

# Input by civil society to the EASO Annual Report 2019

Fields marked with \* are mandatory.

The production of EASO's *2019 Annual Report on the Situation of Asylum in the European Union* is currently underway. The yearly [annual 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 organizations, the UNHCR and researchers. To this end, we invite you to submit information on developments in asylum law, policy or practice in 2019 (and early 2020) by topic as presented in the online survey.

Please note that the EASO Annual 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. It is preferred to provide your submission in bullet points to facilitate drafting.

All submissions are publicly accessible. For transparency, 2019 contributions will be published on the EASO webpage. Contributions to the 2018 annual report by civil society organisations can be accessed [here](#). 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 annual report is subject to terms of reference and volume limitations. Submissions may be edited for length and clarity or may not be included in the final report. Contributions from civil society organisations feed into EASO's work in multiple ways and inform reports and analyses beyond the annual report.

Please complete the online survey and submit your contribution to the 2019 annual report by **Thursday, 12 March 2020**.

## [Instructions](#)

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

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

- New developments and improvements in 2019 and new or remaining challenges;
- Changes in policies or practices, transposition of legislation or institutional changes during 2019.

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

## Contributions by topic

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### **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)**

Obstacles regarding access to the Spanish territory are still being faced mostly at the Ceuta and Melilla borders and checkpoints. These obstacles are mainly due to the difficulties of asylum seekers to cross the border and exit Morocco. Several reported cases concern refusal of entry and push backs. Recent developments of strengthening the migrants' surveillance from the Moroccan thanks to European and Spanish cooperation are notably reducing the fence jumping' attempts, thus the irregular migration flows through this southern common border.

As for border control, Spain finally initiated, by the end of 2019, the plan to "strengthen the security" at the land border with Morocco. This includes the removal of the barbed wire at the African enclave's fences. However, this measure has been accompanied by the official announcement of the willingness to increase, by 30%, the height of the fences, which will reach, apparently, almost 8 meters high. This will come altogether with the modernization of closed television-circuit, facial recognition system or the upgrading of the fibre-optic in different points.

The attempts to jump border fences occur because migrants and asylum seekers, and mostly Sub-Saharan nationals, face huge obstacles in accessing the asylum points at the Spanish border, due to the severe checks of the Moroccan police at the Moroccan side of the border. In the European Court of Human Rights' (ECtHR) N.D. and N.T. Case Vs. Spain (see below), the state advocate pleaded that there are some sub-Saharan nationals applying for asylum in the Spanish Moroccan enclaves of Ceuta and Melilla. However, the most common scenario for sub-Saharan migrants is the lack of safe pathways for legal migration. Asylum applications can neither be submitted through embassies or consular representations outside the Spanish territory, although the Asylum Act foresaw that possibility. The transfer possibility is not activated. In sum, they find themselves in a situation where they have to accede illegally if they want to enter to the Spanish territory to seek asylum.

The specific regulation within the 2015 'protection of citizen security' Spanish Law' concerning the "Special regime of Ceuta and Melilla" is still in force, introducing the possibility to "reject at borders" third-country nationals that are found crossing the border illegally which in fact intends to legalize the push backs (devoluciones en caliente) practiced in Ceuta and Melilla. Critics regard the fact that people are not able to request asylum, and that the law mostly affects groups in vulnerable situation, including unaccompanied minors and victims of trafficking.

