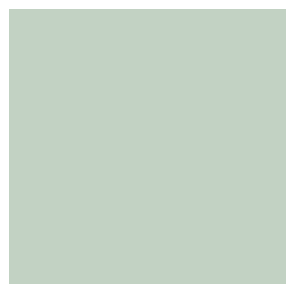


2023 UPDATE

SPAIN



COUNTRY REPORT

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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Glossary & List of Abbreviations

Desamparo	Declaration of destitution, triggering guardianship procedures for unaccompanied children
Tarjeta roja	Red card, certifying asylum seeker status
APDHA	Human Rights Association of Andalusia Asociación Pro Derechos Humanos de Andalucía
CAED	Centre for Emergency Assistance and Referral Centro de Atención de Emergencia y Derivación
CAR	Refugee Reception Centre Centro de Acogida de Refugiados
CATE	Centre for the Temporary Assistance of Foreigners Centro de Atención Temporal de Extranjeros
CCSE	Spanish Constitutional and Socio-Cultural Knowledge test Prueba de Conocimientos Constitucionales y Socioculturales de España
CEAR	Spanish Commission of Aid to Refugees Comisión Española de Ayuda al Refugiado
CETI	Migrant Temporary Stay Centre Centro de Estancia Temporal para Inmigrantes
CIAR	Inter-Ministerial Commission of Asylum Comisión Interministerial de Asilo y Refugio
CIE	Detention Centre for Foreigners Centro de Internamiento de Extranjeros
CREADE	Emergency and Referral Centres Centros de Recepción, Atención y Derivación para personas desplazadas desde Ucrania
DGSAPIT	Directorate General for the International Protection and Temporary Protection Reception System Dirección General del Sistema de Acogida de Protección Internacional y Temporal
ECCHR	European Centre for Constitutional and Human Rights
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EDAL	European Database of Asylum Act
ERIE	Emergency Immediate Response Teams Equipos de Respuesta Inmediata en Emergencia
EUAA	European Union Agency for Asylum
EYD	Assessment and Referral Phase Fase Previa de Evaluación y Derivación
GRETA	Council of Europe Group of Experts on Action against Trafficking in Human Beings
IOM	International Organisation for Migration
JCCA	Central Administrative Judge Juzgado Central de Contencioso-Administrativo
MISSM	Minister of Inclusion, Social Security and Migration Ministerio de Inclusión, Seguridad Social y Migraciones
OAR	Office of Asylum and Refuge Oficina de Asilo y Refugio
OHCHR	Office of the High Commissioner for Human Rights
SEM	State Secretary for Migration Secretaría de Estado de Migraciones
TP	Temporary Protection Protección Temporal
TPD	Temporary Protection Directive

UTS	Social Work Unit Unidad de Trabajo Social
VIS	Visa Information System
UNHCR	United Nations High Commissioner for Refugees

Statistics

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

	Applications lodged in 2023 (1)	Pending for admission at 1st instance at end of 2023	Pending for decision at end of 2023	Total decisions 2023	Total in merit decisions	Total rejection	Refugee status	Subsidiary protection	Humanitarian protection (2)
Total	163,220	106,546	84,549	N/A	N/A	35,392	7,330	3,833	41,487
Breakdown by countries of origin of the total numbers									
Venezuela	60,534								
Colombia	53,564								
Peru	14,308								
Honduras	3,685								
Cuba	3,082								

Source: Ministerio del Interior, Subsecretaría del Interior, Dirección General de Política 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 at: <https://tinyurl.com/34jtmrh8>.

(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

	Men	Women
Number	86,004	77,216
Percentage	52.69%	47.30%

	Adults	Children (Accompanied and unaccompanied)
Number	131,791	31,429
Percentage	80.74%	19.26%

Source: Ministerio del Interior, Subsecretaría del Interior, Dirección General de Política 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 at: <https://shorturl.at/gEV24>.

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

Title (EN)	Original Title (ES)	Abbreviation	Web Link
Law 12/2009 of 30 October 2009, regulating the law of asylum and subsidiary protection Official Gazette No 263, 31 October 2009 <i>Amended by:</i> Law 2/2014 of 25 March 2014 Official Gazette No 74, 26 March 2014	Ley 12/2009, de 30 de octubre, reguladora del derecho de asilo y de la protección subsidiaria BOE núm. 263, de 31 de octubre <i>Modificada por:</i> Ley 2/2014, de 25 de marzo BOE núm. 74, de 26 de marzo	Asylum Act	http://bit.ly/1R7wKyD (ES) https://bit.ly/2BuulIM (ES)
Organic Law 4/2000 of 11 January 2000 on rights and liberties of aliens in Spain and their social integration Official Gazette No 10, 12 January 2000 <i>Amended by:</i> Organic Law 4/2015 of 30 March 2015 on the protection of citizen security Official Gazette No 77, 31 March 2015	Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social BOE núm. 10, de 12 de enero <i>Modificada por:</i> Ley Orgánica 4/2015, de 30 de marzo, de protección de la seguridad ciudadana BOE núm. 77, de 31 de marzo	Aliens Act (LOEX)	http://bit.ly/1gto175 (ES) http://bit.ly/21nrJwQ (ES)
Organic Law 4/2015 of 30 March on the protection of citizen security. Official Gazette nº 77, 31 March 2015	Ley Orgánica 4/2015, de 30 de marzo, de protección de la seguridad ciudadana. BOE núm. 77, de 31 de marzo de 2015	Citizen Security Act	https://cutt.ly/Ur7isrs (ES)
Organic Law 39/2015 of 1st October on the Administrative Procedure of Public Administrations	Ley 39/2015, de 1 de octubre, del Procedimiento Administrativo Común de las Administraciones Públicas	Administrative Procedure Act	https://cutt.ly/ntelpTI (ES)

Main implementing decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions, detention and content of protection

Title (EN)	Original Title (ES)	Abbreviation	Web Link
Royal Decree 1325/2003 of 24 October 2003 approving the Regulation on a regime of temporary protection in case of mass influx of displaced persons Official Gazette No 256, 25 October 2003	Real Decreto 1325/2003, de 24 de octubre, por el que se aprueba el Reglamento sobre régimen de protección temporal en caso de afluencia masiva de personas desplazadas BOE núm. 256, de 25 de octubre	Temporary Protection Regulation	http://bit.ly/1QBTjuN (ES)
Royal Decree 203/1995 of 10 February 1995 approving the Regulation implementing Law 5/1984 of 26 March 1984, regulating the law of asylum and criteria for refugee status, as amended by Law 9/1994 of 19 May 1994. <i>Modified by:</i> Royal Decree 865/2001 of 20 July 2001, Royal Decree 1325/2003 of 24 October 2003 and Royal Decree 2393/2004 of 30 December 2004.	Real Decreto 203/1995, de 10 de febrero, por el que se aprueba el Reglamento de aplicación de la Ley 5/1984, de 26 de marzo, reguladora del Derecho de Asilo y de la condición de Refugiado, modificada por la Ley 9/1994, de 19 de mayo. <i>Modificado por:</i> Real Decreto 865/2001, de 20 de julio; por el Real Decreto 1325/2003, de 24 de octubre y por el Real Decreto 2393/2004, de 30 de diciembre.	Asylum Regulation	http://bit.ly/21x75H7 (ES)
Royal Decree 557/2011 of 20 April 2011 approving the regulation implementing Law 4/2000 on rights and liberties of aliens in Spain and their social integration	Real Decreto 557/2011, de 20 de abril, por el que se aprueba el Reglamento de la Ley Orgánica 4/2000, sobre derechos y libertades de los extranjeros en España y su integración social, tras su reforma por Ley Orgánica 2/2009	Aliens Regulation	http://bit.ly/2BXCnTi (ES)
Royal Decree 139/2020 of 28 January 2020 establishing the basic organisational structures of ministerial departments	Real Decreto 139/2020, de 28 de enero, por el que se establece la estructura orgánica básica de los departamentos ministeriales		https://cutt.ly/OtwILX6 (ES)
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	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	CIE Regulation	http://bit.ly/1WRxts0 (ES)
Framework Protocol for protection of victims of human trafficking, adopted by agreement between the Ministers of Justice, Home Affairs, Employment	Protocolo Marco de Protección de las Víctimas de Trata de Seres Humanos, adoptado mediante acuerdo de 28 de octubre de 2011 por los Ministerios de Justicia, del Interior,	Framework Protocol on Trafficking	http://bit.ly/2sqgZDi (ES)

and Social Security, Health, Social Services and Equality, the Office of the Attorney General and the State Judicial Council on 28 October 2011	de Empleo y Seguridad Social y de Sanidad, Servicios Sociales e Igualdad, la Fiscalía General del Estado y el Consejo del Poder Judicial		
Resolution of 13 October 2014 on the Framework Protocol on actions relating to foreign unaccompanied minors Official Gazette No 251, 16 October 2014	Resolución de 13 de octubre de 2014, de la Subsecretaria, por el que se publica el Acuerdo para la aprobación del Protocolo Marco sobre determinadas actuaciones en relación con los Menores Extranjeros No Acompañados BOE núm. 251, de 16 de octubre	Framework Protocol on Unaccompanied Children	http://bit.ly/1WQ4h4B (ES)
Royal Decree 497/2020 of 28 April establishing the organic structure of the Minister of Inclusion, Social Security and Migration	Real Decreto 497/2020, de 28 de abril, por el que se establece la estructura orgánica del Ministerio de Inclusión, Seguridad Social y Migraciones.		https://bit.ly/3sACM69 (ES)
Royal Decree 220/2022 of 29 March which approves the Regulation governing the international protection reception system	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	Asylum Reception Regulation	https://bit.ly/3QR8SHo (ES)

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.

¹ Ministerio del Interior, 'Inmigración irregular 2023. Datos acumulados del 1 de enero al 31 de diciembre', January 2024, available at: <https://tinyurl.com/3wpzt6se>.

² Caminando Fronteras, 'Monitoring the Right to Life - Year 2023', January 2024, available at: <https://tinyurl.com/yckuv3az>.

- ❖ **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 LGBTIQ+ 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 form of international protection.

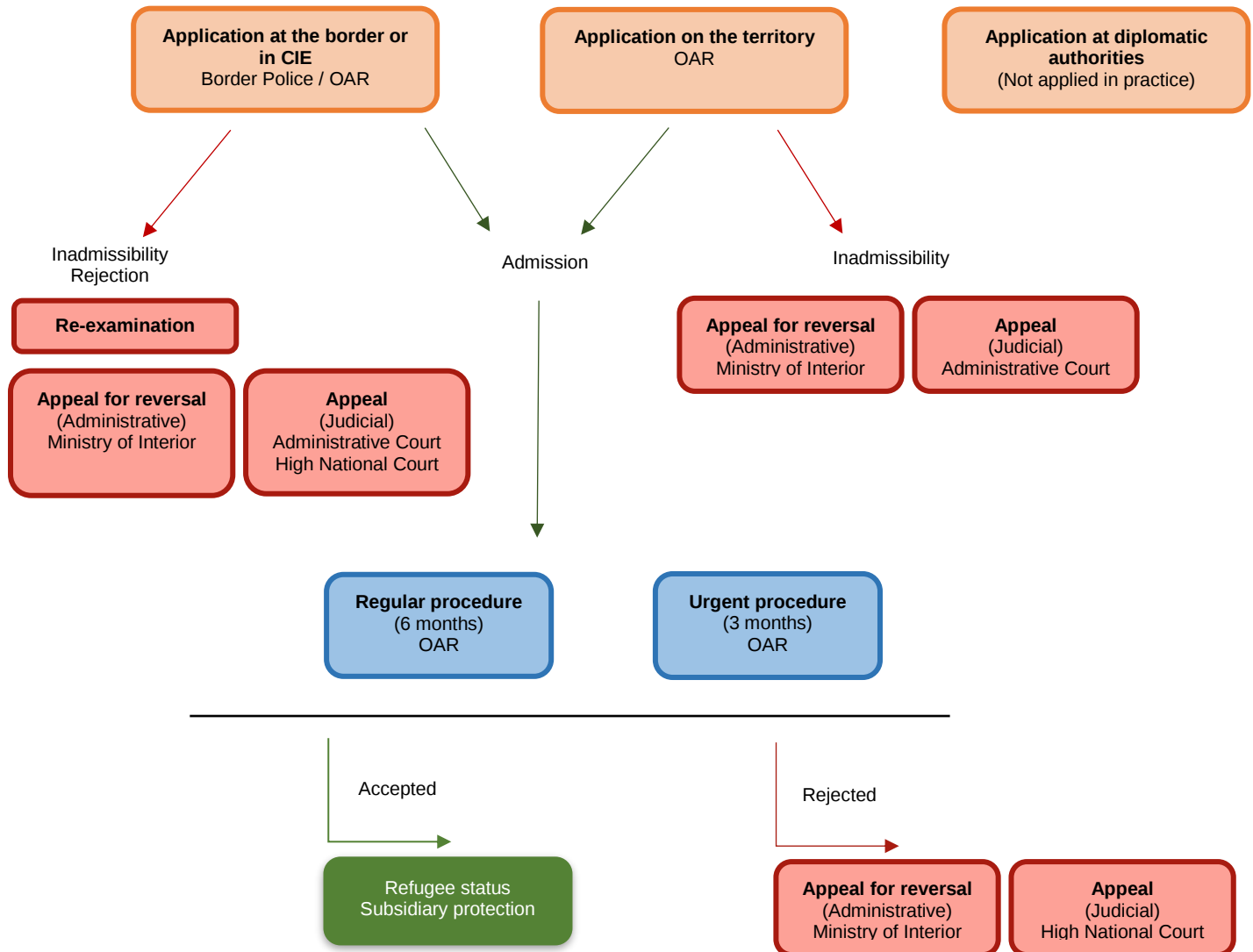
Content of temporary protection

- ❖ **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.

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

1. Which types of procedures exist in your country?

❖ Regular procedure:	☒ Yes	☐ No
▪ Prioritised examination: ³	☒ Yes	☐ No
▪ Fast-track processing: ⁴	☐ Yes	☒ No
❖ Dublin procedure:	☒ Yes	☐ No
❖ Admissibility procedure:	☒ Yes	☐ No
❖ Border procedure:	☒ Yes	☐ No
❖ Accelerated procedure: ⁵	☐ Yes	☒ No
❖ Other: Embassy procedure	☒ Yes	☐ No
2. Are any of the procedures that are foreseen in the law, not being applied in practice?

☒ Yes	☐ No
---	-----------------------------

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 judgement 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

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>.

⁸ El Diario, 'El Supremo reconoce el derecho a pedir asilo en las embajadas en contra del criterio del Gobierno', 18 November 2020, available in Spanish at: <https://cutt.ly/jhkvtSM>.

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/ypww3n57>

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.¹⁰

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

Stage of the procedure	Competent authority (EN)	Competent authority (ES)
Application ❖ At the border ❖ On the territory	Border Police Office of Asylum and Refuge, Aliens’ Office	Policía Fronteriza Oficina de Asilo y Refugio, Oficina de Extranjeros
Dublin	Office of Asylum and Refuge	Oficina de Asilo y Refugio
Refugee status determination	Office of Asylum and Refuge Inter-Ministerial Commission on Asylum (CIAR)	Oficina de Asilo y Refugio Comisión Interministerial de Asilo y Refugio
Appeal ❖ First appeal ❖ Onward appeal	❖ National Court ❖ Supreme Court	❖ Audiencia Nacional ❖ Tribunal Supremo
Subsequent application	Office of Asylum and Refuge	Oficina de Asilo y Refugio

4. Determining authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the determining authority?
Office of Asylum and Refuge	N/A	Ministry of Interior	☒ Yes ☐ No

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.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.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.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.

¹⁰ Boletín Oficial de las Cortes Generales, Congreso de los Diputados, ‘Proposición de Ley sobre acceso al derecho de asilo y solicitudes de protección internacional en embajadas y consulados. Presentada por el Grupo Parlamentario Plurinacional SUMAR’, 19 January 2024, available at: <https://tinyurl.com/2zbmc58b>

¹¹ Royal Decree 400/2012 of 17 February 2012 developing the basic organic structure of the Ministry of Interior. Ministerio del Interior, ‘Interior da rango de dirección general a la unidad que tramita las solicitudes de asilo y refugio’, 5 December 2023, available in Spanish at: <https://shorturl.at/ckFI6>.

¹³ 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).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),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.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*),¹⁷ in Detention Centres for Foreigners (CIE) or at police stations.¹⁸

The OAR is the authority competent for examining asylum applications.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.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

¹⁴ ECRE, *Asylum authorities: An overview of internal structures and available resources*, 2019, available at: <https://bit.ly/3Zih5ru>, 12.

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.²³ 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.²⁴

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:²⁵

- (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;²⁶
- (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.

²¹ Defensor del Pueblo, Solicitudes de protección internacional en puestos fronterizos, 11 July 2022, available in Spanish at: <https://bit.ly/3Hfa02T>; El Correo, 'El Defensor del Pueblo denuncia irregularidades de Interior al tramitar los asilos', 5 September 2022, available in Spanish at: <https://bit.ly/3kNReID>.

²² Audiencia Nacional, SAN 3235/2023, 22 June 2023, available in Spanish at: <https://tinyurl.com/4ap29rwx>; El Faro de Ceuta, Cuatro años esperando el asilo tras saltar la valla de Benzú, 9 July 2023, available in Spanish at: <https://tinyurl.com/5ey9ew9a>.

²³ Article 20(2) Asylum Act.

²⁴ Article 20(1) Asylum Act.

²⁵ Article 25 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 LGBTI+ 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.

²⁷ Tribunal Supremo, Sala de lo Contencioso-Administrativo, Sección Quinta, Sentencia núm. 1.458/2021, 13 December 2021, available in Spanish at: <https://bit.ly/41FjOgf>.

²⁸ Tribunal Supremo, Sala de lo Contencioso, STS 4338/2022, 16 November 2022, available in Spanish at: <https://bit.ly/3yVaess>.

²⁹ Boletín Oficial del Estado, 'Ley 12/2009, de 30 de octubre, reguladora del derecho de asilo y de la protección subsidiaria', available in Spanish at: <https://bit.ly/42dtYVI>; El Derecho, 'Modificación de la Ley 12/2009, de 30 de octubre, reguladora del derecho de asilo y de la protección subsidiaria', 8 March 2023, available in Spanish at: <https://bit.ly/3YEgijB>.

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 ☐ No
2. Is there a border monitoring system in place? ☒ Yes ☐ 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 2022.³⁰ 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.³¹

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.³²

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.³³

In May, five organisations accused France of violating the rights of migrants at the French-Spanish border.³⁴ 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.³⁵

³⁰ Ministerio del Interior, 'Inmigración irregular 2023. Datos acumulados del 1 de enero al 31 de diciembre', January 2024, available in Spanish at: <https://tinyurl.com/3wpzt6se>.

³¹ Rabat Process, '6th Ministerial Conference: Adoption of the Cadiz Action Plan', 21 December 2023, available at: <https://tinyurl.com/4j5du4wj>.

³² Rai News, 'Condoglianze all'Italia dal vertice Med5: "Prevenire perdite di vite evitando partenze irregolari"', 4 March 2023, available in Spanish at: <https://bit.ly/3kWVDtj>.

³³ Centre Delàs d'Estudis per la Pau, 'Financiación de la militarización y la guerra de fronteras en el Mediterráneo. Ranking de la banca armada 2022', March 2023, available in Spanish at: <https://tinyurl.com/5dvfyx4a>.

³⁴ Schengen Visa Info, '5 NGOs Accuse France of Violating Migrant Rights at Spanish Border', 15 May 2023, available at: <https://bit.ly/3o2Voy7>.

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.³⁶ 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.³⁷

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.³⁸

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.³⁹

In May, the UNHCR launched a campaign on LinkedIn asking to end pushbacks, which are an illegal practice according to international and European law.⁴⁰

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.⁴¹ 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.⁴² Despite these initial concerns, an agreement was signed at the end of the same month.⁴³

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.⁴⁴

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

³⁶ EuroMed Rights, State Watch, 'Europe's techno borders: digital infrastructure for migration control', July 2023, available at: <https://bit.ly/42lB8aL>.

³⁷ ABC, 'Biometría y livescans para identificar a los migrantes en frontera', 18 April 2023, available in Spanish at: <https://tinyurl.com/3u7ynpxc>.

³⁸ El País, 'Political crisis in Senegal triggers influx of migrants to Spain's Canary Islands', 16 July 2023, available at: <https://bit.ly/3Ue199S>.

³⁹ Amnistía Internacional, 'Amnistía Internacional reclama al Gobierno español que impulse una política migratoria europea "que salve vidas" en el inicio de la presidencia de la UE', 30 June 2023, available in Spanish at: <https://tinyurl.com/3nvvey6c>.

⁴⁰ LinkedIn, Publicación de ACNUR ESPAÑA, May 2023, available in Spanish at: <https://tinyurl.com/ykmv4mcd>.

⁴¹ Hora Sur, 'Arranca la Operación Minerva, con 16 países implicados en la seguridad fronteriza del Estrecho', 24 June 2023, available in Spanish at: <https://tinyurl.com/bdffa4wr>; Ceuta Ahora, 'Policía Nacional y FRONTEX coordinan la operación MINERVA en los puertos de Algeciras', 23 June 2023, available in Spanish at: <https://tinyurl.com/y6ncuz8z>; Asociación Pro Derechos Humanos de Andalucía, 'Investigación del posible uso fraudulento de fondos europeos en prácticas que vulneran los Derechos Humanos', 10 May 2023, available in Spanish at: <https://tinyurl.com/ygy5b7nv>.

⁴² El País, 'Frontex amenaza con irse de España', 25 January 2024, available at: <https://tinyurl.com/y4rcmtf>; Público, 'Canarias ve con "preocupación" la posible marcha de Frontex de España e Interior dice que todo se arreglará "en horas"', 25 January 2024, available at: <https://tinyurl.com/2nzhepxf>.

⁴³ El País, 'Frontex y España llegan a un acuerdo "in extremis" para retomar las operaciones contra la inmigración irregular', 29 January 2024, available at: <https://tinyurl.com/yeym3tzs>.

⁴⁴ Centre Delàs, Irídia, 'Qui vigila el vigilant? Violència a les fronteres i impunitat a Frontex', January 2024, available at: <https://tinyurl.com/yr65c6pw>.

surveillance of the coasts,⁴⁵ prevented 25,519 migrants from departing from its territory during the first five months of 2023.⁴⁶

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.⁴⁷

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.⁴⁸

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.⁴⁹

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.⁵⁰

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 personas 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).

Arrivals in Spain by land: 2023	
Point of entry	Number of irregular arrivals
Ceuta	1,068
Melilla	166
Total arrivals by land	1,234

Arrivals in Spain by sea: 2023	
Point of entry	Number of irregular arrivals
Ceuta	67
Melilla	206
Total arrivals by sea	273

Source: Ministerio del Interior, 'Inmigración irregular 2023. Datos acumulados del 1 de enero al 31 de diciembre', January 2024, available at: <https://tinyurl.com/3wpzt6se>.

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>

⁴⁶ Europa Press, 'Marruecos ha impedido la emigración a 25.519 personas en los cinco primeros meses del año', 24 June 2023, available at: <https://tinyurl.com/ycyya8es>

⁴⁷ Info Migrants, 'Deaths on Canaries route highlight lack of coordinated rescue ops', 26 June 2023, available at: <https://bit.ly/47UZsRU>.

⁴⁸ Diaconia, 'Vidas en Tránsito – 12 historias de acogida y refugio', 20 June 2023, available in Spanish at: <https://tinyurl.com/8narc942>.

⁴⁹ El País, 'El polizón egipcio que llegó a Bilbao en la bodega de un avión pide asilo en España: "Mi vida corre peligro"', 25 October 2023, available in Spanish at: <https://tinyurl.com/4a34wyu8>; El País, 'España deniega el asilo al joven egipcio que viajó a Bilbao en la bodega de un avión', 28 October 2023, available in Spanish at: <https://tinyurl.com/5xypuhhj>; El País, 'España devuelve a su país al polizón que viajó de Egipto a Bilbao en la bodega de un avión', 3 November 2023, available in Spanish at: <https://tinyurl.com/5fhxkvr2>.

⁵⁰ Madrid Diario, 'Desarticulada una red que introducía 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.⁵¹ 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.⁵² The NGO continued to express concerns on pushbacks in Ceuta and Melilla.⁵³

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.⁵⁴ 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.⁵⁵

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.⁵⁶

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.⁵⁷ In August 2020 the Government announced an enlargement of the asylum post at the **Melilla** border with a budget of €138,000,⁵⁸ and of the asylum post in **Ceuta** with a budget of €125,000,

⁵¹ Defensor del Pueblo, 'Informe anual 2022 – Volumen I', March 2023, available in Spanish at: <https://tinyurl.com/bdhjbujw>, 59.

⁵² CEAR, 'Sin barreras para nadie: personas migrantes y refugiadas en el acceso a los Derechos Económicos, Sociales y Culturales (DESC)', March 2023, available in Spanish at: <https://tinyurl.com/5xnmr4t7>; El Foro de Ceuta, 'Denuncian que las personas subsaharianas no pueden pedir asilo en Ceuta', 9 April 2023, available in Spanish at: <https://tinyurl.com/59daa92f>.

⁵³ La Verdad de Ceuta, 'CEAR denuncia las continuas devoluciones "ilegales y sumarias" en las fronteras de Ceuta y Melilla', 28 December 2023, available at: <https://tinyurl.com/ypjxc66>.

⁵⁴ CEAR, 'Informe 2020: las personas refugiadas en España y Europa', June 2020, available in Spanish at: <https://cutt.ly/QjkYUYt>, 74.

⁵⁵ Huffington Post, 'Un migrante entra en Melilla sobrevolando en parapente la valla', 7 October 2023, available in Spanish at: <https://rb.gy/8gk7o>.

⁵⁶ Asociación Pro Derechos Humanos de Andalucía – APDHA, 'Informe Sombra | España continúa incumpliendo los principios de la Convención Contra la Tortura', 26 June 2023, available in Spanish at: <https://tinyurl.com/4rf8hu8k>.

⁵⁷ 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/QhcBFWN>.

⁵⁸ El Faro de Melilla, 'La oficina de asilo de Beni Enzar tendrá dos plantas para ampliar sus dependencias', 26 August 2020, available in Spanish at: <https://cutt.ly/iHCZ7w0>.

despite the fact that the latter has never been used since it was opened.⁵⁹ Research carried out by the newspaper *Público* and the *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.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 2019.⁶¹ By October 2023, the renovation works were still ongoing.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.⁶³ Despite different organisations expressing concerns regarding the use of indiscriminate violence in border management activities⁶⁴ and asking for an independent investigation to be carried out in order to clarify the situation and to ascertain political accountability,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.⁶⁶ More than 150 organisations denounced said decision for allowing impunity for national authorities.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

⁵⁹ Ceuta al Día, 'Interior renueva los módulos que albergan la oficina de asilo del Tarajal a la que apenas ha dado uso', 26 August 2020, available in Spanish at: <https://cutt.ly/chcM84v>.

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/2OPisOV>.

⁶¹ Europa Press, 'El Gobierno aprueba las últimas reformas de modernización de la valla de Ceuta por un importe de 4 millones', 19 July 2022, available in Spanish at: <https://bit.ly/3zRwh35>.

⁶² El Faro de Ceuta, 'Cuatro años de experimentos en la valla: el plan Marlaska hace aguas', 22 October 2023, available at: <https://tinyurl.com/bdd5w8vx>.

⁶³ El País, 'El masivo salto de migrantes en la valla fronteriza de Melilla, en imágenes', 24 June 2022, available in Spanish at: <https://bit.ly/3QgDMHU>; ECRE, 'Atlantic Route and Spain: Deadly Tragedy at Melilla Border Causes Local Protests and International Outcry – More Deaths on the Atlantic', Weekly Bulletin, 8 July 2022, available at: <https://bit.ly/3A9951S>; Melting Pot, 'Almeno 27 migranti muoiono in Marocco nel tentativo di superare le barriere verso Melilla', 25 June 2022, available in Spanish at: <https://bit.ly/3bNzgBW>.

⁶⁴ Amnistía Internacional, 'Amnistía Internacional expresa gran preocupación por los graves hechos ocurridos hoy en Melilla y en la frontera entre Marruecos y España, y pide una investigación independiente y exhaustiva', 24 June 2022, available in Spanish at: <https://bit.ly/3AdXPBr>; CEAR, 'CEAR denuncia el «uso indiscriminado de la violencia» en el control de fronteras', 25 June 2022, available in Spanish at: <https://bit.ly/3PfYXZr>; El Pueblo de Ceuta, 'La Asociación Elín condena la situación de violencia vivida en la frontera de Melilla', 25 June 2022, available in Spanish at: <https://bit.ly/3zLVwE3>; Asociación Pro Derechos Humanos de Andalucía (APDHA), 'APDHA muestra su consternación y exige una investigación tras el último salto a la valla de Melilla', 25 June 2022, available in Spanish at: <https://bit.ly/3pecrdq>; RTVE, 'Las ONG denuncian el "uso indiscriminado" de la violencia en la frontera de Melilla y apuntan a una cifra mayor de muerte', 25 June 2022, available in Spanish at: <https://bit.ly/3QAapQA>; ACNUR, 'ACNUR y la OIM lamentan la pérdida de vidas en la valla fronteriza de Nador-Melilla', 25 June 2022, available in Spanish at: <https://bit.ly/3QuO87r>.

⁶⁵ El Faro de Ceuta, 'Coordinadora de Barrios exige una investigación y una política migratoria basada en la seguridad humana', 24 June 2022, available in Spanish at: <https://bit.ly/3p6qwd1>; El Salto Diario, 'Colectivos migrantes exigen responsabilidades políticas por las muertes en Melilla y convocan concentraciones', 26 June 2022, available in Spanish at: <https://bit.ly/3A914tQ>; La Sexta, 'Unidas Podemos solicita una investigación independiente para esclarecer la "tragedia humana" en la valla de Melilla', 27 June 2022, available in Spanish at: <https://bit.ly/3C0xEzv>; El Mundo, 'Ada Colau insta a investigar las muertes de Melilla y acusa al Gobierno de "racismo institucional"', 25 June 2022, available in Spanish at: <https://bit.ly/3PedQeE>; Alfa y Omega, 'Los obispos tras la tragedia en la frontera de Melilla: «No son invasores, son seres humanos»', 25 June 2022, available in Spanish at: <https://bit.ly/3zGDZNA>; Noticiasde, 'Podemos, ERC, Bildu y Compromís acuerdan pedir que el Congreso investigue las muertes en Melilla, pero no ponen fecha', 30 June 2022, available in Spanish at: <https://bit.ly/3QiDjoS>.

⁶⁶ El Diario, 'La Fiscalía exculpa a Interior de las muertes en Melilla y pide expedientar a los agentes que apedrearón a migrantes', 23 December 2022, available in Spanish at: <https://bit.ly/3FTJ2x6>.

⁶⁷ La Vanguardia, 'Más de 150 organizaciones denuncian el archivo de la investigación sobre la tragedia porque "deja impunes" hechos muy graves', 24 December 2022, available in Spanish at: <https://bit.ly/3G0O1fl>.

in the future in relation to pushbacks.⁶⁸ 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.⁶⁹ 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 2022.⁷⁰ 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.⁷¹ The Spanish Ombudsperson concluded his investigation of the incident and concluded that the returns carried out that day were illegal according to the law.⁷² At the end of March, the Minister of Interior was heard at a hearing in front of the European Parliament.⁷³

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.⁷⁴ 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.⁷⁵ 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.⁷⁶ 1 year after the event, the Moroccan authorities have identified and buried just one person, and sentenced 61 persons in relation to the jump.⁷⁷ 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.⁷⁸

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.⁷⁹ 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.⁸⁰

⁶⁸ Huffington Post, 'HRW denuncia: las devoluciones en caliente en España contribuyeron a la muerte de migrantes', 12 January 2023, available in Spanish at: <https://bit.ly/3ZwrJv8>.

⁶⁹ El Faro de Melilla, 'La ministra de Justicia explica al Parlamento Europeo que la tragedia del 24J se cerró tras una profunda investigación', 12 January 2023, available in Spanish at: <https://bit.ly/3GN11WN>.

⁷⁰ Amnistía Internacional, 'Amnistía Internacional exige a los Gobiernos de España y Marruecos que acaben con "la política de impunidad y excepcionalidad" en las fronteras de Ceuta y Melilla', 1 February 2023, available in Spanish at: <https://tinyurl.com/4pjzba8r>; Cope, 'Amnistía Internacional plantará siluetas de migrantes frente a Moncloa para reclamar que no se repita la tragedia de Melilla', 1 February 2023, available in Spanish at: <https://tinyurl.com/mh35jm3z>.

⁷¹ 20 Minutos, 'Marlaska, reprobado en el Congreso por la tragedia de la valla de Melilla con los votos del PP, Vox y los partidos independentistas', 9 February 2023, available in Spanish at: <https://tinyurl.com/3w9msp8a>.

⁷² El País, 'El Defensor del Pueblo concluye que las devoluciones en caliente durante la tragedia de Melilla fueron ilegales', 13 March 2023, available in Spanish at: <https://tinyurl.com/2734jk5c>.

⁷³ El Faro de Melilla, 'Marlaska intervendrá el 22 de marzo ante Parlamento Europeo para abordar la tragedia del 24J en la valla de Melilla', 9 March 2023, available in Spanish at: <https://tinyurl.com/4z2sb7b5>.

⁷⁴ Amnistía Internacional, 'Marruecos / España: Continúa la agonía para las familias de las personas desaparecidas y fallecidas mientras sigue el encubrimiento en Melilla', 23 June 2023, available in Spanish at: <https://tinyurl.com/3sv8v5rr>.

⁷⁵ El Diario, 'Los supervivientes de la tragedia de Melilla piden justicia un año después: "No se nos escucha"', 23 June 2023, available in Spanish at: <https://tinyurl.com/5yumhpdB>.

⁷⁶ CEAR, 'CEAR recuerda que un año después sigue sin haber "verdad, justicia y reparación" por la tragedia de Melilla', 23 June 2023, available in Spanish at: <https://tinyurl.com/yndh3pff>; Europa Press, 'Amnistía y CEAR elevan a 37 muertos y hasta 77 desaparecidos las víctimas en la valla de Melilla hace un año', 23 June 2023, available in Spanish at: <https://tinyurl.com/nhe6awnz>.

⁷⁷ El Faro de Melilla, 'Un año después de la tragedia del 24J: un migrante enterrado y 61 condenados', 22 June 2023, available in Spanish at: <https://tinyurl.com/y4nhd322>.

⁷⁸ El Periódico de Canarias, 'Una gran manifestación recuerda en frontera de Melilla a las víctimas del 24J', 24 June 2023, available in Spanish at: <https://tinyurl.com/ye3fe6nm>; El Salto Diario, 'Por la Justicia en Melilla, la regularización ya y el cierre de CIEs: arranca la Caravana Abriendo Fronteras', 23 June 2023, available in Spanish at: <https://tinyurl.com/55k9bma9>.

⁷⁹ Diario Siglo XXI, 'ONG presentan una querrela para que se abra una investigación del salto a la valla de Melilla de junio de 2022', 16 June 2023, available in Spanish at: <https://tinyurl.com/4pzzvekt>.

⁸⁰ Juriist, 'UN Committee against Torture releases findings on four member states', 29 July 2023, available at: <https://bit.ly/3tZaUOJ>.

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.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.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.⁸³ In March 2023, his asylum interview was held at the Spanish embassy in Rabat (Morocco).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.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.⁸⁶ In December 2023, the applicant lodged a claim for precautionary measures at the National Court (*Audiencia Nacional*), that ruled in favour of his transfer to Spain.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.⁸⁸

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

The persisting problem of pushbacks (*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”,⁸⁹ includes a specific regulation within the Aliens Act concerning the “Special regime of Ceuta and Melilla”. This regime consists of three elements:

- (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”;

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>.

