

## Situation of refugees in Spain: Report

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### Glossary

**Applicant for international protection:** a person applying for refugee status or subsidiary protection. First, it is studied if he or she meets the conditions to be recognized as a refugee; if not, then an analysis is performed whether the subsidiary protection can be granted.

**Persons with refugee status:** a person whose fears of persecution and serious harm if returned to their country of origin or habitual residence are considered well founded and, therefore, need the protection of a third country.

**Persons with subsidiary protection status:** people who, although they do not qualify for refugee status, do consider that returning to their country may pose a risk of serious harm.

**Refugees:** generic reference that includes the different applicants for international protection, regardless of whether the international protection status has been granted.

**Relocation:** refers to the groups of applicants for international protection who have entered the EU territory, mainly through Greece, Italy and Hungary, and who, as previously agreed, must be relocated to other EU countries. This agreement is binding.

**Resettlement:** refers to the transfer of refugees from countries bordering Syria to States of the European Union (EU). Resettlement depends on the will of the third State.

*"The fences that limit the entry of refugees, but open and close every day to bring the resources of the territories of refugees, reveal in a very graphic way that fascist character and territorial fascism represented by our economic model."*

*Yayo Herrero*

## 1. Introduction

Max 400 words

Since the outbreak of the war in Syria, the displacement of people seeking refuge within European borders has been increasing. The clear majority come from the above-mentioned country, but the number of people fleeing from conflicts and authoritarian regimes plaguing other regions, such as Afghanistan or Eritrea, is also significant.

The culminating moment of this migratory process has taken place in 2015, with the so-called "refugee crisis". Between January and September of that year about half a million people arrived at European borders, mainly through Greece and Italy. The European Union made the decision to alleviate the tension on the borders of those two countries, and of others like Turkey and Lebanon, through the resettlement and the progressive relocation of refugees to other European States, and to offer economic aid to Syria bordering countries to act as a wall of contention.

Spain, faced with the crisis and the EU call, committed to relocate 16,231 people through the binding mechanism generated by the EU to alleviate the migratory situation in Greece, Italy and Hungary, mainly; and to resettle 1,449 people through a political commitment to bring people from countries bordering with Syria. Two years after these commitments were signed, in 2017, Spain had only complied with 11% of the agreement: it had brought 1,910 people out of the 17,337 places agreed.

The Spanish State has remained oblivious to the situation of humanitarian crisis described. Although the government does not maintain a xenophobic discourse, it has preferred to stand aside and devote its asylum effort to border control, especially in the autonomous cities of Ceuta and Melilla, in Africa.

However, since 2013 in Spain there has been a notable increase in requests for international protection. In 2016, the largest number of applications was registered since

the Asylum Law was passed in 1984: 16,544 applications. In the same year, 355 people were granted refugee status and 6,500 were subsidiary.

The purpose of this report is to provide an overview of the refuge in Spain and the situation of refugees and asylum seekers in the country. For this we will offer some insights on the legal system that protects the reception and integration of refugees; we will explain, broadly, how the system works; we will offer the latest available data; we will investigate the needs, interests and expectations of asylum seekers; and we will present the future challenges for the reception and integration of refugees in Spain.

## **2. Legal system that protects the reception and integration of refugees**

Max 1000 words

The legal system that protects the reception and integration of refugees in Spain is based on two pillars. On the one hand, there are international agreements signed and ratified by the Spanish government, such as the Geneva Convention of 1951 and the New York Protocol of 1967. On the other hand, there is the migration policy of the European Union, and the construction of the so-called Common European Asylum System (CEAS).

Spain signed the Geneva Convention and the New York Protocol in 1978. Both documents emerge from the Charter of the United Nations and the Universal Declaration of Human Rights, adopted on December 10, 1948. They are the starting point of an international protection regime guaranteeing fundamental rights. Some of its pillars are: the principle of non-refoulement, access to fair and effective procedures for determining refugee status and protection needs, and the obligation to admit refugees into the territory of the States where they seek protection (Ombudsman, 2016: 26).

