also in its capacity as National Prevention Mechanism against Torture.

The situation of the “non-admission room” in Madrid Barajas Airport has raised serious concerns in recent years because of its deplorable conditions. Concerns continued to be raised in 2022 by the Spanish Ombudsperson in its capacity as National Prevention Mechanism against Torture, who underlined the deficiencies of the facility in terms of maintenance and hygiene, the lack of natural light, the lack of access

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to public phones, the lack of improvements in the conditions of stay, the impossibility to change money, the inexistence of a medical service, etc.  

At the end of December 2023, there were reports of bad conditions and overcrowding at the *ad hoc* spaces for asylum seekers at the Madrid Barajas Airport.  

Three judges asked the Ministry of Interior to improve the situation.  

Despite the Ministry of Interior announcing the adoption of appropriate measures to resolve the situation following the judicial requirements, in January 2024 the Unified Trade Union of the National Police (*Sindicato Unificado de Policía - SUP*) highlighted that the overcrowding and the insalubrity of the facility continued, and lodged a report to the Ombudsman.  

Due to the conditions, a total of 26 Moroccan asylum applicants escaped the *ad hoc* spaces and the airport by breaking a window.  

In mid-January the Ministry of Interior reported it had allocated more resources to the *ad hoc* spaces to face the situation, with more police officers and additional offices to carry out the asylum interviews.  

In addition, they started to transfer some of the asylum applicants to the CIE of Madrid, after a judge authorised the detention, but the Public Prosecutor Office immediately asked to annul the decision, which was then revoked by the judge.  

The Spanish Ombudsman denounced the overcrowding at the airport and asked the Government to guarantee decent conditions for asylum applicants and their rights, as well as the necessity to set up a proper space to accommodate them.  

Similarly, the UNHCR expressed concerns on the situation and urged the Government to adopt a
solution. The NGO ‘CEAR’ requested the Government to allow the exceptional access for humanitarian reasons of those asylum applicants to Spain. The Spanish Red Cross, which provides the social assistance to asylum applicants at the airport, decided to suspend its operations until minimum conditions and standars will be re-established, a decision not shared by the Minister of Interior. The Spanish Government blamed Morocco for the chaos at the airport, and asked the Moroccan Government to prohibit the boarding in the flights transiting in Spain to those passengers holding a passport from Senegal who do not have a Schengen transit visa, which helped to ease the situation by reducing the number of asylum applicants at the airport. CEAR critcised such a decision as a form of externalisation of borders management, and also highlighted the risks that migrants and refugees can face in the migratory route following such a requirement. In order to solve the situation, the Ministry of Interior additionally enabled a new space (a fourth room) to accommodate asylum applicants at the airport, which will host 162 persons. At the beginning of February, the Minister of Interior declared resolved the issue.

Throughout 2023 and during the last quarter in particular, in the context of increased numbers of asylum applicants at the Madrid airport, UNHCR supported the competent authorities in addressing implementation challenges in the accelerated asylum border procedure at the airport in which UNHCR plays an active monitoring role. Due to the situation, UNHCR reinforced its monitoring activities, supported coordination at different levels, made proposals to improve the reception conditions and management of applications with a particular focus on identification of persons with specific needs and also provided technical support with Somali interpretation services for a limited time.

3. Access to detention facilities

<table>
<thead>
<tr>
<th>Indicators: Conditions in Detention Facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is access to detention centres allowed to</td>
</tr>
<tr>
<td>- Lawyers: [ ] Yes [ ] Limited [ ] No</td>
</tr>
<tr>
<td>- NGOs: [ ] Yes [ ] Limited [ ] No</td>
</tr>
<tr>
<td>- UNHCR: [ ] Yes [ ] Limited [ ] No</td>
</tr>
<tr>
<td>- Family members: [ ] Yes [ ] Limited [ ] No</td>
</tr>
</tbody>
</table>

Article 62-bis of the Aliens Act provides that civil society organisations defending migrants and international bodies can visit CIE under the conditions foreseen by way of regulation.

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992 Information provided by UNHCR in April 2024.
The seventh section of the CIE Regulation thus concerns participation and cooperation of NGOs. In particular, Article 58 foresees the possibility to contract NGOs for the provision of services of social assistance inside the centres. Following the adoption of the Regulation in 2014, a contract was signed in 2015 between the Spanish Red Cross and the Ministry of Interior. In 2023, the Spanish Red Cross continued to receive funding for the provision of assistance at the CIE. In addition, Article 59 of the Regulation allows organisations working with migrants to receive a special accreditation to enter CIE and conduct monitoring of the detained persons. Detained migrants are also allowed to contact an organisation they want to receive support from. Before the agreement, the CIE had a stronger penitentiary character and social assistance to detainees was significantly more limited.

These provisions were welcomed by Spanish civil society organisations committed to migrants’ rights protection, as they enabled their regular access to the centres, which can make a significant difference in improving conditions of detention for third-country nationals. In particular, a better identification of the most vulnerable groups or persons with particular needs can be assured, as no specific mechanism with this aim has been established by the state.

In recent years, the Ombudsperson reiterated several recommendations aimed at improving social, legal and cultural assistance in CIEs, as well as the necessity for a deeper reform of such facilities. In its 2022 Annual Report, the Ombudsperson continued to express concerns on the health assistance provided to inmates at the CIEs.

The Jesuit Migrant Service continued to denounce the same deficiencies, as well as the obstacles that inmates face in receiving visits by NGOs and family members.

D. Procedural safeguards

1. Judicial review of the detention order

<table>
<thead>
<tr>
<th>Indicators: Judicial Review of Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is there an automatic review of the lawfulness of detention?</td>
</tr>
<tr>
<td>2. If yes, at what interval is the detention order reviewed?</td>
</tr>
</tbody>
</table>

Under Article 62 of the Aliens Act and Article 2 of the CIE Regulation, no one may be detained without the order or authorisation of the competent Provincial Court (Audiencia Provincial). The judge (Juzgado de Instrucción), after hearing the interested party, decides whether to impose detention by reasoned order, assessing the personal circumstances of the person and the lack of domicile or documentation, and the existence of previous convictions or administrative sanctions and other pending criminal proceedings or administrative proceedings.

Against decisions on detention, the third-country national can lodge appeals of reform, appeal and complaint under the Criminal Procedure Act. Reform and appellation appeals will be lodged before the same judge of the Provincial Court (Audiencia Provincial) that issued the detention order. Conversely,
the judicial appeal of complaint would be lodged before the competent High Court (Tribunal Superior de Justicia) within a 2-month time limit.

The judge responsible for monitoring the stay of foreigners in detention centres and in “areas of rejection at borders” will also be the first instance judge of the place they are located in. This judge takes decisions over requests and complaints raised by detainees where they affect their fundamental rights. These decisions may not be appealed. Persons in detention remain available for the judge or court that authorised or ordered the detention.\footnote{Article 60(3) Aliens Act.}

2. Legal assistance for review of detention

<table>
<thead>
<tr>
<th>Indicators: Legal Assistance for Review of Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the law provide for access to free legal assistance for the review of detention?</td>
</tr>
<tr>
<td>2. Do asylum seekers have effective access to free legal assistance in practice?</td>
</tr>
</tbody>
</table>

Free legal assistance is provided by law to both detained persons and asylum seekers in general. Nonetheless, several obstacles faced by lawyers and interpreters to access the CIE have been reported. This is mainly due to shortcomings regarding social and legal assistance and difficulties in external communications as stated in the section regarding Access to Detention Facilities.