⁸² Human Rights Watch, ‘World report 2023. Spain, events of 2023’, January 2024, available at: <https://tinyurl.com/44xwptyk>

⁸³ Público, ‘Reto a Marlaska: un sudanés devuelto a Marruecos en la tragedia de Melilla pide asilo en la embajada de España en Rabat’, 13 December 2022, available in Spanish at: <https://bit.ly/3hLTzmc>.

⁸⁴ El Faro de Melilla, ‘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/3ZMxjJi>; Público, ‘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>.

⁸⁵ El Diario, ‘La carta a Pedro Sánchez de un sudanés devuelto a Marruecos: “Jamás habría intentado saltar la valla si tuviera otra opción”’, 24 June 2023, available in Spanish at: <https://tinyurl.com/fkfyama7>.

⁸⁶ Público, ‘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>.

⁸⁷ Público, ‘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>.

⁸⁸ El Debate, ‘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>.

⁸⁹ Organic Law 4/2015 of 30 March 2015 on the protection of citizen security.

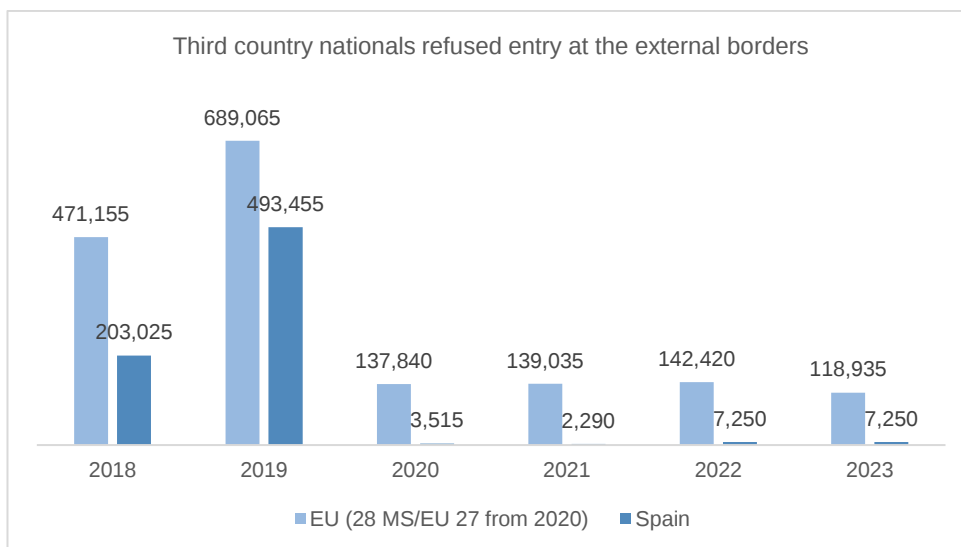
- (2) It declares that “these rejections will be realised respecting the international law on human rights and international protection ratified by Spain”;
- (3) Lastly, it states that “international protection claims will be formalised at the *ad hoc* border point in line with international protection 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

⁹⁰ UNHCR Spain, ‘Enmienda a Ley de Extranjería vincula gestión fronteriza y respeto de obligaciones internacionales’, 13 March 2015, available in Spanish at: <http://bit.ly/1oEUcMD>. See also ECRE, ‘Spain: New law giving legal cover to pushbacks in Ceuta and Melilla threatens the right to asylum – Op-Ed by Estrella Galán, CEAR’, 27 March 2015, available at: <http://bit.ly/1FRab0K>.

⁹¹ Council of Europe Commissioner for Human Rights, Third party intervention in *N.D. v. Spain and N.T. v. Spain*, 9 November 2015, available at: <http://bit.ly/1oN9Vdk>.

⁹² Eurostat; *migr_eirfs*.

Spanish territory on 13 August 2014 as part of a group of over 75 individuals. On 3 October 2017, the ECtHR 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).⁹³

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,⁹⁴ overturning the 2017 judgment. The GC addressed whether the removal of the applicants amounted to an expulsion or ‘non-admission’ of entry.⁹⁵ 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 4.⁹⁶

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 4.⁹⁷

This GC’s decision has been heavily criticised by civil society organisations and other several stakeholders, including the Progressist Union of Public Prosecutors,⁹⁸ who saw a lost opportunity in condemning the Spanish authorities for their pushback practices at the border.⁹⁹

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.¹⁰⁰

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**.¹⁰¹ After analysing the constitutional doctrine and the ECtHR’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 ECtHR’s jurisprudence on the material execution of a rejection at the border. Nevertheless, the Court underlined the importance of judicial control and effective remedies

⁹³ ECtHR, *N.D. and N.T. v. Spain*, Application Nos 8675/15 and 8697/15, Judgment of 3 October 2017.

⁹⁴ ECtHR, Grand Chamber, *Case of N.D. and N.T. v. Spain*, Applications nos. 8675/15 and 8697/15’, 13 February 2020, available at: <https://cutt.ly/NrB68Fx>.

⁹⁵ See EDAL summary at: <https://bit.ly/39fa7bV>. For an analysis, see also Stavros Papageorgopoulos, *N.D. and N.T. v. Spain: do hot returns require cold decision-making?*, 28 February 2020, available at: <https://bit.ly/33JWK25>.

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ Atresmedia, ‘La Unión Progresista de Fiscales tilda de “brutal retroceso” el fallo del Tribunal Europeo que avala las devoluciones en caliente’, 15 February 2020, available in Spanish at: <https://bit.ly/3dmLyyW>.

⁹⁹ Servicio Jesuita a Migrantes, ‘Nota de prensa Sentencia TEDH: Una sentencia dolorosa para demandantes y sociedad civil, pero que no legitima las devoluciones sumarias’, 14 February 2020, available in Spanish at: <https://cutt.ly/crNqKam>.

¹⁰⁰ Netflix, ‘The Gourougou Trial’, November 2022, available at: <https://bit.ly/3FqKoAr>.

¹⁰¹ Tribunal Constitucional, Recurso de inconstitucionalidad STC 2015-2896, 19 November 2020, available in Spanish at: <https://cutt.ly/VhYglhu>; Tribunal Constitucional, *NOTA INFORMATIVA Nº 108/2020. El Pleno del TC avala la constitucionalidad de la ley de protección de la seguridad ciudadana de 2015 salvo las grabaciones “no autorizadas” a la policía*, 19 November 2020, available in Spanish at: <https://cutt.ly/EhYgLWZ>.

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

¹⁰² El Salto Diario, ‘*El Constitucional desautoriza las devoluciones en caliente que realiza el Ministerio de Interior, 20 November 2020*’, available in Spanish at: <https://cutt.ly/ShYjlih>.

¹⁰³ Committee on the Rights of the Child, Views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 4/2016 - CRC/C/80/D/4/2016, 12 February 2019, available at: <https://bit.ly/2TJ9Euf>.

¹⁰⁴ El Correo, ‘*El Supremo confirma el archivo de la causa sobre la tragedia de El Tarajal*’, 2 June 2022, available in Spanish at: <https://bit.ly/3BQrJNc>.

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/2s7mmv85>.

¹⁰⁶ The Guardian, ‘*Refugee files complaint to UN against Spain over 2014 border deaths*’, 1 February 2024, available at: <https://tinyurl.com/5yyy9nhh>.

¹⁰⁷ Dutch Council for Refugees, ‘*Working together against pushbacks in Spain*’, 19 May 2022, available at: <https://bit.ly/3A8GTw7>.

¹⁰⁸ Dutch Council for Refugees, ‘*The Step-Up Fund for International Protection and Capacity Development*’, available at: <https://tinyurl.com/4fks7dyn>.

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.¹⁰⁹

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.¹¹⁰

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

¹⁰⁹ El Salto, 'Un joven maliense se querrela contra la Guardia Civil tras perder la visión de un ojo', 30 March 2023, available in Spanish at: <https://tinyurl.com/47mn7wv9>.

¹¹⁰ Commissioner for Human Rights, Council of Europe, 'Commissioner for Human Rights of the Council of Europe - Dunja Mijatović - Report following her visit to Spain from 21 to 25 November 2022', 13 April 2023, available at: <https://bit.ly/3u4SJan>.

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>.

¹¹² El Faro de Ceuta, 'España y Marruecos frenan un nuevo 'salto a la valla' en Ceuta y devuelven en caliente, al menos, a un joven subsahariano', 13 April 2021, available in Spanish at: <https://bit.ly/3CnhnRG>; El Faro de Ceuta, 'Organizaciones de Derechos Humanos denuncian la devolución en caliente de un joven subsahariano en la valla de Ceuta', 13 April 2021, available in Spanish at: <https://bit.ly/3wTyf1b>; El Faro de Ceuta, 'Devueltos a Marruecos unos 30 jóvenes migrantes que llegaron a nado a Ceuta el domingo', 27 April 2021, available in Spanish at: <https://bit.ly/3AkcERg>.

¹¹³ El País, 'Interior devuelve a Marruecos a miles de migrantes sin aclarar el procedimiento', 19 May 2021, available in Spanish at: <https://bit.ly/3oARJ74>.

¹¹⁴ El Salto Diario, 'Las organizaciones de DD HH denuncian que el Gobierno está incumpliendo la ley con las expulsiones colectivas de Ceuta', 19 May 2021, available in Spanish at: <https://bit.ly/3nmUiKq>; Al Jazeera, 'As migrants continue to reach Ceuta, Spanish pushback hardens', 19 May 2021, available at: <https://bit.ly/3DaSVU1>; RTVE, 'Las ONG piden acabar con las devoluciones en caliente de menores en Ceuta y recuerdan que son ilegales', 19 May 2021, available in Spanish at: <https://bit.ly/3DiStcF>; Asociación Pro derechos Humanos de Andalucía - APDHA, 'APDHA exige el cese de las vulneraciones de derechos humanos contra las personas migrantes en Ceuta', 19 May 2021, available in Spanish at: <https://bit.ly/31lwqyk>.

¹¹⁵ Stick Noticias, 'ONG denuncian la devolución de menores, la falta de asistencia letrada y la persecución de migrantes en Ceuta', 21 May 2021, available in Spanish at: <https://bit.ly/31dN5UZ>.

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/3GXhSoh>.

¹¹⁷ El Diario, 'Un juzgado de Ceuta ordena al Gobierno retornar a España a los menores devueltos a Marruecos en agosto', 17 February 2022, available in Spanish at: <https://bit.ly/41puQ8S>.

Public Prosecutor Office in June 2022, together with the Government-Delegate in the City for malfeasance in the illegal expulsion of Moroccan children¹¹⁸) were made public.¹¹⁹ 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.¹²⁰ 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.¹²¹ 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 Nuadibú port in Mauritania, but the Mauritanian Government did not allow the disembarkation, despite the agreements on migration established between the two countries.¹²³ Afterwards, the migrants were disembarked in Senegal, which the NGO CEAR indicated could constitute a case of collective expulsion.¹²⁴ 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 2003.¹²⁶ 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.¹²⁷ 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.¹²⁸ 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

¹¹⁸ Público, 'La Fiscalía denuncia a la delegada del Gobierno y a la vicepresidenta de Ceuta por las expulsiones de menores marroquíes', 10 June 2022, available in Spanish at: <https://bit.ly/3VLzLYp>.

¹¹⁹ El Diario, 'Los mensajes de Whatsapp sobre la devolución ilegal de menores de Ceuta señalan a Carmen Calvo y Marlaska: "Hemos de inventar un procedimiento"', 3 August 2023, available in Spanish at: <https://cutt.ly/NwdhtBWI>.

¹²⁰ Tribunal Supremo. Sala de lo Contencioso, STS 114/2024, 22 January 2024, available at: <https://tinyurl.com/y7brw5wb>; El País, 'El Tribunal Supremo confirma que la devolución de menores desde Ceuta a Marruecos en agosto de 2021 fue ilegal', 22 January 2024, available at: <https://tinyurl.com/3cspwpmf>.

¹²¹ Europa Press, 'ONG anuncian que emprenderán "acciones oportunas" tras declarar el Supremo ilegales otras 12 devoluciones de menores', 26 January 2024, available at: <https://tinyurl.com/2s38pubd>.

¹²² Tercera Información, 'Jueces para la Democracia pide al Gobierno asumir responsabilidades tras la sentencia del Supremo contra la devolución de menores', 28 January 2024, available at: <https://tinyurl.com/38a8jwvh>.

¹²³ El Periódico de España, 'La devolución de 168 migrantes a Senegal destapa discrepancias con Mauritania y las ONG', 3 August 2023, available in Spanish at: <https://tinyurl.com/mr26v5fh>.

¹²⁴ CEAR, 'Posible devolución colectiva a Senegal de 168 personas migrantes rescatadas por el barco español Río Tajo', 29 August 2023, available in Spanish at: <https://tinyurl.com/5b7ut4uy>; El Diario, 'Desembarcan en Senegal los 168 migrantes rescatados por la Guardia Civil pese a las advertencias de las organizaciones humanitarias', 30 August 2023, available in Spanish at: <https://tinyurl.com/3rkf8kwz>.

¹²⁵ Amnistía Internacional, 'España: La devolución colectiva sin garantías a Senegal de 168 personas migrantes vulnera los derechos humanos', 30 August 2023, available in Spanish at: <https://tinyurl.com/k6fvt4pn>.

¹²⁶ El País, 'Mauritania recibe un tercio de los vuelos de expulsión de inmigrantes desde España', 1 July 2020, available in Spanish at: <https://cutt.ly/DhYbXnm>.

¹²⁷ El Diario, 'Devoluciones exprés de Canarias a Mauritania: Interior ha expulsado a malienses que declararon su intención de pedir asilo', 31 January 2020, available in Spanish at: <https://cutt.ly/ir7o2KQ>.

¹²⁸ El País, 'Uno de los deportados por España a Mauritania: "Después de tres días sin comer, nos abandonaron en Malí"', 7 February 2020, available in Spanish at: <https://bit.ly/2QJzk7M>.

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.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.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 2022.¹³¹ 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.¹³² Thus, Algerian migrants were returned from Spanish CIEs.¹³³ In the same month, Spain increased the deportation of Moroccan migrants arriving to the Canary Islands.¹³⁴ In November 2020, Spain had also reached a similar agreement with **Senegal**.¹³⁵ Consequently, the Government announced in February 2021 that it would resume return flights to **Senegal** by the end of the month.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.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 Fría. It was then rescheduled to 10 March, but it was once more suspended.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.¹³⁹

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

¹²⁹ Europapress, 'SJM denuncia que España repatría a personas malienses a Mauritania, "devoluciones indirectas" a un país en conflicto', 24 January 2020, available in Spanish at: <https://cutt.ly/wtqES5g>; La Provincia, 'Las devoluciones indirectas de migrantes a Mali contravienen directrices de la ONU', 3 February 2020, available in Spanish at: <https://cutt.ly/3tqW6Ew>.

¹³⁰ Espiral 21, 'España y Mauritania ponen en marcha la migración circular', 8 February 2024, available at: <https://tinyurl.com/yeymuk2t>; The Guardian, 'EU leaders unveil €210m Mauritania deal in bid to curb people-smuggling', 8 February 2024, available at: <https://tinyurl.com/6trzvuby>; Canarias 7, 'Pestana pide refuerzo policial para atender el repunte migratorio', 8 February 2024, available at: <https://tinyurl.com/2dd393av>

¹³¹ El Diario, 'Grupos semanales de 20 migrantes y sin derecho a un segundo abogado, así son las deportaciones de Canarias al Sáhara', 23 April 2023, available in Spanish at: <https://bit.ly/3IT7xvX>.

¹³² Cope, 'Argelia se suma a Marruecos y Mauritania y ya empieza a aceptar inmigrantes retornados desde España', 2 December 2020, available in Spanish at: <https://cutt.ly/phYcxoL>.

¹³³ Público, 'Interior retoma las deportaciones de migrantes argelinos desde los CIE', 2 December 2020, available in Spanish at: <https://bit.ly/2XXlhP7>.

¹³⁴ El País, 'Interior incrementa la deportación de los marroquíes llegados a Canarias', 7 December 2020, available in Spanish at: <https://bit.ly/2LYQ9w4>; El Español, 'Rabat acepta la devolución de migrantes de Canarias en la negociación con la UE para lograr más visados', 3 December 2020, available in Spanish at: <https://bit.ly/2Nfy7Sd>.

¹³⁵ El Confidencial, 'España alcanza un acuerdo con Senegal para repatriar a los migrantes irregulares', 22 November 2020, available in Spanish at: <https://bit.ly/3IORSMt>; El Salto Diario, 'El plan de España en Senegal: extractivismo para empobrecer pero migración criminalizada', 10 April 2021, available in Spanish at: <https://bit.ly/32IZ2CC>.

¹³⁶ Público, 'España retomará los vuelos de deportaciones de migrantes a Senegal', 5 February 2021, available in Spanish at: <https://bit.ly/37mAPkJ>.

¹³⁷ El País, 'La ministra de Exteriores cierra en Senegal un acuerdo para reactivar las repatriaciones', 22 November 2020, available in Spanish at: <https://bit.ly/2Zvt87p>.

¹³⁸ Diario de Avisos, 'Un macro vuelo recoge hoy en las Islas a decenas de senegaleses para deportarlos', 10 March 2021, available in Spanish at: <https://bit.ly/3G8Gb1C>; El Día, 'Interior mantiene las deportaciones a Senegal pese a las revueltas en el país', 10 March 2021, available in Spanish at: <https://bit.ly/3HkiuVq>; Canarias7, 'Interior suspende por segunda vez el vuelo de repatriación a Senegal', 10 March 2021, available in Spanish at: <https://bit.ly/3KR9k53>.

¹³⁹ El País, 'Senegal se resiste a garantizar los vuelos de repatriación de migrantes desde España', 9 April 2021, available in Spanish at: <https://bit.ly/3ujCP9T>.

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>.

¹⁴¹ El País, 'Interior triplica las subvenciones a países africanos para contener la inmigración irregular', 29 June 2020, available in Spanish at: <https://bit.ly/2ZvZYoL>.

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

¹⁴² El Diario, 'El Gobierno activa un plan para "evitar la salida de pateras" a Canarias que incluye el envío de más aviones y buques a los países de tránsito,' 13 November 2020, available in Spanish at: <https://bit.ly/395jHS1>; El Día, 'Repatriaciones y más vigilancia, el plan del Estado ante la inmigración,' 14 November 2020, available in Spanish at: <https://bit.ly/35ZGblf>; Canarias7, 'El Gobierno deportará a inmigrantes sin protección internacional y no los derivará a la península,' 13 November 2020, available in Spanish at: <https://bit.ly/2LPqWV9>.

¹⁴³ Público, 'España y Senegal negocian para retomar las deportaciones de migrantes,' 19 September 2022, available in Spanish at: <https://bit.ly/3WfP4z1>.

¹⁴⁴ El Confidencial Digital, 'Interior proporcionará material policial a Gambia para frenar la inmigración irregular,' 15 September 2022, available in Spanish at: <https://bit.ly/3kBTJgV>.

¹⁴⁵ European Migration Network (EMN), 'Bilateral Readmission Agreements,' September 2022, available at: <https://bit.ly/3ZtO37o>.

¹⁴⁶ Le Monde, 'Madrid salve le rôle « essentiel » du Maroc en matière migratoire,' 20 April 2023, available at: <https://bit.ly/498kZrr>.

¹⁴⁷ Ministerio del Interior, 'Inmigración irregular 2023. Datos acumulados del 1 de enero al 31 de diciembre,' January 2024, available in Spanish at: <https://tinyurl.com/3wpzt6se>.

¹⁴⁸ Ministry of Interior, 'Inmigración Irregular 2022. Datos acumulados del 1 de enero al 31 de diciembre,' available in Spanish at: <https://bit.ly/3iNv1tp>.

¹⁴⁹ Caminando Fronteras, 'Monitoring the Right to Life - Year 2023, January 2024, available at: <https://bit.ly/3SxQMn3>.

¹⁵⁰ Asociación Pro Derechos Humanos de Andalucía – APDHA, 'Derechos Humanos en la Frontera Sur 2023. 35 años de vidas sin rastro,' March 2023, available in Spanish at: <https://tinyurl.com/nhkvu252>.

In March 2024 the police dismantled a network that offered families of missing migrants false information about their location in exchange for money.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.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.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.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.¹⁵⁵

A report published by the *Programa Ödos*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.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.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.¹⁵⁹

¹⁵¹ Info Migrants, 'Spain: Network 'profited for years' from families of missing migrants', 14 March 2024, available at: <https://tinyurl.com/yymcjt79>.

¹⁵² Asociación Pro Derechos Humanos de Andalucía (APDHA), 'Más de un centenar de organizaciones proponen medidas para el trato digno a las personas migrantes muertas y desaparecidas en el mar y sus familias', 2 November 2022, available in Spanish at: <https://bit.ly/3VwJGHP>; Asociación Pro Derechos Humanos de Andalucía (APDHA), 'APDHA publica un documento informativo para las familias de personas desaparecidas en la frontera sur', 28 July 2022, available in Spanish at: <https://bit.ly/3JnFIOF>.

¹⁵³ Consejo General de la Abogacía Española, Fundación Abogacía Española, 'Asistencia jurídica en llegadas marítimas. Guía práctica para la abogacía', August 2021, available in Spanish at: <https://bit.ly/3GLQFoR>.

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/3QkUYvI>; 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>.

¹⁵⁵ Defensor del Pueblo, 'Informe anual 2022 – Volumen I', March 2023, p. 171, available in Spanish at: <https://bit.ly/42x1Ehf>.

¹⁵⁶ Programa Ödos, see: <https://programaodos.org/>.

¹⁵⁷ Programa Ödos, 'Mujeres y niñez africana en movilidad. La llegada a España a través del Mediterráneo', June 2022, available in Spanish at: <https://bit.ly/40bMJY7>.

¹⁵⁸ ECRE, 'Atlantic Route and Spain: Push for Inclusion of Irregular Migration as Threat to NATO, Old Routes Remain Deadly and New Deadly Routes Emerge Amid Tensions Over Western Sahara', 24 June 2022, available at: <https://bit.ly/3o3s9Lm>.

¹⁵⁹ Info Migrants, 'Le corps d'un bébé de 8 mois retrouvé sur une plage espagnole, trois mois après un naufrage', 19 July 2023, available in French at: <https://bit.ly/44yFimh>.

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 Marítimo 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 deadliest 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 *Irídia*¹⁶⁷ 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

¹⁶⁰ Diario de Canarias, 'Caminando Fronteras pide a la Fiscalía una investigación penal sobre la neumática hundida rumbo a Canarias', 6 July 2023, available in Spanish at: <https://tinyurl.com/42kwnjhw>.

¹⁶¹ Chiara Zanelli, Melting Pot, *Perché la rotta Atlantica nel corso del 2020 si è "riaperta"?*, 26 December 2020, available in Spanish at: <https://cutt.ly/wjhVPi5>.

¹⁶² Les Echos, 'Sénégal: 6 questions sur une crise politique inédite', 7 February 2024, available at: <https://tinyurl.com/rpv3xn8h>; Le Monde, 'Le Sénégal s'enfonce dans la crise après que la répression de manifestations a fait deux morts', 10 February 2024, available at: <https://tinyurl.com/ycxnekmy>.

¹⁶³ Caminando Fronteras, 'Monitoring the Right to Life - Year 2023', January 2024, available at: <https://tinyurl.com/yckuv3az>

¹⁶⁴ Asociación Pro Derechos Humanos de Andalucía, 'Derechos Humanos en la Frontera Sur 2023 – 35 años de vidas sin rastro', 20 March 2023, p. 75, available at: <https://bit.ly/3K58GCD>; Caminando Fronteras, 'Monitoring the Right to Life - Year 2023', January 2024, available at: <https://tinyurl.com/yckuv3az>

¹⁶⁵ Cadena Ser, 'La mayoría de los inmigrantes que llegan a Canarias en las últimas semanas no reciben asistencia jurídica', 11 November 2020, available in Spanish at: <https://cutt.ly/Eh1nRtk>.

¹⁶⁶ Gobierno de Canarias, 'El Gobierno de Canarias acuerda con el Colegio de Abogados un mejor control de calidad en la atención a migrantes', 10 November 2023, available in Spanish at: <https://tinyurl.com/dxbpb4dj>; El Diario, 'Las lagunas de la asistencia letrada que reciben los migrantes en Canarias: "Reciben peor atención que los delincuentes"', 12 November 2023, available in Spanish at: <https://tinyurl.com/3jrzp7ek>.

¹⁶⁷ Irídia, see: <https://iridia.cat/es/>.

¹⁶⁸ Irídia, 'Nuevas vulneraciones de derechos humanos a las personas migrantes en Canarias, May 2022, available in Spanish at: <https://bit.ly/3Zf2cW7>.

¹⁶⁹ EASO, 'EASO support to Spain becomes fully operational', 10 March 2021, available at: <https://bit.ly/3GpBGzC>.

operation plan for Spain aims at supporting national authorities in designing and implementing a new reception model, and to ensure that standardised reception processes and procedures are adopted across the country.¹⁷⁰ 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.¹⁷¹

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.¹⁷²

Throughout 2023, the EUAA deployed a total of 85 experts in Spain,¹⁷³ 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).¹⁷⁴

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.¹⁷⁵

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,¹⁷⁶ which was continued throughout 2022.¹⁷⁷

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 employees, 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.¹⁷⁸ 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.

¹⁷⁰ EUAA, 'Operating Plan 2022-2023 agreed by the European Asylum Support Office and Spain', 14 December 2021, available at: <https://bit.ly/3wVy5aD>.

¹⁷¹ EUAA, 'Operational Plan 2022-2023 agreed by the European Union Agency for Asylum and Spain', May 2022, available at: <https://bit.ly/3F92GWz>.

¹⁷² EUAA, 'Operational Plan 2023-2026 agreed by the European Union Agency for Asylum and Spain', 12 June 2023, available at: <https://tinyurl.com/m23pjfm7>.

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. 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.

¹⁷⁵ Information provided by the EUAA, 26 February 2024.

¹⁷⁶ El Periódico de Canarias, 'Gobierno y abogados inician un proyecto de orientación jurídica para personas presas, refugiadas y migrantes', 1 August 2021, available in Spanish at: <https://bit.ly/35CwJSL>.

¹⁷⁷ Gobierno de Canarias, 'El Gobierno gasta 25 millones al año en mantener un buen servicio de asistencia jurídica gratuita en Canarias', 4 May 2022, available in Spanish at: <https://bit.ly/3K5bNdN>.

¹⁷⁸ Information provided by the IOM on 4 March 2022.

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 defender¹⁸⁴. 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/>.

¹⁸¹ Ministerio de Transportes, Movilidad y Agenda Urbana, 'El Gobierno consolida el sistema de respuesta ante accidentes en la mar con el nuevo Plan de Seguridad y Salvamento Marítimo 2021-2024', 7 December 2021, available in Spanish at: <https://bit.ly/34yvUOW>.

¹⁸² Contrainformación, '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/ChLtxcN>.

¹⁸³ El Diario, 'Marruecos archiva la causa contra la activista española Helena Maleno por sus llamadas a Salvamento Marítimo', 11 March 2019, available in Spanish at: <https://cutt.ly/2eZTPKO>.

¹⁸⁴ Cadena Ser, 'La defensora de derechos humanos Helena Maleno, expulsada de Marruecos', 12 April 2021, available in Spanish at: <https://bit.ly/2Z02IDO>.

¹⁸⁵ El Salto Diario, 'Más de 700 organizaciones y 10.000 personas exigen a Pedro Sánchez protección para Helena Maleno', 20 April 2021, available in Spanish at: <https://bit.ly/3Crs9WO>.

¹⁸⁶ Caminando Fronteras, 'La Organización Mundial contra la Tortura señala a España y Marruecos por criminalizar a Helena Maleno', 15 November 2021, available in Spanish at: <https://bit.ly/3pOe2b5>.

carrying 130 migrants and refugees during the summer of 2019.¹⁸⁷ The judgement started in Palermo in October 2021.¹⁸⁸ The judgment is still pending at the time of writing of this report; hearings were held in 2022, at the beginning of 2023¹⁸⁹, and of 2024.¹⁹⁰

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.¹⁹¹

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.¹⁹² The Minister of Interior accepted the recommendations.¹⁹³ In April 2022 however, the Minister of Interior reverted its decision and refused to adopt the changes proposed by the Ombudsperson.¹⁹⁴

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 80,000.¹⁹⁵

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.¹⁹⁶ 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.¹⁹⁷ See the [2021 update of the AIDA report](#) for more details on the issue on previous years.

In 2020, Morocco reinforced its controls to prevent migrants from entering Spain,¹⁹⁸ and the two countries strengthened their alliance during the pandemic in the field of migration control.¹⁹⁹ Regardless, some tensions between Spain and Morocco were reported throughout 2020 because of the situation in Ceuta

¹⁸⁷ 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>.

¹⁸⁸ 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>.

¹⁸⁹ La Notizia, 'Processo Open Arms, nuova udienza a Palermo per Salvini. Il vicepremier: "Rischio 15 anni di carcere"', 13 January 2023, available at: <https://bit.ly/3ym0o2o>; Il Sicilia, 'Salvini a palermo per il processo Open Arms, incontrerà i dirigenti del partito', 1 March 2022, available at: <https://bit.ly/3ztnu2z>.

¹⁹⁰ Ansa, '"Difeso la sicurezza nazionale", Salvini in aula per Open Arms', 12 January 2024, available at: <https://tinyurl.com/yueuuyv6>.

¹⁹¹ 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://bit.ly/3BhgplL>.

¹⁹² Defensor del Pueblo, 'El Defensor del Pueblo recomienda al Ministerio del Interior modificar las instrucciones sobre polizones extranjeros para proteger a posibles solicitantes de asilo', 28 February 2019, available in Spanish at: <https://cutt.ly/EeZQGSA>.

¹⁹³ Defensor del Pueblo, 'Polizones extranjeros. Tratamiento de solicitudes de asilo', available in Spanish at: <https://bit.ly/3L2Cpue>.

¹⁹⁴ Público, 'Interior cambia de criterio y se niega a mejorar la protección de los polizones que piden asilo en España', 21.4.22, available in Spanish at: <https://bit.ly/3IYVDkn>.

¹⁹⁵ 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/yc8bnpk2>.

¹⁹⁶ 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>.

¹⁹⁷ 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>; Público, 'La nueva relación con Marruecos atenúa la migración hacia Canarias', 3 September 2022, available in Spanish at: <https://bit.ly/3kA7ool>.

¹⁹⁸ 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>.

¹⁹⁹ Atalaya, 'España y Marruecos refuerzan su alianza estratégica en tiempos de pandemia', 16 July 2020, available in Spanish at: <https://cutt.ly/qhLpsq2>.

and Melilla.²⁰⁰ 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.²⁰¹ 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.²⁰² 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.²⁰³

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.²⁰⁴

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.²⁰⁵ 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,²⁰⁶ 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’.²⁰⁷ 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.²⁰⁸

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.²⁰⁹ The joint operation ‘Minerva 2023’, led by the Spanish National Police and coordinated by Frontex, was carried out from mid-June to

²⁰⁰ Atalayar, ‘Marruecos y España: causas de las recientes fricciones’, 28 December 2020, available in Spanish at: <https://bit.ly/3axCRjU>; Atalayar, ‘La embajadora de Marruecos rebaja la tensión y asegura a España que no varía la postura sobre Ceuta y Melilla’, 23 December 2020, available in Spanish at: <https://bit.ly/3dqMgvt>.

²⁰¹ El Faro de Melilla, ‘España entregará 130 vehículos a Marruecos para el control fronterizo y de inmigración’, 11 November 2020, available in Spanish at: <https://cutt.ly/rhxt3Oc>.

²⁰² ECSaharai, ‘El Gobierno de Pedro Sánchez regala a Marruecos otros 31 millones de euros en vehículos 4x4’, 5 May 2020, available in Spanish at: <https://cutt.ly/YhLac11>; El Independiente, ‘España destina a Marruecos 86,8 millones en dos años para financiar el ‘tapón’ de la inmigración ilegal’, 19 May 2021, available in Spanish at: <https://bit.ly/3Ks3A1c>; Europa Press, ‘España ha dado más de 90 millones en ayudas a Marruecos en tres años para controlar la inmigración ilegal’, 19 May 2021, available in Spanish at: <https://bit.ly/3nHtkNB>.

²⁰³ The Objective, ‘El Gobierno ya lleva donados 118 millones a Marruecos para vigilar sus fronteras y costas’, 18 February 2024, available at: <https://tinyurl.com/3ddwvp7j>.

²⁰⁴ Info Libre, ‘El Gobierno aprueba la entrega de 30 millones para que la policía marroquí corte el paso a los migrantes’, 17 May 2021, available in Spanish at: <https://bit.ly/33TPHYN>.

²⁰⁵ La Moncloa, ‘XII reunión de alto nivel Marruecos-España. 1-2 febrero 2023. Declaración conjunta’, February 2023, available in Spanish at: <https://bit.ly/3L2NOfZ>.

²⁰⁶ ECSaharai, ‘Covid-19 cambia la ruta de la inmigración ilegal procedente de Marruecos; del estrecho de Gibraltar a Gran Canarias’, 19 July 2020, available in Spanish at: <https://cutt.ly/nhLoOE1>.

²⁰⁷ El País, ‘España y Frontex negocian una operación para cerrar la ruta migratoria canaria’, 7 November 2020, available in Spanish at: <https://cutt.ly/lhLemcp>.

²⁰⁸ El País, ‘Frontex renueva un año más sus operaciones en España’, 29 January 2021, available in Spanish at: <https://bit.ly/3LbMQvy>.

²⁰⁹ Cadena Ser, ‘Arranca la Operación Minerva '22 en los puertos de Algeciras y Tarifa’, 17 June 2022, available in Spanish at: <https://bit.ly/3vQFDuW>; El Mundo, ‘Interior destina más policías de plantilla para la Frontera del Tarajal en Ceuta’, 17 June 2022, available in Spanish at: <https://bit.ly/3dbIXu5>.

beginning of September, with the participation of 94 experts coming from 16 countries.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.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.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.²¹³ Numerous gathering and demonstrations have been organised in various Spanish cities to support the Sahrawi population and to protest against the new Government's position.²¹⁴

Consequently, in June 2022 Algeria suspended the friendship treaty and froze trade with Spain.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.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.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.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.²¹⁹

²¹⁰ Ministerio del Interior, 'Policía 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/2cvn899u>.

²¹¹ François Fois, 'Le Maroc, nouvelle voie migratoire pour les Soudanais en route vers l'Europe', 29 July 2022, available at: <https://bit.ly/3C6BHu9>.

²¹² El Diario, 'Sánchez apoya la propuesta de Marruecos para la autonomía del Sáhara', 18 March 2022, available in Spanish at: <https://bit.ly/3DKgbAl>; Melting Pot, 'La Spagna approva il piano di autonomia marocchino nel Sahara Occidentale', 2 June 2022, available in Spanish at: <https://bit.ly/3deloRg>.

²¹³ Asociaicón 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/3DfX4aE>.

²¹⁴ El Diario, 'Concentraciones en apoyo al Sáhara Libre: "Han creído que podrían imponer su voluntad sobre un pueblo soberano"', 24 March 2022, available in Spanish at: <https://bit.ly/35fHO0W>; RTVE, 'Unas 2.000 personas se manifiestan frente a Exteriores contra el giro del Gobierno: "Sánchez, el Sáhara no se vende"', 26 March 2022, available in Spanish at: <https://bit.ly/3iEQAzy>.

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>.

²¹⁶ El País, 'España y Argelia se reencuentran', 4 November 2023, available in Spanish at: <https://tinyurl.com/3fa3nj8j>.

²¹⁷ Boletín Oficial del Estado (BOE), 'Convenio entre el Reino de España y el Reino de Marruecos sobre cooperación en materia de seguridad y de lucha contra la delincuencia, hecho en Rabat el 13 de febrero de 2019', 7 April 2022, available in Spanish at: <https://bit.ly/3BMrx12>; La Vanguardia, 'El BOE publica un acuerdo España-Marruecos en seguridad coincidiendo con el viaje de Sánchez a Rabat', 7 April 2022, available in Spanish at: <https://bit.ly/3P40ZvG>.