The Geneva Convention states that States will facilitate the integration and naturalization of refugees as much as possible. Its logic implies that States must offer refugees a solid basis to restore their social and economic independence and thus be able to move on with their lives. This includes the enjoyment of rights and the reinforcement of links with the host society (United Nations, 1951).

The New York Protocol of 1967 constitutes a crucial step in the protection of refugees. It eliminates the temporary restriction of the Geneva Convention, which referred

directly to the effects of the World War I and II and universalizes the figure of the refugee taking it out of the European geographical area (United Nations, 1967).

On the other hand, in the European context since the 1980s the need to generate a system that harmonized national asylum policies (Ombudsman, 2016: 17) became clear. Within this process, which has led to the creation of the Common European Asylum System (CEAS), there are several key documents:

- 1) Dublin Convention in 1990: relating to the determination of the State responsible for the examination of asylum applications filed in the Member States. This Convention has had its continuity in Regulation No. 343/2003 (Dublin II) and Regulation No. 604/2013 (Dublin III).
- 2) Tampere European Council in 1999: where the need to create a common asylum system was determined.
- 3) European Pact on Immigration and Asylum in 2008: emphasis was placed on the need to establish the single asylum procedure and the single statute for refugees and beneficiaries of subsidiary protection before 2013.
- 4) Directive 2011/95 / EU, 2011: sets the rules on the requirements for the recognition of a person as beneficiary of international protection.
- 5) Directive 2013/32 / EU, 2013: establishes a more coherent and guarantee system so that the decisions adopted by each State are fair and effective.
- 6) Directive 2013/33 / EU, 2013: establishes the minimum reception standards for applicants for international protection. It introduces fundamental changes, such as the extension of the right of reception of the applicants from the presentation of the application to the resolution and proposes equal treatment guaranteed to all applicants for international protection. The deadline for the proposals of this Directive to be incorporated into Spanish law expired in 2015.

In Spain, the first Asylum Law was enacted in 1984 (Law 5/1984, of March 26), six years after the entry into force of the new Spanish Constitution, and the accession of Spain to the Geneva Convention and the New York Protocol. The Law was based on Article 13.4 of the Constitution: "The law will establish the terms in which citizens of

other countries and stateless persons may enjoy the right of asylum in Spain" (Article 13.4 SC).

This law has had an important evolution, being revised several times:

1) Law 9/1994, May 19: It introduces changes in 4 fundamental aspects:

... the double status of refugees and asylum is eliminated; a preliminary phase is included in the examination of the requests that allows the denial of fast form of those requests that are considered manifestly abusive or unfounded, as well as those others whose examination does not correspond to Spain, or in which there exists another State in conditions to render the protection; the effects of the refusal resolution are modified; and finally, the power to suspend associations of foreigners is eliminated. (CEAS, s / f)

2) Law 12/2009, October 30. For the first time, the right to subsidiary protection is explicitly included. It also introduces three essential elements: family reunification, the special consideration of vulnerable groups, and gives legal status obligations to the material conditions of reception (Ombudsman, 2016). In addition, it incorporates persecution for reasons of gender and sexual orientation as a cause of asylum and recognizes as agents of persecution or causes of serious harm to non-state agents. This new Asylum Law also responds to the need to incorporate the regulations approved within the scope of the CEAS.

3) Law 2/2014, March 25. Within the Law of Action and the Foreign Service of the State, an amendment to Law 12/2009 is introduced. Specifically, art. 40 which establishes the family unit of refugees and beneficiaries of subsidiary protection.

The amendments to the Asylum Law in Spain have gone hand in hand with the evolution of the asylum policy of the European Union. For example, in the case of Law 12/2009, the need for the regulations approved in the EU to be incorporated into the domestic legal system is highlighted: "The legislator himself points out that the transposition of said legislation implies the total acceptance of the so-called "First Phase of the Common European Asylum System" "(Ombudsman, 2017: 25).

