

# Input by civil society to the 2021 EASO Asylum Report

Fields marked with \* are mandatory.

D e a r

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

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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, 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

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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)**

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

The access to information and legal assistance were not provided at all in the new arrivals occurred in Canary Islands last October and November. The authorities in charge of it miss to call lawyers to provide legal assistance upon arrivals at the Islands. This problem has been solved at this stage, but thousand of migrants have not received legal assistance and even have traveled to the Peninsula and have received there their first legal assistance. Under the Spanish law, there is not possible to notify a return decision without have had legal assistance and during this period of time, migrants were not able to ask for asylum or have been not been informed about such possibility.

Here our statement:

<https://www.abogacia.es/actualidad/noticias/la-subcomision-de-extranjeria-denuncia-la-falta-de-asistencia-juridica-a-inmigrantes-llegados-a-canarias/>

During the strict lockdown, legal assistance were provided, dependig on the place, but normally by call conference, currently health protocols allow lawyers assist face- to-face . No

### **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)**

Still very poor. There is a lack of interpreters of languages or dialects commonly used by asylum seekers coming from African countries. The interpreters are not trained in specific language skills to act with children or other kind of relevant needs during the interviews.

**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)**

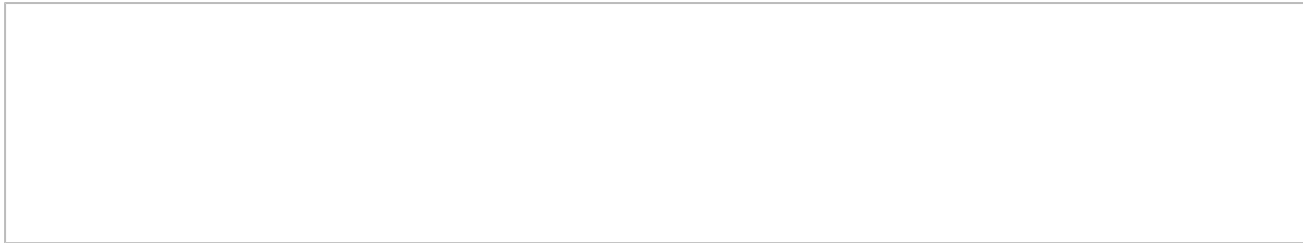
Applicants have had a long delay in receiving the documents that allow them to access the labour market due to Administration delays (COVID situation), in certain cases the delays are more than 6 months, which has caused a large number of damages and claims to the administration.

There is 2 cases won at the Supreme Court that allows the freedom of movement from the enclaves to the Peninsula.

Here the reference:

Judgement of TSJ Madrid nº 671/2019 (25.10.2019) + Judgement of Supreme Court nº 1128/2020 (29/07/2020) recognise the right to free movement of asylum seekers once their application has been admitted.

**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)**

In any case the administrative procedure has been resolved in a 6 months period of time as laid down in the Procedure Directive. Cases still pending for approximately 2 years.

It is relevant to point out that the processing and conducting of interviews in all the territory is carried out by National Police agents and not by specialized officers assigned to the Asylum and Refugee Office, which represents a significant lack in the training of the interviewers and the quality of the interviews.

The assistance by a lawyer is not compulsory in the territory procedure (in contrast with the border procedure where is compulsory to be assisted by a lawyer). Sometimes the authorities prevent asylum claimers to be assisted by a legal aid lawyer.

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

In Spain, the competence to carry out with decisions related to international protection is the Contentious Administrative Chamber of the National Court, which is a central judicial organism based in Madrid. This means that when it comes to appeal judicial denials, the procedure will be carried out in the capital, regardless of the place of the applicant's address, where the latter, if necessary, will request free legal assistance from the Madrid Bar Association, regardless of the place of habitual residence of the applicant.

There is no automatic suspensive effect in case of an appeal to asylum denial. For the suspensive effect, it is necessary to undertake interim measures that are not taken frequently by the Court.

It is a written procedure and with a enormous duration, a procedure could take a period of time of 2 to 3 years.

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

It would be necessary for practitioners to have more information available in Spanish.

**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 age assessment procedure is still a problem in Spain, they don't use a holistic procedure as recommended by EASO and they failed to embrace recommendations made by the UNCR. The access to legal assistance and to a legal representant (lawyer) to children in need of international protection is not guaranteed at all and normally they never refer a child to a lawyer. Only few unaccompanied children submit an asylum claim (poor number of applicants), it is due (under other considerations) that they don't receive adequate counsel or legal information about this procedure and the benefits to ask for international protection.