²¹⁸ El Faro de Ceuta, 'Las ONG creen que el acuerdo España-Marruecos vincula delincuencia e inmigración irregular', 29 April 2022, available in Spanish at: <https://bit.ly/3A6ONG3>; El Pueblo de Ceuta, 'España y Marruecos renuevan su cooperación en materia de seguridad', 29 April 2022, available in Spanish at: <https://bit.ly/3A5a5nF>; Andalucía Acoge, 'España y Marruecos renuevan su cooperación en materia de seguridad vinculando delincuencia organizada e inmigración "irregular"', 28 April 2022, available in Spanish at: <https://bit.ly/3zI3MoG>.

²¹⁹ News EsEuro, 'Inmigración ilegal: La UE prevé destinar más de 500 millones de euros a Marruecos (Medios españoles)', 15 August 2022, available in Spanish at: <https://bit.ly/3A1CxW6>.

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

²²⁰ Europa press, 'España destina 30 millones de euros a Marruecos contra el tráfico de personas y gestión de flujos migratorios', 18 October 2022, available in Spanish at: <https://bit.ly/3Fcs0eC>.

²²¹ Voz Populi, 'Indignación en la Guardia Civil por los 120M de Sánchez a Marruecos: "Pedimos los mismos medios"', 13 January 2023, available in Spanish at: <https://bit.ly/3ZZMOyn>; Vox Populi, 'Sánchez ha dado al menos 120 millones a Marruecos a fondo perdido solo en gestión de fronteras', 12 January 2023, available in Spanish at: <https://bit.ly/3JeXR0H>.

²²² Le Monde, 'Madrid salue le rôle « essentiel » du Maroc en matière migratoire', 20 April 2023, available at: <https://bit.ly/498kZrr>; Diario de Sevilla, 'El Gobierno defiende sus políticas migratorias y de fronteras', 19 April 2023, available in Spanish at: <https://tinyurl.com/4kjarzp2>; La Razón, 'Marruecos erige a Sánchez como freno de la inmigración ilegal', 15 April 2023, available at: <https://tinyurl.com/c85fcfwf>.

²²³ El Debate, 'La mayor presión marroquí sobre la inmigración dispara la ruta argelina a Baleares', 17 July 2023, available in Spanish at: <https://tinyurl.com/3f6wsh93>.

²²⁴ El País, 'El Gobierno deniega el asilo a rescatados por el 'Aquarius'', 28 September 2020, available in Spanish at: <https://cutt.ly/FtT2CT3>.

²²⁵ El País, 'España deniega el 94% de las solicitudes de asilo del 'Aquarius'', 13 March 2020, available in Spanish at: <https://cutt.ly/ttUJdTn>.

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

²²⁷ Las Provincias, 'El Gobierno se olvida del Aquarius', 15 November 2020, available in Spanish at: <https://cutt.ly/khMwBrt>.

²²⁸ Las Provincias, 'El fiasco del Aquarius', 21 May 2021, available in Spanish at: <https://bit.ly/33NYRWY>.

²²⁹ Cadena Ser, 'Cuatro años después los migrantes de la flotilla del 'Aquarius' se sienten abandonados', 15 June 2022, available in Spanish at: <https://bit.ly/3Q0GYqV>.

²³⁰ Cadena Ser, 'Cinco años después de la llegada del Aquarius: 'Nos consideran ilegales cuando nos invitaron a venir'', 13 June 2023, available in Spanish at: <https://tinyurl.com/bdekddkb>.

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 *Iridia* 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.

²³² El País, 'España expulsa 30 inmigrantes por día desde 2013', 7 January 2019, available in Spanish at: <https://bit.ly/2QvIvqC>.

²³³ Defensor del Pueblo, 'Informe anual 2022 – Volumen I', March 2023, available in Spanish at: <https://bit.ly/3FQgoxY>, 169.

²³⁴ Irídia, 'Nuevas vulneraciones de derechos humanos a las personas migrantes en Canarias, May 2022, available in Spanish at: <https://bit.ly/3Zf2cW7>.

²³⁵ Consejo General Abogacía Española, Fundación Abogacía Española, 'Asistencia jurídica en llegadas marítimas Guía práctica para la abogacía', August 2021, available in Spanish at: <https://bit.ly/3hWYda>.

²³⁶ Europapress, 'Un total de 22.082 personas han sido atendidas a pie de playa en lo que va de 2018, casi la cifra total de 2017', 30 July 2018, available in Spanish at: <https://bit.ly/2RNdsKL>; El Periódico, 'La inusual llegada de pateras a Málaga obliga a buscar soluciones de emergencia', 13 November 2018, available in Spanish at: <https://bit.ly/2Rygwed>.

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.²³⁷ 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 2022.²³⁸ The Government further announced the construction of two additional CATEs in 2021, namely in **Motril** (Granada),²³⁹ which constructions work finalised in October 2022, but it still didn't open at the time of writing of this report,²⁴⁰ and in **Las Palmas** on the Canary Islands, which was opened in **Barranco Seco** with a capacity of 1,000 places.²⁴¹

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.²⁴² 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.²⁴³

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.²⁴⁴

- ❖ **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*, DGIAH) Ministry of Inclusion, Social Security and Migration, and are usually large centres where certain assistance services are provided, including information, social and legal assistance.²⁴⁵ 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.²⁴⁶

As of February 2022, there was a total of eleven CAED managed by NGOs (i.e. CEAR, Red Cross, etc.).²⁴⁷ 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 9.²⁴⁸

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/AeLTIAG>.

²³⁸ La Opinión de Murcia, 'El CATE provisional de Cartagena abrió sin luz ni Internet y carece de zona de desembarco', 9 October 2022, available in Spanish at: <https://bit.ly/41WDRqE>; La Verdad, 'La apertura del CATE de Cartagena depende ahora de una prórroga sobre el suelo', 4 February 2022, available in Spanish at: <https://bit.ly/3sr4uUK>.

²³⁹ Andalucía Información, 'El Nuevo CATE de Motril entrará en funcionamiento en 2022, según Gobierno', 23 September 2021, available in Spanish at: <https://bit.ly/3tfkxEz>.

²⁴⁰ Ideal, 'Las obras del centro de inmigrantes de Motril terminan en octubre después de tres años de polémica y retrasos', 4 October 2022, available in Spanish at: <https://bit.ly/3yocpEs>.

²⁴¹ APDHA, *Derechos Humanos en la Frontera Sur 2021, March 2021*, available in Spanish at: <https://bit.ly/3poRtJn>, 60.

²⁴² Irídia, 'Nuevas vulneraciones de derechos humanos a las personas migrantes en Canarias, May 2022', available in Spanish at: <https://bit.ly/3Zf2cW7>.

²⁴³ Defensor del Pueblo, 'Informe anual – Volumen I - Anexo A Informe Completo del Mecanismo Nacional de Prevención (MNP)', March 2023, available in Spanish at: <https://bit.ly/3ZXvRmP>.

²⁴⁴ La Razón, 'Interior aumentará en casi 2.000 plazas la capacidad de acogida temporal a migrantes en Canarias', 13 December 2023, available at: <https://tinyurl.com/4p3c3bmr>

²⁴⁵ Europapress, 'El centro para la acogida temporal de migrantes en Mérida atiende a 196 personas en su primera semana en servicio', 3 August 2018, available in Spanish at: <https://bit.ly/2RZQosk>.

²⁴⁶ APDHA, 'Derechos Humanos en la Frontera Sur 2019', February 2019, 36-37.

²⁴⁷ CEAR, 'Libro blanco del sistema de protección internacional en España una propuesta desde la experiencia de CEAR', February 2022, available in Spanish at: <https://bit.ly/3Kyxm4b>, 207.

²⁴⁸ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Resolución de 14 de noviembre de 2022, de la Dirección General de Atención Humanitaria e Inclusión Social de la Inmigración, 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', 14 November 2022, available in Spanish at: <https://bit.ly/3zgGrus>.

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.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.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 2022.²⁵¹

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.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

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>.

²⁵⁰ Defensor del Pueblo, 'Informe anual 2022 – Volumen I', March 2023, available in Spanish at: <https://bit.ly/3FQgoxY>, 170.

²⁵¹ La Opinión de Murcia, '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>.

²⁵² Europa Sur, 'El Defensor del Pueblo urge a crear un protocolo para los CIE y CATE, 13 September 2022, available in Spanish at: <https://bit.ly/3JJZwtB>.

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 LGBTIQ+ 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 LGBTIQ+ 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

²⁵³ Information provided by UNHCR in April 2024.

²⁵⁴ Information provided by Accem in February 2024.

²⁵⁵ Information provided by UNHCR in April 2024.

²⁵⁶ El Derecho, 'Aprobado el Programa Nacional de Reasentamiento de Refugiados en España', 22 February 2023, available in Spanish at: <https://bit.ly/3Zfg3fo>.

²⁵⁷ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Inclusión recibe en Barajas a 201 refugiados sirios procedentes de Líbano en el marco del Programa Nacional de Reasentamiento', 6 May 2022, available in Spanish at: <https://bit.ly/3BIOqCV>.

group and the community sponsorship initiative through a specific consultancy, which informed discussions on the way forward for these programmes in the future.²⁵⁸

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.²⁵⁹

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.²⁶⁰ At the beginning of March 2023, a total of 89 Syrian refugees living in Türkiye and affected by the earthquake were resettled to Spain.²⁶¹ 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.²⁶² In December 2023 the Government allocated 1.8 million Euros for the resettlement of 1,200 refugees from Costa Rica, Lebanon and Türkiye.²⁶³ 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 2025.²⁶⁴

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.²⁶⁵ In December, 74 persons arrived to Spain within this framework.²⁶⁶

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.²⁶⁷

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.²⁶⁸

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.²⁶⁹

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/367erxjz>.

²⁵⁹ Information provided by UNHCR in April 2024.

²⁶⁰ La Moncloa, 'Referencia del Consejo de Ministros', 21 February 2023, available in Spanish at: <https://bit.ly/3YXn1pF>.

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>.

²⁶² Europa Press, 'El Gobierno amplía su programa de reasentamiento para recibir a más refugiados en los próximos tres años', 3 May 2023, available in Spanish at: <https://rb.gy/d806s>.

²⁶³ El Periódico de Canarias, 'España dedica 1,8 millones a reasentar a 1.200 refugiados de Turquía, Costa Rica y Líbano', 24 December 2023, available at: <https://tinyurl.com/2583r4fe>.

²⁶⁴ Europa Press, 'España recibirá a 1.500 personas de América Central y Sur en 2024-2025 por la ampliación del programa de reasentamiento', 5 February 2024, available at: <https://tinyurl.com/3bvj78j8>.

²⁶⁵ El Español, 'Más de un centenar de refugiados nicaragüenses serán reasentados en Valladolid para trabajar en un proyecto pionero', 13 October 2023, available in Spanish at: <https://tinyurl.com/yxacumsn>.

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/2cjt55sd>.

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/mrxk46w>.

²⁶⁸ La Moncloa, 'España y EEUU colaborarán para impulsar la migración regular desde América Central y del Sur', 27 April 2023, available in Spanish at: <https://tinyurl.com/3r2fe95c>; Texas Tribune, 'New Biden plan will let people in Latin American countries apply to legally enter U.S., Canada or Spain', 27 April 2023, available at: <https://bit.ly/49aMFvI>.

²⁶⁹ Commissioner for Human Rights, Council of Europe, 'Commissioner for Human Rights of the Council of Europe - Dunja Mijatović - Report following her visit to Spain from 21 to 25 November 2022', 13 April 2023, available at: <https://bit.ly/3u4SJan>.

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.

²⁷⁰ 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>

²⁷¹ 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>.

²⁷² CEAR, 'CEAR pide corredores humanitarios y garantizar la protección de la población civil de Gaza', 13 October 2023, available in Spanish at: <https://tinyurl.com/42faydff>.

²⁷³ Accem, 'España recibe a 167 personas refugiadas procedentes de Líbano dentro del programa de reasentamiento', 2 November 2023, available in Spanish at: <https://tinyurl.com/4htz4fjw>

²⁷⁴ Information provided by the UNHCR in April 2024.

²⁷⁵ Ministerio de Inclusión, Seguridad Social y Migraciones, 'El Gobierno aprueba el Programa Nacional de Reasentamiento de Refugiados en España para 2024 por el que se acogerá a 1.200 personas', 9 January 2024, available in Spanish at: <https://tinyurl.com/y6yha8mz>.

²⁷⁶ Human Rights Watch, 'World report 2023. Spain, events of 2023', January 2024, available at: <https://tinyurl.com/44xwptyk>.

2. Registration of the asylum application

Indicators: Registration

- | | |
|---|--|
| 1. Are specific time limits laid down in law for making an application?
❖ If so, what is the time limit for lodging an application? | ☒ Yes ☐ No
1 month |
| 2. Are specific time limits laid down in law for lodging an application?
❖ If so, what is the time limit for lodging an application? | ☐ Yes ☒ No |
| 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 Geeral de Extranjería y Fronteras*) of the Police, Detention Centre for Foreigners (CIE), Spanish Embassies and Consulates, or police station.²⁷⁷ 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.²⁷⁸ When this time limit is not respected, the law foresees the possibility to apply the urgent procedure.²⁷⁹ 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 300-400.²⁸⁰

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

²⁷⁷ Article 4(1) Asylum Regulation.

²⁷⁸ Article 17(2) Asylum Act.

²⁷⁹ *Ibid.*

²⁸⁰ Avila red, ‘Nueve detenidos por falsificación de tarjetas de asilo, que vendían a entre 300 y 400 euros’, 19 January 2022, available in Spanish at: <https://bit.ly/3AdPYmc>.

reports to be included in the applicant's record.²⁸¹ UNHCR shall receive notification of an asylum application within a maximum period of 24 hours, which is applied in practice.²⁸²

2.2. Obstacles to registration in practice

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.²⁸³ 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.²⁸⁴ 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 to when lodging their application.²⁸⁵ 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.²⁸⁶

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.²⁸⁷

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.²⁸⁸

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.²⁸⁹

²⁸¹ Articles 34-35 Asylum Act.

²⁸² Article 6(4) Asylum Regulation.

²⁸³ El Confidencial, '*Colas eternas y sin distancia: temor a brotes en comisarías por el colapso en extranjería*', 31 July 2020, available in Spanish at: <https://cutt.ly/ajaQZ5w>.

²⁸⁴ Information provided by the legal service of Accem in March 2022.

²⁸⁵ Defensor del Pueblo, 'El Defensor del Pueblo investiga las dificultades para acceder a la cita previa para solicitar protección internacional en Madrid', 15 November 2018, available in Spanish at: <https://bit.ly/2StZDxk>.
²⁸⁶ Cope Melilla, 'Grande-Marlaska anuncia que Interior estudia «nuevos mecanismos internos de coordinación» para reducir el tiempo que media entre la solicitud y la formalización de la petición de asilo', 15 February 2023, available in Spanish at: <https://bit.ly/3ZcShAC>.

²⁸⁷ Information provided by Accem's legal services in March 2022.

²⁸⁸ El País, 'La representante de Acnur en España: "Los recursos para pedir asilo no están a la altura"', 16 May 2022, available in Spanish at: <https://bit.ly/3PwSxFr>.

²⁸⁹ El Periódico de Aragón, 'Un error informático provoca que se pierdan todas las solicitudes de asilo desde el 28 de enero en València', 29 March 2022, available in Spanish at: <https://bit.ly/3SI2mm>.

In 2022, it was reported that asylum appointments were sold on the black market, with offers published also in Wallapop.²⁹⁰ 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 Valencia²⁹¹, a claim lodged by asylum seekers concerned in front of the Spanish Ombudsperson,²⁹² 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.²⁹³

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 2022.²⁹⁴

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.²⁹⁵ Similarly, in Málaga waiting times of up to 20 months were reported.²⁹⁶ 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.²⁹⁷ In addition, some NGOs lodged different claims in front of the Ombudsperson, asking to intervene with the competent institutions regarding the situation.²⁹⁸ The UNHCR's Representative defined access to asylum in Spain as critical.²⁹⁹

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.³⁰⁰

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.³⁰¹

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.³⁰²

²⁹⁰ Diario Siglo XXI, 'CEAR denuncia "el mercado negro de citas" para el proceso de asilo, con "ofertas hasta en Wallapop"', 16 June 2022, available in Spanish at: <https://bit.ly/3SF3szL>; EL Salto Diario, 'Personas migrantes y solicitantes de asilo sin cita para acceder a derechos', 23 November 2022, available in Spanish at: <https://bit.ly/3VASplf>.

²⁹¹ Valencia Plaza, 'La Fiscalía investiga el mercadeo de las citas para pedir asilo en València', 17 November 2022, available in Spanish at: <https://bit.ly/3EOZhMN>; El Diario, 'La Fiscalía investiga el mercadeo de citas previas para pedir asilo en València', 17 November 2022, available in Spanish at: <https://bit.ly/3XmruBE>; levante, 'Denuncian ante fiscalía el colapso de las citas de asilo en València', 2 November 2022, available in Spanish at: <https://bit.ly/3FbELpN>.

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/3jj2XOk>.

²⁹³ El Diario, 'Sophie Muller, representante de Acnur en España: "El fraude de las citas para pedir asilo es peligroso y debilita el sistema"', 20 June 2022, available in Spanish at: <https://bit.ly/3bNsonY>.

²⁹⁴ Cope, 'El Congreso pide reformar la cita previa para las solicitudes de asilo', 19 December 2022, available in Spanish at: <https://bit.ly/3FFqvVm>.

²⁹⁵ Diario de Burgos, 'Atasco en Comisaría para pedir asilo', 9 January 2023, available in Spanish at: <https://bit.ly/3WXvWWW>.

²⁹⁶ Málaga Hoy, 'Demoras de 20 meses en Málaga para tramitar las solicitudes de asilo', 6 February 2023, available at: <https://tinyurl.com/4p5a4v4w>.

²⁹⁷ Heraldo, 'Unos 50 solicitantes de asilo reclaman acogida ante la falta de citas', 17 February 2023, available in Spanish at: <https://bit.ly/3Zk3EGW>.

²⁹⁸ The Objective, 'Un año casi sin citas para pedir asilo: ONG e inmigrantes piden a Interior el fin del bloqueo', 25 February 2023, available in Spanish at: <https://bit.ly/3kza3zv>.

²⁹⁹ Europa Press, 'Sophie Muller, representante de ACNUR: "El acceso a la protección internacional en España está en una situación crítica"', 26 February 2023, available in Spanish at: <https://bit.ly/41z3LjQ>.

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/3fxte64t>.

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/mssnt863>.

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.³⁰³ In August the illegal selling of appointments for EUR 100 was denounced in Valladolid.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.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.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.³⁰⁷

In December, it was reported that asylum appointments were being sold for EUR 90 on the platform 'Milanuncios'.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.³⁰⁹

In March 2024, around 100 asylum seekers and 20 NGOs lodged a joint claim in front of the Spanish Ombudsperson.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.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.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.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

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/2s3vnn46>.

³⁰⁴ El Norte de Castilla, 'Las «mafias» venden por cien euros citas de acceso a Extranjería en Valladolid', 4 August 2023, available in Spanish at: <https://rb.gy/7cnx7>.

³⁰⁵ CEAR, 'CEAR denuncia las graves dificultades para acceder al asilo en España', 19 June 2023, available in Spanish at: <https://tinyurl.com/4y7ck9kx>; Canal Sur, 'CEAR advierte de que unos 80.000 refugiados se quedan sin asilo esperando cita', 20 June 2023, available in Spanish at: <https://tinyurl.com/p582857x>.

³⁰⁶ Europa Press, 'Cáritas reclama "facilitar" el acceso al procedimiento para pedir protección internacional', 20 June 2023, available in Spanish at: <https://tinyurl.com/3k4syhra>.

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>.

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/3b686yaf>.

³⁰⁹ El Periódico de Canarias, 'Abogados extranjeristas contemplan demandar a Interior ante el colapso de citas de asilo', 16 December 2023, available in Spanish at: <https://tinyurl.com/y4f5ft3p>.

³¹⁰ El País, 'La desesperación de quienes quieren pedir asilo en España: "Es frustrante poner tu vida en pausa porque no te responden al teléfono"', 5 March 2024, available at: <https://tinyurl.com/4wy7ae9b>.

³¹¹ Canal Sur, 'Medio centenar de migrantes en Chiclana se declaran en huelga de hambre para pedir asilo', 8 March 2024, available at: <https://tinyurl.com/4p6sh45r>.

³¹² El Diario, 'Muere un migrante en un centro de acogida de Madrid tras la huelga de hambre por la falta de citas de asilo', 15 March 2024, available at: <https://tinyurl.com/ydd7n4k4>; 20 Minutos, 'El Defensor del Pueblo pide investigar la muerte de un migrante en un hostel madrileño', 16 March 2024, available at: <https://tinyurl.com/55sjkh65>.

³¹³ Consejo General Abogacía Española, 'La Abogacía denuncia la vulneración del derecho de asilo ante la imposibilidad de obtener una cita por internet', 26 March 2024, available at: <https://tinyurl.com/yc2zmpwt>.

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:

WAITING TIME TO OBTAIN THE APPOINTMENT FOR THE MANIFESTATION OF THE INTENTION TO APPLY FOR ASYLUM		
PROVINCE	MECHANISM TO ACCESS THE APPOINTMENT	WAITING TIME
CÁDIZ	Internet	6 Months
MÁLAGA	Internet and by phone	3 Months
OVIEDO	Internet	2 Weeks
ÁVILA	Internet	Changeable
BURGOS	Internet	Different days
SALAMANCA	Internet	Different days (managed by NGOs)
GIJÓN	Internet	2 Months
VALLADOLID	Internet	1-2 Months
VITORIA	Internet	2-3 Months
CÁCERES	Internet	3-4 Weeks
CARTAGENA	Internet. Email of NGOs	No appointments available on internet. 1 months if appointments are managed by NGOs
MURCIA	Internet. Email of NGOs	No appointments available on internet. 1 months and a half if appointments are managed by NGOs
SEGOVIA	Internet	2-3 Months
ALMERÍA	By phone	1-2 Months
CÓRDOBA	By phone	2-3 Weeks
GUADALAJARA	By phone and internet	No appointments available
VIGO	By phone	1 month and a half
LEÓN	By phone	2-3 weeks
CASTELLÓN	By phone	10 months
VALENCIA	By phone. Email of NGOs	1 month
ALICANTE	General email.	No appointments available

³¹⁴ Information provided by UNHCR in April 2024.

	Email of NGOs	
SEVILLA	By email	Different months
ZARAGOZA	By email	2-3 weeks
TERUEL	By email	5-6 months
HUELVA	By email	3-4 months
TOLEDO	By email	8 months
LA CORUÑA	By email	2-3 months
LUGO	By email	3-4 months
ALBACETE	Internet	No appointments available
CIUDAD REAL	In presence	The same day or the following ones

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

WAITING TIME FOR REGISTRATION (SINCE THE OBTAINEMENT OF THE MANIFESTATION OF INTENTION TO APPLY FOR ASYLUM)	
WAITING TIME	PROVINCES
More than 1 year	LA CORUÑA, SALAMANCA, TOLEDO, CIUDAD REAL Y ALICANTE
1 year	ÁVILA, VALLADOLID Y GUADALAJARA
8-12 months	LUGO Y ALBACETE
8 months	VIGO
5-6 months	OVIEDO, SEVILLA
3-7 months	TERUEL
4-5 months	CÓRDOBA
4 months	CÁCERES, CÁDIZ
3-4 months	HUELVA Y MÁLAGA
3 months	LEÓN Y VITORIA
2-3 months	SEGOVIA Y GIJÓN
2 months	MURCIA Y CARTAGENA
1-2 months	CASTELLÓN Y VALENCIA
1 month	BURGOS, ZARAGOZA
15 days - 1 month	ALMERÍA

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.

³¹⁶ UNHCR Spain, 'ACNUR da la bienvenida a la creación de oficinas de asilo en puestos fronterizos de Ceuta y Melilla', 6 November 2014, available in Spanish at: <http://bit.ly/1OATaq8>.

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 backs](#). 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 *Irídía* on May 2022, the organisation denounced the practice of detaining migrants who go to police stations to request information on asylum.³²²

³¹⁷ Oficina de Asilo y Refugio – OAR, ‘Asilo en cifras 2019’, July 2020, available in Spanish at: <https://bit.ly/3elpqGn>; Oficina de Asilo y Refugio – OAR, ‘Asilo en cifras 2018’, September 2019, available in Spanish at: <https://bit.ly/2Onb39c>; Senate, Reply of the Government to question 689/1339, 20 September 2017, available in Spanish at: <http://bit.ly/2DHJ1yB>.

³¹⁸ El Diario, ‘Migrantes que solo pueden pedir asilo si saltan la valla en contra de lo que dice Marlaska’, 6 December 2022, available in Spanish at: <https://bit.ly/3BgroCa>.

³¹⁹ Human Rights Watch, *Spain: Migrants held in poor conditions*, 31 July 2017, available at: <https://goo.gl/maQ2V7>.

³²⁰ Defensor del Pueblo, ‘El Defensor del Pueblo reclama un sistema de registro de las solicitudes de asilo para los CIE que cumpla con la normativa vigente’, 22 May 2018, available in Spanish at: <https://bit.ly/2snaz4j>.

³²¹ Defensor del Pueblo, ‘Interior acepta la recomendación del Defensor para adecuar el sistema de registro de las solicitudes de asilo en los CIE a la normativa vigente’, July 2018, available in Spanish at: <https://bit.ly/2AYji28>.

³²² Irídía, ‘Nuevas vulneraciones de derechos humanos a las personas migrantes en Canarias’, May 2022, available in Spanish at: <https://bit.ly/3bOrUy1>.

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance: 6 months
2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? ☐ Yes ☒ No
3. Backlog of pending cases at first instance at the end of 2023: 106,546³²³
4. Average length of the first instance procedure in 2023: From 3 months to 3 years

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.³²⁴ 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.³²⁵

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.³²⁶ 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.³²⁷ Despite the Government announced that the Annual Budget of the Ministry of Interior would be doubled in 2021,³²⁸ 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

³²³ Ministerio del Interior, Subsecretaría del Interior, Dirección General de Política 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: <https://tinyurl.com/34jtmrh8>.

³²⁴ Article 24(3) Asylum Act.

³²⁵ Information provided by Accem's legal service on March 2022.

³²⁶ Defensor del Pueblo, 'Informe Anual 2019. Volumen I – Informe de Gestión', 2020, available in Spanish at: <https://cutt.ly/njaEHwL>, 170.

³²⁷ Defensor del Pueblo, 'Informe Anual 2022. Volumen I', March 2023, available in Spanish at: <https://bit.ly/3mpE6uo>, 53.

³²⁸ El Diario, 'El presupuesto para resolver peticiones de asilo crece casi el doble ante el colapso del sistema', 28 October 2020, available in Spanish at: <https://cutt.ly/rjaKEa>.

to increase, with 106,546 cases pending at first instance and 84,549 pending for a resolution at the end of 2023.³²⁹

Backlog of pending cases at first instance: 2019-2023				
2019	2020	2021	2022	2023
111,740	N/A	72,271	122,035 ³³⁰	106,546

Source: Ministerio del Interior, Subsecretaría del Interior, Dirección General de Política 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 at: <https://tinyurl.com/34jtmrh8>.

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.³³¹ 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).³³²

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.³³³ 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.³³⁴ 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.³³⁵ On February 2022, the political party *Unidas Podemos* called the Government out at the Congress, requesting that it assesses and defines a juridical framework aiming at guaranteeing protection to climate refugees.³³⁶

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.³³⁷

³²⁹ Ministerio del Interior, Subsecretaría del Interior, Dirección General de Política 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: <https://tinyurl.com/34jtmrh8>.

³³⁰ This figure includes both pending cases for resolution (92,152) and pending cases for admission (29,883). 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 2022', 2023, available in Spanish at: <https://bit.ly/3IO49ej>.

³³¹ CEAR, 'Informe 2023: Las personas refugiadas en España y Europa', June 2023, available in Spanish at: <https://tinyurl.com/5x48k44e>.

³³² Ibidem, 74.

³³³ Tercera Información, 'El Congreso pide al Gobierno el reconocimiento de la figura de Refugiado climático y medidas para la protección de las personas desplazadas por los impactos del cambio climático', 27 February 2021, available in Spanish at: <https://bit.ly/3j6EwBp>; Ecoticias, 'El Congreso pide al Gobierno el reconocimiento de la figura de Refugiado climático y medidas para la protección de las personas desplazadas por los impactos del cambio climático', 1 March 2021, available in Spanish at: <https://bit.ly/3jaEGrC>.

³³⁴ El Diario, 'Cs pide que la Ley de asilo reconozca al refugiado por causas climáticas', 12 June 2021, available in Spanish at: <https://bit.ly/3FkZmoN>; Europa Press, 'Ciudadanos lleva al Congreso una propuesta para proteger a los migrantes y desplazados por el cambio climático', 12 June 2021, available in Spanish at: <https://bit.ly/3chJU0j>.

³³⁵ COPE, 'CEAR y Greenpeace exigen al Gobierno que reconozca al "refugiado climático"', 6 October 2021, available in Spanish at: <https://bit.ly/3kH5Nuz>; CEAR, Greenpeace, '"Huir del Clima. Cómo influye la crisis climática en las migraciones humanas"', 29 October 2021, available in Spanish at: <https://bit.ly/3cmffPe>.

³³⁶ Europa Press, 'Unidas Podemos pide al Gobierno que avance para reconocer la figura del refugiado climático a la hora de conceder asilo', 24 February 2022, available in Spanish at: <https://bit.ly/3ZKE98>.

³³⁷ Ecologistas en Acción, 'Migraciones forzadas por motivos ambientales un enfoque sociopolítico', December 2022, available in Spanish at: <https://tinyurl.com/26vk3m6h>.

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.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.³³⁹ The Minister of Interior reported that the OAR's asylum recognition rate had doubled compared to 10 years ago.³⁴⁰

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.³⁴¹

The urgent procedure is applicable in the following circumstances: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.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.³⁴⁴

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No
 ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☐ Frequently ☒ Rarely ☐ Never
4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender? ☒ Yes ☐ No

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,

³³⁸ Newtral, 'España es el tercer país de la Unión Europea que más solicitudes de asilo deniega, según CEAR', 20 June 2023, available in Spanish at: <https://tinyurl.com/446spzv5>.

³³⁹ Consejo General de la Abogacía Española, 'Manifiesto de la Abogacía en el Día Mundial del Refugiado', 20 June 2023, available in Spanish at: <https://tinyurl.com/333mtn8k>.

³⁴⁰ Ministerio del Interior, 'La OAR duplica su tasa de resolución de protección internacional en diez años', 20 June 2023, available in Spanish at: <https://tinyurl.com/332hvmpx>.

³⁴¹ Article 25(4) Asylum Act.

³⁴² Article 25(1) Asylum Act.

³⁴³ Article 25(2) Asylum Act.

³⁴⁴ Article 25(3) Asylum Act.

as all asylum seekers are interviewed.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.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.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.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.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,³⁵⁰ given that the person conducting the interview might not be sufficiently trained.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

³⁴⁵ Information provided by Accem's legal service in March 2023.

³⁴⁶ Information provided by Accem's legal service in March 2023.

³⁴⁷ Defensor del Pueblo, 'El asilo en España: La protección internacional y los recursos del sistema de acogida', June 2016, available in Spanish at: <https://bit.ly/3zi0bxC>.
Article 17(8) Asylum Act.

³⁴⁹ Information provided by Accem in March 2023.

³⁵⁰ Defensor del Pueblo, 'El asilo en España: La protección internacional y los recursos del sistema de acogida', June 2016, available in Spanish at: <http://bit.ly/2n88SpE>.

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 where 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.³⁵²

In a decision taken in July 2023, the National Court (*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.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.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.³⁵⁵

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 Ofilingua-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.

³⁵² Defensor del Pueblo, 'Informe Anual 2022. Volumen I', March 2023, available in Spanish at: <https://bit.ly/43uCoZt>, 53.

³⁵³ Audiencia Nacional, SAN 3949/2023, 12 July 2023, available in Spanish at: <https://tinyurl.com/2s3ham52>.

³⁵⁴ EUAA, *Asylum report 2023*, July 2023, available in Spanish at: <https://bit.ly/3PAIFOb>, 142.

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

Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?

❖ If yes, is it	☒ Yes	☐ No
❖ If yes, is it automatically suspensive	☒ Judicial	☒ Administrative
	☐ Yes	☐ Some grounds ☒ No
2. Average processing time for the appeal body to make a decision: 1 to 2 years

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.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.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.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.

the asylum denial.³⁵⁹ This appeal is not limited to points of law but also extends to the facts, therefore the Court may re-examine evidence submitted at first instance. If the Court finds that the applicant should be granted protection it has the power to grant itself the protection status to the applicant and it is not necessary to return the case to the Ministry for review.

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 its 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.³⁶⁰

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.³⁶¹ In 2022, 484 administrative and 2,817 judicial appeals were rejected.³⁶² 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.³⁶³

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.³⁶⁴

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*),³⁶⁵ which in case of a positive finding has the power to grant the applicant with an international protection status.

³⁵⁹ Article 29(2) Asylum Act; Article 46 Law 29/1998 of 13 July 1998 concerning the regulation of jurisdiction of administrative courts.

³⁶⁰ EUAA, *Asylum report 2023*, July 2023, available in Spanish at: <https://bit.ly/3PAIFOb>, 165.

³⁶¹ Ministerio del Interior, Subdirección General de Protección Internacional, Oficina de Asilo y Refugio, 'Informe de actividad 2021', 2022, available at: <https://bit.ly/3IXEQhz>.

³⁶² Ministerio del Interior, 'Asilo en cifras 2022', November 2023, available at: <https://tinyurl.com/4xkffyhnd>.

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

Indicators: Regular Procedure: Legal Assistance

1. Do asylum seekers have access to free legal assistance at first instance in practice?
☒ Yes ☐ With difficulty ☐ No
❖ Does free legal assistance cover:
☒ Representation in interview
☒ Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
☒ Yes ☐ With difficulty ☐ No
❖ Does free legal assistance cover:
☒ Representation in courts
☒ Legal advice

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.).³⁶⁶

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.³⁶⁷

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.³⁶⁸ 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.³⁶⁹ 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

³⁶⁶ Sira, Red Acoge, 'Organizar ideas para documentar el asilo Claves para la elaboración de informes', March 2021, available in Spanish at: <https://bit.ly/3tKFt6z>.

³⁶⁷ Tribunal Supremo, Sala de lo Contencioso, STS 4002/2022, 2 November 2022, available in Spanish at: <https://bit.ly/3FF22Ao>.

³⁶⁸ CEAR, 'Informe 2021: Las personas refugiadas en España y Europa', June 2021, available in Spanish at: <https://bit.ly/3l3bzj3>.

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.³⁷⁰

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'.³⁷¹

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 Spain³⁷². 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.³⁷³ The same initiative was implemented with the Bar Association of **Almería**.³⁷⁴ Thanks to the agreements, 1,436 refugees, asylum seekers and stateless persons were assisted.³⁷⁵

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.³⁷⁶

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.³⁷⁷

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".³⁷⁸ Beyond merely informing

³⁷⁰ Diario de Visos – El periódico de Tenerife, 'Canarias trabaja con ACNUR para mejorar la asistencia jurídica a los migrantes', 10 March 2022, available in Spanish at: <https://bit.ly/3J8BnfZ>.

³⁷¹ EUAA, *Asylum report 2022*, 2022, available at: <https://bit.ly/3T4x7ml>.

³⁷² El Imperial, 'La Abogacía de Madrid y ACNUR refuerzan la atención legal a solicitantes de protección internacional', 15 July 2022, available in Spanish at: <https://bit.ly/3L4OsrD>.

³⁷³ La Verdad, 'El Colegio de Abogados de Murcia y Acnur impulsan la atención legal a solicitantes de protección internacional', 21 September 2022, available in Spanish at: <https://bit.ly/3JjLhx6>.

³⁷⁴ La Vanguardia, 'Acnur y Abogados de Almería crearán Oficina Protección Internacional', 24 June 22, available in Spanish at: <https://bit.ly/3kLNVl4>; Diario de Almería, 'ACNUR y el Colegio de Abogados de Almería renuevan su colaboración en favor de una atención especializada en protección internacional', 2 March 2023, available in Spanish at: <https://bit.ly/3STEuNj>.

