**Input by civil society to the**

**2021 EASO Asylum Report**

Dear Colleagues,

The production of the *EASO Asylum Report 2021* is currently underway. The annual [Asylum Report series](https://www.easo.europa.eu/asylum-report) present a comprehensive overview of developments in the field of asylum at the regional and national levels.

The report includes information and perspectives from various stakeholders, including experts from EU+ countries, civil society organisations, UNHCR and researchers. To this end, we invite you, our partners from civil society, academia and research institutions, to share with us your reporting on developments in asylum law, policy or practice in 2020 (and early 2021) by topic as presented in the online survey.

Please note that the EASO Asylum Report does not seek to describe national systems in detail but rather to present key developments of the past year, including improvements and challenges which remain. Your input can cover practices of a specific EU+ country or the EU as a whole. You can complete all or only some of the sections.

All submissions are publicly accessible. For transparency, 2021 contributions will be published on the EASO webpage. Contributions to the 2020 EASO Asylum Report by civil society organisations can be accessed [here](https://easo.europa.eu/asylum-report-2020), under 'Acknowledgements'. All contributions should be appropriately referenced. You may include links to supporting material, such as analytical studies, articles, reports, websites, press releases or position papers. If your organisation does not produce any publications, please make reference to other published materials, such as joint statements issued with other organisations. Some sources of information may be in a language other than English. In this case, please cite the original language and, if possible, provide one to two sentences describing the key messages in English.

The content of the EASO Asylum Report is subject to terms of reference and volume limitations. Contributions from civil society organisations feed into EASO’s work in multiple ways and inform reports and analyses beyond the Asylum Report.

Your input matters to us and will be much appreciated!

**Nina Gregori** -*EASO Executive Director*

 **\***Please complete the online survey and submit your contribution to the 2021 EASO Asylum Report by **Thursday, 25 February 2021.\***

# Instructions

Before completing the survey, please review the list of topics and types of information that should be included in your submission.

For each response, only include the following type of information:

* New developments and improvements in 2020 and new or remaining challenges; and
* Changes in policies or practices, transposition of legislation or institutional changes during 2020.

Please ensure that your responses remain within the scope of each section. Do not include information that goes beyond the thematic focus of each section or is not related to recent developments

# Contributions by topic

1. **Access to territory and access to asylum procedures (including first arrival to territory and registration, arrival at the border, application of the non-refoulement principle, the right to first response (shelter, food, medical treatment) and issues regarding border guards)**

First of all, as for 2020 is it necessary to mention the special challenges regarding access to territory and to international protection, posed by the sanitary crisis set up by the Covid-19 pandemic situation. Specially during the first period of confinement, as human mobility where reduced, yet not entirely impeded, people in need of this protection where specially affected by restrictions. Covid-19 exacerbated already existing precarity, so for exit or transit, so for arrivals, as was the case in Spain as highlighted by the Spanish Commission for Refugees in a [special report](https://www.cear.es/wp-content/uploads/2020/06/ResumenEjecutivo_COVID_web.pdf) published by mid-2020.

By the end of 2020, the Spanish authorities announced the complicated situation in the Canary Islands due to the unceasingly growing flow of arrivals of irregular migrants having started back at the last quarter of 2019. Something that would be assumed by the [Spanish Secretary of State´s Office for the UE](https://www.europapress.es/islas-canarias/noticia-secretario-estado-ue-admite-situacion-limite-canarias-migracion-20210121154850.html) in the very beginning of 2021, noting that the situation was in its “limit”.

Way before the situation in the archipelago got tensed by the end of 2020, CEAR raised concern about the urgent needs and special attention that the situation deserved. By the end of October, the Spanish Commission for Refugees, [CEAR issued a press note](https://www.cear.es/siete-claves-sobre-la-ruta-migratoria-hacia-las-islas-canarias/) highlighting the challenges of the reception system. In November, again, about the [legal helplessness](https://www.cear.es/indefension-juridica-migrantes-canarias/) of migrants arriving to the islands. Following these concerns, the Ministry in charge of migration issues announced the reinforcement of the budgetary means for reception, with some 3500 new places and eye and a half put in the Canary Islands.

