

Input by civil society organisations to the Asylum Report 2023

Fields marked with * are mandatory.

Dear Colleagues,

The production of the *Asylum Report 2023* is currently underway. The annual [Asylum Report series](#) presents 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, policies or practices in 2022 (and early 2023) by topic as presented in the online survey.

Please note that the 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, 2023 contributions will be published on the EUAA webpage. For reference, contributions to the 2022 Asylum Report by civil society organisations can be accessed [here](#), 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 Asylum Report is subject to terms of reference and volume limitations. Contributions from civil society organisations feed into EUAA's work in multiple ways and inform reports and analyses beyond the Asylum Report.

Your input matters to us and will be much appreciated!

Please complete the online survey and submit your contribution to the Asylum Report 2023 by Friday, 3 February 2023.

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 2022 and new or remaining challenges; and
- Changes in policies or practices, transposition of legislation or institutional changes during 2022.

Please ensure that your responses remain within the scope of each section. Thus, kindly refrain from including 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 the asylum procedure (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)

In total, in 2022 31.219 migrants in irregular situation arrived to Spanish territory, a decrease of 25% compared to figures in the previous years (41.945 in 2021 and 42.097 in 2020). Data include arrivals by sea and by land, although the majority took place by sea, to know: 92,7% in 2022 vs. 95,6% in 2021. By the end of 2022, the global figure of arrivals to the Canary Islands decreased by 29,7% compared to 2021 figures. On the contrary, as regards for the Spanish enclaves in the north of Morocco, figures for land arrivals increased of some 24,1% in 2022 with respect to 2021 as whole, noting that if arrivals to Melilla increased moderately, arrivals to Ceuta increased from 753 in 2021 to 1.114 in 2022, a notorious 47,9%. Despite this clear increase in the number of arrivals in Ceuta and Melilla, access to asylum procedures is increasingly hampered and there are no legal and safe avenues for people in need of protection. The decreasing numbers of asylum applications in Ceuta (1,080 in 2022 compared to 3,252 in 2021), in a context of an overall growth of 81.7% of the total volume of asylum applications in 2022, is representative of this trend. As of today, the only option for those seeking international protection in the Spanish enclaves in northern Morocco is to climb the militarised border fence, which in 2022 has left tragedies such as the Melilla's 24th June massacre, the deadliest border crossing attempt in the history of the southern border: at least 23 people died, 77 are still missing and 470 were illegally sent back to Morocco without the legally required guarantees.

The 24th June, at the Melilla border between Morocco, testimonies of people who managed to enter Melilla, investigations by organisations such as Amnesty International and the images that have come to light show how on 24th June 2022 there were committed very serious violations of the right to life and physical integrity, access to the right to asylum, the prohibition of torture and ill-treatment, the prohibition of collective expulsions and an omission of the duty to provide medical assistance. Despite the seriousness of these alleged acts, we are very concerned that the State Prosecutor General's Office decided to leave a criminal offence unresolved, exonerating the Spanish security forces of any responsibility and setting a dangerous precedent. As of today, no independent and impartial investigation has yet been carried out to ensure access to justice for the victims and to prevent the recurrence of such tragic events at Europe's borders. The national Ombudsman has stated 470 refoulements took place the 24th June in Melilla, in the absence of procedure and without an effective appeal, of people who were injured and potentially in need of international protection, thus, required legal guarantees were unfulfilled. CEAR recalls high or sudden number of arrivals cannot be an excuse to elude the compliance of responsibilities and the respect of human rights.

In addition to the persistence of illegal refoulement at the southern border, in 2022, the difficulties in accessing the international protection procedure should be noted. The exist enormous obstacles to obtaining telematic appointments to manifest willingness to apply for asylum. This leaves many people in need of protection without access to the system, in violation of the Asylum Procedures Directive.

In November 2022 CEAR participated in the European Parliament Committee on Civil Liberties, Justice and Home Affairs (LIBE) along with the AMDH of Morocco. Apart from showing the failure of migratory policies concerning, CEAR considers that the sole way so that this will not happen again is the facts not to go unpunished. Regarding the New European Asylum and Migration Pact, we bring again here CEAR's opinion that considers it entails a risk of further vulnerating the non-refoulement principle due to the new pre-screening control and accelerated procedures proposed. More information on recent CEAR's statement can be found [here](#).