³⁷⁵ Information provided by UNHCR in March 2023.

³⁷⁶ Information provided by UNHCR in April 2024.

³⁷⁷ Consejo General Abogacía Española, 'La Abogacía pone en marcha el servicio de calidad y apoyo a los Colegios en materia de Extranjería', 1 February 2023, available at: <https://tinyurl.com/2hfc7nxh>.

³⁷⁸ Supreme Court, Decision STS 3186/2013, 17 June 2013, available in Spanish at: <http://bit.ly/2n8tDAJ>.

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.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.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:

Incoming procedure			
	Requests	Accepted	Transfers
Total	9,164	6,083	N/A
France	2,932		
Germany	2,859		
Italy	1,051		

Source: Ministerio del Interior, Subsecretaría del Interior, Dirección General de Política 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 at: <https://tinyurl.com/34jtmrh8>.

* 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 2018,³⁸¹ and 120 in 2019.³⁸² 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.³⁸³ In 2022, Spain issued 633 requests to other EU Member States,

³⁷⁹ Supreme Court, Decision STS 4316/2015, 19 October 2015, available in Spanish at: <http://bit.ly/2DB9y16>.

³⁸⁰ Audiencia Nacional, Decision SAN 3274/2017, 21 July 2017, available in Spanish at: <http://bit.ly/2n8b5Rf>.

³⁸¹ Information provided by OAR, 28 February 2017; 2 March 2018; 8 March 2019.

³⁸² OAR, Oficina de Asilo y Refugio, 'Asilo en cifras 2019', July 2020, available in Spanish at: <https://bit.ly/2PIG4eg>, 62.

³⁸³ Ibidem, 61.

and a total of 5 transfers were carried out.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”.³⁸⁵ More details are provided in the [2021 update](#) of this report.

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 604/2013.³⁸⁶ The other leaflet contains information for applicants for international protection found in a Dublin procedure, pursuant to article 4 of Regulation (EU) No 604/2013.³⁸⁷ 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.

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.³⁸⁸ However, the sovereignty clause was not applied in 2017.³⁸⁹ 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.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.

2.2. Procedure

Indicators: Dublin: Procedure

1. Is the Dublin procedure applied by the authority responsible for examining asylum applications?
☒ Yes ☐ No
2. On average, how long does a transfer take after the responsible Member State has accepted responsibility?
Not available

³⁸⁴ Ministerio del Interior, ‘Asilo en cifras 2022’, November 2023, available at: <https://tinyurl.com/4xkffyhnd>.

³⁸⁵ The agreement is available at: <https://bit.ly/2G2lZ7E>.

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: <https://bit.ly/3q9vu6l>.

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: <https://bit.ly/3sEJPtl>.

³⁸⁸ European Commission, *Evaluation of the implementation of the Dublin III Regulation*, March 2016, 20.

³⁸⁹ Information provided by OAR, 2 March 2018.

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.³⁹¹

2.2.1. Individualised guarantees

There are very few outgoing requests made by Spain. No specific guarantees have applied to these cases.³⁹²

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 2018,³⁹³ 5 in 2019³⁹⁴, and 5 in 2022.³⁹⁵ Figures on the number of transfers in 2023 were not available at the time of writing.³⁹⁶

2.3. Personal interview

The same rules as in the [Regular Procedure: Personal Interview](#) apply. According to the authorities, the interview is never omitted.³⁹⁷ 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

Indicators: Dublin: Suspension of Transfers

- | | | |
|---|---|-----------------------------|
| 1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries? | ☒ Yes | ☐ No |
| ❖ If yes, to which country or countries? | Greece | |

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.

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) n° 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.

³⁹⁴ OAR, 'Asilo en cifras 2019', July 2020, available in Spanish at: <https://bit.ly/2PIG4eg>, 62.

³⁹⁵ Ministerio del Interior, 'Asilo en cifras 2022', November 2023, available at: <https://tinyurl.com/4xkffyhnd>.

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).³⁹⁸

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.³⁹⁹ 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.⁴⁰⁰ 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.⁴⁰¹

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.⁴⁰² 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**.⁴⁰³

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.

³⁹⁸ Ministerio del Interior, Subsecretaría del Interior, Dirección General de Política 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: <https://tinyurl.com/34jtmrh8>.

³⁹⁹ Information provided by OAR, 20 August 2017.

⁴⁰⁰ El Diario, ‘La Justicia obliga al Gobierno a readmitir en el sistema de acogida a los refugiados devueltos desde otros países europeos’, 22 January 2019, available in Spanish at: <https://bit.ly/2HwBFAQ>.

⁴⁰¹ La Vanguardia, ‘Los solicitantes de asilo que abandonen voluntariamente España no serán excluidos del sistema de protección’, 22 January 2019, available in Spanish at: <https://bit.ly/2MoPeRC>.

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

⁴⁰³ Defensor del Pueblo, ‘Informe anual 2022 – Volumen I’, March 2023, available in Spanish at: <https://bit.ly/3KA18GS>, 54.

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.⁴⁰⁴ 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 | ☒ Yes | ☐ No |
| ❖ If yes, is it automatically suspensive | ☒ Judicial | ☒ Administrative |
| | ☐ Yes | ☐ Some grounds ☒ No |

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.

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 border⁴⁰⁵ ☐ 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.⁴⁰⁶ 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*.⁴⁰⁷

In 2023, a total of 3,386 persons applied at a border post and 877 at a CIE.⁴⁰⁸ 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.⁴⁰⁹ 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 arbitrarily to the different persons.⁴¹⁰ 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),⁴¹¹ 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.

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.

⁴⁰⁶ See e.g. Audiencia Nacional, Decision SAN 1908/2019, 23 May 2019; SAN 1282/2019, 13 February 2019.

⁴⁰⁷ Audiencia Nacional, Decision SAN 1780/2017, 24 April 2017. CEAR, España comienza el año exigiendo visado de tránsito a las personas de Yemen, 3 January 2020, available in Spanish at: <https://cutt.ly/5rc3wl7>.

⁴⁰⁸ Ministerio del Interior, Subsecretaría del Interior, Dirección General de Política 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: <https://tinyurl.com/34jtmrh8>.

⁴⁰⁹ El Diario, El Gobierno aplica por primera vez en Ceuta el procedimiento exprés para rechazar el asilo tras el último salto, 17 September 2019, available in Spanish at: <https://cutt.ly/feJB1AT>.

⁴¹⁰ CEAR, *Informe 2020. Las personas refugiadas en España y en Europa*, June 2020, available in Spanish at: <https://bit.ly/2XvcNyl>, 85.

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.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.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: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

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/5rc3wl7>.

⁴¹³ Information provided by Accem's legal service on March 2023.

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](#)).

⁴¹⁵ Audiencia Nacional, Decision SAN 1179/2017, 17 March 2017. On the importance of UNHCR reports, see also Supreme Court, Decision STS 3571/2016, 18 July 2016; Audiencia Nacional, Decision SAN 335/2017, 3 February 2017.

⁴¹⁶ Article 21(2) Asylum Act.

⁴¹⁷ Article 21(4) Asylum Act.

⁴¹⁸ Defensor del Pueblo, 'Recomendación a la Secretaria General de Inmigración y Emigración para adoptar las medidas que procedan para prestar un servicio de asistencia social a los solicitantes de asilo en el puesto fronterizo', 7 October 2015, available in Spanish at: <http://bit.ly/1QCeRaH>.

⁴¹⁹ Article 21(3) Asylum Act.

⁴²⁰ Article 21(3) Asylum Act.

⁴²¹ CEAR, *Las personas refugiadas en España y Europa 2015*, Capítulo IV: La admisión a trámite, available in Spanish at: <http://bit.ly/1JZFqai>.

⁴²² Supreme Court, Decision 4359/2012, 22 November 2013, available in Spanish at: <http://bit.ly/21zAFty>.

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

☐ Yes ☒ No

☒ Yes ☐ No

❖ If so, are questions limited to nationality, identity, travel route?

❖ If so, are interpreters available in practice, for interviews?
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.⁴²³ 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 offices.

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

☐ Judicial ☒ Administrative

☒ Yes ☐ Some grounds ☐ No

❖ If yes, is it

❖ If yes, is it automatically suspensive

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.⁴²⁴ The National High Court has clarified that this time limit must be calculated in hours rather than in working days.⁴²⁵

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

⁴²⁶ Spanish Supreme Court, Decision STS 1682/2019, 27 May 2019, available in Spanish at: <https://cutt.ly/he9AzAZ>.

⁴²⁷ Article 16(2) Asylum Act, citing Article 21.

⁴²⁸ Audiencia Nacional, Decision SAN 5389/2017, 28 December 2017.

⁴²⁹ Article 16(2) Asylum Act, citing Article 21.

borders.⁴³⁰ 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 denounce 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 **Almería**, **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,⁴³¹ Fundación Cruz Blanca,⁴³² 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.⁴³³

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.⁴³⁴ 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](#).

⁴³⁰ CEAR, 'Informe 2022: Las personas refugiadas en España y Europa', June 2022, available in Spanish at: <https://bit.ly/3Llx9V2>, 95. US Department of State, '2022 Country Reports on Human Rights Practices: Spain', 20 March 2023, available at: <https://bit.ly/3mpsNCI>.

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.

⁴³⁴ Defensor del Pueblo, 'Informe anual 2022 - Anexo A - Informe Completo del Mecanismo Nacional de Prevención (MNP)', March 2023 available in Spanish at: <https://bit.ly/406FEqO>, 48.

D. Guarantees for vulnerable groups

1. Identification

Indicators: Special Procedural Guarantees

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? ☐ Yes ☐ For certain categories ☒ No
❖ If for certain categories, specify which:
2. Does the law provide for an identification mechanism for unaccompanied children? ☒ Yes ☐ No

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.⁴³⁵ 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.⁴³⁶ 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,

⁴³⁵ Article 46(2) Asylum Act.

⁴³⁶ Articles 34-35 Asylum Act.

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.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 2014.⁴³⁸

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.⁴³⁹ Guidelines to guarantee equal treatment and no discrimination of asylum seekers, statelessness applicants, refugees and stateless people with disabilities were published in May 2021.⁴⁴⁰

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.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

⁴³⁷ CEAR, *Informe 2020, Las personas refugiadas en España y en Europa*, June 2020, available in Spanish at: <https://bit.ly/3nyl3bM>, 89.

⁴³⁸ Information provided by Save the Children on March 2023.

⁴³⁹ Servimedia, *Acnur y Cermi coinciden en reforzar la perspectiva de discapacidad en las situaciones de protección internacional*, 15 December 2020, available in Spanish at: <https://bit.ly/39sBktB>.

⁴⁴⁰ Comité Español de Representantes de Personas con Discapacidad – CERMI, '¡Tengo derechos humanos! Garantías para la igualdad de trato y no discriminación de las personas refugiadas, apátridas y solicitantes de asilo y apatridia con discapacidad', May 2021, available at: <https://bit.ly/3HWmRp4>.

⁴⁴¹ Servicio de Información sobre Discapacidad, 'Derechos Sociales pide un sistema de protección internacional inclusivo y respetuoso con las personas refugiadas con discapacidad', 21 June 2023, available in Spanish at: <https://tinyurl.com/4ys65472>; Observatorio de la Discapacidad, 'Las personas con discapacidad en situación de protección internacional en España: situación, desafíos y propuestas', available in Spanish <https://tinyurl.com/mt2b9tcv>.

promotion and protection of human rights, with a specific focus on the international protection of persons with disabilities.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.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.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,⁴⁴⁵ and of a Framework Protocol on Protection of Victims of Human Trafficking,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.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.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.⁴⁴⁹

⁴⁴² El Derecho, ‘Alianza entre CERMI, Amnistía Internacional y Fundación ONCE’, 5 July 2023, available in Spanish at: <https://tinyurl.com/58mz5rrk>.

⁴⁴³ Information provided by UNHCR in April 2024.

⁴⁴⁴ Information provided by UNHCR in April 2024.

⁴⁴⁵ Ministry of Health, Social Services and Equality, *Plan Integral De Lucha Contra La Trata De Mujeres Y Niños Con Fines De Explotación Sexual*, 2015-2018, available in Spanish at: <https://bit.ly/2E3Moks>.

⁴⁴⁶ Framework Protocol of 2011 against trafficking (“Protocolo Marco de Protección de las Víctimas de Trata de Seres Humanos”), available in Spanish at: <http://bit.ly/1S8FPud>.

⁴⁴⁷ Diaconía, ‘Informe de análisis de la situación de las víctimas de trata de personas en necesidad de protección internacional en España’, December 2022, available in Spanish at: <https://bit.ly/406qceN>.

⁴⁴⁸ Defensor del Pueblo, ‘Informe anual 2022 – Volumen 1’, March 2023, available in Spanish at: <https://bit.ly/3ZJ4U7p>, 194; Europa Press, ‘España carece de herramientas ágiles para identificar a víctimas de trata, según el Defensor del Pueblo’, 13 March 2023, available in Spanish at: <https://bit.ly/3JEwFZ0>.

⁴⁴⁹ Alarm Phone, “They only give us the really hard jobs” – the exploitation of migrant labour in transit and destination countries around the Western Mediterranean’, 8 January 2023, available at: <https://bit.ly/4bus33I>.

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

⁴⁵⁰ Proyecto Esperanza, Sicar.Cat, 'Análisis de casos de trata transnacionales en la Unión Europea', May 2023, available in Spanish at: <https://tinyurl.com/2ua42xj7>.

⁴⁵¹ Ministerio de Trabajo, Migraciones y Seguridad Social, 'El Gobierno pone en marcha un procedimiento de derivación de potenciales víctimas de trata de seres humanos en el aeropuerto de Barajas', 15 October 2019, available in Spanish at: <https://cutt.ly/Xe79s1H>.

⁴⁵² Information provided by Fundación Cruz Blanca, 11 January 2021.

⁴⁵³ Information provided by Fundación Apip-Acam in March 2023.

⁴⁵⁴ Council of Europe, *Report of the fact-finding mission by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees, to Spain, 18-24 March 2018*, SG/Inf(2018)25, 3 September 2018, available at: <https://bit.ly/3SFhUJV>.

⁴⁵⁵ GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Spain – Second Evaluation Round*, GRETA(2018)7, 20 June 2018, available at: <https://bit.ly/2RzTKCW>.

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.⁴⁵⁶ 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.⁴⁵⁷ 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.⁴⁵⁸

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.⁴⁵⁹ 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'.⁴⁶⁰ 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 2022⁴⁶¹ and the evaluation report was published in June 2023.⁴⁶² 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 The

⁴⁵⁶ Ministerio de Igualdad, 'Consulta pública previa a la elaboración de un proyecto normativo consistente en una ley integral contra la trata', April 2021, available in Spanish at: <https://bit.ly/34lxT3S>.

⁴⁵⁷ Ministerio de Justicia, 'El Gobierno aprueba el Anteproyecto de Ley Orgánica Integral contra la Trata', 29 November 2022, available in Spanish at: <https://tinyurl.com/yfzw4wvn>

⁴⁵⁸ El Diario, 'El Gobierno aprueba el anteproyecto de ley de trata que dará permiso temporal de residencia a las víctimas sin necesidad de denuncia', 8 March 2024, available at: <https://tinyurl.com/2xhc6zdx>

⁴⁵⁹ Gobierno de España, Presidencia del Gobierno, 'Interior presenta el Plan Estratégico Nacional contra la Trata y la Explotación de Seres Humanos 2021-2023', December 2021, available in Spanish at: <https://bit.ly/35t9u2k>.

⁴⁶⁰ Boletín Oficial del Estado (BOE), 'Resolución de 20 de diciembre de 2021, de la Secretaría de Estado de Empleo y Economía Social, por la que se publica el Acuerdo del Consejo de Ministros de 10 de diciembre de 2021, por el que se aprueba el Plan de Acción Nacional contra el Trabajo Forzoso: relaciones laborales obligatorias y otras actividades humanas forzadas', 20 December 2021, available in Spanish at: <https://bit.ly/3hdxY22>.

⁴⁶¹ Council of Europe, 'GRETA carries out third evaluation visit to Spain', 4-8 July 2022, available at: <https://bit.ly/3Y3l5K6>.

⁴⁶² Group of Experts on Action against Trafficking in Human Beings (GRETA), Council of Europe, *Evaluation report – Spain – Third evaluation round - Access to justice and effective remedies for victims of trafficking in human beings*, 12 June 2023, available at: <https://bit.ly/3SCIUtG>.

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.⁴⁶⁴ The same call for the adoption of the proposal for a comprehensive law against trafficking was made also by Amnesty International⁴⁶⁵ and the Spanish Network against Trafficking in Persons⁴⁶⁶ 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.⁴⁶⁷ 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,⁴⁶⁸ 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.

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/2mrwbk2k>

⁴⁶⁶ Servimedia, 'Unas 30 ONG piden "urgencia" al Gobierno para aprobar la Ley de Trata esta legislatura', 16 May 2023, available in Spanish at: <https://tinyurl.com/4tnbd2n6>.

⁴⁶⁷ Framework Protocol of 13 October 2014 on actions relating to foreign unaccompanied minors, available in Spanish at: <http://bit.ly/1WQ4h4B>.

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, NGOs⁴⁶⁹, 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 Spain⁴⁷⁴, and issued several decisions condemning Spain for its illegal practices and methodologies used for carrying out the procedure.⁴⁷⁵

⁴⁶⁹ Plataforma de Infancia, "El informe de aportaciones a la Lista de Cuestiones Previa a la Presentación de Informes (LOIPR) en el marco del VII Ciclo del procedimiento de informes periódicos a España ante el Comité de Derechos del Niño", October 2022, available in Spanish at: <https://bit.ly/3Jd40sF>, 25.

⁴⁷⁰ Defensor del Pueblo, 'Informe anual 2022 – Volumen 1', March 2023, available in Spanish at: <https://bit.ly/3ZJ4U7p>, 166.

⁴⁷¹ Clara Isabel Barrio Lema, María José Castaño Reyero and Isabel Diez 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/3r13JP5>.

⁴⁷² Diario La Ley, 'La nueva ley de la infancia prohíbe los desnudos integrales a menores migrantes para determinar su edad', 13 May 2021, available in Spanish at: <https://bit.ly/3i7tsCM>.

⁴⁷³ Supreme Court, Judgment No 453/2014, 23 September 2014, available in Spanish at: <http://bit.ly/1QD7YGj>. See EDAL summary at: <http://bit.ly/1n4OOTM>.

⁴⁷⁴ OHCHR, *Table of pending cases before the Committee on the Rights of the Child*, available at: <https://bit.ly/2R00THz>; EU Observer, 'Spain turns its back on migrant children's rights', 7 August 2017, available at: <http://bit.ly/2vaQG31>.

⁴⁷⁵ For more detailed information, see previous updates to this country report at: <https://bit.ly/4bfSkT0>. El País, 'La ONU reprende a España por devolver en caliente a un menor', 19 February 2019, available in Spanish at: <https://bit.ly/2TT6BNv>; ECCHR, 'Spanish practice of push-backs violates children's rights', 19 February 2019, available at: <https://bit.ly/2Em0o7z>; Committee on the Rights of the Child, *N.B.F. v. Spain*, CRC/C/79/D/11/2017, 27 September 2018, available in Spanish at: <https://bit.ly/2RzNpXZ>; Committee on the Rights of the Child, *A.L. v. Spain*, CRC/C/81/D/16/2017, 31 May 2019, available at: <https://bit.ly/2NPuJzB>; Committee on the Rights of the Child, *J.A.B. v. Spain*, CRC/C/81/D/22/2017, 31 May 2019, available at: <https://bit.ly/2uo2G3c>; See EDAL summary at: <https://bit.ly/2NN5u0X>; United Nations, Noticias ONU, *Comité de la ONU: El método usado para evaluar la edad de los migrantes en España viola la Convención de los*

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.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.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.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.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.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.

Derechos del Niño, 13 October 2020, available in Spanish at: <https://bit.ly/2MT2H8O>; United Nations – Human Rights Office of the High Commissioner, *Spain's age assessment procedures violate migrant children's rights, UN committee finds*, 13 October 2020, available in Spanish at: <https://bit.ly/3i01oQW>; Consejo General de la Abogacía Española, *La ONU condena a España por someter a una niña a una exploración genital para determinar su edad*, 25 February 2021, available in Spanish at: <https://bit.ly/3gn7gUw>.

⁴⁷⁶ Tribunal Supremo, Sala de lo Civil, Decision nº 307/2020, 16 June 2020, available in Spanish at: <https://bit.ly/38z1Na0>; Consejo General de la Abogacía Española, *El Tribunal Supremo zanja la problemática de la determinación de la edad de los niños y niñas que llegan solos a España*, 25 June 2020, available in Spanish at: <https://bit.ly/3ozvJlh>.

⁴⁷⁷ Tribunal Supremo, STS 2164/2021, 24 May 2021, available in Spanish at: <https://bit.ly/3llgT1B>; Tribunal Supremo, STS 2400/2021, 21 June 2021, available in Spanish at: <https://bit.ly/3AeH8E6>; Tribunal Supremo, STS 2551/2021, 18 June 2021, available in Spanish at: <https://bit.ly/3nJg2jr>.

⁴⁷⁸ Information provided by Save the Children, 1 April 2020.

⁴⁷⁹ Fundación Raíces, *Solo por estar solos*, 2014, available in Spanish at: <http://bit.ly/211pBFo>.

⁴⁸⁰ Defensor del Pueblo, 'Determinación de la edad de menores extranjeros indocumentados', 15 January 2021, available in Spanish at: <https://bit.ly/3bkLw8O>.

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.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.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.⁴⁸³

In view of the General Elections, the Platform for Childhood (*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.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.⁴⁸⁵

At the end of 2022, the Constitutional Court (*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.⁴⁸⁶

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 *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.

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: <https://bit.ly/3mMIXWi>.

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: <https://bit.ly/3JAhaAj>.

⁴⁸³ Information provided by Save the Children in March 2023.

⁴⁸⁴ Plataforma de Infancia, 'Propuestas de Infancia para programas electorales Elecciones Generales 2023', June 2023, available at: <https://bit.ly/3THv2gQ>; UNICEF, 'En estas elecciones, gana la infancia. Contribución de UNICEF España a los Programas Electorales', June 2023, available in Spanish at: <https://tinyurl.com/46p445t3>.

⁴⁸⁵ Plataforma de Infancia, 'El Comité de los Derechos del Niño insta al Gobierno de España a proporcionar información sobre medidas de apoyo a la crianza', 1 March 2023, available at: <https://bit.ly/3mPMa7A>.

⁴⁸⁶ Tribunal Constitucional de España, SENTENCIA 130/2022, de 24 de octubre, (BOE núm. 288, de 01 de diciembre de 2022), ECLI:ES:TC:2022:130, available in Spanish at: <https://tinyurl.com/2n8j7wwa>.

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

⁴⁸⁷ Fundamental Rights Agency (FRA), 'Migration: key fundamental rights concerns. 1.10.2020-31.12.2020. Quarterly bulletin', 2021, available at <https://bit.ly/3Hw89FC>.

⁴⁸⁸ El Diario, 'Más de 1.000 migrantes siguen en un limbo y sin escolarizar a la espera de que las pruebas óseas determinen si son mayores de edad', 25 January 2021, available in Spanish at: <https://bit.ly/3b9f0WY>.

⁴⁸⁹ Canarias7, 'Canarias comienza el traslado de menores extranjeros no acompañados a la Península', 11 March 2021, available in Spanish at: <https://bit.ly/3i6uLBP>.

⁴⁹⁰ Europa Press, 'Torres pedirá "más compromiso" a las CCAA en la Conferencia de Presidentes con el traslado de menores migrantes', 28 January 2022, available in Spanish at: <https://bit.ly/3t5phxA>.

⁴⁹¹ Canarias7, 'El 40% de los menores sigue pendiente de las pruebas de edad', 30 May 2022, available in Spanish at: <https://bit.ly/3JFckGc>.

⁴⁹² La Vanguardia, 'Save The Children pide agilizar el traslado de niños migrantes a la península', 11 February 2021, available in Spanish at: <https://bit.ly/3diSDRH>.

⁴⁹³ El Día, 'Una letrada alerta de la falta de personal para fijar la edad real de los inmigrantes', 1 February 2021, available at: <https://bit.ly/2ZwcoNp>.

⁴⁹⁴ El País, 'La representante de Acnur en España: "Los recursos para pedir asilo no están a la altura"', 16 May 2022, available in Spanish at: <https://bit.ly/3Pp9bXD>.

⁴⁹⁵ El Diario, 'El juez ordena la inmediata puesta en libertad de un migrante senegalés tras dos meses en prisión al acreditarse que es menor', 16 February 2024, available at: <https://tinyurl.com/2h68wm5f>.

⁴⁹⁶ Cadena Ser, 'El Defensor del Pueblo canario abre una investigación para esclarecer la situación de los menores en prisión', 16 February 2024, available at: <https://tinyurl.com/2ep2zv4r>.

⁴⁹⁷ El Diario, 'El menor gambiano que ha acudido a la ONU tras acabar en la calle en España: "Me sentí solo y distinto a los otros"', 23 February 2024, available at: <https://tinyurl.com/42vn9tkf>; El Diario, 'La ONU exige a España que acoja a un niño migrante de 14 años abandonado en Madrid en la calle desde hace 4 días', 15 February 2024, available at: <https://tinyurl.com/3883b2hh>.

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.⁴⁹⁸

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 2021.⁴⁹⁹ A report published by UNICEF informs that, at the beginning of July 2021, out of 2,528 presumed minors under the guardianship of the government of the Canary Islands, 1,753 children were still waiting for their age to be assessed.⁵⁰⁰

In a hearing in front of the Senate in April 2021, the Spanish Ombudsperson requested all 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 to take in 200 children⁵⁰¹. The Ombudsperson also stressed the necessity for the Public Prosecutor Office to reform the age assessment procedure, in order to accelerate it.⁵⁰²

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

Age assessments by outcome: 2017-2022						
Type of decision	2017	2018	2019	2020	2021	2022
Total assessments conducted	5,600	12,152	7,745	5,038	6,677	4,805
Determined as adult	2,205	3,031	2,477	1,562	1,654	1,264
Determined as minor	2,751	4,558	3,732	2,446	3,245	2,163
Cases filed	644	4,563	1,037	855	1,778	1,378

Source: Fiscalía General del Estado, 2018, 2019, 2020, 2021 and 2022 Activity reports: <https://cutt.ly/NrqsfgZ>, <https://bit.ly/3nDnGsF>, <https://bit.ly/3eMepwr>, <https://bit.ly/3RuAXDV> and <https://tinyurl.com/46a2ae2j>.

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,⁵⁰³ 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.⁵⁰⁴ Despite that, in October 2022 the NGO 'Solidarity

⁴⁹⁸ Information provided by UNHCR in March 2023.

⁴⁹⁹ Fiscalía General del Estado, 'Memoria de la FGE 2022 (Ejercicio 2021)', September 2022, available in Spanish at: <https://bit.ly/3mSwiBn>.

⁵⁰⁰ UNICEF, 'Canarias: Niños y niñas migrantes en una de las rutas más peligrosas del mundo', July 2021, available in Spanish at: <https://bit.ly/3pUjYPK>, 20.

⁵⁰¹ Newtral, 'Canarias apela a la "solidaridad obligatoria" para repartirse la tutela de menores extranjeros no acompañados', 25 August 2021, available in Spanish at: <https://bit.ly/3TewzKQ>.

⁵⁰² Defensor del Pueblo, 'El Defensor pide a todas las administraciones que se impliquen en la acogida de los menores extranjeros no acompañados', 27 April 2021, available in Spanish at: <https://bit.ly/3suhlba>.

⁵⁰³ Audiencia Nacional, 'Sala de lo Contencioso-Administrativo, Sección Séptima, nº recurso 770/2017', 28 December 2018, available in Spanish at: <https://cutt.ly/brc1ryQ>.

⁵⁰⁴ Tribunal Supremo. Sala de lo Contencioso, Decision nº 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.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.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 16.⁵⁰⁷ 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.⁵⁰⁸

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?

☐ Yes ☒ For certain categories ☐ No

❖ If for certain categories, specify which: Victims of trafficking, unaccompanied children

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.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.⁵¹⁰ A similar proposal was made by UNICEF.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.⁵¹²

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>.

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>.

⁵⁰⁷ PICUM, 'Spain adopts law to facilitate regularisation of young migrants', 18 November 2021, available at: <https://bit.ly/3mUBDrx>.

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/3mccsz53>.

⁵⁰⁹ Information provided by OAR, 20 August 2017.

⁵¹⁰ Plataforma de Infancia, 'Propuestas de Infancia para programas electorales Elecciones Generales 2023', June 2023, available in Spanish at: <https://tinyurl.com/y3smzrf4>.

⁵¹¹ UNICEF, 'En estas elecciones, gana la infancia. Contribución de UNICEF España a los Programas Electorales', June 2023, available in Spanish at: <https://tinyurl.com/46p445t3>.

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/3JfJc3J>.

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.⁵¹³

3. Use of medical reports

Indicators: Use of Medical Reports

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?
☒ Yes ☐ In some cases ☐ No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements?
☒ Yes ☐ No

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.⁵¹⁴ 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.⁵¹⁵

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

Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children?
☒ Yes ☐ No

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.⁵¹⁶

⁵¹³ Information provided by Accem's legal service in April 2023.

⁵¹⁴ Article 24(2) Asylum Regulation.

⁵¹⁵ Articles 37(b) and 46(3) Asylum Act.

⁵¹⁶ Chapter VII, para 1(2) Protocol on Unaccompanied Minors.

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

⁵¹⁷ PICUM, 'Spain adopts law to facilitate regularisation of young migrants', 18 November 2021, available at: <https://bit.ly/3mUBDrx>.

⁵¹⁸ Amnistía Internacional, 'Canarias; un año de análisis, décadas de fracaso de políticas migratorias', December 2021, available in Spanish at: <https://bit.ly/35TiyOk>.

⁵¹⁹ Newtral, 'De niño protegido a vivir en la calle en un solo día: así se hacen adultos los menores migrantes', 6 October 2020, available in Spanish at: <https://bit.ly/3shZARc>; Público, 'UNICEF llama a la acción ante el drama de los menores migrantes: "No se puede culpar a un niño de vivir en la calle"', 16 November 2020, available in Spanish at: <https://bit.ly/2LNg49N>; Asociación Pro Derechos Humanos de Andalucía – APDHA, *APDHA denuncia que la Junta dejará en la calle sin alternativa a 150 jóvenes ex tutelados durante el estado de alarma*, 22 May 2020, available in Spanish at: <https://bit.ly/3sd2UUx>; Servicio Jesuita a Migrantes, *Buscar salida. Informe Frontera Sur 2020*, 18 December 2020, available in Spanish at: <https://bit.ly/3bF2PD9>; El País, 'El bloqueo documental para expulsar a jóvenes extutelados de Melilla', 12 January 2021, available in Spanish at: <https://bit.ly/2LPcMTL>; Radio Televisión Española, 'Jóvenes extutelados extranjeros: en un callejón sin salida sin recursos económicos ni papeles', 19 November 2020, available in Spanish at: <https://bit.ly/3qiKlqN>.

⁵²⁰ Ministerio del Interior, 'Asilo en cifras 2020', 2020, available in Spanish at: <https://bit.ly/3ZDcmRj>, 94.

⁵²¹ Ministerio del Interior, 'Asilo en cifras 2021', 2021, available in Spanish at: <https://bit.ly/3JeTHnN>, 88.

⁵²² Ministerio del Interior, 'Asilo en cifras 2022', 2022, available in Spanish at: <https://tinyurl.com/3uey9a7h>, 105.

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

Indicators: Subsequent Applications		
1. Does the law provide for a specific procedure for subsequent applications?	☐ Yes	☒ No
2. Is a removal order suspended during the examination of a first subsequent application?		
❖ At first instance	☒ Yes	☐ No
❖ At the appeal stage	☐ Yes	☒ No
3. Is a removal order suspended during the examination of a second, third, subsequent application?		
❖ At first instance	☒ Yes	☐ No
❖ At the appeal stage	☐ Yes	☒ No

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.

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? | ☒ Yes ☐ No |
| ❖ Is there a national list of safe countries of origin? | ☐ Yes ☒ No |
| ❖ Is the safe country of origin concept used in practice? | ☒ Yes ☐ No |
| 2. Does national legislation allow for the use of “safe third country” concept? | ☒ Yes ☐ No |
| ❖ Is the safe third country concept used in practice? | ☒ Yes ☐ No |
| 3. Does national legislation allow for the use of “first country of asylum” concept? | ☐ Yes ☒ No |

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.

⁵²⁶ Article 20(1)(d) Asylum Act.

⁵²⁷ Information provided by Accem’s legal service in April 2024.

⁵²⁸ See e.g. Audiencia Nacional, Decision SAN 3736/2016, 13 October 2016; Decision SAN 3839/2016, 17 October 2016; Decision 4053/2016, 27 October 2016; Decision SAN 1524/2017, 16 January 2017; Decision SAN 1232/2017, 3 March 2017; Decision SAN 2589/2017, 12 May 2017; Decision SAN 3183/2017, 29 June 2017.

Audiencia Nacional refers to Morocco as a “safe third country”, indicating that the Court has reiterated this position on many occasions.⁵²⁹

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.”⁵³⁰ In principle, both the ratification and the application of the Geneva Convention are necessary conditions for the application of the safe third country concept.⁵³¹

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.⁵³² The same reasoning was used in a case concerning **Algeria**.⁵³³ 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.⁵³⁴

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.⁵³⁵

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.⁵³⁶

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.⁵³⁷ It seems that the concept is rarely used in practice.

⁵²⁹ Audiencia Nacional, Decision SAN 1441/2018, 15 March 2018.

⁵³⁰ Audiencia Nacional, Decision SAN 428/2018, 2 February 2018.

⁵³¹ *Ibid.* See also Audiencia Nacional, Decision SAN 3736/2016, 13 October 2016; Decision SAN 3839/2016, 17 October 2016; Decision 4053/2016, 27 October 2016; Decision SAN 1524/2017, 16 January 2017, Decision SAN 1232/2017, 3 March 2017; Decision SAN 2589/2017, 12 May 2017; Decision SAN 3183/2017, 29 June 2017.

⁵³² Audiencia Nacional, Decision SAN 428/2018, 2 February 2018.

⁵³³ Audiencia Nacional, Decision SAN 3838/2016, 17 October 2016.

⁵³⁴ Information provided by Accem in March 2023.

⁵³⁵ Audiencia Nacional, Decision SAN 428/2018, 2 February 2018.

⁵³⁶ Audiencia Nacional, Decision SAN 428/2018, 2 February 2018.

⁵³⁷ Audiencia Nacional, Decision SAN 4076/2016, 17 October 2016; Decision SAN 3838/2016, 17 October 2016.

However, it has to be underlined that in the last years, the Spanish Government is granting protection to Moroccan national in specific cases, such as when, political grounds (i.e. those coming from the Rif region), LGBTI+, 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

Indicators: Information on the Procedure

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☒ Yes ☐ With difficulty ☐ No
- ❖ 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.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.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.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 cases⁵⁴¹. 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.⁵⁴²

⁵³⁸ Article 5(1) Asylum Regulation.

⁵³⁹ The leaflet is available at: <https://bit.ly/2RCKcql>.

⁵⁴⁰ Article 5(2) Asylum Regulation.

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>.

⁵⁴² UNHCR/ACNUR, *ACNUR lanza dos vídeos animados sobre protección internacional y asilo en España*, 19 April 2021, available in Spanish at: <https://bit.ly/3gz6uE8>.

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.⁵⁴³

2. Access to NGOs and UNHCR

Indicators: Access to NGOs and UNHCR

1. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
3. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice? ☒ Yes ☐ With difficulty ☐ No

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 CEAR⁵⁴⁴ and the Red Cross⁵⁴⁵ have presence at the airports of Madrid and Barcelona,⁵⁴⁶ and UNHCR conducts monitoring activities to several border facilities. UNHCR has established its presence in **Andalucía**, 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 **Andalucía** 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**.⁵⁴⁷ 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.

