

13. Country Profile: Spain

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13.1. Introduction

The information gathered in this profile is based on three different sources of information:

- Responses returned in May 2000 by the Ministry of Interior, in cooperation with the Ministry of Labour and Social Affairs, the Police Department (attached to the Ministry of the Interior) and the Spanish Red Cross to a questionnaire prepared by PLS RAMBOLL Management
- Background documentation (mainly statistics)
- Information gathered during visits and interviews with key actors in the Spanish asylum procedure.

The visit to Spain was carried out 13th-14th of June 2000. The following were visited and interviewed:

Ministry of Interior

Oficina de Asilo y Refugio

Mr. Julian Prieto Hergueta, Deputy Sub-Director General

CEAR

Ms. Marta Arroyo Contreras, Social Area Coordinator

IMSERSO

Mr. Roberto Amurrio Iñigo, Head of Area, Programme management.

UNHCR

Mr. Luigi Cabrini, UNHCR Representative in Spain

The Centre for Asylum Seekers in Alcobendas.

Ms. Florentina Salvador Fernandez, managing director

Mr. Antonio J. Muñoz, administrator

13.2. Background information on Spain

13.2.1. Trends in the number of applicants

During the 1990s Spain has seen significant fluctuations in the number of persons seeking protection, from 4,080 in 1989 to 12,620 in 1993 and back down to 6,654 in 1998. In 1999 the number went up to 8405.

The development in the number of asylum applicants from 1990 to 1999 has been as follows from 13.1 below:

Table 13.1: Development in the number of asylum applicants from 1991-1999

	No. of asylum seekers
1991	8.138
1992	11.708
1993	12.615
1994	11.992
1995	5.678
1996	4.730
1997	4.975
1998	6.764
1999	8.410

(Source: Danish Refugee Council, 1997 & 2000)

Spain receives a relatively small proportion of the persons seeking protection in Europe considering its size.

13.2.2. Number of asylum statuses granted

Persons seeking protection in Spain may be admitted into the country on the basis of three different asylum statuses:

1. A status

Refugee status granted on the basis of the 1951 Geneva Convention and 1967 Protocol

2. Residence status for humanitarian reasons

This group comprises persons who do not meet the criteria for Convention status, but whose return to the country of origin cannot take place due to special circumstances and whose case is of humanitarian or public interest. Such persons are granted an 'exceptional circumstances residence permit' under, renewable on a yearly basis.

3. Residence permits for displaced persons

Groups of displaced persons who have been forced to leave their country of origin due to conflicts or serious disturbances of a political, ethnic or religious character. The decision to admit these groups is taken by the Council of Ministers, subsequent to a proposal by the Minister of Foreign Affairs. Groups of those displaced are granted a 1-year residence permit, until the conditions in their country of origin are safe enough for them to return. Displaced persons may also be granted an 'exceptional circumstances residence permit'.

Explicit recognition of 'non-refoulement'

Rejection at the border or the deportation of a rejected asylum-seeker cannot be implemented if it means sending the person to a third State where there is no effective protection against 'refoulement' to the country of persecution.

In practice such persons are granted neither asylum nor leave to remain in Spain on humanitarian grounds. Nonetheless, the decision implies an explicit recognition of the impossibility of sending them back.

The yearly change in the number of people granted A status or residence status for humanitarian reasons can be seen in the table below.

Table 13.2: Number of applicants and of statuses granted

	Convention A status	Residence status for humanitarian reasons
1991	560	-
1992	260	-
1993	1290	-
1994	630	-
1995	460	230
1996	240	190
1997	160	200
1998	240	730
1999	287	472

In 1999, temporary protection was granted to 1426 Kosovars. Since then, many have returned to Kosovo.

Table 13.3: Number of applicants deemed inadmissible

	No. of applications deemed inadmissible	Inadmissibility rate
1995	2.712	61.36%
1996	2.687	57.75%
1997	3.384	68.00%
1998	3.780	56.56%
1999	Not available	Not available

(Source: Danish Refugee Council, 2000)

13.2.3. Main countries of origin

The main countries of origin/nationality for the persons seeking protection in Spain in 1999 were Algeria (1342), Romania (1033), Armenia (886), Sierra Leone (803) and Columbia (601). Table 13.4 below shows the main countries of origin of applicants in 1999.

Table 13.4: Applicants, main countries of origin

Country	No. of asylum seekers	Number in %
Algeria	1.342	16.0
Romania	1.033	12.3
Armenia	886	10.5
Sierra Leone	803	9.6
Colombia	601	7.2
Ukraine	348	4.1
Russia	335	4.0

(Source: Danish Refugee Council, 2000)

13.2.4. Costs

Table 13.5: Benefits and Costs

BENEFITS	COSTS
Accommodation	1,506,241 Euros. This cost covers the subventions
Means of subsistence	No separate data available
Education (includes asylum seekers and aliens with a temporary permit.)	Not available
Labour market related activities	Not available
Health care	Not available
Total cost	Estimated 2500 m. Pts. Equivalent to some 14 m. Euros

The cost is borne by the Central Government, which is solely responsible for matters pertaining to asylum. During 1998 the total cost was estimated to be 2500 million pesetas.

