

Input by civil society organisations to the Asylum Report 2024

Fields marked with * are mandatory.

Dear Colleagues,

The production of the Asylum Report 2024 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, researchers and UNHCR. 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 2023 by topic as presented in the online survey (**'Part A' of the form**).

We also invite you to share with us any publications your organisation has produced throughout 2023 on issues related to asylum in EU+ countries. These may be reports, articles, recommendations to national authorities or EU institutions, open letters and analytical outputs (**'Part B' of the form**).

Your input can cover information for a specific EU+ country or the EU as a whole. You can complete all or only some of the sections.

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.

All submissions are publicly accessible. For transparency, contributions will be published on the EUAA webpage. For reference, contributions to the 2023 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 submit your contribution to the Asylum Report 2024 by Thursday, 30 November 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:

Part A:

- New developments and improvements in 2023 and new or remaining challenges;
- Changes in policies or practices, transposition of legislation or institutional changes during 2023;
- Across the different thematic sections feel free to make reference to issues related to the implementation of the Temporary Protection Directive at national level.

Part B:

- New publications your organisation produced in 2023

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.

PART A: 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)

According to the latest available data, 46.862 migrants in irregular situation arrived at Spanish territory since the 1st January to the 15th of November 2023, an increase of 62% over the figures for the same period of the previous year (28.926 by 15th November 2022). Data includes arrivals by sea and by land, although the majority took place by sea, to know: 97,5% in 2023 (45.707 people) vs. 92,7% in 2022. The overall increase of arrivals to Spain is explained mainly by the 118,1% rise of arrivals to the Canary Islands compared to 2022 figures. The arrival of 32.436 people on the Canary Islands breaks with the historical maximum recorded in the "cayuco crisis" of 2006. On the contrary, as regards for the Spanish enclaves in the north of Morocco, figures for land arrivals decreased around 44% by mid-November 2023 (1.155 people) compared to that period of 2022, noting that if arrivals to Ceuta increased moderately (9%), arrivals to Melilla fell from 1.167 in 2022 to 151 in 2022, a notorious 87,1%.

The striking decline in the number of arrivals to Ceuta and Melilla, in a context of overall growth of irregular arrivals and in the total volume of asylum applications in 2023, demonstrates that access to asylum procedures is increasingly hampered and there are no legal and safe avenues for people in need of protection. Since the Melilla's 24th June massacre, where at least 23 people died, 77 are still missing and 470 were illegally sent back to Morocco trying to reach Spanish soil, there have been no new attempts to

climb over the militarized fence. However, at least 3,000 people have been "intercepted" trying to reach Spain by sea through Ceuta and Melilla, mostly minors. All of them have been pushed back without the necessary legal guarantees.

Regarding the Atlantic route to the Canary Islands, on 30 August 2023, the Spanish Government ignored CEAR's call for compliance with international human rights obligations and failed to halt the return to Senegal of 168 migrants who were rescued at sea by the Spanish Guardia Civil patrol boat "Rio Tajo". The refoulement was done without guaranteeing access to the international protection application process and without taking into account the situation of political and social instability in Senegal, which could put these people at risk.

In addition to the persistence of illegal refoulement in the southern border, in 2023, the difficulties in accessing the international protection procedure within the territory have increased. There exist enormous obstacles to obtaining appointments to manifest and formalise the willingness to apply for asylum. At the end of March 2023, the National Police introduced changes to the system for requesting this appointment, which have not yet led to a substantial improvement in access to the international protection procedure. This situation is leaving more than 80.000 people in need of protection without access to the system for an average of six or eight months, in violation of the Asylum Procedures Directive. For this reason, in June 2023 CEAR, together with 20 other social organisations, lodged a complaint with the European Commission for infringement of EU law.

Finally, we are concerned that the progress of the negotiations on the New European Pact on Asylum and Migration risks further breaching the principle of non-refoulement due to the proposed new pre-screening and mandatory asylum and return border procedures. More information on CEAR's proposals to the current Spanish Presidency of the Council of the EU can be found [here](#).

As for asylum applications at aerial ports of entry, rejections upon arrival continue to occur, despite the national Ombudsman recommendations to evaluate case per case and without a proper analysis of a possible risk situation if returned to their country of origin.