As for the humanitarian admissions for aerial port of entry, and permit to stay based on temporary ground for Venezuelan migrants (98,35% of humanitarian protection concessions in 2022, just as in 2021), access to social rights is comparable to the international protection provided for refugees. Yet, rejections upon arrival continue to occur, in spite of the national Ombudsman recommendations to evaluate case per case and without a proper analyse on an eventual risk situation after the return being undertaken.

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

Access to information is generally ensured, in part thanks to civil society organisations actively working with asylum seekers and refugees.

Nonetheless, obstacles remarked on previous occasions remain, in particular the lack of information on international protection available for unaccompanied minors, whose number of arrivals by sea continues to increase recently. Unaccompanied minors are not always fully, autonomous enough to make an asylum claim on their own, yet there are no standardised procedures to help those in need of international protection to access their right.

3. 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)

Throughout 2022, little has changed with respect to the situation we have already described in 2021, in terms of the difficulties and lack of visibility of such an essential task for communication as it is interpretation. The most important change we can mention is that, as a result of the gradual disappearance of the restrictive measures associated with the Covid-19 pandemic, our service has recovered face-to-face interpreting as the preferred form of interpreting. To cope with this change, it has been necessary to increase the number of interpreters who collaborate with CEAR's service in some areas where it is very difficult to find enough interpreters for minority languages. Nevertheless, a large number of remote interpretations continue to be carried out, making minority languages available in geographical locations where it would otherwise be impossible to offer the interpretation service in these languages.

With regard to the profile of the people assisted, again in 2022 there was a very significant change with respect to 2021. From February onwards, a large number of people began to arrive from Ukraine, and after the Russian attack on Ukraine in March, the number of people arriving in Spain requesting protection increased enormously. Due to this increase in a very short time, it was necessary to increase the number of Ukrainian interpreters and translators, which posed a great challenge, given that it is a language for which there was little demand in Spain until then and, therefore, there was a small number of professionals available who were likewise required by other official bodies and organisations.

On the other hand, it should also be noted that, as in the case of other ethnic conflicts, although in 2014 many of the people arriving from Ukraine could communicate indistinctly in Ukrainian or Russian, after the worsening of the conflict, the majority of these people only accepted to be interpreted in Ukrainian.

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

Official data covering 2022, indicates 11.873 petitions received by Spain by other states in application of Dublin regulation, mainly from France (5.014) and Germany (3.362). This was a 44% increase compared to the 8.220 petitions registered in 2021, to some extent, due to the end of sanitary restrictions on account of Covid-19. More than the half of these petitions were accepted (8.004), yet there is no official information to date about effective transfers reported during the year in comment.

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

In 2022 there were 118,842 applications for international protection filed in Spain. This is the highest figure ever recorded in our country and only close to the historical peak recorded in 2019 of 118,264 applications. It represents an increase of 81.70% in the number of applications registered compared to the previous year, 2021, when Spain received 65,404 applications. This reverses the trend of two consecutive years of decline in the number of applications (2020: 88,762 applications).

The requirement of the airport transit visa to citizens from different countries including Palestine, Syria, Yemen, Lebanon, Gambia, Cameroon, and since 2022 also Mali, is still ongoing, 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 considering the fact that these nationals are not entirely excluded as potential refugees with the corresponding status granted by Spanish authorities. The referred example is not negligible considering that up to 793 Syrian nationals have asked for asylum in Spain in 2022, and more strikingly 1.713 asylum applications of Mali nationals.

Another special procedure to be highlighted in 2022 is the temporary protection status for displaced persons from the Ukraine crisis, for which 161,037 applications have been registered in that year – all of them already beneficiaries of the temporary protection regime –. The Spanish government is processing all these applications within 24h, thanks to special registration and referral desks known as CREADE, a model that should be replicated for other beneficiaries of international protection.

6. 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)

First of all, it should be noted that in January 2023 the European Commission has initiated an infringement procedure against Spain for incorrect transposition of the Reception Conditions Directive. Although the infractions committed by the Spanish government are yet to be known, obstacles persist in relation to the delays that persons seeking to register an asylum application experience to access an adequate standard of living, that should be ensured according to the Spanish Asylum Law, under the reception system.