13.3. Organisation of the asylum procedure

13.3.1. Co-ordination

The Ministry of the Interior, and in particular its Office for Asylum and Refugees, is responsible for the application process.

The Spanish Asylum application procedure is divided into two major parts:

- A preliminary asylum procedure to determine the admissibility of a case and a formal procedure to determine whether asylum should be granted.
- The decision about the admission of a case into the formal procedure is taken by the Ministry of the Interior.

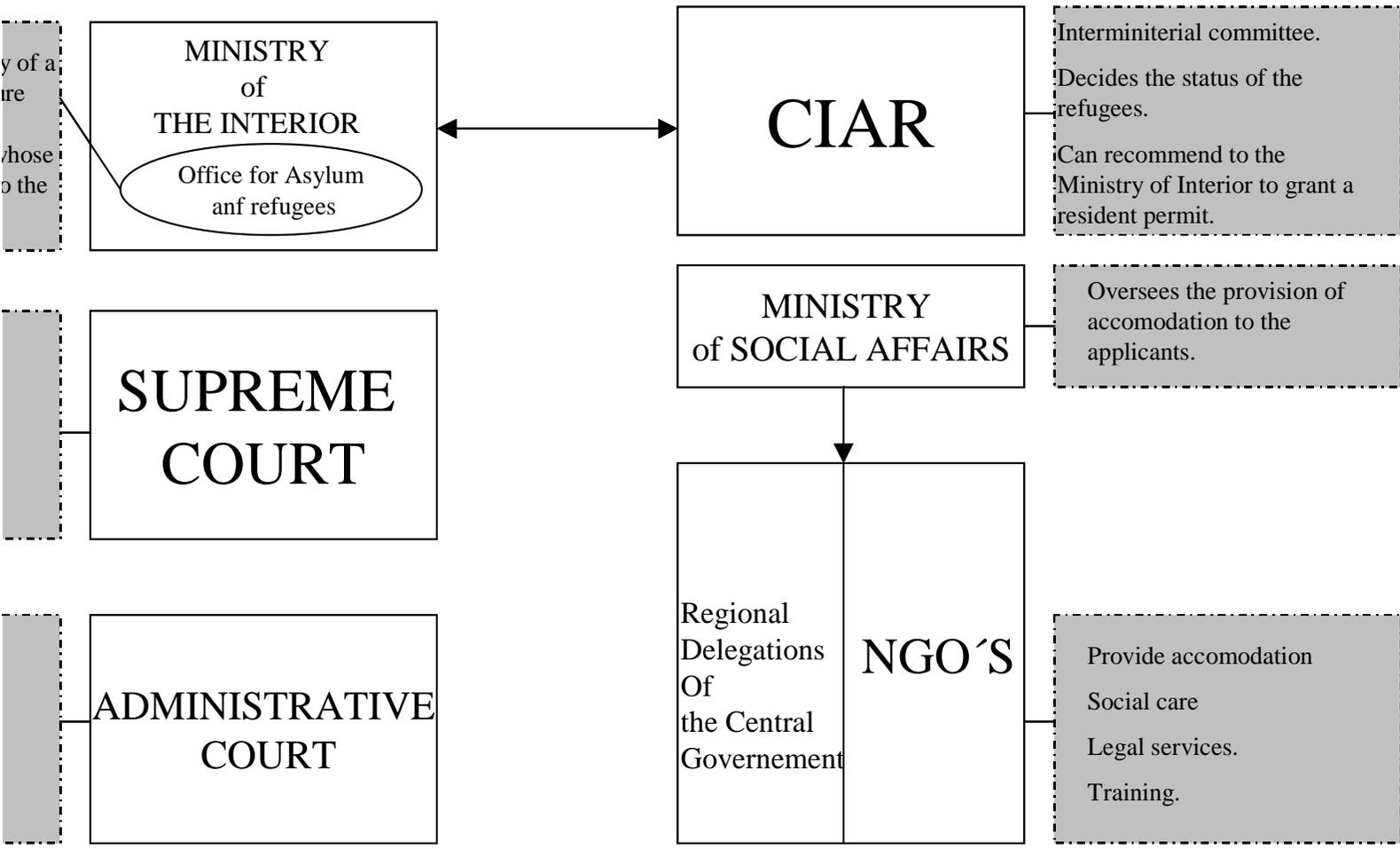
Once the applicant has been admitted to the formal procedure the decision on refugee status is coordinated and decided upon by the Inter-Ministerial Committee on Refugee Matters (CIAR). The CIAR has its own secretariat, and Ms. Bodelón is secretary of the CIAR. The CIAR is composed of representatives from the Ministries of the Interior, Foreign Affairs, Justice and Social Affairs & Labour. The UNHCR is represented as an observer. The Ministry of the Interior chairs the meetings. Decisions are usually taken by consensus, but voting does occur. In case of strong disagreement a case may be referred to the Council of Ministers, but this has never yet happened.