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

There is no provision of information by the authorities at the time of the appointment to initiate the international protection procedure, resulting in many applicants turning up on the day of the interview without this information and without legal assistance. Hence, access to information is generally ensured thanks to civil society organisations actively working with asylum seekers and refugees. In addition, as recalled in previous exercises, obstacles remain in regards information on international protection available for unaccompanied minors, whose number of arrivals by sea continues to increase, especially to the Canary Islands. 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.

As regards legal assistance, we at CEAR have expressed our concern about the situation in the Canary Islands emergency. Cases have come to our attention of migrants who have been made to sign by the Ministry of the Interior that they have exercised their right to a lawyer when they have not seen one, as well as evidence of the consistent practice of one lawyer for every 6 people, without individualized assistance.

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 2023, little has changed with respect to the situation we described in 2022, in terms of the difficulties and lack of visibility of such essential tasks for communication with the people we serve, as well as for their social inclusion, as they are translation and interpretation. The most important change that we can mention, and which we consider to be very positive, is the inclusion of increasingly specialised courses for interpreters in the EUAA's training offer, as it can contribute to improving the quality of services and to professionalising the activity of minority language interpreters in our country.

With regard to the profile of the people assisted, in 2023, while we continued to attend to a large number of people from Ukraine, with the difficulties that this has entailed and which we mentioned in the previous report, a new challenge arose as a result of the arrival of numerous people to the Canary Islands and other coasts who came from sub-Saharan countries, mainly from Senegal and, to a lesser extent, from Gambia and Morocco. Although in smaller numbers, asylum seekers also arrived from Mauritania, Mali, Côte d'Ivoire and Guinea Conakry. Most people from Senegal can only communicate fluently in Wolof, so it has been necessary to urgently reinforce the number of interpreters working with the service who include Wolof as a working language. The number of requests in Fula and Gambian Mandinka has also increased. As in the case of Ukrainian interpreters, this has not been easy, given that there are very few people living in Spain who have a sufficiently high level of Spanish and Wolof, Fula or Mandinka. Moreover, there is no specialised training in translation and interpreting for this language combination, nor are there professionals whose contact can be obtained through the usual professional networks or professional associations. Another added difficulty is the lack of specific materials and terminological bases in the said languages for these professionals to check their doubts, as well as the lack of established terminological equivalences, especially for legal terminology and administrative language. On the other hand, also, as in the case of Ukraine, as the demand from various organisations and private entities increased, it became even more complicated to have suitably qualified interpreters.

The problems of availability of interpreters for some languages, when formalising international protection applications, lead to further delays in appointments and in some cases to telephone interpretation, which undermines the quality of the interview and of the procedure as a whole.

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 from January to the end of September 2023, indicates 7.168 petitions received by Spain by other states in application of Dublin regulation, mainly from Germany (2.368) and France (2.265). This was a 24% decrease compared to the 9.447 petitions registered in the same period of 2022. More than half of these petitions were accepted (4.769), yet there is no official information to date about effective transfers reported during the year in comment.

It should be noted that transfers are carried out without prior coordination between the authorities of the two countries regarding the specific reception needs of the applicants, which makes it difficult to guarantee them adequate reception conditions.

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

According to the latest data available, from January to November 2023 there were 137.918 applications for international protection filed in Spain. This is the highest figure ever recorded in our country and, with two months to go before the end of 2023, it already exceeds the historical maximum reached in the total year 2022 (118,842 applications). This represents an increase of 40.6% in the number of applications registered compared to the same period last year. The upward trend continues, interrupted only by the effects of the Covid-19 pandemic.

Of these 137,918 applications, 2396 were submitted at border posts and 718 at Alien Detention Centres, in both cases applying the accelerated border procedure of art. 21 of the Asylum Law. At Adolfo Suarez Madrid Barajas Airport, the main point of entry and which concentrates most applications submitted at border posts, there have been significant delays throughout the year in accessing the procedure, with times when people have had to wait more than 20 days at the airport to formalise their application for international protection. Likewise, at times there have been situations of overcrowding in airport facilities for applicants for international protection, making it difficult to guarantee the minimum conditions established in the Reception Directive. In these circumstances, the situations of vulnerability of applicants for international protection at the border post are not always detected, and therefore the procedure and reception conditions are not always adapted to the needs of the applicants.