A recent milestone in European jurisprudence, to know, the sentence of the ECtHR in the already mentioned ND. NT Case Vs. Spain, in which CEAR appeared as third part. The case concerned two Sub-Saharan men – from Mali and the Ivory Coast respectively – who alleged having been summarily and collectively expelled from Spanish territory on 13 August 2014 as part of a group of over 75 individuals. Reverting its own prior chamber unanimous sentence of October, the 3th in 2017, last February the Grand Chamber stated, also unanimously that there had not been a violation of the prohibition of collective expulsions, nor of the right to an effective remedy in conjunction with said prohibition under Article 4 Protocol 4 and Article 13 of the European Convention on Human Rights (ECHR), thus acquitting the Spanish state for any responsibility. The Court found that the two migrants concerned had “put themselves in an irregular situation”, yet “having the means to formally seek asylum and, therefore, not to do so. CEAR has previously alerted about the risk that migrants can face in Morocco. Statement here. Migrants find themselves trapped in transit, without enough means for safe and legal migration, with serious difficulties to accede to the international protection. Actually, the setting-up of channels for safe migration has repeatedly been one of the core assertions of CEAR. See, as for example, here.

The first instance statements of the Court, noting that the removal measures taken by Spanish authorities in the absence of any prior administrative or judicial decision, since the appellants were not subject to any identification procedure by the Spanish authorities; and that they were effectively prevented from having access to a remedy that would have enabled them to submit their complaint to a competent authority and to obtain a thorough and rigorous assessment of their requests before their removal, they are both non worth against the final decision statements altering the resolution criteria. CEAR understands that this new interpretation of the concept of “conduct of the person concerned” is a serious matter, as every person has basic human rights irrespectively of his/her conduct. This is a consubstantial part of a state of law and without this recognition the asylum right loses its sense.

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

There is a good practice that should be mentioned, in general terms, regarding access to information from within, the civil society organizations working with asylum seekers and refugees. In July 2018 CEAR and UNHCR started a project to ensure the early identification of protection and other needs among sea arrivals at the main disembarkation points: Almería, Motril, Málaga, Algeciras and Tarifa. The objective of the project is to facilitate access to the asylum process and the referral to other protection mechanism by enhancing the provision and sharing of information on international protection.

The aforementioned project is framed in the context of the arrivals of irregular migrants to the Spanish shores in the last recent years. So, in order to contextualize, it is important to pay attention to the evolution summarized as follows: out of the three migration routes to Europe, the Western Mediterranean route to Spain was the one that registered a considerable proportional rise in numbers during 2018. 58.569 persons arrived to the Spanish coasts in 2018, almost tripling 2017's figures. Sea arrivals in Spain in 2017 and 2018 included individuals fleeing persecution, conflict, and protection risk situations, including women fleeing sexual and gender-based violence; persons in need of international protection due to their sexual orientation or gender identity; and unaccompanied or separated children with specific protection needs.

Despite the good practices, there are some obstacles that should be mentioned. It is important to note that in Spain there is a lack of information on international protection regarding unaccompanied minors whom sea arrivals' recent figures show and increase, as CEAR remarked in its last annual report (2.345 in 2017 and 6.063 in 2018). From the total number of all-ages asylum seekers in 2018, as per official figures, a 21,11% were minors). Also children should be allowed to make asylum applications without the need of the consent of their legal tutors, to guarantee that foreign unaccompanied minors who are not recognized as such by the

State, as for them, can access without obstacles the asylum procedure with all the guarantees corresponding to a minor. The Spanish Ombudsmen has expressed the same concern in his last annual report available, which, to date is the one referring to the situation in 2018, presented mid-way last year 2019 (see page 280 of the referred report), as he points that in the cases they have enough maturity, these minors should be allowed to formalize an asylum petition on their own.

### **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)**

In Spain, article 18 of the Asylum Law provides the right of all asylum seekers to have an interpreter, but even if this is often respected, some obstacles should be mentioned. For example, there have been difficulties in finding interpreters who speak Bambara and Soninke.

Disembarkation of people rescued in the Central Mediterranean route and the context of EU Relocation scheme where asylum seekers from Greece and Italy's hotspots have been transferred to Spain, has brought to Spain nationalities of asylum seekers who cannot count on a community in the country, such as Kurds and Eritreans. Due to the absence of a sizeable community, there have been many difficulties in finding interpreters who speak Tigrinya, or Kurd. This fact has caused many shortcomings and obstacles not only to asylum authorities but also to NGOs providing services and accommodation to asylum seekers. Difficulties also should be mentioned when finding interpreters of sing language from some countries of origin and finding interpreters of some languages in rural areas or medium-small size cities apart from Madrid, Barcelona, Valencia or Sevilla.