The Spanish asylum procedure does not distinguish between applicants for different types of refugee status. All are assumed to be seeking protection under the Geneva Convention.

In the case of temporary protection policy, the Government takes decisions and coordinates operations in consultation with the Ministries of Foreign Affairs, Justice, the Interior and Labour and Social Affairs.

The Inter-Ministerial Commission for Asylum and Refugees (CIAR) implements programmes for the whole group.

B status is decided by the Ministry of the Interior.



13.3.2. Coordination of Social response

Central Government has the responsibility for asylum seekers' reception via the Ministry of the Interior and the Labour and Social Affairs Ministry.

Agreements exist concerning the reception of asylum seekers with NGOs like the Red Cross which partly provide accommodation and food. Regional governments also sometimes provide accommodation to asylum seekers

Some NGOs that specialize in work with asylum seekers receive subventions from Central Governments for the provision of social care, legal services and training.

The most important NGOs are the Red Cross, the Catholic Commission for Migrations, and CEAR (Spanish Commission for Assisting Refugees).

13.3.3. Anticipated changes

The Ministry of Interior is in the process of establishing a new secretary of state position which will be given responsibility for matters pertaining to asylum seekers. It is anticipated that a new General Directorate will be established, and the OAR has applied for more staff.

13.4. Legal basis

The reception and asylum procedure in Spain is governed by the following:

- Spanish Constitution Article 13.5.
- The Geneva Convention of 1951 and New York Protocol of 1967
- The Asylum Law No. 5/1984 as amended by Law No. 9/1994
- The Asylum regulation approved by Royal Decree No. 203/1995
- The Dublin Implementation Agreement

13.4.1. Main changes

- The Law of May 1994 put an end to the previous automatic right of entry, which prevailed, by introducing an accelerated procedure to determine the admissibility of an application under the asylum legislation. Certain criteria, such as the reasons given for seeking asylum and the last country of departure, may render the application inadmissible and capable of being dealt with under an accelerated

procedure, after which, if the decision is negative, the asylum-seeker may face immediate expulsion or return to the point of embarkation.

- The legislative reform has abolished the distinction between refugee status and 'persons applying for asylum' status. Today the law only recognises refugee status under the 1951 Convention. The former 'territorial asylum' status can now be granted to Convention refugees, who previously were not entitled to any specific benefits apart from protection against refoulement and the possibility of remaining under the Aliens legislation.
- Rejected applicants can no longer regularise their status in Spain following a negative decision. Previously, a rejected applicant had 3 months to regularise their status under the aliens' legislation.
- Rejected cases might be allowed to stay under the Aliens legislation on humanitarian grounds. The Minister of the Interior makes such decisions on a discretionary basis; there is therefore no procedure for applying for asylum on humanitarian grounds.

13.5. Arrangements immediately upon arrival

An alien who has expressed his or her intention to apply for asylum in Spain to the border police, is requested to fill in a uniform questionnaire for asylum seekers and then undergo an interview. These interviews are either conducted by a provincial Aliens Office, Aliens Division of the National Police or OAR (Asylum and Refugee office).

Once the asylum seeker has formally lodged his/her application and has been interviewed, the case is transferred to the OAR. The OAR prepares a report, and if it is considered that the application should be rejected as inadmissible, this is forwarded to the Ministry of Interior together with a proposal for a rejection on inadmissibility grounds.

There are three reception centres in Spain at the border points of Madrid, Barcelona and Las Palmas. These are for asylum seekers undergoing the accelerated procedure. Approximately 80 people can be housed in these centres, which are run by the police.

At the border point, the social needs of the applicant are effectively the responsibility of the police. This first 72-hour period is not regulated in detail by law. Article 4.1 of

the law on asylum states only states that asylum seekers have a right to a lawyer, a translator and medical help.

Similar practice exists for those who have filed an application once they have arrived in Spanish territory. Under normal circumstances the applicant will receive no social support during the two months before a decision is made on admissibility.

There is no systematic health screening upon arrival, and no screening for victims of torture and organised violence.

There are no differences in the reception procedure according to the type of status sought.

13.5.1. The asylum procedure

There are three types of procedures:

1) Admissibility Procedure at border points.

The Office for Asylum and Refugees (OAR) registers the application, takes the personal details of the applicant, adds the necessary required additional information to the applicant's file, and makes a proposal on admissibility directly to the Minister of the Interior for his decision. Decisions must be made within 4 working days. The Implementation Decree reduces the time frame to 72 hours.

If deemed admissible, the application will be considered under the regular refugee status determination procedure (RSD). An appeal to the administrative Ministry of the Interior may be made within 24 hours, the Ministry has then two days to decide on case.

2) Admissibility Procedure within the territory.

If an application falls under one of the inadmissibility criteria contained in the Law, cases are dealt with under an accelerated procedure which has a deadline of two months for the Minister's decision. These cases are also prepared by the OAR, which submits the decision directly to the minister. An appeal to the administrative Courts is available.

