Access to procedures and non-refoulement - Spain

Overview

Content updated and validated on: 1/09/2025

Relevant EU legislation

Spain is bound by the recast Asylum Procedures Directive and has transposed its provisions through the Law 12/2009, of October 30, regulating the right of asylum and subsidiary protection | Ley 12/2009, de 30 de octubre, reguladora del derecho de asilo y de la protección subsidiaria (30 October 2009), hereinafter referred to as the Asylum Act.

National legislation

Law 12/2009, of October 30, regulating the right of asylum and subsidiary protection | Ley 12/2009, de 30 de octubre, reguladora del derecho de asilo y de la protección subsidiaria (30 October 2009)

Competent authority and stakeholders

Area	Competent national authority	Assistance to competent authority (if applicable)
Screening at the external border	Authority responsible for screening or screening at the external border: National Police | Policía Nacional	Spanish Red Cross | Cruz Roja Española
Biometric data	Authority responsible for the registration of biometric data: National Police | Policía Nacional	

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Area	Competent national authority	Assistance to competent authority (if applicable)
Making an application	• At the border: National Police | Policía Nacional • On the territory: National Police | Policía Nacional Centre of Internment of Foreigners | Centros de Internamiento de Extranjeros (CIES) • From abroad: In certain cases, and subject to conditions laid down by the law, a foreigner may request Spanish Embassies to allow travel to Spain with the intention to make an application for international protection once in Spanish soil. Once in Spain, the person will make, register and lodge an asylum application.	National Bar Associations | Colegios de Abogados Spanish Commission for Refugees (CEAR) | Comisión Española de Ayuda al Refugiado (CEAR)

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Area	Competent national authority	Assistance to competent authority (if applicable)
Registering an application	• At the border: National Police | Policía Nacional • On the territory: National Police | Policía Nacional Ministry of the Interior, Directorate General for International Protection | Ministerio del Interior Dirección General de Protección Internacional in certain circumstances	National Bar Associations | Colegios de Abogados
Lodging an application	Same as for registration (it happens together) • At the border: National Police | Policía Nacional • On the territory: National Police | Policía Nacional Ministry of the Interior, Directorate General for International Protection | Ministerio del Interior Dirección General de Protección Internacional in certain circumstances	National Bar Associations | Colegios de Abogados

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Area	Competent national authority	Assistance to competent authority (if applicable)
Information provision	• At the border: National Police | Policía Nacional • On the territory: National Police | Policía Nacional Ministry of the Interior, Directorate General for International Protection | Ministerio del Interior, Dirección General de Protección Internacional	UNHCR Spain | ACNUR España Spanish Red Cross | Cruz Roja Española Spanish Commission for Refugees (CEAR) | Comisión Española de Ayuda al Refugiado (CEAR) National Bar Associations | Colegios de Abogados

Access to territory

Official external border-crossing points

Spain has 44 external air border crossing points.
Spain has 4 external land border crossing points.
Spain has 33 external sea border crossing points.

Emergency measures in cases of mass arrivals

The Royal Decree 1325/2003 of 24 October 2003 aims to regulate temporary protection regime in the event of mass influx of displaced persons from third countries who cannot return in safe and lasting conditions due to the situation in that country, and who may eventually fall under the scope of Article 1(A) of the Geneva Convention related the Status of Refugees.

Based on this regulation, a Council of Minister declaration will be issued including at least the description of the specific groups of persons to whom temporary protection will apply, the date on which the temporary protection will take effect,

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and an estimation of the magnitude of the movements of displaced persons.

In March 2022, the temporary protection was activated by of the Council of Ministers agreement Order PCM/170/2022, of 9 March, extending the scope of temporary protection granted under Council Implementing Decision (EU) 2022/382 of 4 March 2022 to people affected by the conflict in Ukraine who can find refuge in Spain. See more information in the section related to 'Temporary Protection in Spain'

Order PCM/169/2022 of 9 March was issued to develop the procedure for the recognition of temporary protection for persons affected by the conflict in Ukraine, thereby implementing RD 1325/2003.

See section below 'Protection from refoulement in case of emergency measures related to mass arrivals'.

Protection from refoulement

The principle of protection from *refoulement* is enshrined in Articles 18(1)(d) and 19 of the Asylum Act.
Under Article 19(1) once an applicant has made an application for international protection in Spain, they cannot be returned, expelled, or deported until their application is resolved. However, there are exceptions in cases of public health or security, *refoulement* must be justified and applied carefully to avoid violating the principle of *non-refoulement*.