However, the EU's work to harmonize the protection system of States and the differences in their progress has meant that in 2017 the European Commission adopted 40 infringement decisions against 20 Member States for not correctly applying SECA legislation (La Spina *et al.*, 2017: 75). Spain was among the sanctioned States, with pending adaptation of the internal legislation to the European regulation.

### 3. The functioning of the system for the reception and integration of refugees

Max 1000 words

In Spain, the system of reception and integration of refugees is centralized by the State. The competent body for the processing of international protection applications that are formalized throughout Spain is the Office of Asylum and Refugee (OAR), under the Ministry of Home Affairs. The OAR instructs the files and makes proposals for resolutions that are then submitted to the Interministerial Commission for Asylum and Refuge (CIAR).

For its part, the Spanish host system includes two types of reception facilities: the network of public health centres and programs, and those managed by NGOs and subsidized by the Ministry of Employment and Social Security. Public centres are the so-called Refugee Shelter Centres (CAR). Currently there are four in operation: two in Madrid, one in Valencia and one in Seville. Some of the NGOs that manage reception facilities are the Spanish Commission for Refugee Aid (CEAR), the Spanish Red Cross and ACCEM.

The reception facilities are establishments that provide accommodation, maintenance, psychosocial assistance and other social services to the applicants. They have the mission of supporting them in their process of reception and social integration. The program is structured in three phases that should last 18 months, but can be extended to 24 when it comes to vulnerable people:

1<sup>st</sup> **Reception** in a host organisation. The objective is to cover the basic needs of applicants after their arrival to Spain. It should also help them to acquire tools that make it easier for them to live outside the reception centre and integrate autonomously in society. Expected duration: 6 months.

2<sup>nd</sup> **Integration**. This stage that begins when their stay with the reception organization ends. The objective is to guide people in their social and labour insertion. Examples of actions that should be undertaken in this phase are job and a place to live search; there is help available for those who struggle with meeting this or other basic needs. Expected duration: 6 months.

3<sup>rd</sup> **Autonomy**. People may continue to need assistance or eventual support in some areas. Expected duration: 6 months.

The period that people spend within the program is quite different. Originally, the program was designed for a quick adaptation and social and labour insertion of people, together with a file processing response that does not exceed this period.

However, the adaptation and insertion of people are influenced by different elements that have to do with individual factors (life experience, languages, vulnerability, etc.) and social factors (labour market, discrimination in access to housing, etc.) and that make it difficult to happen in the foreseen period. Hence, there are people who need more assistance and time within the program.

In addition, it is not uncommon that file processing and resolution take years. On many occasions, people have had to leave the program without having their file resolved, which is against Directive 2013/33 / EU, which states that the State must ensure the welfare of applicants while their file is in Procedure.

The system is co-financed by the Spanish State and the Asylum, Migration and Integration Fund (AMIF) of the EU. According to data from the "Study on asylum in Spain. International protection and the resources of the host system "(Ombudsman, 2016: 95-98), 75% of the program in Spain is financed through the AMIF.

**Some of the system deficiencies:**

- \* File processing delays.
- \* Officials engaged in the investigation of asylum seekers' files are not required to receive any specific training in international protection or in human rights (Ombudsman, 2016: 27).
- \* UNHCR reports are not binding, despite the recognition of their relevance. For example, during 2015, UNHCR assessed 3,990 cases, and proposed that the Refugee Status be recognized for most applicants from Syria (1,725 cases). However, in most cases the Administration granted subsidiary protection, ignoring the recommendation of UNHCR (Ombudsman, 2016: 41-42).
- \* Inability to respond quickly to the needs of periods of high influx of applicants for international protection. The year 2015 was a year with a significant increase in the flow

of applications. The system suffered a collapse such that some people were left in a situation of vulnerability, which is a violation of the Spanish Asylum Law itself.

