

BOOSTING ASYLUM IN SPAIN – MAKING THE MOST OUT OF AMIF FUNDING

ECRE'S RECOMMENDATIONS FOR ASYLUM, MIGRATION AND INTEGRATION FUND (AMIF) SPENDING IN SPAIN



I. INTRODUCTION

Asylum applications in Spain rose from around 5460 asylum applications in 2014 to 118,264 in 2019, a sharp increase which is larger than in any other EU Member State, and which found the Spanish asylum and reception system substantially unprepared. The severe lack of reception capacity forced many asylum applicants into homelessness and destitution, while the failure to improve the quality of asylum procedures contributed to one of the lowest recognition rates for refugees in the EU.

For the afore-mentioned reasons, Spain will receive a significant increase in financial support from the Asylum, Migration and Integration Fund (AMIF) in the Multiannual Financial Framework (MFF) 2021 – 2027 of the EU. Ensuring that these resources are used to tackle the existing needs in the Spanish asylum system represents a crucial opportunity towards full compliance with EU standards. Like all EU Member States, Spain is currently finalising its AMIF national programme, which will indicate the spending priorities on asylum and migration for the coming seven years. It is important that this programme takes into account existing gaps in the asylum system identified by actors on the ground.

This Policy Note¹ points out the key investments that should be made in Spain to ensure compliance with the asylum acquis (particularly [Directive 2013/32/EU on asylum procedures](#) and [Directive 2013/33/EU on reception standards](#)). It includes specific recommendations for the AMIF objective to “Strengthen and develop all aspects of the Common European Asylum System” and builds on the [2021 AIDA report on Spain](#), the report Guaranteeing the right to asylum – How to spend AMIF and IBMF funding in Spain during 2021-2027, the preliminary [strategic framework for the national programme](#) published in May 2021, recommendations from civil society gathered in April 2021 and by the Spanish Forum for the social integration of migrants, in the opinion approved on June 2021.

II. ANALYSIS

PREPARE AUTHORITIES AT THE EU BORDERS TO PROVIDE ADEQUATE SUPPORT

According to the Asylum Procedures Directive, asylum applications can be presented to any authorities likely to receive them, such as police, border guards, immigration authorities and personnel of detention facilities. Findings

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from NGOs and the Spanish Ombudsman highlight however that potential applicants for international protection arriving in Spain do not systematically receive proper information on their rights, nor effective legal support and interpretation, and that effective access to a procedure is not always granted. Third country nationals often face personnel who are not equipped with the necessary level of training to provide them with appropriate information. In a number of cases, individuals unaware of the possibility to claim asylum end up in detention centres with very poor living conditions. Even from detention, access to asylum procedures has proved difficult due to the lack of information, of legal support and of transparency in the procedures. In a significant number of cases, police officers discourage applicants from making applications on subjective and discriminatory grounds.

AMIF support should be used to guarantee the right to apply for asylum to all third country nationals at Spanish borders, without discrimination on the basis of the applicant's nationality or where they access the territory. It should also address the obstacles to accessing the asylum offices in Ceuta and Melilla, which has been particularly difficult since the externalisation of aspects of migration management to Morocco. Funding used in cooperation with third countries must not support the practice of systematic pushbacks.

REMOVE OBSTACLES TO REGISTRATION

The increase in asylum claims in recent years has produced a significant backlog of applications, with applicants waiting for long periods before getting an appointment to be interviewed by the Asylum and Refugee Office (OAR) or by police at police stations. This slows down the registration of asylum applications and – consequently – applicants' opportunities to access material reception conditions. Due to the lack of human resources, asylum seekers often have to queue repeatedly for many hours before registering their application. To improve the situation, Spain aims to invest in strengthening the functioning of OAR, and to develop an online application system that facilitates the electronic processing of the international protection and statelessness files. Adequate financing should also go towards increasing human resources and possibly to investing in decentralised OAR offices. Training should also reach the local level of police stations, where 99% of asylum claims are registered. With regards to online applications, the right of applicants to directly access information about their procedure online should be ensured to enhance the transparency of the system. Digitalisation could also facilitate the collection of useful information for the interviews (language, special needs, family composition, etc).

IMPROVE THE QUALITY OF INTERVIEWS BY INVESTING IN PERSONNEL AND FACILITIES

The phase of lodging applications when applicants are interviewed about the substance of their asylum claim, encounters serious dysfunctions. The waiting period between the registration and the interview varies considerably across Spain. It can exceed one year in certain provinces, due to a shortage of personnel. In addition to the lack of human resources, the quality of their preparation is often poor: while OAR is the determining authority in charge of deciding on applications, most of the interviews are conducted by the police, who often lack adequate preparation and training, and in certain cases obstruct access to procedures. The lack of specialisation of many police officers seriously compromises the instruction procedure. The problem is exacerbated in the case of children, or of vulnerable applicants (who might have experienced torture or gender-based violence, or may be potential victims of trafficking, or have other special needs). In summary, the quality of interviews varies considerably depending on where and by whom it is carried out. In addition, the lack of adequate spaces for interviews, guaranteeing privacy to applicants, is a widespread problem in police stations across the country. A similar problem is the lack of space in border crossing points for individual meetings between applicants and their lawyers.