As per Article 19(2), an applicant's request for asylum automatically suspends any pending return or extradition proceedings. Nonetheless, Article 19(3) states that applicants may be extradited or surrendered to other Member States of the European Union pursuant to a European arrest warrant or to a third country before international criminal judicial bodies.

Article 20 specifies situations where an asylum application may be rejected without processing. In such cases, Spain must ensure that the applicant is sent to a country where they will not face persecution or *refoulement*. This can happen when the application should be examined by a non-EU State or when the applicant can go to a safe third country. The receiving country must have accepted responsibility for the applicant and provide sufficient guarantees of protection, including safeguards against *refoulement*. Neither of the said grounds

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for inadmissibility has been implemented so far.

To protect the principle of non-refoulement, applicants must be informed of their rights during the process, including their right not to be returned to a country where they face danger (Article 17(3)).

Protection from *refoulement* at external air borders

At external air border crossing points, if entry into the territory is refused due to not complying with the established legal requirements, individuals are informed of the possibility of applying for international protection by both the Police and lawyers of the Bar Association, as free legal assistance is mandatory in refusal-of-entry procedures.

When a person expresses his/her wish to apply for international protection, the Directorate General for International Protection (DGProInt) is informed, and the procedures for registering and lodging the application are initiated. Applicants are provided with legal assistance and, where necessary, interpretation services. From that moment and until the completion of the accelerated border procedure, *refoulement* is suspended.

UNHCR carries out monitoring activities, including visits to places of arrival of foreigners, and may support the authorities in the early identification of the international protection and specific needs of persons arriving by air, land and sea. UNHCR has also produced two videos and leaflets in various languages to inform persons arriving in Spain about international protection. Its main activities are the provision of information on asylum, training various stakeholders on international protection and refugee rights, and supporting different actors responsible for the registration, documentation, reception and assistance of asylum seekers (Source: AIDA country report – Spain, update 2024).

UNHCR is informed of every application processed under the border procedure and is given access to the full file. In any case, it issues a report which is mandatory but not binding.

In addition, UNHCR carries out visits at airports and can monitor the interviews.

The Spanish Ombudsperson and the Public Prosecutor's Office also make regular visits to airport border posts.

Other organisations such as the Red Cross, CEAR and local NGOs may be also

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present at the external air borders and will provide support to applicants, especially in health care and reception.

Furthermore, when requesting the activation of the Framework Protocol for the protection of victims of trafficking, specialised entities with established shifts provide assistance 24 hours a day, 7 days a week. These organizations are present during the identification interview, issue reports to be considered in the examination process and provide shelter in specialised resources for victims of human trafficking.
In April 2023, the National Police was equipped with different technical tools including live scan devices, with the aim of speeding up the fingerprinting procedure.

Protection from *refoulement* at external land borders
UNHCR officials work at the borders to monitor arrivals and support the authorities in the early identification of international protection needs and specific needs of persons arriving by land. They also play a role in facilitating access to the asylum procedure for those in need of international protection. Their main activities are the provision of information on asylum, delivering training on international protection and refugee rights to different stakeholders, and supporting different actors responsible for the registration, documentation, reception and assistance of asylum seekers. (Source: AIDA country report – Spain, update 2024).

Protection from *refoulement* at external sea borders
Migrants arriving in ports or Spanish sea shores are assisted by the police and the Emergency Immediate Response Teams (*Equipos de Respuesta Inmediata en Emergencias*, ERIE) of the Spanish Red Cross, which carry out the first medical screening. After this first health screening, the ERIE distribute food, water, dry clothes and a hygiene kit. The Spanish Red Cross further provides humanitarian and health care at this stage.

Save The Children also has a team of professionals monitoring sea arrivals. (Source: AIDA country report- Spain, update 2024).
UNHCR officials work at the borders to monitor arrivals and support the authorities in the early identification of international protection needs and specific needs of persons arriving by sea. They also play a role in facilitating access to the asylum procedure for those in need of international protection. (Source: AIDA country report – Spain, update 2024).

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Reception is provided where necessary in coordination with the responsible entities in the relevant province.
The Spanish Ombudsperson may conduct visits to sea border posts on request.