The adoption of the CIE Regulation in 2014 has improved the situation, however, as it defines the rules and modalities for access of lawyers and NGOs into the centres. The provisions regarding the collaboration of NGOs in the provision of social and assistance (including legal) services inside the centres also goes in the same direction. In different parts of the territory, collaboration contracts have been issued for free legal assistance of detained persons with the Red Cross and the Spanish Bar Association.

The main reported criticisms on legal assistance and access to international protection for third-country nationals who have been issued a removal order (and wait for the procedure within detention) concern the lack of information on the asylum procedure at the time the person enters the centre, and the short timeframe of the urgent procedure applied to asylum claims made in detention, as they require a fast reaction to official notifications, which is hard to realise when the applicant is detained.

E. Differential treatment of specific nationalities in detention

Organisations working with migrants in irregular situation or in the area of immigration detention have always reported that most detained migrants are from Maghreb and sub-Saharan countries. In its annual report on the situation of CIEs, the Migrant Jesuit Service continued to denounce the lack of transparency by the Government in publishing and providing statistics on immigration detention.\footnote{Servicio Jesuita a Migrantes, ‘Informe CIE 2021 - Territorio hostil. Formas diversas de hostilidad en los CIEs’, May 2022, available in Spanish at: https://bit.ly/3KPkfhw.}

The over-representation in detention of people from Maghreb or sub-Saharan Africa is explained by the fact that identity checks conducted by police are still mostly based on ethnic and racial profiling. The discriminatory attitude and incidents within the Spanish territory have been the subject of several reports and critiques, which persisted in 2023 and at the beginning of 2024.\footnote{Liberties, “‘Because You're Black’: Spain Ethnic Profiling Case Goes to Strasbourg”, 25 January 2018, available at: https://bit.ly/2sBpiJG; SOS Racismo, ‘Parad de pararme’, 25 January 2022, available in Spanish at: https://bit.ly/3ECBa2I.}
Content of International Protection

A. Status and residence

1. Residence permit

<table>
<thead>
<tr>
<th>Indicators: Residence Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. What is the duration of residence permits granted to beneficiaries of protection?</td>
</tr>
<tr>
<td>❖ Refugee status 5 years</td>
</tr>
<tr>
<td>❖ Subsidiary protection 5 years</td>
</tr>
<tr>
<td>❖ Humanitarian protection 1 year</td>
</tr>
</tbody>
</table>

Both refugees and beneficiaries of subsidiary protection benefit from a residence permit of 5 years once they are granted status.\(^{1003}\) The responsible authority for issuing the residence permit is the Police of Aliens’ Law and Documentation.

There are no difficulties systematically encountered in the issuance and renewal of those residence permits in practice.

The issuance of residence permits for humanitarian reasons is foreseen under the Aliens Act. This residence permit has a one-year duration.

The law foresees the possibility to request this kind of permit under the following conditions:\(^{1004}\)

❖ Being a victim of any of the offences collected under Articles 311 to 315, 511.1 and 512 of the Criminal Code, concerning offences against the rights of workers;
❖ Being the victim of crimes based on racist, anti-Semitic, or other kind of discrimination relating to ideology, religion or beliefs of the victim, the ethnic group, race or nation to which they belong, their sex or sexual orientation, or disease or disability;
❖ Being a victim of crime by domestic violence, provided that a judicial decision has established the status of victim; or
❖ Having a severe disease requiring health care specialist, not accessible in the country of origin, where the interruption of treatment would pose a serious risk to the health or life.

Regarding the applicable status to resettled beneficiaries of international protection, an important decision was issued in December 2020. The High Court (Tribunal Supremo) established that refugees resettled in Spain must keep their status as refugees. It therefore reverts the decision adopted by the previous Tribunal, denying recognition of the refugee status to four Syrian refugees resettled to Spain in 2015, while granting them subsidiary protection.\(^{1005}\)

Regularisation of undocumented migrants

Following the COVID-19 outbreak, many NGOs called upon the Government to regularise all undocumented migrants in Spain, to guarantee their access to rights and services.\(^{1006}\)

Calls of civil society for regularisation of migrants continued throughout the following year. In February 2021, the NGO CEAR called on the government to regularise migrants in light of the COVID-19 pandemic, after having collected signatures from several organisations and human rights groups.\(^{1007}\)

\(^{1003}\) Article 34(3) Aliens Regulation.
\(^{1004}\) Article 126 Aliens Regulation.


A report published in March 2021 remarked that the regularisation of the 500,000 undocumented migrants living in Spain would positively affect public finances, and would increase incomes up to EUR 1,750 million per year. Another report highlighted that the regularisation of 600,000 undocumented migrants fostered since 2004 by the Former Prime Minister José Luis Zapatero has produced annual incomes of around EUR 2,300 million for Social Security.

Following different decisions of the Supreme Court, in June 2021 the Minister of Inclusion, Social Security and Migration adopted an instruction on the procedure for issuing of temporary residence permits for “labour roots” reasons (arraigo laboral). The instruction is aimed at regularising migrants, and especially former asylum seekers whose application for international protection was rejected, who lived and worked in Spain for at least two years.

With the aim of promoting a people’s legislative initiative to regularise 500,000 persons by collecting 500,000 signatures, a group of organisations (including a political party) joined to form the platform “ESencialES”. In the framework of the campaign, a report highlighting the five good reasons to adopt an extraordinary regularisation of undocumented migrants in Spain was published in March 2022. By September 2022, the campaign had obtained 400,000 signatures. In the same month, the Episcopal Conference expressed support to the regularisation of migrants. On December 2022, the campaign reached 700,000 signatures, that were submitted to the Office for the Electoral Roll, in order to start the Parliamentary procedure. A gathering in front of the Congress was also organised by the Platform ESencialES, with the aim of celebrating the great support received for this Popular Legislative Initiative. The parliamentary procedure foresees a maximum of 6 months to analyse the popular initiative and to submit it, if the case, to the Congress for its consideration. In May 2023 the Platform ESencialES presented the popular initiative to the Congress. In December 2023, Caritas urged the Government to reactivate the process to regularise 500,000 migrants in an administrative irregular situation. In March 2024, the legislative initiative the Congress retook the discussion of the proposal, which is expected to be adopted before summer 2024.

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1012 ESencialES, ‘500.000 firmas ESencialES para la Regularización Extraordinaria de 500.000 personas EsencialES en España!’, available in Spanish at: https://bit.ly/3JprwSF.


1018 El Diario, ‘El movimiento por una regularización extraordinaria de migrantes presenta su propuesta de ley tras lograr llegar al Congreso’, 10 May 2023, available at: https://tinyurl.com/y2r6h3m; El Diario, ‘La ILP por la Regularización avanza dentro de un Parlamento agitado por el año electoral’, 8 May 2023, available in Spanish at: https://tinyurl.com/ey2tkspv.


According to an estimation made by NGOs working with undocumented migrants, around 500,000 migrants live in an irregular situation in Spain.\textsuperscript{1021}

2. Civil registration

Beneficiaries of international protection follow the same civil registration procedure as Spanish nationals. The required documentation from the country of origin can be substituted by a certificate issued by the OAR.

Registration of child birth is made through a declaration in an official format duly signed by the person. To that end, the doctor or the nurse assisting the birth will prove the identity of the mother in order to include this information into the report. Parents make their declaration by filling the corresponding official format, and the officer at the Civil Registry proceeds to registration accordingly.

No obstacles to civil registration have been observed in practice.

