



Input by civil society to the EASO Annual Report 2017

EASO has started the production of the 2017 Annual Report on the Situation of Asylum in the European Union, in line with Article 12 (1) of the EASO Regulation. The report aims to provide a comprehensive overview of important asylum-related developments at EU+ and national level, and the functioning of all key aspects of the Common European Asylum System (CEAS). While the final product comes out of an analytical and synthetic process that takes place in-house, a critical part of information is elicited through valuable contributions by a multiplicity of stakeholders from EU+ countries, civil society organizations, UNHCR, and other actors possessing in-depth knowledge on main developments in asylum policies and practices in EU+ countries. Previous reports are [available for review at EASO's website](#).

We would like to kindly invite you to take part in this process, by sharing your observations **on developments in asylum law, policy or practice in 2017 (and early 2018) in the areas listed on page 2**. The topics listed there reflect the structure of Chapter 4 of the EASO report, which focuses on the 'Functioning of the CEAS'. To this end, your observations may concern national practices of specific EU+ countries or the EU as a whole. Overall, the EASO Annual Report is not meant to describe the national asylum systems in detail, but present key developments in 2017, including **improvements and new/remaining concerns**. In terms of format, your contributions would be preferably offered in the form of bullet points, which would facilitate further processing of your input.

Please, bear in mind that the EASO Annual Report is a public document. Accordingly, it would be desirable that your contributions, whenever possible, be supported by references to relevant sources. Providing links to materials such as analytical studies, articles, reports, websites, press releases, position papers/statements, and press releases, would allow for maintaining transparency. For your reference, you may review the [contributions offered by civil society actors for the 2016 Annual Report](#). If you do not consent on EASO making your submission available, please inform us accordingly.

In our effort to provide an inclusive overview of all relevant developments, we strive to incorporate as many contributions as possible. At the same time, the final content of the EASO Annual Report is subject to its set terms of reference and volume limitations. To this end, your submissions, which are gratefully received and acknowledged, may be edited for length and clarity so that the final product concisely serves the objectives of the Annual Report: to improve the quality, consistency, and effectiveness of CEAS. From our side, we can assure you that the valuable insights you offer feed into EASO's work in multiple ways and inform reports and analyses beyond the production of the Annual Report.

Please, kindly provide your input by filling in this document (with attachments, if needed) and returning it to ids@easo.europa.eu **AND** consultative-forum@easo.europa.eu **by 16 February 2018**.

Within each area, please highlight the following **type of information**:

- NEW positive developments; improvements and NEW or remaining matters of concern;
- Changes in policies or practices; transposition of legislation; institutional changes; relevant national jurisprudence.

You are kindly requested to make sure that your input falls within each section's scope. Please, refrain from including information that goes beyond the thematic focus of each section or is not related to recent developments. Feel free to use Section 16 to share information on developments you consider important that may have not been covered in previous sections.

1) Access to territory and access to asylum procedure

We have to make difference between the situation in the enclaves Ceuta and Melilla and the main land. In the enclaves, the access to the territory still remain very difficult and the access to asylum procedure still have the same difficulties, and the authorities make differences depending also on the nationalities. We have to add the push backs made under the Spanish law of “Seguridad Ciudadana” that allows this kind of “express” return procedure, these refoulements are made without any guarantees and deny the access to the asylum procedure, no access to legal assistance and interpreters. In this moment they are two cases pending under the ECtHR: *N.D. and N.T v. Spain* and *Nnabuchi v. Spain*.

AS new positive development, we have few judgements that say that asylum applicants that were obliged to stay in the enclaves during a length of time before to have the right to access the peninsula, have the right to circulate free and access the main land.

On the main land, we will speak about our concerns faced in the south border with the arrivals by sea. During the last year, the main entrances have been produced in Almeria, Motril, Malaga, Algeciras, Murcia and Cartagena. Once the migrants are rescued at sea, normally they will be assisted by the police and they have access to legal assistance and interpreters. But the assistance is not provided in due and appropriate conditions. This kind of practice prevents the identification of people in need of international protection and persons with special needs. Unfortunately, there is a lack of good and unify administration and a huge difference between the different point of arrivals.

In November 2017, aprox. 500 migrants were rescued by sea and have been disembarked in Cartagena and other cities of the Levante’s shore and they were taken and detained in a “not open” prison (and not an official detention centre) in Archidona, Malaga. The access to asylum procedure were almost impossible, as we will explain further on this report.

2) Access to information and legal assistance

Once you have access to the territory, migrants intercepted at sea and taken to the territory have access to information and legal assistance. The information provided by police is poor and confusing for migrants and persons in need of protection. In some cases reported by lawyers (Almeria), the authorities don’t give any information. The police use to interfere in the interviews made by the lawyers, there is no privacy and no first and confidential interview with the applicants. Lawyers have to made collective interviews because the authorities don’t allow doing them otherwise.

