



# BUILDING A SAFETY NET for migrant and refugee women

Situation analysis and mapping of the existing legal and  
policy framework in Spain

Reporting Partner for Spain: Fundació Surt



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# **BUILDING SAFETY NET FOR MIGRANT AND REFUGEE WOMEN**

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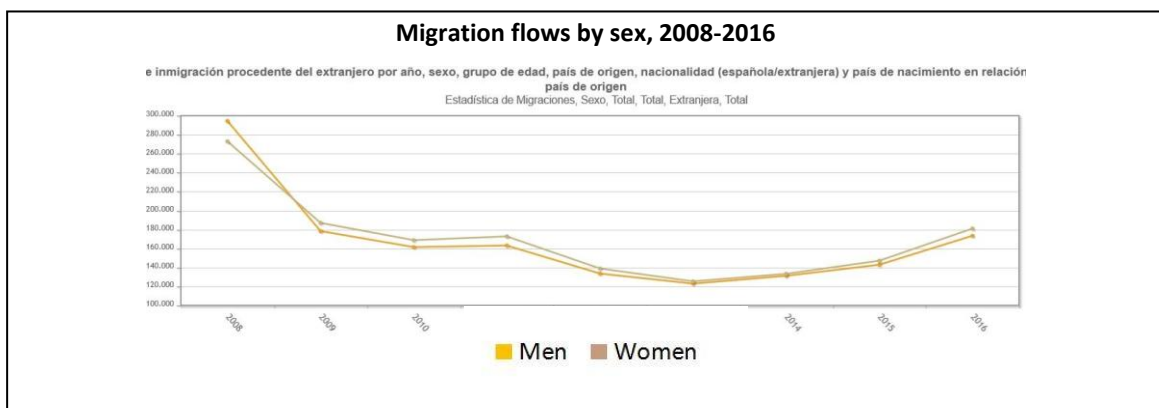
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# 1. Statistical data

## 1.1. Migrants and asylum seekers in Spain

### Migration data

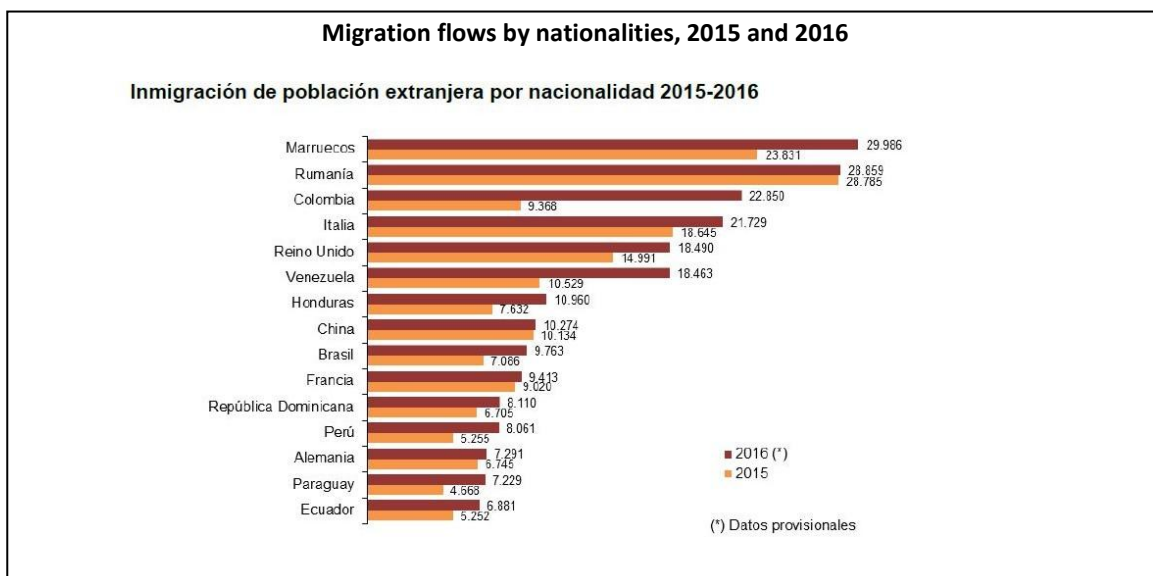
Spain had been an emigration country for centuries, but in the last quarter of the 20th century the country started to experience large-scale immigration. The onset of the economic crisis in 2008 led to a new migration cycle stabilising the entry of migrants due to the reduction of job opportunities and stricter entry conditions in Spain. The figures of the inflow of migrant women have been consistently slightly over the inflow of men.