The requirement of the airport transit visa to citizens from different countries including Palestine, Syria, Yemen, Lebanon, Gambia, Cameroon, Mali and since 2023 also Burkina Faso, 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 considered the fact that these nationals are not entirely excluded as potential refugees with the corresponding status granted by Spanish authorities. As an example, it is not insignificant that up to 795 Syrian nationals were recognised as beneficiaries of international protection in Spain in the first nine months of 2023, and even more striking 2.101 Malian nationals. Aside from these cases, this restriction of access to asylum is also incomprehensible in view of the foreseeable exodus of nationals from the Occupied Palestinian Territories due to Israel's attempted genocide from 7 October 2023.

Another special procedure to be highlighted in 2023 is the maintenance of temporary protection status granted to displaced persons from the Ukraine invasion, for which 180.000 applications have been registered at the time of writing this report – 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 we recall it should be replicated for other potential 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. Particularly relevant has been the situation of people arriving by coastline, who have seen their stay in Humanitarian Reception places reduced and have not been able to access the Reception System due to the difficulty of accessing the asylum procedure.

In the context of a generalized difficulty to access the procedure of international protection and therefore the reception system, CEAR reiterates its call for the CREADE (Centros de Acogida, Recepción y Derivación) model –implemented to manage the emergency reception of Ukraine – to be extended to all persons arriving in Spain requesting international protection, as this model could allow a process of registration and access to the system through "one-stop asylum windows" for subsequent and agile formalization, study and channelling of asylum requests. It must be said that the CREADE space run by CEAR in Málaga has been used to facilitate international protection' notifications.

Also recalling on previous CEAR recommendations, another mayor challenge still not addressed is to build a stable and dignified humanitarian reception structure to facilitate an agile response with all due safeguards and the collaboration of all actors involved. Since July 2023, the deadly Atlantic route to the Canary Islands has been reactivated. The months of September and October have seen record numbers of arrivals of more than 1,300 people in one day and 8,500 in two weeks. These figures have surpassed historical records from 2006 and have challenged the reception system and the humanitarian response. Nevertheless, the declaration of a "migratory emergency situation" in the Canary Islands by the Spanish government has made it possible to avoid collapse by adopting a series of measures in collaboration of all Administrations and CSOs involved, such as: rapid transfers and referrals to the mainland; or the opening of more than 11,000 new humanitarian reception places throughout Spanish territory, of which CEAR manages 1,332 (700 new ones). However, the capacity offered by the new reception system of Concerted Action to guarantee the same number of places throughout the year in the Initial Assessment and Referral Phase has allowed for a certain immediate response to the first moments when these numbers began to increase.

One year after the change in the regulatory instrument of the state reception system, which has gone from being managed through a subsidy model to being managed through concerted action, a positive balance can be drawn. This change, demanded by CEAR for years, has provided the system with the stability and transparency necessary to deal with the exponential increase in the number of applications for international protection in the last decade.

We further 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. With a significant increase in housing and rental prices, many people, who could move on to the phase of autonomy, find themselves in limbo due to the impossibility of accessing decent housing. The financial coverage proposed for vulnerable places in the framework of the Concerted Action is not sufficient to guarantee the sustainability of the entities that are committed to opening this type of places. In addition, CEAR considers unacceptable the delays in basic administrative processes, such as the management of health cards.

Going further to aliens of migrants as a wider group of concern; anyhow of remarkable interest, an outstanding development in February 2023 has been the registration of more than 700,000 signatures through a popular legislative initiative asking for 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. Unfortunately, the parliamentary processing of the popular legislative initiative has been paralysed by the early Spanish general elections in July 2023 and the consequent dissolution of the lower house of parliament (Congreso de los Diputados).

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 centers (known as 'CIEs') in Spain, repeatedly being highly discretionary, depending on the center. Asylum applications within the CIEs remain residual: 718 by November 2023 (0,005%) of the asylum applications filed in that period (137.918) were registered in these centers. These are mainly persons who are detained in CIEs while their expulsion is pending for unlawful stay or following a court conviction. Since the June 2020 ruling of the CJEU, newly arrived persons to Spain by sea, who declare their intention to apply for international protection before the competent investigating judge in order to declare their detention, are not usually detained in CIEs but referred to the international protection system.

In terms of the detention of persons seeking international protection at border posts, as explained above, CEAR has observed that at certain points of the year 2023 the detention times have been prolonged from the moment applicants expressed their willingness to apply for international protection until they formalized their application through a personal interview, with situations of overcrowding of the facilities where they are held.