Finally, adequate investments are urgently needed to provide equal access to interpretation for all applicants. The system has a serious shortage of interpreters that affects the interviews (and opportunities) of many applicants, especially those who do not speak English, French or Arabic. Interpreters often lack appropriate expertise in the asylum and migration field, as well as in interpretation techniques, and in some cases interfere in the interviews with subjective considerations.

AMIF should support the development of a plan to increase OAR's personnel and decentralise offices so that all interviews are conducted by OAR staff. Personnel should receive specialised, in-depth training on how to conduct an interview and detect special needs, in line with the Ombudsman's recommendations. EASO's assistance in improving the standards of interviews could be envisaged. Police personnel should also be trained and receive specific instructions on applicants' rights to legal assistance. Existing recommendations from the Spanish Ombudsman concerning interpretation should be implemented.

SUFFICIENTLY EXPAND THE RECEPTION SYSTEM

The vast majority of asylum applicants do not dispose of economic resources to support themselves throughout the procedures and need to rely on the national reception system. The current system is divided into three steps, including a preliminary phase of assessment/ referral, of not more than 30 days, a first "reception" phase, which should last the length of the asylum procedures, and a second phase, where beneficiaries of international protection move out of reception facilities and are provided with financial support for 12 months, after which they are supposed to live autonomously (longer support is granted to vulnerable groups).

With only 9975 places in the first phase, the system suffers from a chronic shortage of places for asylum seekers, which creates long waiting lists and extends the time of accommodation in the preliminary phase, which relies on precarious solutions (hotels, etc). Many applicants are forced into homelessness and destitution also due to the

mismatch between the location of available reception places and that of the people. The overwhelming majority of the existing places are managed by specialised NGOs in cooperation with the public administration (97%), mainly through private housing, while 416 are provided in 4 centres managed by the Ministry of Migration, Inclusion and Social Security (MISSM).

The national government has expressed the willingness to use AMIF resources to double the reception places, bringing it to 20,000 places, and increasing the state's involvement in reception (to cover up to 33% of the places). The increase in reception places is urgently needed, and this commitment is highly welcome. However, the proposed increase is still inadequate. At least 30,000 places would be needed to match the increase in applications. Also, rebalancing the reception role between the state and NGOs might undermine one of the strong points of Spain's reception system, which is the use of small housing units, which are generally well-integrated in the communities, which in turn facilitates integration and access to mainstream services. To ensure continuity and stability in this approach, it is important to maintain the role of civil society, and to replace annual calls for proposals with longer term funding so that service providers can plan.

ENSURING THE QUALITY OF THE RECEPTION SYSTEM

The lack of transposition of the Reception Conditions Directive (RCD) creates a system which is highly diversified and struggles to ensure uniformity. Standards are currently set by a management handbook from the Ministry, which does not have legal value and is frequently amended (services providers are not always notified of changes). Common standards and monitoring mechanisms are urgently needed, although they should include some flexibility to allow for innovative projects.

The situation differs considerably in the temporary reception centres of Ceuta and Melilla. These are systematically overcrowded, suffering from insufficient health services, poor sanitary conditions and inadequate accommodation of families and vulnerable groups (conditions further exacerbated by the Covid-19 pandemic). Urgent investments to address such deficiencies cannot wait. The increase of arrivals in the Canary Islands throughout 2020, was addressed through makeshift means, which produced deplorable living conditions criticised by NGOs and international actors alike. AMIF EMAS funding supported the construction of big, temporary reception camps, which should only be kept as a short-term solution. In the absence of quality reception facilities on the islands, the transfers of all applicants to mainland facilities under the reception system should be immediate.

Finally, the chronic shortage of reception places is often addressed by using facilities from the Humanitarian Assistance programme, which has lower standards. Existing disparities in the quality of reception should be addressed with sufficient resources, and by prioritising small reception solutions in communities. The expansion of the reception system should take into consideration the specialised services for legal and psychological assistance developed by NGOs for the facilities that they manage, which should be replicated elsewhere.

AVOID TWO-TIER SYSTEM

The government proposal aims at developing a basic, standardised system complying with the RCD, and a reinforced reception system for applicants with higher chances of recognition. The aim of respecting the RCD as a baseline and the willingness to invest in better tailored services are positive, however this particular provision is highly discriminatory and should not be implemented. As the proposed programme does not clarify how it will identify asylum applicants more likely to get recognition, this might lead to discriminations on the basis of nationality, which should be avoided.

