

RECOMMENDATIONS FOR IMPLEMENTING THE EUROPEAN PACT ON MIGRATION AND ASYLUM FROM A PROTECTION AND HUMAN RIGHTS BASED APPROACH

CEA(R)

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de Ayuda al Refugiado

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The Spanish Commission for Refugees (CEAR) is a non-profit organization founded in 1979 and engaged in voluntary, humanitarian, independent and plural action. Our aim is to work with citizens to defend the right to asylum. Our mission is to defend and promote human rights and the comprehensive development of asylum applicants, refugees, stateless persons and migrants in vulnerable situations and/or at risk of social exclusion. Our work approach is comprehensive, including temporary shelter, legal care, psychological and social care, training and employment, and advocacy and social participation.

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CONTEXT

The arrival of one million refugees to the European Union, mainly fleeing the war in Syria in 2015, and the forced displacement of thousands of people marked a turning point in Europe and laid bare the deficiencies of the Common European Asylum System (CEAS) and the urgent need to reform it under the principle of solidarity and shared responsibility among Member States. During the process, CEAS has highlighted the importance of conducting this reform following the Geneva Convention and from the perspective of protecting people's rights. However, the political will to comply with relocation commitments¹ came up short and border externalization agreements, such as the one signed with Turkey², abounded. This led to the defeat of the reform of the Common European Asylum System (CEAS) in 2016.

In September 2020, the European Commission presented a series of legislative proposals that make up the New European Pact on Migration and Asylum in a new attempt to reform and build a true CEAS. After years of difficult negotiations, the Pact was approved on 14 May 2024.

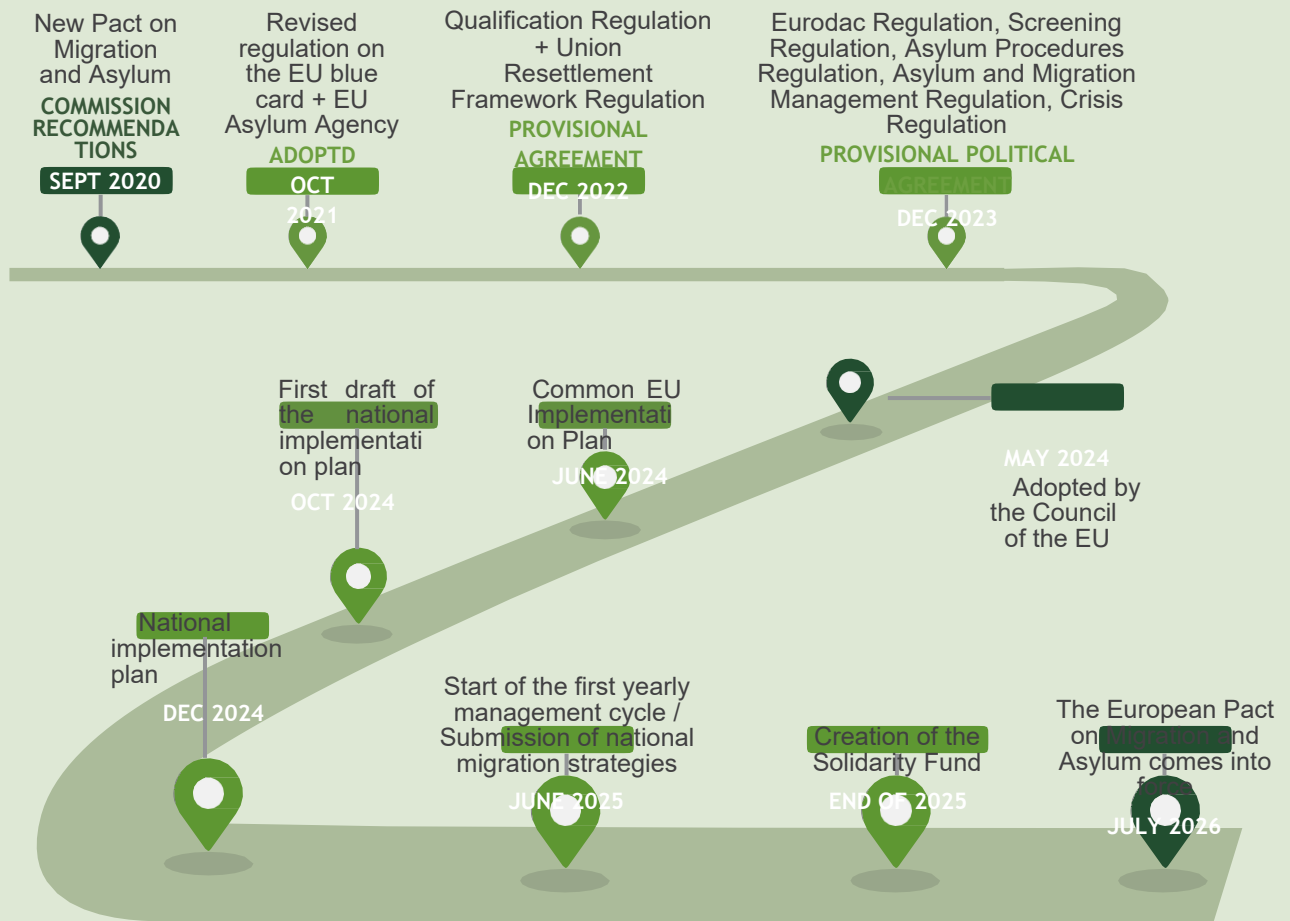
Implementation process of the European Pact on Migration and Asylum:

The European Pact on Migration and Asylum entered into force on 11 June 2024. However, a two-year transitional period has been established for its implementation due to the complexity and interrelation of the new legislation. Therefore, most texts will only be applicable from mid-June 2026, with the exception of the Regulation establishing a Union Resettlement and Humanitarian Admission Framework, which is not subject to this transitional period. The Regulation stipulates that all commitments will be included in a two-year Union Resettlement and Humanitarian Admission Plan but does not provide a deadline for the first one.

¹ European Council on Refugees and Exiles (ECRE). (2019). Making the CEAS Work, Starting Today, *Policy Note*, 22. Available at: https://www.ecre.org/wp-content/uploads/2019/10/PN_22.pdf [Accessed 31 July 2024].

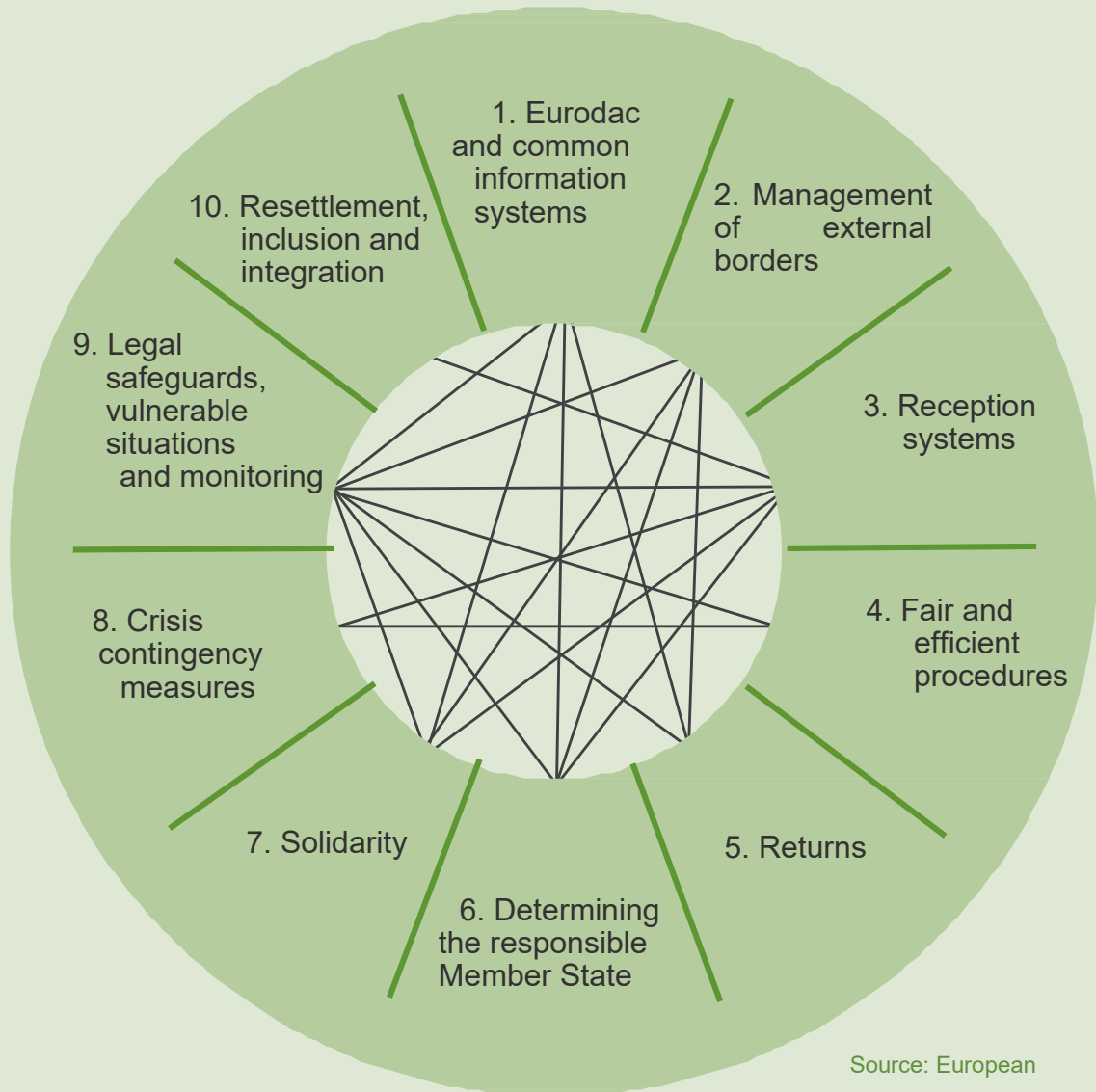
² Council of the EU (2016). EU-Turkey Statement. <https://www.consilium.europa.eu/es/press/press-releases/2016/03/18/eu-turkey-statement/>

NEW PACT ON MIGRATION AND ASYLUM: TIMELINE AND MAJOR MILESTONES



As for the remaining legislative instruments, a new phase of implementation of the Pact begins now, during which Member States must prepare their asylum systems and adapt them to the new European standards.

On 12 June 2024, the European Commission presented the Common Implementation Plan for the Pact on Migration and Asylum. This plan comprises 10 interconnected building blocks that organize and set a timeline for Member States' obligations to implement the Pact adequately.



The Common Plan is meant to support and guide Member States in preparing their respective national implementation plans, which must be ready by 12 December 2024. Spain must submit a first draft of its National Plan to the Commission in October 2024.

Despite CEAR's discrepancy with the approach and result of the Pact negotiations, we will continue to defend the idea that Spain should be a leader in the process of change in EU migration and asylum policies to prioritize the protection and rights of migrants and refugees. Therefore, CEAR presents the following recommendations to the Spanish government to ensure that the national implementation plan for the European Pact on Migration and Asylum is developed with an approach based on safeguards and solidarity and focusing on the protection of migrants, asylum seekers, and refugees, with total respect for international law and human rights.

RECOMMENDATIONS FOR IMPLEMENTATION

Block 1: Eurodac and common information systems

In this block, the European Commission includes the provisions of the Pact aimed at transforming Eurodac into an interoperable migration and border management system to support the practical operating of the Pact. More specifically, it will help determine the Member State responsible for examining an international protection application and control secondary movements.

The new Eurodac builds on the EU's fingerprint database to monitor not just the movements of asylum seekers but all migration flows. It will include biometrics, identity data, security threat data, and other data from international protection applicants, temporary protection beneficiaries, persons disembarked following maritime search and rescue operations, and persons apprehended in connection with irregular external border crossings or who are illegally present in a Member State.

It also includes a new category of security threat data and facial recognition, applicable to children as of the age of six. The data will be stored for 10 years and the system will be interoperable with other databases such as the European Travel Information and Authorization System and the Visa Information System, including for generating statistics.

Under the Pact rules, Member States must ensure legal and operational access to the Eurodac system by all competent authorities, comply with EU data protection legislation, and ensure they have sufficient equipment and staff, as well as appropriate training for the new Eurodac tasks.

CEAR's recommendations for including *block 1* in the national implementation plan

Collection, transfer, and comparison of biometrics

The widespread use of biometrics has sparked criticism: the non-selective processing of biometric data could disproportionately affect migrants and refugees since they are subject to greater police surveillance and control. One risk is that algorithmic biases may influence the use and processing of biometric data. This could lead to further discrimination and stigmatization of migrants and refugees, as they are the “main targets” of Eurodac.

Eurodac monitoring helps generate statistics later used to create policies and control measures. Therefore, there's concern that data may be used to intensify policies that criminalize migrants. In light of this, CEAR recommends the following measures:

- Develop a protocol to limit the request for biometrics to fingerprints and exclude facial imaging; this will prevent the creation of discriminatory racial profiles and the risks of racial bias inherent to the use of facial recognition tools programmed with artificial intelligence.

Using Eurodac for security checks and interoperability

One of the priorities set out in Eurodac is to ensure that the database is technically viable for interoperability, that is, to exchange data with the Schengen Information System (SIS), the Visa Information System (VIS), the Entry/Exit System (EES), the European Travel Information and Authorization System (ETIAS), Eurodac, and the European Criminal Records Information System (ECRIS), which will also include data on third-country nationals (ECRIS-TCN).