\* Non-compliance with Directive 2013/33 / EU, which is applicable even if it has not been incorporated into Spanish legislation. It is mandatory that the Administration takes charge of the needs of the applicant until the processing of their application is completed. However, it is usual for people to be between 18 and 24 months in the program, while the response to the request may take up to 5 years.

### **System achievements:**

The main achievements of the system are in its capacity to guarantee decent living conditions for people who are in the program. The report "Welcome without integrating? The system of reception and the conditions of integration of applicants and beneficiaries of international protection in Spain" (Iglesias et al., 2017: 21) indicates that the system is successful especially in the reception stage:

... protection, language learning, direct financial aid, personal accompaniment, vocational and language training, intermediation and accompaniment in housing, work, social services registration, etc.

In addition, we could say that it is a system that has evolved to guarantee the human rights of people and that, little by little, has been adapted to international standards, although its real adaptation to European legislation is taking a little longer.

## **4. Latest data on the reception and integration of refugees.**

Max 800 words

Through the statistics of the Ministry of Home Affairs of the Government of Spain we can access the most up-to-date information on refuge. The latest available information refers to the year 2016, in which 16,544 requests for international protection were made, 11.13% more than in 2015 (14,887 requests).

**Table n° 1: Evolution of the number of applications between 2007 and 2016.**

Year	Nº of applications	% increase
2007	7664	
2008	4517	- 41,06%
2009	3007	- 33,43%



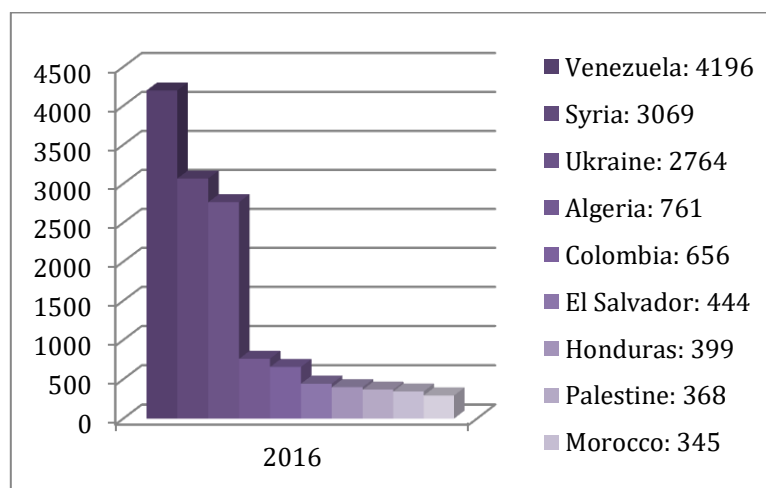
2010	2744	- 08,75%
2011	3422	24,71%
2012	2588	- 24,37%
2013	4513	74,88%
2014	5952	31,89%
2015	14887	150,12%
2016	16544	11,13%

Source: "Asilo en cifras, 2016" (Ministry of Home Affairs, 2016)

From all the applications, those that occur at the border can be identified (mainly on the southern border: Ceuta and Melilla); they correspond to 18% of the total. In these cases, people are referred to the Centres for Temporary Stay of Immigrants (CETI) to be sent to the reception facilities of the peninsula. The main host regions are Andalusia, Catalonia, Euskadi, Madrid and Valencia. The requests that occur within the Spanish territory, have experienced an increase of 79.70% according to data from the Ministry of Home Affairs (2016).

As for the countries of origin with the highest number of applications, Venezuela (4,196), Syria (3,069) and Ukraine (2,764) stand out. Figure No. 1 shows the 10 states of origin with the highest number of applications for international protection in Spain.