RECEPTION OF VULNERABLE GROUPS WITH SPECIAL NEEDS

Applicants with specific reception needs are allowed to stay in specialised accommodation for a longer period of time. However, the procedure for evaluating an applicant's vulnerability causes serious delays. This means victims of trafficking, victims of torture, persons with mental disorders or other applicants with special needs often remain for a long time in general reception facilities before being assigned to the few available specialised places. In addition, in practice time in specialised accommodation is often not prolonged. The system lacks a mechanism for systematic identification and meeting of special needs, also due to a lack of communication among different institutions involved. It is a matter of concern that plans to expand general reception do not mention places for applicants with special needs.

A significant lack of specialised facilities and services for asylum-seeking children is also reported. Children seeking asylum are often hosted in general centres for unaccompanied children, but there are also cases children becoming homeless, with obvious negative consequences for their health and development. Reports from NGOs and the Ombudsman on some centres for unaccompanied children denounce an extremely precarious situation (both in Melilla and in the Canary Islands). Other bad practices consist in the separation of children from their families for a significant amount of time (Canary Islands). The lack of synergies between the national child protection system and the asylum system undermine opportunities for children to request international protection. The context is also one of a dangerous, dehumanising narrative about unaccompanied children, which questions their status and undermines their integration.

NEW PROPOSALS SHOULD NOT DIVERT FROM COMPLIANCE WITH CEAS

AMIF funding is an important opportunity for improving the Spanish asylum system and ensuring its compliance

with current EU and international standards. Competing political priorities should not divert resources from these objectives. On the one hand, the role of regions in reception and integration is likely to increase. While the involvement of regions can be a positive development, it is important that the government guarantees harmonisation of the services provided. Moreover, the reform process might divert a significant amount of resources. On the other hand, EU plans, including the new Pact on migration and asylum and related negotiations, might disrupt some of Spain's efforts to improve compliance with the CEAS. Investments should focus on improving existing standards, making the system work and compliance with human rights.

DEVELOP SYSTEMATIC ENGAGEMENT WITH ALL STAKEHOLDERS

In line with the new AMIF regulation, member states should ensure that stakeholders active in asylum and migration are meaningfully involved in the preparation, implementation, monitoring and evaluation of the AMIF national programme. Information sessions, capacity building events and regular consultations on implementation priorities should be organised for beneficiary institutions. Equal representation of civil society organisations should be granted in the monitoring committee.

III. RECOMMENDATIONS

The programme agreed by the European Commission and authorities responsible for AMIF in Spain (the Ministry of Interior and the MISSM) should:

- » Develop, publish and implement a standard operating procedure to ensure that all first-contact officials systematically provide comprehensive information on the possibility to make an application for international protection at external border crossing points, disembarkation points for SAR operations, airports, and detention centres for foreigners.
- » Organise comprehensive, regular training on how to provide potential applicants with practical information on applying for asylum for all first-contact officials and CIE personnel.
- » Ensure that procedures for informing asylum applicants, as well as staff training, are consistently implemented by all entities providing emergency/humanitarian assistance.
- » Ensure, in the design of an online platform for managing applications, that it enables applicants to access their procedures, while guaranteeing anonymity and privacy. The platform should support monitoring of compliance with deadlines to account for possible delays in the process, collect individual information to improve the quality of interviews, and address special needs.
- » Request EASO support and invest in increasing and upskilling OAR human resources to enable them to conduct all asylum interviews. In the meantime, improve the level of training and support for police officers who conduct asylum interviews, and adjust police facilities to ensure that asylum interviews and legal assistance are carried out in suitable spaces.
- » Strengthen the provision of interpretation by investing in hiring more interpreters, develop a training and certification mechanism to ensure their quality and invest in regular monitoring.
- » Significantly expand the primary reception system, preserving the current model of small housing units in communities, and ensuring uniform, high quality services provided thanks to the involvement/participation of civil society.
- » Address the shortages in reception across the country, investing in a uniformed system which reflects the standards of the RCD: transpose the Directive as soon as possible and invest in its implementation to secure high quality services.
- » Avoid the development of parallel reception systems which discriminates against applicants on the basis of their likelihood of getting recognised international protection.
- » Increase the number of places for applicants with special needs – including specialised reception centres for unaccompanied children – and invest in a standard operating procedure for identifying such needs within a reasonable period of time.

The Spanish government should:

- » Prioritise reforms and investment that can bring concrete improvement in human rights compliance in asylum procedures, and avoid that competing political priorities postpone the implementation of CEAS acquis.
- » Expand civil society's representation in the AMIF monitoring committee, provide regular information to all actors involved in the implementation of funds and establish regular open consultations on implementation with NGOs, including service providers and refugee/ migrant-led organisations.
- » Strengthen the mixed nature of the reception system, with the participation of specialised NGOs within a framework of collaboration and partnership with the public administration.