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.

⁵⁴⁷ Canarias 7, 'Gran Canaria contará con una oficina de ayuda al refugiado', 19 November 2020, available in Spanish at: <https://bit.ly/2K6RS1K>; La Vanguardia, 'ACNUR y la OIM ayudarán a gestionar la crisis migratoria de Canarias', 16 November 2020, available in Spanish at: <https://bit.ly/38CwVW3>.

H. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☐ Yes ☒ No
❖ If yes, specify which:
2. Are applications from specific nationalities considered manifestly unfounded?⁵⁴⁸ ☐ Yes ☒ No
❖ If yes, specify which:

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.⁵⁴⁹

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

⁵⁴⁸ Whether under the “safe country of origin” concept or otherwise.

⁵⁴⁹ Audiencia Nacional, Decisions SAN 2522/2018, 26 June 2018; SAN 4063/2018, 8 October 2018; SAN 4060/2018, 18 October 2018.

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: <https://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: <https://bit.ly/3qFWqNK>.

⁵⁵³ Ministerio del Interior, Oficina de Asilo y Refugio (OAR), ‘Asilo en cifras 2022’, November 2023, available at: <https://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 status⁵⁵⁵, 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

⁵⁵⁴ Eurostat, First instance decisions on applications by citizenship, age and sex. Annual aggregated data (rounded)[migr_asydcfst], available at: <https://bit.ly/38yLNI9>.

⁵⁵⁵ Ministerio del Interior, Oficina de Asilo y Refugio (OAR); 'Asilo en cifras 2022', November 2023, available at: <https://tinyurl.com/3uey9a7h>

⁵⁵⁶ Audiencia Nacional, Decision SAN 5110/2017, 22 November 2017; SAN 5189/2017, 22 November 2017; SAN 3930/2017, 14 September 2017.

⁵⁵⁷ Audiencia Nacional, Decision SAN 508/2018, 9 February 2018.

⁵⁵⁸ Heraldo, 'La amenaza de las "maras" no es suficiente para lograr asilo en España', 9 August 2022, available in Spanish at: <https://bit.ly/3QCKUmW>; Audiencia Nacional. Sala de lo Contencioso, SAN 3412/2022, 13 July 2022, available in Spanish at: <https://bit.ly/3nlvvoi>.

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.

⁵⁶² Newtral, 'Un segundo avión procedente de Kabul trae a 110 afganos a España', 20 August 2021, available in Spanish at: <https://bit.ly/3qHQUDN>; El Diario, 'Un tercer avión español con refugiados afganos llega este sábado a Madrid desde Kabul', 21 August 2021, available in Spanish at: <https://bit.ly/3pOzc97>; Cadena Ser, 'Aterriza en Torrejón un nuevo vuelo con 292 afganos evacuados por España', 25 August 2021, available in

protection.⁵⁶³ 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.⁵⁶⁴ 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,⁵⁶⁵ Afghan refugees were referred to centres or apartments in the framework of the international protection reception system.⁵⁶⁶ 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.⁵⁶⁷ One-third of them were under 15 years of age.⁵⁶⁸

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.⁵⁶⁹ Afghans applicants in Spain have been required to make an asylum application through the usual channels.⁵⁷⁰ The Asylum Office (OAR) prioritised the first interview with Afghans applicants for the formalisation of the international protection application. It has to be 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.⁵⁷¹

In January 2022 the National High Court adopted a decision granting subsidiary protection to the appellant,⁵⁷² 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.⁵⁷³

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- Spanish at: <https://bit.ly/3FPxCtf>; Cadena Ser, 'Aterriza el avión con los últimos evacuados de Afganistán en la base de Torrejón de Ardoz', 27 August 2021, available in Spanish at: <https://bit.ly/32Y7xtu>.
- ⁵⁶³ El País, 'España prepara la evacuación de afganos que trabajaron para sus militares y cooperantes', 11 August 2021, available in Spanish at: <https://bit.ly/3HpKZR2>.
- ⁵⁶⁴ Newtral, 'Así será la acogida de refugiados afganos que ha ofrecido España', 18 August 2021, available in Spanish at: <https://bit.ly/3HulFcW>; Cadenaser, 'España acogerá en Rota y Morón a un máximo de 4.000 colaboradores afganos de EEUU durante dos semanas', 23 December 2021, available in Spanish at: <https://bit.ly/3zmYJJv>.
- ⁵⁶⁵ ECRE, *Afghans seeking protection in Europe. ECRE's compilation of information on evacuations, pathways to protection and access to asylum in Europe for Afghans since August 2021*, December 2021, available at: <https://bit.ly/3pOTjUP>.
- ⁵⁶⁶ El Diario, 'El Gobierno acelera la acogida de refugiados afganos: "La prioridad es sacarles de Torrejón lo antes posible"', 23 August 2021, available in Spanish at: <https://bit.ly/3zy3vUJ>.
- ⁵⁶⁷ Público, 'Más de 1.700 personas evacuadas de Afganistán solicitan protección internacional en España', 27 August 2021, available in Spanish at: <https://bit.ly/3JFoV7g>; Público, 'La mitad de los refugiados afganos llegados a España piden protección internacional en nuestro país', 23 August 2021, available in Spanish at: <https://bit.ly/3HtgCJF>; The Objective, 'Más de 1.700 de los afganos que llegaron a España están en el sistema de acogida aprendiendo el idioma', 4 December 2021, available in Spanish at: <https://bit.ly/3HuL3Pz>.
- ⁵⁶⁸ El Diario, 'Un tercio de los refugiados afganos evacuados y acogidos en España son menores de 15 años', 2 September 2021, available in Spanish at: <https://bit.ly/3FPjRuH>.
- ⁵⁶⁹ El Confidencial Autónomo, 'La base aérea de Torrejón, despojada después de atender a los últimos 240 afganos', 16 November 2021, available in Spanish at: <https://bit.ly/31l5X4h>.
- ⁵⁷⁰ ECRE, *Afghans seeking protection in Europe. ECRE's compilation of information on evacuations, pathways to protection and access to asylum in Europe for Afghans since August 2021*, December 2021, available at: <https://bit.ly/3pOTjUP>.
- ⁵⁷¹ Information provided by the legal service of Accem on February 2022.
- ⁵⁷² Audiencia Nacional. Sala de lo Contencioso, SAN 250/2022, 13 January 2022, available at: <https://bit.ly/405w2gR>.
- ⁵⁷³ Epe, 'Las fiscales afganas objetivo de los talibanes y auxiliadas por Exteriores llegan a España', 27 December 2022, available in Spanish at: <https://bit.ly/3vU0IV4>.

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>.

⁵⁷⁵ Europa Press, 'El Gobierno ha facilitado la llegada a España de 1.444 afganos que huían de los talibán desde Irán y Pakistán', 6 March 2023, available in Spanish at: <https://bit.ly/3SUqXoU>.

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>.

⁵⁷⁷ 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: <https://tinyurl.com/34jtmrh8>.

⁵⁷⁸ La Razón, 'El TS ordena a la embajada española en Pakistán el traslado urgente de ocho afganos que tienen un salvoconducto de Exteriores', 9 February 2024, available at: <https://tinyurl.com/5czd7sts>.

⁵⁷⁹ Europa Press, 'La Fiscalía pide traer a España a una fiscal antiterrorista afgana que huyó a Pakistán cuando llegaron los talibán', 13 February 2024, available at: <https://tinyurl.com/bdf5jnez>.

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/54tfx5ck>.

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*).⁵⁸² 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.⁵⁸³ During many years, and until 2022, detailed rules on the functioning of the Spanish reception system were provided through a non-binding handbook,⁵⁸⁴ 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.⁵⁸⁵ 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 DGSAPTI, 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 2024.⁵⁸⁶

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.⁵⁸⁷ 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.

⁵⁸² Ministerio de Inclusión, Seguridad Social y Migraciones, 'Organización Administrativa - Secretaría de Estado de Migraciones', available in Spanish at: <https://bit.ly/3Xn56ry>.

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.

⁵⁸⁷ Migrar con Derechos, 'Instrucción SEM de 15 de diciembre de 2022. Acceso y permanencia sistema acogida protección internacional', 15 December 2022, available in Spanish at: <https://bit.ly/42A0pxQ>.

In July 2023 the Disciplinary Regime of the asylum reception system entered into force.⁵⁸⁸

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.⁵⁸⁹

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.⁵⁹⁰

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.⁵⁹¹

Despite that, the European Commission considered that Spain failed to transpose the recast Reception Conditions Directive in a correct manner, and in January 2023 sent a letter of formal notice.⁵⁹²

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.⁵⁹³

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

⁵⁸⁸ 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>

⁵⁸⁹ 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://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>.

⁵⁹⁰ EUAA, *Asylum report 2023*, July 2023, available in Spanish at: <https://bit.ly/3PAIFOb>, 39-40.

⁵⁹¹ Ibidem, 185.

⁵⁹² European Commission, 'January Infringements package: key decision', 26 January 2023, available at: <https://bit.ly/45tH02U>.

⁵⁹³ 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>.

migrants accommodated in its facilities for the humanitarian assistance to enrol in the municipality register (*empadronamiento*) using the address of such centres.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.⁵⁹⁵

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law allow for access to material reception conditions for asylum seekers in the following stages of the asylum procedure?

❖ Regular procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Dublin procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Admissibility procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Border procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ First appeal	☒ Yes	☐ Reduced material conditions	☐ No
❖ Onward appeal	☒ Yes	☐ Reduced material conditions	☐ No
❖ Subsequent application	☒ Yes	☐ Reduced material conditions	☐ No
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?

☒ Yes	☐ No
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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

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>.

⁵⁹⁵ El País, ‘El Gobierno cierra un acuerdo con el País Vasco para traspasar las políticas de integración de inmigrantes’, 28 February 2024, available at: <https://tinyurl.com/4fz26y8n>; Público, ‘El Gobierno acuerda con Euskadi el traspaso del sistema de acogida de personas migrantes’, 28 February 2024, available at: <https://tinyurl.com/2p9cbnsn>; RTVE, ‘Euskadi asume las competencias de Cercanías, homologación de títulos extranjeros y acogida de refugiados’, 11 March 2024, available at: <https://tinyurl.com/y3vmwz8>.

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

⁵⁹⁶ El Periódico de Ceuta, 'Acceden al CETI de Melilla ocho solicitantes de asilo tras denegarles la entrada en un principio', 13 September 2023, available in Spanish at: <https://tinyurl.com/4ausd3vs>.

⁵⁹⁷ Defensor del Pueblo, 'Informe anual 2021 – Volumen I', March 2023, available in Spanish at: <https://bit.ly/3FDKFju>, 53.

⁵⁹⁸ El País, 'Hacerse el enfermo para dormir en un hospital: la odisea de una familia venezolana en busca de asilo y techo', 11 March 2024, available at: <https://tinyurl.com/49mef7mc>; Diaro del Alto Aragón, 'Desesperación de una pareja que dejó Venezuela por persecución política y está en la calle', 5 March 2024, available at: <https://tinyurl.com/yc6myjdk>.

⁵⁹⁹ El Periódico, 'Bruselas expedienta a España por no aplicar reglas de la UE sobre condiciones de acogida de demandantes de asilo', 27 January 2023, available in Spanish at: <https://bit.ly/3FJVNet>.

⁶⁰⁰ CEAR, 'Libro Blanco del Sistema de Protección Internacional en España. Una propuesta desde la experiencia de CEAR', February 2022, available in Spanish at: <https://bit.ly/42vpUQE>.

⁶⁰¹ Sira, 'Las condiciones de acogida en Frontera Sur agravan el sufrimiento psíquico de las personas migrantes que llegan a España', January 2022, available in Spanish at: <https://bit.ly/408iQlf>.

⁶⁰² TSJ Madrid, Decision 966/2018, 7 December 2018, EDAL, available in Spanish at: <https://bit.ly/2MxkNg3>; Decision 913/2018, 22 November 2018, available in Spanish at: <https://bit.ly/2wDUJoq>.

⁶⁰³ DGIAH, *Instrucción DGIAH 2018/12/19 por la que se modifica el manual de gestión del sistema de acogida para solicitantes y beneficiarios de protección internacional en lo relativo al reingreso en el sistema de acogida de personas devueltas a España en aplicación del Reglamento Dublín*, 20 December 2018, available in Spanish at: <https://bit.ly/2GA9QGy>.

⁶⁰⁴ El Mundo, 'El Gobierno plantea otro centro de inmigrantes para Algeciras', 19 August 2022, available in Spanish at: <https://bit.ly/3AN9NCp>; Canal Sur, 'Rechazo unánime en Algeciras al nuevo CETI proyectado por el Gobierno', 24 August 2022, available in Spanish at: <https://bit.ly/3KmmoPQ>.

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.⁶⁰⁵ The organisation *Algeciras Acoge* instead highlighted that it would be more useful to invest in infrastructures necessary for all the population.⁶⁰⁶ 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.⁶⁰⁷

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.⁶⁰⁸ 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.⁶⁰⁹

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.⁶¹⁰ 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:⁶¹¹

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

⁶⁰⁵ La Vanguardia, 'APDH critica que el alcalde de Algeciras rechace el CETI al suponer inmigrantes "por las calles" del municipio', 20 August 2022, available in Spanish at: <https://bit.ly/3QYLZdj>; La Voz del Sur, 'Landaluce busca con informes técnicos el rechazo del pleno al CETI del Gobierno para Algeciras', 21 August 2022, available in Spanish at: <https://bit.ly/3dNLPgY>.

⁶⁰⁶ Europa Sur, 'Algeciras Acoge rechaza la apertura de un Centro de Estancia Temporal de Inmigrantes', 19 August 2022, available in Spanish at: <https://bit.ly/3cfySMv>; Algeciras al minuto, 'Algeciras Acoge rechaza la construcción de un CETI', 19 August 2022, available in Spanish at: <https://bit.ly/3dGFYtT>.

⁶⁰⁷ Europa Sur, 'Carta del Gobierno central al Ayuntamiento de Algeciras sobre la construcción del CETI', 22 August 2022, available in Spanish at: <https://bit.ly/3cISVsV>.

⁶⁰⁸ El Diario, 'El Gobierno central construirá un centro de acogida internacional de refugiados en Vitoria que Urtaran dice que no se necesita', 16 January 2023, available in Spanish at: <https://bit.ly/40pD13Z>.

⁶⁰⁹ La Vanguardia, 'PNV y PSE pactan una enmienda sobre acogida de refugiados con la que confían en superar sus "diferencias y polémicas"', 16.2.23, available in Spanish at: <https://bit.ly/42uyzTu>.

⁶¹⁰ DGPPIAH, *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>.

⁶¹¹ *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

⁶¹² Article 11.7 of the Reception Regulation.

⁶¹³ Migrar con Derechos, 'Instrucción SEM de 15 de diciembre de 2022. Acceso y permanencia sistema acogida protección internacional', 15 December 2022, available in Spanish at: <https://bit.ly/42A0pxQ>.

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.

22. NG Rescate Internacional
23. Asociación San Juan de Dios España
24. YMCA

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,⁶¹⁵ 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.⁶¹⁶

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.⁶¹⁷ 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.⁶¹⁸

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.⁶¹⁹ 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.

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>.

⁶¹⁷ EASO, 'Spain: EASO launches new operation to support reception system', 18 December 2020, available at: <https://bit.ly/3aCfZ1r>.

⁶¹⁸ EASO, 'Spanish State Secretary for Migration visits EASO following launch of new operation in the country', 1 February 2021, available at: <https://bit.ly/3pA6wNI>.

⁶¹⁹ EASO, 'EASO Executive Director welcomes Spain's commitment to reform reception system', 17 May 2021, available at: <https://bit.ly/3rcxopU>.

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 employees, 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

Indicators: Forms and Levels of Material Reception Conditions

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

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

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

Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?
☒ Yes ☐ No
2. Does the law provide for the possibility to withdraw material reception conditions?
☒ Yes ☐ No

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

Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country?
☐ Yes ☒ No
2. Does the law provide for restrictions on freedom of movement? ☒ Yes ☐ No

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

⁶²³ Ibidem.

⁶²⁴ Reception Regulation.

⁶²⁵ TSJ Madrid, Order 197/2018, 19 June 2018, available in Spanish at: <https://bit.ly/2SZXJFq>; Order 196/2018, 19 June 2018, available in Spanish at: <https://bit.ly/2DjocIE>; Order 276/2018, 27 June 2018, available at: <https://bit.ly/2CuK8i9>; TSJ Madrid, Decision 817/2018, available in Spanish at: <https://bit.ly/2HiAswR>; TSJ Madrid, Decision 841/2018, available in Spanish at: <https://cutt.ly/frw0JYG>.

⁶²⁶ CEAR, 'Nuevo fallo judicial a favor de la libre circulación de solicitantes de asilo en Ceuta', 11 July 2018, available in Spanish at: <https://bit.ly/2ucgxqz>.

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

⁶²⁷ Information provided by the legal service of Accem in November 2021. El Foro de Ceuta, 'Nueva salida del CETI: 40 personas parten a centros de acogida en la península', 20 October 2022, available in Spanish at: <https://bit.ly/40vNyLf>; Ceuta Actualidad, 'Un sueño cumplido para 30 residentes del CETI', 25 August 2022, available in Spanish at: <https://bit.ly/3lwBB90>.

⁶²⁸ La Voz del Sur, 'Amnistía Internacional exige que no se limite la libertad de movimiento de los inmigrantes en los CETI', 24 August 2022, available in Spanish at: <https://bit.ly/3Kulf80>.

⁶²⁹ ECRE, 'Atlantic Route: Ombudsman Demands Free Movement for Asylum Seekers, Investigations into Possible Hate Crimes, Covid Outbreak in Reception Centre', 5 February 2021, available at: <https://bit.ly/2LteWso>.

⁶³⁰ La Provincia, 'El Defensor del Pueblo pide explicaciones al supuesto bloqueo de migrantes en Canarias', 12 February 2021, available in Spanish at: <https://bit.ly/3aqPf5o>.

⁶³¹ US Department of State, *2022 Country Reports on Human Rights Practices: Spain*, 20 March 2023, available at: <https://bit.ly/3mpsnCI>.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

- | | |
|---|-----------------------|
| 1. Number of reception centres: ⁶³² | Not available |
| ❖ CAR | 4 |
| ❖ CETI | 2 |
| ❖ NGOs participating in reception | 24 |
| 2. Total number of places in the reception system as of 31 December 2023: | 28,200 ⁶³³ |
| 3. Type of accommodation most frequently used in a regular procedure: | |
| ☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☒ Private housing ☐ Other | |
| 4. Type of accommodation most frequently used in an urgent procedure: | |
| ☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☒ Private housing ☐ Other | |

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 Reestructuración 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 system⁶³⁸.

⁶³² 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.

⁶³³ 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>.

⁶³⁴ Defensor del Pueblo, *Informe anual 2022 – Volumen I*, March 2023, available in Spanish at: <https://bit.ly/3LCx9jQ>, 54.

⁶³⁵ EASO, ‘EASO Executive Director welcomes Spain’s commitment to reform reception system’, 17 May 2021, available at: <https://bit.ly/3rcxopU>.

⁶³⁶ EUAA, *Asylum Report 2022*, June 2022, available at: <https://bit.ly/42RbMkK>, 165.

⁶³⁷ El Diario, ‘El Gobierno negociará con la Sareb la cesión de pisos vacíos para acoger a solicitantes de asilo sin techo’, 27 February 2020, available in Spanish at: <https://cutt.ly/fteg8m1>.

⁶³⁸ Defensor del Pueblo, ‘Informe anual 2021 y debates en las Cortes Generales Volumen I. Informe’, March 2022, available in Spanish at: <https://bit.ly/3K3IPte>, 158.

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.⁶³⁹

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.⁶⁴⁰

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.⁶⁴¹ 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.⁶⁴² 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.⁶⁴³

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).⁶⁴⁴ 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.⁶⁴⁵ 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.⁶⁴⁶

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

⁶³⁹ The Objective, 'Los centros de acogida en Madrid siguen colapsados pese al compromiso de Escrivá', 10 August 2022, available in Spanish at: <https://bit.ly/3QxFIMj>.

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>.

⁶⁴¹ Europa Press, 'El Gobierno prevé invertir 190 millones hasta 2023 en la mejora del sistema de acogida a refugiados', 5 May 2021, available in Spanish at: <https://tinyurl.com/bdhvcb2x>.

⁶⁴² Gaceta, 'El Gobierno gastará 215 millones del Plan de Recuperación en construir 17 centros de acogida de inmigrantes', 14 October 2022, available in Spanish at: <https://tinyurl.com/yf8ncb9m>.

⁶⁴³ El Diario, 'Los Presupuestos de 2023 prevén la creación de 17 centros de acogida para migrantes, siete en Canarias', 10 October 2022, available in Spanish at: <https://bit.ly/3TG4xly>.

⁶⁴⁴ Onda Cero, 'El Ayuntamiento ha recibido la solicitud de licencia para la creación del Centro de Acogida de Protección Internacional', 18 July 2023, available in Spanish at: <https://tinyurl.com/3v35huv3>; Alicante Plaza, 'El Gobierno rehabilitará la antigua base militar de Aitana para que sea centro de acogida de refugiados', 11 July 2023, available in Spanish at: <https://tinyurl.com/3bsha3s8>; Europa Press, 'El Gobierno central adjudica las obras del centro de acogida internacional de refugiados en Vitoria-Gasteiz', 6 July 2023, available in Spanish at: <https://tinyurl.com/nhcnrkb5>; La Revista de la Seguridad Social, 'El ministro Escrivá anuncia la construcción de un nuevo centro de refugiados en Tàrrega', 31 March 2023, available in Spanish at: <https://tinyurl.com/2v9dcnxf>; Europa Press, 'Inclusión abrirá un centro de acogida de refugiados en Castro de Rei (Lugo) para 250 personas', 3 April 2023, available in Spanish at: <https://tinyurl.com/4s7pf687>; El Diario, 'Los Gobierno central y vasco acercan posturas y apelan a la "cogobernanza" sobre el centro refugiados en Vitoria', 27 February 2023, available in Spanish at: <https://tinyurl.com/3xjwxbha>; Cadena Ser, 'El ministro de Inclusión, Seguridad Social y Migraciones José Luis Escrivá apoya en Soria a Carlos Martínez', 19 May 2023, available in Spanish at: <https://tinyurl.com/57djny8n>; Diario de Valladolid, 'El Gobierno frena el centro de refugiados de Valladolid por la negativa municipal a ceder el suelo', 14 January 2024, available at: <https://tinyurl.com/mrx49h65>.

⁶⁴⁵ The Objective, 'El Gobierno teme que PP y Vox frenen centros de refugiados previstos en varios municipios', 4 August 2023, available in Spanish at: <https://tinyurl.com/48z2p62r>; El Diario, 'El consejero de Empleo de Vox se opone a la construcción de un centro de refugiados en Valladolid porque "degrada los barrios"', 16 May 2023, available in Spanish at: <https://tinyurl.com/bdhrydyf>.

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/yx5esfu6>.

the intention was to close all of them by the end of 2023.⁶⁴⁷ 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.).⁶⁴⁸ 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.⁶⁴⁹ 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.⁶⁵⁰

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.⁶⁵¹

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.⁶⁵²

⁶⁴⁷ Canarias 7, 'El repunte migratorio obliga a Madrid a dejar abiertos centros que quería cerrar', 21 June 2023, available at: <https://tinyurl.com/mr258937>.

⁶⁴⁸ Information provided by Accem in February 2024.

⁶⁴⁹ Europa Press, 'El Gobierno destina 60,6 millones de euros para ampliar la declaración de emergencia migratoria', 20 February 2024, available at: <https://tinyurl.com/3efw6z4>.

⁶⁵⁰ Diario de Canarias, 'El Gobierno destina 116,4 millones de euros más para afrontar la llegada de migrantes', 26 March 2024, available at: <https://tinyurl.com/5dplkc58>.

⁶⁵¹ La Gaceta, 'El Gobierno anuncia la creación de más centros de acogida para inmigrantes ilegales', 31 January 2024, available at: <https://tinyurl.com/bd29v33n>; 20 minutos, 'La ministra Elma Saiz anuncia "más plazas de acogida" a migrantes y una especial atención a "víctimas de violencia de género"', 31 January 2024, available at: <https://tinyurl.com/kzske82k>; 20 minutos, 'Los centros de solicitantes de asilo tendrán plazas reservadas para personas con discapacidad', 1 February 2024, available at: <https://tinyurl.com/m68yt6e3>.

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](#).⁶⁵³

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

Indicators: Conditions in Reception Facilities

- | | |
|--|---|
| 1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? | ☒ Yes ☐ No |
| 2. What is the average length of stay of asylum seekers in the reception centres? | Not available |
| 3. Are unaccompanied children ever accommodated with adults in practice? | ☐ Yes ☒ No |
| 4. Are single women and men accommodated separately? | ☒ Yes ☐ No |

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

⁶⁵³ Melillahoy, 'El CETI acoge a 900 personas tras el traslado de 90 migrantes a Melilla', 12 June 2018, available in Spanish at: <https://bit.ly/2FybXu5>; Europapress, 'El CETI de Ceuta acoge a 878 extranjeros tras la salida de cien hacia la Península', 30 August 2018, available in Spanish at: <https://bit.ly/2FzOY1G>.

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 2016.⁶⁵⁴ 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.⁶⁵⁵ 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".⁶⁵⁶ 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.⁶⁵⁷ 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.⁶⁵⁸ 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.⁶⁵⁹

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,⁶⁶⁰ 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

⁶⁵⁴ Human Rights Watch, 'Spain: LGBT Asylum Seekers Abused in North African Enclave', 28 April 2017, available at: <http://bit.ly/2oS5jTD>. See also The Guardian, 'In limbo in Melilla: the young refugees trapped in Spain's African enclave', 10 May 2017, available at: <http://bit.ly/2pyuTxb>; Amnesty International, *El asilo en España: Un sistema de acogida poco acogedor*, May 2016, available in Spanish at: <https://goo.gl/G1YtPi>, 37; UNICEF, *Acogida en España de los niños refugiados*, 2016, available in Spanish at: <https://goo.gl/SaBZgo>; 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/rJrg3k>, 64

⁶⁵⁵ Council of Europe, *Report of the fact-finding mission by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees, to Spain, 18-24 March 2018*, SG/Inf(2018)25, 3 September 2018, available at: <https://bit.ly/3SFhUJV>, para 5.1.

⁶⁵⁶ *Ibid.*

⁶⁵⁷ IOM, UNHCR, IOM and UNHCR ask for an urgent and coordinated response to the alarming reception conditions of refugees and migrants in Melilla, 3 August 2020, available at: <https://bit.ly/2Ke869o>.

⁶⁵⁸ Council of Europe Commissioner for Human Rights, 'Spain's authorities must find alternatives to accommodating migrants, including asylum seekers, in substandard conditions in Melilla', 3 September 2020, available at: <https://bit.ly/3oSDbic>.

⁶⁵⁹ Human Rights Watch, *World report 2021. Spain – Events of 2020*, January 2021, available at: <https://bit.ly/39x7i8c>.

⁶⁶⁰ El Faro de Melilla, 'La ocupación del CETI baja de los 1.000 residentes por primera vez desde 2017', 8 July 2021, available in Spanish at: <https://bit.ly/3nCVZi5>.

decision of the High Court in 2020 (See [Freedom of movement](#)).⁶⁶¹ During 2023, the CETI in Ceuta accommodated a total of 1,093 migrants during all the year, which represents the lowest number since 2010.⁶⁶²

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.⁶⁶³

2.3. Conditions in other reception facilities

Living conditions on the Canary Islands⁶⁶⁴

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,⁶⁶⁵ using parts of the CIE as reception facility,⁶⁶⁶ or using buildings belonging to the Ministries of Defence and Home Affairs for the purpose COVID-19 quarantine.⁶⁶⁷

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.⁶⁶⁸

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).⁶⁶⁹ 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.⁶⁷⁰ The NGO CEAR condemned the decision, in arguing that human rights violations should always be recognised as such.⁶⁷¹

⁶⁶¹ Melilla Hoy, 'El CETI, bajo mínimos: solo hay 3 migrantes acogidos', 13 March 2023, available in Spanish at: <https://bit.ly/3Z8dwTF>; El Faro de Melilla, 'El CETI bate su récord histórico: cierra 2022 con solo 5 migrantes acogidos', 10 January 2023, available in Spanish at: <https://bit.ly/407FgJn>.

⁶⁶² Ceuta Actualidad, 'Descenso histórico: CETI de Ceuta acoge el menor número de inmigrantes desde 2010', 26 February 2024, available at: <https://tinyurl.com/5yee56sa>.

⁶⁶³ Sira, 'Las condiciones de acogida en Frontera Sur agravan el sufrimiento psíquico de las personas migrantes que llegan a España', January 2022, available in Spanish at: <https://bit.ly/3lxGsQH>.

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.

⁶⁶⁵ Canarias7, '¿Qué pasa con los inmigrantes cuando llegan a España en situación irregular?', 19 November 2020, available in Spanish at: <https://bit.ly/39I856n>.

⁶⁶⁶ El Diario, 'El Ministerio de Migraciones inspecciona el CIE de Fuerteventura para valorar su reapertura como espacio de acogida', 19 June 2020, available in Spanish at: <https://bit.ly/2Kx8qAn>.

⁶⁶⁷ Cope, 'La llegada de inmigrantes obliga a buscar edificios para que pasen la cuarentena', 27 May 2020, available in Spanish at: <https://bit.ly/3qCfPOt>.

⁶⁶⁸ Cadena Ser, 'Siete migrantes llevan más de 24 días en un campamento de Arguineguín sin duchas', 13 November 2020, available in Spanish at: <https://bit.ly/3dq04qc>.

⁶⁶⁹ El País, 'Un baño de lejía para clausurar el campamento del muelle de Arguineguín', 30 November 2020, available in Spanish at: <https://bit.ly/3sCGbBi>; El País, 'El Gobierno vacía el campamento de Arguineguín', 29 November 2020, available in Spanish at: <https://bit.ly/35TkyTL>.

⁶⁷⁰ El Diario, 'Archivada la denuncia contra el hacinamiento de personas en Arguineguín', 17 January 2022, available in Spanish at: <https://bit.ly/355rfVa>.

⁶⁷¹ El Diario, 'La Comisión Española de Ayuda al Refugiado critica el archivo del recurso sobre muelle de Arguineguín', 18 January 2022, available in Spanish at: <https://bit.ly/3tDrrFp>.

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.⁶⁷² 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.⁶⁷³ Contrarily to this longstanding policy, in the last year transfer to mainland have increased consistently.⁶⁷⁴

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.⁶⁷⁵

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.⁶⁷⁶ 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.⁶⁷⁷

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.⁶⁷⁸

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.⁶⁷⁹ 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.⁶⁸⁰ As previously mentioned, IOM also started its operations on the Canary Islands at the beginning of 2021, more specifically in **Tenerife**,

⁶⁷² El País, 'El defensor del pueblo: "Confinar inmigrantes en Canarias no es la solución"', 4 December 2020, available in Spanish at: <https://bit.ly/39JVjnQ>; La Vanguardia, 'CEAR pide al Gobierno que traslade a migrantes de Canarias a la Península', 18 November 2020, available in Spanish at: <https://bit.ly/39SyzC6>.

⁶⁷³ El Diario, 'Un gran campamento de migrantes llamado Canarias: "Quieren convertir las islas en Lesbos"', 21 November 2020, available in Spanish at: <https://bit.ly/3bOoZD5>; El Día, 'José Antonio Moreno Díaz: "Canarias es una válvula del Estado para medir el acceso de migrantes"', 14 November 2020, available in Spanish at: <https://bit.ly/2KuqURQ>; El Día, '"Están utilizando todas las herramientas para que nadie salga del Archipiélago"', 19 January 2021, available in Spanish at: <https://bit.ly/34ojXvJ>.

⁶⁷⁴ Information provided by Accem in April 2024.

⁶⁷⁵ Defensor del Pueblo, 'Informe anual 2021 y debates en las Cortes Generales Volumen I. Informe', March 2022, available in Spanish at: <https://bit.ly/3Pu0Amr>; Cope, 'El Defensor del Pueblo alerta que la acogida de mujeres migrantes en Canarias falla', 14 May 2022, available in Spanish at: <https://bit.ly/3PtaSmL>; Efe, 'La acogida falla con ellas: no detecta casos de trata o que merecen refugio', 13 May 2022, available in Spanish at: <https://bit.ly/3QU8Kpn>.

⁶⁷⁶ El Diario, 'El Gobierno central abre el Canarias 50 con 442 plazas iniciales para albergar migrantes en la capital gran Canaria', 15 January 2021, available in Spanish at: <https://bit.ly/3quSkqf>.

⁶⁷⁷ Cope, 'Médicos del Mundo teme que los nuevos campamentos de migrantes en Canarias repliquen la situación de Arguineguín', 2 December 2020, available in Spanish at: <https://bit.ly/2Ktg3ru>.

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).⁶⁸¹ 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.⁶⁸² Transfers increased to mainland in April 2021, when the Government transferred 1,800 persons during 5 weeks,⁶⁸³ being 4,385 those transferred since the beginning of the year.⁶⁸⁴

In 2021, Amnesty International denounced that, despite the approval of the Canarias Plan, reception conditions continue to be inadequate.⁶⁸⁵ 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.⁶⁸⁶ 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.⁶⁸⁷ 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.⁶⁸⁸

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.⁶⁸⁹ 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.⁶⁹⁰ 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.⁶⁹¹

⁶⁸¹ Information provided by the IOM on 4 March 2022.

⁶⁸² Público, 'Un juez dictamina que un migrante puede volar desde Canarias a la Península con su pasaporte o una solicitud de asilo', 15 April 2021, available in Spanish at: <https://bit.ly/3GMfrVC>.

⁶⁸³ Canarias 7, 'El Estado ha trasladado a la península a 1.800 inmigrantes en las últimas cinco semanas', 10 May 2021, available in Spanish at: <https://bit.ly/3fBYQYD>.

⁶⁸⁴ El Diario, 'El Gobierno acelera los traslados de migrantes de Canarias a la Península: 4.385 en lo que va de año', 8 May 2021, available in Spanish at: <https://bit.ly/33vTmwg>.

⁶⁸⁵ Amnistía Internacional, 'Canarias: la infinita espera', 4 May 2021, available in Spanish at: <https://bit.ly/3GNYt9t>.

⁶⁸⁶ El País, 'Los traslados bajan a mínimos las cifras de migrantes acogidos en Canarias', 31 May 2021, available in Spanish at: <https://bit.ly/3GP08f8>.

⁶⁸⁷ Amnistía Internacional, 'El gobierno está a tiempo de impedir que Canarias se convierta en otra frontera europea sin derechos para las personas migrantes y refugiadas', 27 July 2021, available in Spanish at: <https://bit.ly/3FKahrW>.

⁶⁸⁸ Amnistía Internacional, 'Canarias: fracaso en las políticas migratorias', December 2021, available in Spanish at: <https://bit.ly/3fRwXMF>.

⁶⁸⁹ El Confidencial, 'Canarias, sin plazas para acoger menores: el próximo niño deberá quedarse en comisaría', 1 February 2022, available in Spanish at: <https://bit.ly/365KHBz>.

⁶⁹⁰ ABC, 'El traslado de migrantes desde Canarias, una 'sacudida' política a nivel nacional', 27 October 2023, available at: <https://shorturl.at/kMPW6>; La Vanguardia, 'Trasladan a unos 200 migrantes más desde Canarias a un hotel de Almería', 27 October 2023, available in Spanish at: <https://bit.ly/3OkTbs0>; Hoy Aragón, '140 migrantes serán realojados en Zaragoza y Tarazona tras la llegada de otros 200 a Huesca', 28 October 2023, available in Spanish at: <https://tinyurl.com/57y2a252>; Diario de Almería, 'Llegan 200 inmigrantes más desde Canarias, ahora a un hotel de Aguadulce', 27 October 2023, available in Spanish at: <https://tinyurl.com/2s3m8m4f>; Onda Cero, 'El gobierno de España prepara un campamento para 300 migrantes en una explanada en Cartagena', 27 October 2023, available in Spanish at: <https://tinyurl.com/yc6r4esp>; La Vanguardia, 'Cyl acoge a 395 inmigrantes procedentes de Canarias en seis provincias', 25 October 2023, available in Spanish at: <https://tinyurl.com/mre82exk>; La Razón, 'El Gobierno planea habilitar en terrenos militares nuevos centros de acogida para migrantes', 20 October 2023, available in Spanish at: <https://tinyurl.com/47mysvun>.

