First instance determination - Spain

Overview of first instance procedures

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Relevant EU legislation

Spain is bound by the recast Asylum Procedures Directive (APD/APR), the recast Reception Conditions Directive and the Dublin III Regulation (AMMR) and apply its provisions directly.

National legislation relevant for the first instance procedure:

- Asylum Law - Law 12/2009 of 30 October 2009, regulating the law of asylum and subsidiary protection | Ley 12/2009, de 30 de octubre, reguladora del derecho de asilo y de la protección subsidiaria;
- Asylum Regulation - Royal Decree 203/1995 of 10 February 1995 approving the Regulation implementing Law 5/1984 of 26 March 1984, regulating the law of asylum and criteria for refugee status, as amended by Law 9/1994 of 19 May 1994 | Real Decreto 203/1995, de 10 de febrero, por el que se aprueba el Reglamento de aplicación de la Ley 5/1984, de 26 de marzo, reguladora del Derecho de Asilo y de la condición de Refugiado, modificada por la Ley 9/1994, de 19 de mayo;
- Asylum Reception Regulation - Royal Decree 220/2022 of 29 March which approves the Regulation governing the international protection reception system | Real Decreto 220/2022, de 29 de marzo, por el que se aprueba el Reglamento por el que se regula el sistema de acogida en materia de protección internacional;
- Aliens Law - Organic Law 4/2000 of 11 January 2000 on rights and liberties of aliens in Spain and their social integration Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social.
- Royal Decree 1155/2024, of 19 November, which approves the Regulation of Organic Law 4/2000, of 11 January, on the rights and freedoms of foreigners in Spain and their social integration | Real Decreto 1155/2024, de 19 de noviembre, por el que se aprueba el Reglamento de la Ley Orgánica

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4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social

National legislation

The Asylum Law refers to the types of procedure in its Title II, Chapter II. Article 24 refers to the regular procedure, while the accelerate procedure is included in article 25. The Asylum Regulation refers to the inadmissibility procedure its Chapter II (article 17 to 23), including within the regular procedure and the border procedure. First instance procedure is regulated in the Chapter III (art. 24 to 31).

Competent authority and other stakeholders

The Asylum Office of the Directorate-General for International Protection (DGProInt) under the Ministry of the Interior, is the competent body for the processing of applications for international protection.

Any application for international protection admitted for processing gives rise to the initiation by the DGProInt of the corresponding procedure, to which the investigative proceedings of the file will be incorporated.

Once the dossiers have been completed, they are submitted for study to the Inter-ministerial Commission for Asylum and Refuge, which formulates a proposal to the Minister of the Interior, who will be competent to issue the corresponding resolution by which it is granted or denied, as the case may be, the right of asylum or subsidiary protection.

The Interministerial Commission for Asylum and Refuge is a collegiate body attached to the Ministry of the Interior, which is composed of a representative of each of the departments with competence in foreign and domestic policy, justice, immigration, reception of asylum seekers and equality.

Other actors involved include UNHCR what is regulated in Chapter IV of the Asylum Law (article 34 and 35). UNHCR intervenes at two stages:

- in the application procedure: requests for international protection are communicated to the UNHCR, who can inquire about the situation of the files, be present at the hearings to the applicant and submit reports for

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inclusion in the file. In this context, UNHCR has access to the applicants, including those who are at the borders or in detention centers for foreigners or penitentiaries.
- in processing the applications: the representative of the UNHCR in Spain is summoned to the sessions of the Interministerial Commission of Asylum and Refuge. Likewise, UNHCR is informed immediately on the applications at the border. Prior to issuing the resolutions on these requests, a hearing will be given to UNHCR.

In cases where applications are processed through the accelerated or admissibility procedure, if the proposal for a resolution of the DGProIntis a rejection of protection, a period of 10 days is given to the UNHCR so that, if applicable, objections are submitted.

Types of procedures and case processing

The following procedure are regulated: regular procedure, admissibility procedure, accelerated procedure and border procedure.

Time limit for a decision and length of the procedure

In the regular procedure, decisions must be notified to the applicants in a maximum period of 6 months. If the decision on the application is not notified within six months after the submission of the application, it is deemed to be dismissed (please note that this lack of decision is deemed only to provide the applicant a judicial remedy against such implicit dismissal of the application), without prejudice to the Administration's obligation to expressly resolve subsequently.

In practice this period is taken longer. Due to the increase in the number of applications, the authorities have taken measures to decrease the length of the first instance procedure, such a significant increase of staff, as well as the incorporation of technical improvements that allow the reduction of resolution times, the implementation of automated termination of files after their resolution and electronic notifications, among other measures.

Quality assurance of first instance procedures

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UNHCR has an active involvement in the procedure contributing to improving the quality of the criteria in individual cases and specific profiles, through their input and comments throughout the process and, in particular, in the following cases: in relation to the admissibility criteria in Border Procedure (Art. 35.2) and in first instance procedure, in cases of inadmissibility based on Article 20 and before the CIAR meetings, when their criteria differs from the decision taken by the case officers.

Additionally, the DGProInt celebrates informal meetings with UNHCR to exchange views on the quality of the examination procedure.

There is an internal quality assessment system which is permanently promoted by the heads of every department involved in the examination of applications. Additionally, they review the proposals for a decision on the cases before submitting them to the Interministerial Commission of Aylum and Refuge (CIAR).

The CIAR is a collegiate body composed of one representative from each of the departments with responsibility for foreign and domestic policy, justice, immigration, reception of asylum seekers and equality and a representative of UNHCR with the right to speak but no to vote. The CIAR meets monthly to review and decide on the merits of asylum applications examined by the case officers during the month prior to the meeting. Their members have also the competence to make observations. These observations are considered by the DGProInt to review or confirm the proposals for a decision on the cases.

As part of the quality system, there is a training plan for case officers in place. It consists of training modules delivered by the Ministry of the Interior itself, in addition to the training from the EUAA, which contributes to enhance the quality of the examination procedure.

New case officers receive specific recommendations about the work they will be doing, with special emphasis on maintaining confidentiality.

Additionally, experts on different areas of the DGProInt participate regularly in EUAA working groups.