It has also been noticed that sometimes the interpreter is not just limited to do oral translation but provides legal information, which is part of the functions of the lawyer. By doing so, the interpreter could be eventually answering the questions and giving wrong information to the migrants regarding asylum/ immigration law without asking the lawyer what to say. This could obey to a lack of precise information of what are their due limitations in their competences. In any case, it is not a simple issue, and further reflexions should be undertaken by the different actors concerned in order to better the corresponding service. Linked to the above said, the outsourcing of the aforementioned service has not been free of controversy, as it could be likely to affect its quality. Thus, as a proper survey of the interpretation services in asylum procedures is not always guaranteed, more follow up and ex post revision is needed.

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

To date, there are not official information about Dublin transfers in 2019, neither about the taking over of persons affected by the Dublin regulation.

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

The substantial increase in the number of asylum seekers in 2019 compared to 2018 makes that the general figures of petitions in the different places where they can be lodged has also been on the raise, as in absolute terms.

As for the requirement of the airport transit visa to citizens from Palestine, Gambia and Cameroon is still on going, making it impossible for these nationals to access a border post at Spanish airports where they can formalize their asylum application. This measure is a serious contradiction since the Spanish authorities have been effectively recognizing the status of refugee to applicants of people from Palestine and this was the seventh country of origin of people who applied for asylum last year in Spain.

## **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)**

According to the Spanish Asylum Law, applicants for international protection, in the case they lack of own financial means, will be provided with needed shelter and social services in order to ensure the satisfaction of their basic needs. Material reception conditions under national legislation on asylum are the same for every asylum seeker, no matter the profile or the type of asylum procedure applicants are subject to. The reception system ought to ensure an adequate standard of living.

The long delays that persons seeking to register an asylum application are sometimes facing have a negative impact in the access to the reception system in Spain playing as an obstacle. As following the subsequent recommendation of the Spanish Ombudsman in the sense of reverting this situation, more efforts need to be undertaken in this way.

The process begins with the presentation of the application, which the applicant shall present in person or, if this is not possible, with representation by another person. The lodgment of the application, which consists in an interview and the completion of a form, will be always be realized in the presence of a police official or an officer of the OAR. During 2019 applicants have been facing long periods of time before being called to be interviewed by the Spanish Asylum Office (OAR).

The Spanish Law requires a higher level of formalism than the Asylum Procedures Directive for the asylum seeker to have the right and to access to the reception system. Asylum Spanish Law does not foresee the legal provision included in the EU Directive allowing asylum seekers access to the reception system by the mere expression of willingness to seek asylum. This legal provision in the EU directive should be directly applicable to asylum seekers and the mere expression referred should give the right to access to the Spanish asylum reception system.

## **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)**

In Spain, the state´s capacity to detain irregular migrants has been increasing lately within the framework of rising migrant control and an increased border surveillance capacity, notably via new material means, especially from 2018 and still occurring notably during 2019.

Some of the shortcomings and unacceptable points in detainee conditions, already highlighted in last year report as for 2018, are still occurring. Organized civil society is still maintaining its position towards this situation, denouncing the lack of access to an effective enjoyment of rights in the Spanish detention facilities, widely known in Spanish by its acronym: CIE (centros de internamiento de extranjeros). In addition, we are currently still unaware of any eventual substantial gain, apart from the recent governmental announce stating that a reform of this CIE is foreseen (but yet to come).

Regarding the alternatives to detention, as a precautionary measure to ensure the expulsion, it is to be said that, contravening both international statements and civil society organisations recommendations, nowadays detention is not being used as the last precautionary measure but, just on the contrary, systematically in the majority of the cases.