**Graph n° 1: Total of applications by country of origin (the 10 first countries).**



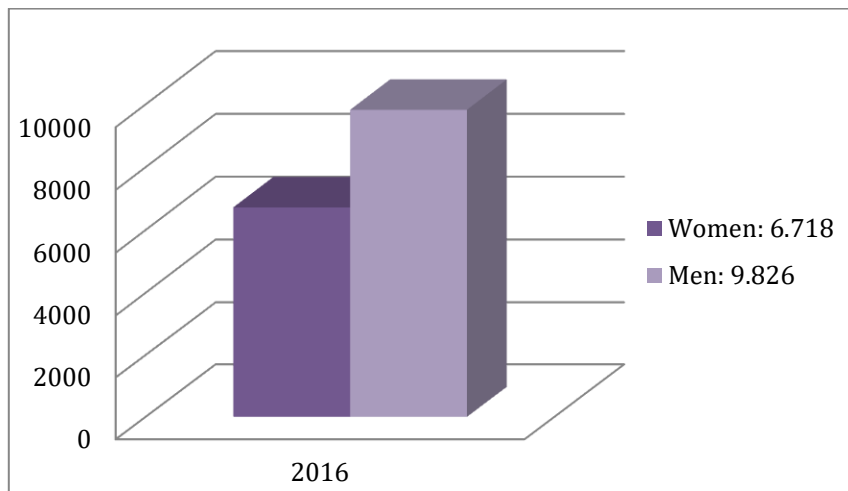
Source: Own elaboration based on "Asilo en cifras, 2016" (Ministry of Home Affairs, 2016)

As for the continents, the largest number of asylum seekers came from America, 6,017. Second, from Asia, with 4,159 people. Third, from Central and Eastern Europe, with

3,031 people requesting asylum in 2016, although it is closely followed by Africa, with a total of 2,900 applications.

Regarding the breakdown by sex, 9,826 applications were submitted by men, 59.39% of the total; compared to 6,718 presented by women, 40.61%, as can be seen in Figure 2.

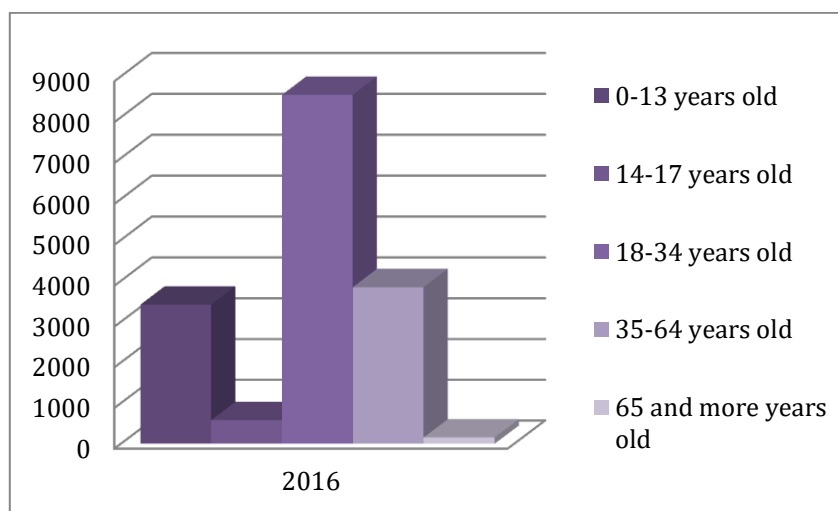
**Graph n° 2: Total requests by sex.**



*Source: Own elaboration based on "Asilo en cifras, 2016" (Ministry of Home Affairs, 2016)*

With respect to the data by age, in Graph No. 3 we can see that it is a young population. In fact, 76% were under 34 years of age at the time of the application. The largest group is that of the age range between 18 and 34 years, 8547 people, 52% of the total.

**Graph n° 3: Total requests by age.**



*Source: Own elaboration based on "Asilo en cifras, 2016" (Ministry of Home Affairs, 2016)*

In general terms, 2016 has presented a significant increase in the number of requests for international protection compared to those registered in previous years. It is expected that the number of applications will continue to increase, but at a steady pace due to the restrictive policies of the European Union and the migratory control of the government of Spain.