Interinstitutional cooperation

Different actors are involved in different phases of examination of facts and circumstances:

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- Law enforcement officials are involved in the initial collection of information and evidence. Police officers conduct the first interview.
- Caseworkers of the Directorate-General for International Protection (DGProInt) are involved in the analysis and making-decision stage (a final report with the proposed decision to be submitted to the Inter-ministerial Commission). They may also conduct second interviews in specific cases where they need more information to study the case and make a decision on the merits of the case.
- Supervisors and Heads of the Unit are involved in the analysis and making decision stage.
- Interpreters/translators intervene when any evidence is submitted in a non-official language, the DGProIntmay request, at their cost, the translation of the evidence ().
- The Head of the Unit is responsible for the examination of claims in a certain geographical area or country. Regular meetings with the team of caseworkers are held, with the participation of the Head of Unit and the Deputy Director General for Instruction of the DGProInt after every monthly meeting of the Interministerial Commission for Asylum.

Regular asylum procedure at first instance

Legal basis

The regular procedure is regulated in the article 24 of the Asylum Law. The Asylum Regulation refers to the inadmissibility procedure its Chapter II (article 17 to 23), including within the regular procedure. First instance procedure is regulated in the Chapter III (art. 24 to 31).

Competent authority and stakeholders

The competent authority is the Directorate-General for International Protection | *Dirección General de Protección Internacional*, which is under the Ministry of the Interior.

Personal interview

Article 17 of the Asylum Act states that asylum applications are formalised by conducting a personal interview, which will always be conducted individually,

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unless the presence of family members is considered essential for the proper completion of the application. The law also provides the possibility of carrying out other interviews with the applicant after the initial one foreseen for the formalisation of the asylum claim. These interviews can take place any time during the procedure after the claim is declared admissible. This second interview is conducted by case officers who must state the reasons why a further interview is needed.

Assessment of an application

Different actors are involved in different phases of examination of facts and circumstances:

- Law enforcement officials are involved in the initial collection of information and evidence by conducting the interview at the lodging of the application.
- Caseworkers of the Directorate-General for International Protection (DGProInt) who may also participate in the collection of information and evidence and the collection of information by other means; they conduct the applicant's second interview in cases where they need more information to make a decision on the merits of the case; and they are involved in the analysis and making-decision stage (a final report with the proposed decision to be submitted to the Inter-ministerial Commission).
- Supervisors and Heads of the Unit are involved in the analysis and making decision stage.
- Interpreters/translators intervene when any evidence is submitted in a non-official language, the DGProInt may request, at their cost, the translation of the evidence (t).
- The Head of the Unit is responsible for the examination of claims in a certain geographical area or country. Regular meetings with the team of caseworkers are held, with the participation of the Heads of Unit and the Deputy Director General for Instruction of the DGProInt, after every monthly meeting of the Interministerial Commission for Asylum.
- Guides on country of origin (COI), practical guidelines on relevant specific countries of origin (Venezuela, Colombia) and guidelines for lodging and processing applications for unaccompanied minors are produced internally and used for the examination of applications. These guides are mandatory for all DGProInt case officers. Additionally, the guides produced by the EUAA and UNHCR are also used.

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Time limits for decision: According to the legislation, the time limit for taking a decision is 6 months. If the decision on the application is not notified within six months after the submission of the application, it is deemed to be dismissed (please note that this lack of decision is deemed only to provide the applicant a judicial remedy against such implicit dismissal of the application), without prejudice to the Administration's obligation to expressly resolve subsequently.

Scope and outcomes of a decision

Scope: Any application for international protection admitted for processing gives rise to the initiation, by the Directorate-General for International Protection (Ministry of the Interior), of the corresponding procedure, to which the investigative proceedings of the file will be incorporated.

Possible outcome: Once the dossiers have been completed, they are submitted for study and voting to the Inter-ministerial Commission for Asylum and Refuge, which formulates a proposal to the Minister of the Interior, who is the competent administrative authority to issue the corresponding resolution by which it is granted or denied, as the case may be, the right of asylum or subsidiary protection.

Withdrawal of an application

Competent authority to withdraw an application

The Directorate-General for International Protection (DGProInt) | Oficina de Asilo y Refugio (OAR), which is under the Ministry of the Interior.

Implicit withdrawal

It may be presumed that withdrawal has occurred, when within 30 days the applicant

- had not responded to requests to provide essential information for his/her request
- had not been reported in person before the authorities when requested to do so, or

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- did not appear for the renewal of the documentation from which he had been provided,
- unless he/she demonstrates that these behaviours were due to circumstances beyond his control.

The procedure will be terminated by closing his or her file without taking a decision on the merits.

Appeal against a decision to discontinue the examination due to an implicit withdrawal: Against the decision of withdrawal of the application, the applicant may lodge a request for reversal within one month or appeal directly to the administrative courts within two months.

Explicit withdrawal

The applicant may withdraw his/her application by filling an application.

It is included in the same Article 27 of the Asylum Law and follows the legal regime of the Article 94 of the Administrative Procedure Law 39/2015. The procedure will be terminated by archiving the application.

Appeal against a decision to discontinue the examination due to an explicit withdrawal: Same case as in the Implicit Withdrawal. Against the decision of withdrawal of the application, the applicant may lodge a request for reversal within one month or appeal directly to the administrative courts within two months.

Personal interview

Competent authority: Interviewers

Spain increased the staff responsible for interviewing in the last years.

The officers in charge of the interviews, are also the officers who inform about how to submit the asylum application helping the applicants to fill out the forms and determine the relevant events and facts for their applications.

The interview is not carried out by the case examiners but rather the law enforcement officials from the Provincial Immigration and Border Brigade of the

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National Police (*Brigada Provincial de Extranjería y Fronteras de la Policía Nacional*), using documents prepared by the case examiner. In case of insufficient information, it will be the caseworker who will conduct a second interview with the applicant.

Police and border guards have the competence of registering asylum applications, for which in these cases they are the authority in charge of conducting the asylum interview. This also happens to asylum claims made at borders and from the detention centers for foreigners (CIE).

In prisons, interviews are conducted by a member of the technical team at the prison facility and are conducted on the basis of a questionnaire provided by the DGProInt.