3. Long-term residence

<table>
<thead>
<tr>
<th>Indicators: Long-Term Residence</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Number of long-term residence permits issued to beneficiaries in 2023:</td>
</tr>
</tbody>
</table>

The long-term residence permit in Spain is governed by the Aliens Act and can be obtained when the following conditions are fulfilled:\textsuperscript{1022}

- Having legal residence;
- Not having non-entry bans applied;
- Not having criminal penalties;
- Five years’ legal and continuous residence within Spanish territory;
- Five years’ residence as holder of the EU Blue Card in the European Union, proving that the two last years occurred in Spanish territory;
- Being a beneficiary resident of a contributory pension;
- Being a resident beneficiary of a pension of absolute permanent disability or severe disability, tax, including modality consisting of a lifetime, not capital income, sufficient for its continued existence;
- Being a resident and being born in Spain, and upon the reaching the age of majority having resided in Spain legally and continuously for at least the last three years consecutively;
- Spanish nationals who have lost the Spanish nationality;
- Being a resident that, upon reaching the age of majority, has been under the guardianship of a Spanish public entity during the last preceding five years;
- Being stateless or having refugee or beneficiary of subsidiary protection;
- Having contributed significantly to the economic, scientific or cultural advancement of Spain, or the projection of Spain abroad. (In these cases, it will be the Ministry of Inclusion, Social Security and Migration holder the granting of long-term residence authorization, following a report from the head of the Ministry of the Interior).

Refugees and beneficiaries of subsidiary protection can request the issuance of a long-term residence permit after the 5-year duration of the refugee or subsidiary protection permit when they meet the aforementioned legal requirements.

The application procedure must be started in the Aliens Offices of the territorial administration in which the applicant has taken up residence. The whole process has a duration of 3 months, after which the administration has to give an answer. There are no systematic or generalised obstacles to obtaining long-term residence permits.

\textsuperscript{1021} The Objective, ‘El Gobierno quiere regularizar a los inmigrantes irregulares que se formen en sectores en los que no hay trabajadores’, 3 June 2022, available in Spanish at: \url{https://bit.ly/3nXnnyQ}. \\
\textsuperscript{1022} Article 148 Aliens Regulation.
4. Naturalisation

<table>
<thead>
<tr>
<th>Indicators: Naturalisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. What is the waiting period for obtaining citizenship?</td>
</tr>
<tr>
<td>- Refugee status</td>
</tr>
<tr>
<td>- Subsidiary protection</td>
</tr>
<tr>
<td>2. Number of citizenship grants to beneficiaries in 2023:</td>
</tr>
</tbody>
</table>

There are several criteria foreseen by the law for obtaining the Spanish nationality:

- Spaniards of origin: applicants born from a Spanish national mother or father, or applicants born from foreign parents but who have at least one parent was born in Spain.

- Residence in Spain: which vary depending on the nationality and status of the applicant. These are:
  - 5 years for refugees and 10 years for beneficiaries of subsidiary protection;
  - 2 years for nationals of Spanish American countries, Andorra, Philippines, Guinea, Portugal or Sephardi;
  - 1 year for applicants who were born in Spain and those who were under public guardianship for a period of 2 years, applicants married to Spanish nationals for at least 1 year, widows of Spanish nationals, and Spanish descendants.

- Possession: applicants of Spanish citizenship during 10 years continuously;

- Option: applicants who are or have been under Spanish custody (patria potestad) or with Spanish nationals or born parents.

The management of the naturalisation process is undertaken by the Directorate-General for Registers and Notaries. The procedure is exclusively administrative and Civil Registers participate in the final oath taken by the naturalised person.

The application is submitted through an online platform, a website which will allow starting the process immediately with the request of the necessary documents and the assignment of a registration number.

Another feature of the procedure of acquisition of Spanish nationality by residence is the replacement of the interview on integration with two examinations or tests to be carried out at the Headquarters of the Cervantes Institute. The first test assesses the knowledge of the Spanish language (except for countries that are already Spanish speaking). The second test is on knowledge of constitutional and socio-cultural aspects of the country (CCSE). This second test consists of 25 questions, 13 of which must be correct to pass the exam. Neither disabled persons nor children go through these tests. 5 calls are scheduled for the taking of the first test and 10 for the second.

Costs foreseen under the whole procedure include around 100 € tax for naturalisation, plus €85 for the constitutional and socio-cultural test and €130 for the language exam.1024

The CCSE tests have been subject to several critiques due to the type of information that can be asked, as it seems not to be relevant to assessing the degree of integration of the applicant, and as many organisations and newspapers have pointed out that most of the Spanish population would not know to answer either.1025 The test consists in 25 questions on constitutional and socio-cultural knowledge of

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1023 In 2022, 122,236 persons were granted Spanish citizenship, but no breakdown indicating how many of these citizenship grants were for beneficiaries of international protection was made available by the authorities. See: Ministerio de Justicia, ‘Datos estadísticos básicos de nacionalidad a 31/12/2022’, available in Spanish at: https://bit.ly/3mYgLzV.

Spain, and participants have to respond correctly to at least 15 questions to pass the exam. In 2022, 129,296 persons registered to carry out such a test and 3,654 out of them did not pass the exam.\textsuperscript{1026}

According to available information, the situation appears to have improved recently, as the tests have been simplified, and a preparatory handbook is available for candidates.

The whole naturalisation process is known to be highly bureaucratic and lengthy. The average duration of the process reaches a minimum of 1.5 years. The Spanish Ombudsperson has informed that between 2020 and March 2021 there were 289,846 pending applications for nationality.\textsuperscript{1027} The Government launched a new plan for 2021,\textsuperscript{1028} which resulted in granting nationality for residence to 163,946 persons in 2021.\textsuperscript{1029} In 2022, a total of 122,236 persons were granted nationality, and there were 158,056 pending applications.\textsuperscript{1030} In 2023, a total of 218,237 applications for nationality were pending for a decision, while the persons who obtained the nationality through residence were 242,342.\textsuperscript{1031}

In a decision taken in May 2022, the Provincial Court of Guipúzcoa (País Vasco) recognised for the first time the Spanish nationality to a child born during her mother’s arrival to the Spanish coast. Due to the impossibility to obtain the nationality from Cameroon and Morocco, the child had restricted access to public municipal services and could not benefit from certain social benefits. The Court’s decision on granting the Spanish nationality is based on the best interest of the child, and on the necessity to avoid the negative consequences that statelessness condition would create for the minor.\textsuperscript{1032}

5. Cessation and review of protection status

<table>
<thead>
<tr>
<th>Indicators: Cessation</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is a personal interview of the asylum seeker in most cases conducted in practice in the cessation procedure?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>2. Does the law provide for an appeal against the first instance decision in the cessation procedure?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>3. Do beneficiaries have access to free legal assistance at first instance in practice?</td>
<td>Yes</td>
<td>With difficulty</td>
</tr>
</tbody>
</table>

The Asylum Act and Regulation foresee the cessation of refugee status in the following cases:\textsuperscript{1033}

- a. When the refugee expressly so requests;
- b. When the refugee has obtained Spanish nationality;
- c. When the refugee avails, again, voluntarily, to the protection of the country of nationality;
- d. When the refugee has voluntarily established him or herself in another country, producing a transfer of responsibility;
- e. When, after a fundamental change of circumstances in the given country, it is considered that have disappeared the causes that justified the recognition of its nationals, or of a determined social group, as refugees, the Inter-Ministerial Commission of Asylum and Refuge (CIAR) after consulting UNHCR, may agree the cessation of the status.

\textsuperscript{1026} El Periódico, ‘¿Te atreves con este test? 25 preguntas para obtener la nacionalidad española’, 12 September 2023, available in Spanish at: https://tinyurl.com/3vszrbmu.