## 5. Real situation of refugees

Max 1000 words

UNHCR defends the need for refugees to have access to a decent life. To do this, they must be guaranteed integration in three main areas (UNHCR, n/d):

- Legal: Refugees should be able to extend their rights to match the nationals of the host country. This can be achieved through long-term residence or obtaining nationality.
- Economic: Refugees must be increasingly self-sufficient, able to support themselves and contribute to the local economy.
- Cultural and social: refugees must participate more and more in the cultural and social life of the host country, without fear of rejection or discrimination.

These three areas of integration mentioned by UNHCR are an important part of the basis used for the future refugee projects. Therefore, they are closely related to their needs, interests and expectations.

The applicants for international protection in Spain experience difficulties to achieve the articulation of these three areas. Once they have received refugee status, they have at least the legal protection to achieve it. But if their request is denied they swell the ranks of irregular migrants, with all the difficulties that this entails. Receiving subsidiary protection still implies an important level of insecurity, since they must regularly undergo a review of their status; if the protection is rejected they would be considered illegal immigrants.

The greatest difficulties in achieving future projects from the articulation of the three areas are the following:

- \* Access to employment

One of the primary needs of refugees is the access to work, because the economical self-sufficiency depends on having a decent job. Applicants for international protection in Spain obtain their first work permit 6 months after making the request. However, because of the contracted labour market and other barriers, such as knowledge of official languages, people find it extremely difficult to find a job in the host country. In addition, the jobs that can be accessed are the most precarious, mainly in the hospitality industry and domestic and care services.

\* Knowledge of official languages, mainly Spanish

For people who do not know any of the official languages, learning Spanish is basic in their integration process. It is essential to get a job and to be able to insert socially and culturally. Usually people start studying Spanish during the reception phase; other languages, such as Basque, are left to be studied later.

\* Formation and homologation of academic degrees

Refugees try to rebuild their lives by updating their formative trajectory; in addition to learning a language, they show great interest in training; this way they will be able to obtain new and better tools to access the Spanish labour market.

The case of the homologation of academic degrees is much more complicated by the delay and the economic disbursement they imply. The standard duration of the program is 18 months in which people must have acquired sufficient skills to be autonomous and be able to earn a living.

However, even if people have the documentation and money necessary for homologation of their degrees, the procedure is slow, and it is practically impossible for them to have an answer before the end of their stay in the program. Therefore, people, regardless of their degree, opt for precarious jobs which, on many occasions, do not represent their real interests.

\* Schooling of minors

The schooling of children is compulsory and must be guaranteed for any child. In Spain, the fact of being registered in a municipality guarantees access to health and education for children. Refugees, while they are in the reception stage are guaranteed their registration in the municipalities where the reception facilities are located. However,

once they leave the centres and find their own home, on many occasions they encounter barriers to register, which implies difficulties in schooling minors.

\* Access to housing

Guaranteeing access to housing is a basic need that is sometimes difficult to cover. The high price of rents, especially in large cities such as Madrid and Barcelona, hinders access to decent housing once people leave the reception facilities. Another problem is discrimination. It is a proven fact that migrants find many more barriers to rent a flat.

According to the authors of the report "Welcome without integrating? The reception system and the conditions of integration of applicants and beneficiaries of international protection in Spain "(Iglesias et al., 2017), most of the refugees in Spain intend to stay in the country on a provisional basis. The main objectives are "to learn the language, to get a job, to improve the situation, to regroup the family, etc., but without a clear and firm will to root".

In fact, many families choose to find a way to move to other countries in Europe where they have a better chance of getting a job, especially when they already have support networks in those countries. In the end, it is above all the bad socio-economic conditions that push people to continue their life projects outside of Spain.

These conclusions are in line with the "Study on asylum in Spain. The international protection and resources of the reception system" of the Ombudsman (2016: 90-92), which states that in 2015 there were many places assigned that were either not covered or covered for a brief time because people decided to move to other European countries where the quality of refugee reception and integration systems is better than in Spain.