Moreover, before the difficulty of accessing the peninsular territory, CEAR has claimed to reactivate the transfers to the mainland by agile and permanent means, establishing, altogether, an equitable redistribution within the whole Spanish territory.

As for the non-refoulement principle, last year there has been some developments continuing with what was already stated in the previous CEAR´s inputs to the EASO Asylum Reports, regarding the European Court of Human Rights (ECHR) N.D. and N.T. Case Vs. Spain, with a first sentence [condemning Spain back in October 2017](https://hudoc.echr.coe.int/eng?i=001-177231#{%22itemid%22:[%22001-177231%22]}). On February 13th, the Grand Chamber of the European Court of Human Rights (ECHR) finally concluded unanimously that Spain had not vulnerated the rights of the European Convention of Human Rights by pushing back to Morocco 2 sub-Saharan migrants having jumped Melilla´s fence. [CEAR issued a note](https://www.cear.es/wp-content/uploads/2020/03/Analisis-sentencia-TEDH-devoluciones-en-caliente.pdf) analyzing the Grand Chamber´s decision.

The Spanish Constitutional Court (Tribunal Constitucional), has emitted a judgement, stating that, a rejection at the border can only be constitutional if it is operated with the legal guarantees and judicial protection as well as taking into account any special individual circumstance of “especially vulnerable persons” and according to the international law and treaties ratified by Spain. [CEAR gathered the support](https://www.cear.es/manifiesto-devoluciones-en-caliente/) of some hundred jurists, academician and renowned personalities, in a manifest calling the Spanish Government to put an immediate end to the pushbacks considered to be illegal despite the sentence of the ECHR.

Furthermore, [CEAR has reacted](https://www.cear.es/wp-content/uploads/2020/12/VALORACIO%CC%81N-CEAR_Sentencia-Tribunal-Constitucional-rechazo-en-frontera-2020.pdf) to the last pronouncement of the Constitutional Court, hoping these pushbacks to end, as there are still proofs of its recidivistic occurrence. For example, on 21st May a minor migrant from Cameroon was pushed back from Ceuta to Morocco. Eleven organizations, CEAR amid, [urged the General State Prosecutors´ Office](https://www.cear.es/devolucion-en-caliente-de-un-menor-en-ceuta/) to start the corresponding investigation.

The New European Asylum and Migration Pact, presented by the European Commission in September 2020 also entails, as for [CEAR´s opinion](https://www.cear.es/wp-content/uploads/2020/10/NUEVO-PACTO-UE-SOBRE-MIGRACIO%CC%81N-Y-ASILO.pdf) after its´ analyze, a bigger risk of vulnerating the non-refoulement principle due to the new pre-screening control and accelerated procedure that has been proposed if ever it comes down to reality in practice.

Another issue for entry and access to Spanish territory is the humanitarian admissions for aerial port of entry, and permit to stay based on temporary ground for Venezuelan migrants (99% of humanitarian protection concessions in 2020). The access to social rights has to be nonetheless comparable to the international protection provided for refugees and persons with subsidiary protection. Yet, rejection cases upon arrivals persist in a recurrent basis, without a case-per-case analyze or appropriate prior study on an eventual risk situation after the return being undertaken.

1. **Access to information and legal assistance (including counselling and representation)**

In general terms access to information is properly ensured within specialized civil society organization that work with asylum seekers and refugees. Nonetheless, obstacles remarked on previous occasions are still to be mentioned, notably the lack of information on international protection regarding unaccompanied minors whom recent figures as for sea arrivals keep in the raise. These minors are not always, nor entirely autonomous to formalize an asylum petition on their own.

A special situation has been presented concerning Canary Islands arrivals peak during last year, having led to supervening access to information and legal assistance difficulties. For example, some returns procedures have been initialized by groups and without a proper legal assistance or assuring full information being understood by means of indicated interpretation services, as [indicated by CEAR](https://www.cear.es/indefension-juridica-migrantes-canarias/) in November 2020.

