

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)

SJM has observed the conditions of the access to the territory and the asylum procedure in the city of Melilla, as part of its southern border project, throughout 2022.

In 2022 asylum seekers have been obliged to access Spanish territory in Melilla necessarily by unauthorized entry points (jumping the fences, swimming, or by boat); risking their life or physical integrity. Due to the inaccessibility for migrants to the asylum offices present at the Beni Enzar border post in Melilla (the same could be said of the Tarajal post in Ceuta) and the obstacles placed in the Spanish embassy and consulates in Morocco to third-country nationals who approach to apply for international protection - Although this type of procedure is foreseen by article 38 of the Spanish asylum regulation (Ley 12/2009). -.

The fact that asylum seekers (including potential minors) have been unable to access the Spanish territory through an official entry to Melilla has also been recently pointed out by the Commissioner for Human Rights of the Council of Europe after her visit to Melilla: “there is no genuine and effective access to asylum at the border between Nador, in Morocco, and Melilla. “In practice, there seems to be no other way to enter Melilla and seek protection with the relevant authorities other than by swimming or jumping the fence, risking one’s life. This situation must be addressed comprehensively to make sure that those in need of protection can access the territory through legal and safe ways”

SJM has been present in the episodes of numerous border crossings that have taken place in 2022 by the fence of Melilla. Including the border crossing of June 24th 2022, which resulted in over 23 migrants deceased.

In land entries to the city, the access to the asylum procedure is only offered to migrants who surpass both the border fences and the border police forces that arrive. SJM continues to observe and document border rejections and push backs - return procedures with a complete lack of legal guarantees, including the lack of access to the asylum procedure - suffered by migrants who enter by the border fence.

During the numerous entries by the border fence of March 3rd and March 4th 2022, SJM observed the lack of guarantees of the asylum procedure applied. The group of migrants, of nationalities with a high recognition rate such as Mali, Burkina Faso, Sudan or Yemen, were subject to an accelerated admissibility procedure in the border post of Beni Enzar. The applications of the entire group were determined as admissible by the asylum office due to the lack of guarantees of the personal interviews of asylum.

SJM has also documented pushbacks at sea to people trying to access the city of Melilla, and pushbacks to potential asylum seekers that arrive to small territories under Spanish sovereignty surrounding Melilla, such as the Chafarinas Islands. In both scenarios, the access to the asylum procedure is barred even though the migrants clearly state their intent of applying for asylum to the border guards.

The access to the asylum procedure has been severely restricted in Spain due to the lack of appointments to apply for asylum. These appointments, only available through a web page, are extremely scarce and many potential asylum seekers search during weeks and months with no avail. No alternative is offered by the competent authorities to the internet appointments, infringing the possibility of registering the asylum application ex article 6 of Directive 2013/32/UE.

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

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)

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

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

SJM visits detained migrants in four detention centres throughout Spain. Among several other deficiencies and human rights violations identified (episodes of violence suffered by the inmates, inadequate provision of health services, among others), SJM observes cases in which the access to the asylum procedure continues to be hampered at times by the administration of the centres and the police. Applying for asylum is pinpointed by the public authorities as a mere delaying tactic for migrants with an imminent execution of their return order and on occasions lag when registering the requests.

Almost one-third of migrants detained in Spanish detention centres apply for asylum (around 50% regarding women). In 2021 (data for 2022 is unavailable), al 50% of asylum applications presented by women in detention centres were admitted (producing their immediate liberation).

SJM identifies deficiencies in information provision on asylum in detention centres. Most centres have information leaflets on asylum, but its content is extremely technical and many migrants don't understand it clearly. The Spanish Red Cross is also in charge of informing on asylum in the centres, but in many cases lack adequate translators to provide the information (only spanish, english, french and sometimes arabic are available).

SJM identifies that the detention centres visited still lack the provision of the adequate circumstances for an accelerated procedure of asylum applications. The context in which asylum seekers conduct the personal interview is concerning due to the hostility in the centres and lack of confidentiality during the personal interviews infringing the content of Art. 15.3 of Directive 2013/32/EU.

Moreover, officials of the responsible authority (the Spanish asylum office) fail to conduct the personal interviews - or merely visit the detention centres - which continue to be performed by the Spanish police.

A development in 2022 has been the decision of the supervisory judges of the detention centre in Madrid in May. In which, among other decisions, requested the Spanish asylum office to be present in the asylum personal interviews that are to be conducted in detention.

Due to the health restrictions that entered into force by COVID related regulations, SJM was hindered from visiting some detention facilities (specially in Barcelona) even after the restrictions were lifted for the rest of the population. As a consequence, our capacity of human-rights observation - as well information and counselling on the right to apply for asylum and the content of the accelerated procedure) in closed centres was affected.

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)

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)

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)

Spain continues to entertain having police officers conducting the personal interviews of all asylum applicants - normal procedures and special asylum procedures- breaching article 14.1 of Directive 2013/32 /UE. The lack of personnel of the determining authority (the asylum office) conducting the personal interview and the uneven training of police officers conducting the interviews deteriorate the basic guarantees and quality of the personal interviews. No recording of the personal interview is available in contrast.

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

Spain continues to non - comply with article 46.5 of Directive 2013/32/UE by not providing an effective remedy against negative decisions on their asylum application. Spain foresees an administrative appeal against the negative decision on asylum application, before the Spanish asylum office, which suspends enforcement of the negative decision if the applicant requests it as a precautionary measure and it is granted - it is normally granted via administrative silence.

The spanish legal system foresees the effective remedy before a tribunal, but without an immediate suspension of the negative decision ex article 46 Dir 2013/32/UE. A general precautionary measure can be requested to the courts, but is rarely granted.

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

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)

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)

13. Return of former applicants for international protection

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)

SJM participates in private sponsorship programmes in 4 regions of Spain, accompanying syrian families resettled families. The innovation of 2022 has been the participation of the SJM professionals in the initial phase of the resettlement process, providing information directly to the families before they are resettled to Spain. SJM has identified relevant improvements in expectation management and initial phases of integration in spanish communities with the families that have being prepped adequately - before they travel - about their new living conditions once they arrive to Spain.

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

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](#))

17. Other important developments in 2022

References and sources

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

SJM southern border report 2022: <https://sjme.org/2022/12/12/informe-frontera-sur-2022-donde-habita-el-olvido/>

SJM report on detention centres 2022: https://sjme.org/wp-content/uploads/2022/05/Informe-CIE-2021-SJM_reduc.pdf

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

Please upload your file

The maximum file size is 1 MB

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a5bb52f3-17fb-4e6a-bab9-b67eeb6f3b49/220627_NdP_SJM_Fallecidos_Melilla_Junio.pdf

c154b568-204e-4947-810e-1c0682b125e8/NdP_MelillaSaltos_20220304.pdf

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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](#)