\textsuperscript{1030} Ministerio de Justicia, ‘Datos estadísticos básicos de nacionalidad a 31/12/2021’, available in Spanish at: https://bit.ly/3mYgLzV.

\textsuperscript{1031} Ministerio de Justicia, ‘Datos estadísticos básicos de nacionalidad a 31/12/2023’, available in Spanish at: https://tinyurl.com/3j8wntr.

\textsuperscript{1032} Audiencia Provincial de Guipúzcoa, Decision 341/2022, 2\textsuperscript{nd} Section, 11 May 2022, available in Spanish at: https://bit.ly/3vPcsIw; Cadena Ser, ‘La Justicia reconoce por primera vez la nacionalidad española a una niña nacida en “el camino” hacia España’, 8 June 2022, available in Spanish at: https://bit.ly/3JHisUH.

\textsuperscript{1033} Article 42 Asylum Act; Article 37 Asylum Regulation.
This provision shall be communicated at the time of renewal of the residence permit. The refugee will be given a deadline to formulate allegations that they deem appropriate. Under the latter situation, continuation of residence permit under Aliens Act will be allowed when the person concerned alleges reasonable justification to stay in Spain.

Similar grounds are foreseen for the cessation of subsidiary protection.\textsuperscript{1034}

Cessation is not applied to any specific group in practice. In the case of changes in the circumstances of their countries of origin, refugees and beneficiaries of subsidiary protection can ask for a long-residence permit to remain in Spain, which is granted without many problems in practice.

In 2021, the OAR adopted cessation decision in 3 cases, one regarding a refugee status and two related to subsidiary protection cases.\textsuperscript{1035} In 2022, the OAR took cessation decisions in 51 cases, 38 related to refugee status and 13 regarding subsidiary protection.\textsuperscript{1036}

\textbf{Procedure for cessation}

The process for cessation foreseen is the same for the withdrawal of the protection status, and it is ruled in Article 45 of the Asylum Act. The initiative is taken in both cases by the OAR.\textsuperscript{1037} The beneficiary will be informed in writing of the start of the process and its motivation and they will be heard for their submissions on the case. UNHCR provides the necessary information for the OAR to take the decision. Information is under no circumstance provided by the persecuting authorities, nor would the process put the beneficiary in danger in any way.\textsuperscript{1038} Finally, the OAR’s decision is submitted to the CIAR, which is responsible for taking the final decision concerning withdrawal or cessation.\textsuperscript{1039}

The decision will have to be notified to the beneficiary in a time limit of 6 months since the start of the procedure.\textsuperscript{1040} When this time limit is not respected, the process procedures no effects on the beneficiary’s protection status. If a decision is taken, the beneficiary can lodge an initial administrative appeal face to the Ministry of Interior or directly lodge a judicial appeal against the notified decision.\textsuperscript{1041}

\textbf{6. Withdrawal of protection status}

\begin{table}[h]
\centering
\begin{tabular}{|l|c|c|}
\hline
\textbf{Indicators: Withdrawal} & \textbf{Yes} & \textbf{No} \\
\hline
1. Is a personal interview of the asylum seeker in most cases conducted in practice in the withdrawal procedure? & \checkmark & \rule{1cm}{0.1pt} \\
2. Does the law provide for an appeal against the withdrawal decision? & \checkmark & \rule{1cm}{0.1pt} \\
3. Do beneficiaries have access to free legal assistance at first instance in practice? & \checkmark & \rule{1cm}{0.1pt} \\
\hline
\end{tabular}
\end{table}

The withdrawal of protection status is foreseen by Article 44 of the Asylum Act in the following cases, where:

\begin{itemize}
\item[a.] Any of the exclusion clauses provided in Articles 8, 9, 11 and 12 of the Asylum Act apply;
\end{itemize}

\textsuperscript{1034} Article 43 Asylum Act.
\textsuperscript{1037} Article 45(1) Asylum Act.
\textsuperscript{1038} Article 45(2) Asylum Act.
\textsuperscript{1039} Article 45(4) Asylum Act.
\textsuperscript{1040} Article 45(7) Asylum Act.
\textsuperscript{1041} Article 45(8) Asylum Act.
b. The beneficiary has misrepresented or omitted facts, including the use of false documentation, which were decisive for the granting of refugee or subsidiary protection status;
c. The beneficiary constitutes, for well-founded reasons, a danger to the security of Spain, or who, having been convicted by final judgment for offence serious, constitutes a threat to the community.

The withdrawal of international protection leads to the immediate application of existing rules in matters of aliens and immigration law, and when appropriate, expulsion proceedings.

The Asylum Act also prohibits any revocation or eventual expulsion which may lead to the return of the beneficiary to a country in which exist danger for life or freedom or in which they can be exposed to torture or to inhuman or degrading treatment or in which lacks of protection effective against return to the persecuting country.  

The process for the withdrawal of protection status is the same as that described in the Cessation and Review section.

Overall, withdrawal procedures are not applied in practice.

B. Family reunification

1. Criteria and conditions

<table>
<thead>
<tr>
<th>Indicators: Family Reunification</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is there a waiting period before a beneficiary can apply for family reunification? ☐ Yes ☒ No</td>
</tr>
<tr>
<td>❖ If yes, what is the waiting period?</td>
</tr>
<tr>
<td>2. Does the law set a maximum time limit for submitting a family reunification application? ☐ Yes ☒ No</td>
</tr>
<tr>
<td>❖ If yes, what is the time limit?</td>
</tr>
<tr>
<td>3. Does the law set a minimum income requirement? ☒ Yes ☐ No</td>
</tr>
</tbody>
</table>

The right to family unity is established in Articles 39-41 of the Asylum Act. The law reflects two aspects which add to and comply with this right: “Extension” of the international protection status of the beneficiary to their family (Extensión familiar del derecho de asilo o de la protección subsidiaria), 1043 and “Family reunification” (Reagrupación familiar). 1044 The applicant can opt for any of these, except for cases where the family has different nationality. In these cases, it will be mandatory to opt for family reunification.

Reunification can apply also for families created post-flight from the country of origin, especially if they have children, even though the assessment of the case and documentation is stricter. Spanish law does not establish a legal time limit for the administration to decide, and in practice the procedure lasts more than 9 months.

Regarding legal remedies foreseen in case of a negative decision, both an appeal before an administrative body and a judicial appeal are possible. In practice, there are difficulties to access such remedies, as in many cases there are challenges in obtaining the written decision of denial (i.e. long waiting time), which is necessary to lodge the appeal.

1042 Article 44(8) Asylum Act.
1043 Article 40 Asylum Act.
1044 Article 41 Asylum Act.
Free legal aid is foreseen. According to a new instruction adopted by the MISSM at the beginning of 2023 which provides for new rules on reception conditions, in order to benefit from economic support, the applicant has to be within the asylum reception system.

The procedure is initiated by the beneficiary of international protection and has to be presented at the OAR. The application for visa for family reunification at embassies or consulates does not entail the payment of any fee. In case of absence of travel documents, the Government usually issues a laissez-passer.

In June 2022, the ECtHR issued a decision striking out of its list of cases the application of a mother that claimed a violation of the right to family life and lack of effective remedy, due to the delay in the family reunification with his son after arriving in Spain. After she lodged her application, she did reunite with her son before the Court could rule on the case. For this reason, the Court considered that the reunification of the child with the applicant constitutes an adequate remedy under Article 8 of the Convention.1045

1.1. Family extension

The “extension” applies to:1046

❖ First degree ascendants that prove dependence;
❖ Descendants who are minors;
❖ Spouse or person who is linked by analogous relationship or cohabitation;
❖ Any other adult who is responsible for the beneficiary of international protection in accordance with current Spanish legislation, when the beneficiary is an unmarried minor;
❖ Other family members of a beneficiary, in cases where dependence and cohabitation with these individuals in the country of origin has been proved.