No educational qualification requirements have been specified to be appointed as a personal interviewer, but the person needs to have the relevant knowledge of the applicable standards. Additionally, police officers follow internal instructions for conducting interviews approved by the Ministry. In the DGProInt, case workers must follow the internal guidelines when conducting second interviews.

Special procedural guarantees during the interview

The competent public employee interview staff (police officers) should consider whether special care and support measures are required in the following cases:

a) Persons with disabilities and/or dependency: In the case of dependent adults, a new procedure must be initiated for them, relating it to the main one (the person they are dependant from), whether or not it is possible to carry out the interview. If this is not the case, the impossibility of carrying out the interview must be indicated in the section on the interview, using the reasons given by the person to whom it is related. These applications must ALWAYS be signed by the guardian, specifying the type of relationship between them, which must be duly accredited. The same procedure shall apply to minors whose parents or guardians are not applicants for international protection.

b) Elderly people.

c) Pregnant women. In this case, the applicant must attend the formalisation interview, unless, for medical reasons, travel is not advisable. During the interview, the public employee must attend to the physical needs that the

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applicant may have in order to facilitate the process.

d) Single-parent families with minor children. In this case, public employees should ensure that measures are taken to ensure that the parent or guardian does not relate personal situations of victimisation or humiliation if minors are present. The interview should be conducted at a time and place that allows for the provision of such care.

e) Victims of trafficking in human beings. Without prejudice to the possible need for international protection, which will be assessed during the investigation by the DGProInt when examining the application and in cases in which the applicant identifies him/herself as a victim of trafficking or in which, without expressly identifying him/herself, the public employee conducting the interview detects signs of such a situation, as soon as possible the facts should be transferred to the competent police authority for the investigation of trafficking in human beings and the identification of its victims.

f) Persons with mental disorders. The competent public employee shall consider whether the applicant is fit to participate in the interview. If this is not the case, the scheduled interview shall be postponed or shall not take place until the person is fit for the interview or until he/she has a representative.

In the case of minors accompanied by their parents or guardians, it will be the latter who will provide the necessary information for the assessment of their file and determine whether they wish to apply on behalf of the minors in their own right or by extension of a possible main applicant. By decision of the parents, minors may also submit the application on their own behalf. In any case, minors must be given the opportunity to express, if they so wish, whatever they consider necessary. If the minor requires custody during the interview with their parents or guardians, the staff conducting the interview must make provision for this circumstance.

In the event that minors are interviewed, the interview will take special care to maintain the same conditions of privacy and confidentiality as in interviews with unaccompanied minors, and both the language and content of the questions will be adapted to encourage the applicant to tell their story. In particular, specific forms of persecution such as child marriage, female genital mutilation, forced recruitment or human trafficking shall be taken into account.

Unaccompanied minors: Any application made by an unaccompanied minor shall be brought to the attention of the competent services for the protection of

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minors, as well as the Public Prosecutor's Office, by the public employee competent for the interview.

Unaccompanied minors may express their willingness to submit an application for international protection and submit it even before there is representation designated specifically to exercise their legal guardianship, with the same regime of enjoyment of rights that holds any other person applying for international protection. However, further processing shall require an act of ratification by his legal representative, where appointed. Immediate steps shall be taken to ensure that the representative of the unaccompanied minor person, appointed in accordance with child protection legislation in force, acts on his or her behalf and assists him or her with regard to the examination of the application for international protection.

Special care shall be taken to maintain the conditions of privacy and confidentiality in the interviews conducted with unaccompanied minors and the language as well as the content of the questions shall be adapted to favour the presentation of the account by the applicant. Specific forms of persecution such as child marriage, female genital mutilation, forced recruitment or trafficking in human beings shall be taken into account.

The Spanish law states that, in cases where it is necessary, specific measures to assure a differential treatment for applicants with special needs/vulnerabilities during the interview will be taken. For example, in the case of victims of torture, the Instruction for lodging applications establish that public employees must be aware of these circumstances and adapt the interview accordingly without causing unnecessary emotional harm.

When interviewing a single mother, appropriate measures must be taken to ensure that the parent or guardian does not recount personal experiences of victimisation or humiliation if the children are present.

When children cannot be left alone while their parents are being interviewed, the Instruction states that the staff conducting the interview must take this circumstance into account.

For persons with special needs due to their sexual orientation, the interview shall be conducted, as far as possible, by a person of the applicant's preferred gender (also in relation to the interpreter) and using appropriate language.

As a general rule, efforts will be made to ensure that the official conducting the interview for international protection is of the same gender as the person seeking

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protection. And The National Police officer conducting the interview shall not wear a uniform during the interview.

Possibility to omit the personal interview

The interview is mandatory and cannot be replaced by the submission of a handwritten account. Interviews may only be omitted, where applicable, in the cases mentioned above when dealing with persons with disabilities/dependency or persons with mental disorders.

Positive decision	No
Previous meeting - essential information	Yes, at lodging the application (it is considered a previous meeting for the purpose of the findings)
Issues raised are not relevant or of minimal relevance	No
Safe country of origin	n/a
Safe third countries	n/a
Inconsistent, contradictory, improbable, insufficient representations	No
Subsequent application	No
Application to merely delay/frustrate enforcement	No
Not reasonably practical to conduct it	No

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Applicant unfit or unable to be interviewed	No

Organisational aspects

Preparation and timing of the interview

Interviews are carried out during the lodging process which are conducted individually. Exceptionally, the authorities could request the presence of the applicant's family members, especially when there are minors involved in the application (article 17.4 of the Asylum Act)

When is required, the administration will take the appropriate measures to assure a differential treatment based on the sex of the applicant or in case of vulnerable groups as minors, unaccompanied minors, people with disabilities, elderly advanced people, pregnant women, single-parent families with minors, people who suffered torture, rape or any other serious forms of physiological, physical or sexual violence and victims of trafficking in human beings (article 46 of the Asylum Act).

There is the possibility to have a second interview. The decision to have it must be justified by the caseworker.