⁶⁹¹ El Diario, 'La Comisión Española de Ayuda al Refugiado pide solidaridad entre comunidades para un reparto equitativo de migrantes', 7 November 2023, available in Spanish at: <https://tinyurl.com/23zkmn2y>.

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.⁶⁹² 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.⁶⁹³

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.⁶⁹⁴

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.⁶⁹⁵ 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'.⁶⁹⁶ 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.⁶⁹⁷

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 2023.⁶⁹⁸ The responsible authorities have not taken any measures to address this issue yet.

⁶⁹² Information provided by Save the Children on 11 February 2022.

⁶⁹³ Mixed Migration Centre, Save the Children, Médicos del Mundo, 'A Gateway Re-opens: the growing popularity of the Atlantic route, as told by those who risk it', February 2021, available at: <https://bit.ly/3Jrw6yG>.

⁶⁹⁴ Irídia, 'Nuevas vulneraciones de derechos humanos a las personas migrantes en Canarias', May 2022, available in Spanish at: <https://bit.ly/3K1hx8c>.

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/3rgJkFA>.

⁶⁹⁶ EASO, 'Operating plan. Special support on reception agreed by EASO and Spain', 2021, available at: <https://bit.ly/32HvuFI>.

⁶⁹⁷ EUAA, 'Operational Plan 2023-2026 agreed by the European Union Agency for Asylum and Spain', 12 June 2023, available at: <https://tinyurl.com/m23pjfm7>.

⁶⁹⁸ El Salto Diario, 'Cañada Real. Dos años a oscuras', 26 April 2023, available in Spanish at: <https://rb.gy/umm0b>.

Since 2020⁶⁹⁹ different relevant national and international stakeholders (i.e. the Spanish Ombudsperson⁷⁰⁰ and different UN Rapporteurs⁷⁰¹) 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.⁷⁰²

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.⁷⁰³ 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.⁷⁰⁴

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.⁷⁰⁵ The day after the expiration, Save the Children reported that national authorities had not respected their commitments.⁷⁰⁶

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.⁷⁰⁷ In addition, many persons gathered in front of the Assembly of Madrid to protest against the lack of electricity in the settlement for two years.⁷⁰⁸ In October 2023, the Cañada Real continued to be without electricity after 3 years.⁷⁰⁹

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.⁷¹⁰ Many of them are victims of trafficking, forced labour and forced prostitution.⁷¹¹

⁶⁹⁹ For more detailed information, see AIDA, *Country Report: Spain – Update on the year 2022*, April 2023, available at: <https://bit.ly/3SaHE0K>.

⁷⁰⁰ 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>.

⁷⁰¹ United Nations Office of the High Commissioner for Human Rights, *Spain: Power outages put children's lives at risk in informal settlement – UN experts*, 22 December 2020, available at: <https://bit.ly/2M3hz3Y>.

⁷⁰² El País, 'Dejar a familias en esta terrible situación es una violación de convenios que España ha ratificado', 9 January 2021, available in Spanish at: <https://bit.ly/3p5TaJF>; El País, 'La ONU insiste: España incumple el derecho internacional en la Cañada Real', 18 February 2021, available in Spanish at: <https://bit.ly/2OX01rT>.

⁷⁰³ 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 2022, available in Spanish at: <https://bit.ly/3ZKo2lg>.

⁷⁰⁴ Amnistía Internacional, 'Cañada real: 4.000 personas esperan la luz', December 2021, available in Spanish at: <https://bit.ly/3qwAzbl>.

⁷⁰⁵ El País, 'El Consejo de Europa insta a España a garantizar luz y calefacción a los habitantes de la Cañada Real', 27 October 2022, available in Spanish at: <https://bit.ly/3WAPLSX>.

⁷⁰⁶ Tele Madrid, 'Se incumple el plazo dado por Europa para devolver la luz a la Cañada Real madrileña', 16 December 2022, available in Spanish at: <https://bit.ly/3YPpem3>.

⁷⁰⁷ 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/3wkvotm>.

⁷⁰⁸ El Salto Diario, 'La Cañada Real pide luz y futuro', 6 January 2023, available in Spanish at: <https://bit.ly/3vNSXjo>.

⁷⁰⁹ El Salto Diario, 'La Cañada Real resiste: tres años sin luz en este vecindario madrileño', 2 October 2023, available in Spanish at: <https://tinyurl.com/23jwkdir8>.

⁷¹⁰ Público, 'Sin casa, sin trabajo y sin comida: migrantes al límite en Andalucía', 22 May 2020, available in Spanish at: <https://bit.ly/3iD9xLj>.

⁷¹¹ Revista la Mar de Onuba, 'Nuevas detenciones en el entorno agrario por explotación laboral de trabajadores en condiciones de esclavitud', 27 May 2020, available in Spanish at: <https://bit.ly/3sHpB3g>.

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.⁷¹² 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.⁷¹³ In September a fire destroyed more than 200 shacks in **Huelva**.⁷¹⁴

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.⁷¹⁵

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.).⁷¹⁶

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.⁷¹⁷

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.⁷¹⁸

⁷¹² El Salto Diario, 'Desalojan El Walili sin alternativas para sus habitantes', 30 January 2023, available in Spanish at: <https://rb.gy/gifyy>.

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>.

⁷¹⁴ Izquierda Diario, 'Un nuevo incendio arrasa un asentamiento de jornaleras de la fresa en Huelva', 28 September 2023, available in Spanish at: <https://rb.gy/6u7kj>.

⁷¹⁵ Andalucía Acoge, 'Andalucía Acoge presenta su informe sobre asentamientos en el Parlamento Europeo', 8 November 2023, available at: <https://tinyurl.com/yc2ahnrz>.

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>

⁷¹⁷ Iustel, 'I Plan Estratégico para la erradicación de asentamientos informales y la inclusión social de personas residentes en zonas agrícolas de Andalucía conformados por población migrante', 1 August 2023, available in Spanish at: <https://rb.gy/i85kb>.

⁷¹⁸ Huelva Información, 'Dos millones de euros para erradicar asentamientos en Lepe, Moguer y Lucena del Puerto', 5 January 2024, available at: https://www.huelvainformacion.es/provincia/asentamientos-Lepe-Moguer-Lucena-Puerto_0_1863713837.html.

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market

- | | |
|--|---|
| 1. Does the law allow for access to the labour market for asylum seekers?
❖ If yes, when do asylum seekers have access the labour market? | ☒ Yes ☐ No
6 months |
| 2. Does the law allow access to employment only following a labour market test? | ☐ Yes ☒ No |
| 3. Does the law only allow asylum seekers to work in specific sectors?
❖ If yes, specify which sectors: | ☐ Yes ☒ No |
| 4. Does the law limit asylum seekers' employment to a maximum working time?
❖ If yes, specify the number of days per year | ☐ Yes ☒ No |
| 5. Are there restrictions to accessing employment in practice? | ☒ Yes ☐ No |

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

⁷¹⁹ Article 32 Asylum Act; Article 13 Asylum Regulation.

⁷²⁰ Federación S.O.S. Racismo, ‘Informe anual sobre el racismo en el Estado español – 2022’, December 2022, available at: <https://bit.ly/3JiAvpo>.

⁷²¹ Ministerio de Inclusión, Seguridad Social y Migraciones, Secretaría de Estado de Migraciones, ‘Instrucción 1/2020 de la Secretaría de Estado de Migraciones por la que se habilita a trabajar a menores extranjeros en edad laboral’, 6 March 2020, available in Spanish at: <https://cutt.ly/btUCk4z>; El País, ‘El Gobierno facilitará el permiso de trabajo a los menores migrantes’, 7 March 2020, available in Spanish at: <https://cutt.ly/ktUHEK2>.

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.⁷²³ They denounced the inadequacy of measures to ensure access to employment to migrants and refugees, especially regarding the sectors of health and agriculture.⁷²⁴

During the same month of May 2020, the Council of Ministers adopted a Royal Decree,⁷²⁵ 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.⁷²⁶ 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.⁷²⁷

During 2020, domestic workers further called on the Spanish Government to ratify the 189 ILO Convention on domestic workers to guarantee their rights.⁷²⁸ 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 guarantying them better rights.⁷²⁹ 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 contracts⁷³⁰ In June 2022, the Congress voted the ratification of the 189 ILO Convention.⁷³¹

2. Access to education

Indicators: Access to Education

1. Does the law provide for access to education for asylum-seeking children? ☒ Yes ☐ No
2. Are children able to access education in practice? ☒ Yes ☐ No

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.⁷³²

para la gestión de la situación de crisis sanitaria ocasionada por el COVID-19, 18 May 2020, available in Spanish at: <https://bit.ly/2MfMLgi>.

⁷²³ Europapress, 'ONG celebran la prórroga de residencia y trabajo a extranjeros pero piden "un paso más" y regularizar a 'sin papeles'', 20 May 2020, available in Spanish at: <https://bit.ly/3sLnBqN>.

⁷²⁴ Cuarto Poder, 'España prescinde del trabajo de miles de migrantes y refugiados durante la pandemia', 9 May 2020, available in Spanish at: <https://bit.ly/2Y2wP3E>; Servimedia, 'La Red de Inmigración considera un "parche" la prórroga de seis meses para los permisos de residencia y trabajo', 21 May 2020, available in Spanish at: <https://bit.ly/2LYVgfY>.

⁷²⁵ Gobierno de España, *Real Decreto-ley 19/2020, de 26 de mayo, por el que se adoptan medidas complementarias en materia agraria, científica, económica, de empleo y Seguridad Social y tributarias para paliar los efectos del COVID-19*, 26 May 2020, available in Spanish at: <https://bit.ly/2Y731TL>.

⁷²⁶ El País, 'El Gobierno dará permiso de trabajo a los inmigrantes del campo durante dos años', 26 May 2020, available in Spanish at: <https://bit.ly/3oIhG2w>.

⁷²⁷ Ministerio de Inclusión, Seguridad Social y Migraciones, '*Instrucciones DGM 9/2020 sobre el régimen aplicable a los jóvenes, nacionales de terceros países, que se encuentren en situación regular de entre los 18 y los 21 años que hayan sido empleados en el sector agrario con base en el real decreto ley 13/2020, de 7 de abril, por el que se adoptan determinadas medidas urgentes en materia de empleo agrario, cuando finalice su vigencia*', 29 September 2020, available in Spanish at: <https://bit.ly/3dAgb4w>.

⁷²⁸ El Salto Diario, *Trabajadoras de hogar exigen al Gobierno la ratificación del convenio que dignifica sus condiciones nueve años después de su aprobación*, 16 June 2020, available in Spanish at: <https://bit.ly/2NkrSRK>.

⁷²⁹ Pikara Magazine, 'Una victoria parcial para las trabajadoras del hogar', 3 February 2021, available in Spanish at: <https://bit.ly/3dsA9yh>.

⁷³⁰ El Diario, 'La Inspección de Trabajo inicia una nueva campaña contra los salarios por debajo del SMI a empleadas del hogar', 31 January 2022, available in Spanish at: <https://bit.ly/40b6VZx>; Ministerio de Trabajo y Economía Social, 'Nueva campaña de actuación inspectora - servicio hogar', January 2022, available in Spanish at: <https://bit.ly/3Jfn9u5>.

⁷³¹ CTXT, 'Una victoria histórica para las trabajadoras del hogar', 9 June 2022, available in Spanish at: <https://bit.ly/3R7bvoo>; UGT, 'Avance histórico para las trabajadoras del hogar', 6 September 2022, available in Spanish at: <https://bit.ly/3R6F6P1>.

⁷³² Article 10, Law 1/1996 of 15 January 1996 on the legal protection of minors, partially modifying the Civil Code and the Law on Civil Procedure, as modified by Law 26/2015, of 28 July, modifying the system for the protection of children and adolescents, available in Spanish at: <https://bit.ly/39KVeSc>.

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**.⁷³³ 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.⁷³⁴

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 2021.⁷³⁵ 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.⁷³⁶

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.⁷³⁷

D. Health care

Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?
☒ Yes ☐ No
2. Do asylum seekers have adequate access to health care in practice?
☒ Yes ☐ Limited ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?
☐ Yes ☒ Limited ☐ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?
☒ Yes ☐ Limited ☐ No

⁷³³ Abogados Extranjeristas, 'La asociación de abogados extranjeros denuncia enérgicamente la premeditada desescolarización de menores en Melilla', 25 August 2019, available in Spanish at: <https://cutt.ly/xrc0q7l>.

⁷³⁴ El País, 'El Ministerio de Educación cambia su normativa para garantizar la plena escolarización de los niños en Melilla', 17 February 2022, available in Spanish at: <https://bit.ly/3YPmSUc>.

⁷³⁵ El Diario, 'Más de 1.000 migrantes siguen en un limbo y sin escolarizar a la espera de que las pruebas óseas determinen si son mayores de edad', 25 January 2021, available in Spanish at: <https://bit.ly/3pnu9sQ>.

⁷³⁶ UNICEF, 'Canarias: niños y niñas migrantes en una de las rutas más peligrosas del mundo', July 2021, available in Spanish at: <https://bit.ly/3wISZL6>.

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.⁷³⁸ 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.⁷³⁹

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,⁷⁴⁰ and launched a public consultation.⁷⁴¹ The proposal was sent to the Parliament by the Council of Minister on June 2022⁷⁴² and was approved in May 2023.⁷⁴³

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,⁷⁴⁴ 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 it 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)⁷⁴⁵ in Barcelona,⁷⁴⁶ Progestión,⁷⁴⁷ Provivienda⁷⁴⁸ and Pinardi. The NGO Valencia Accull (which is member of the Federación Red Acoge) has opened a reception facility in

⁷³⁸ Article 15 Asylum Regulation.

⁷³⁹ El País, ‘El Congreso aprueba el decreto para recuperar la sanidad universal’, 6 September 2018, available in Spanish at: <https://bit.ly/2Nt140c>.

⁷⁴⁰ El País, ‘Sanidad quiere prohibir por ley nuevos copagos y asegurar la atención a inmigrantes’, 20 October 2020, available in Spanish at: <https://bit.ly/3bhV4BI>.

⁷⁴¹ Ministerio de Sanidad, ‘Consulta pública previa sobre el anteproyecto de ley de medidas para la equidad, universalidad y cohesión del sistema nacional de salud’, October 2020, available in Spanish at: <https://bit.ly/3dmGUBG>.

⁷⁴² La Moncloa, ‘El Gobierno refuerza la equidad y la universalidad del Sistema Nacional de Salud’, 14 June 2022, available in Spanish at: <https://bit.ly/3LtBrd8>.

⁷⁴³ Boletín Oficial del estado, ‘Ley 16/2003, de 28 de mayo, de cohesión y calidad del Sistema Nacional de Salud’, May 2023, available at: <https://tinyurl.com/ms68dx6u>.

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 Asociaicón Porgestión, 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.⁷⁴⁹ 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.⁷⁵⁰

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.⁷⁵¹ 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.⁷⁵²

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.⁷⁵³ 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.⁷⁵⁴ 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.⁷⁵⁵

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).⁷⁵⁶

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,

⁷⁴⁹ Information provided by Federación Red Acoge on 1 March 2022.

⁷⁵⁰ Information provided by Fundación Cruz Blanca on April 2021.

⁷⁵¹ Amnistía Internacional España, '*La otra pandemia. Entre el abandono y el desmantelamiento: el derecho a la salud y la Atención Primaria en España*', February 2021, available in Spanish at: <https://bit.ly/3qcdBnT>.

⁷⁵² Red Acoge, 'Seis ONG estatales instan a la Secretaría de Estado de Migraciones a reformar el Reglamento de Extranjería para garantizar la protección de las personas migrantes tras la pandemia', 25 June 2021, available in Spanish at: <https://bit.ly/3NsmHda>.

⁷⁵³ Newtral, '¿Sanidad universal? La dificultad de que la vacunación llegue a toda la población inmigrante', 25 August 2021, available in Spanish at: <https://bit.ly/2X295jb>.

⁷⁵⁴ Asociación Pro Derechos Humanos de Andalucía – APDHA, 'Exigimos al Gobierno andaluz una estrategia de vacunación integral que incluya a todas las personas en situación administrativa irregular', 9 April 2021, available in Spanish at: <https://bit.ly/3FSOsY4>.

⁷⁵⁵ EUAA, *Asylum report 2022*, 2022, available at: <https://bit.ly/3FvgdyY>.

⁷⁵⁶ CEAR, 'Sin barreras para nadie. Personas migrantes y refugiadas en el acceso a los Derechos Económicos, Sociales y Culturales (DESC)', March 2023, available at: <https://tinyurl.com/5xnmr4t7>.

to strengthen the network and identify initiatives and measures to reinforce refugees' wellbeing and mental health.⁷⁵⁷

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?

☒ Yes

☐ No

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.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.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.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 reception 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.⁷⁶¹ In its 2022 Annual Report, the Ombudsperson reiterated the concerns, formerly outlined in a thematic report of 2016,⁷⁶² regarding the deficiencies of the

⁷⁵⁷ Information provided by UNHCR in April 2024.

⁷⁵⁸ DGIAH, *Reception Handbook*, November 2018, A, 6.

⁷⁵⁹ DGIAH, *Reception Handbook*, November 2018, G.2 (22), G.3 (24).

⁷⁶⁰ 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>; Migrar con Derechos, 'Instrucción SEM de 15 de diciembre de 2022. Acceso y permanencia sistema acogida protección internacional', 15 December 2022, available in Spanish at: <https://bit.ly/42A0pxQ>.

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/2LUNvrl>.

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/rJrg3k>, 64.

asylum reception system and its impossibility in assuring places for all those who need it.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.⁷⁶⁴

In July 2022, the Spanish Committee of Representatives of Persons with Disabilities (*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.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.⁷⁶⁶ A leaflet explaining the protocol has been also published in different languages (i.e. Spanish, English, French, Arabic, Ukrainian),⁷⁶⁷ together with a pocket guide for the professionals working in the asylum reception system.⁷⁶⁸ Thanks to the protocol, 90 victims of gender-based violence were identified within the asylum reception system between January and June 2022.⁷⁶⁹

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.⁷⁷⁰ A plan to disseminate the guidelines through targeted trainings will be rolled out in 2023.⁷⁷¹

In April 2023, the implementation of such a protocol was extended to the facilities for humanitarian assistance to migrants.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

⁷⁶³ Defensor del Pueblo, *Informe Anual 2022. Volumen I'*, March 2023, available in Spanish at: <https://bit.ly/3M9WLVo>, 53.

⁷⁶⁴ CEAR, 'Informe Anual 2022: Las personas refugiadas en España y Europa', June 2022, available in Spanish at: <https://bit.ly/40radbM>.

⁷⁶⁵ CERMI, Fundación CERMI Mujeres, '¡S.O.S. por las mujeres y niñas con discapacidad! Guía para proporcionar una asistencia adecuada en situaciones de conflictos armados y emergencias humanitarias', July 2022, available in Spanish at: <https://bit.ly/3psaU3U>.

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>.

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>.

⁷⁶⁸ ACNUR, Ministerio de Inclusión, Seguridad Social y Migraciones, 'Cómo actuar ante la violencia contra las mujeres solicitantes y beneficiarias de protección internacional y temporal. Guía de bolsillo para profesionales del SAPIT sobre la aplicación del protocolo de actuación ante la violencia contra las mujeres en el sistema de acogida de protección internacional, dirigida al personal técnico', available in Spanish at: <https://bit.ly/3WBmylv>.

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/3znPKIW>.

⁷⁷⁰ Ministerio de Inclusión, Seguridad Social y Migraciones, '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://tinyurl.com/3jzskny3>

⁷⁷¹ Information provided by UNHCR in March 2023.

⁷⁷² 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 Almería, 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 LGBTIQ+ 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/2xjrjakak>.

⁷⁷⁵ Huffington Post, 'El ocaso de Kifkif: la primera ONG para migrantes LGBTIQ+ cierra con su líder denunciado por presunto desfalco', 21 October 2023, available in Spanish at: <https://tinyurl.com/4ukbjf4y>.

⁷⁷⁶ Plataforma de Infancia, 'La situación de la infancia en España en 2022', November 2022, available in Spanish at: <https://bit.ly/3KnfWK3>.

⁷⁷⁷ EuroMed Rights, 'Happiness, Love and Understanding: The Protection of Unaccompanied Minors in the 27 EU Member States', May 2023, available at: <https://bit.ly/3u49J0w>.

⁷⁷⁸ Info Migrants, 'A child needs more than food and shelter': The fate of unaccompanied minors on the Canary Islands', 1 January 2021, available at: <https://bit.ly/3smhuZd>.

⁷⁷⁹ Ministerio de Derechos Sociales y Agenda 2030, 'Modelo de gestión de contingencias migratorias para la infancia y adolescencia no acompañada', October 2022, available in Spanish at: <https://bit.ly/3FzXrzp>.

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.⁷⁸⁰ 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 2023.⁷⁸¹ In November 2022, the Government of the Canary Islands established a budget increase for the assistance to UAMs of around EUR 1,4 million.⁷⁸²

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.⁷⁸³ 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.⁷⁸⁴ 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.⁷⁸⁵ 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.⁷⁸⁶

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.⁷⁸⁷ 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.⁷⁸⁸ In February 2024, there were 5,500 migrant children waiting to undergo the procedure and/or for a response.⁷⁸⁹

⁷⁸⁰ Information provided by Save the Children in March 2023.

⁷⁸¹ El Confidencial, ‘El Gobierno y las CCAA acuerdan trasladar a la península a 400 menores de Canarias y Ceuta’, 27 July 2022, available in Spanish at: <https://bit.ly/3KoNKq4>.

⁷⁸² Europa Press, ‘El Gobierno aumenta en 1,4 millones el gasto para los dispositivos de emergencia de menores migrantes’, 24 November 2022, available in Spanish at: <https://bit.ly/3Knpuon>.

⁷⁸³ El SaltoDiario, ‘Urge 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>.

⁷⁸⁴ Amnistía Internacional, ‘AI: Canarias/ Nueva investigación: Niños y niñas que viajan solos detenidos junto a adultos y con sus pertenencias confiscadas’, 3 November 2023, available in Spanish at: <https://tinyurl.com/ycyeetme>.

⁷⁸⁵ Diario de Canarias, ‘Acuerdo unánime para distribuir entre las comunidades autónomas a 450 menores migrantes llegados a Canarias’, 11 October 2023, available in Spanish at: <https://tinyurl.com/57ame5jr>

⁷⁸⁶ EFE, ‘Canarias inicia el proceso para intentar el reparto obligatorio de los menores migrantes’, 11 February 2024, available at: <https://tinyurl.com/mrn3bu5f>.

⁷⁸⁷ El Diario, ‘Cómo son las pruebas de edad por las que desesperan “congelados” más de 1.700 migrantes en Canarias’, 27 May 2021, available in Spanish at: <https://bit.ly/3JQeT31>; Unicef, ‘Canarias: niños y niñas migrantes en una de las rutas más peligrosas del mundo’, July 2021, available in Spanish at: <https://bit.ly/3fi8wYc>, 20.

⁷⁸⁸ Defensor del Pueblo, ‘Informe anual 2022 – Volumen I’, March 2023, available in Spanish at: <https://bit.ly/3nzfYpt>, 166.

⁷⁸⁹ Cadena Ser, ‘El Defensor del Pueblo canario abre una investigación para esclarecer la situación de los menores en prisión’, 15 February 2024, available at: <https://tinyurl.com/2ep2zv4r>.

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 -⁷⁹⁰ was approved.⁷⁹¹ 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.⁷⁹² 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.⁷⁹³

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.).⁷⁹⁴

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.⁷⁹⁵ Many stakeholders advocated for the reform of the Regulation of the Immigration Law, including many former UAMs,⁷⁹⁶ and they regarded it as an extremely positive development.⁷⁹⁷ After one year of implementation, the reform allowed almost 17,000 UAMs and young adults to obtain a residence and work permit.⁷⁹⁸ In this respect, the Spanish Ombudsperson acknowledged the positive impact of such a reform.⁷⁹⁹

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.⁸⁰⁰ 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.

⁷⁹⁰ Unicef, 'Proteger a la infancia frente a la violencia es responsabilidad de todos. Se aprueba en el Congreso la nueva Ley de Protección de la Infancia', 20 May 2021, available in Spanish at: <https://bit.ly/3GIK7wJ>.

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>.

⁷⁹² Plataforma de infancia, Universidad Pontificia Comillas, 'Guía sobre la Ley Orgánica de Protección integral a la Infancia y la Adolescencia frente a la Violencia', September 2021, available in Spanish at: <https://bit.ly/3tlLd8b>.

⁷⁹³ Ministerio de Derechos Sociales y Agenda 2030, 'Estrategia de erradicación de la violencia sobre la infancia y adolescencia', November 2022, available in Spanish at: <https://bit.ly/3KnYbKQ>.

⁷⁹⁴ Defensor del Pueblo, 'Informe anual 2022 – Volumen I', March 2023, available in Spanish at: <https://bit.ly/3nzfYpt>, 37 ss.

⁷⁹⁵ Ministerio de Inclusión, Seguridad Social y Migraciones – Prensa, 'El Gobierno aprueba la reforma del Reglamento de Extranjería para favorecer la integración de menores extranjeros y jóvenes extutelados', 19 October 2021, available in Spanish at: <https://bit.ly/3q27zt9>; PICUM, 'Spain adopts law to facilitate regularisation of young migrants?', 18 October 2021, available at: <https://bit.ly/3zxw1G9>.

⁷⁹⁶ CEAR, 'Comunicado CEAR y otras ONG. Jóvenes que llegaron solos de menores urgen a reformar el Reglamento de Extranjería', 21 July 2021, available in Spanish at: <https://bit.ly/3GkZp5b>; El País, 'Lógica reforma para los jóvenes inmigrantes', 23 July 2021, available in Spanish at: <https://bit.ly/3qYcGtS>; El Diario, '400 migrantes extutelados se concentran frente a Interior para pedir el desbloqueo de la reforma del reglamento de Extranjería', September 2021, available in Spanish at: <https://bit.ly/3zy6Ym8>.

⁷⁹⁷ CEAR, 'Entidades de migración e infancia celebran la reforma del Reglamento de Extranjería', 19 October 2021, available in Spanish at: <https://bit.ly/3t2abt7>; El Diario, 'Jóvenes inmigrantes extutelados, tras el nuevo reglamento de Extranjería: "Ojalá podamos tener papeles y trabajar"', October 2021, available in Spanish at: <https://bit.ly/3zlGpLm>.

⁷⁹⁸ Heraldo, 'Tras un año de la reforma de extranjería los jóvenes migrantes con empleo suben del 28% al 51%', 13 November 2022, available in Spanish at: <https://bit.ly/3M2Hw0B>; Ministerio de Inclusión, Seguridad Social y Migraciones, Observatorio Permanente de la Inmigración, 'Menores no acompañados y jóvenes extutelados con autorización de residencia', available in Spanish at: <https://tinyurl.com/3mccsz53>.

⁷⁹⁹ Defensor del Pueblo, 'Informe anual 2022 – Volumen I', March 2023, available in Spanish at: <https://bit.ly/3nzfYpt>, 165.

⁸⁰⁰ Ministerio de Derechos Sociales y Agenda 2023, 'Infancia con derechos: Plan de Acción Estatal para la Implementación de la Garantía Infantil Europea (2022-2030)', July 2022, available in Spanish at: <https://bit.ly/3zk3hl1>.

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.⁸⁰¹

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.⁸⁰² 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.⁸⁰³ 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.⁸⁰⁴

A report published in December 2023 by the Platform for Childhood highlighted the challenges faced by accompanied children in the asylum system.⁸⁰⁵ 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.⁸⁰⁶

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 demonstrates the institutional racism existing in Spain.⁸⁰⁷

Several developments relating to discrimination and hate crime were reported throughout 2023 and at the beginning of 2024.

⁸⁰¹ El Diario, 'Más de un año separados de sus hijos por una decisión "precipitada" y sustentada en "meras conjeturas"', 6 January 2023, available in Spanish at: <https://tinyurl.com/23y45vcr>.

⁸⁰² Ministerio de Derechos Sociales y Agenda 2030, 'Estrategia estatal de derechos de la infancia y de la adolescencia (2023-2030)', May 2023, available in Spanish at: <https://tinyurl.com/yec99pr4>.

⁸⁰³ Portal de Transparencia, Ministerio de Juventud e Infancia, available at: <https://tinyurl.com/42y8z6wa>.

⁸⁰⁴ Servimedia, 'Sira Rego apuesta por un plan integral de atención, protección e inclusión de menores migrantes', 20 February 2024, available at: <https://tinyurl.com/3bkmukxt>.

⁸⁰⁵ Plataforma de Infancia, 'Posicionamiento sobre la infancia acompañada en el sistema de asilo en España', December 2023, available at: <https://tinyurl.com/yc7n85tu>.

⁸⁰⁶ Europa Press, 'Unicef pide para los menores migrantes de Canarias el mismo trato que se da a los refugiados de Ucrania', 20 February 2024, available at: <https://tinyurl.com/2cv5mk9j>; UNICEF, "La respuesta de España a la crisis de Ucrania: ¿Un punto de inflexión en la protección de la infancia en contexto de contingencias humanitarias migratorias?", January 2024, available at: <https://tinyurl.com/2zed9r53>.

⁸⁰⁷ Amnistía Internacional, 'AI: En el Día Internacional para la Eliminación de la Discriminación Racial recordamos la masacre de Sharpeville y el racismo institucional', 21 March 2023, available in Spanish at: <https://bit.ly/3nEocfR>.

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.⁸⁰⁸ In light of that, different organisations expressed concerns regarding the hate and xenophobic messages expressed by leading politicians.⁸⁰⁹ 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.⁸¹⁰ 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.⁸¹¹ In June, Accem denounced the increase in discrimination, racism and xenophobia against migrants in **Ávila** and the barriers they face in accessing their rights.⁸¹² In July, different organisations and groups in **Cataluña** issued a press release under the slogan '#DoyConElPerfil', to denounce the racism in the investigations carried out by the police.⁸¹³ During the same month, two organisations denounced the aggression of a Moroccan migrant residing in Níjar (**Almería**) by the police while attempting to enter the patronal feasts.⁸¹⁴ 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.⁸¹⁵ 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.⁸¹⁶ 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 2019.⁸¹⁷

In April 2022, the Government adopted the Second Action Plan to Fight against Hate Crimes for 2022-2024,⁸¹⁸ while in July it approved the comprehensive law on equal treatment and discrimination,⁸¹⁹ 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.⁸²⁰ 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.⁸²¹

⁸⁰⁸ Contra Información, 'Vox utiliza el ataque de Algeciras para culpabilizar a la población migrante y romper la convivencia', 27 January 2023, available in Spanish at: <https://tinyurl.com/4nt4nnx2>.

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/vkkdwb8v>.

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>.

⁸¹¹ CEAR, 'El racismo y la xenofobia se deben combatir todos los días y en todos los ámbitos', 30 May 2023, available in Spanish at: <https://rebrand.ly/xmvhcrk>.

⁸¹² El Diario de Ávila, 'Accem denuncia un «auge» de conductas discriminatorias', 13 June 2023, available in Spanish at: <https://rebrand.ly/rqrhr2z>.

⁸¹³ SOS Racisme, 'Comunicado: #DoyConElPerfil - Convocatoria contra la discriminación racial en las investigaciones policiales', 17 July 2023, available in Spanish at: <https://rebrand.ly/3vbj0j1>.

⁸¹⁴ El Salto Diario, 'Denuncian una agresión policial a un joven migrante en Almería', 11 June 2023, available in Spanish at: <https://rebrand.ly/4ir8m91>.

⁸¹⁵ Antena 3, El Ayuntamiento de Ripoll publicita la expulsión de un migrante como si fuera un triunfo', 19 July 2023, available in Spanish at: <https://tinyurl.com/5n78hadn>.

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/q7o1k>.

⁸¹⁷ El Diario, 'Los Mossos d'Esquadra expulsan a los seis agentes condenados por agredir a un joven al grito de "negro de mierda"', 18 September 2023, available in Spanish at: <https://rb.gy/bhu7u>.

⁸¹⁸ Ministerio del Interior – Secretaría de Estado de Seguridad, 'El Plan de Acción de Lucha contra los Delitos de Odio, 2022-2024', April 2022, available in Spanish at: <https://bit.ly/43c8gBY>.

⁸¹⁹ Boletín Oficial del Estado, 'Ley 15/2022, de 12 de julio, integral para la igualdad de trato y la no discriminación', 13 July 2022, available in Spanish at: <https://bit.ly/3ZAVtG7>.

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/3MjIhIM>.

⁸²¹ Defensor del Pueblo, 'Informe anual 2022 – Volumen I', March 2023, available in Spanish at: <https://bit.ly/40GEOIN>.

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 personas 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

⁸²² SOS Racisme, '(In)Visibles. L'estat del racisme a Catalunya. Informe 2022', March 2023, available in Spanish at: <https://bit.ly/3znYPIf>; Público, 'Los extranjeros tienen tres veces más probabilidades de ser identificados por la Policía que los españoles', 30 November 2022, available in Spanish at: <https://bit.ly/3nFzgCK>.

⁸²³ Rights International Spain, 'Encuesta sobre identificaciones policiales basadas en uso del perfilamiento étnico y racial', May 2023, available in Spanish at: <https://rebrand.ly/j8848ps>.

⁸²⁴ APDHA, 'Informe | El 62% de las personas cordobesas de origen migrante y el 72% de las de etnia gitana manifiestan serias dificultades para acceder a una vivienda en alquiler', 16 May 2023, available at: <https://rebrand.ly/9j0ywwq1>.

⁸²⁵ SOS Racismo, 'Informe sobre el racismo en el estado español. Datos cuantitativos denuncias – 2023', June 2023, available in Spanish at: <https://rebrand.ly/th1o8kc>.

⁸²⁶ Ministerio de Inclusión, Seguridad Social y Migraciones, 'El Gobierno aprueba el nuevo Marco Estratégico contra el Racismo y la Xenofobia', 4 July 2023, available in Spanish at: <https://rebrand.ly/kfzsv7u>.

⁸²⁷ El Diario, 'El PP se suma al discurso xenófobo de Vox ante la crisis migratoria', 26 October 2023, available in Spanish at: <https://tinyurl.com/ypr637hj>.

⁸²⁸ Cadena Ser, 'Médicos del Mundo ha detectado 176 casos de "racismo institucional" en Ibiza en lo que va de año', 9 November 2023, available in Spanish at: <https://tinyurl.com/2nv78nfe>.

⁸²⁹ CEAR, 'CEAR reivindica la garantía de derechos y el valor de la convivencia en el Día de las Personas Migrantes', 18 December 2023, available in Spanish at: <https://tinyurl.com/4ajrbhu9>.

⁸³⁰ El Confidencial, 'Los centros de refugiados llegan a ciudades de provincia, y con ellos los "no soy racista, pero"', 21 January 2023, available in Spanish at: <https://bit.ly/3IVBMLz>.

in Melilla by the police.⁸³¹ In September 2023, the Provincial Court of Málaga condemned seven inhabitants of Melilla for disseminating violent and racist posts against unaccompanied migrant children in Facebook.⁸³²

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 impede 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.⁸³⁴ 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

⁸³¹ Solidarity Wheels, 'Marhaba. Violencia policial como producto de la violencia sistémica en Melilla, 2020-2022', April 2023, available in Spanish at: <https://tinyurl.com/3ueckc29>.

⁸³² Cadena Ser, 'Siete condenados a prisión por delitos de odio tras difundir mensajes racistas e incitar a la violencia contra menores extranjeros', 25 September 2023, available in Spanish at: <https://rb.gy/099dt>.