The border and inland procedures are a mixture of admissibility and accelerated procedures. The criteria to determine admissibility relate both to the substance of the claim and to examination of the State's responsibility for the claim.

Reasons for inadmissibility are:

- An applicant's claim fails to refer to one of the grounds in article 1A of the Convention.
- The application duplicates an application already rejected.
- The application is based on manifestly false data or allegations.
- The application is the responsibility of another State under international agreements.
- The applicant is already recognised as a refugee in another country.
- The applicant travelled via a safe third country, in which he/she could have submitted application for asylum.

If an application is deemed inadmissible even after appeal the applicant must leave the territory immediately if he/she is at the border, and within 15 days if within Spanish territory.

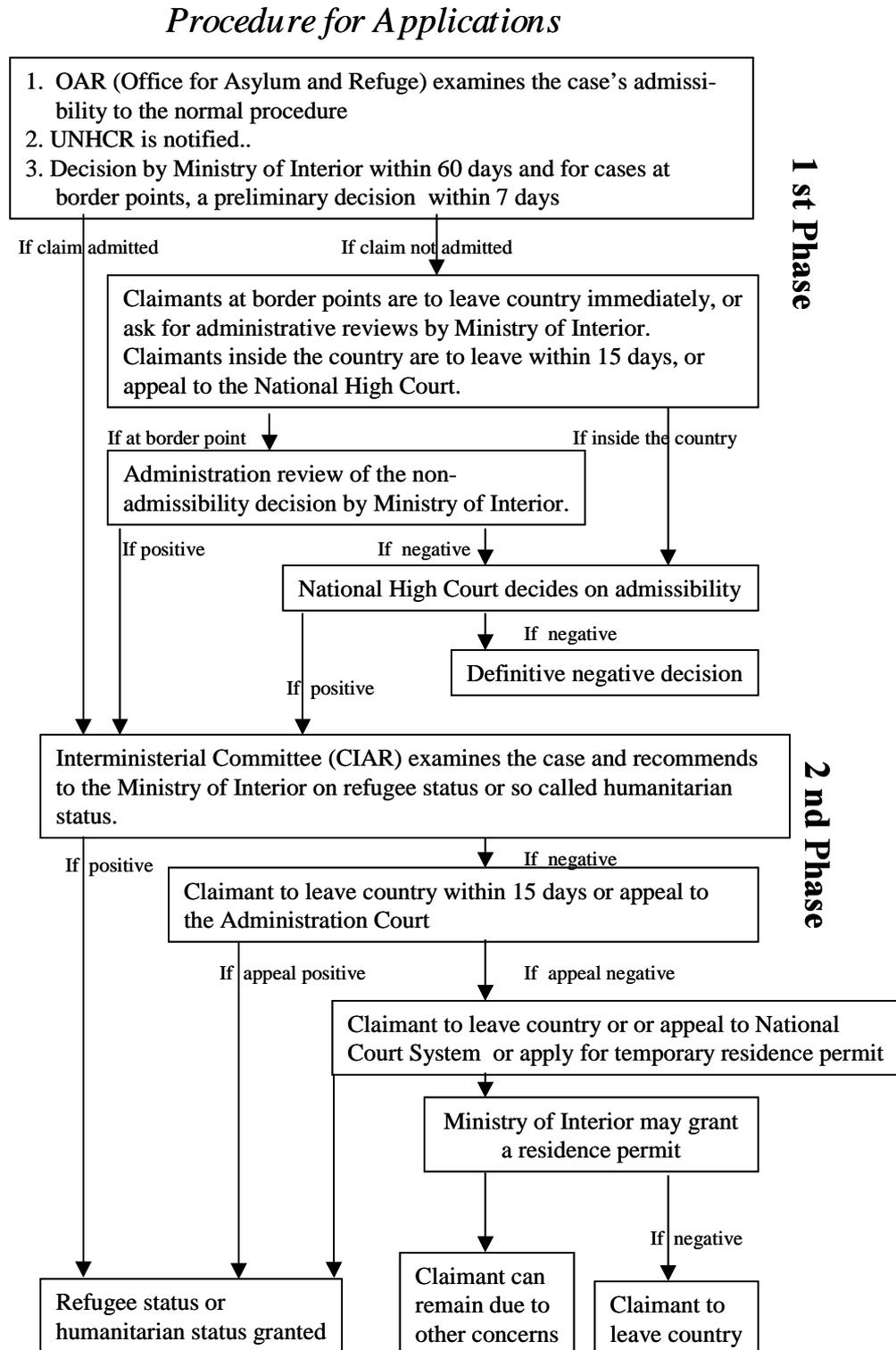
However, the CIAR can recommend to the Ministry of the Interior to grant the rejected applicant a temporary residence permit.

3) Asylum RSD procedures at border or within territory (i.e. involving applicants not falling under inadmissibility criteria).

Once the application has been admitted to the regular RSD procedure the claimants are issued with provisional identity cards that allow them to stay in Spain.