To ensure Eurodac's expanded security objectives and data checks against other security and criminal databases do not increase the risk of criminalization of migrants and racialized people, CEAR recommends the following measures:

- Only perform personal data checks for the purposes of preventing, detecting, and investigating serious crimes. Screening must be performed under the criteria of necessity, suitability, and proportionality when there is specific and well-founded evidence that a migrant or refugee is directly involved in serious criminal activity.
- Establish a Data Protection Impact Assessment (DPIA) in advance and analyze the use of the biometric method compared to alternatives in terms of its risks and their impact on the rights and freedoms of the persons affected, as stipulated in the European data protection law (GDPR)³.
- Using internal regulations, determine the grounds, requirements, and specific cases in which interoperability tools will be used at a national level on an affected person, in accordance with the purposes of specification and limitation of the GDPR.
- Individualize each operation and provide those affected with all the appropriate and relevant information in the context of a decision.

Collecting biometrics, using coercion, and treatment

Eurodac obligates Member States to collect biometrics from a range of persons, including children ages six and older. It also establishes administrative measures to ensure compliance with this obligation. CEAR recommends the following measures:

- Establish alternatives to coercive measures that are less injurious to people's rights. Apply such measures as a last resort consistently and systematically to gather biometrics.

³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

- Guarantee the right to information; ensure that the people affected know and understand what data is being collected and why data processing is necessary. Prepare informative leaflets in clear, comprehensible language, translated into the main languages of the people entering Spain and, failing that, ensure the assistance of an interpreter.
- Establish an independent mechanism for overseeing respect for fundamental rights (see block 9) that includes monitoring the dignity and physical integrity of people during the fingerprinting and facial imaging process.
- Comply with the principle of data minimization when processing and using data; do not collect unnecessary data that encroaches on fundamental rights, and individually justify the purpose of data processing.
- Establish comprehensive and systematic monitoring of the legality of personal data processing under Spanish legislation, ensuring that the responsible authorities in Spain implement provisions to safeguard the right to privacy and data protection of the persons included in the system.

Safeguards when taking fingerprints from children

Children are especially vulnerable due to their age, immigration status — which is sometimes irregular —, and the legal limbo in which they find themselves. Collecting and processing sensitive biometrics and using invasive technologies to track and monitor children exacerbates this vulnerability. The right to information is essential for children to exercise their right to be heard in judicial and administrative proceedings, among other safeguards. Therefore, CEAR recommends the following measures:

- Ensure that fingerprints and facial images of children are taken on an individual basis after assessing the best interests of the child.

- Apply the “benefit of the doubt” when a person’s age is unclear or in question and there is no documentation to prove it: treat the person as if they were a minor under 6 years of age.
- Ensure that the person responsible for collecting biometrics is trained and has a human rights, children's rights and intersectional perspective. Likewise, they must not be armed, uniformed, or carrying any devices that might intimidate minors.
- Ensure that children are adequately informed about the procedure, in accessible language adapted to their needs with a childhood focus.
- Restrict the use of data contained in Eurodac corresponding to minors under 14 years of age: use such data only in exceptional cases, with due justification in writing from the authorities responsible for it to avoid arbitrary, discriminatory and unfounded use of said data.

Block 2: Management of external borders

The Pact includes regulations to manage the arrival of third-country nationals at the EU's external borders and to channel them quickly through asylum or return procedures based on their protection needs. During screening and border procedures, a “legal fiction of non-entry” is applied, which presumes that people have not entered European territory until they are authorized. Member States must adopt measures to ensure that migrants remain at the authorities’ disposal throughout the entire process, restricting unauthorized entry and movement.

According to the legislation, each Member State must have sufficient capacity to screen irregular arrivals and to host a certain number of asylum seekers and migrants in adequate conditions who must be returned to their countries of origin through border procedures.

The European Commission will review and specify the maximum number of asylum applications and returns that Spain can process through these procedures every three years. The “adequate capacity” figure set for Spain by the Commission is 3,301 people, and the maximum number of applications to be processed by border procedure in the first year is 6,602.

Moreover, Member States must ensure there are facilities suitable for performing these procedures, trained personnel, equipment, and access to European databases. They must also comply with the new time limits of 7 days for screening and 12 weeks for border procedures. They are also obligated to have sufficient judicial capacity to resolve all appeals within the required time.

CEAR’s recommendations for including *block 2* in the national implementation plan

Screening and access to the asylum procedure

The introduction of pre-screening is of primary concern due to its direct impact on access to the international protection procedure. This process is designed to classify and manage asylum applications and, in practice, may lead to delayed access to the asylum procedure and all the safeguards and rights associated with it since applications will not be registered until screening is complete. There must be a balance between the efficient management of applications and ensuring full and immediate access to the asylum procedure. Therefore, CEAR recommends the following measures:

- Immediately guarantee rights as soon as someone expresses their wish to apply for international protection during screening by registering their application as quickly as possible and within 24 hours maximum.
- Ensure there are sufficient resources (technological, material, economic, and human) so screening can be conducted effectively as quickly as possible and at most within 72 hours to avoid delaying access to all the safeguards and rights of the international protection procedure.
- Ensure that the screening authorities receive support from NGOs specialized in identifying vulnerabilities during the preliminary vulnerability assessment. Offer support services at screening locations for people in vulnerable situations (specialized psychological, psychiatric, and social care) in appropriate, confidential spaces.
- Establish the corresponding instruments with non-exhaustive indicators for detecting and evaluating vulnerability in the preliminary assessment, adapted to the context of arrivals in border areas.
- Immediately refer individuals to existing protection procedures when there is even the slightest indication of vulnerabilities in the preliminary examination. Apply the Framework Protocol if there are indications of human trafficking. In the event of indications of statelessness, the statelessness procedure must be initiated ex officio, and in the case of children, the application of national and international regulations for the protection of children must be guaranteed⁴
- Take this preliminary examination into account when assessing the specific needs of the Reception Procedures Regulation and Directive, without prejudging it.

Safeguards and respect for fundamental rights during screening

Screening also poses significant challenges to the protection of fundamental rights inasmuch as the location where it is performed. Specifically, the new regulations allow for screening to be performed in “any suitable or appropriate place”, offering ample margin for Member State discretion. Furthermore, there is a risk of violating the Reception Conditions Directive since there are not enough safeguards for people in these locations to ensure access to basic fundamental rights such as healthcare, education and care for special needs. CEAR recommends including the following measures in national implementation plans:

- Create an appropriate place for screening, where asylum seekers are guaranteed all the reception rights and conditions established in the Reception Conditions Directive, as well as confidential spaces for detecting vulnerabilities and assessing health.
- Under no circumstances should screening be conducted in Foreigner Internment Centers (CIEs).
- Maintain the standards and safeguards laid out in Spanish legislation for people being screened in accordance with the provisions of the Regulation, including free legal assistance, the right to an interpreter, health care, information, to be heard, and an effective appeal.
- Include the following safeguards, as allowed by the Screening Regulations for more protective regulations:
 - Access to emergency health care and basic treatment for diseases: this must include mental health and chronic diseases, among others.
 - Access to intercultural mediation and information services: screening spaces must have the means for people to contact specialized entities and legal advisors, and these organizations must be guaranteed access to such spaces without excessive limitations. The information provided by NGOs and other organizations should be complementary to, and not replace, that provided by the authorities.

- Access to an effective appeal against the administrative act of screening independently: screening must be considered a separate administrative procedure after which a decision is made that has an impact on a person's fundamental rights; thus, it is essential to guarantee access to an effective appeal against it and its conditions.
- Ensure adequate training of screening personnel, including medical staff and interpreters, in international protection, and human trafficking, from a perspective of human rights, childhood, gender, diversity, and intersectionality.
- Oversee respect for fundamental rights during screening by ensuring there is an independent monitoring mechanism (see block 9) with remit during screening.

Safeguards when applying border procedures

- Apply the border asylum procedure restrictively since it has fewer safeguards. Refrain from resorting to the option of channeling asylum applications through the border procedure, doing so restrictively, for mandatory cases only, after individual analysis, without discrimination based on nationality.
- Exclude people with especially vulnerable profiles from border procedures, including minors. Screening locations will never be able to meet the special needs of people in vulnerable situations such as pregnant women, trafficking and torture victims, or the best interests of the child.
- Apply the most favorable criterion of the principle of the family unit from a human rights perspective. This means not subjecting a family to the border procedure if one of its members is already under this procedure, thus preventing one family member's individual responsibility for their actions from unfairly harming the rest of the family.
- Automatically refer asylum applications to the ordinary procedure when the deadlines for registration, formalization or appeal of the border procedure have not been met.

Deprivation of liberty during screening and border procedures

There is a risk of excessive use of deprivation of liberty since people have to remain at or near external borders while pre-screening is performed, which may take up to seven days. Additionally, the maximum duration of border procedures for asylum and return is extended to 12 weeks, during which time people may be held in detention conditions and deprived of liberty.

To ensure respect for fundamental rights, CEAR recommends the following measures:

- Establish alternatives to detention in national legislation, such as periodic appearances, and implement these alternatives to ensure that people remain at the disposal of the authorities during screening.
- Ensure that the screening procedure cannot last more than 72 hours and that the current time limits established by national regulations are maintained in the border procedure.
- Ensure that deprivation of liberty does not occur during screening or border procedures. Detention should be an exceptional measure used as a last resort when there are no alternative measures. In the event of detention, it must be for the shortest period possible, respecting the maximum of 72 hours established by law and under court approval.

Legal fiction of non-entry

The legal fiction of “non-entry” entails the risk of potential violation of the European Convention on Human Rights and the ECHR ruling on what is considered an exercise of jurisdiction by a State Party. If the person is under the effective control of the authorities of the Member State, all binding human rights protection rules apply. Therefore, CEAR recommends the following measures:

- Regardless of whether the legal fiction of “non-entry” is applied, guarantee all the rights of persons under the responsibility of the Spanish authorities in national legislation, including the right to request international protection and respect for the principle of non-refoulement.
- Always guarantee the right of asylum seekers to remain during the administrative procedure and make no exceptions based on vague legal concepts such as danger to national security and public order, which the Regulation allows but does not require.

Adequate capacity

Once a Member State has processed the maximum number of applications according to its “adequate capacity” (which in Spain has been set at 6,602 for the first year and 9,903 for the second year), it is no longer obliged to apply the border procedure, except in cases affecting national security or public order. Applying this criterion could lead to unfair treatment between applicants depending on when they arrive, and the prioritization of national interests over the protection of individuals.

- Provide up-to-date and accessible public information on the “adequate capacity” number and whether it has been reached to ensure transparency and keep citizens and organizations involved in migration management informed.
- Suspend the border procedure and apply the ordinary procedure as soon as adequate capacity is reached. This option is proposed in the Procedure Regulations.
- The adequate capacity target should only be reached if there are enough applicants who strictly and exclusively meet the mandatory criteria for their applications to be channeled through the border procedure.

Block 3: Reception systems

This block focuses on the Pact regulations established to ensure greater harmonization in reception standards and more equal treatment for all asylum seekers in the EU. It aims to reduce incentives for secondary movement and increase the autonomy of asylum seekers and their prospects for social inclusion.

Suitable, harmonized reception conditions is a key factor in determining whether a Member State is “well prepared” to respond to crisis situations

(block 8) and able to activate solidarity measures (block 7). Furthermore, the Reception Directive sets out the grounds for resorting to detention, which affects border procedures for asylum and return in particular (blocks 2 and 5).

Member States must ensure that material reception conditions offer applicants (including those detained and those with special needs) an adequate standard of living and access to health care. Moreover, they must include all the improvements in workplace integration, education, and health set forth in the new Reception Directive. Therefore, it is crucial that it is transposed into domestic law before June 2026 since it is the only text of the Pact that has not been approved as a regulation and is thus not directly applicable. The European Commission also stresses the importance of Member States fulfilling their obligation to involve social entities that manage reception and ensure they have the necessary resources.

CEAR's recommendations regarding *block 3* in the national implementation plan

Adequate reception conditions

The Reception Directive does not define what is meant by “adequate standard of living,” which in practice fosters inequality and huge disparities in the reception conditions offered by different Member States. Some limitations on reception conditions are established and the grounds on which material reception conditions may be reduced are expanded, all of which is concerning. In light of this, CEAR proposes the following measures:

- Clearly delineate the defining criteria of the concept of “adequate standard of living” in accordance with the jurisprudence of the CJEU⁵, which has established as an absolute minimum that the person must have their basic needs met, such as a place to live, food, clothing, and personal hygiene, among other aspects.

- Expand specific protocols for preventing violence of all types in cases where they are not operational (for religious, racist, LGBTIQ+, childhood reasons, etc.) with clear measures and accessible information.
- Limitation or withdrawal of reception conditions:
 - Maintain the current practice of establishing inclusion itineraries for international protection applicants without imposing mandatory integration activities that could limit or reduce reception conditions should the applicant fail to comply with them. In the event of abandonment, participants should be allowed the possibility of re-entry at the same phase they were at upon departure.
 - Refrain from limiting reception conditions in the case of a transfer to another Member State through application of the AMMR: this would contravene the jurisprudence of the CJEU⁶, which has established that application of the Reception Directive must be guaranteed until the transfer is carried out, which may be months after the applicant is informed of the decision, taking into account the concept of dignity from the EU Charter of Fundamental Rights ⁷.

Special reception needs

As soon as possible after an international protection application is made, Member States must individually assess whether the applicant has special reception needs, using interpreters, including sign language and resources for the blind, if necessary, specialized personnel, and taking into account the best interests of the child. CEAR recommends the following measures to ensure that these needs are identified and adequately addressed as quickly as possible:

- Establish a protocol for assessing specific needs with clear indicators that starts the moment the international protection application is made. This means establishing a training plan for civil servants of the Ministry and NGOs in the reception system for this assessment, arranging referral to medical specialists or other professional teams for the analysis of special needs, and guaranteeing psychological care, rehabilitation and immediate medical treatment for victims of torture and violence.

⁶ CJEU – Judgment C-179/11 of 27 September 2012.