An analyse of the international protection petitions by the point of view of the place of submission reveals that less than 2% of all the international protection petitions in 2019 (2.164) were lodged from within these facilities. As for comparison with this figure in 2018, the percentage that year was almost 4% (1.776), so proportionally it has halved over the course of these 2 year's period time.

As for access to information within detention centres in Spain, this issue continues to be a matter of concern, as it keeps on being highly discretionary, depending, on the centre and, this, without valid justification. Information within the CIE has been a matter of concern for the Spanish Ombudsman. Moreover, the recommendations of this body include the need of providing information in several languages on gender based violence, human trafficking, sexual violence, habeas corpus or other relevant issues, altogether with the information related to the international protection.

## **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)**

At the end of 2019 there was in Spain more than 133.015 pending asylum applicants waiting for a decision of the corresponding authorities. Despite the increase in means of the OAR, this number keeps on growing, just putting Spain just as one of the main European countries regarding this aspect.

Regardless of where the request is made, the asylum application in Spain is the start of a long and uncertain wait. It is calculated that asylum decisions can take between 18 months and two years and in some cases as long as three years. This depends on how saturated the OAR is, but also on the applicant's nationality. Finally, in 2019, 95% of asylum applications ended in refusal, an increased compared to the 76% in 2018. It is to be noted that this percentage only takes into account the recognition of international protection (refugee status and subsidiary protection). It does not consider the recognition of national protection for 'humanitarian reasons' that Spain is increasingly resolving, notably for Venezuelan applicants.

Other statements made in last year report are still applicable. Among them, what concerns the obstacles for family extension, as there have not been substantial developments. One of the main obstacles is that the reunification procedure cannot be undertaken until the notification of refugee status granted is effectively given, and afterwards the procedure is quite slow, which is frequently frustrating for the persons involved.

Aside with the above said, it is essential to guarantee physical secured access to Spanish embassies abroad of relatives to whom international protection is extended, as well as to ensure the proper treatment of all staff from embassies to applicants of family extension of international protection. There are enormous difficulties in accessing consular representation by family members due to appointments and exhaustive access controls and confusion on the part of the staff of the diplomatic representation between family reunification of aliens / extension of international protection status. A major difficulty faced in practice is the certification and proof of dependence, which becomes especially difficult in the case of some countries. As to economic dependence, the Spanish law does not establish a clear criterion.

## **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 that were referred in the last report still 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. Thus, problems in this sense are still a reality.

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

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

## **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)**

The proper identification of vulnerable profiles and special needs in the frame of the new arrivals is still a challenge to be completed or bettered. Anyhow, when a disembarkation occurs and that a triage is done, the main vulnerable profiles are:

- Minors:

The problems of age determination are still a reality, as a margin of error in the technique used is of 2-3 years, so minors of 15-16 years old can be taken as adults and, thus, not referred to the special centres where every single minors should be sent, no matter if he/she is an asylum seeker or not. These specialized centres are managed at a territorial level, at the regional level (Spanish autonomous communities); One weak point of this system is that minors are separated from their parents until the proof of DNA ends.

- Victims of human trafficking:

There also exists a special procedure in order to identify possible victims, and, when so is certified, they are subsequently referred to specialized organisations working in this field.

Concerning the reception system for International protection seekers, there exists both general and specific centres, this, for minors for example. The identification and referral is done case per case. There exists as well a reservation of places for vulnerable profiles, which can be in the same reception facilities as for the rest of asylum seekers, or else in specialized facilities. These are the cases of trafficking victims, LGTBI asylum seekers, persons presenting some mental health problems and persons presenting functional diversity.

In every Autonomous Community in Spain it is a must to have a reservation of some places in each reception centre to properly attend the special needs of asylum seekers with functional diversity. Special aid for persons with mental health problems in Spain is basically based in the familiar support. This represents a problem with asylum seekers as this familiar help is not available for them. In the reception centres, professionals are specially trained in trafficking and gender base violence issues.