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. By November 2023, there were 164.335 asylum seekers in Spain awaiting a decision or pending admission by the corresponding authorities, a higher figure than at the end of 2022, which was 122,035. In this case, the increase corresponds mainly to applications pending admission (80.861 in the first 9 months of 2023 vs. 29.883 at the end of 2022). The nationalities with the highest number of unresolved decisions are Venezuela and Colombia. 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, by the end of October 2023, according to Ministry of the Interior, there were 87.109 (including protection on humanitarian grounds). This figure represents an increase of 22,2% compared to the 71.275 decisions taken in the same period of 2022 and consolidates an upward trend in the number of decisions since 2019 – only disrupted by the Covid-19 pandemic –. 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.

From January to November 2023 39% of asylum applications ended in refusal, representing a decrease compared to 58% of negative decisions taken in 2022. However, while from 2020 until last year we had seen a progressive increase in the rate of recognition of international protection (refugee status plus subsidiary protection), in the first ten months of 2023 it fell to 10.46% compared to 15.73% in the same period of 2022. Notably, this is explained by the decrease in subsidiary protection decisions (from 5.800 in November 2022 to 3.134 in November 2023) and the increase in protection for humanitarian reasons granted to Venezuelan nationals, as further detailed below.

Regarding refugee status recognitions in the first nine months of 2023, in proportion to the total number of decisions taken, it remains practically unchanged from 7.85% in 2022 to 7.25% in 2023. This year, 5 states

account for 57,8% of the favorable decisions granting international protection as a whole, both refugee status and subsidiary protection: (in this order) Mali, Syria, Afghanistan, Honduras and Nicaragua. Compared to the same period of last year 2022, Colombia and Ukraine replaced Honduras and Nicaragua in the top five list.

As for the specific type of protection for humanitarian reasons, the number of decisions has risen to 46,7% of the total number of decisions in the first nine months of 2023, which doubles the figure registered in the same period of 2022 (21,1%). Venezuela alone keeps concentrating an almost absolute majority of decisions of protection for humanitarian reasons.

Obstacles previously highlighted persist, for example, concerning physical access to Spanish embassies and consular representation for family members, which need to be ensured and reinforced. Besides, obstacles remain in regards the certification and proof of dependence, which is especially difficult for some specific nationalities. Another notable difficulty in 2023 is the delay in the processing of family extension applications, which can take up to 3 years, leaving family members in situations of great vulnerability in their own countries or in third countries where they have moved. CEAR has denounced how this situation has endangered the lives of the families of Afghan refugees in Spain.

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 every case, but the remedy is not effective as it does not have a suspensive effect. Just as stated in the previous reports the suspensive effect has to be requested by means of an urgent interim measure and it is a case-by-case decision of the court, which in the vast majority of cases tends to be refused.

As for appeals in territory procedures, in 2023 the National Police started to document rejected applicants who had lodged an appeal and an interim measure of suspension of the return and the latter was granted. However, the issuing of this documentation also suffers many delays, so that in practice people have no way of proving that they continue to enjoy the rights of applicants for international protection in accordance with article 46 of the Asylum Procedures Directive and article 15 of the Reception Conditions Directive.

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 2023, EUAA information is a relevant source of information. As stated in previous reports.

11. Issues of statelessness in the context of asylum (including identification and registration)

From January to the end of September 2023, 727 persons applied for statelessness recognition in Spain, 504 were men and 223 were women. Of the 895 decisions in the first 8 months of 2023, 90% were positive decisions. Almost an absolute majority of the applications and decisions relate to stateless persons from Western Sahara. Compared to the same period of the previous year 2022, there were 21% less applications but 28% more decisions.

Since the Supreme Court ruling of 2023, the Asylum and Refuge Office of the Ministry of Interior initiates the statelessness procedure ex officio when it detects in the international protection procedure at the border that the applicant may be stateless. However, it does not authorize entry as an applicant for statelessness, so if the application for international protection is rejected, the person is returned to the country of origin, despite having an application for statelessness pending in Spain.

The application for statelessness is made in writing, and is presented to the Police, the Foreigners' Office, the Asylum and Refuge Office or any public registry. There are delays in registering the application and despite the fact that the Statelessness Regulation provides for this possibility, most applicants for international protection are not documented as such, which hinders access to basic rights.