Protection from *refoulement* in case of emergency measures related to mass arrivals
Under emergency measures, individuals who arrive at border points may be subject to the border procedure (Article 21 of the Asylum Act). The Asylum Act does not regulate the application of the asylum procedure in emergency situations. All applicants are protected by the principle of *non-refoulement*, and they cannot be returned to a place where they face harm until their case is properly assessed. This process includes interviews and legal checks to determine if the applicant's claim is admissible and if they are at risk. Article 19 of the Asylum Act ensures that applicants cannot be returned or expelled from Spain until their asylum request has been fully processed. For mass arrivals, this principle applies to prevent the immediate deportation of individuals before they can apply for protection.

Border procedure

Article 21 of the Spanish Asylum Act establishes the legal framework for the border procedure. When a foreign national who does not meet the entry requirements applies for international protection at a border post, the Minister of the Interior may refuse to process the application if it meets certain inadmissibility criteria outlined in Article 20. At the same time, the Minister of the Interior can reject the application by reasoned decision on the grounds set out in Article 21(2). In any case, the decision must be notified to the applicant within four days from the lodging. The time limit for the notification of a rejection may be extended by decision of the Minister of the Interior to ten days if the UNHCR requests it in certain circumstances.

The applicant may lodge a request for re-examination of the inadmissibility or rejection decision within two days of receiving the notification. This request temporarily suspends the effects of the decision. The Minister of the Interior must notify the decision on the request within two days. If no decision is made within the prescribed periods (either for inadmissibility, rejection, or re-examination), the application will be processed via the ordinary procedure, and the applicant will be granted entry and provisional stay until a final decision is made.

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Procedural aspects

Making an application

Responsible authority and place

Applications for international protection can be made

- At the border (border checkpoints, ports, and airports) before the national police; or,
- If already in the territory of the country, at the Directorate General for International Protection, before the National Police officers in designated provincial police stations or district police stations, in prison facilities or in Foreigners' Internment Centres/ *Centros de Internamiento de Extranjeros* (CIE), if in detention.

Possibility to apply from outside the territory

Spanish Embassies and Consulates cannot receive applications for international protection.

According to Article 38 of the Asylum Act, the Ambassadors of Spain may authorise the transfer to Spain of individuals who are not nationals of the country in which the diplomatic representation is located and whose physical integrity is at risk, in order to enable them to submit an application in accordance with the procedure provided for in the law, once they arrive in Spain.

Formal requirements for making an application

When a person wishes to apply for international protection, he/she must request an appointment before any of the above-mentioned units. Appointments can be obtained through various channels (web, telephone or email). In some provinces, the making of the application (*manifestación de la voluntad de presentar una solicitud de protección internacional*) can be done before the registration and lodging step. In this case, applicants receive a document with the date and place for registration and lodging of the application. This document constitutes a guarantee of non-refoulment and expires the day the registering and lodging is made.

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According to Article 17(2) of the Asylum Act (Law 12/2009), illegal entry into Spanish territory may not be sanctioned when it has been carried out by a person who meets the requirements to be a beneficiary of the international protection provided for in the Law.
In case of persons rescued at sea, information on international protection and legal assistance and representation is provided upon arrival, so they know what to do to apply. This information is provided by the authorities and NGOs and organisations present at the border (Red Cross, UNHCR when present, or any local NGOs).

If a third country national in detention wants to apply for international protection, the competent authorities will ensure the immediate registration and lodging of the application. The corresponding Court may decide on the release of the applicant depending on the individual circumstances. New applications in detention are automatically channelled through the border procedure. Language interpretation and legal assistance are available in applications made from detention facilities.

Applicants in the border procedure and detention centres receive a document certifying their status as an applicant for international protection only when their application is declared admissible.

Registering an application

Responsible authority and place

Applications can be registered and lodged before the national police officers or, in specific situations, at the Directorate General for International Protection (DGProInt). As noted above, in some locations, following the making of an application, the applicant will receive an appointment to register and lodge it. This step consists of an interview and the completion of a standardised form, and it always takes place in the presence of a police officer or, exceptionally, an officer from the DGProInt.

As part of the decentralization of the asylum procedure and due to the increase in the number of applications, the police have become the main actor receiving applications for international protection since 2018.

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Data collection

Under Article 18(2)(b) of the Asylum Act, applicants for international protection are obliged to submit as soon as possible all the information to substantiate their application. They must present documentation attesting to their age, personal background and that of their relatives, nationality or nationalities, places of previous residence, any prior applications for international protection (if applicable), travel itineraries, travel documents and the reasons for requesting protection. They must also provide their fingerprints, allowing them to be photographed and consent to having their statements recorded. Also, they are obliged to report their domicile in Spain and notify of any changes during the process.