In this vein, the 19th December 2022 Ministry of Inclusion, Social Security and Migration has accepted the national Ombudsman's criteria and has issued instructions so that the Social Security will not cancel the registration of applicants for international protection who have been provisionally refused asylum and not with a final decision. A situation that has been occurring as a result of the almost six-year delay in the transposition into Spanish law of Directive 2013/33/EU of the European Parliament and of the Council. This decision will allow asylum seekers to continue to reside, work and receive health care, pending final decisions.

We recall here the need to develop a legal framework that protects and guarantees the exercise of the economic, social and cultural rights of persons seeking and benefiting from international protection. In particular, because even if reception capacities are mostly covered in a relatively acceptable way, with health care, schooling and education as the most stable and strongest points, access to the labour market and housing are nevertheless areas that need to be further strengthened in order to reduce persistent exclusion and discrimination.

As a great opportunity of 2022 to be replicated in 2023, CEAR especially highlights the management of the emergency reception of people coming from the invasion of Ukraine, which has demonstrated new ways of making it much more efficient, agile and coordinated, facilitating people's access to protection through the innovative implementation of the CREADE (Reception, Attention and Referral Centres). We advocate for this model to be extended to all people arriving in Spain requesting international protection, as it would allow for a process of registration and access to the system through these "one-stop asylum desks" for subsequent formalisation, study and channelling through the usual channels.

Once again, CEAR warns again the intention of getting away from the current 3-phase and centralized program of reception (first reception, (subsequent) reception and autonomy) entirely covering not only refugees with the corresponding status already granted but also asylum seekers. In the frame of the ongoing decentralization, CEAR has repeatedly asked for an adequate territorial balance and the maintenance of the specialization and the quality of the attention, ensuring it to be individualized, holistic and adaptable to the mutable sanitary, socioeconomic and labour conditions and needs. More in detail, CEAR asks not to harm the system's guarantees with the appearance of new providers with spirit of profit, thus, valuing the current collaboration system between the public administration and distinguished social entities. Also recalling on previous CEAR recommendations, another mayor challenge still not addressed is the design of a more equitable distribution of the reception system and refugee presence all along the national territory.

Going further to aliens of migrants as a wider group of concern; anyhow of remarkable interest, an outstanding development during 2022 has been the collection of more than 700,000 signatures to request through a popular legislative initiative a regularisation of the half a million migrants who live in Spain illegally doing essential work, but without access to fundamental rights such as renting a flat, signing a contract or having a health card. The approval of this proposal will have to be debated in the lower house of the parliament (Congreso de los Diputados) over the next six months.

7. 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, among others, in more capacity to detain irregular migrants. 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. Special concern is raised regarding access to information within detention centres (known as 'CIEs') in Spain, repeatedly being highly discretionary, depending on the centre. Asylum applications within the CIEs remain residual: in 2022 only 0.78% (932) of the total annual asylum applications (118.842) were registered in these centres.

The conclusions of the visit to the CIES carried out by the Ombudsman's National Mechanism for the Prevention of Torture in 2021 were made known last September 2022. The Spanish Ombudsman reiterates that major shortcomings persist in these detention centres and urges for the need to create a protocol for filing complaints about the mistreatment and ill-treatment of migrants in these centres.

A positive development in 2022 was that, for the first time, the three judges in charge of the control of the CIE in Madrid required the General Directorate of Police to modify the conditions governing the health service, in order to comply with current legislation. In addition, the judicial ruling requested the managers of the CIE to create a protocol for processing complaints of ill-treatment that guarantees respect for effective legal remedy.

