

Input by civil society to the 2021 EASO Asylum Report

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C o l l e a g u e s ,

The production of the *EASO Asylum Report 2021* is currently underway. The annual [Asylum Report series](#) present a comprehensive overview of developments in the field of asylum at the regional and national levels.

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

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

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

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

Your input matters to us and will be much appreciated!

Nina Gregori - EASO Executive Director

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

Instructions

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

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

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

Please ensure that your responses remain within the scope of each section.

Contributions by topic

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

Increase in arrivals in the Canary Islands determined challenges in reception of migrants and asylum seekers, as well as access to asylum procedure. Despite such increase, the Government is not transferring persons to reception facilities in mainland.

Following the Covid19 outbreak and the declaration of the State of Alarm in Spain from mid-March until beginning of May 2020, first asylum interviews and the work of the CIAR were suspended, while the instructors of the OAR continued regularly to work remotely on the instruction of asylum cases.

Through a landmark judgement of 15 October 2020, the Supreme Court recognised the right to asylum at embassies and consulates, despite such right is foreseen by the 2009 Asylum Act. This puts an end to previous practice and disputes on the matter, hoping that the decision will be effectively implemented in practice

In two landmark decisions issued in July 2020, the Supreme Court (Tribunal Supremo) concluded that neither domestic nor EU law contain any provisions that justify limiting asylum seekers' right to move freely across Spanish territory. In practice, however, transfers to the mainland from Ceuta and Melilla, as well as from the Canary Islands, continued to be restricted up until the beginning of 2021.

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)

As a consequence of the health emergency situation, and the consequent mobility restrictions that have affected both the asylum seekers and beneficiaries of International Protection and the interpreters, different telematics media have been implemented in the interpretation processes: videoconferences, simultaneous telephone conferences, and so on.

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)

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)

During the confinement and mobility restrictions due to the pandemic, telephone and email follow-ups of all people participating in employment and language learning programs were intensified. We used new telematic tools to contact them like video-calls and instant messaging. This way, the employment itineraries have continued normally. Also, all the activities (language courses, employment workshops, guidance and advice on employment and training, etc.) were adapted to this new situation.

The medical aid is a basic need for the asylum seekers, especially for those people with severe posttraumatic symptoms, that's why is very important provide them psychological support. However the access and attention in specialties such as mental help services is not easy to access them, because of the long waiting list and the overload existing, plus the consequences and measures derived of the global pandemic for the COVID-19.

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)

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

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)

During 2020, the UN Committee on the Rights of the Child reiterated its concerns regarding age assessment procedures in Spain and their violation of the UN Convention on the Rights of the Child. It affirmed that, in 14 cases assessed and decided by the Committee, Spain failed to carry out a proper age assessment procedure.

In November 2020, the first reception facility for LGBTQI+ asylum seekers was opened by the NGO Kifkif with 20 places.

Particularly during the lockdown, there was an increasing on the demand of psychological assistance related to the parental skills, anxiety, and selfcare strategies related to the lockdown and the posterior de-escalation of the lockdown.

A special mention requires the cases of people with mental health problems and gender violence victims, because the communication and coordination with the specific resources was hard to do.

However, the psychological assessment from Accem, was provided in spite of the difficulties related to the COVID-19

The socioeconomic consequences of the pandemic had have a deep impact in the mental and global health of the people in general, but particularly in the insecurity of the future and stability of the asylum seekers.

This will be an issue to attend during the oncoming years

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)

In general, asylum seekers and beneficiaries of international protection are accessing the Healthcare System, Education System, Social Services and housing. However, they frequently encounter limitations or difficulties in making such access effective:

- In the healthcare field, many professionals are opposed to the participation of interpreters, especially when this service is provided telematically.
- In most regions, there is no immediate transition to financial aid from the Social Services system for those who need it, once they end their participation in the Reception System. Therefore, many of them remain for a variable time without any type of economic resource.
- regarding housing, high rental prices in many provinces, prejudices towards participants in the Reception System due to the lack of stable income from a work activity, the high demands of access to housing, sometimes with abusive clauses in the contracts, limits the offer of housing to homes with worse living conditions. On the other hand, in certain cases participants need to move to another house due to different circumstances: victims of gender-based violence, transfers for employment, etc. The limitation of the Reception System to a single financial aid of guarantee and agency management assistance per itinerary, makes changes in housing impossible in practice: the agency management is not recoverable and, in cases where it is possible to recover the deposit, the administrative process of recovery is delayed at least one month and, for those cases in which the property refuses to return the deposit, the judicial process is unaffordable for users.

To adapt the intervention at the individual plans of labour insertion in the employment programs, to the confinement period subsequent situations of mobility restrictions;

- The actions and monitoring of the itineraries were intensified electronically (email, telephone, instant messaging and videoconferences), alternating with face-to-face interventions as far as possible.
- New preformative actions were adapted and developed to the different circumstances of the participants and the new situation of the socio-labor context (new sources of employment, access to benefits, subsidies, documentation and dismissal processes or ERTES, documentary extensions, minimum living income, etc.). In addition, the contents were adapted to the online methodology and video tutorials were created to support these preformative actions.
- Access and participation in occupational training online and/or remotely was encouraged among people, as well as their management with training centers in the different territories (advice on their implementation and adaptation).
- Individual information and advice interventions in job search and situations of layoffs, ERTES, resignations, access to benefits, domestic help, agricultural employment, etc., were promoted for the participants and the companies themselves.
- Telematics solutions, instant messaging and email were implemented to share information, employment and training resources, news, content of pre-training actions, etc.
- The acquisition of digital skills of the participants was promoted, through their own and external resources, in order to reduce the digital divide.
- Strengthening of support in telematic procedures for obtaining the necessary documentation to access to job offers and/or occupational training, as well as for other administrative procedures related to training and employment.
- Local Networks were activated in the field of employment and training electronically, for the exchange of information and good practices, as well as the coordination of actions to find joint solutions to the situation generated by the health crisis.