Even though not foreseen by law, same sex couples follow within this disposition: the difficulty in practice is to prove the relationship with appropriate documentation.

As the extension is attached to the main norm on beneficiaries established by the Asylum Act, there are no distinctions between refugees and subsidiary protection beneficiaries when it comes to setting requirements for extension.

When referring to the extension of international protection of the beneficiary to those relatives who are ascendants, the original Asylum Act did not establish economic dependence requirements from the sponsor, although the law was amended in 2014 to include the requirement of economic dependence.1047 Therefore, the requisite threshold is to prove that the ascendant depends economically on the beneficiary of international protection.

The requirements are: birth certificates, family book, family passbooks or other similar documents existing in the origin country. In addition, the initial information recorded in the asylum application, as well as the declarations presented during the asylum procedures and, if existing, photos, are also used as a proof for the family extension procedure and taken into consideration. DNA testing is also used to prove family links. In principle, is the same applicant who has to pay for the test, even though economic support can exist, for example by the NGOs managing reception facilities.

Such requirements apply also for family ties formed during the journey if the persons reached Spain together. On the contrary, it is necessary to follow the same procedure for proving the family ties foreseen for the other cases.

A major difficulty faced in practice is the certification and proof of dependence in the cases of ascendants of beneficiaries of international protection, which becomes especially burdensome in the case of Syrian nationals.

1045 European Court of Human Rights, Decision, Requête no 74048/17, Bahoumou Totopa contre l’Espagne, 2 June 2022, available in French at: https://bit.ly/43qkBCB.
1046 Article 40(1)(a)-(d) Asylum Act.
Regarding extension of the international protection of the beneficiary to those relatives who are *descendants*, the only requirement set to the beneficiary of protection is to prove family ties. There is no economic requirement established for the individual who benefits from protection.

In relation to the extension of the international protection of the beneficiary to other family members, the requisite conditions established by law are economic dependence and previous cohabitation in the country of origin. If both aspects are not proved, the “extension” is not granted.

As to economic dependence, the law does not establish a clear criterion. In practice, concessions are given as long as the beneficiary of protection sends money to the family which is in the country of origin. This, however, is a major problem for countries in conflict where money transfers is not possible.

One of the main problems in practice concerns children who are over 18 but depend on the beneficiary of protection. These are normally cases of 19 or 20-year-olds who still live in the family unit together with underage siblings. In these cases, extension is granted to underage children but is denied to those who are over 18, thereby breaking not respecting the principle of family unit, and leaving these individuals in a vulnerable situation in their countries of origin.

In addition, problems arise when trying to reunite minors who are dependent on the beneficiary of protection but are not their children (nephews / nieces, underage siblings etc.), who also conform the family unit. In these cases, we come across the same problem of family separation as mentioned before.

In order to improve the situation and to properly assess the family reunification procedures, the Forum for the Social Integration of Migrants recommended to establish uniform criteria for demonstrating family links, as well as the dependency or existence of previous cohabitation, and to adapt them to the socio-cultural realities of countries of origin and/or countries of residence of family members, as well as to their security conditions.1048

Recently, the procedure for the family extension and reunification was slightly changed and simplified, so family members residing in another country have to go to the Spanish Embassy or Consulate just when they are convened to carry out a concrete formality related to the application.1049

### 1.2. Family reunification (only in law)

The concept of family reunification is established by law as an alternative to “extension” except in cases involving different nationalities of spouses, in which it is compulsory.1050

Article 41 of the Asylum Act establishes that neither refugees or beneficiaries of subsidiary protection nor beneficiaries of family reunification will be subject to the requirements established in the Aliens Act, but will be subject to specific rules defined through a Regulation. Nevertheless, the establishment of these requirements and duties is still pending since 2009, which means that all applications for family reunification have been on hold and waiting to be resolved since October 2009, even though in practice these applications are decided upon, despite the lack of formal rules on the procedure.

This is particularly concerning for the cases of family members who have different nationality than the sponsor beneficiaries of protection, because the compulsory application of the family reunification excludes them from “extension” and leaves them with no other option. In these particular cases, applicants are prevented from exercising their right to maintain their family unit.

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1048 The Forum for the Social Integration of Migrants (*Foro para la Integración Social de los Inmigrantes*) is foreseen by Article 70 of the Alien Act and it is a consultative, information and counselling body about the integration of migrants in Spain ([http://www.foroinmigracion.es/](http://www.foroinmigracion.es/)).


1050 Article 41(1) Asylum Act.
However, a judgment of the Audiencia Nacional at the end of 2017 recognised a Palestinian refugee’s right to family reunification with her 71-year-old Syrian mother under the family reunification provisions of the Asylum Act. Importantly, the Audiencia Nacional states that whilst Article 41(2) does refer to an implementing regulation, the provision itself contains a sufficiently detailed regulation, almost analogous to that contained in Article 40, which makes it perfectly applicable in practice. The judgment also highlighted the favourable report issued by UNHCR supporting the case, on the basis of the fundamental right to family unity of refugees. Following this decision, the OAR finally reunited some mixed families (e.g. Palestinians and Syrians).

Following a recommendation of the Spanish Ombudsperson at the beginning of 2019, the OAR decided that it would apply effectively and without delay family reunification procedures to married couples in which one of the partners already holds a refugee status or the subsidiary protection.

### 1.3. Procedure

The procedure starts with the presentation of a report to the OAR, which has to be complemented by the following documents:

- Copy of the card which certifies the person as beneficiary of extension;
- Copy of the resolution where international protection is granted;
- Copy of the documentation which certifies and proves family ties;
- In the case of parents: birth certificate of children and family book;
- In the case of siblings: birth certificate of the corresponding siblings and family book;
- Copy of the documentation which proves that the applicant and his family cohabited together in the country of origin and was dependent on them;
- Copy of each family member’s passport;
- In the cases of spouses of siblings, marriage certificate;
- Report where the applicant provides a verbal account and description of the family situation.

It is also necessary to choose the consulate where the applicant wants to submit the extension application to be formalised in and leave contact details.

The OAR sends a letter to the applicant and with it, the family members are able to formalise the application in the Spanish consulate they have chosen. Family members formalise the application of family extension in the consulate of choice by presenting originals of all the documents required. Following this, the consulate sends all the documentation to the OAR and the application is studied. The instructor gives CIAR the proposal for resolution. Lastly, CIAR gives a final resolution to the case, if it is positive, it will be communicated to the consulate and the visas are issued accordingly.

The OAR received 410 applications for family extension with a beneficiary of international protection in 2021, and 762 in 2022.

In 2021 the Ministry of Interior issued a note on family extension and reunification establishing that, when family members are in the country of origin, the beneficiary of international protection in Spain has to begin the procedure.

As highlighted by the 2023 EUAA Asylum report, UNHCR expressed concerns about the long processing times for family reunification in Spain, considering that the procedure could take more than 18 months, as

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it involves a complex procedure with several authorities. The organisation also observed that beneficiaries usually received very little information on the status of their request.\textsuperscript{1055}

2. Status and rights of family members

As explained in the section on Family Criteria, only “extension” of international protection status is applied in practice, as the rules on family reunification have not yet been defined. In the context of extension, the beneficiary's international protection status is extended to cover family members. There is no difference relating to this as regards refugees and subsidiary protection beneficiaries.