The information collected is stored by the DGProInt within the Ministry of the Interior in secure databases and Eurodac database for biometric data of asylum seekers.

Article 9 of the Eurodac Regulation (603/2013) obliges Member States to promptly take fingerprints of all fingers of every applicant for international protection who is at least 14 years of age. Under the new Eurodac Regulation (2024/1358), Article 15 obliges Member States to take the biometric data of every applicant for international protection who is at least 6 years of age.

Lodging an application

Responsible authority and place

National Police and the Directorate General for International Protection, when needed.

Formal requirements to lodge an application for international protection

The registering and lodging of the application (known as '*formalizacion de la solicitud*') is considered the starting point of the international protection procedure.

In cases where the initial step consisting of expressing the intent to apply for asylum ("*manifestación de la voluntad*") has taken place, registration and lodging is a second step. In all other cases, applicants must request an appointment via

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the online system or by telephone. In some provinces, the appointment must be requested in person at the provincial police station.

All applications by adults shall be lodged individually. However, in cases involving dependent adults or persons with disabilities that prevent them from attending the lodging of the application themselves, the application may be lodged by a representative on their behalf. In such cases, the reasons for not carrying out the interview may be stated. These applications must always be signed by the applicant's representative, specifying the type of their relationship, which must be duly accredited.

Applications for accompanied minors are lodged by their parents/legally responsible adult, and presence of the minor is required. Minors have the right to express their views during the process.

Lodging entails the completion of a form by an official, in the presence of an interpreter, and based on the information provided by the applicant during a personal interview. Applicants' fingerprints are also collected during the process.

Free legal assistance and access to the reception system and social services with the aim of covering basic needs are guaranteed, provided the applicant lacks sufficient financial resources. Free legal assistance is only mandatory for applicants whose applications are processed under the border procedure. Access to health care, education, social security and to the labour market are also guaranteed.

The submission of applications for international protection is communicated to UNHCR, which may inquire about the status of the case, attend hearings with the applicant, and submit reports for inclusion in the case file. To this end, UNHCR has access to applicants, including those held in border facilities, in detention centers for foreigners or in prisons.

The applicant shall designate, where appropriate, the persons who depend on him/her or form part of his family unit, indicating whether he/she is requesting asylum by extension for them. When these persons are in Spanish territory, they must appear in person together with the applicant.
Documentation

The interview conducted for the lodging of the asylum application is documented

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in writing and signed by the applicant, as well as individuals involved in the registration (e.g. lawyer, interpreter).

Applicants are issued a “receipt of application for international protection” (*Resguardo de solicitud de protección internacional*), commonly referred as "white card" ("*tarjeta blanca/hoja blanca*"), which contains their personal details and photograph. This document certifies that they are allowed to remain in Spain until a decision is made on their asylum application. This document allows them to legally reside in Spain for a period of nine months following the lodging of the application (three months for subsequent applications). After six months, applicants are granted the right to work.

If the application has not been resolved by the time the initial document expires, applicants are issued a new document known as ‘red card’ (‘*tarjeta roja*’), which is valid for 1 year.

Information provision

In Spain, information regarding international protection is provided at the time of lodging an application, in line with Article 17(3) of the Asylum Act. Applicants receive this information where applications are registered and lodged, such as provincial or district police stations, border posts, and detention centers. Additionally, in cases where individuals are rescued at sea or arrive at border air or land posts, UNCHR and other NGO’s provide information on the international protection procedure.

The information provided outlines the support available, including legal aid and interpretation services. This is part of the procedural guidance provided at the application stage, which includes relevant timelines. The information is provided by various actors, including police officers at provincial police stations, border posts, detention centres, asylum officers from the Directorate General for International Protection (DGIP), UNHCR and NGOs such as CEAR.

Information is provided through written materials such as leaflets, which are available for download from the Asylum Office's website. In specific settings like detention centres, oral provision of information is also common, with police officers and asylum officers directly explaining the process to applicants upon request. With its presence at various entry points, UNHCR also provides information on the asylum procedure in various languages through videos,

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leaflets and its HELP Portal. Additionally, online resources, including animations and videos produced by the European Union Agency for Asylum (EUAA), provide further support and clarification on the asylum procedure.