The OAR receives applications in Madrid and the cases are then referred to the Inter-ministerial Commission on Asylum and Refugee Status (CIAR) to determine the claims. The CIAR includes representatives of the Ministries of the Interior, Foreign Affairs, Justice and Labour & Social Affairs. The CIAR proposes decisions on refugee status to the Minister of the Interior. Appeals are to the Administrative Court, with a first appeal to the National Court which must be submitted within two months. A final appeal is possible in some cases to the Supreme Court, but such recourse is limited to a claim of procedural errors (*casación*).

Figure 13.1: Procedure for application



13.6. Accommodation

As mentioned, there are three reception centres in Spain at the border points of Madrid, Barcelona and Las Palmas for the asylum seekers being processed under the accelerated procedure. Currently about 75% of the asylum applicants lodged at border points are registered at Madrid's International Airport. Asylum seekers remain at the airport pending a decision on the admissibility of their asylum request. The facilities, which are exclusively for asylum seekers have a capacity of 12 persons and conditions, according to UNHCR, 2000, are generally good with separate rooms available. Similar facilities have been built in Barcelona and Las Palmas International Airport. These centres are basic reception centres, providing for basic needs. In other border points, the arrangements are modest.

The applicants do not have the right to be accommodated during the first phase, and only vulnerable people such as children, the sick, pregnant women and old people are granted housing in a centre in certain cases.

Formal reception starts when the asylum seeker is admitted into the regular procedure. At this stages some asylum seekers, typically the most vulnerable, will be offered a bed in an asylum seekers' centre, while the majority will be offered money and asked to arrange their own accommodation. In practice this often means sharing a rented private flat with one or more other asylum seekers.

The four state run centres have better equipment and more personnel than the NGO run centres. The most vulnerable asylum seekers are given preference at the centres administered by the Ministry's Institute for Migrations and Social Services (IM-SERSO). Alternatively, an asylum seeker will go to one of the centres for the reception and accommodation of asylum-seekers run by NGOs (also funded and monitored by IMSERSO). The referral process is conducted on a case-by-case basis.

The total number of accommodation centres for asylum-seekers under the regular procedure in Spain is 28 with a total capacity for 741 persons (4 run by IMSERSO, 24 by NGO's, such as the Catholic Commission for Migration, the Spanish Commission for Refugee Assistance, and the Red Cross).

The official philosophy as stated by a representative of the Ministry of Social Affairs is that the Government wishes the asylum seeker to lead a life as close as possible to that of the country's own citizens.

It is also an important consideration for the ministry to ensure that the task of taking care of the asylum seekers is split between the different autonomous provinces of the country, even if the majority of asylum seekers present themselves in a minority of regions. For the same reason, it is the ministry that decides the location of asylum seekers.

Table 13.6: Number of reception centres:

Number of reception centres	3
Capacity of reception centres	80
Number of accommodation centres	28
Capacity of accommodation centres	741
Total capacity of reception/accommodation centres	852
Number of persons accommodated in private housing	Not available

13.6.1. Names and addresses of reception and accommodation centres

Reception / Accommodation centre	Name and Address	Authority managing	Authority financing	Capacity
Accommodation	Centro de Acogida a Refugiados (CAR) Luis Buñuel nº 2 28038 Madrid	IMSERSO	Ministry's Institute for Migrations and Social service (IMSERSO)	96
Accommodation	CAR Sariñena nº 7 28100 Alcobendas (Madrid)	IMSERSO	IMSERSO	80
Accommodation	CAR Camino Viejo de Xirivella 2 bis 46920 Mislata (Valencia)	IMSERSO	IMSERSO	100
Accommodation	CAR Plaza Acogida s/n 41020 Sevilla	IMSERSO	IMSERSO	120

PLS Ramboll Management has not received any information on the 24 accommodation centres run by the NGO's.

13.6.2. Special treatment

Unaccompanied children are put under the protection of the public attorney and the Children's Protection Committee.

According to Spanish law on the legal protection of minors, the children of aliens, have the same rights as those accorded to Spanish children regardless of their legal status.

Female applicants who have suffered gender-related persecution are often granted residence permits on humanitarian grounds, and female applicants have the right to file independent applications and to be interviewed by female staff and interpreters.

Finally, special treatment is offered for applicants who cannot enter a reception centre because they are suffering from infectious or contagious diseases. They may receive an allowance from the Red Cross to find their own accommodation. Likewise, such an allowance can be given to applicants who are staying with relatives in Spain.

13.6.3. Standard and facilities of reception and accommodation centres

The Accommodation Centre in Alcobendas was visited.

The centre is one of the four run by the Ministry of Labour and Social Affairs. The intention is that it should be a model for the other centres. The most difficult cases should, in principle, be referred to one of the four government-run centres, but with only 396 places available, in practice other centres do also cater for difficult cases.

As mentioned, it is generally vulnerable cases that are referred to accommodation centres. Those were described by the centre's personnel as lone parent families, families with special needs, women with special needs and people with physical and mental disabilities.