Once the extended family members obtain their visa they will be able to travel. Once they are in Spain, the recognition of their extended international protection status is automatic. They go to the OAR to receive their temporary “red card” (\textit{tarjeta roja}) while they wait for the residence permit to be issued.

C. Movement and mobility

1. Freedom of movement

Beneficiaries of international protection have freedom of movement around the entire Spanish territory. In practice, they generally reside in the area where the procedure has been conducted, unless they have family members or networks in other cities. As with asylum seekers, most refugees are accommodated in Andalucía, Madrid and Catalonia (see Reception Conditions: Freedom of Movement).

2. Travel documents

Article 36(1)(d) of the Asylum Act governs the issuance of travel documents for refugees and, where necessary, for beneficiaries of subsidiary protection. The validity of these documents is 5 years for both types of protection. The travel documents have similar format, but only the refugee travel document refers to the 1951 Refugee Convention.

The beneficiary has to go personally to request the expedition of the document to the OAR or to the competent provincial police department of foreigners. There are no formal limitations to the permitted area of travel except the country of origin of the person benefitting from international protection.

Travel documents for beneficiaries of international protection issued by other countries are accepted in Spain. Spain has also ratified the Council of Europe Agreement for Transfer of Responsibility for Refugees.

The number of travel documents issued in the years between 2018 and 2023 is not available.

D. Housing

<table>
<thead>
<tr>
<th>Indicators: Housing</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. For how long are beneficiaries entitled to stay in reception centres?</td>
<td>6 months</td>
</tr>
<tr>
<td>2. Number of beneficiaries staying in reception centres as of 31 December 2023</td>
<td>Not available</td>
</tr>
</tbody>
</table>

The three-phase reception and integration process is available for all persons who ask for asylum, even in the case they are granted with international or subsidiary protection during the 18-month period. In case a person receives a negative response during the process, usually the person is allowed to complete at least the first period within the reception phase. In any case, the Ministry of Inclusion, Social Security and

Migration must give permission for the rejected applicant to continue the on-going phase and the following ones, also accessing financial support foreseen within the second and third phases. It should however be noted that usually applicants receive their asylum decision after 1 year or more from the moment of the asylum claim.

Therefore, beneficiaries follow the same process as described in Reception Conditions: Criteria and Restrictions. They are hosted within the asylum reception centres during the first 6 months. The typologies of reception places vary depending on the institution or entity that manages it: the system relies on places within big reception centres and apartments, some reception places are in urban neighbourhoods while other are located in rural areas. The different types of available accommodation also differ from the point of view of provided services and spaces.

After this first phase of accommodation inside the reception system, beneficiaries are granted financial support to help them pay rent in private accommodation. Due to the rigidity which characterises the Spanish three-phase reception process, they must complete their stay inside the reception places in order to have access to the following foreseen financial support for private housing, also because the participation to initial integration activities developed during the first reception phase is considered is well evaluated and relevant at the time of asking for other financial support available in the last 2 phases.

This factor obviously causes obstacles for those beneficiaries that can either pay their own housing since the beginning or for those who have relatives or personal contacts that can host them. In case they decide to go and live by themselves, they would be renouncing to the entire assistance and support foreseen under the reception system.

The lack of social housing alternatives, the insufficient financial support allocated for rent expenses, high requirements (i.e. payslips, high quantities for deposit, etc.) and criteria in rental contracts and discrimination exposes many beneficiaries of protection to economic vulnerability and in some cases leads to destitution.1056 Although many NGOs who work with refugees and asylum seekers during the first phase try to mediate between refugees and house holders at the time they start looking for private housing, there is not a specialised agency or intermediate service for helping beneficiaries finding a home. Even in cases in which NGOs act as intermediaries, asylum seekers face serious discrimination in renting apartments. Some of them face homelessness and are accommodated in homeless shelters.1057 The NGO CEAR Euskadi denounced the discrimination that asylum seekers face in renting flats, and that 7 out of 10 real estate-agencies admit to implement explicit forms of discrimination, while the other 3 apply more subtle forms of it.1058 Such challenges continued also in 2023. The lack of houses for rent and high prices in certain cities (i.e. Zaragoza) are also an impediment to the integration of refugees.1059 Similarly, the lack of sufficient public housing for persons at risk of exclusion has been described as another barrier that asylum seekers and refugees face in Spain.1060 The lack of private and public housing options makes refugees dependent to the asylum reception system while limiting their opportunities to have an independent life.1061 In its annual report on refugees in Spain and Europe, the NGO ‘CEAR’ recommended to design public policies to fight against housing exclusion and to foster access to housing to asylum seekers and refugees. The organisation also recommended to increase the stock of social housing and to reserve a percentage of it

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to refugees, as well as to implement tax incentives for landlords who decide to rent a flat to asylum seekers, refugees, migrants and statelessness persons.  

A report launched by the NGOs Provivienda and Andalucía Acoge underlines the obstacles and the discrimination that racialised persons face in accessing housing. It also indicates that access to housing in Spain is the field in which persons face more racial discrimination.

Following the Government’s announcement of an upcoming law on the right to a state-sponsored housing, around 50 stakeholders among NGOs, trade unions, and other groups joined to promote the “Initiative for a Law guaranteeing the Right to Housing”. The law was approved in May 2023. Among its objectives, it aims at supporting groups facing significant challenges in accessing housing and at fostering the use of public housing.

In March 2021, the Autonomous Community of Valencia created the Commission of Migration and Housing, with the aim of studying the problems faced by persons in situation of vulnerability, especially migrant and racialized population, to access housing in the Comunitat Valenciana. A report published in November 2022 by the same Commission, together with the organisation València Acull and the Observatorio del Hábitat y la Segregación Urbana (OHSU) underlines that the 86% of migrants in the Autonomous Community of Valencia faces problems in accessing a decent house, mainly due to rent prices and the bureaucratic problems in the registration of the residency.

A report published by the Municipality of Barcelona in November 2021 brought to light the problem of “property racism”; among the report’s findings, resulted that as 9 out of 10 agencies admit to deny renting houses to persons due to ethnic discrimination.

Following a visit carried out in Spain, the Council of Europe Commissioner for Human Rights called on the Government to improve the human rights of migrants and asylum seekers, especially in relation to accessing social rights, including housing and health.

At the end of 2022, the MISSM, together with Santander bank and Accenture, launched the ‘TECHO Platform’, that is a tool for asylum seekers and beneficiaries of international and temporary protection to look for apartments for rent.

1064 UGT, UGT promueve la Iniciativa por una ley que garantice el derecho a la vivienda, 17 February 2021, available in Spanish at: https://bit.ly/3sCBTKG; Afectados por la Hipoteca, Manifiesto de la Iniciativa por una Ley que garantice el Derecho a la Vivienda, 18 February 2021, available in Spanish at: https://bit.ly/2XPQsk7.
1066 El Periòdic, La Comunitat estudia los problemas de acceso a la vivienda de la población migrante y racializada, 16 March 2021, available in Spanish at: https://bit.ly/3j9OZw0.
In occasion of the 2023 International day for the Elimination of Racial Discrimination, the organisation Accem warned about the obstacles that migrants and asylum seekers face in renting an apartment.\footnote{1071}{Europa Press, ‘Accem advierte de las “trabas” que encuentran los migrantes y refugiados para alquilar una casa’, 21 March 2023, available in Spanish at: \url{https://bit.ly/3UacKVG}.}

In December 2023 Caritas expressed concern on the housing precariousness that migrants face in Spain.\footnote{1072}{Aragón Noticias, ‘La “precariedad habitacional” y la desprotección de los migrantes preocupan a Cáritas Diocesanas’, 29 December 2023, available at: \url{https://tinyurl.com/3uk52uph}.}

Autonomous Communities have (or should put in place) programs for the assistance to the autonomous and independent life of young adults (some of these programs start when they are 17 until the age of 21 or 24). Accem manages some of them in different autonomous communities (i.e. Castilla La Mancha, Murcia, Aragón).