12. 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. Furthermore, although the reform of the Aliens Act (Reglamento de Extranjería) of October 2021 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, as it has been previously stated, there is very much to be done, notably regarding access to housing for unaccompanied minors, who in 2023 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 LGBTBI 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.

13. 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 2023 has been the approval in May of Law 12/2023 on the Right to Housing in Spain, although obstacles for census registration for migrants and asylum seekers, among other structural barriers, continue to impede access to housing for these people. However, the inability of these people to access housing is mainly due to racist and discriminatory attitudes, which currently results in many people in need of protection, including minors, being homeless in Spain.

In 2023, 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 (ESCR) as CEAR has denounced in a recent report. In relation to the financial inclusion of migrants and refugees, there is a refusal to open bank accounts for reasons contrary to current legislation. Among them, there is the non-recognition of the international protection applicant's documentation -such as the red card-, or the passport, demanding additional documentation that is not included in the regulations -such as registration or a rental contract-.

On the other hand, there are unjustified obstacles to the opening of free basic accounts, not informing people of this right and demanding the payment of commissions, even in those situations in which the requirements for requesting free accounts of this type are fulfilled. We are concerned that the law intended to create the independent administrative authority for the defence of financial customers, approved by the Congress of Deputies, has not been able to pass through the Senate due to the early general elections in Spain, leaving this law in an uncertain future.

On the other hand, more than a year after the adoption of the Comprehensive Law on Equal Treatment and Non-Discrimination in July 2022, CEAR regrets that the Independent Authority for Equal Treatment, an essential body to ensure effective compliance with the Law, has still not been created despite the expiry of the deadline for its creation in March 2023. This body, in addition to being a requirement established by European anti-discrimination regulations, is essential for the application of the Law since, among other functions, it is responsible for carrying out investigations into the existence of possible situations of particularly serious discrimination, as well as requesting State action to sanction discriminatory conduct. Furthermore, this law is pending regulatory development, fundamental for fulfilling the principle of equality in a broad and comprehensive manner.

14. 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 half of 2023, the Spanish government issued a total of 8.325 return decisions, this is, a figure nearly three times higher than in the same period of last year (2.260 in the first six months of 2022), although only 36% of the decisions (2.995) were finally implemented. Frontex assisted 494 returns from Spain 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.

15. 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)

Only 423 refugees were eligible to resettlement from January to the end of September 2023, this is only 35% of all pledges committed by Spain for the year 2023. Regarding the country of origin, the main nationality is Syria (422 people resettled). In terms of the host country, in 2023, Türkiye was the main host country for persons effectively resettled by Spain (291 resettlements made), due to the earthquake of 8th February, while in 2022 this position was held by Lebanon, the second host country in 2023.

Three months before the end of the year, Spain could again fall 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. In the last decade, Spain has failed to fulfil 36% of its pledges. Not only that, but 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.

Among the pending challenges that still need to be improved and addressed in 2023 are the regularisation of children not born in Spain whose parents have a residence authorisation and a regulation on family 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, although article 38 of the Asylum Law provides for the transfer of persons in need of international protection from a third country to Spain for the purpose of initiating the procedure, this channel is not systematically applied, nor are there clear protocols or procedures. In the Spanish embassies of countries bordering Afghanistan the appointment to initiate this procedure is given with great delays, and its processing also suffers continuous delays, as well as a lack of uniform criteria in its granting.

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.

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

CEAR, together with the EUAA and IOM, supports the Voluntary Relocation Programme coordinated by the Ministry of Inclusion, Social Security and Migration. At the time of writing this report and one year after the

kick off the Relocation Programme there have been 199 beneficiaries in Spain, although an estimated 600 people have expressed their willingness to be relocated.

By the end of November 2023, 199 people had been resettled (80 family units), of which 56 have been assisted by CEAR. Of these people, 156 were relocated to France, 29 people to Finland and 14 people to Germany. 80% came from Afghanistan and the remaining 20% from Sudan, Chad, Guinea Conakry, Morocco, among others. It is worth mentioning that 300 Afghans refused to relocate to another country after learning of the impossibility of relocation to Germany.