In brief, we can state as on previous occasions that, despite the existence of special procedures of

identification of vulnerable profiles of potential asylum seekers, a proper conduction of this identification depends a lot on the number of arrivals occurring at the same moment, as when a bigger number of irregular happens to arrive, the identification is worse undertaken and this work goes downward.

The reception itineraries have the purpose of promoting personal capacities development, which is, to gain the upper grade of autonomy and social inclusion that can be potentially achieved within a normalised environment. Thus, the persons attended, themselves they assume their own commitment and responsibility to properly advance in their own inclusion processes. Cadiz, the coastal Andalusian Spanish city is one of the main entrance points in Western Mediterranean. With a clear aim to effectively respond as better as possible to this reality, CEAR keeps on upgrading its services there, notably with both its first reception and humanitarian reception services, increasing the number of places available, which are focusing on its special vulnerabilities approach.

## **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 terms, there are some feeble aspects regarding the way access to rights and protection services is run in Spain, and CEAR's comments stated in prior reporting times are still applicable. Some highlighted issues are social security, integration in the labour market and everything related to the different kinds of measures to enhance language skills, to improve attainment in schooling and the ones related to the education system and other special trainings, all them at refugees' destination. In spite of what has just been said, there exists some persisting problems or obstacles, from which we would like to empathize the one related to housing, as follows:

As the housing competence is transferred from the central government to the territorial administrations, some of them requires a minimal time of previous inscription in the city/census registration prior to have the right to access to the public-social housing system, as well as in order to access to other social benefits. This poses a problem when asylum seekers move within the territory from one administration to a different one (as the antiquity starts to be counted again from zero), and, in general terms, when they are recently new arrived asylum seekers.

All in all, the general objective of civil society actors working in this subject is to promote the active involvement of these persons so as they could be at the fore of their inclusion process from the very beginning of their asylum demand deposit to their ultimate integration itineraries.

Furthermore, it worth to be mentioned the statement of the Special Rapporteur on extreme poverty and human rights focusing in migrants' housing situation in Spain following his last country visit earlier this year, from 27 January to 7 February 2020. I.e.: "Refugees and migrants often face serious obstacles to decent housing because of the shortage of supply, requirements for access, and discrimination in allocation, often ending up in precarious or overcrowded situation". This is but a mere example of some difficulties that migrants and refugees do face to make effective their access to some economic, social and cultural rights.

## **13. Return of former applicants for international protection**

Knowing that one of the pillars of the European Agenda on Migration lays on fostering returns, concerns about due respect to human rights are set at the table. This can be especially remarkable when operating returns via readmissions procedures, in accordance with bilateral agreements signed with third states.

As to mention a concrete example case occurred recently, on the basis of the bilateral readmission agreement signed with Mauritania in 2003, beginning 2020 Spain has sent back to the capital of this north African country, Noadhibu, 42 migrants that had irregularly accede the insular territory of the Canary Islands. Among them some asylum seekers and 38 Malian nationals. The deportation flight, operated by Frontex, took place after applying the accelerated procedure. Knowing that Spain is not sending back these persons to Mali but to Mauritania, it was predictable that the authorities of this last country could do it by their own, as it effectively occurred: 22 of them were expelled from Mauritania to Mali. The conflictive situation in this country is far well know. CEAR considers that 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)**

The vast majority of migrants resettled in Spain are Syrians, and do come from Turkey, Lebanon and Jordan. Resettlement operates case per case, but Spain has not always been so nimble with this issue from its beginning in 2015. For example, in 2017, after an accomplishment of 821 resettled persons out of a national annual commitment of 1.000 candidates (396 resettled from Turkey and 414 from Jordan), in 2018 the accomplishment was much poorer, with only 9 persons resettled, this time, out of a commitment increased up to 1.200; Nevertheless, the figure corresponding to 2018´ execution is still susceptible to be raised, albeit with obvious delay, during the first semester of 2020. Afterward, as predicted in the prior reporting last year, the resettlement regained a remarkable activity during 2019, even though data on complete 2019 execution is yet to come during 2020.