⁷ Charter of Fundamental Rights of the European Union. Article 1- Human dignity, European Union Agency for Fundamental Rights (europa.eu).

- Establish a tool to assess the best interests of the child in the case of accompanied and unaccompanied minors, while adapting the reception conditions to their needs.
- Create safe spaces at reception centers for women, children, LGTBQ+ people, and other members of particularly vulnerable groups.

Rights, obligations, and freedoms in reception

The reception of international protection applicants in Spain is based on rights, obligations, and guarantees aimed at ensuring dignified and equitable treatment for those in vulnerable situations. It is crucial that Spain not only maintains but also improves these rights in accordance with the Reception Directive, which broadly extends the rights recognized by the previous Directive, especially regarding access to health and education. However, there are concerns about the restrictions that Member States may impose on freedom of movement, with very serious consequences, such as limiting material reception conditions and access to employment in most cases of accelerated procedures. Therefore, CEAR recommends the following measures:

- Right to information: provide asylum seekers with information on the reception conditions available, including health care, informing them in writing of any decision affecting these conditions, as well as of the procedures for challenging them.
- Freedom of movement: guarantee freedom of movement throughout Spanish territory, without limiting it under any circumstance, as recognized by the Supreme Court in its ruling of the Fifth Section, Administrative Litigation Chamber, dated July 29, 2020.
- Right to employment:
 - Establish in internal regulations the automatic concession of a work permit six months after registering the asylum application.

- Ensure equal treatment in access to employment for asylum seekers and nationals. This implies not depriving asylum seekers whose applications are examined through the accelerated procedure of access to employment, as this is a discriminatory and disproportionate measure that violates people's autonomy and affects their inclusion processes.
- Right to education: guarantee access to the education system for asylum seekers and their children as soon as possible and within three weeks of formalizing the application at most. To do this, Spain must:
 - Eliminate administrative barriers that delay schooling (including the city registration requirement) and guarantee access to the educational system at all levels, including higher and university education, as well as the educational materials and resources needed to complete them.
 - Adapt liaison classrooms in all autonomous communities for linguistic reinforcement to adequately respond to the arrival of students of diverse origins during the school year and promote the intervention of intercultural mediators to guarantee effective inclusion.
- Right to health: eliminate existing obstacles to effective access to the health system for international protection applicants from the moment they express their desire to request international protection, through the possible legislative reform of health care access in Spain to guarantee access to general medicine services, specialists, basic treatment of diseases, mental health, sexual and reproductive health, rehabilitation and medical devices.
- Right to housing: design policies to fight housing exclusion and facilitate access to housing for international protection applicants and people in vulnerable situations, among others. Consider expanding the social housing stock, as well.

Detention and risk of absconding

The Reception Directive broadens the circumstances in which Member States may detain international protection applicants but does not require them to do so, allowing for less harmful alternative measures. One of the grounds for detention is when there is a “risk of absconding”. In practice, this indeterminate concept in practice discretionarily and arbitrarily for “prevention”, sometimes based on stereotypes around nationality or economic status. Therefore, CEAR recommends the following measures:

- The concept of risk of absconding should only be applied in exceptional and legally based situations, avoiding arbitrary and discretionary decisions that put people at risk and restrict their freedom of movement. It is necessary to:
 - Correctly apply the rules for interpreting the risk of absconding and preventive detention set forth in the EU Charter of Fundamental Rights and the case law of the ECHR.
 - Define the concept of “risk of absconding” restrictively in Spanish legislation, taking into account the case law of the ECHR⁸, and using objective criteria, not based on the applicant’s past actions but on the real and current risk of absconding.
 - Make an interpretation appropriate to the situation of vulnerability and the protection needs of the individuals.
- Choose less harmful alternative measures, always avoiding the detention of minors and people in vulnerable situations, as allowed by the Directive.
- In exceptional cases in which detention does occur, the following must be ensured:
 - Detention should not take place in penitentiary centers.

⁸ Fair Trials. (2024). Flight Risk in Europe. Assessing Flight Risk in pre-trial detention decision-making: a European comparative study. <https://www.fairtrials.org/articles/publications/flight-risk-in-europe/>. As evident from the review of the ECtHR’s case law, the Court favors a holistic assessment of the risk of absconding that includes relevant aspects of the accused’s character and behavior, as well as the nature of the offence and the likely punishment in the event of conviction, and not just one of these points in isolation. Thus, in the case of Piruzayan v. Armenia, the ECHR established the limits of the admissible grounds for preventive detention.

- Ensure access by civil society organizations, the UNHCR, and family members to the place of detention. Any restrictions applied for reasons of organization of the center must be sufficiently broad to guarantee access to the center.
- Ensure that the safeguards established for detention also apply in airport and border transit areas and that they comply with the minimum standards of the Directive. The main airports of arrival must have adequate spaces for the flow of international protection applicants they receive.

Family members and family unit

The family unit is a fundamental principle in the asylum reception system, as it guarantees cohesion and emotional support among the members of a displaced family. However, the interpretation and application of this concept varies significantly across different regulatory frameworks in the EU, which can lead to inconsistencies and the fragmentation of the family unit. One of the main discrepancies lies in the definition of “family members.” The EU Asylum and Migration Management Regulation (AMMR) does not consider dependent adults “family members”, while the Reception Directive does. Therefore, CEAR recommends the following measures:

- Include the broader concept of “family members” in Spanish regulations as established by the Reception Directive to ensure a more inclusive approach that respects the right to family life.
- Apply broader, more flexible criteria to assess the family unit. This means assessing the consistency and completeness of the documentation submitted, which should not be excessively strict, considering the unique barriers and difficulties that asylum seekers face, such as loss of documents, cultural differences, and language barriers. Moreover, take into account evidence such as photographs, proof of contact, and testimonies that help make a fair assessment of the relationship.

Block 4: Fair and efficient procedures

The Pact aims to establish a common procedure for international protection in the EU to simplify, streamline, and harmonize asylum procedures across all Member States, thus discouraging multiple applications and secondary movements. The objective is to achieve rapid but high-quality resolutions, with greater procedural safeguards for the rights of asylum seekers and stricter rules to prevent abuse of the system.

Therefore, new time limits have been established for accessing the international protection procedure (five days for registration of the application, 21 days for formalization) and examining the asylum application (six months in the ordinary procedure, three months in the accelerated procedure, and 10 days to 2 months for the decision of inadmissibility). In many new cases, Member States must examine asylum applications using a special procedure with fewer safeguards and shorter time limits (border procedures, accelerated procedures, and subsequent applications). Furthermore, they are obligated to consider an application implicitly withdrawn when the applicant fails to comply with certain obligations and to ensure the withdrawal of protection status and the concepts of safe country and mandatory assessment of the internal flight alternative. It also intends to prevent parallel procedures of applications under appeal and in the administrative stage, and to ensure that the suspensive effect of the appeal against the refusal of protection is not automatic in more cases.

Lastly, it is necessary to guarantee training, reinforce the pool of instructors, and equip the asylum offices.

CEAR's recommendations regarding *block 4* in the national implementation plan

Resources and organizational structure to ensure access to the international protection procedure

There are serious flaws in Spain's current asylum system, especially regarding access to the international protection procedure, due to the collapse of the appointment system and the chronic lack of sufficient human and material resources to manage a high volume of asylum applications that grows every year, both at the administrative and judicial levels.

As a result, thousands of people are left unprotected for months at a time. Considering this, CEAR recommends the following measures to ensure that the implementation plan effectively complies with the maximum time limits for registering, formalizing, and examining asylum applications:

- Create a single administrative structure (an agency or the like) with remit in all asylum matters, dependent on the Ministry of the Presidency, and that unites all powers in matters of asylum and refuge. This structure must have decision-making and management capacity, as well as the necessary operating budget and mechanisms for consultation and participation of civil society.
- Provide specialized, ongoing training for judges as well as sufficient technical, technological, and human resources to perform their work correctly within the time limits established in the Asylum Procedure Regulation and the AMMR.
- One-stop shops for asylum of the Administration, using the Reception, Care and Referral Centers (CREADE) model: maintain and increase the CREADE shops set up in response to the emergency in Ukraine as spaces for registration, documentation, and access to the procedure and the “one-stop-shop for asylum” for all international protection applications regardless of their place of origin. Establishing these spaces also makes it possible to fulfil other obligations of the Pact, such as identifying specific reception and procedural needs from the outset.

Ordinary asylum procedure

Regarding the preparation, registration, and formalization of the asylum application:

- The asylum law must include the option to file an asylum application by any legal means. The places for making such a request may be established by regulation, notwithstanding the other means established in the Common Administrative Procedures Law.
- Maintain the option of using a form to submit the application if it is impossible to be physically present, with subsequent ratification.

- Formalization interviews must be conducted by staff specifically trained in interview techniques, international protection, the context of the countries of origin, and a human rights, gender, and intersectional approach.
- Establish clear and specific criteria to define what is meant by a “disproportionate number” of applicants, distinguishing it from other concepts such as “migratory pressure”, and ensure that authorities other than the decision-makers are allowed to carry out interviews solely in this case, as an exception.
- Do not set a deadline for submitting documents given the difficulties that applicants face in obtaining them.
- Grant NGOs and civil society access to CIEs and border areas without requiring prior agreements with the authorities that go beyond prior communication and identification.

Regarding the evaluation of the asylum application:

- Take into account the UNHCR's⁹ criteria for reasonableness when evaluating the internal flight alternative.
- Do not reject an international protection application based on needs that have arisen since following assessment of the applicant's intention to “create” these new circumstances.
- The evaluation of applications must always be prioritized in a justified and proportionate manner, not as an automatic penalty for certain behaviors described in the Asylum Procedure Regulations (e.g. violation of the rules of the reception center) and guaranteeing an individualized evaluation.

9 UNHCR. (2003). Guidelines on international protection: The “internal flight or relocation alternative” in the context of Article 1A (2) of the 1951 Convention or the 1967 Protocol relating to the Status of Refugees. <https://www.acnur.org/fileadmin/Documentos/BDL/2004/2551.pdf?file=fileadmin/Documentos/BDL/2004/2551>

- Admission of the application for processing: do not widen the reasons for inadmissibility further than already established in internal regulations or include the fact that 7 days have passed since the return order as a reason for inadmissibility¹⁰.
- Admission and instruction deadlines: in accordance with our administrative procedure law, provide notification of the extension of the deadlines for the international protection procedure and the reason for said extension. In the event of retroactive proceedings by court order, establish a period of two months for the resolution of the administrative procedure.

Regarding withdrawal and implicit withdrawal:

- Limit the application of implicit withdrawal of the asylum application due to non-compliance with the applicant's obligations, conduct an individual analysis, and justify the decision by communicating it in advance to the applicant.
- Set a period for the applicant to justify or rectify omissions before the implicit withdrawal of their application is made effective, as permitted by the Asylum Procedure Regulations.

Regarding the requirements for obtaining refugee status, subsidiary protection and cases of exclusion:

- When assessing the seriousness of non-political crimes, the individual circumstances of the crime, the situation of the person and their individual responsibility, the restrictive criteria established by the UNHCR and the case law of the CJEU must be used, given the seriousness of excluding a person who otherwise meets all the requirements to be a beneficiary of international protection.

¹⁰ Recital 26 of the Asylum Procedures Rules establishes that, since the formulation of a disproportionate number of applications in a short period may delay access to the procedure and examination of applications, a flexibility measure may sometimes be necessary to extend these periods. However, such an extension should be used as a last resort.

- Individual analysis of the seriousness of the crime: it is not enough to only consider the established sanction but it is also necessary to assess the nature of the act, the actual harm done, the nature of the penalty, the form of the criminal proceedings followed, and whether other jurisdictions also consider it a serious crime (Case C-369/17).
- Do not expand the grounds for exclusion from subsidiary protection; the Regulation makes this possible for other crimes but does not require it.

Regarding the cessation and revocation of refugee status and subsidiary protection:

- When applying the criteria for the cessation and revocation of refugee status and subsidiary protection, Spain must include in its national legislation the criteria of the CJEU which require a present, genuine and sufficiently serious threat affecting one of the fundamental interests of the society of the Member State (Case C-8/22).
- Withdrawal of protection: Spain must apply the CJEU ruling that establishes that, if refugee status is revoked, the person continues to benefit from non-refoulement and the rights established by the Geneva Convention for such cases, establishing a gateway to a residence permit that guarantees the principle of non-refoulement.

Regarding special international protection procedures: (accelerated, border, and subsequent applications)

Because accelerated and border procedures are mandatory in many cases (for example, for people from countries with a recognition rate lower than 20% of the EU+27 average) most applications will be processed so quickly (within 12 weeks) that it won't be possible to properly assess international protection or identify situations of special vulnerability. It is particularly concerning that the criteria for applying these procedures discriminate based on nationality, penalize applicants for not having a safe legal pathway to seek protection, posit signs of criminality (threat to national security), and assess the applicant's intent (to deceive, abuse the system, etc.).

Moreover, these procedures allow Member States to restrict basic safeguards, for example by not taking into account the automatic suspensive effect of appeals against refusals on the grounds that the application is unfounded.

To uphold respect for the principle of non-refoulement and effective access to the right to asylum, CEAR recommends the following:

- Maintain the guarantees of the ordinary asylum procedure for accelerated procedures, border procedures, and subsequent applications. In the latter, do not resort to banning legal counsel, take responsibility for free translations, do not omit personal interviews (in line with the rulings of the CJEU and the ECHR) and, in any case, do not deprive applicants of the right to remain while their application is being studied, thus maintaining the automatic suspensive effect of appeals against subsequent applications in cases for which it is not mandatory.
- Restrictive application of special procedures:
 - a. Apply the border procedure only in strictly necessary, mandatory, and limited cases, after individualized analysis and without discriminating based on nationality.
 - b. Accelerated procedure:
 - The interpretation of the jurisprudence of the Supreme Court (SCS 27 March 2013) to process solely those allegations that are “obviously and patently” implausible through the accelerated procedure should be included in national legislation.
 - Assume the burden of proof to demonstrate the “bad faith” of the applicant when using the accelerated procedure.
 - Take into account the protection needs that arise *sur place* when applying the accelerated procedure due to the immediate absence of the asylum applicant.