There are no regulations to establish minimum standards for accommodation centres, such as a minimum number of square metres or the number of toilets per person etc.

The Alcobendas centre is built to house 80 people, but contains a somewhat more than this due to the presence of some families with a large number of children. It creates a favourable impression, having a basic television/meeting room, a spacious can-

teen, a small library for books and another for games, and a room where visitors can meet with people staying at the centre. The rooms are 2- and 3-bed rooms.

The daily running of the centre is essentially in the hands of the professional staff, and the inhabitants are only responsible for their own rooms. The centre's staff of 29 works shifts to provide 24-hour cover. We were told that this differed from the NGO-run centres, where the asylum seekers had to perform more daily tasks.

The centre has an open-door philosophy with regard to the local community, and a series of events organised by the centre have encourage local people to meet and take part in activities with the asylum seekers. This includes special days, gardening activities and drawing competitions centred around the concerns of the refugees.

Health and education is catered for in the local community, with asylum seekers children following normal curriculae in the local school which are supplemented with language classes.

For the adults, the typical education activities are language learning and various types of vocational training. The centre helps with transport costs so as to encourage people to follow classes and other activities outside the centre.

Very limited rules on reporting exist, and asylum seekers are able to stay away from the centre for several days without inquiries being made.

The typical asylum seeker stays in the centre for 8-12 months. The average is 11½ months.

13.6.4. Anticipated changes

The representative of the ministry of Social Affairs said there are plans to increase the number of beds in reception and/or accommodation centres, owing to an estimated 30% increase in the number of asylum seekers. At the same time, he strongly underlined that these centre's role is and will continue to be providing accommodation of a temporary nature.

13.7. Means of subsistence

Spanish asylum law makes general rather than specific statements about the social rights of asylum seekers. It states that asylum seekers are entitled to those social services which are necessary for their well-being. In decrees from 1995 their social rights are specified in more detail.

The social assistance provided to asylum seekers during the pre-admission phase is equivalent to the very basic social support given to deprived citizens within Spain. The system has been established to avoid attracting applicants, but some argue that social support should be improved, not least for vulnerable groups.

Today, only selected cases of vulnerable people such as children, the sick, pregnant women and old people will be considered for assistance, following a visitation procedure. The programme is in most cases organised by the Red Cross. In Madrid it is under the direct responsibility of IMSERSO, while in Catalonia it is the responsibility of the Catalan Refugee Committee. It includes accommodation, food and pocket money.

Other asylum seekers without money or relatives in Spain usually go to NGOs and the Spanish Committee for Refugees (CEAR) for help. Another possibility is to go to one of the public hostels whose principal task is caring for the homeless, and obtain some basic food there.

During the appeals period the person is entitled only to the basic social services accorded to aliens in general (health care, shelter and charity food etc). Asylum seekers whose application is manifestly unfounded or inadmissible are not entitled to receive financial assistance or reception. They can, however, lodge an objection to the decision.

Once the application has been admitted, the applicant receives financial assistance under a Red Cross Programme for a period of between 6 and 12 months.

The allowances for asylum seekers living in reception centres can be seen in 13.7

The allowances for asylum seekers not living in reception centres are as follows in table 13.8:

Table 13.7: Asylum seekers staying in reception centres receive following financial assistance:

	Cash in Euro (pr month)	In ESP
Single adult	EUR 41	ESP 6.860
Couple	EUR 69	ESP 11.435
Each child under 18	EUR 14	ESP 2.286
Each child above 18	EUR 27	ESP 4.574

(Source: Danish Refugee Council, 2000)

Table 13.8: Financial assistance for asylum seekers outside the reception centres

	Cash in Euros (pr month)	Additional allowances
Persons who arrive alone	224	Monthly public transport pass. Rent if not living in reception centre (50,000 ptas)
Couples	337	Monthly transportation card. Rent if not living in reception centre (50,000 ptas)
Couples with children	415	Monthly transportation card. Rent if not living in reception centre (70,000 ptas)

Pocket money is paid to asylum seekers in reception centres. For adults this is approximately 7,000 pts per month per person, with a reduced amount for children.

It was noted that the social support given to asylum seekers in some cases exceeds what Spanish residents can claim. The case for this is that the Spanish social system assumes the possibility of mutual help between friends and relatives, and that asylum seekers cannot be expected to be able to rely on such help from a network when filing their application. For instance, while the admitted asylum seeker benefits from a social allowance, an immigrant must wait for a period of one to two years to qualify for the social assistance provided by municipalities.

13.8. Access to education

All children in Spain, regardless of status or nationality, are obliged to attend school from age 6 to 16. All asylum seekers benefit from the public education system under the same terms as Spanish children.

Under certain conditions, children and adults have access to secondary education during the asylum procedure. They can apply for grants from educational assistance programmes for refugees run by NGOs and funded by the Government.

All adult asylum seekers who have been admitted (i.e. who have entered the 2nd phase) are offered Spanish language courses by the centres. These courses are financed by IMSERSO. Free Spanish courses are offered by NGOs. Asylum seekers can also attend classes organised by public institutions outside the centres.