## **6. The challenge of the reception and integration of refugees**

Max 1000 words

Numerous studies offer recommendations to improve the Spanish asylum system and, in this way, facilitate the integration of refugees (La Spina et al., 2017, Iglesias et al., 2017, Ombudsman, 2016). An interesting approach is the one that defends that there is a multilevel coordination of the system. This means that, in addition to public institutions and NGOs, it can also involve autonomous and local governments with their resources and management capacity. This change of approach would facilitate the path for

refugees, especially when they leave the program and find it difficult to fend for themselves, or when they are expelled because their application for protection is rejected.

Another action that could help improve the Spanish asylum system would be to locate refugees in areas where they have a better chance of finding a job and of successfully integrating into society. For this, before prioritizing the availability of a place in a reception centre, it should be assessed whether people have family and support networks, and labour market conditions in that area.

The three phases organization system should also be reviewed. Greater flexibility would imply a greater ability of the system to adapt to the needs of people, their times and the multiple actors involved in the process. The system of recognition and homologation of academic degrees should also be more flexible. Facilities for recognition of refugee's studies would mean removing pitfalls on their way to labour integration.

In the end, the Spanish asylum system has a long way to go. These are just some general examples of areas in which action can be taken to improve their functioning. Within this path are also changes to be made in the legislation and its adaptation to the SECA, specifically to Directive 2013/33 / UE, pending to be included in the Spanish regulation law.

Another area that is also relevant to the success of the Spanish asylum system has to do with social awareness. The reception and integration of refugees takes place in a specific society, with its own inclusion and exclusion dynamics. In this sense, social awareness must be increased which in turn will improve the competences both of the society in this area, and, more importantly, those of the actors that participate directly in the process of reception and integration, such as police officers, officials, workers of reception centres, hosts, etc.

Social awareness is important to guarantee a discrimination – free process of reception and integration. But it is also important for the health of the host society, to advance in values such as respect, solidarity, mutual understanding, which are profitable for all people.

In Spain there are initiatives focused on the field of awareness, such as the Ongi Etorri Errefuxiatuak (Welcome Refugees) citizen platform, located in the Basque Country,

which has been carrying out important social awareness work at the local level involving neighbourhood associations, groups and different social organizations. Also, some of the NGOs that work in the reception and integration of refugees devote part of their resources to social awareness rising, as in the case of CEAR, which makes a series of materials covering those topics, available to the public on its website.

However, the same organizations and citizen platforms recognize that the work they do is insufficient, especially considering the growth of xenophobic tendencies in Europe and the difficulty that Spain has had to overcome an economic crisis that continues to have as its main recipient the migrant population.

## 7. Conclusions

Max 400 words

The Spanish asylum system poses many challenges still pending solutions. Forced to face many situations of despair that are marking the contemporary history, people will not stop fleeing their homes to try to build a better future for themselves. Armed conflicts, inequality, extreme poverty, global warming, neoliberalism, etc., are at the base of the displacements of people seeking refuge.

It is not possible to foresee whether the figures for asylum applications will return to pre-2015 levels, so the Spanish State must adapt to the current situation and provide the necessary resources so that people can be treated with dignity anywhere within the Spanish territory.

In this context, legislation must continue to adapt to European prerogatives. The Spanish system fails, above all, to give protection to people beyond the time available in the program, that is from 18 to 24 months. However, according to SECA, protection should be maintained while their applications are being processed, which in Spain can take up to 5 years.

On the other hand, it is important that the Spanish State comply with its international commitments. This is another failure of the Spanish asylum system; its main cause is the lack of political will. As of 2018, the relocation and resettlement commitments have not been fulfilled. Thousands of people who should be enjoying a safe life in Spain are in refugee camps.

Governments must comply with what has been agreed, and if they do not do so, society must be prepared to demand that they fulfil their duty and that they offer dignified treatment and optimal conditions for social integration for people seeking refuge. Therefore, it is important to have a society that is aware of these issues. A legal framework guaranteeing human rights, a sensitized society and the political will of governments are three basic elements to create a solid base that allows the reception and integration of refugees.

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