- Make restrictive interpretation of the mandatory application of the accelerated procedure to undocumented persons, in accordance with the Geneva Convention, which prohibits criminal sanctions for refugees who have been forced to enter safe territory irregularly. This implies:
 - Implementing Article 42(1)(c) in line with Recital (75) of the Asylum Procedure Regulation, so that neither the mere lack of documents upon entry nor the use of falsified documents per se leads to the use of the accelerated procedure.
 - Provide undocumented asylum seekers with the opportunity to demonstrate good cause.
- c. Always assess the applicant's individual circumstances when applying an accelerated or border procedure on the basis of nationality with a protection recognition rate lower than 20% of the European average; check that the COI is sufficiently up to date to consider it representative; and ensure concordance with the recognition rates for that nationality (EUAA reports).
- Following the Asylum Procedures Regulation, automatically refer applicants to the ordinary procedure upon identifying vulnerable profiles, whether from the perspective of age, childhood, gender, diversity, intersectionality, or human rights. Also do so when a potential complexity in the assessment of the criteria for applying these procedures is detected, such as when examining whether the person represents a threat to national security or public order.

Safe country concepts

Applying the concepts of safe country of origin, first country of asylum, and safe third country may contravene Article 3 of the Geneva Convention on not discriminating against refugees based on nationality. The use of safe country lists increases the risk that asylum applications will not be assessed individually for fear of persecution, which is crucial to ensure full respect for the principle of non-refoulement. CEAR makes the following recommendations:

- Refrain from creating a national list of safe countries and from applying safe country concepts in border procedures or as grounds for non-entry because they offer less protection. In addition, these concepts must be interpreted in a very restrictive manner in the accelerated procedure when evaluation is not possible within the short time limits established.
- Ensure individualized analysis, taking into account specific vulnerabilities and needs and respecting the principle of non-discrimination established in Article 3 of the Geneva Convention when applying the concept of a “safe country of origin”: just because a country is featured on a list of safe countries or because there are bilateral agreements between Spain or the EU and that country does not exempt an individualized assessment, in accordance with the Geneva Convention. This analysis must be performed from a human rights, gender, functional diversity, age and intersectionality perspective.
- Update country of origin (COI) information before determining that a country is safe and take into account the multiple realities and specific discriminations and vulnerabilities of different categories of people, including LGBTIQ+ people, women, children, people with disabilities and victims of trafficking.
- Enable a hearing process to assess the application of safe country concepts: the applicant must be allowed to object by providing the corresponding justification. However, this does not impede Spain from maintaining the obligation to prove and provide all the elements that justify that the concept of a safe country can be applied, in accordance with the principle of equality of arms.
- Do not apply the concept of first country of asylum in countries where status is determined by the UNHCR, in accordance with the jurisprudence of the ECHR.

Regarding the concept of a “safe third country”:

- In addition to the minimum criteria established in the Asylum Procedure Regulations to assess whether there is “effective protection” in a third country if said country has not ratified the Geneva Convention, Spain must include the following additional guarantees:
 - Access to sufficient means of livelihood in accordance with the CJEU's concept of adequate standard of living (decent housing, mental health, etc.).
 - Access to affordable and effective lasting solutions, such as local inclusion, obtaining nationality...
 - Right to family reunification in compliance with the right to family life in Art. 8. of the ECHR.
- Before applying the connection criterion, it must be ensured that the person can be readmitted under conditions of effective protection with safeguarded access to human rights. Furthermore, the criteria for considering that there is a connection between a person and a “safe third country” must be clearly determined in domestic legislation. In any case, it must be a significant connection, which at least includes a legal and valid residence permit, and it must be assessed on a case-by-case basis taking into account the criteria of the CJEU, as well as the domestic ruling in SAN 437/2022, of February 4, among others.

Obligation to cooperate

The Qualification Regulation places the burden on the applicant to submit all the components and documentation necessary to support their application for international protection. This is disproportionate, taking into account the circumstances of flight and how challenging it can be to obtain all the documentation from the country of origin. New obligations are also imposed on applicants to be present in the territory of the Member State responsible for examining their application and to fully cooperate with the authorities.

- Alongside the applicant's obligation to cooperate with the authorities, Spain must also include the active cooperation of these authorities, which must comply with the provisions of the ruling of the CJEU¹¹ (Case C-277/11 M.M – Ireland).

¹¹ The CJEU stipulated that Member States must “cooperate actively with the applicant, at that stage of the procedure, so that all the elements needed to substantiate the application may be assembled. A Member State may also be better placed than an applicant to gain access to certain types of documents.”

Block 5: Returns

The Pact aims to expedite and increase the expulsion of those not deemed deserving of protection through a single asylum and return procedure, digitalization of return procedures, cooperation with third countries, and the incentive of voluntary return through readmission and reintegration programs.

The new Regulation, which establishes a border return procedure, will apply to persons whose international protection applications have been refused or who were denied entry in the border asylum procedure. Member States must procure adequate infrastructure to keep persons subject to return at the disposal of the authorities for 12 weeks (extendable to 16 in crisis situations) and prevent the risk of absconding. If the return cannot be conducted within these time limits, the ordinary procedure of the Return Directive will be followed, which establishes a maximum detention period of 6 months.

States should also review domestic procedures to ensure a seamless process from the time the person no longer has the right to remain until the final return decision, including readmission to third countries, effective return and support for reintegration. Therefore, the return decision must be issued with the asylum refusal or shortly thereafter, and the appeal against both must be a single decision and processed jointly. Member States should also strengthen “return counseling” and incentives for voluntary return and optimize reintegration support in cooperation with Frontex.

CEAR’s recommendations regarding *block 5* in the national implementation plan

Refusal of asylum applications and automatic issuance of a return order

- Ensure the right to an effective appeal: ensure that the return decision submitted with the asylum refusal contains detailed information on the appeals available, time limits, and return suspension.
- Establish safeguards in national legislation for the automatic suspension of returns during the appeal filing period and until the appeal is resolved,

in accordance with the case law of the Court of Justice of the European Union (CJEU, C-181/16) and the ECHR (A.C. v. Spain).

Deprivation of liberty to ensure return

There is no guarantee that detention of persons subject to return will not be used systematically. This is particularly concerning since the asylum seeker could remain deprived of liberty for six months in total. This Regulation allows Member States to maintain or impose detention of persons seeking international protection who are denied entry at borders and subject to a border return procedure but does not require them to do so. CEAR makes the following recommendations:

- Refrain from restricting the right to freedom and instead use alternative measures to detention in accordance with the guidelines to be developed by the EUAA and published in December 2024 and with Spanish law.
- In exceptional cases in which the deprivation of liberty is ordered, which should always be a last resort, Spain must establish clear criteria in its internal regulations to assess the need for detention beyond the provisions of the Regulation and include the need to justify the detention decision so as not to leave the applicant defenseless.
- Maintain the 60-day maximum confinement period even in situations of crisis or force majeure. In such cases, Spain should not use a repeal to extend the maximum time for the border return procedure.

Dignified, voluntary return

- Improve assisted voluntary return programs to ensure returnees receive support for their reintegration and that their rights are respected throughout the process.
- Refer those interested in undertaking a business projects related to returns to special productive return programs.

Block 6: Determining the responsible Member State (Dublin Regulation)

This block contains the regulations establishing a common European framework for asylum and migration management and the determination of the Member State responsible for examining an asylum application lodged in the EU by a third-country national or stateless person.

The AMMR replaces the Dublin Regulation. Still, it maintains the country-of-first-entry criterion, which requires people to apply for asylum in the first Member State to which they arrive. However, if they meet certain criteria, such as having a relative in another Member State or holding a recent educational qualification, another country may be responsible for processing their application.

Conversely, the new rules limit the transfer of responsibility between Member States and reduce the possibility of applicants choosing the Member State where they wish to seek protection by imposing the obligation to remain in the assigned State. They also establish consequences in the event of non-compliance, such as restricting reception conditions.

CEAR's recommendations regarding *block 6* in the National implementation plan

Asylum and migration management framework

The AMMR stipulates that migration and asylum management is based on two pillars: an “internal” pillar of cooperation between Member States and the EU and an “external” pillar of agreements with third countries.

At the domestic level, it is mandatory to comply with the principle of solidarity and shared responsibility of Art. 80 TFEU. To this end, a “Permanent EU Migration Support Toolbox” is made available to Member States. With this, they may avail themselves of exceptions and derogations to respond to specific migration challenges and strengthen actions in third countries. As for the external pillar, it is concerning that it focuses on externalizing borders rather than increasing safe legal pathways.

For migration and asylum management that centers around people and their rights, CEAR recommends the following measures:

- Spain must go beyond the minimum requirements of the Regulation and include specific measures to respect and guarantee fundamental rights in the National Strategy for Asylum and Migration Management. Specifically:
 - Internal pillar:
 - Ensure a reception-based asylum and migration management system that is well prepared and appropriately sized and has a structural rather than occasional and preventive approach to addressing emergencies and reception needs.
 - Increase the provision of material, human, and technological resources for the Asylum and Refuge Office (ARO) to strengthen it and provide ongoing training in asylum and human rights so that it can effectively complete the tasks entrusted to it by the Pact. Doing this implies:
 - Increase the number of specialized staff members by hiring more professionals in key areas such as application assessment, mediation and interpreting, and psychological support with adequate, ongoing training.
 - Strengthen the department specialized in country of origin (COI) reports in the ARO, through reinforcement of material and human resources responsible for investigating and locating specific information on countries of origin, making their reports public, in line with other EU member countries.
 - Ensure consistency with the recommendations of the Ombudsman, especially those aimed at solving the collapse of the online appointment system and existing obstacles in access to the international protection procedure¹². This includes the new General Directorate of International Protection establishing the necessary means to guarantee not just access to the international protection procedure, but also to the rights that the regulations recognize

¹²In the 2023 Annual Report, the Ombudsman noted that the increase in the number of international protection applications had not been accompanied by structural reforms to adapt the management and processing system to the requirements of the EU directives on reception and procedure. The administrative efforts to reinforce staffs were insufficient, according to the Ombudsman, given the number of people in need of international protection in Spain. Ombudsman. (2024). Ombudsman Annual Report 2023 Volume I. https://www.defensordelpueblo.es/wp-content/uploads/2024/03/Defensor-del-Pueblo_Informe-anual-2023.pdf

for applicants, in coordination with the rest of the competent bodies in the matter ¹³.

- External pillar:

- Expand safe, legal pathways for seeking protection. Enable the possibility stipulated in Article 38 of the Asylum Law to request asylum in Spanish embassies and consulates abroad, issue humanitarian visas, make family reunification requirements more flexible, and assume greater resettlement commitments, among other measures.
 - Include clauses on respect for human rights in cooperation and migration management agreements signed with third countries and suspend their execution in the event of non-compliance.
 - Address the root causes of forced displacement from a human development perspective. Development cooperation policy should not, under any circumstances, include measures that condition development aid on border control. The VI Master Plan for Spanish Cooperation, as well as the upcoming IV Africa Plan, must head in this direction.
- Prepare an annual public report evaluating the qualitative and quantitative impact of the measures implemented as part of the Strategy, taking into account recommendations from civil society organizations.
- To comply with the principle of solidarity and shared responsibility and the use of the toolbox, Spain must focus on prioritizing measures to protect people, strengthening the capacities of the reception system, making greater commitments to relocation and promoting safe legal pathways.

Criteria for determining the responsible Member State

The hierarchy of criteria established by the Dublin III Regulation for determining the Member State responsible for examining an international protection application is maintained for the most part. Although the option of presenting a diploma or qualification to demonstrate a connection with a Member State is added and some improvements are made to the criteria for family members, work

¹³ Ibid.

permits, residence cards, and visas, default responsibility is still on the first country of entry. However, the new Regulation does not provide a real and effective solution to the deficiencies of the Dublin system or the pressure faced by external border States such as Spain. CEAR makes the following recommendation for these criteria:

- Make the requirements for obtaining student visas more flexible and promote access to educational and training programs in Spain by third-country nationals.
- Apply family reunification criteria broadly and flexibly, including brothers and sisters, married sons and daughters, and dependent adults as family members.
- Be flexible when assessing the documentation submitted, considering the unique difficulties faced by asylum seekers, such as loss of documents, cultural differences, and language barriers, and taking into account alternative evidence such as photos, proof of contact, and testimonies for a fair assessment of kinship.
- Comply with the provisions of the CJEU ruling (Case C-648/11- MA and others) regarding children with no family in any Member State, which maintains that transfers to another country are not in the best interest of the child, and, therefore, the Member State responsible should be the one in which the child is located.
- Apply the discretionary clause when transfer to the responsible Member State poses a risk to the fundamental rights or safety of the applicant, for example in the case of victims of human trafficking who risk being re-recruited or exploited by traffickers present in the responsible Member State.

Procedures for assuming responsibility, readmission, and transfers

The procedure for determining the responsible Member State starts with the registration of the asylum application. There then follows a reduced period of two

months to request responsibility (taking charge) from the Member State considered responsible, which must respond within one month. Failure to respond is equivalent to accepting the obligation to take care of the person. The readmission procedure is simplified, with no need to request readmission, but simply to notify the person.