To be highlighted is the fact that some of the resettled migrants decline to continue in this program in Spain as they move on to other member states, so as France, Belgium or Germany, in order, for example, to reunite with their relatives. Nonetheless, this is not as striking as the dropout rate in relocation programs, which is higher.

The main profile in resettlement in Spain, that poses real reception challenges is the large families, of 5 or more members, as they frequently present social and health problems (insufficient birth assistance, chronic diseases...), with minors and older persons which are highly dependents and in need of important social services to be provided.

The more the resettled persons to be distributed within the national territory, thus, within different administrations, the more possibilities to dispatch a better treatment to each case will be on its ways. Moreover, considering that these are especially vulnerable profiles. In practice, this distribution is operated inasmuch as there are available places in the reception system. Consequently, a deepening in this division sharing is something positive to keep on working on.

On another hand, despite the fact that, today, information regarding resettlement has increased it is still insufficient and many candidates to be resettled receive information, prior to the resettlement itself, mostly coming from individuals of their same nationality and by informal means, which is not always truthful. The Council of Ministers has approved at the end of 2019, the agreement in accordance to which it authorizes the National Resettlement Plan to be executed in 2020. It foresees a total of 1.200 resettlements potential beneficiaries of international protection”. What CEAR proposes to the Spanish state is to make efforts to better the information about reception, services and inclusion in our country during the resettlement procedure. To that end, it is necessary to incorporate refugee reception´ specialized NGO in the selection missions undertaken by the Government.

Facing the externalization of border control, border closure and the various obstacles to demand international protection, including from the diplomatic dependences abroad, resettlement turns to be one of the few non deadly ways for migrants on the move to stabilize their situation. Therefore, notwithstanding the above mentioned Spanish official statement, CEAR keeps on vindicating a stable, permanent and long-lasting resettlement as a matter of saving lives.

As for the Humanitarian Visas, it is to be highlighted that this is a measure that, to date, has been used by some member states on a discretionary basis, certifying the chance for asylum seekers to legally move safe and sound within the Schengen area in order to depose their asylum demands. Nowadays the expedition of this kind of visa is up to each state, in compliance with their internal legislation following the criteria of their respective consulates. Regarding this issue there persists a big uncertainty, considering the lack of a specific regulation concerning the corresponding procedure to conduct. Despite the lack of definition of what is to be considered “humanitarian reasons”, following both the customary law and statements of the ECtHR, it is arguable that Spanish authorities do have the obligation to fulfil their international liabilities regarding this topic. Thus, the facultative nature that the Asylum Spanish Law states concerning the possibility of conceding humanitarian visas, should, all the same, respect the international law. Furthermore, the principle of no return needs to be also respected also by embassies and consulates.

More on related complementary pathways for protection, CEAR also stands for the implementation of “humanitarian corridors” with different European states, following the previous successful examples already undertaken in Italy, France or Belgium from 2015 on.

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

During 2019, Spain has assumed the reception of some migrants arriving via Central Mediterranean, on the basis of ad hoc agreements between some member states.

#### **16. National jurisprudence on international protection in 2019 (please include a link to the relevant case law and/or submit cases to the [EASO Case Law Database](#))**

As for national jurisprudence on international protection in 2019, we would like to highlight those related to the freedom of movement for asylum seekers in the Spanish African enclaves of Ceuta and Melilla. The criteria of the judicial first instance authority has been maintained, this, recognising the right of free movements within all the national territory, as for factual equity to the rest of asylum seekers setting their petitions in the peninsular territory. Anyhow, the High Court (Tribunal Supremo) has to pronounce itself regarding this issue. Therefore, it is yet to be seen which is going to be its final position in several processes, some of which implying CEAR’s action. In the following link, a compilation of related jurisprudence can be observed here: <https://www.cear.es/libre-circulacion-solicitantes-de-asilo-en-ceuta/>

#### **17. Other important developments in 2019**

- A mayor recent development in asylum policy in Spain has been the announcement of a new Asylum National Act. Nonetheless, to date there is no official statement about its content.