Specifically, of the 56 relocated people that we have assisted in CEAR, 36 were from Afghanistan, 3 from Guinea Conakry, 7 from Sudan, 6 from Yemen, 2 from Iran, 1 from Somalia and 1 from Chad.

17. National jurisprudence on international protection in 2023 (please include a link to the relevant case law and/or submit cases to the [EUAA Case Law Database](#))

CEAR welcomes the admission in June 2023 of its appeal for amparo before the Spanish Constitutional Court in the "Tarajal Case", where the deaths of at least 14 people at the border between Spain and Morocco that have gone unpunished since 6th February 2014. We consider it an opportunity to establish Constitutional doctrine that protects the right to life of migrants at the borders and the right to effective judicial protection due to the archiving of the judicial investigation in 2019.

In the national jurisprudential chapter for the first semester of 2023 (<https://blogextranjeriaprogestion.org/wp-content/uploads/2023/06/20230601-cuadernos-de-casacion-extranjeria.pdf>) there were no relevant rulings by the Supreme Court (Tribunal Supremo), only cassation appeals that were admitted and in which the High Court has yet to deliver a sentence. Among these, we highlight the ATS 3171/2023 where the Supreme Court is asked to clarify whether or not the authorisation to stay for humanitarian reasons is configured as a third level of protection within the regulatory framework of international protection in Spanish law and whether or not its concession is allowed in the context of an application for international protection (after the rejection of asylum and subsidiary protection). In addition, ATS 2344/2023 is expecting the Court to determine the legal regime applicable to foreign nationals who are in a Temporary Alien Attention Centre (CATE); and to determine the possible incidence that the stay in a Temporary Alien Attention Centre (CATE) and what happens during the same could have, if applicable, in order to return a foreign national who is in said centre after having been intercepted at the border or in its vicinity when attempting to enter the country irregularly.

18. Other important developments in 2023

Racism and xenophobia in Spain have increased significantly in recent years. According to data from the National Office of Hate Crimes of the Ministry of Interior (ONDOD), racist crimes and incidents are the first reasons for hate crimes in Spain and increased by 31.75% from 2020 to 2021 and by 18.15% more in 2022. Taking into account under-reporting (only 1 in 10 people who suffer them report), it is estimated that more than 8,000 hate crimes and offenses were committed in Spain for this motivation in 2022.

CEAR is one of the entities part of Assistance and Orientation Service to Victims of Racial or Ethnic Discrimination of the Ministry of Equality and has gone from receiving and attending 376 incidents in different areas (health, employment, education, public spaces, housing, etc.) in 2013 to 1,570 in 2022.

In this regard, CEAR positively values the recently approved New Strategic Framework for Citizenship and Inclusion against Racism and Xenophobia (2023-2027). With it, the Government of Spain has set a goal for 2027 to contribute to making Spanish society an example of a cohesive, inclusive, diverse and fair society

that generates wealth, employment and development where there is no room for racism, xenophobia and intolerance.

On the other hand, in 2023 there have been general elections in Spain and CEAR has formulated a series of recommendations to the new government to put refugees at the centre of political agendas. Likewise, CEAR has continued its advocacy work in relation to the EU Pact on Migration and Asylum, with greater intensity in the second half of the year due to the circumstance that Spain is assuming the Presidency of the Council of the EU in the final phase of the negotiations of the Pact.

Finally, a year and a half after the deadly episode of 24 June at the Spanish-Moroccan border, no one has been held accountable, nor have the victims been able to access truth, justice and reparation. We recall here that European borders cannot be the place for impunity in the face of human rights violations, therefore it is urgent to establish prompt accountability and investigation mechanisms to prevent similar tragedies from occurring in the future.

PART B: Publications

1. If available online, please provide links to relevant publications produced by your organisation in 2023

XXI CEAR's Annual Report 2023 (Executive Summary)

<https://www.cear.es/wp-content/uploads/2023/11/Executive-Summary-2023.pdf>

Proposals for the Spanish presidency of the Council of the EU: Towards a New Pact on Migration and Asylum with more solidarity and all guarantees

<https://www.cear.es/wp-content/uploads/2023/04/Recomendaciones-CEAR-presidencia-UE.pdf>

"Más Que Cifras" 2023 (Asylum statistics in Spain of the year 2022)