There are concerns about the possible use of detention for transfer: if the person absconds, the period for countries of first entry to carry out a transfer to the responsible Member State is extended to three years. In this regard, CEAR recommends the following measures:

- Promote effective coordination during readmission between the Member States of transfer and readmission to avoid situations in which transferred persons are unprotected; guarantee adequate information exchange with special focus on vulnerable situations.
- Guarantee the reception conditions of the Reception Directive until the transfer takes place.
- Maintain the administrative practice of not detaining a person during transfer, always applying other less coercive measures established in national legislation.
- Establish a maximum period for providing information to persons subject to transfer, which should not exceed 10 days from the date the transfer decision is made, as established by the Common Administrative Procedure Law.
- Apply the maximum period possible for filing an appeal against the transfer decision to guarantee the right to effective judicial protection and ensure the automatic suspensive effect of the appeal.

Guarantees, rights, and obligations of asylum seekers when determining the responsible Member State

The obligations of asylum seekers are reinforced, including the duty to cooperate with the authorities by providing the necessary information and to remain in the assigned State until their situation is determined. Failure to do so could result in

disproportionate consequences such as failure to assess documentation submitted late and the loss of the right to reception conditions in other EU countries.

Conversely, improvements are made to the safeguards for asylum seekers in the procedure for determining the Member State responsible. A series of guarantees are also provided for children, such as the obligation to assess the best interests of the child and ensure, before transfer, that the Member State responsible for relocating the child takes appropriate measures for their reception.

Regarding these obligations, rights, and guarantees, CEAR recommends the following measures:

- Do not limit the right to reception due to failure to comply with the obligations of asylum seekers, as this is a disproportionate measure and contrary to the case law of the CJEU. Always guarantee an “adequate standard of living” following the criteria established by the CJEU case law and included in the block 3 recommendations.
- Maintain the safeguards for the right to information and interpreting in the procedure for determining the responsible Member State, ensure that information is provided in an individualized and adapted manner, and provide an interpreter in a language understood by the applicant, following the block 9 recommendations.
- Maintain safeguards for access to free legal aid and the right to be heard in the procedure for determining the responsible Member State, in line with the block 9 recommendations.
- Specific safeguards for children and adolescents:
 - Ensure that the principle of the best interests of the child is valued and prioritized in all decisions concerning the responsible Member State.
 - Ensure appropriate reception arrangements prior to the transfer of a child without family references: provide a range of alternative care

options, including care in foster homes or with families¹⁴. Additionally, the measures and recommendations of national and international human rights organizations on child protection must be taken into account¹⁵.

Block 7: Solidarity

The Pact establishes a mandatory but flexible solidarity mechanism, with a Solidarity Fund to be established each year with at least 30,000 relocations and 600 million euros in financial support for the entire EU. All Member States must participate based on their GDP and population size but may choose from the following contribution options: (a) relocations of international protection applicants and beneficiaries; (b) financial contributions to support actions in other Member States or third countries; or (c) alternative measures, such as operational support.

To coordinate these efforts, the AMMR establishes an EU High-Level Solidarity Forum and the appointment of a Solidarity Coordinator. In turn, Member States must appoint a national coordination structure and define internally how they will contribute to solidarity and engage appropriately in this forum. Furthermore, Member States must ensure adequate resources, competent staff, the necessary infrastructure, and effective case management systems to carry out relocation procedures within one and a half months, ensuring the examination of significant links and including security checks.

14 European Commission. (2017). Communication From The Commission To The European Parliament and The Council. Protection of children in migration. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017DC0211>

15 Following the EASO Guidance on reception conditions for unaccompanied minors, compliance with the principles of the best interests of the child, the principle of the family unit, and respect for the specific reception needs of unaccompanied minors is essential, not just upon entry into the reception system, but also in the event of reassignment or transfer of unaccompanied minors to different accommodation. The Reception and Qualifications Directive also establishes the obligation of Member States to ensure that unaccompanied minors are accommodated either: a) with adult relatives, or b) in a foster family, or c) in centers specializing in the accommodation of minors, or d) in other accommodation suitable for minors, keeping siblings together as far as possible, taking into account the best interests of the minor in question, specifically their age and maturity. All responsible Member States must ensure that material reception conditions are available for all international protection applicants, in accordance with Art. 17 of the Reception Directive. EASO. (2024). Guidance on reception conditions for unaccompanied children: operational standards and indicators. <https://euaa.europa.eu/guidance-reception-unaccompanied-children>

On 15 October 2025, the Commission will adopt the first Annual Report on the Situation of Asylum and Migration in the EU, identifying which Member States are under migratory pressure and making a proposal for a Council Executive Act to create the Solidarity Fund. To this end, Spain must send the Commission information on the migration and asylum situation and the possible migratory pressure in Spain (before 1 June 2025 and update it in September 2025). Lastly, Member States are expected to make their first solidarity contributions by the end of 2025.

CEAR's recommendations regarding *block 7* in the National implementation plan

Solidarity measures

The Regulation ensures a yearly minimum of mandatory solidarity measures. Each year, the number of contributions may be increased according to the needs of Member States affected by migratory pressure, although this increase must be proportional to relocations and financial contributions. Member States have full discretion to choose the solidarity measures they offer. CEAR makes the following recommendations:

- Ensure that solidarity measures are people-centered: Spain should request relocations as the sole (or, where appropriate, priority) solidarity measure.
- Prioritize strengthening the reception system: if Spain makes financial contributions, they must be used exclusively to strengthen the reception and asylum system of Member States, always from a perspective of protecting people.

Relocation procedure

International protection applicants and beneficiaries must be relocated within four weeks of confirmation by the contributing Member State. Consideration of all significant links and maintaining the family unit are important safeguards and must be promoted when determining the Member State of relocation. However, it

is concerning that the Regulation allows the Member State of relocation to send the relocated person to a third State, in applying the rules for determining responsibility. CEAR makes the following recommendations:

- Apply the discretionary clause and examine the asylum application of a person relocated from a Member State to prevent their transfer to a third State if Spain is the Member State of relocation.
- Ensure that all existing links with another Member State are considered when relocating, as this provides the opportunity to relocate people based on compatibility with the needs of the country, the labor market, and family ties.
- Include a specific and detailed assessment of vulnerability in the relocation interview, with clear and non-exhaustive indicators.
- Ensure that all relocations are conducted with prior written consent, providing information that has been adapted to the specific needs of the affected person and ensuring the assistance of an interpreter.

Block 8: Crisis contingency measures

The Pact aims to ensure that Member States are well prepared to respond to migratory pressure, crises, force majeure, and instrumentalization and that they have a contingency planning system (as required by the Reception Directive).

Contingency planning and preparation involves providing the human, material, and financial resources, infrastructure, and coordination between actors necessary for the reception and asylum system to have the capacity to respond to future emergencies. These factors are directly related to adequate reception systems throughout the EU (block 3), compliance with responsibility obligations (block 6), and the management of asylum and return procedures in situations of migratory pressure, including border procedures (blocks 2, 4, and 5). If a Member State lacks adequate contingency planning, it may not benefit from solidarity

measures (block 7). The Crisis, Force Majeure and Instrumentalization Regulation establishes that when a Member State with a well-prepared asylum and reception system is faced with a situation of migratory pressure, crisis, or force majeure, it may, on the one hand, benefit from solidarity measures including the relocation of asylum seekers from its territory, and, on the other hand, apply exceptions and temporary derogations to the basic guarantees of asylum procedures and the rules for determining responsibility for examining an asylum application.

Member States must develop National Contingency Plans for reception and asylum by April 2025. Moreover, they must conduct periodic systematic reviews (at least every 3 years) to accommodate rapid increases or reductions in the capacity and resources of the asylum and reception system as necessary. To this end, it is stipulated that inter-ministerial coordination must be ensured social entities that play a fundamental role in the management of reception must be involved.

CEAR's recommendations regarding *block 8* in the National implementation plan

The concepts of crisis, force majeure, and instrumentalization are vaguely defined in the Crisis Regulation, including indeterminate notions such as “well-prepared State”, “hostile non-state actor that encourages or facilitates movement” or “destabilizing the Union or a Member State” which could lead to discretionary application by Member States. In practice, there is a risk of creating a parallel asylum system in situations of crisis, force majeure, and instrumentalization, with fewer safeguards and serious risks to the fundamental rights of asylum seekers, such as the prolonged use of border detention or delayed access to the international protection procedure. To minimize these risks, CEAR makes the following recommendations:

A stable, prepared, and coordinated crisis response system

- Devote all Pact implementation efforts to ensuring the existence of a stable, adequate, and well-prepared system that prevents resorting to exceptions or derogations from asylum rules that entail the loss of rights and safeguards. A “well-prepared asylum and reception system” means doing the following:
 - Establish a stable and well-sized network of reception centers well enough equipped to respond to migration challenges and ensure rapid and effective access to protection.
 - Ensure that migration policies are planned and coordinated with state, regional, and local institutions, civil society, and citizens, using a human rights approach.
 - Establish swift action protocols for emergencies to expand the capacity of the reception system and ensure people with protection needs are identified and referred to the appropriate protection channels, guaranteeing financial and institutional sustainability at all times. The goal of these channels must be inclusion.
 - Create an emergency pool to have the specialized human and economic resources necessary to effectively process asylum applications when large numbers of people arrive, thus avoiding the collapse of the asylum procedure. This pool should include:
 - Bolstering the number of specialized and medical personnel to detect people with specific needs and vulnerabilities.
 - Systemic periodic reviews (at least every six months), which should include contributions from civil society by opening participation channels (for example, regular consultations).

Contingency planning:

- Prioritize the development of realistic contingency plans and include organizations that work in the reception of international protection applicants. These plans must include a provision for quickly increasing reception places, taking into account those available in the Member State's own and external resources.

Migratory instrumentalization:

- Do not use the concept of instrumentalization in a systematic and generalized manner.
- Explicitly exclude organizations working in humanitarian assistance from the concept of “hostile non-state actor that encourages or facilitates movement.”
- Refrain from making the general interpretation of migration as a threat to public order or national security: to this end, prevent the criminalization of migration and migrants.

On the other hand, Member States may limit access to organizations (such as CEAR) and authorized persons such as lawyers to assist asylum seekers when the Member States consider that they may pose a risk to “security or public order” in situations of crisis or force majeure.

The deadlines for assuming responsibility are also overturned and the transfer period is extended to one year.

Regarding these and other derogations and exceptions to asylum rules, CEAR makes the following recommendations:

- Refrain from applying derogations without prior assessment by the Commission of their impact on people's rights and the final decision of the Council. The Commission must always ensure that the rights of those affected by this situation are guaranteed.
- Process all asylum applications through the ordinary procedure when the measures in the National Contingency Plan are not sufficient to address the crisis.
- Do not extend the duration of border procedures: refrain from using the repeal to extend the maximum time for the border return and asylum procedure in situations of crisis or force majeure.
- Permanently halt transfers to the Member State in crisis that has been determined responsible for examining the request, applying the discretionary clause of sovereignty so that the other Member State assumes responsibility for studying the case.
- Guarantee access by organizations and lawyers to asylum seekers detained or present at border crossing points at all times, without limiting their presence or the possibility of assisting people for any reason.

Regarding the duration of exceptional measures in situations of crisis or force majeure:

- Do not apply repeals except when strictly necessary to address a crisis for a maximum of one year. To this end, Spain must ensure that exceptional measures such as delayed registration of asylum applications and extended procedures do not affect people with special needs or children.
- Create an expert unit to evaluate whether the well-prepared system is overwhelmed by the arrival of a large number of people and notify the Commission and the Council when the capacity of a Member State's system is exceeded.
- Withdraw exceptional measures immediately after crises or force majeure situations are ended. The expert unit will monitor the situation every week, ensuring that exceptional measures are only maintained for as long as strictly necessary.

Block 9: Legal safeguards, protection in vulnerable situations, and monitoring

This block includes all the regulations aimed at bolstering protection and ensuring compliance with the rights and safeguards of international protection applicants, especially unaccompanied minors, families with children, single women, and mothers.

Member States must guarantee the effective application of the rights and safeguards related to international protection and recognized in the Asylum Procedures Regulation and the Reception Directive, *inter alia*: the right to information, legal counsel and legal assistance, to an interpreter, the right to remain and to an effective remedy (although appeals do not have an automatic suspensive effect in many cases), the right to early identification of special needs, to detention as a last resort (guarantee of individualized examination and prohibition if health is at risk), in addition to special guarantees to protect children, especially those without family referents.

To monitor compliance with this principle, and especially the principle of non-refoulement, Member States must establish an independent monitoring mechanism during screening and border procedures. This mechanism must have sufficient capacity and budget to investigate complaints and guarantee victims access to justice. It may involve civil society organizations in its operation and, at the very least, must establish and maintain close links with them.

Likewise, Member States must develop clear and accessible information material so that applicants understand their rights and obligations; identify and address potential deficiencies in free legal assistance and legal representation; review procedures for the early identification of vulnerabilities and specific needs; establish legal alternatives to detention and ensure that it is not systematically applied to minors except in exceptional cases and for as short a time as possible; adapt procedures to guarantee individualized, priority assessment of the best interests of the child, strengthening child protection systems; and launch the process of multidisciplinary age assessment and appointment of guardians for children without family referents.

Spain must ensure full compliance with all the safeguards of the international protection procedure throughout the entire procedure in its national implementation plan, regarding ordinary and accelerated procedures, border procedures, and applications submitted posteriorly. To ensure adequate attention to applicants' special needs, especially the needs of people in vulnerable situations, and effective implementation of all the safeguards established, CEAR makes the following recommendations:

- Right to be heard
 - Personal interview: guarantee intercultural mediation in national legislation, as well as free legal assistance in personal interviews and ongoing training for interviewers and staff in charge of assessing applications, in matters of gender, interculturality, identification of vulnerabilities, human rights approach, non-discrimination, etc.
 - A real and effective hearing procedure following the terms of Art. 82 of the Law of Common Administrative Procedure of Public Administrations after incorporating the investigation report, COI information, and other expert reports into the file by the decision-making authority, allowing the applicant and their lawyers to access them before making a decision to guarantee the right to be heard.
- Right to an effective appeal
 - Guarantee the automatic suspensive effect in national legislation: ensure the right to an effective appeal in all proceedings by guaranteeing an automatic suspensive effect during the period for lodging the appeal and, once lodged, until its resolution, complying with the standards established by the European Court of Human Rights (ECHR) in the ruling *A.C. v. Spain* (Application No. 6528/11).
 - Reform the law on administrative litigation so it includes the maximum time limits for filing appeals established by the Asylum Procedure Regulation, ensuring there is effective access to all procedural safeguards and respect for the principle of equality of arms during these appeals, as established by the CJEU (C-755/19).