⁸³³ CEAR, 'La exclusión financiera afecta a miles de personas migrantes y refugiadas en el Estado español', 15 February 2022, available in Spanish at: <https://bit.ly/3t6OrKT>.

⁸³⁴ No Clames, Reclama, 'Guía Cuentas de Pago Básicas. Consumidores Vulnerables', 2022, available in Spanish at: <https://bit.ly/3lZnthS>.

⁸³⁵ CEAR, 'Sin barreras para nadie. Personas migrantes y refugiadas en el acceso a los Derechos Económicos, Sociales y Culturales (DESC)', March 2023, available in Spanish at: <https://bit.ly/3Kv5dgW>.

⁸³⁶ Público, 'Racismo sanitario en España: así de complicado es para los migrantes el acceso a la atención médica', 29 November 2022, available in Spanish at: <https://bit.ly/3ZwmaMd>.

⁸³⁷ ILGA, '2023 Annual review of the human rights situation of lesbian, gay, bisexual, trans and intersex people in Europe and Central Asia', February 2023, available at: <https://bit.ly/411KYwL>.

⁸³⁸ 20 minutos, 'Los mossos investigan la agresión a una joven trans en un parque de Barcelona al grito de "travero de mierda"', 14 January 2023, available in Spanish at: <https://bit.ly/3UeHp48>.

⁸³⁹ El Diario, 'Vox retira la lona donde tiraba a la basura la bandera LGTBI o el feminismo tras la orden de la Junta Electoral', 27 June 2023, available in Spanish at: <https://tinyurl.com/57d2hkch>.

⁸⁴⁰ El Diario, 'Queman una bandera LGTBI en el municipio granadino de Purullena', 23 July 2023, available in Spanish at: <https://tinyurl.com/mpm6y>.

⁸⁴¹ La Merced Migraciones, 'Resistencias cuenta las historias de 15 personas LGTBI migrantes', 22 December 2023, available in Spanish at: <https://tinyurl.com/5afu9dfk>.

In occasion of the 2023 World Day against LGBTI-phobia, the National Federation of Lesbians, Gays, trans, Bisexual, Intersexual and More (FELGBTI+⁸⁴², according to its initials in Spanish) published the results of a survey denouncing that more than 280,000 LGBTI+ persons suffered aggressions in the last 5 years in Spain.⁸⁴³ Despite the advanced legislation on the matter in Spain, LGBTI+ migrants and refugees continue to suffer discrimination in accessing their rights.⁸⁴⁴

UNHCR continued its collaboration with the Spanish Federation of LGBTIQ+ Associations (FELGTBI+) launching a joint training course on asylum for LGBTIQ+ NGOs, providing observations to the *Law on the real and effective equality of transgender people and the rights of LGBTIQ+ 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 LGBTI+ rights after the elections.⁸⁴⁶

In June 2022, the Government approved a law on the equality of transgender individuals and on additional guarantees of LGBTI+ persons' rights, which foresees also 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 LGBTI+ 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.

⁸⁴² Federación Estatal de Lesbianas, Gais, Trans, Bisexuales, Intersexuales y más - FELGBTI+, available in Spanish at: <https://felgtbi.org/>.

⁸⁴³ FELGBTI+, 'Más de 280.000 personas LGBTI+ sufrieron agresiones en los últimos cinco años', 17 May 2023, available at: <https://rebrand.ly/bppgo87>.

⁸⁴⁴ Público, 'Migrantes y refugiados LGBTI+ sufren más discriminación pese a la avanzada legislación española', 30 June 2023, available in Spanish at: <https://tinyurl.com/473k4293>.

⁸⁴⁵ Information provided by UNHCR in April 2024.

⁸⁴⁶ Europa Press, 'Amnistía Internacional pide a los partidos compromiso "sin ambigüedad" para "consolidar" los derechos LGBTI tras el 23J', 26 June 2023, available in Spanish at: <https://tinyurl.com/yfh8hrm4>.

⁸⁴⁷ La Moncloa, 'El Gobierno aprueba el proyecto de ley para la igualdad de las personas trans y la garantía de los derechos LGBTI', 27 June 2022, available in Spanish at: <https://bit.ly/3zvLEPi>.

⁸⁴⁸ Amnesty International, 'AI: ley LGBTI, o cuando el DNI tiene que ver con los derechos humanos', 2 November 2022, available in Spanish at: <https://bit.ly/40CTpyt>.

⁸⁴⁹ FELGTBI+, see: <https://felgtbi.org/>.

⁸⁵⁰ La Vanguardia, 'La Felgtbi+ exige garantizar el cambio registral de género a las personas trans migrantes, al margen de su situación administrativa', 16 December 2022, available in Spanish at: <https://bit.ly/436jzeE>.

⁸⁵¹ Boletín Oficial del estado, 'Ley 4/2023, de 28 de febrero, para la igualdad real y efectiva de las personas trans y para la garantía de los derechos de las personas LGBTI', March 2023, available at: <https://tinyurl.com/m88ftbnp>.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
- ☐ Yes ☒ With limitations ☐ No

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.

⁸⁵² Tribunal Supremo, Sala de lo Contencioso, STS 2497/2020, 29 July 2020, available in Spanish at: <https://bit.ly/3bBeLWw>; Tribunal Supremo, Sala de lo Contencioso, STS 2662/2020, 29 July 2020, available in Spanish at: <https://bit.ly/2N6iqBt>.

⁸⁵³ Tribunal Supremo, Sala de lo Contencioso-Administrativo, Decision nº 173/2021, 10 February 2021, available in Spanish at: <https://bit.ly/3qpUOqa>; Tribunal Supremo, Sala de lo Contencioso-Administrativo, Decision nº 508/2021, 14 April 2021, available in Spanish at: <https://bit.ly/3q79dbQ>.

⁸⁵⁴ CEAR, *Refugiados y migrantes en España: Los muros invisibles tras la frontera sur*, December 2017, available in Spanish at: <http://bit.ly/2mEUPqH>, 22-26.

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:

Year	2017	2018	2019	2020	2021	2022	2023
Total number of persons in detention	8,814 ⁸⁵⁵	7,855 ⁸⁵⁶	6,473 ⁸⁵⁷	2,224 ⁸⁵⁸	1,841 ⁸⁵⁹	2,082 ⁸⁶⁰	N/A

According to the 2022 Annual Report of the Spanish Ombudsperson, 2,082 migrants were detained in 2022.⁸⁶¹

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.⁸⁶²

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.⁸⁶³

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

⁸⁵⁵ *Ibidem.*

⁸⁵⁶ *Ibidem.*

⁸⁵⁷ Servicio Jesuita a Migrantes, 'Informe CIE 2019. Diez años mirando a otro lado', July 2020, available in Spanish at: <https://bit.ly/3Ljljtn>.

⁸⁵⁸ Servicio Jesuita a Migrantes, 'Informe CIE 2020. Razón jurídica y sin razón política – Anexo', June 2021, available in Spanish at: <https://bit.ly/3GXh451>, 5.

⁸⁵⁹ Servicio Jesuita a Migrantes, 'Informe CIE 2021. Territorio hostil. Formas diversas de hostilidad en los CIE – Anexo de Cifras', May 2022, available in Spanish at: <https://bit.ly/40JQ5Sv>.

⁸⁶⁰ Defensor del Pueblo, 'Informe anual 2022 – Volumen I', March 2023, p. 168, available in Spanish at: <https://bit.ly/3Kcqaf1>.

⁸⁶¹ *Ibidem.*

⁸⁶² Ministerio del Interior, Subsecretaría del Interior, Dirección General de Política 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: <https://tinyurl.com/34jtmrh8>.

⁸⁶³ 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.⁸⁶⁴ 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.⁸⁶⁵ Amnesty International and the campaign 'CIEsNO' asked Spain to pressure Algeria to free the activist.⁸⁶⁶ He finally obtained a visa to return to Spain.⁸⁶⁷

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 2021.⁸⁶⁸ 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 800,000.⁸⁶⁹ After the closure of the facility, inmates have been transferred to another CIE, returned to their countries of origin or freed.⁸⁷⁰
- ❖ 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 urgency, 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.⁸⁷¹ 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.⁸⁷² At least three among them applied for asylum at the CIE,

⁸⁶⁴ El Periódico, 'Interior desobedece a la Audiencia Nacional y deporta desde Valencia a un argelino que denunció torturas', 23 May 2022, available in Spanish at: <https://bit.ly/3JxneJq>.

⁸⁶⁵ Cadena Ser, 'Un tribunal militar de Argel condena a pena de muerte al activista Mohamed Benhalima, que deportó España', 14 May 2022, available in Spanish at: <https://bit.ly/3bwMD9o>; El Español, 'El disidente argelino que deportó Marlaska cumple 3 semanas en aislamiento "desnutrido y aturdido"', 6 June 2022, available in Spanish at: <https://bit.ly/3vzEGqP>.

⁸⁶⁶ Cope, 'Amnistía pide a España presionar a Argelia para liberar a condenado a muerte', 17 May 2022, available in Spanish at: <https://bit.ly/3zVIsqy>; Levante, 'CIEs NO pide el retorno "urgente" del argelino deportado en contra de la Audiencia Nacional', 24 May 2022, available in Spanish at: <https://bit.ly/3BFRkrV>.

⁸⁶⁷ Público, 'El argelino deportado por Interior en contra de la Audiencia Nacional consigue el visado para volver a España', 26 May 2022, available in Spanish at: <https://bit.ly/3bABuEp>.

⁸⁶⁸ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Marco Estratégico de Redacción del Programa Nacional de España en el Fondo De Asilo, Migración e Integración para el periodo 2021-2027', 2021, available in Spanish at: <https://bit.ly/3InWb2d>, 39.

⁸⁶⁹ El Español, 'Interior gastará más de 800.000 € en remodelar el CIE de Madrid que Podemos pide cerrar', 5 January 2023, available in Spanish at: <https://bit.ly/3WgOmT9>.

⁸⁷⁰ Tele Madrid, 'Cierra el centro de extranjería de Aluche cinco meses por obras', 17 January 2023, available in Spanish at: <https://bit.ly/3XJDIOy>.

⁸⁷¹ Europa Press, 'Los migrantes huidos de un avión en Palma serán trasladados este miércoles a un CIE de Barcelona', 18 January 2023, available in Spanish at: <https://bit.ly/3GViaxc>.

⁸⁷² Europa Press, 'El migrante que provocó la huida de otros 21 de un avión en Palma queda en libertad al no poder ser expulsado del país', 18 January 2023, available in Spanish at: <https://bit.ly/3HdJaJM>.

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 Mayor 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

⁸⁷³ Diario de Mallorca, ‘Varios migrantes del avión patera de Son Sant Joan piden en el CIE asilo político en España’, 21 January 2023, available in Spanish at: <https://bit.ly/3WuE6Fi>.

⁸⁷⁴ Público, ‘Denuncian la apertura por sorpresa del módulo de mujeres del CIE de Barcelona’, 21 February 2023, available in Spanish at: <https://bit.ly/3Kzohe8>.

⁸⁷⁵ La Vanguardia, ‘El CGPJ pide aplicar el protocolo forense a los detenidos en prisiones y CIE’, 23 February 2023, available in Spanish at: <https://bit.ly/3INWUvA>.

⁸⁷⁶ Europa Press, ‘Vox quiere prohibir que las solicitudes de protección o asilo se puedan pedir desde los CIE’, 17 February 23, available in Spanish at: <https://bit.ly/3Kuq986>.

⁸⁷⁷ Público, ‘Encierran un mes en el CIE de València a un joven marroquí extutelado a pesar de que un juez suspendió su expulsión’, 9 March 2023, available in Spanish at: <https://bit.ly/3ZZ3QM3>; Europa Press, ‘CIEs NO denuncia el encierro durante un mes en Zapadores de un joven extutelado que tenía suspendida la expulsión’, 8 March 2023, available in Spanish at: <https://bit.ly/3ZYINdI>.

⁸⁷⁸ La Vanguardia, ‘Unidas Podemos denuncia en el Congreso el caso del joven extutelado que estuvo un mes encerrado en el CIE de Zapadores’, 9 March 2023, available in Spanish at: <https://bit.ly/3yFofdJ>.

⁸⁷⁹ El Salto Diario, ‘El Defensor del Pueblo investiga el encierro ilegal en el CIE Zapadores durante un mes de un joven extutelado’, 8 June 2023, available in Spanish at: <https://tinyurl.com/mtscr52m>.

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://bit.ly/3ThiCML>.

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://bit.ly/3YMVlxf>.

⁸⁸² Algeciras al minuto, ‘La Coordinadora CIEs No se concentra mañana en Algeciras’, 23 March 2023, available in Spanish at: <https://tinyurl.com/3fhkf4tc>.

⁸⁸³ Izquierda Diario, ‘Racismo: El Estado español albergará el CIE “más social y más humanizado”’, 15 June 2023, available in Spanish at: <https://tinyurl.com/ye22db4y>; Viva Jaén, ‘La construcción del nuevo CIE de Algeciras encara su recta final’, 26 October 2023, available in Spanish at: <https://tinyurl.com/mv86x2ux>.

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>.

⁸⁸⁵ Europa Sur, ‘El nuevo CIE de Algeciras se prepara para entrar en funcionamiento antes del verano’, 30 January 2024, available at: <https://tinyurl.com/ye27838c>.

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

⁸⁸⁶ El Correo de Andalucía, 'Diez años y 22 millones de euros después, Algeciras tendrá el CIE más grande de España', 2 March 2024, available at: <https://tinyurl.com/yc7zm5hy>.

⁸⁸⁷ Público, 'Nos sobran razones para el cierre de los CIEs en España', 15 June 2023, available in Spanish at: <https://tinyurl.com/2v8aknah>.

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>.

⁸⁸⁹ Europa Sur, 'Una marcha demanda en Algeciras el cierre de los Centros de Internamiento de Extranjeros', 4 November 2023, available at: <https://tinyurl.com/y4fztpfa>.

⁸⁹⁰ Madrid Press, 'Reabre el CIE de Aluche tras casi un año de obras', 11 December 2023, available at: <https://tinyurl.com/bdfwb9nr>.

⁸⁹¹ El Diario, 'Una protesta exige en València el cierre de los CIE y "políticas dignas" que "no criminalicen" la migración', 17 December 2023, available at: <https://tinyurl.com/3ymvz2ac>; Cadena Ser, 'Entidades sociales denuncian que el CIE de Zapadores sigue sin garantizar "una vida digna" a las personas internas', 17 December 2023, available in Spanish at: <https://tinyurl.com/29nzs7fs>.

⁸⁹² Defensor del Pueblo, 'Informe anual 2022 – Volumen I', March 2023, available in Spanish at: <https://bit.ly/3U9Dvt8>.

⁸⁹³ Court of Justice of the European Union, Case C-568/19, Judgement 8 October 2020, available at: <https://bit.ly/3avGw1H>; El País, 'Una sentencia europea impide a España expulsar inmigrantes solo por estar en situación irregular', 13 November 2020, available in Spanish at: <https://bit.ly/3s9DKia>.

⁸⁹⁴ Fiscalía General del Estado, 'Memoria elevada al Gobierno de S. M. presentada al inicio del año judicial por el Fiscal General del Estado Excmo. Sr. Don Álvaro García Ortiz', September 2023, p. 1148, available at: <https://tinyurl.com/ms9cyha5>.

⁸⁹⁵ Laura Zanón, 'Los CIE: instrumentos de sufrimiento inútil', April 2023, available at: <https://tinyurl.com/4ekdvxab>, 17.

⁸⁹⁶ Ministerio del Interior, Subsecretaría del Interior, Dirección General de Política 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: <https://tinyurl.com/34jtmrh8>.

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.⁸⁹⁷

In June 2023, an investigation against the Chief of the National Police of Irún (Basque Country) was opened after he issued an order providing for days off to police officers who apprehended undocumented migrants.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.⁸⁹⁹

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained

❖ on the territory:	☐ Yes	☒ No
❖ at the border:	☒ Yes	☐ No
2. Are asylum seekers detained during a regular procedure in practice?

☐ Frequently	☐ Rarely	☒ Never
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3. Are asylum seekers detained during a Dublin procedure in practice?

☐ Frequently	☐ Rarely	☒ Never
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The legal framework of administrative detention of third-country nationals in Spain is set out by the Aliens Act.

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;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;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.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.⁹⁰³

⁸⁹⁷ El País, 'El Constitucional ampara a un inmigrante que iba a ser devuelto a Marruecos sin la asistencia de un abogado', 6 October 2022, available in Spanish at: <https://bit.ly/3VongRU>; Epe, 'El Constitucional recrimina a la Policía y un juzgado que vulneraran los derechos de un migrante', 24 October 2022, available in Spanish at: <https://bit.ly/3iDN1Gk>.

⁸⁹⁸ Público, 'Expedientan a un jefe de Policía que ofreció días libres por cada migrante detenido en Irún', 7 June 2023, available in Spanish at: <https://tinyurl.com/f8st4pbc>; Diario Vasco, 'Concentración en Irún contra «la caza del migrante»', 11 June 2023, available in Spanish at: <https://tinyurl.com/4xrzybsy>.

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>.
Articles 53-54 Aliens Act.

⁹⁰⁰ Article 58(6) Aliens Act.

⁹⁰¹ Article 63(1)(a) Aliens Act.

⁹⁰² Defensor del Pueblo, 'Informe anual 2020. Mecanismo Nacional de Prevención', June 2021, available in Spanish at: <https://bit.ly/3iDpFZj>.

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.⁹⁰⁴

Asylum seekers are not detained during the Dublin procedure. It should be recalled that Spain initiates very few Dublin procedures (see [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 *ad hoc* spaces (*Salas de Inadmisión de Fronteras*) with restricted freedom of movement, until their application is declared admissible.⁹⁰⁵ This amounts *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 [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, *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.⁹⁰⁶

2. Alternatives to detention

Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?

☒	Reporting duties
☒	Surrendering documents
☐	Financial guarantee
☒	Residence restrictions
☐	Other
2. Are alternatives to detention used in practice?

☐	Yes	☒	No
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There are no provisions under Spanish law regarding alternatives to detention for asylum seekers; meaning applicants in CIE, penitentiary centres or *ad hoc* spaces at borders.

Under the Aliens Act,⁹⁰⁷ 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;

⁹⁰⁴ Servicio Jesuita a Migrantes, 'Informe CIE 2021. Territorio hostil. Formas diversas de hostilidad en los CIE', May 2022, available in Spanish at: <https://bit.ly/3GhWNH0>.

⁹⁰⁵ Article 22 Asylum Act.

⁹⁰⁶ Defensor del Pueblo, 'Informe anual 2022 – Anexo A - Informe Completo del Mecanismo Nacional De Prevención (MNP)', March 2023, available in Spanish at: <https://bit.ly/439Ydgl>.

⁹⁰⁷ Article 61 Aliens Act.

- (c) Withdrawal of passport or proof of nationality;
- (d) Precautionary detention, requested by the administrative authority or its agents, for a maximum period of 72 hours prior to the request for detention;
- (e) Preventive detention, before a judicial authorisation in detention centres;
- (f) 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

⁹⁰⁸ Global Detention Project, *Country report Spain*, May 2020, available at: <https://bit.ly/3sruJaU>.

⁹⁰⁹ Europapress, ‘CEAR asegura que se ha demostrado “existen alternativas” a los CIE tras su cierre por el Covid-19’, 19 June 2020, available in Spanish at: <https://bit.ly/36VvrF5>; Alfa y Omega, ‘Es hora de buscar alternativas a los CIE’, 21 October 2020, available in Spanish at: <https://bit.ly/2NEq2M7>; Revista Ecclesia, ‘Marifrán Sánchez: «Hay que buscar vías alternativas a los CIE»’, 24 September 2020, available in Spanish at: <https://bit.ly/3aS8Fir>.

⁹¹⁰ Cáritas, *“Invisibles en la última frontera, Manual jurídico para la defensa de los extranjeros en los centros de internamiento”*, December 2020, available in Spanish at: <https://bit.ly/2YpPzKF>, 26.

⁹¹¹ Europa Sur, ‘La Coordinadora CIEs No exige una vez más el cierre del centro de Algeciras’, 27 March 2021, available in Spanish at: <https://bit.ly/3DjVYZW>.

⁹¹² Cope, *El Servicio Jesuita a Migrantes defiende los programas de ayuda humanitaria como alternativa a los CIE*, 14 April 2021, available in Spanish at: <https://bit.ly/3sRBRi2>.

⁹¹³ Info Libre, ‘La pandemia pone en evidencia el modelo de los CIE: estuvieron cerrados cinco meses y “España sobrevivió”’, 4 June 2021, available in Spanish at: <https://bit.ly/3GIfwPv>; Servicio Jesuita a Maigrantes, ‘Informe CIE 2020 «Razón jurídica y sinrazón política»’, 4 June 2021, available in Spanish at: <https://bit.ly/3IGzA74>; Público, ‘Es posible vivir sin CIE’, 17 June 2021, available in Spanish at: <https://bit.ly/3IJZxCW>.

⁹¹⁴ CEAR, ‘INFORME 2022: Las personas refugiadas en España y Europa’, June 2022, available in Spanish at: <https://bit.ly/410xT6P>, 136.

Children shall not be detained as a rule,⁹¹⁵ but the Aliens Act foresees the possibility of detaining families with children.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).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.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

Indicators: Duration of Detention

- | | |
|--|---------------|
| 1. What is the maximum detention period set in the law (incl. extensions): | |
| ❖ CIE | 60 days |
| ❖ Border detention facilities | 8 days |
| 2. In practice, how long in average are asylum seekers detained? | Not available |

The maximum detention period that a person can stay in a CIE is 60 days, after which they must be released.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.⁹²⁰

The maximum duration of persons' *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.

⁹¹⁵ Article 62(4) Aliens Act.

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.

⁹¹⁷ Mecanismo Nacional de Prevención de la Tortura, Defensor del Pueblo, 'Informe Anual 2022. Anexo D - Lugares y centros de detención de personas extranjeras y procedimientos que se les aplican', March 2023, available in Spanish at: <https://tinyurl.com/39detvye>.

⁹¹⁸ Servicio Jesuita a Migrantes, 'Informe CIE 2022. Diferencias que generan desigualdad', June 2023, available in Spanish at: <https://tinyurl.com/yc6w5adx>.

⁹¹⁹ Article 62(2) Aliens Act.

⁹²⁰ Servicio Jesuita a Migrantes, 'Informe CIE 2022. Diferencias que generan desigualdad. Anexo de cifras', June 2023, available in Spanish at: <https://tinyurl.com/3f3cyf9r>.

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

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)? ☐ Yes ☒ No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? ☐ Yes ☒ No

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).⁹²¹ 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 2012.⁹²² Taking into consideration the high costs and the fact that it remained empty for 6 years, the CIE was closed in June 2018.⁹²³ 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 2021.⁹²⁴ The works for the partial reform of the facility as CIE are still ongoing at the time of writing.⁹²⁵

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.⁹²⁶

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

⁹²¹ For more information on CIE, see Servicio Jesuita a Migrantes, '*Informe CIE 2019. Diez años mirando al otro lado*', December 2020, available in Spanish at: <https://bit.ly/3p8aAEw>, 4.

⁹²² El Confidencial, 'Dos documentos oficiales elevan a más de 4 millones de euros el gasto en un CIE vacío', 3 December 2017, available in Spanish at: <http://bit.ly/2EHWW8f>.

⁹²³ El Diario, 'Interior ordena el cierre del CIE de Fuerteventura, que ha gastado millones de fondos públicos pese a estar vacío', 26 June 2018, available in Spanish at: <https://bit.ly/2FFLWs1>.

⁹²⁴ Radio sintonía, 'Cierra el antiguo CIE de El Matorral', 25 November 2021, available at: <https://bit.ly/3EnXFxY>; Diario Fuerteventura, 'El campamento de inmigrantes de El Matorral cerrará a finales de noviembre', 26 November 2021, available in Spanish at: <https://bit.ly/3EpgpGg>.

⁹²⁵ Servicio Jesuita a Migrantes, '*Informe CIE 2022. Diferencias que generan desigualdad*', June 2023, available in Spanish at: <https://tinyurl.com/yc6w5adx>

⁹²⁶ Defensor del Pueblo, '*Informe anual 2019. Mecanismo Nacional de Prevención*', October 2020, available in Spanish at: <https://bit.ly/3p6qWxH>, 66.'

Public Prosecutor office noted that some improvements could be observed in the conditions of different CIEs visited by the Public Prosecutor Offices.⁹²⁷

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,⁹²⁸ and made similar observations concerning the CATEs of Almería, Motril (Granada), Málaga and Cartagena (Murcia).⁹²⁹ 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.⁹³⁰

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.⁹³¹

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**.⁹³² These rooms are owned by the public company AENA and are guarded by agents of the National Police.

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

- | | | |
|---|---|--|
| 1. Do detainees have access to health care in practice? | ☒ Yes | ☐ No |
| ❖ If yes, is it limited to emergency health care? | ☐ Yes | ☒ No |

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.

⁹²⁷ Fiscalía General del estado, ‘Memoria de la Fiscalía General del estado (Ejercicio 2022)’, September 2023, available at: <https://tinyurl.com/46a2ae2j>.

⁹²⁸ Defensor del Pueblo, ‘Informe anual 2022. Volumen I’, March 2023, available in Spanish at: <https://bit.ly/3nYguNZ>.

⁹²⁹ Ibidem.

⁹³⁰ US Department of State, 2022 Country Reports on Human Rights Practices: Spain, 20 March 2023, available at: <https://bit.ly/3mpsNCl>.

⁹³¹ Information provided by OAR, 8 March 2019.

⁹³² Defensor del Pueblo, *Mapa de los centros de privación de libertad*, 5 February 2018, available in Spanish at: <http://bit.ly/2EDjc30>.

The CIE Regulation,⁹³³ adopted in 2014, provides in its Article 3 that:

“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.”

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,⁹³⁴ and by several organisations of the third sector, academic institutions⁹³⁵ and media. In addition, valuable information is contained in the rulings of the judicial bodies responsible for controlling stays in the CIE (*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.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.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 [2020](#) and [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 **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.⁹³⁸

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.

⁹³⁴ See e.g. <http://bit.ly/1MgSHz2>.

⁹³⁵ Servicio Jesuita a Migrantes, *Sufrimiento Inútil – Informe CIE 2017*, June 2018, 8.

⁹³⁶ El País, ‘El Supremo anula cuatro artículos de la norma de los Centros de Internamiento’, 27 January 2015, available at: <http://bit.ly/1uAbrvf>.

⁹³⁷ Servicio Jesuita a Migrantes, ‘Informe CIE 2022. Diferencias que generan desigualdad’, June 2023, available in Spanish at: <https://tinyurl.com/yc6w5adx>.

⁹³⁸ El Diario, ‘Un juez abre un expediente de control al CIE de Valencia por las denuncias de “espionaje” de las ONG’, 14 February 2023, available in Spanish at: <https://bit.ly/3xPQwhm>; Cadena Ser, ‘Un juzgado de València pide al CIE de Zapadores que informe sobre un supuesto espionaje de policías a internos’, 14 February 2023, available in Spanish at: <https://bit.ly/3m5jK8Z>.

- ❖ In April the political party *Unidas Podemos* asked the Minister of Interior for explanations on the poor food conditions at CIEs.⁹³⁹
- ❖ During the same month, the Supervising Judge of the CIE of Valencia asked to the employees of the facility to respect the privacy of inmates during their meetings with NGOs, lawyers and family members.⁹⁴⁰
- ❖ In June a migrant detained at the CIE of **Valencia** was deported to Paraguay, allegedly for having reported to the competent Judge that he was subjected to beatings and threats by the police while in detention. According to the campaign *CIEsNO*, the man was also physically assault during the carrying out of the expulsion.⁹⁴¹
- ❖ During the same month, the campaign *CIEsNO* denounced the expulsion of 36 inmates detained at the CIE of **Valencia**, as a response to the hunger strike they carried out to denounce the bad conditions of the facility and the inhumane treatment by the police⁹⁴², and to the following report lodged at the competent Judge.⁹⁴³
- ❖ In addition, the same campaign urged for the immediate release of a blind inmate following serious violations of his fundamental rights (i.e. lack of appropriate assistance according to his disability, lack of appropriate facilities to guarantee his movement and stay, etc.).⁹⁴⁴
- ❖ In July the campaign *CIEsNO Valencia* urged for to release of a person detained at the CIE of **Valencia** due to his serious health conditions that could worsen in case of prolonged detention or expulsion.⁹⁴⁵ Following the public appeal, a medical examiner entered the facility to check on the inmate's conditions.⁹⁴⁶
- ❖ In September the Platform 'CIEsNO' denounced another assault against an inmate by the National Police at the CIE of Zapadores (**Valencia**).⁹⁴⁷
- ❖ 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.⁹⁴⁸ In addition, the Spanish Ombudsperson started an investigation on the issue.⁹⁴⁹
- ❖ 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.⁹⁵⁰ Despite that, the Minister of Interior instead decided to anticipate their expulsion to Bolivia.⁹⁵¹ The political party 'Compromís' denounced the fact that the hastening of the deportation was decided without any justification.⁹⁵²

⁹³⁹ Europa Press, 'UP 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>.

⁹⁴⁰ 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>.

⁹⁴¹ Público, 'Expulsan de España a un migrante que denunció agresiones policiales', 5 July 2023, available in Spanish at: <https://tinyurl.com/rs82v8bu>.

⁹⁴² Onda Cero, 'Migrantes del CIE Zapadores denuncian trato inhumano por parte de la Policía Nacional', 19 June 2023, available in Spanish at: <https://tinyurl.com/3sj6rc2m>.

⁹⁴³ El Salto Diario, 'El gobierno pretende expulsar a los huelguistas de hambre del CIE de València', 23 June 2023, available in Spanish at: <https://tinyurl.com/mtfj6dta>; Levante, 'Deportan de urgencia a extranjeros que denunciaron maltrato en el CIE de València', 23 June 2023, available in Spanish at: <https://tinyurl.com/4p6788nf>.

⁹⁴⁴ Levante, 'Ciego y sin bastón, encerrado en el CIE', 14 June 2023, available in Spanish at: <https://tinyurl.com/yck2e9rm>.

⁹⁴⁵ El Salto Diario, 'CIEs NO Valencia exige la liberación de un interno en Zapadores que se halla en grave riesgo por enfermedad', 26 July 2023, available in Spanish at: <https://tinyurl.com/2u27hber>.

⁹⁴⁶ Levante, 'Un forense entra al CIE de Valencia para ver a un interno con una enfermedad grave', 26 July 2023, available in Spanish at: <https://tinyurl.com/s29t4bk5>.

⁹⁴⁷ El Diario, 'CIEs No denuncia una nueva agresión de un policía a un interno en el centro de Zapadores en València', 1 September 2023, available in Spanish at: <https://tinyurl.com/3c43bzck>.

⁹⁴⁸ El Diario, 'Sumar traslada al Congreso el espionaje y las irregularidades denunciadas por las ONG en el CIE de València', 20 September 2023, available in Spanish at: <https://tinyurl.com/2xxd8vzt>.

⁹⁴⁹ Servired, '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/yc5h79d7>.

⁹⁵⁰ El Diario, 'Denuncian "grave riesgo para la salud" de un interno en el CIE de València de 68 años con VIH y enfermedad de Chagas', 22 November 2023, available in Spanish at: <https://tinyurl.com/3pv2dtau>.

⁹⁵¹ El Diario, 'El CIE de València acelera la expulsión a Bolivia de un interno de 68 años con VIH y la enfermedad de Chagas', 23 November 2023, available in Spanish at: <https://tinyurl.com/rwx5fsrj>.

⁹⁵² Público, 'El juez suspende por razones sanitarias la deportación del boliviano enfermo tras un mes encerrado en el CIE de València', 29 November 2023, available in Spanish at: <https://tinyurl.com/y48wkkk7>.

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.

⁹⁵⁴ Madrid Diario, 'Un escrito de los internos del CIE de Aluche denuncia presuntas agresiones policiales', 16 February 2024, available at: <https://tinyurl.com/mzz5uctw>; El País, 'Un juzgado investiga presuntas agresiones de policías a internos del CIE de Aluche, en Madrid', 22 February 2024, available at: <https://tinyurl.com/yuwmeuww>; El Diario, '50 migrantes denuncian en los juzgados agresiones policiales con "puñetazos y patadas en la cabeza" en el CIE de Madrid', 22 February 2024, available at: <https://tinyurl.com/42whney3>.

⁹⁵⁵ Gaceta Madrid, 'Reclaman el cierre del CIE de Aluche tras la última denuncia judicial por supuestos malos tratos', 12 March 2024, available at: <https://tinyurl.com/359ds8ss>.

⁹⁵⁶ Defensor del Pueblo, 'Informe anual 2022 – Volumen I', March 2023, available in Spanish at: <https://tinyurl.com/bdhjbujw>.

⁹⁵⁷ Defensor del Pueblo, 'Informe Anual 2022 – Mecanismo Nacional de Prevención', March 2023, available in Spanish at: <https://tinyurl.com/2xpcx3dj>.

⁹⁵⁸ El Salto Diario, 'La Policía se niega a regular un protocolo de quejas de malos tratos y torturas en los CIE', 13 September 2022, available in Spanish at: <https://bit.ly/3WGCxEy>.

⁹⁵⁹ Defensor del Pueblo, 'Informe Anual 2022 – Mecanismo Nacional de Prevención', March 2023, available in Spanish at: <https://tinyurl.com/2xpcx3dj>, 57.

⁹⁶⁰ Público, 'Los jueces del CIE de Madrid acuerdan un protocolo para investigar las agresiones a internos', 18 May 2022, available in Spanish at: <https://bit.ly/3GArw2i>.

⁹⁶¹ Defensor del Pueblo, 'Informe Anual 2022 – Volumen I', March 2023, available in Spanish at: <https://bit.ly/3ZZLB9d>, 168.

⁹⁶² Servicio Jesuita a Migrantes, 'Diferencias que generan desigualdad. Informe CIE 2022 - ', June 2023, available in Spanish at: <https://cutt.ly/vwsbZIMy>.

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.⁹⁶³

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.⁹⁶⁴

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.⁹⁶⁵

Activities, health care and special needs

The CIE Regulations governs the provision of services for sanitary assistance,⁹⁶⁶ 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.⁹⁶⁷ 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,⁹⁶⁸ and have access to open air spaces.⁹⁶⁹

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.⁹⁷⁰ Similarly, in its 2022 annual report on the situation of CIEs, the Jesuit Migrant Service continued to highlight deficiencies in the provision of medical

⁹⁶³ SOS Racismo, see: <https://sosracismo.eu/sos-racismo-madrid/>.

⁹⁶⁴ 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>.

⁹⁶⁵ 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>.

⁹⁶⁶ Article 14 CIE Regulation.

⁹⁶⁷ Articles 39-47 CIE Regulation.

⁹⁶⁸ Article 42 CIE Regulation.

⁹⁶⁹ Article 40 CIE Regulation.

⁹⁷⁰ Defensor del Pueblo, Informe Anual 2022 – Volumen I, March 2023, available in Spanish at: <https://bit.ly/3ZZLB9d>.

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

⁹⁷¹ Servicio Jesuita a Migrantes, ‘Informe CIE 2022.Diferencias que generan desigualdad’, June 2023, available in Spanish at: <https://tinyurl.com/yc6w5adx>.

⁹⁷² Europa Press, ‘Jueces del CIE de Aluche requieren asistencia sanitaria 24h a internos, atención psicológica e historia clínica digital’, 22 November 2022, available in Spanish at: <https://bit.ly/3gHc7mZ>; La Vanguardia, ‘Los jueces de control del CIE de Madrid piden subsanar sus “graves deficiencias sanitarias”’, 22 November 2022, available in Spanish at: <https://bit.ly/3UcTZiw>.

⁹⁷³ Metropoli Abierta, ‘Abogados de Barcelona darán orientación jurídica a los extranjeros del CIE’, 16 September 2022, available in Spanish at: <https://bit.ly/3R4WlUs>.

⁹⁷⁴ Servicio Jesuita a Migrantes, ‘Informe CIE 2022 – Diferencias que general desigualdad’, June 2023, available in Spanish at: <https://tinyurl.com/yc6w5adx>.