1. **Provision of interpretation services (e.g. introduction of innovative methods for interpretation, increase/decrease in the number of languages available, change in qualifications required for interpreters)**

Difficulties in finding interpreters for asylum seekers still persist in Spain. This is especially notorious for some languages whose nationals don´t have a large community of residents in the country. If civil society organizations tend to improve, as far as possible, their own interpretation services, when existing, interpretation itself is barely highlighted among the points to be reinforced when it comes to official identification of needs. This happens to be seen despite reiterative recommendations suggesting to revise and follow up the quantity and quality of interpretation means available. As stated in previous occasions, Bambara, Soninke, Tigrinya or Kurd are some of the languages where larger lacks are identified, as well these lacks are presented notably in places other than the mayor cities of asylum in the country, which are the same year after year, with practically no variations.

1. **Dublin procedures (including the organisational framework, practical developments, suspension of transfers to selected countries, detention in the framework of Dublin procedures)**

To date, there is not any official information about Dublin transfers during last months, neither about the taking over of persons affected by the Dublin regulation.

1. **Special procedures (including border procedures, procedures in transit zones, accelerated procedures, admissibility procedures, prioritized procedures or any special procedure for selected caseloads)**

After the remarkable increase of asylum seekers in 2019 compared to 2018, in 2020 the number of asylum petitions presented all along the national territory has decreased by some 25%. Despite the year decalage between the submission of a petition and the corresponding resolution, whether it to a be a rejection or a recognition, there are other reasons explaining the decrease in the total number of pending resolutions, still higher than 100.000 at the end of 2020 but, anyhow, a 22% lower than 12 months before this term. Thanks to the reinforcement of the Spanish Asylum and Refugee Office (OAR), as well as due to the reduction of asylum petitions as a result of Covid-19, a faster pace for evacuating an increasingly higher number of pending resolutions is on the road. To this, will also contribute the fact that Spain has recently established a collaborative process with the EASO, precisely, in order to strengthen the asylum system in the country.

Tough a faster resolution rhythm is a good new, CEAR is aware of the risk it entails of weakening the procedural quality. Furthermore, this risk of a lower quality in asylum procedures could eventually be increased if the new criteria based on nationality proposed in the above referred New European Asylum and Migration Pact ends to be undertaken (rapid examination of petitions from nationals with previous rate of recognition under 25%, which appears to be clearly not only discriminatory, but also and above all opposed to the core substance of the refugee law).

The requirement of the airport transit visa to citizens from different countries such as Palestine, is still on going, making it impossible for these nationals to access a border post at Spanish airports where to formalize their asylum applications. This measure poses a contradiction considered the fact that these nationals are not entirely excluded as potential refugees with the corresponding status granted by Spanish authorities. In the referred example of people from Palestine noting that they represent about nothing less than the twelfth country of origin of people who applied for asylum in Spain during 2020. When for the case of Syrians, for example, the above has to be measured with the consideration that, to some extent, the legal pathway throughout resettlement has been operational, concretely in 2020 for more than 350 migrants.

1. **Reception of applicants for international protection (including information on reception capacities – increase/decrease/stable, material reception conditions - housing, food, clothing and financial support, contingency planning in reception, access to the labour market and vocational training, medical care, schooling and education, residence and freedom of movement)**

According to the Spanish Asylum Law, the reception system ought to ensure an adequate standard of living, despite some persisting obstacles, such as long delays that persons seeking to register an asylum application. Furthermore, it is important to recall, as already stated in prior exercises, that the Spanish Law requires a higher level of formalism than the Asylum Procedures Directive regarding access to the reception system. This is, it does not foresee the legal provision included in the EU Directive allowing asylum seekers access to the reception system by the mere expression of willingness to seek asylum, which, nevertheless, should be directly applicable to asylum seekers and the mere expression referred should give the right to access to the Spanish asylum reception system.

Otherwise, the rest of elements nourishing the reception capacities are mostly covered in a relatively acceptable way; with, for the Spanish case, medical care, schooling and education as more stable and stronger points, and access to the labour market as a terrain where to keep on insisting to reduce some degree of persisting discrimination. Some of these elements have been challenged and are still under challenge to date, due to the pandemic situation. This has been remarkably notorious in relation to access to health services as of the basic migrants´ fundamental rights more endangered in the frame of the referred yet ongoing situation.

This said, exceptions turned the more frequent in the midst of the Covid-19 pandemic situation and its added challenges. By June [several NGO denounced](https://www.cear.es/ong-denuncian-la-gestion-de-la-acogida-de-personas-en-melilla-durante-el-estado-de-alarma/) the reception management in Melilla during the first alarm state.