- Free legal assistance
 - Maintain the existing safeguards of the current internal legal system and the Law on Free Legal Assistance regarding the guarantee of free legal assistance and representation throughout the entire international protection procedure, both in the administrative and judicial phases, without exceptions or limitations.
 - Enable access to this fundamental right for all asylum seekers without lowering standards regardless of whether their application is channeled through the ordinary asylum procedure, accelerated asylum procedure, border procedure, or is a subsequent application.
 - Legal specialization: free legal assistance must be specialized, funding specialized legal services offered by NGOs, their ongoing training, and that of bar associations, among others.
- Right to information:
 - Ensure access to information tailored to the specific needs of the person at the time of registration of the asylum application at the very latest and throughout the procedure.
 - Ensure that information is provided on an individual basis from screening onwards, in determining the responsible Member State, and during the international protection procedure, if necessary orally and by preparing additional information material to accompany that of the EUAA, including a human rights, gender, age, intersectionality, LGBTIQ+ and functional diversity perspective.
 - Provide an information brochure on all the applicant's rights from the moment of formulating the international protection application and at the time of registering the application.
 - Ensure that the primary responsibility for providing this information lies with the registration authorities, which may be supplemented but not replaced by that provided by NGOs specializing in the sector and other entities included in the Procedure Regulations.
- Right to an interpreter: ensure access to quality interpretation in a language the applicant understands at the time of registration of the asylum application at the very latest and throughout the procedure. This implies:

- Bolstering translation and interpreting resources to offer access to this right from the moment the application is registered: demanding strict quality criteria in tenders for providers of these services and the availability of on-site interpreters for the main languages and sign language according to arrival forecasts.
- Ensure that translations are covered by public funds, whether or not they are subsequent applications.
- Establishing a protocol for individualized assessment of specific needs both in the procedure and reception, which begins as soon as the wish to request international protection is expressed and ends 30 days later, with clear indicators, review mechanisms for new signs of vulnerability, a gender and childhood perspective, sufficient resources and training for all staff. This protocol must establish channels for referral to medical, psychological, psychiatric, and other professional services and specialized entities to immediately address the needs of victims of torture, trafficking, and violence, among others.
- Specialized training for staff who receive, register, and process international protection applications, as well as staff in the reception system, including specialized courses on the detection and evaluation of special needs from a gender perspective, disability, intersectionality, human rights, childhood, and human trafficking.
- Addressing specific needs exclusively in the ordinary asylum procedure; in the assessment of specific procedural needs, from the moment it is detected that an asylum seeker has specific needs, their application must be channeled through the ordinary procedure and, in any event, they must be automatically excluded from accelerated and border procedures to adequately guarantee their rights and the attention to their needs for effective access to the right to asylum.

Children: guarantees for protection and children's rights

- Ensure all the safeguards of the international protection procedure in applications submitted by minors, applying a childhood perspective

throughout the entire procedure and prioritizing the best interests of the child in all procedures, especially when they are to be transferred to another Member State, during which it must be guaranteed that they will receive adequate protection and assistance.

- Exclude all children from border and accelerated procedures, since the locations where these procedures are conducted will never be suitable for children: there is a risk of deprivation of liberty, and access to health and education is hindered for two months after having expressed the desire to seek asylum, as required by the Reception Directive, among other reasons.
- Ensure the participation of unaccompanied minors and their right to be heard in all matters affecting their rights. Spain must implement streamlined procedures to appoint, within 15 days, legal guardians to accompany minors through the asylum procedure and temporary representatives in the meantime.
 - Assess the suitability of the same person representing the minor from the moment of arrival through the entire international protection procedure.
 - Enact a law on age assessment procedures that ensures that multidisciplinary tests are conducted to determine age and improve these processes so that they prevail over medical tests, always ensuring the best interests of the minor and that such tests are only performed if the minor has no supporting document, as established by the Supreme Court and in line with Opinion No. 11/2017 of the Committee on the Rights of the Child¹⁶.

¹⁶ According to the Committee, age assessments should only be conducted when there are serious doubts about a person's age, since age must be verified on the basis of documents or statements provided by the person concerned. In these procedures, Member States must take a multidisciplinary approach and consider not only the physical appearance of the individual, but also their psychological maturity. If doubts persist after the procedure has been concluded, the interested party must be given the benefit of the doubt (Opinion, para. 8.2). The Opinion also recalls the following recommendations from the Ombudsman: (a) a multidisciplinary approach to age assessment must be adopted and medical testing should be used as a last resort when there are serious doubts about the age of the person; (b) the child must be informed and given the opportunity to grant prior consent; (c) the person must be presumed to be a child during the age assessment process and protective measures be taken, such as the appointment of a legal representative to assist the person throughout the procedure; (d) the testing must be carried out with strict respect for the rights of the child, including the right to dignity and physical integrity; (e) the child's right to be heard must be respected; (f) the person must be given the benefit of the doubt if the results of the procedure are inconclusive; (g) a request for protection must not be refused based solely on the refusal to undergo medical testing; and (h) an effective appeal procedure must be established, through which decisions based on an age assessment procedure may be challenged.

- Strengthen the child protection systems of the Autonomous Communities so that they comply with the minimum safeguards of the Reception Directive and have the capacity to meet the deadlines for appointing legal guardians and provisional representation in the meantime. Specialized training in international protection must be included in the training plans of staff in child protection systems to comply with the obligations of the Procedures Regulation.

Independent monitoring mechanism for fundamental rights

- Establish the independent mechanism for monitoring compliance with fundamental rights as stipulated in the Screening and Asylum Procedures Regulations for all monitoring and control activities at the external borders. Its operations should include the involvement of the Ombudsman, the European Agency for Fundamental Rights, the UNHCR, and civil society organizations with the mandate to investigate and propose sanctions in the event of violations of fundamental rights at the borders and active legitimacy to refer these violations to the corresponding criminal or civil procedures.

Block 10: Resettlement, inclusion, and integration

In this building block, the European Commission includes provisions on safe legal pathways to protection, with a focus on increasing resettlement commitments and ensuring access to rights and social inclusion of international protection beneficiaries in coordination with civil society entities.

In this sense, the Pact aims to establish a permanent framework and a harmonized procedure for resettlement across the EU, replacing existing ad hoc schemes with two-year plans. Each two-year plan sets the number of people who may be admitted via resettlement (at least 60% of the total), humanitarian admission, and emergency admission, the (voluntary) contributions of each Member State, and the list of priority regions or countries of origin.

Furthermore, the Qualification Regulation unifies and clarifies the rights of international protection beneficiaries. Among other new developments, Member States must issue residence permits and travel documents within 90 days,

valid for more than 1 year and which guarantee the maintenance of the family unit. They must also take measures to expedite the recognition of qualifications and have sufficient capacity to ensure access to education, equal employment, freedom of association and membership, social security, health care, early integration measures, and access to housing.

CEAR's recommendations regarding *block 10* in the National implementation plan

Resettlement

While the Regulation establishing a European Framework for Resettlement and Humanitarian Admission is binding, Member States' participation is voluntary and they can continue to implement their own parallel national resettlement programs. To enable access to this safe legal pathway for the maximum number of people in need of protection, CEAR makes the following recommendations:

- Make ambitious resettlement commitments in the two-year European resettlement plans and ensure complementarity with national plans. To do this, Spain must:
 - Commit mainly to admissions through resettlement rather than humanitarian admission, which is less protective and entails lower protection standards.
 - Assume a leading role in the High-Level Resettlement and Humanitarian Admission Committee and guarantee the participation of civil society entities and international organizations in said Committee.
- Regarding admission, denial and prioritization criteria:
 - When prioritizing resettlement applications, the focus should be on the protection needs of individuals and never on discriminatory criteria based on the person's nationality or religion.
 - Apply only the denial criteria established by the Geneva Convention and ensure the protection of refugees in need of resettlement.
 - Notify the affected persons of the decision granting or denying resettlement and guarantee their right to an effective appeal.

Refugees' access to rights and social inclusion

While it is positive that the Qualification Regulation extends the recognition of rights to international protection beneficiaries, in Spain numerous administrative barriers prevent effective access to economic, social and cultural Rights (ESCR), in addition to racism and xenophobia. To advance toward effective equality in access to the right to employment, health, education, and housing for refugees and to promote their social inclusion, CEAR makes the following recommendations:

- Guarantee equal treatment in international protection beneficiaries' access to Economic, Social and Cultural Rights (ESCR).
- Eliminate the obstacles that impede the financial inclusion of beneficiaries. To this end, guarantee the right to open bank accounts and access to financing, as well as to programs and resources such as the Minimum Basic Income and guaranteed income in different autonomous communities.
- Right to education:
 - Ensure immediate and continuous access to education for children and adults at all levels, including classes for Spanish and co-official languages if the beneficiary resides in an autonomous community with a co-official language.
 - Exclude from Spanish legislation any exceptions to scholarships and study loans for adult beneficiaries of international protection, giving these persons the same opportunities to access scholarships as nationals.
 - Possession of diplomas or qualifications: expedite the periods for homologation and validation of academic degrees and make the requirements for obtaining study visas more flexible, thus facilitating access to educational and training programs in Spain for nationals of third countries.

- Right to employment:
 - Facilitate workplace insertion for refugees by validating their technical and professional skills, recognizing their professional qualifications quickly and free of charge, in addition to promoting training and employment programs. Specifically:
 - Establish a specific scheme for recognizing the qualifications of international protection beneficiaries, taking into account exceptions due to their protection status, such as not requiring documentation from the country of origin.
 - Guarantee the accreditation of professional experience provided by the Ministry of Education and Vocational Training so that international protection applicants and beneficiaries can access said accreditation¹⁷.
- Right to social security:
 - Ensure that the time elapsed while a person was applying for international protection is counted for social security and social assistance benefits that require a minimum period of residence in Spain.
 - Do not opt for mandatory integration measures for international protection beneficiaries but offer inclusion programs in which they can participate voluntarily, depending on their needs. Under no circumstances should access to social security benefits and social assistance be linked to participation in these programs.
- Right to housing:
 - Guarantee equal opportunities in access to housing for international protection beneficiaries under the same conditions as nationals, as laid out in current national legislation.
- Right of access to documents:
 - Automatically issue provisional documentation: issue the temporary document stipulated in the Qualification Regulation when

¹⁷ Ministry of Education, Vocational Training and Sports. (2024). Accreditation of Professional Competencies. <https://todofp.es/acreditacion-de-competencias.html>

communicating the decision that grants international protection to guarantee the person's effective access to all rights.

- Provide more resources to guarantee documentation: provide sufficient material and human resources to meet the 90-day deadline for issuing documentation to international protection beneficiaries.
- Prevent expiry of residence cards: Spain must issue a temporary document guaranteeing the continuity of the authorized period of stay 60 days before the expiry of residence permits for international protection beneficiaries until the permit is renewed.
- Establish equal rights for all beneficiaries of international protection (refugee status and subsidiary protection), following a positive inclusion approach, as permitted by the Qualification Regulation. This involves the following measures, among others:
 - Ensure that the documentation remains valid for 5 years in both cases.
 - Do not restrict access to social services to people with subsidiary protection.
- Expansion of family:
 - Maintain the family unit: issue residence permits to family members of all international protection beneficiaries.
 - Restrictive interpretation of exceptions to family extension: Bear in mind the complexity of assessing the intention of the marriage (whether it was performed solely to obtain authorization to enter and reside) and always prioritize the principle of the family unit.
 - Apply the family extension to other close relatives, including siblings living together and dependent adults: Spain must take advantage of this possibility of the Qualification Regulation.

CONCLUSIONS

In this document, CEAR makes a series of recommendations for implementing the new European guidelines on the management of migration and asylum from an approach based on human rights and the protection of migrants and refugees. Through each thematic block, deficiencies and potential setbacks in the protection of fundamental rights are identified, especially for vulnerable groups, who are affected by measures such as prior entry screening and accelerated border procedures, among others:

Firstly, the collection and storage of biometric data through Eurodac (block 1) presents a significant risk to human rights, especially for children. The possibility of using coercive measures to obtain fingerprints, alongside the lack of adequate safeguards to protect digital rights, is concerning. Given the potential risks of violation of fundamental rights and the increased criminalization of migrants and refugees, CEAR recommends restricting requests for data to fingerprints rather than facial images to avoid racial and discriminatory profiling, strictly limiting personal data checks to the purposes of prevention, detection, and investigation of the most serious crimes and conducting a prior impact assessment on the data protection rights of the affected persons, among other measures. CEAR also stresses the importance of complying with the principles of data minimization and limitation to protect the right to privacy and fundamental rights.

As regards border management and border procedures (block 2), the “legal fiction of non-entry” and the excessive use of detention during screening exacerbate the situation of persons applying for international protection. These practices not only delay access to asylum but may also violate fundamental rights since applicants do not have access to all the legal safeguards from the outset. CEAR highlights the need for clear protocols for national law enforcement authorities that avoid racial profiling and include assistance in screening from NGOs specialized in detecting vulnerabilities, and alternative measures to detention, especially for children and people in vulnerable situations.