Once an asylum application is submitted at the border and before the personal interview is held, an UNHCR representative in Spain is immediately informed in case he wants to have an interview with the applicant/s. The UNHCR is also informed of the rest of applications, once they are submitted to the DGProInt, after the lodging (Article 34 of the Asylum Law). In addition, UNHCR is authorised to be present during the interviews upon request.

Timeframe

The law does not specify a time limit for the realization of the personal interview. In practice, timing is basically dependant on the lodging of the application.

Information provision (before the personal interview)

Applicants are informed about the interview process mainly by NGOs present at reception points or through public resources. The persons conducting the interview will inform applicants about how to apply and will help them to

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complete the application form, providing them with basic information about it. They will also work with the applicants to establish the relevant facts of their application (article 17 (6) of the Asylum Law). Applicants can consult detailed information about the interview through the Asylum Office website or at designated provincial police stations or aliens' detention centres. The information shared covers several aspects of the interview, including its aim, the rights and obligations of the applicant, procedural specifics, the roles of the actors involved, confidentiality matters, and the possibility of interpretation services.

Modalities of carrying out the interview

Interview take place at the provincial Brigades for Foreigners and Borders. When applicable, second interviews take place at the offices of the Directorate-General for International Protection. Case management officers from the DGProInt may support the National Police in conducting first interviews to certain applicants via videoconferencing.

Choice of gender of the interviewer/interpreter

Where requested by the applicant and whenever possible, the interview shall be assisted by an interpreter of the same sex, unless there is reason to believe that the request is not justified.

As a general rule, the law enforcement official conducting the interview for the application for international protection will be of the same sex as the applicant for protection. Where the applicant, or his/her legal adviser, expressly requests that the application for international protection be made by an official of a particular sex, efforts shall be made to comply with this request.

Objecting to the interviewer/interpreter.

The applicant cannot object the interviewer. In the case of the interpreter, he/she may be chosen by the applicant, provided by the company outsourced by the Ministry of the Interior, or in certain cases provided by UNHCR or an NGO collaborating with the international protection reception system.

The applicant may request that the interpreter be of a specific gender. This request will be granted whenever possible and provided that there are reasons to believe that the request is due to the applicant's difficulty in fully explaining the reasons for their request.

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Therefore, there is no possibility to object, but it is possible to request, if justified, that the interpreter be of a specific gender.

Language and interpretation

The asylum authority determines the language in which the information is provided based on the applicant's indication, usually at the application registration.

All asylum seekers have the right to be assisted by an interpreter (article 18 of the Asylum Act).

The interview is conducted in the applicant's preferred language as long as an interpreter for that required language is available. There are following requirements the interpreters must meet:

- be a professional interpreter and belong to a particular professional organisation
- have special approval/registration with the asylum authority
- be legally sworn/certified

Interpreters follow specific training sessions per year. In case of shortage of interpreters, the interview is conducted in another language which the applicant is reasonably expected to understand.

In case of applicant's refusing to conduct an interview in a particular language, the officer will summon another interpreter and will, consequently, schedule another interview date. This scenario is possible as, in practice, the applicant has the right to object the interpreter.

Persons present during the interview

Persons present during the interview may include:

- Lawyers can be, or not, present during the personal interviews. If they are, they can present remarks and ask questions at the end of the interview. The assistance of a lawyer is mandatory only for applications lodged at borders and CIE. Legal representatives can be present and they can present remarks and ask questions at the end of the interview.
- Police and border guards are present when they conduct the interviews.
- Interpreters (if needed).

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- Family members are only present in exceptional cases, for example when the family member is child or infant.
- UNHCR representatives can be also present; however, other NGO's representatives cannot.
- In case of unaccompanied minors, it is mandatory the presence of the legal representative or the guardian,

Structure/steps of the interview

The duration of the interview depends on the complexity of the case. Interviews last on period that depend on each case, there is not at general rule.

There are certain guidelines to structure the content of the interview. Some templates are used during the interview, for example, in case of nationality tests for particular countries of

origin. Checklists are also used during same parts of the interview, although this is not the general rule for all applicants but rather limited to specific profiles or circumstances.

The auxiliary personnel follow guidance rules agreed internally in the Ministry of Interior to conduct international protection interviews. The documents state a number of aspects which the law enforcement officer must take into account during the interview: certain references which must be avoided, guideline questions as to the reasons for which persecuted, general questions regarding the account given by the interested party, etc. Instructions are included for the case in which it is necessary to give the nationality questionnaire.

- In the introductory phase of the interview, the case examiner acquires personal details of the applicant.
- The main part of the interview follows a flexible format of free questioning, so that applicants share their narrative.
- The interview concludes by asking to the applicant to confirm the interview record.

In the introductory phase, for example, the authority acquires personal details of the applicant.

Breaks may be taken during the interview at the request of the applicant or interpreter, or at the interview's discretion, and/or at regular intervals.

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As mentioned, the caseworker, based on a reasoned decision, may hold a second personal interview with the applicant when considers the information in the case file insufficient (article 17(8) of the Asylum Act) This second interview will be different in scope and length.

Audio/Video recording

The interview is recorded only with the specific consent from the applicant.

Postponing the personal interview

The interview can be postponed at least once and always depending on the personal circumstances of the applicant that should claim serious reasons for rescheduling it.

Failure to appear

In case of failure to appear, after a second summon the application procedure will be suspended or discontinued as her/his absence will be considered an implicit withdrawal. Rescheduling is only possible in justified cases.

Other aspects

Second or follow-up personal interview

As established in article 17.8 of the Asylum Act, the case officers of the DGProInt may, provided it is justified and they consider that the account of the first interview is insufficient to decide on the merits of the case, request the holding of a second interview with the applicant, which in this case will be held in the offices of the Directorate-General for International Protection, respecting the same requirements as the first interview and, if necessary, with the assistance of an interpreter.

Special asylum procedures at first instance

Admissibility procedure

The article 20(1) of the Asylum Law states when applications can be considered inadmissible on the following grounds.

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Due to the large volume of applications received in recent years, in practice, after the period of one month has elapsed without a concrete decision on admissibility, the application is admitted by positive silence, except in the border.