Exceptions also appears when an increase of migratory inflow pressure occurs, as currently happens for the Canary Islands, which definitely put into evidence its system´ limits, though this is something that sounds understandable. In the end, this final point signalled again spotlight the mayor challenge of a wider balance in relation to a more equitable distribution of the reception system and refugee presence all along the national territory.

On another hand, the Spanish High Court (Tribunal Supremo) has acknowledged the freedom of movement of applicant for international protection from the Spanish African enclaves Ceuta y Melilla, confirming the criteria previously settled by some regional Courts, such as Madrid and Andalucía ones. See the sentence [here](https://www.cear.es/wp-content/uploads/2020/07/sentencia_libertad_circulaci%C3%B3n_solicitantes_asilo_Ceuta_Melilla.pdf). CEAR, as having advocated in the corresponding procedure, and after 30 years raising social demand in this sense, by the end of July [CEAR showed its profound satisfaction](https://www.cear.es/el-tribunal-supremo-reconoce-la-libre-circulacion-a-los-solicitantes-de-asilo-de-ceuta-y-melilla/) to this pronouncement. Now it is time for the State´s legal counsel to stop opposing to the movements to inland territory and for the free movement to truly come into effect as a factual norm.

1. **Detention of applicants for international protection (including detention capacity – increase /decrease/stable, practices regarding detention, grounds for detention, alternatives to detention, time limit for detention)**

The Spanish state´s migrant control capacity, especially as for surveillance in the southern border, continue to increase year after year, which redounds in more capacity to detain irregular migrants. In 2020, when the first wave of the Covid-19 pandemic hatched, the Spanish detention facilities CIE specifically disposed, as a precautionary measure, for irregular migrants awaiting to be returned to their countries of origin where closed. It is to be said that, this was done, not without delay. If by mid-March, the Spanish government showed its intention to close these facilities, and by 25th the same month the United Nations High Commissioner for Human Rights, Pierre Bachelet urged national authorities of affected countries to rapidly reduce the number of detainees, under high risk of “[catastrophic consequences](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25745&LangID=E)”, by 8th April there were still some migrants inside some CIE, such as the one at Murcia or the one at Algeciras.

Finally, all the CIE where emptied and enclosed. Civil society organizations took the occasion to regain force in the push for its definitive closure, as it is a historical claim based on reiterative international declarations stating there are several alternatives and feasible alternatives to detention, that has to be only the last option. Nevertheless, some time after CIE where reopened in September despite a second wave of the pandemic then running. Nowadays detention is still systematically in the majority of the cases, very few annual asylum petitions, in 2020 just 1% from total ones, being posed within the detention centers, which is even fewer than in 2019 or 2018 when it represented a 2% and a 4% respectively.

As for the shortcomings and unacceptable points in detainee conditions, as highlighted in previous reports, little or nothing has changed as announced reforms to better access to an effective enjoyment of rights it yet to come. Especial concern is raised regarding access to information within detention centers in Spain, repeatedly being highly discretional, depending, on the center. Something for which the Spanish Ombudsman had already echoed.

1. **Procedures at first instance (including relevant changes in: the authority in charge, organisation of the process, interviews, evidence assessment, determination of international protection status, decision-making, timeframes, case management - including backlog management)**

At the end of 2020 there was in Spain 103.410 pending asylum applicants waiting for a decision of the corresponding authorities, a 22% less than in 2019. Despite the comparative decrease, Spain is one of the European countries with higher number regarding this aspect. Decisions are still not being taken within the 6 months period time legally mandated. Just the same as it happened in 2019, in 2020 95% of asylum applications ended in refusal. Noting that this percentage excludes protection given for “humanitarian reasons”, a type of protection that, notwithstanding, keeps on growing, mainly for Venezuelans, and in 2020 recognizable for other nationalities such as Colombia, Ukraine or Peru.

As for some obstacles previously highlighted, for instance, regarding family extension, or physical access to Spanish embassies and consular representation for family members, are still in need of being secured and strengthened. A major difficulty is, again, the certification and proof of dependence, which becomes especially difficult in the case of some countries. As to economic dependence, the Spanish law does not establish a clear criterion.