<https://www.cear.es/wp-content/uploads/2023/06/Mas-que-Cifras-2022.pdf>

Report "No barriers for no one: migrants and refugees in access to economic, social and cultural rights" (ESCR)

https://www.cear.es/wp-content/uploads/2023/03/CEAR_informe-DESC_2023_web-1.pdf

CEAR's statement on "Rio Tajo" case of illegal refoulement of senegalese migrants

<https://www.cear.es/cear-reclama-paralizar-traslado-a-senegal/>

CEAR's complaint on delays and obstacles to access the asylum procedure

<https://www.cear.es/queja-comision-europea-por-deficiencias-para-acceder-al-procedimiento-de-asilo/>

2. If not available online, please share your publications with us at: Asylum.Report@euaa.europa.eu or upload your file using the functionality below (max. file size 1MB).

Please upload your file

The maximum file size is 1 MB

3. For publications that due to copyright issues cannot be easily shared, please provide references using the table below.

	Title of publication	Name of author	Publisher/Organisation	Date
	<p>XXI CEAR's Annual Report 2023 (Executive Summary)</p> <p>Comisión Española de Ayuda al Refugiado (CEAR)</p> <p>Comisión Española de Ayuda al Refugiado (CEAR)</p> <p>20/06/2023</p> <p>“Más Que Cifras” 2023 (Asylum statistics in Spain of the year 2022)</p> <p>Comisión Española de Ayuda al Refugiado (CEAR)</p> <p>Comisión Española de Ayuda al Refugiado (CEAR)</p> <p>20/06/2023</p> <p>“Sin barreras para nadie: personas migrantes y refugiadas en el acceso a los DESC” (No barriers for no one: access to ESCR for migrants and refugees)</p>			

1	<p>Comisión Española de Ayuda al Refugiado (CEAR)</p> <p>Comisión Española de Ayuda al Refugiado (CEAR)</p> <p>28/03/2023</p> <p>“Recomendaciones CEAR a la Presidencia española del Consejo de la UE: Hacia un Pacto Europeo de Asilo solidario y garantista” (Proposals for the Spanish presidency of the Council of the EU: Towards a New Pact on Migration and Asylum with more solidarity and all guarantees)</p> <p>Comisión Española de Ayuda al Refugiado (CEAR)</p> <p>Comisión Española de Ayuda al Refugiado (CEAR)</p> <p>08/06/2023</p> <p>XXI CEAR's Annual Report 2023 (Executive Summary)</p>	Comisión Española de Ayuda al Refugiado (CEAR)	Comisión Española de Ayuda al Refugiado (CEAR)	20/06/2023

2	“Más Que Cifras” 2023 (Asylum statistics in Spain of the year 2022)	Comisión Española de Ayuda al Refugiado (CEAR)	Comisión Española de Ayuda al Refugiado (CEAR)	20/06/2023
3	“Sin barreras para nadie: personas migrantes y refugiadas en el acceso a los DESC” (No barriers for no one: access to ESCR for migrants and refugees)	Comisión Española de Ayuda al Refugiado (CEAR)	Comisión Española de Ayuda al Refugiado (CEAR)	28/03/2023
4	“Recomendaciones CEAR a la Presidencia española del Consejo de la UE: Hacia un Pacto Europeo de Asilo solidario y garantista” (Proposals for the Spanish presidency of the Council of the EU: Towards a New Pact on Migration and Asylum with more solidarity and all guarantees)	Comisión Española de Ayuda al Refugiado (CEAR)	Comisión Española de Ayuda al Refugiado (CEAR)	08/06/2023
5				

Contact details

* Name of Organisation

Comisión Española de Ayuda al Refugiado (CEAR) - Spanish Commission for Refugees -

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Useful links

[EUAA Asylum Report 2023 \(https://euaa.europa.eu/asylum-report-2023\)](https://euaa.europa.eu/asylum-report-2023)

[Executive Summary -Asylum Report 2023 \(https://euaa.europa.eu/asylum-report-2023/executive-summary\)](https://euaa.europa.eu/asylum-report-2023/executive-summary)

[Sources on Asylum 2023 \(https://euaa.europa.eu/publications/sources-asylum-2023\)](https://euaa.europa.eu/publications/sources-asylum-2023)

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

[Asylum in Europe in 2022: A Year in Review \(https://euaa.europa.eu/asylum-europe-2022-year-review\)](https://euaa.europa.eu/asylum-europe-2022-year-review)

Background Documents

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