Leaflets are available in several languages, including Spanish, English, French, Arabic, and Somalian. Additional materials concerning Temporary Protection are available in Ukrainian, English, and Spanish. Regarding applicants with special needs, UNHCR launched a video aimed at refugee and asylum-seeking women to prevent gender-based violence and inform them on what to do and where to refer in such cases. The video is available in Spanish, French, English, Arabic, Ukrainian, Bambara, Russian, Dariya, Peul and Malinke.

Since October 2024, the Minister of Inclusion, Social Security and Migration has operated a dedicated phone service (number +34 913990009) to provide information about international and temporary protection. The service is provided by eight persons, and offers information in eight languages: Spanish, English, French, Ukrainian, Russian, Arabic, Farsi and Bambara.

For third-country nationals in detention, information on the possibility of applying for asylum is provided when they express a willingness to do so. This information is typically provided at the time of admission to detention or when the individual explicitly indicates their intent to apply for international protection. In these cases, police officers in detention centers provide oral explanations and distribute the aforementioned information leaflets.

UNHCR also offers support and provision of information on the asylum procedure during its monitoring visits in reception centres and detention centres for sea arrivals.

For more information:

- Asilo y Refugio | Inicio
- Asilo y Refugio | Folletos descargables
- UNHCR | Gender-based violence prevention video

Passport and other documents

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Requirement to submit original documents

Article 18(2)(b) of the Asylum Act states that is mandatory for applicants to submit, as soon as possible, all elements which, together with their own statement, help to substantiate their application. They may, inter alia, submit any available documentation concerning their age, background, including that of relevant relatives, identity, nationality or nationalities, places of former residence, previous applications for international protection, travel itineraries, travel documents and reasons for seeking protection.

Consequence of a refusal to surrender documents

There is no obligation to surrender identity documents.

Return of original documents to the applicant

No original documentation is retained

Other documents

At the time of lodging the application, the applicant may add as much documentation as he/she wishes. This documentation is sent digitised by the police officers together with the application. Subsequently, if the applicant wishes to add new documentation, this must always be done through the register, in person or electronically. Copies of the original documentation are sent, never the original documents.

Requirement to read digital data

Authorities cannot search an applicant’s digital devices without judicial authorization. The content of mobile phones, laptops and other devices is protected under Article 18 of the Spanish Constitution. The Criminal Procedure Act regulates technological investigation measures, which following the 2015 reform, links any potential search to the existence of a specific offence (Article 588(bis)(a) of the Criminal Procedure Act).

Guarantees for applicants

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Confidentiality principle

Article 16(4) of the Asylum Act establishes the confidentiality principle, providing that any information relating to the procedure, including the making, registering and lodging of the application for international protection, shall be confidential.

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Authority/agency: Directorate General for International Protection (Ministry of Interior) Title: Spanish Asylum Office Type: website Hyperlink: https://proteccion-asilo.interior.gob.es/es/inicio/
Authority/Agency: Asylum Office (Ministry of Interior) **Title:** Downloadable documentation **Type:** leaflet **Hyperlink:** https://proteccion-asilo.interior.gob.es/es/folletos-descargables/
Authority/Agency: Ministry of Inclusion, Social Security and Migrations **Title:** Reception System **Type:** website **Hyperlink:** https://www.inclusion.gob.es/web/migraciones/sistema-de-acogida

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Authority/Agency: UNHCR – Spain **Title:** Ayuda – Espana **Type:** website **Hyperlink:** https://help.unhcr.org/spain/
Authority/Agency: CEAR **Title:** Asylum process **Type:** website **Hyperlink:** https://www.cear.es/persona-refugiada/proceso-de-asilo/
Authority/Agency: Accem **Title:** Asylum in Spain **Type:** website **Hyperlink:** https://www.accem.es/refugiados/el-asilo-en-espana/

Interpretation

Article 18(1)(b) of the Asylum Act ensures the right of an applicant for international protection to be assisted by an interpreter which shall extend to the formalisation of the application and to the entire processing of the asylum procedure.
Interpretation is provided through an external company who provides interpreters and with whom the DGProInt has signed an agreement.

Legal assistance and representation

Article 16(2) and Article 18(1)(b) of the Asylum Act ensure the right of an applicant for international protection to receive free legal assistance and representation which shall extend to the formalisation of the application and to the entire processing of the asylum procedure.

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