### E. Employment and education

#### 1. Access to the labour market

Access to the labour market for refugees and beneficiaries of subsidiary protection is not limited by law or by any other measure in such as a labour market test or restricted access to certain sectors. It is fully accessible under equal conditions to nationals.

As mentioned in the chapter on Reception Conditions, during the first phase of reception, asylum applicants are provided with financial support for requesting the recognition of their studies or professional qualifications when this is feasible. This financial support is welcomed as recognition process usually undertakes important expenses for the legalisation and the translation of the documentation. Unfortunately, financial support is often not sufficient for guaranteeing full coverage to recognition related expenses. In the following two phases, beneficiaries of international protection are required to be more financially self-sufficient, providing financial help for punctual support, as self-sufficiency is hardly achievable.

Reception centres in Spain provide educational aid to facilitate parents’ attendance at training courses, such as providing their children with nurseries, school canteens, or teaching materials.\footnote{1073}{European Migration Network, ‘Integration of applicants for international protection in the labour market’, October 2023, available at: \url{https://tinyurl.com/yeuzscsf}.}

Nonetheless, as mentioned in the section on Reception Conditions: Access to the Labour Market, all persons within the 18-month long process are provided with individualised schemes to support their training, qualification recognition etc. After they complete the 3-phase process, beneficiaries can still access labour integration and orientation services provided by NGOs addressed to the migrant population in general. These generalised services are funded by the Ministry of Inclusion and co-financed by EU funds, and include personalised schemes, employment orientation, vocational trainings, support in drafting CV, etc. In general, the same NGOs who provide for reception conditions and have an employment service continue to support beneficiaries who require or need it. For example, Accem runs an employability program with IKEA since 2017, which foresees the provision of vocational trainings as well as internship opportunities at its shops. The organisation also manages a program with the Fundación Tent, which consists in a mentorship program with women and carried out by professionals from companies, with the aim of supporting and empowering them in defining their skills for the job search in a concrete sector and in developing such professional competencies. Similarly, Accem collaborates with the Grupo Northius, a platform for digital education, which has granted 20 scholarships for the participation of beneficiaries in different vocational trainings aiming at improving the employability of participants.\footnote{1074}{Information provided by Accem’s employment service in March 2023.}
Even when they are granted with refugee or subsidiary protection status, in the practice many beneficiaries face obstacles entering the labour market due to language, qualifications, and discrimination-based obstacles. This situation is made worse by the fact that the Spanish economy went through a long economic crisis, which led the country to high levels of unemployment, affecting both migrants and Spanish citizens. In addition, many companies lack information on labour laws and permits on their applicability in the cases of asylum seekers and refugees, which in turn hinders their access to the job market.\textsuperscript{1075}

In April 2021 a group of Syrian refugee journalists created the bilingual digital media Baynana (in Spanish and in Arabic) with the support of the Foundation por Causa.\textsuperscript{1076} The NGO CEAR and the Casa Árabe (a centre promoting Arabic culture, art and language) launched in Madrid the initiative ‘Acoge un Plato Catering’ during the summer of 2021. It aims at promoting Arabic gastronomy, as well as social and labour inclusion for refugees in Spain.\textsuperscript{1077} The project, which employees 14 between refugees and migrants, continued to be implemented in 2022.\textsuperscript{1078} In addition, within such an initiative, CEAR published a cookery book in September 2022, which gathers the recipes and histories of the refugees who participated in Acoge un Plato.\textsuperscript{1079} In July 2023 the initiative was present with a food truck at the Río Babel Music Festival in Madrid.\textsuperscript{1080}

The recognition of diplomas and degrees in Spain has always been a challenge for migrants and refugees due to bureaucratic burdens, with waiting times ranging from 9 months to 2 years. In March 2021, the Ministry of Universities announced the intention to adopt a new procedure for the recognition of diplomas, that aims at reducing the length of the procedure.\textsuperscript{1081} A proposal for a Royal Decree modifying the previous legislation has been launched on October 2021.\textsuperscript{1082} The new law has been approved in October 2022, establishing the deadline of 6 months for the administration to decide on diploma recognition.\textsuperscript{1083}

In July 2022, a reform of the Regulation of the Immigration Law was adopted, aiming at widening the possibilities of employment of third country nationals in Spain.\textsuperscript{1084} Among others, the reform introduces the residence permits for ‘training roots’ reasons (arraigo por formación), that means that any undocumented person living in Spain for 2 years can access a vocational training and thus employment. The reform also modifies the already existing figure of residence permit for ‘social roots’ reasons (arraigo social), by easing the requirements requested for obtaining it. While acknowledging the improvements that the reform introduces, different organisations (i.e. Andalucía Acoge, Cáritas, CEAR, Convive Fundación CEPAIM and Red Acoge) regret its limited scope and underline the necessity to continue in its improvement in order to tackle other relevant issues (i.e. family reunification, the issuing of visa for job

\textsuperscript{1075} Newtral, ‘La falta de información dificulta el acceso al mercado de trabajo a los solicitantes de asilo y protección internacional’, 13 January 2022, available in Spanish at: https://bit.ly/3Kk4RHV.


\textsuperscript{1079} CEAR, ‘Recetario de celebraciones Acoge un Plato’, September 2022, available in Spanish at: https://bit.ly/3W1s2vB.

\textsuperscript{1080} CEAR, ‘Acoge un Plato’ acercará a Río Babel las recetas de personas refugiadas’, 27 June 2023, available in Spanish at: https://tinyurl.com/48m7k84m.


\textsuperscript{1083} Cope, ‘Gobierno limita a seis meses el plazo para homologar los títulos extranjeros’, 18 October 2022, available in Spanish at: https://bit.ly/3XDwbnC.

search, a better synergy between the immigration and asylum laws, etc.). As underlined by Accem, in one year since the adoption of the reform, there has been an increase of 98.5% of persons who received a residence permit for any of the ‘roots’ reasons, being 15,019 those who received it for ‘training roots’ until June 2023.

In March 2023, the municipal public transport entity ‘ETM’ of Valencia launched, together with the NGO ‘CEAR’ the initiative ‘ETM Refugio’, consisting in the provision of free passes for public transports to asylum seekers and refugees, with the aim of improving their social and labour inclusion.

The NGO ‘CEAR’ continued to denounce the challenges that migrants, asylum seekers and refugees face in accessing employment, mainly due to prejudices and stereotypes, slow administrative asylum procedures, precarious and insecure jobs they usually access.

Accem launched the campaign ‘Tents of Hope’ to raise awareness on the value that refugees bring to the labour market and to the society.

On the occasion of the World Refugee Day, UNHCR and the Ministry of External Affairs organised the ‘Forum Spain with Refugees’, with the aim of mobilising and making visible projects and good practices in the inclusion of asylum seekers and refugees in Spain. The Forum, preparatory to the Global Refugee Forum, to mobilize concrete pledges from Spanish civil society including the private sector, primarily focusing on enhancing integration opportunities across various domains including economic inclusion, access to higher education, community-based reception, community engagement and support for refugee-led organisations and sports initiatives. Over 40 pledges related to refugee inclusion were garnered, laying the ground for more durable solutions in Spain, and stronger support by Spain at the global level.

In addition, the ticket of the Spanish national lottery of 17 June was dedicated to the World Refugee Day.