The reception system (block 3) also faces significant challenges. While some regulatory progress has been made, concerns remain about restrictions on the right to freedom of movement and limited access to employment for international protection applicants. The poorly defined concept of “adequate standard of living” and the possibility of reducing reception conditions in certain situations is a setback in the process of inclusion and autonomy of refugees. CEAR advocates for dignified reception conditions adapted to the specific needs of applicants, including a focus on the protection of children and vulnerable groups at reception centers.

On the other hand, both ordinary and accelerated asylum procedures (block 4) are jeopardized by the expansion of assumptions and deadlines that make it difficult to properly assess applications. More specifically, the mandatory use of accelerated procedures when there is a high volume of applications poses serious risks of discrimination and unequal treatment. Furthermore, the notion of a “safe third country” based on bilateral agreements with the EU introduces uncertainties and serious risks related to the guarantee of rights in the asylum process. A thorough review of the procedures is recommended to ensure that fundamental rights and guarantees are maintained in all types of procedures and that each case is assessed using clear and non-discriminatory criteria.

Block 5 on returns also raises relevant concerns, especially regarding forced procedures and extended detention periods in crises. Although European regulations aim to speed up returns, it is crucial that procedural guarantees are respected and alternatives to detention are sought during the procedure. CEAR highly recommends that detention periods not be extended without justification and that effective appeals with automatic suspensive effect be guaranteed to avoid violating the principle of non-refoulement.

The reform of the Dublin Regulation, which has been the subject of criticism for years, also reveals several limitations (block 6). Despite the amendments proposed by the AMMR, disproportionate pressure remains on countries of first entry, such as Spain, by maintaining the criteria for determining responsibility. The focus on externalizing borders, and the tightening of reception conditions in cases of secondary movement, limit the rights of migrants and refugees. CEAR's

recommendations for managing migration and asylum focus on creating a structural reception system prepared to anticipate and respond to emergencies, thus promoting safe legal pathways for those seeking protection, and cooperation between Member States for shared and equitable migration management.

Another highlight is the solidarity mechanism (block 7), which is flexible and non-binding but also poses limitations in its implementation. The focus of the Pact and this mechanism remains on border externalization and cooperation with third countries. CEAR considers it essential that solidarity focuses on the protection of people and not on restrictive or containment measures.

Although necessary, contingency measures in situations of migration crisis (block 8) pose risks to the rights of asylum seekers. The use of ambiguous concepts such as “instrumentalization of migration” could lead to interpretations that criminalize humanitarian activities. In addition, temporary derogations of asylum rights in these situations delay and impede access to the international protection procedure, and create a parallel asylum system with fewer safeguards. To address crises, CEAR recommends ensuring a stable and well-prepared asylum system and not applying derogations beyond what is strictly necessary and always on well-founded grounds.

Block 9 highlights the importance of guaranteeing the rights of persons seeking international protection throughout the procedure, especially those in vulnerable situations. There are concerns about the penalization of applicants for failing to comply with the new obligations imposed on them, the restriction of the right to remain, and the application of accelerated procedures, especially for children. CEAR recommends ensuring that guarantees are respected in all asylum procedures, establishing individualized assessments, and excluding children from border procedures.

Lastly, given the need to expand safe legal pathways for offering international protection, the new European Resettlement and Humanitarian Admission Framework (block 10) was approved. However, participation in this resettlement framework is not binding, which may limit its scope if Member States are unwilling to participate and comply with these programs. On the other hand, the inclusion

process for refugees is another critical point. Despite some progress, such as the recognition of rights for international protection beneficiaries, administrative and social barriers such as racism and xenophobia have been identified that hinder access to fundamental rights for refugees. Furthermore, restrictions on the movement of international protection beneficiaries between Member States are maintained, which is incompatible with a harmonized Common European Asylum System. CEAR recommends a stronger commitment by Member States to participate in resettlement programs and to eliminate obstacles that prevent refugees from enjoying full social and economic inclusion.

In short, current EU migration and asylum regulations and practices pose significant risks to human rights. Migration and border management must be based on guaranteeing the right to asylum and the protection of the rights of migrants and refugees, while always respecting international human rights standards.

GLOSSARY OF TERMS AND REFERENCES

UNHCR: United Nations High Commissioner for Refugees

APR: Asylum Procedure Regulation

BMVI: Border Management and Visa Instrument

CATE: Centers for the Temporary Attention of Foreigners

CFREU: Charter of Fundamental Rights of the European Union

CEAR: Spanish Commission for Refugee Aid

ECHR: European Convention on Human Rights

COI: Country of Origin Information

CIE: Foreigners Internment Center

LIBE committee: Committee on Civil Liberties, Justice and Home Affairs of the European Parliament

Geneva Convention: 1951 Refugee Convention

COREPER: Committee of the Permanent Representatives of the Governments of the Member States to the European Union

CREADE: Centers for reception, care and referral of displaced Ukrainians

HR: Human rights

ESCR: Economic, Social and Cultural Rights

ECRIS: European Criminal Records Information System

DPIA: Data Protection Impact Assessment

EUAA: European Union Agency for Asylum

EURODAC: European dactyloscopy asylum database

FRA: European Union Agency for Fundamental Rights

LPAC: Law 39/2015, of October 1, on the Common Administrative Procedure of Public Administrations.

OAR: Office of asylum and refuge

AMMR: EU Asylum and Migration Management Regulation

SAR: Search and rescue

CEAS: Common European Asylum System

ETIAS: The European Travel Information and Authorization System

SIS: Schengen Information System

ECHR: European Court of Human Rights

TFEU: Treaty on the Functioning of the European Union

CJEU: Court of Justice of the European Union

EU: European Union

VIS: Visas Information System

Stateless person: a person who is not considered as a national by any State under the operation of its law.

Schengen Area: free movement area formed by 29 European countries that have eliminated internal border controls since 1995, establishing common checkpoints at their external borders to facilitate the movement of people and trade.

Externalization of borders: a phenomenon that involves shifting the management of migration and asylum policies to third countries to prevent and contain the arrival of migrants and refugees.

Secondary movements: the movement of migrants, including refugees and asylum-seekers, who for various reasons move from the country in which they first arrived, to seek protection or permanent resettlement elsewhere.

Legal fiction of non-entry: the claim that a person “has not arrived” in the EU until authorized by the Member State, regardless of whether they have set foot on European soil. This means that migrants run the risk of spending months in detention conditions. Introducing this concept entails the risk of a potential violation of the EU Convention on Human Rights and the ECHR ruling on what is considered an exercise of jurisdiction by a State Party. If the person is under the effective control of the authorities of the Member State, all binding human rights protection rules apply.

Adequate capacity: the required number of persons to be processed in the border procedure, which may be a target or a minimum number. There is an overall EU adequate capacity (overall number to be processed in border procedures during a given year) and an adequate capacity per Member State (overall number of persons to be processed in border procedures during a given year). The adequate capacity of each Member State is calculated by taking the overall number of the EU multiplied by the number of “irregular” entries from the country in question, divided by the overall number of irregular entries.

Discretionary sovereignty clause: clause whereby, by way of exception to the provisions of Article 16.1 of the AMMR, a Member State may decide to examine an application for international protection lodged by a third-country national or a stateless person who has been registered in that Member State, even if this examination is not its responsibility under the general criteria and principles for access to the procedure for examining an application for international protection set out in that Regulation. Discretionary clauses are regulated in article 35 of the AMMR.

Connection criterion: criterion that must be met in order to apply the concept of “safe third country”. The Procedures Regulation stipulates that the connection between the applicant and the safe third country may be considered established, in particular, when members of the applicant's family are present in that country or where the applicant has settled or stayed there.

Children: The Convention on the Rights of the Child defines a child as every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier. For UNICEF, the term “child” includes both boys and girls and adolescents of different sexes.

Prima facie recognition: Used in the field of international protection to refer to the group determination of the recognition of refugee status by a Member State or by UNHCR based on obvious and objective circumstances in the country of origin or, in the case of stateless asylum seekers, the country of their previous habitual residence. A prima facie approach recognizes that those fleeing these circumstances are at such risk of harm that they fall within the applicable refugee definition.

Refugee: a person who is outside their country of origin due to a well-founded fear of persecution for reasons of political opinion, religion, ethnicity, nationality or membership of a particular social group, and who consequently requires international protection. The definition of a refugee can be found in the 1951 Geneva Convention and in regional instruments related to refugees, as well as in the UNHCR Statute.

Asylum or international protection applicant: A person who has formally requested international protection and recognition of their refugee status and has not yet received a definitive response from the authorities.

Dublin system: Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person. According to this Regulation, the Member State responsible for processing asylum applications is the applicant's first country of entry, among other criteria.

One-stop shop for asylum: Groupings of all the different procedures that citizens must carry out before the Public Administration for a particular purpose together in a single instance or entity. CEAR proposes a one-stop shop for asylum, like the CREADEs implemented in response to the emergency in Ukraine, which function as spaces for registration, documentation and access to the procedure for all applicants for international protection, regardless of their place of origin.

ANNEX: TABLE OF RECOMMENDATIONS

Blocks	RECOMMENDATIONS FOR IMPLEMENTING THE EPMA FROM A PROTECTION
Block 1 Eurodac and common information systems	<ol style="list-style-type: none"> 1. Limit the request for fingerprint data to facial biometrics. 2. Strictly limit personal data checks for the purposes of preventing, detecting, and investigating serious crimes under the criteria of necessity, suitability, and proportionality when there is specific and well-founded evidence. 3. Establish a Data Protection Impact Assessment (DPIA) in advance as stipulated in the European data protection law (GDPR). 4. Determine the grounds, requirements, and specific cases in which interoperability tools will be used. 5. Individualize each operation and provide those affected with all the appropriate and relevant information in the context of a decision. 6. Establish alternatives to coercive measures that are less injurious to people's rights. 7. Guarantee the right to information; ensure that the people impacted know and understand the data being collected and why the data processing is necessary by preparing informative leaflets written in clear, comprehensible language, translated into the main languages of the people who enter Spain and, failing that, with the assistance of an interpreter. 8. Establish an independent mechanism for overseeing and monitoring that fundamental rights are respected (see block 9) that includes powers to monitor respect for the dignity and physical integrity of persons during the collection of biometric data. 9. Comply with the principle of data purpose limitation and minimization by justifying data processing individually and establishing exhaustive control over the legality of personal data processing to safeguard the right to privacy and data protection. 10. Ensure that fingerprinting and facial imaging of children are taken on an individual basis after assessing the best interests of the child. 11. Apply the “benefit of the doubt” when a person’s age is unclear or under question. 12. Ensure that the person responsible for taking biometrics is unarmed, not wearing a uniform or carrying potentially intimidating elements, and is trained a human rights, children's rights and intersectional perspective. 13. Restrict the use of data contained in Eurodac corresponding to minors under 14 years of age.

Block 2

Management of external borders and border procedures

1. Ensure immediate access to the international protection procedure during screening from the moment a person expresses their desire to apply for asylum by registering their application as soon as possible and within 24 hours at most.
2. Ensure adequate provision of resources (technological, material, economic, and human) so the screening procedure can be conducted as quickly as possible and at most within 72 hours.
3. Ensure preliminary vulnerability screening: screening authorities should be supported by specialized NGOs, offer support services to vulnerable individuals at screening sites, and immediately refer persons to existing protection procedures when there is even the slightest evidence of vulnerable situations.
4. Plan for an appropriate place for screening, ensuring that asylum seekers can enjoy all the reception rights and conditions established in the Reception Directive. Under no circumstances should it be carried out at immigration detention facilities.
5. Maintain the standards and safeguards laid out in Spanish legislation for persons in screening (free legal assistance, right to an interpreter, health care, information, to be heard, and an effective appeal). Ensure access to urgent health care, including mental health and chronic diseases. Provide intercultural mediation services and unlimited access to legal counsel.
6. Ensure adequate training of screening personnel in human rights from a childhood perspective, gender, diversity and intersectionality perspective.
7. Establish an independent mechanism for overseeing and monitoring that fundamental rights are respected (see block 9) and which includes remit in the supervision thereof during screening.
8. Apply the border asylum procedure restrictively since it provides fewer guarantees: exclude persons in particularly vulnerable situations from the procedure, apply the most favorable criterion of the principle of family unit and when the deadlines for registration, formalization or appeal of the procedure are not met, the asylum application must be immediately transferred to an ordinary procedure.
9. Establish alternatives to detention in Spanish legislation and ensure that deprivation of liberty does not occur during screening and border procedures.
10. Guarantee the rights of persons under the responsibility of the Spanish authorities, even if the legal fiction concept of “no entry” is applied, including the right to request international protection and respect for the principle of non-refoulement.
11. Always guarantee the right of asylum seekers to remain during the administrative procedure and make no exceptions based on vague legal concepts such as “danger to national security and public order”.
12. Provide updated public information on the figure considered to be “adequate capacity”, resort to the possibility of suspending border procedures and channeling the remaining applications through the ordinary procedure once adequate capacity has been reached, and ensure compliance with the mandatory criteria.

Block 3 Reception systems

1. Clearly delineate the criteria for defining the concept of “adequate standard of living” in accordance with the CJEU ruling.
2. Expand specific protocols for preventing violence of all types in cases where they are not operational (for religious, racist, reasons, etc.) with clear measures and accessible information.
3. Do not reduce material reception conditions when the person does not participate in mandatory integration activities or in the case of subsequent applications. In the event of abandonment, participants should be allowed the possibility of re-entry. Likewise, refrain from limiting these conditions in the event of transfer pursuant to the AMMR.
4. Establish a protocol for assessing specific needs from the moment the international protection application is made and a tool to assess the best interests of the child in the case of unaccompanied minors, while adapting the reception conditions to their needs.
5. Create safe spaces at reception centers for women, children, LGTBIQ+ people, and other members of particularly vulnerable groups.
6. Maintain and expand the rights and freedoms of international protection applicants (right to information, freedom of movement, right to employment, education, health, and housing, among others) in accordance with the Reception Directive.
7. Apply the concept of risk of absconding in a restrictive and exceptional manner, avoiding arbitrary and discretionary decisions and making an interpretation appropriate to the situation of vulnerability and the protection needs of the individuals.
8. Establish less injurious alternative measures to detention. Avoid the detention of minors and people in vulnerable situations in all cases. In the event of detention, it should not occur in penitentiary centers, and access to civil society organizations must be ensured. Ensure that the safeguards established for detention also apply in airport and border transit areas.
9. Include the expanded concept of “family members” in internal regulations and apply broader and more flexible criteria to assess the family unit.