Source: Institute of National Statistics, migration statistics (calculated on the basis of the ongoing municipal census).

Changes in migrant legislation and policies have indeed greatly influenced immigration waves in Spain, with frequent modifications of the law on the rights and liberties of foreign nationals in Spain and their integration (2000, 2004, 2009). In general terms, legal provisions have gradually limited conditions of entry, while remaining discriminatory in terms of denial of citizenship.

The decreasing trend reversed in 2013 and peaked in 2015, in the context of the Mediterranean migrant and refugee crisis.

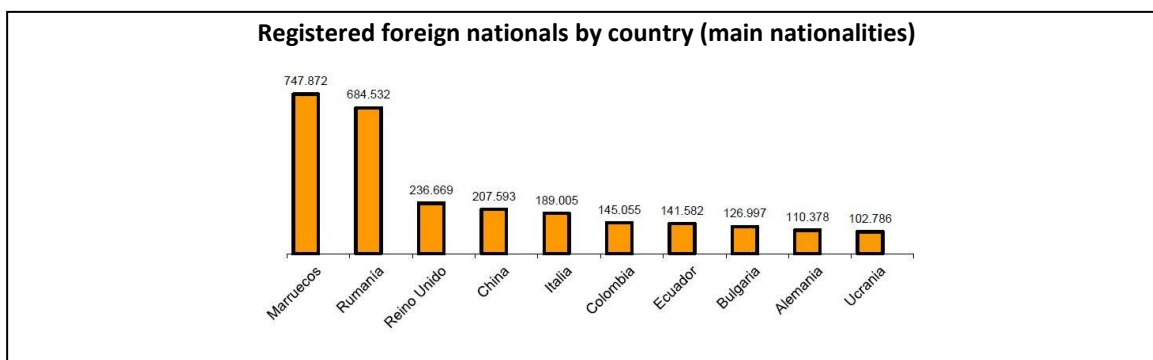


Source: Institute of National Statistics, migration statistics (calculated on the basis of the ongoing municipal census).

The main nationalities of migrants entering Spain have consistently been Morocco, Romania, Colombia, Ecuador, Bolivia and other Latin American countries. The past two years has seen a relevant increase of nationals from Venezuela, Honduras and to a lesser extent, Ukraine, strongly linked to refugee flows.

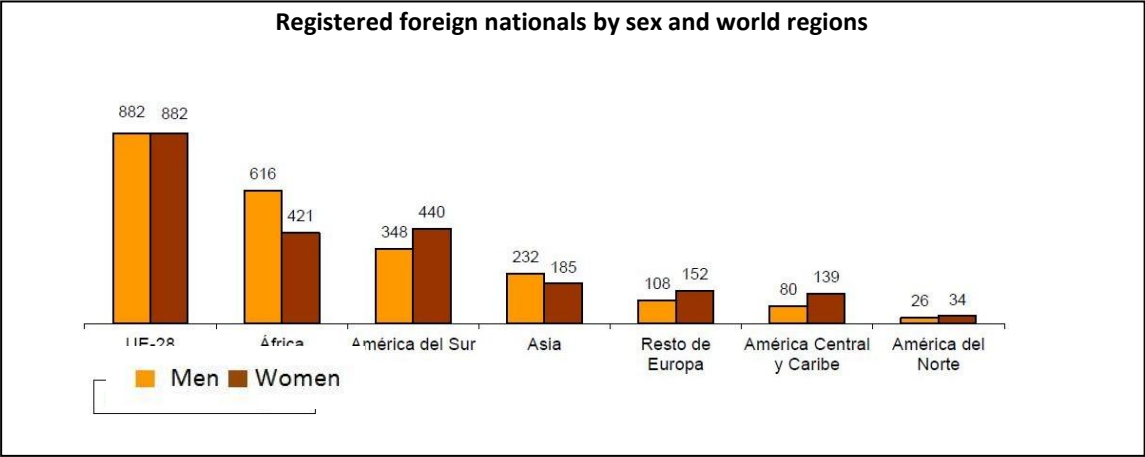
As regards foreign nationals living in Spain, they account for 9.8% of the Spanish population, but in some regions the percentage increases considerably: one out of 4 foreign nationals with a residence permit live in Madrid, Catalonia or Andalusia. In Catalonia, the current percentage of foreign nationals registered on the census is 13.7%.