For applications filed within Spanish territory, applications may be denied admissibility if the following circumstance occur:

Due to lack of competence for the examination of applications:

a) when Spain is not the responsible Member State in accordance with the Dublin Regulation (note that the law still refers to the earlier version thereof namely Regulation (CE) 343/2003, of the Council, of February 18, which establishes the criteria and mechanisms for determining the Member State responsible for examining an asylum application presented in one of the Member States by a third-country national);

b) when it does not correspond to Spain its examination in accordance with the International Agreements in which it is a Party. In the resolution by which the non-admission to processing is agreed upon, the applicant is informed by the State responsible for examining it. In this case, the said State has explicitly accepted its responsibility and obtains sufficient guarantees of protection for the life, liberty and physical integrity of the interested parties, as well as respect for the other principles indicated in the Geneva Convention, in the territory of the said State.

Due to lack of requirements:

c) when, the applicant is recognized as a refugee and has the right to reside or obtain effective international protection in a third State, provided that she is readmitted to that country, there is no danger to her life or liberty, nor is she exposed to torture or inhuman or degrading treatment and has effective protection against return to the persecuting country;

Provided that the applicant is readmitted in that country and there are links by which it would be reasonable for the applicant to go to that country. For the application of the safe third country concept, the existence of a relationship between the asylum seeker and the third country in question for which it would be reasonable for the applicant to go to that country may also be required. Spanish legislation also refers to asylum procedure directive and EU lists;

e) when the applicant has reiterated an application already denied in Spain or submitted a new application with other personal data, provided that no new

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relevant circumstances arise regarding the particular conditions or the situation of the country of origin or habitual residence of the interested person;

f) when the applicant is a national of a Member State of the European Union.

For applications filed at the border posts:

When a foreigner who does not meet the requirements to enter Spanish territory submits a request for international protection at a border post, the Minister of the Interior may not admit the request by means of a reasoned resolution based on any of the inadmissibility grounds (see above). In any case, the resolution must be notified to the interested party within a maximum period of four days from its presentation.

Competent authority and other stakeholders

The Minister of the Interior, at the proposal of the Directorate-General for International Protection is the competent authority.

Procedural aspects

The asylum procedure in Spain is divided in two phases: an admissibility procedure and the assessment of the application (evaluation of the case merits).

The Minister of the Interior, at the proposal of the Directorate-General for International Protection, may, by means of a reasoned resolution, not admit applications for processing. The non-admission of the application has the same effects as the rejection of the application (the person will need to leave the country).

After the admission to processing the request for international protection, any of the circumstances that would have justified its non-admission may lead to denial of the former.

Same rules as the regular procedure apply for the personal interview and legal assistance during the admissibility procedure.

Decision and time limits to decide

In case of applications made on the territory, the non-admission to the procedure must be notified within a month from the making of the application.

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Following the month with no resolution, the application can be considered automatically admitted to the asylum procedure. The applicant will have the right to stay in the Spanish territory until the resolution of the application.

The non-admission to processing has the same effects as the denial of the application.

Appeal

The decision on admissibility may be appealed in 2 different ways:

- Applicants for international protection have 2 months to appeal against an inadmissibility resolution before the Central Administrative Judges (*Juzgados de lo contencioso administrativo*); or
- In cases where new pieces of evidence appear, the person has one month to present an appeal for reversal before the Minister (*Recurso de Reposición*), in which case a decision should be taken within two months.

Impact on reception conditions

Applicants with insufficient economic resources will have access to the reception system from the making of the application.

As mentioned above, the admissibility procedure is only applied at the border. However, there is a special rule for applicants whose application has been declared inadmissible because another Member State of the European Union has accepted responsibility for examining their asylum application, pursuant to Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013. They may be covered by the reception system for a period not exceeding one month from the notification of inadmissibility due to the other State taking charge of the person concerned, which may be extended for exceptional reasons, subject to authorisation by decision of the Directorate-General for the Management of the International and Temporary Protection Reception System (Article 3(2) of the RD 220/2022, of 29 March, approving the Regulation governing the reception system in the field of international protection.

Accelerated procedure

Legal basis and grounds

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The article 25 of the Asylum Act regulates the urgent procedure. An application is processed under an accelerated procedure in the following cases:

- the application appears to be manifestly well-founded;
- the applicant, without a justified reason, submits his / her application after the expiration of one month from their entry into Spain
- the requesting person falls within exclusion or denial clauses;
- the applicant comes from a country of origin (holding the nationality or if he is a stateless person, he had there his habitual residence) that is considered safe;
- it exclusively raises questions that are not related to the examination of the requirements for recognition of refugee status or the granting of subsidiary protection;
- it has been formulated by applicants who present specific needs, especially for unaccompanied minors.

Competent authority and other stakeholders

The Minister of the Interior is the competent authority for the accelerated procedure. Draft decisions are made by the DGIntPro and presented to the Minister by the Interministerial Commission on Asylum and Refuge.

Procedural aspects

At the moment, given the situation of overload in the processing of applications for international protection, which number has been increasing exponentially every year for years, the accelerated procedure is not used in practice, so there is no clear guide for its practical application, beyond the terms established in the Asylum Act.

The Ministry of the Interior, on its own initiative or at the request of the interested party, applies the urgent procedure, upon notification to the interested party.

The Inter-ministerial Commission for Asylum and Refugee is informed regarding the files that will be processed as a matter of urgency.

UNHCR must be heard before issuing draft negative decisions.

Decision and time limits to decide

Time frames are reduced by half from the regular procedures, 3 months.

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The substantive decision is deemed to be negative in the absence of a proper decision within the 3-month time-limit. This would only be an instrument for the addressee of the decision to lodge an administrative/judicial appeal-the Asylum Office could still take a decision on substance after the time-limit elapsed.

Appeal

The applicant may appeal a negative decision before the DGProInt for administrative appeals or Chamber of the National High Court for judicial appeals. The regular time-limit applicable for requests for reversal (administrative appeals) is one month after the decision notification. The Ministry of Interior has one month to decide on the appeal as well.

Applicants may appeal decisions before the National High Court upfront. The time-limit to lodge a judicial appeal is 2 months. There is no legal time-limit to rule on the judicial appeal.