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)

- In an important ruling of January 2021, the High Court (Tribunal Supremo) established that refugees resettled in Spain must keep their status as refugees. It therefore reverts the decision adopted by the previous judge which denied the refugee status to four Syrian refugees resettled to Spain in 2015, by granting them subsidiary protection.

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 2020 (please include a link to the relevant case law and/or submit cases to the [EASO Case Law Database](#))

Judgement of the Supreme Court (3rd Chamber, Section 5), of March 3 2020. Appeal nº 868/2019.

Key issues: applications at the border, humanitarian grounds

The applicants, an elderly lady and her minor grandson from Venezuela, requested international protection at Madrid Barajas airport. Both the application and the re-examination were denied. There is no reference in the resolutions to the concurrence - or not - of the conditions for obtaining an authorization for humanitarian reason (generally granted by the Spanish Government to Venezuelan nationals since February 2019).

The Supreme Court ruled that the Asylum Office should have proceeded ex officio to grant authorization of temporary residence on humanitarian grounds to the appellants, once the application for international protection had been rejected.

The Court admits the possibility of submitting applications for temporary residence permits for humanitarian reasons at the border, even though this possibility is not expressly mentioned in Article 21 of Law 12/2009.

<http://www.poderjudicial.es/search/AN/openDocument/a09b4614aa2b8458/20200318>

Judgement of the Supreme Court (3rd Chamber, Section 5), of July 23 2020. Appeal nº 3661/2019.

Key issues: applications at the border, statelessness

The High Court analyses whether the initiation of the procedure for the recognition of statelessness requires the person concerned to be on national territory or whether it can be initiated from a border post.

The Court rules that when during the processing of an application for international protection at the border (under Article 21 of Law 12/2009) the Asylum Office knows about the possible existence of a situation of statelessness, Article 2.2 of Royal Decree 865/2001 of 20 July shall be applied, initiating ex officio the procedure for recognition of the status of stateless person.

<http://www.poderjudicial.es/search/AN/openDocument/b1579541894ab40f/20200810>

Judgement of the Supreme Court (3rd Chamber, Section 5), of July 29 2020. Appeal nº 4893/2019.

Key issues: applications in Ceuta/ Melilla, freedom of movement.

Documents issued to asylum seekers in Ceuta or Melilla included the inscription "valid only for Ceuta /Melilla". The Court notes the inadequacy of such inscription, which is not justified by national law nor in the European regulations nor in the Schengen Convention. It is annulled for being unlawful and it is recognized the right of the appellant to free movement within the Spanish territory.

<http://www.poderjudicial.es/search/AN/openDocument/47431fa66f288cbe/20200804>

Judgement of the Supreme Court (3rd Chamber, Section 5), of June 25 2020. Appeal nº 868/2019.

Key issues: application at Aliens Detention Centres, legal deadlines.

The Court makes no distinction with respect to the calculation of time limits contemplated for the situation of the applicant at the border and of the asylum seeker who formulates the application from a CIE (Alien Detention Centre). As a result the High Court confirms the duty to notify the decision of inadmissibility to the interested person within a maximum of 4 days from its presentation.

<http://www.poderjudicial.es/search/AN/openDocument/a09b4614aa2b8458/20200318>

The main challenge last year, was to continue providing the psychological support, adapting the characteristics of the process from the presence to the distance, from the analogical to the digital media; through the lockdown, the posterior de-escalation, and adapt the psychotherapeutic process to the and the measures related with the COVID-19.

References and sources

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

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

Please upload your file

The maximum file size is 1 MB

Contact details

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

Useful links

[EASO Asylum Report 2020 \(https://easo.europa.eu/asylum-report-2020\)](https://easo.europa.eu/asylum-report-2020)

[Executive Summary -EASO Asylum Report 2020 \(https://easo.europa.eu/sites/default/files/EASO-Asylum-Report-2020-Executive-Summary.pdf\)](https://easo.europa.eu/sites/default/files/EASO-Asylum-Report-2020-Executive-Summary.pdf)

[Bibliography for the EASO Asylum Report 2020 \(https://easo.europa.eu/sites/default/files/easo-asylum-report-2020-bibliography.pdf\)](https://easo.europa.eu/sites/default/files/easo-asylum-report-2020-bibliography.pdf)

[Summary of legislative, institutional and policy developments in asylum in EU+ countries in 2019 \(https://easo.europa.eu/sites/default/files/easo-asylum-report-eu-developments.pdf\)](https://easo.europa.eu/sites/default/files/easo-asylum-report-eu-developments.pdf)

[Online database with data and latest asylum trends \(https://easo.europa.eu/asylum-trends-easo-asylum-report-2020\)](https://easo.europa.eu/asylum-trends-easo-asylum-report-2020)

[Online database for EU+ developments \(https://easo.europa.eu/eu-developments\)](https://easo.europa.eu/eu-developments)

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