The most common nationalities of migrants residing in Spain are Morocco (16% of foreign nationals), Romania (15%) and, in smaller proportions, the UK, China, Italy and Colombia. The Latin American countries (South America, Central America and the Caribbean, mostly Spanish speaking areas) account in total for a 22.1% of foreign nationals. Again, it is remarkable the increase over the past year of nationals from Venezuela (26.2%), as well as Ukraine (3.8%), China and Italy (3.7% both).



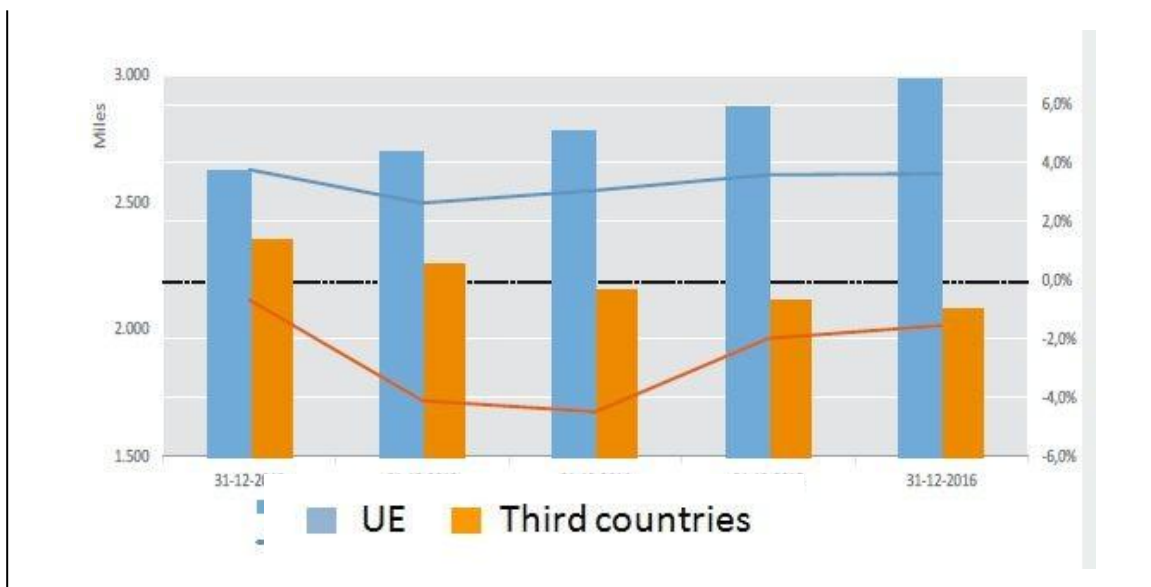
Source: Register of inhabitants 1 January 2017, provisional results, Spanish National Statistics Institute (INE).

Women account for 49.6% of foreign nationals in Spain. Migrant women from some areas outnumber men (Latin America and Eastern Europe), while African migration is mostly masculinised. There is a significant correlation between women’s types of migration projects and their countries of origin, but there are other factors involved, such as age, rural or urban origin, and educational level. It is specially recognised that Latin Americans often migrate alone and have a pioneering role as initiators of family migration projects, while female migration from other areas (Africa, South-East Asia) is often part of a family migration project.



Source: Register of inhabitants 1 January 2017, provisional results, Spanish National Statistics Institute (INE).

Residence permit data show the increased legal vulnerability of migrants since the onset of the economic crisis. While the number of permits granted to EU foreign nationals has steadily increased, the opposite happened to third-country nationals, with a decrease of around 2% per year. Migrant associations, trade unions and social NGOs have related this worrying trend to the phenomenon of the so-called “sudden irregular situation” (*irregularidad sobrevenida*), that is, when regularised migrants lapse back into irregularity, mainly because if they are unemployed for a year they lose the opportunity to renew their permits, further contributing to their risk of social exclusion.