3) Providing interpretation services

The interpretation services provided by the administration are very deficient at all the borders. Sometimes lawyers have to help with the translation. Lack and delays with interpretations in African dialects. Lack of good selection of interpreters. Sometimes we have to put claims due interferences made by interpreters during the interview. There is an urgent need to trained interpreters in this kind of interview and procedure

4) Dublin procedure

5) Specific procedures (border, accelerated, admissibility)

6) Reception of applicants for international protection

The reception conditions remain poor. The facilities are also very deficient. Very difficult access to rental housing and other social benefits. Once an applicant has entered into the reception system he/she doesn’t stay in the same city of arrival, he/she could be moved to another city and they don’t respect the fact that member of the same family live next door. This is a problem for the future integration.

7) Detention of applicants for international protection

It depends also on the jurisdiction, but applicants have been detained without a proper and justified judicial decision for the detention. It is the case in Almeria and Motril. In the prison of Archidona (Malaga), all the migrants were detained, nobody have the possibility to ask for asylum before to be detained, no one was given the possibility to be heard, and 11 minors were detained together in the same facilities. The access to the lawyers for the asylum seekers were made very difficult by the authorities in charge of the prison. Lawyers and NGOs have to face a lot of administrative obstacles to visit their clients.

<https://www.hrw.org/es/news/2017/07/31/espana-inmigrantes-retenidos-en-condiciones-precarias>

<https://www.defensordelpueblo.es/noticias/comparecencia-del-defensor/>

<https://www.defensordelpueblo.es/noticias/instalaciones-archidona/>

<http://www.abogacia.es/2017/11/21/la-abogacia-condena-el-internamiento-en-centro-penitenciario-de-464-inmigrantes-llegados-en-patera-a-la-costa-de-murcia/>

8) Procedures at First instance

Unacceptable delays of the interview appointments (1 to 5 months) and decisions are given after 2 or 3 years.

9) Procedures at Second Instance

There is no automatic suspensive effect in case of appeal of asylum deny

10) Availability and use of Country of Origin Information

There is no problem to access to this information, except that the major part of it is in English, and this causes barriers to access to this information to the non-English speakers, we recommend that EASO provide the information in the EU languages and not only in English.

11) Vulnerable applicants

Authorities in charge of asylum don't take into account this kind of special need. Lack of age assessment.

12) Content of protection – situation of beneficiaries of protection

Few recognition of the Geneva refugee condition, systematic recognition of subsidiary protection for Syrians.

13) Return of former applicants for international protection

No return decisions of former applicants, they becomes irregular migrants and by chance after 3 years of proven residence they could maybe opt to regularise their administrative situation under exceptional conditions (it is a specific Spanish procedure).

14) Resettlement and humanitarian admission programmes

Very few resettlements. Another concern: refugees resettled doesn't receive automatically the status of the Geneva Convention, they use to receive subsidiary protection. This has been challenged by lawyers and pending at court for the moment.

15) Relocation

Very few relocation

16) Other relevant developments

Good practices:

The Spanish Council of lawyers (Consejo General de la Abogacía Española) and Fundación Abogacía (Lawyers foundation) have continuing to train lawyers among the territory and specifically in the Spanish south borders. In July 2017, a Guide for lawyers has been published in collaboration with UNHCR and disseminated among the lawyers, this guide is a tool to help lawyers to detect, assist and provide legal information to asylum seekers. (<http://www.abogacia.es/wp-content/uploads/2017/07/VERSION-FINAL-GUIA-PROTECCION-INTERNACIONAL-SOLICITANTES-DE-ASILO.pdf>)

The bars involved in the legal assistance to asylum seekers have also undertaken positive actions to train

lawyers. Another good practice has been made by the Malaga Bar Association (Ilustre Colegio de Abogados de Malaga), putting in place a body of lawyers ready to be deployed each time a vessel arrives to the city, this team of lawyers have received a special training to be part of it and they are monitored by experts through a WhatsApp group to help in some delicate and urgent questions that lawyers have to face in such urgent conditions.

<http://www.laopiniodemalaga.es/malaga/2017/07/28/300-abogados-forman-atender-inmigrantes/946871.html>

We have to highlight also the implication of the Antequera Bar Association (Ilustre Colegio de Abogados de Antequera) providing legal aid and advice to migrants and refugees detained in Archidona Prison, a special team of lawyers who have faced very difficult conditions to give a proper legal advice and challenge the denial of access to asylum procedure.

Finally as a recommendation of future good practice, we need more coordination with all the stakeholders involved in the development of the CEAS: police guards, administrations, local authorities, lawyers, judges, prosecutors and NGOs.