Decisions on requests for reversal can be challenged before the National High Court within the same time-limit. If the Ministry of Interior fails to decide on the administrative appeal, the applicant can lodge his or her judicial appeal at any time.

The second level of judicial appeal would take place before the Supreme Court but there are a limited number of grounds for cases to be brought before the Supreme Court. Time-limit to lodge an appeal before the Supreme Court is 30 days.

Impact on reception conditions

There is no impact. Same access as in the ordinary procedure is guaranteed.

Border procedure

Legal basis and grounds

The border procedure is regulated in the article 21 of the Asylum Law.

The border procedure is applied to all applicants who request international protection at airports, maritime ports and land borders, as well as in migrant detention centres.

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When it comes to land borders of Melilla, since the pandemic, applications are not being processed at this border post. However, if an application is submitted in Ceuta, applications are occasionally processed through the border procedure, but it is more common for applicants to be transferred to the CETI (Migrant Temporary Stay Centres | *Centros de Estancia Temporal para Immigrants*). In this case, it will be considered to be made on the territory and will fall under the regular procedure rather than the border procedure.

Competent authority and other stakeholders

The competent authority for the border procedure is the Minister of the Interior, who decides based on the proposal submitted by the DGIntPro.

Procedural aspects

A personal interview is carried out by police officers. Based on this first interview, case workers can examine the case and propose a decision. Border procedure in Spain consists of an admissibility phase that lasts a total of 8 days. There is no time to conduct a second interview. Once the application is admitted, it will be processed through the ordinary procedure.

Videoconferencing is rarely used, and questions are not limited to identity, nationality and travel route.

The same procedural safeguards are provided as in the regular procedure (e.g. privacy and confidentiality during the personal interview). Interpreters are present during the personal interview and legal assistance is mandatory for applications lodged at the border and in detention. Legal assistance is provided for free for applicants who cannot afford legal assistance and representation at his or her own cost. during the first instance procedure and on appeal.

Decision and time limits to decide

A decision is made on the admissibility or inadmissibility of the application. Grounds for inadmissibility are those set out in Article 20 Asylum Law.

According to a 2017 ruling of the Audiencia Nacional, in a border procedure, an asylum application cannot be rejected on the merits, unless it is manifestly unfounded. An application is not manifestly unfounded where it is not contradicted by country-of-origin information or where UNHCR issued a report in which it supports the granting of protection.

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Applications lodged at the border can be rejected as manifestly unfounded if:

- The facts presented by the applicant do not have any relation with the recognition of refugee status;
- The applicant comes from a safe country of origin;
- The applicant falls under the criteria for denial or exclusion under the Asylum Act, Articles 8, 9, 11 and 12;

The applicant made inconsistent, contradictory, improbable, insufficient declarations, or that contradict sufficiently reliable country of origin information or of habitual residence, in a manner that clearly shows that the request is unfounded.

If the application is allowed, the person can enter the territory, and the application is analysed through the ordinary procedure (6 months).

The border procedure is characterised by its strict time limits, which cannot exceed 96 hours (4 days) for a first instance decision and another 4 days for appeals. The decision of admissibility must be issued within 96 hours from the lodging of the application. When the time limits are not respected, the person will be admitted to the territory and the application will be processed according to the applicable provisions.

Appeal

If the application was denied or not admitted, the applicant can request a re-examination within 48 hours from the notification of the decision. This administrative appeal has an automatic suspensive effect and a decision on the re-examination is to be notified to the applicant within 48 hours.

During the appeal, it is possible to incorporate new arguments and documentation, apart from clarifications The decision can be appealed before the National High Court (*Audiencia National*). if it is a rejection, and before Central Administrative Judges (*Juzgados centrales de lo contencioso-administrativo*), if it is an inadmissibility decision.

Impact on reception conditions

Applicants for international protection remain in the facilities set up at border posts (‘non-admission rooms’, as referred to in Article 62(6) Organic Aliens Law 4/2000) during the processing of the border procedure, including the re-examination, and the request for reversal and the precautionary measures, if the rejection decision is challenged before the Central Administrative Courts and a

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precautionary suspension of its execution is requested (Article 22 of Asylum Law).

Subsequent application procedure

Legal basis and grounds

The Asylum Law does not include a specific procedure for subsequent applications and it does not set a limit in the number of applications a person can submit.

It is only considered a subsequent application if the previous one was made in Spain.

Subsequent applications are not admitted if they don´t contain any new elements of substance or related to inadmissibility grounds previously applied (Article 20(1) letter e of the Asylum Law).

Competent authority and other stakeholders

If an inadmissibility decision can be taken within one month, the Minister of the Interior, will issue the decision at the proposal of the Directorate General for International Protection.

If the decision cannot be taken within the first month, the application will be processed through the ordinary procedure and denied, if no new elements have arisen, by the Minister of Interior at the proposal of the Interministerial Commission on Asylum and Refuge

Procedural aspects

The criterion of inadmissibility set out in Article 20.1.e) of the Asylum Act is taken into account when the applicant has a previous application that has already been rejected in Spain or has submitted a new application with other personal data, provided that there are no new relevant circumstances regarding the particular conditions or the situation of the country of origin or habitual residence of the person concerned.

Decision and time limits to decide

Subsequent applications are not admitted if they don’t contain any new elements of substance or related to inadmissibility grounds previously applied. If new

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elements appear it will be treated as a first application and processed through the ordinary procedure.

Appeal

The same rules shall apply as for applications processed under the ordinary procedure.

Impact on reception conditions

Information is currently not available.

Last-minute application pending removal

There are no specific rules on last-minute applications in the Asylum Law. The rules for ordinary procedure apply as to any other application.

These applications are often lodged by persons in prison prior to their extradition or deportation to their country of origin, or by persons with a pending removal order who are detained in a CIE.

The 60-day limit on detention in a CIE, which cannot be suspended, means that these asylum applications must be resolved as quickly as possible. The same applies to any request for reversal that may be submitted.

Last-minute applications lodged by first time applicants pending a removal

There are no specific rules on last-minute applications in the Asylum Law. The rules for ordinary procedure apply as to any other application.