Source: Ministry of Employment and Social Security

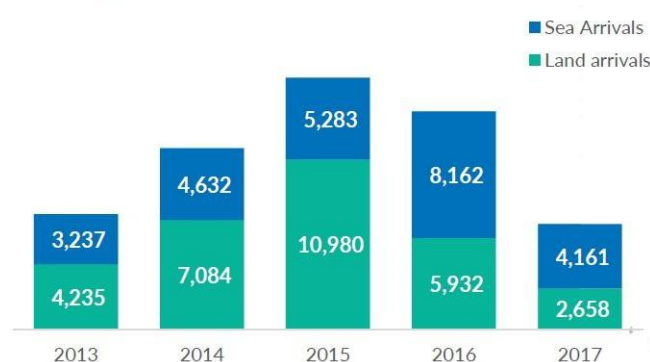
### Mediterranean refugee situation

The entry route to Europe from Morocco to Spain has been “a noted pressure point” for a decade, according to FRONTEX, but strengthened police control and the introduction of automatic pushbacks, among other violations of rights, have kept the numbers of arrivals on this route quite low. This route was initially taken by economic migrants from the Maghreb, but over time also by refugees from conflict countries in sub-Saharan Africa and more recently, Syria.

In the context of the Mediterranean refugee situation, between 2013 and 2016 56,364 arrivals were registered through this Western route on the Mediterranean Sea, according to UNHCR. From January to May 2017, a total of 6,819 refugees and migrants entered Spain representing a 75% of increase compared to the same period last year.

Most of the migrants and refugees arriving to Spain are men (78%). Among those arriving by sea, most are young men (81%), while among land arrivals there is a relatively higher proportion of women and children (12% and 14% respectively). Notably, UNHCR reports that from January to May 2017, 72% of Syrian arrivals were women and children who travelled by land to Melilla in order to avoid other dangerous sea routes. In general, most land arrivals originating from sub-Saharan African countries are of young men who jump over the border fences. Women and children travelling by land most commonly hide inside vehicles crossing the border.

Arrivals by year – 2013 to 2017



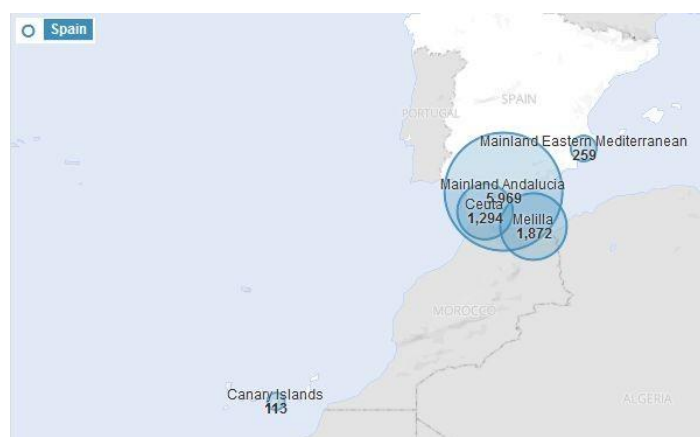
Source: *UNHCR, Refugee situations operational portal*

Significantly, until 2015 most arrivals were by land, but in 2016 the percentage reversed dramatically, with 58% of migrants arriving by sea. As of May 2017, the majority continue to arrive by sea (4,161 or 61%), doubling the arrivals by sea during the same period in 2016.

In 2016 and 2017, most sea arrivals disembarked on the Spanish mainland, at the Southern region of Andalusia, after being rescued in the Mediterranean or the Strait of Gibraltar. In 2017, 3,709 disembarked on the Andalusian shores, 138% more than in the same period last year. CEAR alerts about the increase in this sea route to the Andalusian mainland, as well as of the UNHCR reports of deaths and missing people: 59 deaths in 2015, 77 in 2016 (CEAR, 2017).