1. **Procedures at second instance (including organisation of the process, hearings, written procedures, timeframes, case management - including backlog management)**

The violation of the right to an effective remedy in Spain persists. Legal assistance at second instance is assured in the procedures for applicants at border points and at detention facilities (CIE), but the remedy is not effective as it does not have a suspensive effect. Just as stated in the previous report.

1. **Availability and use of country-of-origin information (including organization, methodology, products, databases, fact-finding missions, cooperation between stakeholders)**

There exist a big variety of country-of-origin information´ (COI) sources, going from official sources, commonly used so as for example the COI reports of Refworld or of the European Country Information Network, to different kinds of reports elaborated by NGO, as CEAR commonly does at request of their legal counselling team spread at the national territory.

1. **Vulnerable applicants (including definitions, special reception facilities, identification mechanisms/referrals, procedural standards, provision of information, age assessment, legal guardianship and foster care for unaccompanied and separated children)**

The identification of vulnerable profiles and special needs in the frame of the new arrivals is set on a clear basis, nevertheless, not impeding some practices to be revised or adjusted.

Regarding minors, it exists a problem of age determination, with a margin of error in the technique used is of 2-3 years, resulting in the fact that migrants of 15-16 years old can be taken as adults and, thus, not referred to the special facilities where they should be sent. Managed at a territorial regional level (Spanish autonomous communities), minors are regrettably separated from their parents until the proof of DNA ends.

Regarding victims of human trafficking, an identification and referral to general or specific facilities is undertaken case per case, with the disposal or reserved places por these profiles, also including persons presenting some mental health problems, functional diversity, or LGTBI asylum seekers. Professionals are specially trained in trafficking and gender base violence issues, yet a proper identification depends on the arrival momentum, relying on the level of saturation of the corresponding attendance capacity.

1. **Content of protection (including access to social security, social assistance, healthcare, housing and other basic services; integration into the labour market; measures to enhance language skills; measures to improve attainment in schooling and/or the education system and/or vocational training)**

The extent of the protection under the umbrella of Spanish asylum system is arguably satisfactory in general terms, not underestimating some week points. Among them, discrimination within the labour market, and the linkage between access to social benefits and census registration, which poses obstacles whenever someone moves from one territory to one other, being that this administrative competence is transferred to a regional level. There several other examples of difficulties that migrants and refugees do have to face to make effective their access to economic, social and cultural rights, in practice bounds to a wider protection. [CEAR belongs](https://www.cear.es/carta-ley-de-igualdad-de-trato/) to an Alliance for the Equity of Treatment, campaigning for a new Law of Non-Discrimination, with several previous failed essays of passing its approval, while, to date, a new draft has been presented by the ongoing Government and it is currently being discussed.

1. **Return of former applicants for international protection**

CEAR is aware of the current, in fact not new, trend to foster returns, so as set, at a communitarian level, in the proposed New Asylum and Migration European Pact. As one of its pillar stones, reasonable doubts about transparency and accountability in these operations are just in the forefront of concerns. By the end of 2020, nevertheless the pandemic situation having not arrived to an end, the Spanish Government has restarted the deportation flights, for instance, to Mauritania. Not yet a clear follow-up mechanism is known, much less subject to civil control or assessment. Being so, CEAR reminds that no one should not be expelled to places where their lives or integrity could be at risk.

1. **Resettlement and humanitarian admission programmes (including EU Joint Resettlement Programme, national resettlement programme (UNHCR), National Humanitarian Admission Programme, private sponsorship programmes/schemes and ad hoc special programmes)**

Up to 363 refugees were eligible to resettlement during 2020, in total from 5 different third countries, namely Lebanon and Egypt. 354 out of them where Syrians. Spain falls short to its annual commitment, amounting to 1,200, moreover considering that this is barely the sole legal pathway actually existing at an operational level. Not only that, but it also counters the trend that, as has been said, should be on the go, to know, the progressive increase of resettlement figures as theoretically assumed by international authorities following the consideration of clear growing needs existing worldwide in this sense. Covid-19 should no be an excuse to reduce the accomplishment of resettlement obligations.