Last-minute applications lodged as subsequent applications pending a removal

There are no specific rules on last-minute applications in the Asylum Law. The rules for ordinary procedure apply as to any other application.

Safe country concept

Safe country of origin

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The concept of a safe country of origin is defined in Article 25.1.d, Asylum Law 12/2009. However, the concept is not applied in practice. There is no legal provision on the designation of a national list of safe countries of origin.

Safe third country

The concept of a safe third country is defined in Article 20(1)(d), Asylum Law 12/2009. Based on Article 20(1)(d) Asylum Law the concept of "safe third country" is defined with reference to Article 27 of the original Asylum Procedures Directive and where appropriate with an EU list of safe third countries, as a country where the applicant does not face persecution or serious harm, has the possibility to seek recognition as a refugee and, if recognised, enjoy protection in accordance with the Refugee Convention. The law also requires the existence of links in the form of a relationship with the safe third country, which make it reasonable for the applicant to be returned to that country.

However, the concept is not applied in practice. There is no legal provision on the designation of a national list of safe third countries.

First country of asylum

The concept of a first country of asylum is defined in Article 20(1)(c), Asylum Law 12/2009. The applicant is recognized as a refugee and has the right to reside or to obtain effective international protection in a third State, provided that he or she is readmitted to that country, there is no danger to his or her life or liberty, nor is he or she exposed to torture or inhuman treatment or degrading and has effective protection against refoulement to the persecuting country, in accordance with the Geneva Convention.

The concept is applied in practice via an admissibility procedure.

European safe third country

The concept of European safe third country is not defined in law. Asylum Law provides for the application of European lists of safe third countries as a reason to declare an application inadmissible.

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Assessment of an application at first instance

Legal provisions relevant for an assessment

The assessment of the applicant at first instance is regulated by the Chapter II of the Asylum Law, article 23 to 29.

Competent authority for the assessment

Different types of actors are involved in different phases of examination of facts and circumstances:

- Law enforcement officials. They are involved in the initial collection of information and evidence, as well as the asylum interview.
- Caseworkers of the Directorate-General for International Protection (DGProInt). They participate in the collection of initial information and evidence and the collection of information by other means; they conduct a second applicant's interview, if needed; and they are involved in the analysis and decision-making stage (a final report with the proposed decision to be submitted to the Inter-ministerial Commission).
- Supervisors and Heads of the Unit. They are involved in the analysis and decision-making stage, as well as supervising and solving complicated cases with the caseworkers.
- Interpreters/translators. When any evidence is submitted in a non-official language, DGProInt may request, at their cost, the translation of the evidence. The translation and interpretation are provided by professional interpreters from a private company with which the DGProInt has signed a public contract
- The Head of the Unit responsible for the examination of claims in a certain geographical area or country is in charge of supervising the use of common criteria. Regular meetings with the team of caseworkers are held, with the participation of the Head of Unit and the Deputy-Director for International Protection before and after every monthly meeting of the Inter ministerial Commission for Asylum.

For general information on the national authority or other actors responsible/involved to carry out the first instance assessment and determination, internal organisation, structure and staff. See above sections on

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Overview of first instance procedures. Competent authorities and other stakeholders.

Qualification required. Caseworkers need to have relevant knowledge of the applicable standards for the assessment. DGProInt case workers must be civil servants and, although there is no specific training requirement, it is a common practice and also established in the DGProInt Public Job List (RPT) that IP case workers will be from the group A2 of civil servants. To have access to this group, a university degree is required. Most common degrees are Law, Economics, Psychology, Journalism and Political Science.

Training. Caseworkers have access to specialized trainings in different matters, for example, related to countries of origin or for assessment of application of vulnerable persons, especially in case of minors, LGTB groups or gender-related aspects. The DGProInt also provides briefings and workshops to train caseworkers in these specific groups of applicants.

Grounds

The grounds for refugee and subsidiary protection are regulated by the articles 3 and 4 of the Asylum Law.

Refugee status is granted to any person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion, membership of a particular social group, gender, sexual orientation or gender identity, is outside the country of his or her nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or to a stateless person who, not having a nationality and being outside the country of his or her former habitual residence, for the same reasons is unable or, owing to such fear, is unwilling to return to it, and is not covered by any of the grounds for exclusion set out in Article 8 or by any of the grounds for refusal or revocation set out in Article 9 (article 3 of the Asylum Law).

Acts of persecution are those acts on which the well-founded fear of being subjected to persecution must be:

be sufficiently serious by their nature or repeated character to constitute a serious violation of fundamental rights, in particular rights which cannot be derogated from under Article 15, paragraph 2, of the European Convention for the Protection of Human Rights and Fundamental Freedoms, or

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be a sufficiently serious accumulation of several measures, including human rights violations, as to affect a person in a similar way to that mentioned in letter a).

These acts of persecution may take, among others, the following forms:

a) acts of physical or psychological violence, including acts of sexual violence;

(b) legislative, administrative, police or judicial measures that are discriminatory in themselves or are applied in a discriminatory manner;

c) prosecutions or penalties that are disproportionate or discriminatory;

d) denial of judicial protection resulting in disproportionate or discriminatory penalties;

e) prosecution or punishment for refusal to perform military service in a conflict in which the performance of such service would entail crimes or acts included in the exclusion clauses established in the second section of article 8 of this Law;

f) acts of a sexual nature affecting adults or children.

The right to subsidiary protection is granted to persons from other countries and to stateless persons who, without meeting the requirements to obtain asylum or be recognized as refugees, but in respect of whom there are reasonable grounds to believe that if they were to return to their country of origin in the case of nationals or, to their previous habitual residence in the case of stateless persons, they would face a real risk of suffering any of the serious harm provided for in Article 10 of this Law, and who cannot or, because of this risk, are unwilling to avail themselves of the protection of the country in question, provided that none of the situations mentioned in Articles 11 and 12 of this Law apply (article 4 of the Asylum Law).

Guidelines for case officers

Historically, there were not guidelines in place to guarantee homogeneity in the examination of applications. However, case-handling guidelines were issued, for example based on gender, credibility and assessment of medical report.