Table 13.9 shows asylum seekers access to education.

Table 13.9: Access to education

	Children	Adults
Mother tongue tuition:	Are not offered mother tongue tuition.	-
Language tuition:	Children who do not speak the language are offered lessons before joining school.	Can attend language courses at; reception centres, other public education institutions and at several NGO's
Access to primary school:	All children under 18, regardless of their nationality or legal status have the right to education.	-
Access to secondary school:	Have access to higher education and foresee the possibility to benefit from grants.	-
Access to vocational training:		-
Access to further education:	Children are offered special activities in the reception centres according to their age, mainly designed to support school lessons.	In principle asylum seekers have access to Spanish universities under the same conditions as Spanish and EU national. However very few asylum seekers enrol.

(Source: UNHCR, *Legal conditions 2000*)

Access to further education: Children are offered special activities in the reception centres according to their age, mainly designed to support school lessons. In principle asylum seekers have access to Spanish universities under the same conditions as Spanish and EU national. However, very few asylum seekers enrol.

13.8.1. Possible changes

The new Aliens legislation 4/2000 opens up the possibility that asylum seekers could benefit from grants previously available only to Spanish nationals. However, it remains to be seen how the Ministry of Education will implement this provision.

13.9. Access to the labour market

Once an application has been admitted (i.e. the asylum seeker is entering the 2nd phase of the procedure) he/she can take up paid work if authorized to do so by the Provincial Delegation for Labour. Decisions are reached on a case-by-case basis.

Nevertheless if within the six months following the demand, the case has not been processed, the applicant is granted the right to work. Authorizations are given more freely to agricultural or domestic workers. Access to the professional fields of the labour market is relatively more limited due to language and cultural barriers and to the high unemployment level in Spain.

To obtain permission to work, an applicant must present a signed offer of paid work from an employer. Permission to work is job-specific and is not transferable.

In practice, it is suspected that some asylum seekers work without permission.

Voluntary work is allowed for all asylum seekers.

Access to vocational training is offered to all asylum seekers. Participation is neutral as far as benefits are concerned.

13.9.1. Possible changes

13.10. Access to health care

According to the new Aliens Law, all aliens have access to the public medicine system (INSALUD). Hence, it is anticipated that there will be access to medication and treatment during the asylum procedure for all applicants at all stages. Until the new law, those who were not in the group of admitted asylum seekers had restricted access to medication and health services (i.e. only those allowed into the formal process of the asylum procedure were given access to full health services).). The compulsory medical examination includes: HIV test, tuberculosis and hepatitis screening, x-ray and stool test.

Medication and treatment are provided gratis. Medical treatment must be authorized by a doctor acting on behalf of the public medical system.

Applicants, who have been admitted, can be provided with special health care given to the mentally ill and to persons suffering from post-traumatic stress. Moreover, once an application has been admitted special health care is provided for victims of torture and other organised violence,.

IMSERSO and Red Cross have special programmes which provide psychological assistance in such cases.

There is no additional health care provided for pregnant women and no special free health care provision for minors.

Table 13.10 below sums up access possibilities for asylum seekers in Spain.

Table 13.10: Access to health care

	General	Children	Adults	Pregnant women	Victims of torture or rape
Health screening on arrival	All asylum seekers undergo a compulsory check-up on arrival				
Psychological assistance	Asylum seekers who are mentally ill or suffering from post-traumatic stress can receive mental care.				Asylum seekers who are victims of torture and other organised violence can receive mental health treatment.
Enrolment in health care programme	During the procedure they are entitled to receive free medical treatment	The minors get the same free health care as other asylum seekers		Women will receive normal medical attention during their pregnancy	

(Source: UNHCR, Legal conditions 2000)

13.10.1. Possible changes

The specific implementation of the new aliens law will determine the access to health care for asylum seekers.

13.11. Rules on detention and other restrictions on free movement

Under the admissibility procedure at border points, asylum seekers in the reception centres are not allowed to move freely in and out of the centres.

According to the law, a person can not be held prisoner on account of being undocumented when entering in Spain.

Under admissibility procedure in the territory applicants have freedom of movement unless the Ministry of Interior estimates that it should be restricted.

Asylum seekers whose application has been admitted are free to travel and live wherever they wish in Spain. However, they must notify change of address to the OAR or the provincial police headquarters.

The Ministry of Interior is authorised to impose a mandatory residence if the asylum seeker does not possess the official documents required to stay in the country. The ministry may adopt temporary restrictions on the freedom of movement of asylum seekers on the basis of national security or public health considerations. The Ministry of Interior may also remove asylum seekers from border areas or certain towns. However, these measures are only used in extremely rare situations and of a temporary nature.

The decision to detain an asylum seeker is taken if the applicant has committed an offence or has entered the country illegally. After the judge has pronounced sentence an appeal may be filed.