Block 4 Fair and efficient asylum procedures

1. Create a single administrative structure dependent on the Ministry of the Presidency that unites all powers in matters of asylum and refuge, with decision-making and management capacity, with a sufficient budget for its operation and mechanisms for consultation and participation of civil society.
2. Implement specialized and ongoing training for judges and provide them with sufficient resources (technical, human and technological) to carry out their work correctly within the time limits established in the new European regulations.
3. Maintain and expand the Reception, Care and Referral Centers (CREADE) as spaces for registration, documentation and access to the procedure and the “one stop shop for asylum” for all international protection applicants regardless of their place of origin.

Ordinary asylum procedure:

4. The asylum law must include the option to file an asylum application by any legal means and maintain the option of using a form to submit the application if it is impossible to be physically present, with subsequent ratification.
5. Use clear and specific criteria to define “disproportionate number” of applicants, distinguishing it from other concepts such as “migratory pressure”. Ensure that authorities other than the decision-makers are allowed to carry out interviews solely in this case, as an exception.
6. Do not place a deadline for submitting documents given the difficulties that applicants face in obtaining them.
7. Grant NGOs and civil society access to CIEs and border areas without requiring prior agreements with the authorities that go beyond prior communication and identification.
8. Take into account the UNHCR's criteria for reasonableness when evaluating the internal flight alternative in the asylum application assessment procedure.
9. Do not reject an international protection application based on needs that have arisen sur place following assessment of the applicant's intention to “create” these new circumstances.
10. The prioritization of the evaluation of applications must always be done in a justified and proportionate manner, not as an automatic penalty for certain behaviors described in the Asylum Procedure Regulations (e.g. violation of the rules of the reception center) and guaranteeing an individualized evaluation.
11. Do not extend the reasons for inadmissibility beyond those established in the internal regulations or include as a reason for inadmissibility the fact that 7 days have passed since the return order.
12. In accordance with our administrative procedure law, provide notification of the extension of the deadlines for the international protection procedure and the reason for said extension. In the event of retroactive proceedings by court order, establish a period of 2 months for the resolution of the administrative procedure.
13. Limit the implicit withdrawal of the asylum application due to non-compliance with the applicant's obligations, conduct an individual analysis, and justify the decision by communicating it in advance. Establish a period for the applicant to justify or rectify any omissions before proceeding with the withdrawal.
14. When assessing the seriousness of non-political crimes, the individual circumstances of the crime, the situation of the person and their individual responsibility as grounds for exclusion from recognition of international protection, the restrictive criteria established by the UNHCR and the case law of the CJEU must be used.
15. When applying the cessation and withdrawal of refugee status and subsidiary protection, Spain must include the criteria of the CJEU (Case C-8/22) which require a present, genuine and sufficiently serious threat. If the status is withdrawn, the principle of non-refoulement must be guaranteed, allowing a gateway to a residence permit and the rights established in the Geneva Convention.

Special international protection procedures:

16. Maintain the guarantees of the ordinary asylum procedure for accelerated procedures, border procedures and subsequent applications.
17. Apply the border procedure only in strictly necessary, mandatory and limited cases, after individualized analysis and without discrimination based on nationality.
18. Apply the jurisprudence of the Supreme Court (SCS 27 March 2013) solely to process allegations that are “obviously and patently” implausible through the accelerated procedure.
19. The burden of proof must be assumed to demonstrate the “bad faith” of the applicant in accelerated procedures, taking into account the protection needs that arise sur place due to the immediate absence of the asylum applicant.
20. Make restrictive interpretation of the mandatory application of the accelerated procedure to undocumented persons, in accordance with the Geneva Convention.
21. Always assess the applicant’s individual circumstances when applying an accelerated or border procedure based on nationality with a protection recognition rate lower than 20% of the European average.
22. Automatically refer to the ordinary procedure when vulnerable profiles or potential complexities in the assessment of the criteria for applying these procedures are detected, such as when examining whether the person represents a threat to national security or public order.

Safe country concepts

23. Refrain from creating a national list of safe countries and applying this concept in border or accelerated procedures, as they are less protective.
24. Update country of origin (COI) information before determining that a country is safe and take into account the multiple realities and specific discriminations and vulnerabilities of different categories of people, including LGBTIQ+ people, women, children, people with disabilities and victims of trafficking.
25. Hearing process to assess the application of safe country concepts.

Block 5 Returns

1. Ensure the right to an effective appeal and establish safeguards in national legislation for the automatic suspension of returns during the appeal filing period until the appeal is resolved.
2. Ensure alternative measures to detention and establish clear criteria for assessing the need and reason for detention.
3. Maintain the 60-day maximum confinement period even in crisis situations.
4. Improve voluntary return programs to ensure returnees receive support for their reintegration and that their rights are respected throughout the process.

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5. Refer those interested in undertaking a business project related to returns to special productive return programs.

Block 6
Determining
the
responsible
Member State
(Dublin)

1. Ensure a reception-based asylum and migration management system that is well prepared and sized and has a structural rather than occasional and preventive approach to address emergencies and reception needs.
2. Strengthen the Asylum and Refugee Office (ARO) by increasing the provision of material, human and technological resources, ensuring ongoing training in asylum and human rights, hiring more professionals in key areas such as application evaluation, mediation, interpreting, and psychological support, and strengthening the department specialized in country of origin information reports (COI), among other measures.
3. Ensure consistency with the recommendations of the Ombudsman, especially those aimed at solving the collapse of the online appointment system and existing obstacles to accessing the international protection procedure.
4. Expand safe legal pathways for those in need of protection, including clauses on respect for human rights in cooperation and migration management agreements signed with third countries, and address the root causes of forced displacement from a human development perspective.
5. Comply with the principle of solidarity and shared responsibility by prioritizing protection measures, strengthening the capacities of the reception system, and making greater commitments to relocation.
6. Preparing an annual public report evaluating the qualitative and quantitative impact of the measures implemented as part of the National Strategy for Asylum and Migration Management, taking into account recommendations from civil society organizations.
7. Responsibility for examining asylum applications: refrain from withholding the right to reception due to non-compliance with the obligations of asylum seekers, relax the requirements for obtaining study visas and promote access to educational and training programs, apply family reunification criteria broadly and flexibly, be somewhat flexible when assessing the documentation submitted, considering the unique difficulties that asylum seekers face.
8. Comply with the provisions of the CJEU ruling (Case C-648/11- MA and others) which maintains that transfers to another country do not respond to the best interest of the child, and, therefore, it should be understood that the Member State responsible must be the one in which the child is located.
9. Apply the discretionary clause when transfer to the responsible Member State poses a risk to the fundamental rights or safety of the applicant.

	<ol style="list-style-type: none"> 10. Promote effective coordination during readmission between the Member States of transfer and readmission to prevent creating situations in which transferred persons are unprotected; guarantee adequate information exchange with special focus on vulnerable situations. 11. Transfers: ensure the reception conditions of the Directive until the transfer and maintain a non-coercive transfer system without detention during the transfer. Inform people about the transfer within a maximum of 10 days from the decision to transfer. Apply the maximum period established for filing an appeal against the transfer decision, to guarantee the right to effective judicial protection, and ensure the automatic suspensive effect of the appeal. 12. Maintain the guarantees and rights of asylum seekers during the procedure for determining the responsible Member State. Specifically regarding the right to information, ensure there is free legal counsel and safeguards for children and adolescents.
Block 7 Solidarity	<ol style="list-style-type: none"> 1. Prioritize solidarity measures focused on protecting people and strengthen the reception system in the event of making financial contributions. 2. In the relocation procedure: the sovereignty clause must be applied and the asylum application of a person relocated from a Member State must be examined to prevent transfer to a third State and to ensure, in any case, that all existing links with another Member State are considered before proceeding with the relocation. Include a specific and detailed assessment of vulnerability in the relocation interview, with clear and non-exhaustive indicators. Ensure that all relocations are conducted with prior written consent, providing information that has been adapted to the specific needs of the affected person and ensuring the assistance of an interpreter.
Block 8 Contingency measures, preparedness, and crisis response	<ol style="list-style-type: none"> 1. Devote all Pact implementation efforts to ensuring the existence of a stable, sufficient, and well-prepared system to respond to migration challenges and guarantee rapid and effective access to protection, including: <ul style="list-style-type: none"> - A stable network of adequately equipped and sized reception centers. Develop migration policies planned and coordinated with national, regional, and local institutions, civil society, and citizens. - Swift action protocols for emergencies to expand the capacity of the reception system and ensure people with protection needs are identified and referred to the appropriate protection channels, guaranteeing financial and institutional sustainability. - An emergency pool with specialized human and financial resources to handle large numbers of arrivals, avoiding the collapse of the asylum procedure. Conduct periodic systemic reviews with the participation of civil society. 2. Prioritize the development of realistic contingency plans and include organizations that work in the field of reception of international protection applicants. 3. Limit the application of the concept of instrumentalization migration in a systematic and widespread manner. Explicitly exclude organizations working in humanitarian assistance from the concept of “hostile non-state actor that encourages or facilitates movement.”

	<ol style="list-style-type: none"> 4. Refrain from making the general interpretation of migration as a threat to public order or national security. 5. Refrain from applying derogations without prior assessment by the Commission and the final decision of the Council. 6. Process all asylum applications through the ordinary procedure when the measures in the National Contingency Plan are not sufficient to address the crisis situation. 7. Permanently halt transfers to the Member State in crisis that has been determined responsible for examining the request, applying the discretionary clause of sovereignty so that the other Member State assumes responsibility for studying the case. 8. Do not apply repeals except when strictly necessary to address a crisis for a maximum of one year, with regard to the duration of exceptional measures in situations of crisis or force majeure.
Block 9 Legal guarantees in the asylum procedure, protection of people in vulnerable situations, and monitoring of fundamental rights	<ol style="list-style-type: none"> 1. Ensure full compliance with all the safeguards of the international protection procedure throughout the entire procedure, both in the ordinary and accelerated procedures, border procedures, and subsequent applications. Additionally, establish a protocol for the individualized evaluation of specific needs. 2. Right to be heard: in personal interviews ensure intercultural mediation, free legal assistance, and ongoing training of staff in human rights, gender, interculturality, and identification of vulnerabilities, and guarantee a real and effective hearing process following the terms of art. 82 of the LPAC. 3. Right to an effective remedy: guarantee the automatic suspensive effect of domestic legislation, complying with the standards set by the ECHR in its judgment in A.C. v. Spain (Application no. 6528/11) and reform the law on administrative litigation to adapt it to the maximum time limits established by the Asylum Procedure Regulation for filing appeals, ensuring there is effective access to all procedural safeguards and respect for the principle of equality of arms during these appeals, as established by the CJEU (C-755/19). 4. Free Legal Assistance: maintain the guarantees of the Law on Free Legal Assistance and offer assistance and representation throughout the entire international protection procedure without exceptions or limitations. Enable access to this fundamental right for all applicants regardless of the type of procedure, without lowering standards. Assistance must be specialized, ensuring ongoing training for professionals and bar associations. 5. Right to information: Ensure access to information tailored to the specific needs of the person, at the time of registration of the asylum application at the very latest and throughout the procedure. 6. Right to an interpreter: ensure access to quality interpretation in a language the applicant understands, at the time of registration of the asylum application at the very latest and throughout the procedure. 7. Establishing a protocol for individualized assessment of specific needs both in the procedure and reception, which begins as soon as the wish to request international protection is expressed and ends 30 days later.

	<ol style="list-style-type: none"> 8. Ensure all the safeguards of the international protection procedure in applications submitted by minors, applying a childhood perspective and prioritizing the best interests of the child. Exclude all minors from border and accelerated procedures and guarantee their participation and right to be heard in all matters affecting their rights. 9. Ensure the participation of unaccompanied minors and their right to be heard in all matters affecting their rights. Spain must implement streamlined procedures to appoint, within 15 days, legal guardians to accompany minors through the asylum procedure and temporary representatives in the meantime. 10. Establish the independent mechanism for monitoring compliance with fundamental rights as stipulated in the Screening and Asylum Procedures Regulations for all monitoring and control activities at the external borders. Its operations should include the involvement of the Ombudsman, the European Agency for Fundamental Rights, the UNHCR and civil society organizations with the mandate to investigate and propose sanctions in the event of violations of fundamental rights at the borders and active legitimacy to refer these violations to the corresponding criminal or civil procedures.
Block 10 Resettlement, inclusion and integration	<ol style="list-style-type: none"> 1. Make ambitious resettlement commitments in the two-year European resettlement plans, ensuring complementarity with national plans. Commit mainly to admissions through resettlement rather than humanitarian admission, which is less protective and entails lower protection standards. 2. Focus on the protection needs of individuals when prioritizing resettlement applications. 3. Apply only the denial criteria established by the Geneva Convention and ensure the protection of refugees in need of resettlement. 4. Notify the affected persons of the decision granting or denying resettlement and guarantee their right to an effective appeal. 5. Guarantee access to rights and social inclusion for refugees: bolstering safeguards in the areas of equality and non-discrimination, education, employment, social security, housing, financial inclusion, documentation, family extension, and also opting for equal rights in refugee status and subsidiary protection.

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