As for the Humanitarian Visas, CEAR insist in the persistence of some discretional use of this measure, thus, a degree of uncertainty, after a lack of definition of what to consider “humanitarian reasons”. Anyhow, an obligation for Spanish authorities. In relation to complementary pathways for protection, CEAR still stands for the implementation of “humanitarian corridors” as already put in practice in several member states.

1. **Relocation (ad hoc, emergency relocation; developments in activities organised under national schemes or on a bilateral basis)**

During 2020, Spain has assumed the reception of some migrants arriving via Central Mediterranean, on the basis of ad hoc agreements between some member states. Still, altogether with Italy, Greece and Malta as southern Mediterranean countries of maritime first arrival European Union member states, have announced its rejection to the New Pact on Migration and Asylum above mentioned, precisely, among other reasons, due to the lack of a predictable relocation shared quota.

1. **National jurisprudence on international protection in 2020 (please include a link to the relevant case law and/or submit cases to the** [**EASO Case Law Database**](https://caselaw.easo.europa.eu/Pages/default.aspx)**)**

In the national jurisprudential chapter for 2020, CEAR insist in what has been said above in response to question/topic number 1 in this questionary. In addition to it, it is important to stress a sentence of Administrative Chamber of the [Spanish High Court from 15th October 2020](https://noticias.juridicas.com/conocimiento/articulos-doctrinales/15925-la-reapertura-de-la-solicitud-de-asilo-en-el-extranjero/) (Tribunal Supremo), establishing that a refugee can ask for asylum at the Greek embassy.

1. **Other important developments in 2020**

In order to maintain some traceability just with a key pending issue remarked in previous inputs, it can be said that still there is not any advancements regarding the announcement of a new Asylum National Act.

On another degree of things, CEAR continues to pay attention to the evolution of Spanish bilateral agenda with third countries of special interest, such as, but not solely, Morocco, Mauritania or Senegal, notably concerning the cooperation in border management.

When the current pandemic situation blew up, CEAR insisted in the need of undertaking a regularization process of most vulnerable profiles, among whom, undoubtedly, irregular migrants and long duration asylum seekers already within the national territory. In April, CEAR launched an [urgent regularization petition to the national](https://www.cear.es/40-mil-firmas-regularizacion-urgente/) government, that was supported by more than 300 civil society organizations and NGO´s and more than 50.000 people. In June, alongside with the presentation of its last Annual Report published to date, “refugees in Spain and Europe. 2020”, CEAR published a special report entitled: “[the situation of persons in need of international protection before Covid-19](https://www.cear.es/wp-content/uploads/2020/06/Informe-COVID_web.pdf)”. Beyond the claimed regularization motivated by the sanitary emergency situation, CEAR took the occasion to insist in the need of an agile and effective migratory policy, to widen the legal pathways for regular migration, specially by setting up a flexibilization of the requirements to obtain and to renew the residence and working permits. Further subsequent demands have been publicly exposed in the sense of [assuring the access to the asylum right](https://www.cear.es/medidas-urgentes-derecho-de-asilo-covid-19/) before Covid-19 state of play.

References and sources

1. **Please provide links to references and sources and/or upload the related material in PDF format**
* 2020 CEAR´s Annual Report – Executive Summary

<https://www.cear.es/wp-content/uploads/2020/06/Resumen-ejecutivo-Informe-Anual-2020.pdf>

* CEAR´s statement on relevant issues “what we say”

<https://www.cear.es/category/noticias/>

* The situation of persons in need of international protection before Covid-19.

<https://www.cear.es/wp-content/uploads/2020/06/Informe-COVID_web.pdf>

* 2020 CEAR´s asylum data and figures

<https://www.cear.es/wp-content/uploads/2020/10/MQC_Web.pdf>

1. **Feedback or suggestions about the process or format for submissions to the EASO Asylum Report**

CEAR follows the EASO Annual Reports and is aware of the extent of the civil society inputs captured to elaborate them, noting the corresponding references contained in previous exercises and usefully tracks it within its task activity´ monitoring process. Understanding this performance as well positive for quality purposes, and noting the efforts undertaken by the European Agency to strengthen the Spanish asylum system and management capacity in diverse windows, CEAR acknowledges the EASO for this participatory action, aiming to keep on actively contributing in next occasions.

# Contact details

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