The typical length of stay in detention is 24 hours and the maximum length of stay is 72 hours. The detention can be extended to 40 days if authorised by a judge.

If an alien is detained because he/she is in Spain illegally, he/she can file an application for asylum while detained. If deemed admissible, the applicant will be released.

13.11.1. Possible changes

The CEAR has lodged an appeal claiming that time spent at border points represents an unconstitutional form of detention. The constitution stipulates that government authorities can detain a person only for 72 hours, after which time he must be released or brought before a judge, who alone may authorise extension of the detention. A decision on this issue is currently awaited from the Constitutional Court.

13.12. Differences in treatment according to the stage of the asylum procedure and the type of status sought.

There are no differences in reception procedure according to type of status sought.

However, there are some differences in reception procedure according to the stage of the asylum procedure.

When asylum seekers are placed in the "inadmissible" or "manifestly unfounded" procedures they do not have the right to accommodation, means of subsistence, health care and access to education on the same basis as asylum seekers being processed under in the normal procedure.

In the appeals period the person is entitled only to those basic social services accorded to aliens in general (health care, shelter and charity food etc).

Table 13.11 below shows differences in treatment according to stage of asylum procedure and type of status sought.

Table 13.11: Differences in treatment

Differences in treatment according to:

	Stage of asylum procedure	Type of status sought	Vulnerable groups
Accommodation	The applicants are accommodated in reception or accommodation centres or receive an accommodation allowance according the stage of the procedure.	No	Unaccompanied children live in a special reception centre. Before the application is admitted vulnerable cases such as pregnant women and lone women with children are given priority in accommodation. Victims of torture and organized violence have priority in accommodation once their applications have been admitted.
Means of subsistence	The social assistance provided during the pre-admission phase is a very basic social support. Whereas Once the application has been admitted, the applicant receives financial assistance.	No	Only selected applicants such as children, the sick, pregnant women and old people will be considered for assistance.
Education	All children under a certain age are obliged to attend school regardless their status or nationality. Access to secondary education is permitted under certain conditions. Asylum seekers can attend free Spanish courses.	No	No.
Labour market related activities	The asylum seekers are not allowed to work during the first phase. They can work once the application admitted if authorized to do so.	No	No.
Health care	Yes	No	Applicants who have been admitted may be provided with special health care given to the victims of torture and other organised violence, the mentally ill and for persons suffering from post-traumatic stress.

13.13. Political atmosphere surrounding refugees and immigrants

13.13.1. The public and political debate

Public debate in Spain does not distinguish clearly between asylum seekers and refugees on the one hand and immigrants on the other. This is possibly not surprising, considering that there are an estimated 600-800,000 immigrants set against fewer than 10,000 asylum seekers and 5000 recognised refugees.

It is stories concerning immigration and exceptional situations such as the violence in Almería (El Ejido), which dominate the news. Every day there are new stories about people trying to enter Spain illegally by boat from the Moroccan coast.

Despite the new influx of immigrants, the public authorities continue to maintain a very positive approach towards refugees. The level of xenophobia is also seen as low. According to those interviewed, there is generally a favourable notion of assistance (although many people distinguish between legal and illegal residents). Some referred to the fact that Spain's recent history as an immigrant nation, where many people have or had an older relative who has worked abroad, made people more understanding and tolerant of foreigners.

13.13.2. The political debate

Just before the last elections held in spring 2000, a new and very generous aliens law was passed. A number of amendments to the original draft were passed on the initiative of the Opposition with co-operation from the junior partner of the governing coalition of the conservative Partido Popular and the smaller centrist Catalan Nationalist Party (CiU). Since the elections the Partido Popular has had an overall majority, and it is likely that a series of amendments will be made to the law. The law includes an amnesty for illegal immigrants who entered the country before 1st June 1999. An estimated 140-170,000 people had applied for amnesty by June 2000, with 1½ months still to go before the deadline for filing an application.

Some fear that a proposed amnesty for all illegal immigrants who have been in the country for at least two years will encourage more people to try to immigrate illegally into the country. On the other hand, according to CEAR, it is recognised by many that in business and agriculture there is a need for the labour of some 200,000 low-paid immigrants if competitiveness is to be maintained.

13.13.3. Relationship to EU policies

It is the general impression that there is little debate in Spain about EU policies in relation to asylum seekers. However, it has been noted that Spain tends increasingly to have views opposing those of Germany when discussing temporary protection and in particular the Refugee Fund.

The representative of the Ministry of Labour and Social Affairs mentioned that the first initiative in studying minimum social rights was taken under a previous Spanish presidency. He felt that before discussing burden sharing one first needed to look into the question of minimum rights for asylum seekers.

On the other hand, CEAR mentioned the new Spanish Aliens Act's articles on family reunification as an example of the limited influence of EU policies on Spanish politics. Articles 16 and 17 do not follow EU logic in this area.

13.13.4. International co-operation

Spain participates in the IGC with other member states and with non-members of the EU, such as Australia and Canada, in order to engage in consultations and exchanges of information about asylum policies.

13.14. Other information

None.