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

The backlog of pending decisions in Spain continues to accumulate. At the end of 2022, there were 122,035 asylum seekers in Spain awaiting a decision by the corresponding authorities, a higher figure than in 2021, which was 104,010. The nationalities with the highest number of unresolved decisions are: Venezuela, with 24,639 pending cases and Colombia, with 21,625 pending cases. Spain continues to be one of the European Union countries with the highest number of pending decisions, along with France and Germany. Regarding asylum decisions, at the end of 2022, according to Ministry of the Interior information, there were 87.000 (figure rounded) files in instruction phase (including protection on humanitarian grounds). This figure represents an increase of 24% compared to the 69,891 decisions taken in 2021 and consolidates an upward trend in the number of decisions since 2019. Nonetheless, we recall what has been said in previous exercises: decisions are still not being taken within the 6 months period time legally mandated and delays are not uniform, ranging approximately between 3 and 18 months depending on the cases.

In 2022 still the majority of the asylum applications ended in refusal, in particular almost 60% of all asylum applications are rejected, representing a decrease compared to 71% of negative decisions taken in 2021. On a positive note, there is a progressive increase in the recognition rate of international protection (refugee status plus subsidiary protection), which in 2022 rises to 16% compared to 10% in 2021 (which was already double the 5% recorded in 2020). Notably, this is explained by the increase in subsidiary protection decisions, which in 2022 represent 8.51% of the total number of decisions, triple in size compared to 2.89% in 2021.

Regarding refugee status recognitions in 2022, in proportion to the total number of decisions taken, it remains practically unchanged from 7.66% in 2021 to 7.85% in 2022. 9 states account for 82.46% of the favourable decisions granting international protection as a whole, both refugee status and subsidiary protection: (in this order) Mali, Afghanistan, Ukraine, Syria, Colombia, Honduras, Sudan, Nicaragua and El Salvador. These are the same as in 2021, with the inclusion of Sudan and El Salvador.

As for the specific type of protection for humanitarian reasons, the number of decisions has risen to 24.05% of the total number of decisions in 2022 compared to 18.5% in 2021, although their relative weight has decreased compared to the 35% they represented in 2020. Venezuela alone keeps concentrating the great majority of decisions of protection for humanitarian reasons.

Obstacles previously highlighted persist, for example, concerning family extension, or physical access to Spanish embassies and consular representation for family members, which need to be ensured and reinforced. Another sound difficulty is, once again, the certification and proof of dependence, especially difficult for some specific countries. In addition, the Spanish law does not establish a clear criteria regarding economic dependence.

9. 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 reports.

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

There is currently a wide variety of sources of country of origin information (COI). In addition to official sources, COI reports from Refworld or the European Country Information Network are commonly used, but also different types of reports produced by NGOs, such as those usually produced by CEAR at the request of its legal team distributed across the national territory. In terms of developments worth mentioning in 2022, EUAA information is a relevant source of information.

11. 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)

We recall what has been said in the previous exercise and in the previous questions. The identification of vulnerable profiles and special needs in the frame of the new arrivals is set on a clear basis under national norm, nevertheless, not impeding some practices to be revised or adjusted. It is necessary to guarantee a differentiated treatment in the procedure for international protection at the border and detention centres, applying a gender, sexual diversity, age and vulnerability perspective in those cases in which the vulnerability factors of art. 46 of the Spanish Asylum Law concur.

Regarding minors, there is 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. In 2022, it is worth highlighting as a positive aspect, the impact of the reform of the Aliens Act (Reglamento de Extranjería) of October 2021 that modified the legal regime for unaccompanied minors and young people in detention in order to promote their social inclusion. The reform has to some extent managed to prevent many unaccompanied minors from falling into a situation of irregularity upon reaching the age of 18 and has promoted their access to the labour market from the age of 16. Nonetheless, as it has been previously stated, there is very much to be done, notably regarding access to housing for unaccompanied minors, who in 2022 often found themselves in a situation of homelessness in Spain.

On the other hand, as for victims of human trafficking, an identification and referral to general or specific facilities is undertaken case per case, with the disposal or reserved places for 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. In this vein, civil society organisations request an integral law on human trafficking, which is being drafted by the Spanish parliament.

12. 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 degree of protection of the Spanish asylum system is, in general terms, arguably satisfactory, although with some weaknesses. These include discrimination in the labor market and the impossibility of accessing housing. Also, the link between access to social benefits, including health care, and census registration is a serious problem, as this administrative competence has been transferred to the autonomous community level and poses obstacles when someone moves from one territory to another. In this sense, a positive development in 2022 has been the enactment of a Draft Bill to guarantee Equal access to Social Services, which provides for the elimination of the census registration requirement for access to basic social benefits and services, and which is currently in the parliamentary process.