- The specific regulation within the 2015 ‘protection of citizen security’ Spanish Law’, referred above as for intending to legalize the push backs (devoluciones en caliente) practiced in Ceuta and Melilla has been

contested at the Constitutional Court (Tribunal Constitucional). The appeal ongoing was backed by some socialist deputies and signed by Pedro Sánchez. The appeal is based on the fact that a return pathway is covered without establishing previously any procedure. Thus, it is considered to be entailed through an arbitrary decision, not being subject to a judicial review and constraining the effective legal protection and defence rights of the aliens concerned. On another hand, the Constitutional Court is not obliged to follow the reasoning of the ECtHR in the referred case ND. NT Case Vs. Spain. All in all, the final decision yet to be taken by the Spanish Constitutional Court will be an important landmark on these matters.

- Increased cooperation with third countries, especially on border control issues and especially with Morocco, as both states share the common goal of restraining migration flows to Europe. Spanish civil society organisations are concerned about the fact the recent agreement reached between Spanish and Moroccan authorities to enhance the cooperation in rescue activities un the Gibraltar Channel waters, could lead to conduct returns of migrants on the move to Morocco, where they could be potentially at risk as it has been confirmed to be a non-secure port, and with less opportunities to ask for international protection if this should be the case. As part of this process of bilateral cooperation, Spain will keep on training Moroccan bodies in charge of sea rescue, so that they could increase the number of cases that they will lead and, subsequently face less cases itself.

- The ongoing Spanish external action in the African continent redefined in the so-called “III Plan Africa” (on the basis of previous I and II Plan Africa, the first one starting in 2006), contains, as one of its 4 overall objectives, the management of migratory flows, and crossing this issue with the international cooperation for development which reception by African third countries appears to be conditioned to the collaboration in this migration flows management (to be read as migration flows restraining). Yet to be seen its evolution and impact.

## References and sources

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

- 2019 CEAR’s Annual Report – Executive Summary in English  
<https://www.cear.es/wp-content/uploads/2019/07/Executive-Summary-2019-Report.pdf>
- CEAR’s statement on relevant issues “what we say”  
<https://www.cear.es/category/noticias/>
- 2019 CEAR’s asylum data and figures  
<http://refugiadosmasquecifras.org/>
- International protection, legal and secure migrant ways in transit countries: Lebanon, Jordan, and Turkey. Conclusions and Proposals document.  
<https://www.cear.es/wp-content/uploads/2020/02/Conclusiones-y-propuestas-paises-de-transito.pdf>
- Proposals to better the refugees’ protection in Spain (2019 Spanish November general elections’ related)  
[https://www.cear.es/wp-content/uploads/2019/10/Documento-Elecciones-Generales\\_Nov.19.pdf](https://www.cear.es/wp-content/uploads/2019/10/Documento-Elecciones-Generales_Nov.19.pdf)
- Proposals to better the refugees’ protection in Spain (2019 May European elections’ related)  
<https://www.cear.es/wp-content/uploads/2019/03/Propuestas-Elecciones-Europeas.pdf>

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

CEAR understands that this SCO submission process is well positive, and considers the comprehensive treatment of questions included in the questionnaire to be notably useful for both parts concerned; thus,

acknowledges the EASO for this participatory action, aiming to keep on actively contributing in next occasions.

Please upload your file

The maximum file size is 1 MB

**7815a123-e65c-43d9-9275-c33d0f313954/CEAR\_Input\_EASO\_An\_Report\_2019.pdf**

## Contact details

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\* Name of organisation

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Name and title of contact person

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

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