Procedural safeguards are not applying for these children.

<https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=26375&LangID=S>

<https://news.un.org/es/story/2020/10/1482322>

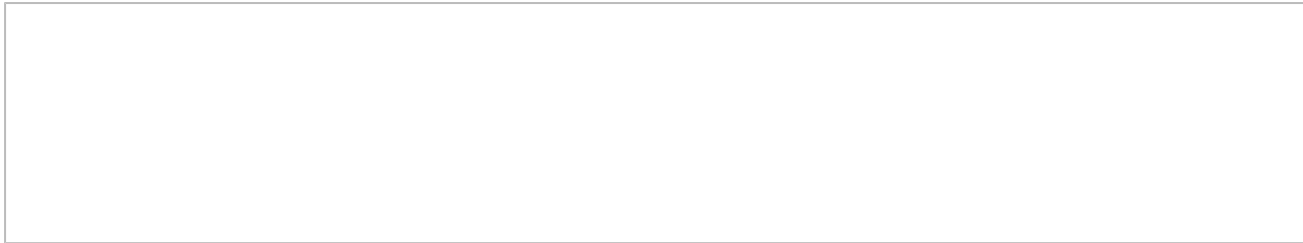
**12. Content of protection (including access to social security, social assistance, healthcare, housing and other basic services; integration into the labour market; measures to enhance language skills; measures to improve attainment in schooling and/or the education system and/or vocational training)**

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

**14. Resettlement and humanitarian admission programmes (including EU Joint Resettlement Programme, national resettlement programme (UNHCR), National Humanitarian Admission Programme, private sponsorship programmes/schemes and ad hoc special programmes)**

Supreme Court, Judgement nº 1773/2020 (Sala de lo Contencioso-Administrativo Sección Vª - 17 December 2020) concerning the doctrine to resettlement and ordered to interpret Spanish Asylum law in the sense to give the same status that the person has been given in the first country of recognition (Refugee Status v. 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](#))**

CJEU: C-36/20 (25 June 2020) concerning the interpretation of “other authorities” competent to receive asylum applications (examining magistrate) and the use of detention measures in cases where it is not possible to find accommodation in a humanitarian protection centre.

Here the link: <http://curia.europa.eu/juris/liste.jsf?num=C-36/20>

**17. Other important developments in 2020**

No regulation developed, use of the 95' Regulation (Royal Decree) for certain aspects that are not in conflict with the 2009 Law. No CEAS (Common European Asylum System) Directives transposed, just the Qualification Directive /2011 has been transposed.

Abogacia Española has given a full range of trainings in international protection and related areas of law to practitioners and have participated, among other European Bars, in European trainings for refugee and migrant lawyers. Lawyers would need to be taken into account as actors in international protection procedures to include them in EASO training plans.

Here you will find a sample:

<https://www.abogacia.es/en/conocenos/bruselas/proyectos-europeos/nuestros-proyectos-europeos/tralim-2-formacion-de-abogados-en-derecho-europeo-de-asilo-e-inmigracion-2019-2021/>

<https://www.abogacia.es/actualidad/noticias/el-proyecto-tralim-ii-realiza-un-video-para-dar-a-conocer-el-papel-de-los-abogados-espanoles-en-asistencia-a-migrantes-en-llegadas-maritimas/>

<https://www.abogacia.es/conocenos/bruselas/proyectos-europeos/nuestros-proyectos-europeos/tralim-2-formacion-de-abogados-en-derecho-europeo-de-asilo-e-inmigracion-2019-2021/>

<https://www.icalpa.es/colegiados/actualidad/online-convocatoria-cursos-help-1-de-julio>

<https://www.abogacia.es/actualidad/noticias/la-asistencia-juridica-ante-las-llegadas-masivas-de-migrantes-a-analisis-en-una-nueva-jornada-online/>

## References and sources

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

<https://www.abogacia.es/en/conocenos/fundacion/migraciones-ddhh/documentos-de-interes/el-papel-de-la-abogacia-en-la-informacion-sobre-el-derecho-de-asilo-en-espana/>

<https://www.abogacia.es/actualidad/opinion-y-analisis/los-juzgados-de-instruccion-como-otra-autoridad-sobre-proteccion-internacional/>

## 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)

## **Contact**

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