There are many other examples of the difficulties faced by immigrants and refugees in gaining access to economic, social and cultural rights. We recall here that CEAR belongs to an Alliance for Equal Treatment, campaigning for a new Equality and Non-Discrimination Law, which includes organizations focused on children, LGBTIQ+, HIV, homelessness, illness, childhood and, therefore, migration and asylum. In this sense, the approval of the Integral Law for Equal Treatment and Non-Discrimination is very noteworthy in 2022. After more than a decade of waiting, this law finally provides an essential instrument for combating discrimination and complying with the principle of equality in a broad and comprehensive manner. This regulation is currently awaiting regulatory development and the creation of an independent authority to ensure compliance.

13. Return of former applicants for international protection

CEAR is aware of the current, in fact not new, trend to foster returns, so as set in the proposed New Asylum and Migration European Pact and, very recently, in the new operational strategy to increase returns presented by the European Commission. We reiterate our concern about the lack of transparency and accountability of return operations.

In the first eight months of 2022, the Spanish government issued a total of 18,676 return decisions, although only 2.8% of these (539) were implemented during that period. It is of concern that many people were detained on the basis of an expulsion order that in the end was never implemented.

European and national authorities intervene to request and monitor that the European Border and Coast Guard Agency complies with the full respect of fundamental rights in its operations. However, not yet a clear follow-up mechanism is known, much less subject to civil control or assessment. CEAR reminds that no one should not be expelled to places where their lives or integrity could be at risk.

14. 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 1.112 refugees were eligible to resettlement during 2022. This is an increase of 113% compared to 2021 (521 persons resettled). Regarding the country of origin, the main nationality is Syria (1,045 people resettled), although 50 people were also resettled from Eritrea, 5 from Afghanistan, 3 from Sudan and 9 from other nationalities. In terms of the host country, in 2022, Lebanon was the main host country for persons effectively resettled by Spain (1,039 resettlements made), while in 2021 this position was held by Turkey. Once again, Spain falls short of its annual commitment, which amounts to 1.200 resettlement places, also considering that this is hardly the only legal avenue existing at the operational level to any significant degree. Not only that, it also offsets the trend of increasing global resettlement needs, as stated by the UNHCR. Apart from the need to increase substantially the number of places for resettlement as the main legal pathway to access protection, CEAR insists that is imperative to promote other complementary mechanisms of this kind, including labour mobility, humanitarian visa, family reunification, humanitarian protection and communitarian sponsorship.

In this sense, it is worth mentioning the reform of the Spain's Aliens Act (Reglamento de Extranjería) in the summer of 2022, which was necessary, but it is limited in scope as it excludes people in particularly vulnerable situations. The amendments are aimed at facilitating access to the labour market and covering the demand for migrant employment that Spain needs, but regulatory changes that guarantee the full social and labour integration of migrants already living in Spain under equal conditions have yet to be addressed. Among the pending challenges that could have been improved and addressed are the regularisation of children not born in Spain whose parents have residence authorisation and a regulation of reunification that guarantees the full right to family life.

On the other hand, there are already some practices in Spain in terms of community sponsorship, as pilot experiences on the UNHCR proposal. In the Basque Country, the programme has been running since 2019. Likewise, in Valencia and Navarra, with the support of different organisations committed to undertake pilot actions for a period of between 18 and 24 months, the aforementioned sponsorship goes on since it was first launched in 2020 and 2021 respectively.

As for the Humanitarian Visas, CEAR insist in the persistence of some discretionary 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 protection channels, and in light of the deterioration of the current situation of women and girls in Afghanistan, CEAR reiterates the need to implement humanitarian corridors for refugees from this country, and the suspension of the EU-Afghanistan declaration on return and readmission. Another measure that would make a difference in this regard is the relaxation and streamlining of family reunification processes. This has been included in the recent reform of the Spain's Aliens Act, although not with sufficient ambition.