Further, there are instructions regarding the formal structure of the final report and regarding the examination of certain profiles of application:

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In case of vulnerable persons' applications (applications of victim of gender-based persecution, victims of torture or application from UAM). These guidelines are binding for case officers but they are not publicly available. Also available guidelines from EUAA, UNHCR are mandatory for case officers.

In case of certain countries of origin. Applicable guidelines are mandatory, those internal are not publicly available.

There is no code of best practices in place, either.

Credibility assessment

The credibility is assessed by the caseworker, but also by other actors at a later stage of the procedure (supervisor, UNCHR members of the Inter-Ministerial Commission). This fact contributes to improve the consistency in criteria and provides for various quality filters.

Although caseworkers study every case on a case-by-case basis, some horizontal aspects are being dealt with in a uniform fashion, including gender and credibility assessment. In both cases, UNHCR and EUAA guidelines are used as a reference. There are also internal guidelines for lodging and processing UNAMs applications, for conducting second interviews, on COI and practical guidelines on relevant specific countries.

With regard to the consideration of "past persecution", in order to examine the application, it is only necessary that the persecution is not clearly unfounded. If it exists, it would be considered a serious indication of well-founded fear that can be assessed during the evaluation

There are some situations where a lack of credibility may be considered, for example, in case of submission of false identification or when there was a delay in the application submission.

In case of credibility issues during the assessment of the application, the applicant will be informed during the second interview giving her/him the opportunity to explain any contradictory or inconsistency in her/his application. This enables caseworkers to confirm that contradictions are not due to misunderstandings, cultural differences or communication difficulties.

Assessment of facts and circumstances when aspects of the applicant's statements are not supported by documentary or other evidence

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Where the applicant does not provide sufficient evidence to support his or her statement, the credibility assessment shall be valued in accordance with the Inclusion Guidelines, in particular those developed by the EUAA or UNHCR. These guides provide guidance on how to assess evidence and analyse its credibility, as well as on the specifications of each country of origin's position regarding particularly vulnerable profiles.

Applicant's identity. There is a specific procedure and practice for the assessment of the applicant's identity. In case of absence of supporting documents, for example, the identity is established if plausible statements have been provided.

Time limit for submitting evidence during credibility

The evidence may be presented at any time by the applicant and/or her/his representative.

COI research

COI Unit

In Spain there is a national specialized Unit which provides support and guidance on COI research.

COI Information

Caseworkers and supervisors have access to a variety of reliable sources, including open sources and external COI portals, together with the reports developed by the specialized unit. If needed for the particular case, caseworkers can request additional or specific COI to the Unit.

Only original and objective and reputable sources publicly available in English or Spanish are examined by caseworkers.

COI information can also be presented by the applicant and/or her/his representative. In this case, only relevant information is subject to examination.

Access to COI

Information is currently not available.

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Decision and outcomes

The examination of an application culminates in a draft decision which is submitted to the Inter-Ministerial Asylum and Refugee Commission (CIAR), which will propose the resolution to be signed by the Minister of the Interior, although it is standard practice for it to be signed by the Under-Secretary of the Interior by delegation of signature. UHNCR also participates but may only express its opinion on the particular case without veto power.

The Asylum Act provides that the authorities must issue a resolution within 6 months. This period can be reduced to 3 months in case of accelerated procedures.

Where the applicant does not receive a final decision on the response of their first instance application within that period of 6 months after the submission of the application, the application must be considered rejected. This lack of decision is deemed only to provide the applicant a judicial remedy against such implicit dismissal of the application, without prejudice to Administration's obligation to expressly resolve subsequently. In practice, many applications last more than 6 months. In these cases, no automatic notification of denial is provided by the DGProInt.

COI units

Background information

There is a National COI Information Unit. The Unit was created in 1996.

Structure and capacity

Organisation: there is a National COI Information Unit, which is part of the Spanish Office for Asylum and Refugees (OAR). Following the approval of the Royal Decree 207/2024 of February 27, the OAR is divided in three main sub-directorates: General Subdirectorate of Institutional Relations and International Protection Information; General Subdirectorate for General and Legal Affairs of International Protection; and General Subdirectorate for Instruction on International Protection and Statelessness. The COI Unit is included under the

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Subdirectorate General for Institutional Relations and Information on International Protection.

Mandate and tasks: The Spanish COI Unit is focused on the collection of different information linked to international protection:

- Case law
- Reports by international organisations
- Statistics
- European Union Decisions
- News around the world
- Investigations and research about human rights

Furthermore, the COI Unit creates newsletters for caseworkers and the rest of the Spanish Office staff.

Staff capacity: Up to September 2025, there are two COI Unit employees (one of them part-time) (current workload in the processing and assessment of applications for international protection does not allow for the appointment of more employees in the unit).

Requirements: COI specialists should have a university degree and post-graduate courses in Documentation.

Regular training and updates: Employees are offered to attend training on COI organised by ECOI and EUAA.

COI products

Type of COI products produced and frequency:

- Elaboration of internal reports on COI
- Newsletters on COI products (monthly)
- Research on COI

Languages: Spanish.

Methodology and sources: The main sources used by the COI Unit at the moment are:

CGRS. Office of the Commissioner General for Refugees and Stateless Persons (Belgica)

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Ecoi.net. European Country of Origin Information. Website managed by the Austrian Centre for Documentation and Research on Countries of Origin

OFPRA. Office Français de protection des réfugiés at apatrides (France)

Gov.uk. (UK). Official website of the UK Government created to provide a single point of access to government information and services for citizens, businesses and other public bodies.

EUAA. European Union Agency for Asylum.

MedCOI. Within the EUAA that provides medical information about countries of origin.

DRC. Danish Refugee Council (Denmark).

Refugee Council. (UK).

Refworld. Global database on legislation and policies (UNHCR).

FRANCE TERRE D'ASILE.

MMC. Mixed Migration Centre.

Asylum Welcome.

Division on Migration and Refugees (Council of Europe)

ECRE. European Council on Refugees and Exiles.

European Commission.

Les clés du Moyen-Orient.

NEAIS. Newsletter of European Asylum Issues.

Quality check: The Common EU Guidelines for processing Country of Origin Information (COI) are used.

Other aspects of COI units

Information is currently not available.

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