⁹⁷⁵ Paloma, V., Agüero-Collins, A., Benítez, I., Buades-Fuster, J., López-Núñez, C., & Saavedra-Macías, F. J., (2023), ‘Un acercamiento a la salud mental de las personas migrantes en los Centros de Internamiento de Extranjeros de España’, Centro de Investigación y Acción Comunitaria de la Universidad de Sevilla & Servicio Jesuita a Migrantes, January 2024, available at: <https://tinyurl.com/2p86r6tf>.

⁹⁷⁶ Defensor del Pueblo, ‘Informe anual 2022. Volumen I. Anexo A - Informe Completo del Mecanismo Nacional de Prevención (MNP)’, March 2023, available in Spanish at: <https://bit.ly/3MAU4ww>.

to public phones, the lack of improvements in the conditions of stay, the impossibility to change money, the inexistence of a medical service, etc.⁹⁷⁷

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.⁹⁷⁸ Three judges asked the Minister of Interior to improve the situation.⁹⁷⁹ 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 Ombudsperson.⁹⁸⁰ Due to the conditions, a total of 26 Moroccan asylum applicants escaped the *ad hoc* spaces and the airport by breaking a window.⁹⁸¹ 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.⁹⁸² 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.⁹⁸³ The Spanish Ombudsperson 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.⁹⁸⁴ Similarly, the UNHCR expressed concerns on the situation and urged the Government to adopt a

⁹⁷⁷ Defensor del Pueblo, 'Informe anual 2022. Volumen I. Anexo A - Informe Completo del Mecanismo Nacional de Prevención (MNP)', March 2023, available in Spanish at: <https://bit.ly/3MAU4ww>.

⁹⁷⁸ La Razón, 'Las salas del aeropuerto de Madrid dedicadas a los peticionarios de asilo se encuentran desbordadas', 19 December 2023, available in Spanish at: <https://tinyurl.com/mryzrz38>; El Periódico de España, 'Plagas de chinches, basura y escasez de toallas: la situación de los solicitantes de asilo en Barajas sigue sumida en el caos', 22 January 2024, available at: <https://tinyurl.com/28pfjah6>; El Salto Diario, 'Denuncian el hacinamiento de solicitantes de protección internacional en las salas del aeropuerto de Barajas', 22 January 2024, available at: <https://tinyurl.com/y4fermzt>; Canal Sur, 'Las ONG denuncian el hacinamiento extremo en las salas de asilo de Barajas', 26 January 2024, available at: <https://tinyurl.com/yc76renk>.

⁹⁷⁹ El País, 'Tres jueces piden a Interior medidas urgentes ante el hacinamiento de migrantes en el aeropuerto de Barajas', 22 December 2023, available in Spanish at: <https://tinyurl.com/5n8h8ff9>.

⁹⁸⁰ Europa Press, 'Marlaska dice que se han tomado medidas por los migrantes bloqueados en Barajas, tras los requerimientos judiciales', 4 January 2024, available in Spanish at: <https://tinyurl.com/2xthj6pm>; Europa Press, 'El SUP denuncia que continúa el colapso e insalubridad en Barajas por los viajeros africanos "hacinados" que piden asilo', 12 January 2024, available in Spanish at: <https://tinyurl.com/4fck2eap>; La Razón, 'Vuelven los chinches y las cucarachas a las salas donde esperan los migrantes solicitantes de asilo en el aeropuerto de Barajas', 14 January 2024, available in Spanish at: <https://rb.gy/m6kixc>; The Objective, 'Colapso en Barajas por las peticiones de asilo de Senegal y Marruecos: «Estamos al límite»', 14 January 2024, available in Spanish at: <https://tinyurl.com/25vvbpr7>; Antena 3, 'Una abogada denuncia la situación de los solicitantes de asilo del aeropuerto de Barajas: "El hacinamiento es inhumano"', 1 February 2024, available at: <https://tinyurl.com/3j26ju4h>; Onda Cero, 'La Policía denuncia el caos en las salas de asilo de Barajas: la insalubridad crece y se prevé la llegada de más inmigrantes', 2 February 2024, available at: <https://tinyurl.com/2e6m5ptf>.

⁹⁸¹ 20 Minutos, 'Diecisiete migrantes escapan de las salas de asilo de Barajas tras romper una ventana', 13 January 2024, available in Spanish at: <https://tinyurl.com/4su667sz>; ABC, 'Se fugan 26 marroquíes de las salas de inadmitidos de Barajas en dos noches consecutivas', 13 January 2024, available in Spanish at: <https://tinyurl.com/mw9mwunz>.

⁹⁸² Europa Press, 'Interior señala que ya hay más policías y medios en Barajas, tras las quejas por magrebíes solicitantes de asilo', 15 January 2024, available in Spanish at: <https://tinyurl.com/zwfcd9za>.

⁹⁸³ Europa Press, 'Comienza el traslado desde Barajas a un CIE de los migrantes que han solicitado asilo tras hacer escala en Madrid', 17 January 2024, available in Spanish at: <https://tinyurl.com/yc5y7uu7>; El Diarrio, 'Un juez autoriza a internar en el CIE de Madrid a medio centenar de solicitantes de asilo hacinados en Barajas', 18 January 2024, available at: <https://tinyurl.com/3e86zzfw>; Fiscalía pide anular la autorización de un juez para trasladar a un CIE a 50 migrantes solicitantes de asilo en Barajas', 18 January 2024, available at: <https://tinyurl.com/mr2pe4ss>; El Diario, 'El juez rectifica y anula su aval a trasladar demandantes de asilo de Barajas al CIE', 22 January 2024, available at: <https://tinyurl.com/mrxxx3v9>; Onda Cero, 'La Fiscalía se opone al traslado al CIE de Aluche de 50 solicitantes de asilo en Barajas', 19 January 2024, available at: <https://tinyurl.com/5n8ktsy2>; El Diario, 'El juez rectifica y anula su aval a trasladar demandantes de asilo de Barajas al CIE', 22 January 2024, available at: <https://tinyurl.com/mrxxx3v9>.

⁹⁸⁴ El País, 'El Defensor del Pueblo, ante el hacinamiento en Barajas: "Reclamamos a las administraciones que se garanticen condiciones dignas"', 18 January 2024, available at: <https://tinyurl.com/4p34b6z2>; El País, 'El Defensor del Pueblo visita las hacinadas salas de asilo de Barajas: "Es urgente que se habilite un espacio adecuado"', 19 January 2024, available at: <https://tinyurl.com/bfa7btty>; Europa Press, 'El Defensor del Pueblo pide a Migraciones, Interior y AENA que respeten los derechos en las salas de asilo de Barajas', 30 January 2024, available at: <https://tinyurl.com/2hxzm3ff>.

solution.⁹⁸⁵ The NGO 'CEAR' requested the Government to allow the exceptional access for humanitarian reasons of those asylum applicants to Spain.⁹⁸⁶ 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.⁹⁸⁷ 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.⁹⁸⁸ CEAR criticised 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.⁹⁸⁹ 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.⁹⁹⁰ At the beginning of February, the Minister of Interior declared resolved the issue.⁹⁹¹

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.⁹⁹²

3. Access to detention facilities

Indicators: Conditions in Detention Facilities

1. Is access to detention centres allowed to

❖ Lawyers:	☐ Yes	☒ Limited	☐ No
❖ NGOs:	☐ Yes	☒ Limited	☐ No
❖ UNHCR:	☐ Yes	☒ Limited	☐ No
❖ Family members:	☐ Yes	☒ Limited	☐ No

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.

⁹⁸⁵ Europa Press, 'ACNUR reitera su preocupación por la situación de los solicitantes de asilo en el aeropuerto de Madrid-Barajas', 26 January 2024, available at: <https://tinyurl.com/2fcr73pz>.

⁹⁸⁶ Cope, 'CEAR pide dejar entrar a España a solicitantes de asilo en Barajas para aliviar la presión', 18 January 2024, available at: <https://tinyurl.com/5txskex>; Europa Press, 'CEAR pide autorizar la entrada "excepcional" a solicitantes de asilo ante el "hacinamiento" de las salas de Barajas', 22 January 2024, available at: <https://tinyurl.com/3e59pxvb>.

⁹⁸⁷ 20 Minutos, 'Cruz Roja abandona las salas de asilo en Barajas "hasta que se den las condiciones mínimas" para atender a los migrantes', 23 January 2024, available at: <https://tinyurl.com/2cv65c45>; Europa Press, 'Interior "no comparte" la decisión de Cruz Roja de renunciar a asistir a los migrantes en Barajas que piden asilo', 23 January 2024, available at: <https://tinyurl.com/bdyfjmwj>.

⁹⁸⁸ La Razón, 'El gobierno descarga el caos de Barajas en Rabat', 1 February 2024, available at: <https://tinyurl.com/2c84j8jz>; Cadena Ser, 'España pide a Marruecos que vete en sus aviones a los senegaleses sin visado para atajar el hacinamiento de Barajas', 31 January 2024, available at: <https://tinyurl.com/mr3mwx66>; Madrid Diario, 'Interior estudia pedir visados de tránsito a los vuelos de Marruecos con escala en Madrid', 19 February 2024, available at: <https://tinyurl.com/2jc76xb4>; la Razón, 'El Gobierno impondrá visados de tránsito a senegaleses para evitar el colapso de peticiones de asilo en Barajas', 24 January 2024, available at: <https://tinyurl.com/cjjpxzv>; Cope, 'Así funciona el visado de tránsito, la medida que ha aliviado la presión en Barajas', 9 February 2024, available at: <https://tinyurl.com/2pu37j4x>.

⁹⁸⁹ CEAR, 'Los visados de tránsito incrementan los riesgos en las rutas migratorias', 5 February 2024, available at: <https://tinyurl.com/2s4h4f6r>; Cope, 'CEAR critica que España "externalice" fronteras y deje el control en manos de Marruecos', 9 February 2024, available at: <https://tinyurl.com/mwr63bkw>.

⁹⁹⁰ Newtral, 'Interior habilita una nueva sala de acogida en el aeropuerto de Barajas ante el incremento de solicitantes de asilo', 30 January 2024, available at: <https://tinyurl.com/32vb5k3f>; Heraldo, 'Barajas contará con una cuarta sala para albergar a 162 solicitantes de asilo', 29 January 2024, available at: <https://tinyurl.com/4ptvjah7>; Ministerio del Interior, 'Habilitada una nueva sala en Barajas para atender a los solicitantes de protección internacional', available at: <https://tinyurl.com/5x2rc46n>.

⁹⁹¹ Europa Press, 'Marlaska da por resuelta la crisis "excepcional" en Barajas por los solicitantes de asilo tras escalas fraudulentas', 7 February 2024, available at: <https://tinyurl.com/2ye9ptef>.

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.⁹⁹³ 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.⁹⁹⁴

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.⁹⁹⁵

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention

- | | | |
|---|---|-----------------------------|
| 1. Is there an automatic review of the lawfulness of detention? | ☒ Yes | ☐ No |
| 2. If yes, at what interval is the detention order reviewed? | Ongoing | |

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.⁹⁹⁶

Against decisions on detention, the third-country national can lodge appeals of reform, appeal and complaint⁹⁹⁷ under the Criminal Procedure Act.⁹⁹⁸ Reform and appeal appeals will be lodged before the same judge of the Provincial Court (*Audiencia Provincial*) that issued the detention order. Conversely,

⁹⁹³ Ministerio del Interior, 'Orden INT/916/2023, de 25 de julio, por la que se concede una subvención directa a Cruz Roja Española, para el desarrollo de programas asistenciales en los Centros de Internamiento de Extranjeros en el ejercicio presupuestario 2023', 2 August 2023, available in Spanish at: <https://tinyurl.com/59nwybye>.

⁹⁹⁴ Defensor del Pueblo, Informe Anual 2022 – Volumen I, March 2023, available in Spanish at: <https://bit.ly/3ZZLB9d>.

⁹⁹⁵ Servicio Jesuita a Migrantes, 'Informe CIE 2022. Diferencias que generan desigualdad', June 2023, available in Spanish at: <https://tinyurl.com/yc6w5adx>.

⁹⁹⁶ Article 62(1) Aliens Act.

⁹⁹⁷ Articles 216 and 219 Code of Criminal Procedure.

⁹⁹⁸ Real decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal.

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.⁹⁹⁹ These decisions may not be appealed. Persons in detention remain available for the judge or court that authorised or ordered the detention.¹⁰⁰⁰

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?
☒ Yes ☐ No
2. Do asylum seekers have effective access to free legal assistance in practice?
☐ Yes ☒ No

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.¹⁰⁰¹

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 2024.¹⁰⁰²

⁹⁹⁹ Article 62(6) Aliens Act.

¹⁰⁰⁰ Article 60(3) Aliens Act.

¹⁰⁰¹ 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/3KPkfhu>.

¹⁰⁰² 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/3ECBa2l>.

A. Status and residence

1. Residence permit

Indicators: Residence Permit

- | | |
|--|---------|
| 1. What is the duration of residence permits granted to beneficiaries of protection? | |
| ❖ Refugee status | 5 years |
| ❖ Subsidiary protection | 5 years |
| ❖ Humanitarian protection | 1 year |

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.

¹⁰⁰⁵ Tribunal Supremo, Decision nº 1773/2020, 17 December 2020, available in Spanish at: <https://bit.ly/3p4L7Mc>; Poder Judicial, *El Tribunal Supremo fija que las personas acogidas en España a través de un programa de reasentamiento del Gobierno tienen la condición de refugiados*, 25 January 2021, available in Spanish at: <https://bit.ly/39hiWoW>.

¹⁰⁰⁶ Europapress, 'CEAR reclama al Gobierno que regularice "con carácter urgente" a las personas migrantes', 2 April 2020, available in Spanish at: <https://bit.ly/3cjXiCr>.

¹⁰⁰⁷ CEAR, 'Petición urgente al Gobierno para que regularice a las personas migrantes ante la epidemia de Coronavirus', February 2021, available in Spanish at: <https://bit.ly/3bx1vjU>.

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.¹⁰⁰⁸ 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.¹⁰⁰⁹

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*).¹⁰¹⁰ 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.¹⁰¹¹

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”.¹⁰¹² 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 2022.¹⁰¹³ By September 2022, the campaign had obtained 400,000 signatures.¹⁰¹⁴ In the same month, the Episcopal Conference expressed support to the regularisation of migrants.¹⁰¹⁵ 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.¹⁰¹⁶ 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.¹⁰¹⁷ In May 2023 the Platform ESencialES presented the popular initiative to the Congress.¹⁰¹⁸ In December 2023, Caritas urged the Government to reactivate the process to regularise 500,000 migrants in an administrative irregular situation.¹⁰¹⁹ In March 2024, the legislative initiative the Congress retook the discussion of the proposal, which is expected to be adopted before summer 2024.¹⁰²⁰

¹⁰⁰⁸ Jesús Fernández-Huertas Moraga (Universidad Carlos III de Madrid), *Inmigración y políticas migratorias en España*, published by FEDEA (Fundación de Estudios de Economía Aplicada), March 2021, available in Spanish at: <https://bit.ly/3kfbyky>.

¹⁰⁰⁹ La Vanguardia, ‘La regularización de inmigrantes aportó 2.300 millones al Estado’, 15 March 2021, available in Spanish at: <https://bit.ly/3D6USBY>.

¹⁰¹⁰ Minister of Inclusion, Social Security and Migration, ‘Instrucción SEM 1/2021 sobre el procedimiento relativo a las autorizaciones de residencia temporal por razones de arraigo laboral’, June 2021, available in Spanish at: <https://bit.ly/34J7ZNt>.

¹⁰¹¹ Público, ‘Varias sentencias del Supremo facilitarán la regularización por arraigo laboral de miles de personas migrantes’, 9 June 2021, available in Spanish at: <https://bit.ly/3CKiH2L>.

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>.

¹⁰¹³ Por Causa, Esenciales, ‘Cinco buenas razones para aprobar una regularización extraordinaria de migrantes sin papeles’, March 2022, available in Spanish at: <https://bit.ly/3qGpCoR>.

¹⁰¹⁴ Alfa y Omega, ‘La iniciativa legislativa popular para la regularización de migrantes supera las 400.000 firmas’, 29 September 2022, available in Spanish at: <https://bit.ly/3P9fhvv>.

¹⁰¹⁵ El Español, ‘La Conferencia Episcopal apoya la regularización de los migrantes sin papeles: “No son invasores”’, 20 September 2022, available in Spanish at: <https://bit.ly/3VXMugn>.

¹⁰¹⁶ El Salto Diario, ‘Más de 700.000 firmas llegan al Congreso para apoyar la ILP Regularización’, 21 December 2022, available in Spanish at: <https://bit.ly/3vaLkTN>.

¹⁰¹⁷ Público, ‘Más de 700.000 firmas por la regularización de migrantes: ¿y ahora qué?’, 21 December 2022, available in Spanish at: <https://bit.ly/3Q2J1Mk>.

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/y2ry6rh3>; 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>.

¹⁰¹⁹ Europa Press, ‘Cáritas urge a reactivar la propuesta de regularización extraordinaria de 500.000 migrantes en situación irregular’, 14 December 2023, available in Spanish at: <https://tinyurl.com/47ts32dc>.

¹⁰²⁰ El País, ‘Regularizar para transformar un modelo migratorio roto en España’, 12 March 2024, available at: <https://tinyurl.com/mw7tmm3w>.

According to an estimation made by NGOs working with undocumented migrants, around 500,000 migrants live in an irregular situation in Spain.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

Indicators: Long-Term Residence

- | | |
|---|---------------|
| 1. Number of long-term residence permits issued to beneficiaries in 2023: | Not available |
|---|---------------|

The long-term residence permit in Spain is governed by the Aliens Act and can be obtained when the following conditions are fulfilled: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.

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: <https://bit.ly/3nXnnyQ>.

¹⁰²² Article 148 Aliens Regulation.

4. Naturalisation

Indicators: Naturalisation

1. What is the waiting period for obtaining citizenship?	
❖ Refugee status	5 years
❖ Subsidiary protection	10 years
2. Number of citizenship grants to beneficiaries in 2023:	Not available ¹⁰²³

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

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>.

¹⁰²⁴ Instituto Cervantes, 'Exámenes', available in Spanish at: <https://bit.ly/3TiyWfN>.

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.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.¹⁰²⁷ The Government launched a new plan for 2021,¹⁰²⁸ which resulted in granting nationality for residence to 163,946 persons in 2021.¹⁰²⁹ In 2022, a total of 122,236 persons were granted nationality, and there were 158,056 pending applications.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 242,342.¹⁰³¹

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.¹⁰³²

5. Cessation and review of protection status

Indicators: Cessation

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the cessation procedure? ☒ Yes ☐ No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☒ Yes ☐ With difficulty ☐ No

The Asylum Act and Regulation foresee the cessation of **refugee status** in the following cases: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.

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>.

¹⁰²⁷ Defensor del Pueblo, 'solicitantes de nacionalidad por residencia', May 2021, available in Spanish at: <https://bit.ly/3MKGdBr>.

¹⁰²⁸ Para Inmigrantes Info, 'Justicia ya trabaja en un Plan de Choque de Nacionalidad para 2021', 8 February 2021, available in Spanish at: <https://bit.ly/3aqIL6w>.

¹⁰²⁹ Presidencia del Gobierno, 'El plan de choque de nacionalidad 2021 resuelve más 160.000 expedientes de nacionalidad por residencia', 14 December 2021, available in Spanish at: <https://bit.ly/3lhKwjT>.

¹⁰³⁰ Ministerio de Justicia, 'Datos estadísticos básicos de nacionalidad a 31/12/2022', available in Spanish at: <https://bit.ly/3mYgLzV>.

¹⁰³¹ Ministerio de Justicia, 'Datos estadísticos básicos de nacionalidad a 31/12/2023', available in Spanish at: <https://tinyurl.com/tj8wntrt>.

¹⁰³² Audiencia Provincial de Guipúzcoa, Decision 341/2022, 2nd Section, 11 May 2022, available in Spanish at: <https://bit.ly/3vPcslw>; 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>.

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**.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.¹⁰³⁵ In 2022, the OAR took cessation decisions in 51 cases, 38 related to refugee status and 13 regarding subsidiary protection.¹⁰³⁶

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.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.¹⁰³⁸ Finally, the OAR's decision is submitted to the CIAR, which is responsible for taking the final decision concerning withdrawal or cessation.¹⁰³⁹

The decision will have to be notified to the beneficiary in a time limit of 6 months since the start of the procedure.¹⁰⁴⁰ When this time limit is not respected, the process produces 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.¹⁰⁴¹

6. Withdrawal of protection status

Indicators: Withdrawal

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the withdrawal procedure? ☒ Yes ☐ No
2. Does the law provide for an appeal against the withdrawal decision? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☒ Yes ☐ With difficulty ☐ No

The withdrawal of protection status is foreseen by Article 44 of the Asylum Act in the following cases, where:

- a. Any of the exclusion clauses provided in Articles 8, 9, 11 and 12 of the Asylum Act apply;

¹⁰³⁴ Article 43 Asylum Act.

¹⁰³⁵ Ministerio del Interior, Subsecretaría del Interior - Dirección General de Política 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/318rDzP>.

¹⁰³⁶ Ministerio del Interior, 'Asilo en cifras 2022', November 2023, available at: <https://tinyurl.com/4xkffyhnd>.

¹⁰³⁷ Article 45(1) Asylum Act.

¹⁰³⁸ Article 45(2) Asylum Act.

¹⁰³⁹ Article 45(4) Asylum Act.

¹⁰⁴⁰ Article 45(7) Asylum Act.

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.¹⁰⁴²

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

Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification? ☐ Yes ☒ No
 - ❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application? ☐ Yes ☒ No
 - ❖ If yes, what is the time limit?
3. Does the law set a minimum income requirement? ☒ Yes ☐ No

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.

¹⁰⁴⁷ Final Provision 3 Law 2/2014 of 25 March 2014.

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.

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/>).

¹⁰⁴⁹ Ministerio del Interior, ‘Solicitudes de extensión o reagrupación familiar por parte de un beneficiario de protección internacional a familiares residentes fuera de España’, available in Spanish at: <https://bit.ly/3BkSIy0>.

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.¹⁰⁵¹ 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.¹⁰⁵²

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 2021,¹⁰⁵³ 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.¹⁰⁵⁴

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

¹⁰⁵¹ Audiencia Nacional, Decision SAN 5372/2017, 15 December 2017.

¹⁰⁵² Defensor del Pueblo, 'La Oficina de Asilo y Refugio se compromete a aplicar la reagrupación familiar en los matrimonios mixtos "sin dilación" tras aceptar una recomendación del Defensor del Pueblo', 1 February 2019, available in Spanish at: <https://cutt.ly/SrcUdUv>.

¹⁰⁵³ Ministerio del Interior, Subsecretaría del Interior - Dirección General de Política Interior, 'AVANCE de solicitudes y propuestas de resolución de protección internacional Datos provisionales acumulados entre el 1 de enero y el 31 de diciembre de 2022', January 2023, available in Spanish at: <https://bit.ly/3wunyCU>.

¹⁰⁵⁴ Ministerio del Interior, 'Solicitudes de extensión o reagrupación familiar por parte de un beneficiario de protección internacional a familiares residentes fuera de España', 2021, available in Spanish at: <https://bit.ly/3mtvuCV>.

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.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” (*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

Indicators: Housing

- | | |
|--|---------------|
| 1. For how long are beneficiaries entitled to stay in reception centres? | 6 months |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2023 | Not available |

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

¹⁰⁵⁵ EUAA, *Asylum report 2023*, July 2023, available in Spanish at: <https://bit.ly/3PAIFOb>, 259.

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

¹⁰⁵⁶ Provivienda, 'Una casa como refugio: itinerarios residenciales de las personas solicitantes de protección internacional en Madrid y Vigo', 28 October 2019, available in Spanish at: <https://cutt.ly/BtR8WUN>.

¹⁰⁵⁷ El País, 'La red de albergues de Madrid deja en la calle a familias con niños', 18 November 2018, available in Spanish at: <https://bit.ly/2PAw8Nb>; Público, 'Varios solicitantes de asilo denuncian que España les deja fuera del sistema de acogida', 16 May 2018, available in Spanish at: <https://bit.ly/2AUvKQr>.

¹⁰⁵⁸ Cadena Ser, 'Siete de cada diez inmobiliarias admiten implementar formas explícitas de discriminación', 31 October 2021, available in Spanish at: <https://bit.ly/3PF63H3>.

¹⁰⁵⁹ Heraldo, 'La falta de vivienda de alquiler en Aragón frena la integración de los refugiados de Ucrania y de otros países', 31 July 2022, available in Spanish at: <https://bit.ly/3wilmh6>.

¹⁰⁶⁰ Diario de Navarra, 'Refugiados que no encuentran casa en Navarra', 28 September 2022, available in Spanish at: <https://bit.ly/3HNoOYK>.

¹⁰⁶¹ La Gaceta de Salamanca, 'Las reticencias a alquilarles un piso atan a los refugiados a los centros de acogida', 25 September 2022, available in Spanish at: <https://bit.ly/3j4JlXo>.

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.¹⁰⁶²

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.¹⁰⁶³

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".¹⁰⁶⁴ The law was approved in May 2023.¹⁰⁶⁵ 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.¹⁰⁶⁶ 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.¹⁰⁶⁷

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.¹⁰⁶⁸

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.¹⁰⁶⁹

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.¹⁰⁷⁰

¹⁰⁶² CEAR, 'Informe 2023: Las personas refugiadas en España y Europa', June 2023, p. 142, available at: <https://tinyurl.com/bdhucwst>.

¹⁰⁶³ Provivienda, Andalucía Acoge, 'Discriminación racial en el ámbito de la vivienda y los asentamientos informales', March 2022, edited by the Ministerio de Igualdad, available in Spanish at: <https://bit.ly/3ceNuMh>.

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/2XPGxK7>.

¹⁰⁶⁵ La Moncloa, 'Ley de vivienda: ¿qué regula y cómo funciona?', 25 May 2023, available at: <https://tinyurl.com/2u3ps9p5>.

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>.

¹⁰⁶⁷ Levante, 'El 86 % de los migrantes tiene problemas para acceder a una vivienda digna', 2 November 2022, available in Spanish at: <https://bit.ly/3XCgUqv>.

¹⁰⁶⁸ Ajuntament de Barcelona, Direcció de Serveis de Drets de Ciutadania, 'Discriminació a la carta Exclusió per motius ètnics del mercat de lloguer d'habitatge de Barcelona', November 2021, available in Spanish at: <https://bit.ly/3sHVds7>.

¹⁰⁶⁹ Council of Europe, 'Spain should advance social rights, better guarantee freedoms of expression and assembly and improve human rights of refugees, asylum seekers and migrants', 29 November 2022, available at: <https://bit.ly/3GGzJbF>; Commissioner for Human Rights, Council of Europe, 'Commissioner for Human Rights of the Council of Europe - Dunja Mijatović - Report following her visit to Spain from 21 to 25 November 2022', 13 April 2023, available at: <https://bit.ly/3u4SJan>.

¹⁰⁷⁰ Ministerio de Inclusión, Seguridad Social y Migraciones, 'Inclusión participa en la plataforma solidaria 'Techo', un proyecto piloto de búsqueda de vivienda para refugiados', 15 October 2022, available at: <https://tinyurl.com/3khy6hyc>; TECHO Platform, available at: <https://tinyurl.com/mwd6tsxp>.

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.¹⁰⁷¹

In December 2023 Caritas expressed concern on the housing precariousness that migrants face in Spain.¹⁰⁷²

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.¹⁰⁷³

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.¹⁰⁷⁴

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: <https://bit.ly/3UackVG>.

¹⁰⁷² Aragón Noticias, 'La "precariedad habitacional" y la desprotección de los migrantes preocupan a Cáritas Diocesanas', 29 December 2023, available at: <https://tinyurl.com/3uk52uph>.

¹⁰⁷³ European Migration Network, 'Integration of applicants for international protection in the labour market', October 2023, available at: <https://tinyurl.com/yeuzscsf>.

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.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*.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.¹⁰⁷⁷ The project, which employs 14 between refugees and migrants, continued to be implemented in 2022.¹⁰⁷⁸ 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*.¹⁰⁷⁹ In July 2023 the initiative was present with a food truck at the *Río Babel* Music Festival in Madrid.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.¹⁰⁸¹ A proposal for a Royal Decree modifying the previous legislation has been launched on October 2021.¹⁰⁸² The new law has been approved in October 2022, establishing the deadline of 6 months for the administration to decide on diploma recognition.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.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

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>.

¹⁰⁷⁶ Baynana, available at: <https://bit.ly/3eOZGky>.

¹⁰⁷⁷ CEAR, 'Acoge un Plato inaugura restaurante en la terraza de la Casa Árabe de Madrid', 24 June 2021, available in Spanish at: <https://bit.ly/3mYrO9l>.

¹⁰⁷⁸ Cadena Ser, '"La cocina es la manera más fácil de integrar": así funciona el proyecto más sobroso de la Comisión de Ayuda al Refugiado', 18 August 2022, available in Spanish at: <https://bit.ly/3AxOOSL>; CEAR, 'Acoge un Plato', available in Spanish at: <https://bit.ly/3F1qHOo>.

¹⁰⁷⁹ CEAR, 'Recetario de celebraciones Acoge un Plato', September 2022, available in Spanish at: <https://bit.ly/3W1s2vB>.

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>.

¹⁰⁸¹ El País, 'Miles de inmigrantes podrán homologar su título universitario en seis meses para ejercer en España', 24 March 2021, available in Spanish at: <https://bit.ly/3DgaL9H>.

¹⁰⁸² El Economista, 'Universidades abre en audiencia pública el Real Decreto de homologaciones de títulos', 13 October 2021, available in Spanish at: <https://bit.ly/36xuTrX>.

¹⁰⁸³ Cope, 'Gobierno limita a seis meses el plazo para homologar los títulos extranjeros', 18 October 2022, available in Spanish at: <https://bit.ly/3XDWbCn>.

¹⁰⁸⁴ El Periódico, 'El Gobierno aprueba la reforma de extranjería para sumar a miles de migrantes al mercado laboral', 25 July 2022, available in Spanish at: <https://bit.ly/3pDUrcM>; República, 'Entra en vigor la reforma que facilita la incorporación de extranjeros al mercado de trabajo', 15 August 2022, available in Spanish at: <https://bit.ly/3AjrYr>; Boletín Oficial del Estado, 'Real Decreto 629/2022, de 26 de julio, por el que se modifica el Reglamento de la Ley Orgánica 4/2000, sobre derechos y libertades de los extranjeros en España y su integración social, tras su reforma por Ley Orgánica 2/2009, aprobado por el Real Decreto 557/2011, de 20 de abril', 27 July 2022, available in Spanish at: <https://bit.ly/3c94J1H>.

search, a better synergy between the immigration and asylum laws, etc.).¹⁰⁸⁵ 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 2023.¹⁰⁸⁶

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.¹⁰⁸⁷

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.¹⁰⁸⁸

Accem launched the campaign 'Tents of Hope' to raise awareness on the value that refugees bring to the labour market and to the society.¹⁰⁸⁹

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.¹⁰⁹⁰ 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.¹⁰⁹¹

In addition, the ticket of the Spanish national lottery of 17 June was dedicated to the World Refugee Day.¹⁰⁹²

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).¹⁰⁹³

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.¹⁰⁹⁴

¹⁰⁸⁵ Andalucía Acoge, 'Reglamento de extranjería: una reforma necesaria, aunque limitada', 27 July 2022, available in Spanish at: <https://bit.ly/3wqWdlw>; Andalucía Acoge, 'Resumen reforma ley extranjería', August 2022, available in Spanish at: <https://bit.ly/3PCtCAo>.

¹⁰⁸⁶ Accem, 'Se duplican las autorizaciones de residencia por la vía del arraigo y te explicamos por qué', 6 October 2023, available at: <https://tinyurl.com/3dffar57>.

¹⁰⁸⁷ El Periodic, 'La EMT lanza "EMT Refugio", un nuevo bono gratuito para refugiados o solicitantes de asilo', 13 March 2023, available in Spanish at: <https://tinyurl.com/2m3bz67k>.

¹⁰⁸⁸ CEAR, 'Por el derecho a un empleo digno de las personas refugiadas', 28 April 2023, available in Spanish at: <https://tinyurl.com/526afwmt>.

¹⁰⁸⁹ Murcia.com, '“Tents of hope”: una campaña para descubrir el valor que aportan las personas refugiadas al mercado laboral y a la sociedad', 18 May 2023, available in Spanish at: <https://tinyurl.com/msf3j9aw>.

¹⁰⁹⁰ Servimedia, 'Acnur y Asuntos Exteriores organizan un foro para animar a la sociedad civil a plantear propuestas de inclusión de refugiados', 18 May 2023, available at: <https://tinyurl.com/8ppx6xk9>; ACNUR, 'Día Mundial del Refugiado 2023: Foro España con los Refugiados', June 2023, available in Spanish at: <https://tinyurl.com/mr3zrrme>

¹⁰⁹¹ Information provided by UNHCR in April 2024.

¹⁰⁹² Europa Press, 'El Día Mundial de las Personas Refugiadas protagoniza el décimo de Lotería Nacional de este sábado', 13 June 2023, available in Spanish at: <https://tinyurl.com/4vcsnfvt>.

¹⁰⁹³ Europa Press, 'España jugará la segunda Unity Euro Cup, competición para refugiados de ACNUR y UEFA', 27 June 2023, available in Spanish at: <https://tinyurl.com/4dcmpa2>.

¹⁰⁹⁴ Diari Mes, 'La Generalitat busca mentores para acompañar a solicitantes de asilo', 7 December 2023, available in Spanish at: <https://tinyurl.com/2vndktev>.

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.¹⁰⁹⁵ For more details on these issues, please refer to the previous updates of this report.¹⁰⁹⁶

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.¹⁰⁹⁷

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.¹⁰⁹⁸

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.¹⁰⁹⁹ 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.¹¹⁰⁰

¹⁰⁹⁵ El País, 'El Ministerio de Educación cambia su normativa para garantizar la plena escolarización de los niños en Melilla', 17 February 2022, available in Spanish at: <https://bit.ly/3ZSYH91>.

¹⁰⁹⁶ See notably AIDA, *Country Report: Spain – Update on the year 2022*, April 2023, available at: <https://bit.ly/3SaHE0K>.

¹⁰⁹⁷ Europa Press, 'El Gobierno destina 2,6 millones de euros a 27 universidades públicas para el Plan Universidad-Refugio', 22 November 2022, available in Spanish at: <https://bit.ly/3XEV3yQ>.

¹⁰⁹⁸ Information provided by UNHCR in April 2024.

¹⁰⁹⁹ La Vanguardia, 'La Universidad Autónoma facilita que sus becas lleguen a más estudiantes', 20 July 2023, available in Spanish at: <https://cutt.ly/ywsnaks>.

¹¹⁰⁰ Valencia Plaza, 'Universidades amplía a 6.000 los estudiantes que tendrán las nuevas becas 'Manuela Solís'', 12 December 2023, available in Spanish at: <https://tinyurl.com/4kc7s4cw>.

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.¹¹⁰¹

F. Social welfare

Refugees and subsidiary protection beneficiaries have access to social welfare under the same conditions as Spanish nationals.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.¹¹⁰³ The project continued to be implemented during 2023.¹¹⁰⁴

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.¹¹⁰⁵

¹¹⁰¹ European Migration Network, 'Integration of applicants for international protection in the labour market', October 2023, available at: <https://tinyurl.com/yeuzscsf>.

¹¹⁰² Article 36(1)(f) Asylum Act.

¹¹⁰³ Seguros News, 'Fundación Sanitas y Ayuda al Refugiado acuerdan cuidar de la salud de los refugiados', 23 May 2022, available in Spanish at: <https://bit.ly/3QviaaC>.

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/yzcbfpfv>.

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

Directive / Regulation	Deadline for transposition	Title of legislation in national language	Participation of NGOs
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	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)	☒ Yes ☐ No
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	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)	☒ Yes ☐ No
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015 29 March 2022	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) 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.	☒ Yes ☐ No
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013	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)	☒ Yes ☐ No