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

In June 2022, the signing of the Declaration on Solidarity by 21 European countries and the creation of an EU Voluntary Solidarity Platform represents a step forward in the traditional demand of Spain and the rest of the southern Mediterranean countries for a fairer distribution of responsibilities in asylum and migration issues. However, its non-binding nature and the small number of quotas that member states have offered, make this mechanism insufficient to alleviate pressure on Spain's migration and asylum systems. From CEAR, and together with the EUAA and IOM, we support the Voluntary Relocation Programme coordinated by the Ministry of Inclusion, Social Security and Migration. In 2022, and at the time of writing this report, there have been no beneficiaries in Spain from the Relocation Programme, as we are still in the process of pre-selection and interviews. As part of this process, Spain has received visits from Germany and France.

By the end of 2022, only one mission was undertaken by France to interview 47 people from all the host entities involved (including 8 people from CEAR). Regarding the profile of the people pre-selected for relocation and who gave their consent, 12 are women, 35 are men and 20 of them are in a situation of special vulnerability. Concerning their nationality, 14 are from Guinea, 14 from Afghanistan, 1 from Ivory Coast, 5 from Morocco, 1 from Somalia, 2 from South Sudan, 9 from Sudan, 1 from Yemen. The first group of pre-accepted candidates is expected to be relocated from Spain to France in February 2023.

16. National jurisprudence on international protection in 2022 (please include a link to the relevant case law and/or submit cases to the [EUAA Case Law Database](#))

In the national jurisprudential chapter for 2022, on the 16th November 2022 the Spanish Supreme Court (Tribunal Supremo), on the authorisation of humanitarian reasons for international protection, ruled in the STS 4338/2022 that even if a specific and differentiated application to the administration is required - together with the request for asylum and/or subsidiary protection -, this does not prevent the Administration, in cases of evident subjective vulnerability (even in the absence of an express request), from having a proactive obligation to adopt this measure.

In STS 4002/2022 on the provision of legal assistance, it is of concern that the Supreme Court determined that "as long as there is complete and correct information - in writing signed by the foreigner - of the rights of the applicant for international protection and of the assistance requested, the fact of not ticking any of the boxes must be interpreted as a valid tacit waiver of that assistance, when it is not mandatory".

The Supreme Court also clarified in STS 278/2022 that the application for international protection implies the suspension of the expulsion order for unlawful stay that could affect the applicant until the Administration issues an initial decision dismissing or rejecting the application.

And the most relevant case law is that handed down on 29 November 2022, STS 4365/2022, on provisional measures on international protection, in which the Court has established that Articles 129 et seq LJCA must be interpreted in accordance with the Directive and the CJEU. "The return order is implicit in the contested decision. And, although it is not the case that the suspension should be an automatic decision, it cannot be ignored that it entails the loss of the legitimate purpose of the appeal. As long as there is no judicial decision, the non-suspension of the decision appealed against means that the purpose of the appeal is lost. In short, we must understand that the interpretation in accordance with European law guarantees that a possible upholding judgment will not be breached."

Finally, of particular note is also the recent Supreme Court ruling STS 4625/2022 in relation to a Ukrainian national who had an expulsion order in place prior to the Russian invasion. The Court decided, in application of the principle of non-refoulement, to repeal the expulsion and grant him temporary protection.

17. Other important developments in 2022

CEAR continues to pay attention to the evolution of Spain's bilateral agenda with third countries of special interest, such as Morocco, Algeria, Mauritania and Senegal, especially with regard to cooperation in migration control and border management. In this line, it is worth highlighting an investigation by CEAR of 2022 into Spain's border externalisation policy in these African countries, which analyses the conditionality of migratory control imposed on development cooperation funds, especially as regards funds from the European Union Emergency Trust Fund for Africa (EUTF). We conclude it is concerning that ODA funds are currently being channelled towards issues focused purely on border control and externalisation.

Development aid should be focused on eradicating poverty and improving the living conditions of the population of the countries to which it is destined.

Precisely, an illustration of the humanitarian consequences of the instrumentalisation of borders and the lack of legal channels is the deadly episode of 24 June between Spain and Morocco. We recall our concern by the fact that 7 months after the evidence of more than 37 deaths, 77 forced disappearances and 470 pushbacks of people injured and in need of protection in Melilla, the truth has still not been established, accountability has not been determined and victims continue without accessing justice and reparation. The decree of archive of the case by the Spain's Public Prosecutor's Office, which had the power to investigate, is a step towards the impunity for serious violations of human rights and the right to asylum committed on European borders.