In June, Spain took part to the 2nd Unity Euro Cup, a football competition organised by the UNHCR and UEFA, with 11 refugees (9 men and 2 women).

In December the Government of Cataluña launched a call to look for mentors, with the aim of supporting asylum seekers and beneficiaries of international protection in their integration process.
2. Access to education

No major differences are reported between the situation of asylum seekers and beneficiaries of international protection. See the section on Reception Conditions: Access to Education.

Nonetheless, concerning this topic and many others related to their rights and protection, refugee unaccompanied minors are the most vulnerable collective, and are sometimes excluded from education or vocational training. Obstacles faced by these minors concern the lack of proper attention paid by administrations that have their legal guardianship.

In the past years, several cases were reported concerning unaccompanied minors, highlighting the shortcomings of the public system for minors’ protection, which have mainly been witnessed in the City of Melilla and Madrid. Although none of the reported cases concerned directly refugee children, the system in which they are received faces problems and obstacles concerning their documentation, their integration and their protection. Following the denunciations and calls to the Spanish Government by different bodies (including the UN Committee on the Rights of the Child, the Spanish Ombudsperson, Parliament’s members, the Spanish Commissioner against Child Poverty, etc.), since September 2021 the situation started to change. In February 2022, the Minister of Education changed the procedure for the admission of students in Ceuta and Melilla with the aim of guaranteeing all children residing in the two cities access to education. For more details on these issues, please refer to the previous updates of this report.

In November 2022, the Council of Ministers adopted a Royal Decree establishing the granting of direct subsidies for a total of EUR 2.65 million to 27 public Universities and to the Conference of Rectors of Spanish Universities in the framework of the Action Plan University-Refuge. The aim is to fund different kind of actions, i.e. linguistic support, cultural and psychological support, academic guidance, support and access to academic services and social services, awareness-raising on the conflict in Ukraine and on the international protection, etc.

In 2023, UNHCR relaunched its “Contigo” project in partnership with the NGO Diaconia, addressed to children and young refugees between 15 and 24 years old, which supported forty-six children and young refugees through community engagement and awareness-raising, involving twenty-one mentors. The aim of the project is to improve the integration prospects of beneficiaries while raising awareness on the role of the civil society and local communities.

In July 2023 the Autónoma University of Madrid announced the inclusion of asylum seekers and beneficiaries of international protection among those students that can apply and benefit for financial support and scholarships. In December, the Office for Education, Universities and Employment of the Autonomous Community of Valencia increased to 6,000 the scholarships for public and private universities ‘Manuela Solís’, easing the criteria to grant them to certain categories of students, including asylum seekers, refugees and statelessness persons.

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1098 Information provided by UNHCR in April 2024.
The European Migration Network reported that NGOs participating in the management of the International and Temporary Protection Reception system sometimes provide financial aid for issuing and processing documentation accrediting academic or professional training.\textsuperscript{1101}

F. Social welfare

Refugees and subsidiary protection beneficiaries have access to social welfare under the same conditions as Spanish nationals.\textsuperscript{1102} The same rules apply to refugees and subsidiary protection beneficiaries. They are entitled to, among others, employment and unemployment, benefits, scholarship, social assistance allowances, emergency allowances, allowances for housing, etc.

The Ministry of Inclusion, Social Security and Migration is responsible for the provision of social assistance. In practice, beneficiaries access benefits without any particular obstacles.

Social welfare is not conditioned on residence in a specific place, since it is managed at the national level. However, assistance may be complemented by support at municipal and regional level if applicable.

G. Health care

No differences between the situation of asylum seekers and beneficiaries of international protection for what concerns access to health care were reported. See the section on Reception Conditions: Health Care.

In May 2022, the organisation CEAR and the Fundación Sanitas signed an agreement to provide comprehensive health assistance to refugees. Concretely, more than 75 refugees will be provided with mental healthcare, dental assistance and support for their emotional well-being.\textsuperscript{1103} The project continued to be implemented during 2023.\textsuperscript{1104}

Refugee participation

UNHCR reinforced community participation and two-way communication with a consolidated Refugee-Led Organizations Network in Spain, composed of over sixty associations, which met quarterly and continuously communicated through virtual channels. The network plays a pivotal role in identifying protection risks and needs, fostering an environment for information exchange, capacity sharing and networking among organizations. Leveraging their capacity as information and service providers and advocacy actors, these organizations contribute significantly to the inclusion and empowerment of refugees and asylum seekers.

Furthermore, UNHCR signed new partnerships with Refugee-led organizations through two grants agreements, supporting projects aimed at promoting the inclusion of refugees and asylum seekers. These initiatives, benefitting over 384 displaced persons, focus on providing training and support to young refugees to foster critical thinking and a deeper understanding of the local context. Additionally, cultural and artistic heritage is used to facilitate the integration of refugees, encouraging their immersion into the local culture and fostering connections with other refugees and members of the local community.\textsuperscript{1105}

\textsuperscript{1101} European Migration Network, ‘Integration of applicants for international protection in the labour market’, October 2023, available at: https://tinyurl.com/yeuzscsf.
\textsuperscript{1102} Article 36(1)(f) Asylum Act.
\textsuperscript{1104} Dentista en tu ciudad, ‘Sanitas une fuerzas con CEAR para cuidar la salud de refugiados’, 25 July 2023, available in Spanish at: https://tinyurl.com/yzcbbpv.
\textsuperscript{1105} Information provided by UNHCR in April 2024.
ANNEX I – Transposition of the CEAS in national legislation

Directives and other CEAS measures transposed into national legislation

Spain has not yet fully transposed the recast Qualification, Asylum Procedures and Reception Conditions Directive.

Transposition and reforms into national legislation

<table>
<thead>
<tr>
<th>Directive / Regulation</th>
<th>Deadline for transposition</th>
<th>Title of legislation in national language</th>
<th>Participation of NGOs</th>
</tr>
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<tbody>
<tr>
<td>Directive 2011/95/EU</td>
<td>21 December 2013</td>
<td>Proyecto de Real Decreto por el que se aprueba el Reglamento de la Ley 12/2009, de 30 de octubre, reguladora del Derecho de Asilo y de la protección subsidiaria (8 noviembre 2013)</td>
<td>Yes No</td>
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<tr>
<td>Recast Qualification Directive</td>
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<td>Directive 2013/32/EU</td>
<td>20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018</td>
<td>Proyecto de Real Decreto por el que se aprueba el Reglamento de la Ley 12/2009, de 30 de octubre, reguladora del Derecho de Asilo y de la protección subsidiaria (8 noviembre 2013)</td>
<td>Yes No</td>
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<tr>
<td>Recast Asylum Procedures Directive</td>
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<td>Directive 2013/33/EU</td>
<td>20 July 2015</td>
<td>Proyecto de Real Decreto por el que se aprueba el Reglamento de la Ley 12/2009, de 30 de octubre, reguladora del Derecho de Asilo y de la protección subsidiaria (8 noviembre 2013)</td>
<td>Yes No</td>
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<tr>
<td>Recast Reception Conditions Directive</td>
<td></td>
<td>Real Decreto 220/2022, de 29 de marzo, por el que se aprueba el Reglamento por el que se regula el sistema de acogida en materia de protección internacional.</td>
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<td>Regulation (EU) No 604/2013</td>
<td>Directly applicable 20 July 2013</td>
<td>Proyecto de Real Decreto por el que se aprueba el Reglamento de la Ley 12/2009, de 30 de octubre, reguladora del Derecho de Asilo y de la protección subsidiaria (8 noviembre 2013)</td>
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