On the other hand, in 2022, of particular concern is the increase in administrative barriers and the existence of structural obstacles that prevent refugees, asylum seekers and vulnerable migrants from accessing their economic, social and cultural rights. Of great seriousness is the inability of these people to access housing, which currently results in many people in need of protection, including minors, being homeless in Spain. In addition, CEAR denounced in 2022 the increase in hate speech and hate crimes against migrants, refugees and asylum seekers, in a context of insufficient measures to prevent the ethnic and racial discrimination and of a lacking regulation to protect these people from this violence.

References and sources

18. Please provide links to references and sources or upload any related material in PDF format

- 2022 CEAR's Annual Report – Executive Summary <https://www.cear.es/wp-content/uploads/2022/06/Resumen-ejecutivo-2022.pdf>
- CEAR's statement on relevant issues "what we say" <https://www.cear.es/category/noticias/>
- 2022 CEAR's asylum data (2021 figures) https://www.cear.es/wp-content/uploads/2022/06/AAFF_masquecifras_2021_digital_.pdf
- Report of the New Pact on Migration and Asylum: Risks and Opportunities https://www.cear.es/wp-content/uploads/2022/05/INFORME-PACTO-EUROPEO_EN.pdf
- Equal Treatment and No Discrimination: Hate speech and hate crimes against migrants and refugees https://www.cear.es/wp-content/uploads/2022/03/Igualdad-de-trato-y-no-discriminacion.-Discurso-y-delito-de-odio-hacia-poblacion-migrante-y-refugiada_CEAR-2022.pdf
- EU and Spanish Development Cooperation and Foreign Action on Issues of Migration in Africa: Main Instruments and Impacts https://www.cear.es/wp-content/uploads/2022/04/INFORME-MARCO_EN_05-04_baja.pdf. Border Externalisation and Migration Control: Proposals and Conclusions: https://www.cear.es/wp-content/uploads/2022/04/CONCLUSIONES_INFORME-MARCO_EN_05-04_baja.pdf
- White Book of Spain's International Protection System – Executive Summary https://www.cear.es/wp-content/uploads/2022/02/Resumen_Ejecutivo_Libro_Blanco.pdf

19. Feedback or suggestions about the process or format for submissions to the Asylum Report

CEAR follows the EUAA Annual Reports and is aware of the extent of the civil society inputs captured to elaborate them, making use of its content within different inner activities and in the frame on its policy monitoring task. CEAR would retake in this occasion a prior comment in this report process noting the efforts undertaken by the Agency to strengthen the Spanish asylum system and management capacity, thus, again acknowledges the Agency for this, aiming to see new and periodic active contributions and joint efforts in line with any regional development in the next future to come.

Please upload your file

The maximum file size is 1 MB

23bf6de8-b72c-4aa5-bf75-9473f839e05e/EUAA_Input_CEAR_2023__year_2022_.pdf

Contact details

* Name of Organisation

Comisión Española de Ayuda al Refugiado (CEAR)

Name and title of contact person

Nuria Díaz - Advocacy Coordinator

* Email

nuria.diaz@cear.es

I accept the provisions of the EUAA [Legal and Privacy Statements](#)

Useful links

[EUAA Asylum Report 2022 \(https://euaa.europa.eu/asylum-knowledge/asylum-report\)](https://euaa.europa.eu/asylum-knowledge/asylum-report)

[Executive Summary -Asylum Report 2022 \(https://euaa.europa.eu/executive-summary-asylum-report-2022\)](https://euaa.europa.eu/executive-summary-asylum-report-2022)

[Sources on Asylum 2022 \(https://euaa.europa.eu/publications/sources-asylum-2022\)](https://euaa.europa.eu/publications/sources-asylum-2022)

[National asylum developments database \(https://euaa.europa.eu/national-asylum-developments-database\)](https://euaa.europa.eu/national-asylum-developments-database)

Background Documents

[Word template to submit input](#)

Contact

[Contact Form](#)