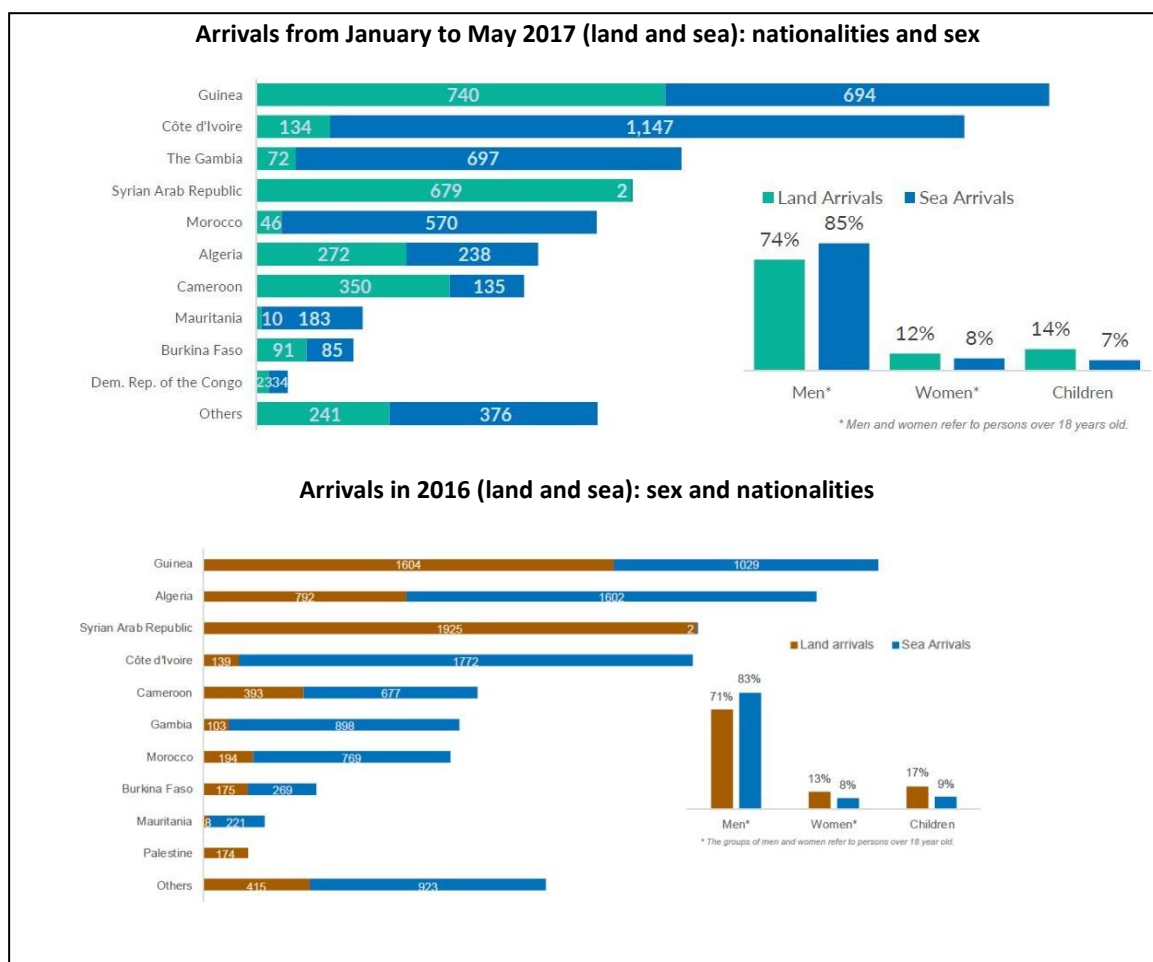
Refugees and migrants also arrive by sea to the Eastern coast, Canary Islands and the enclaves of Ceuta and Melilla in Northern Africa. Most boats depart from the Moroccan coast, but also Algeria. All land arrivals enter either through Melilla (1,496) or Ceuta (1,162), with an increase of 50% as of May 2017, compared to same period in 2016.

Areas of arrivals via the Mediterranean sea, January to 30 June 2017



Source: *UNHCR, Refugee situations operational portal*

As regards nationalities of arrived migrants and refugees through the Mediterranean Sea, in 2017 most arrivals originated from West African countries (Guinea, Côte d'Ivoire and The Gambia), and the proportion of refugees and migrants from Algeria and Syria decreased.



Source: UNHCR, Refugee situations operational portal

## Asylum-seekers

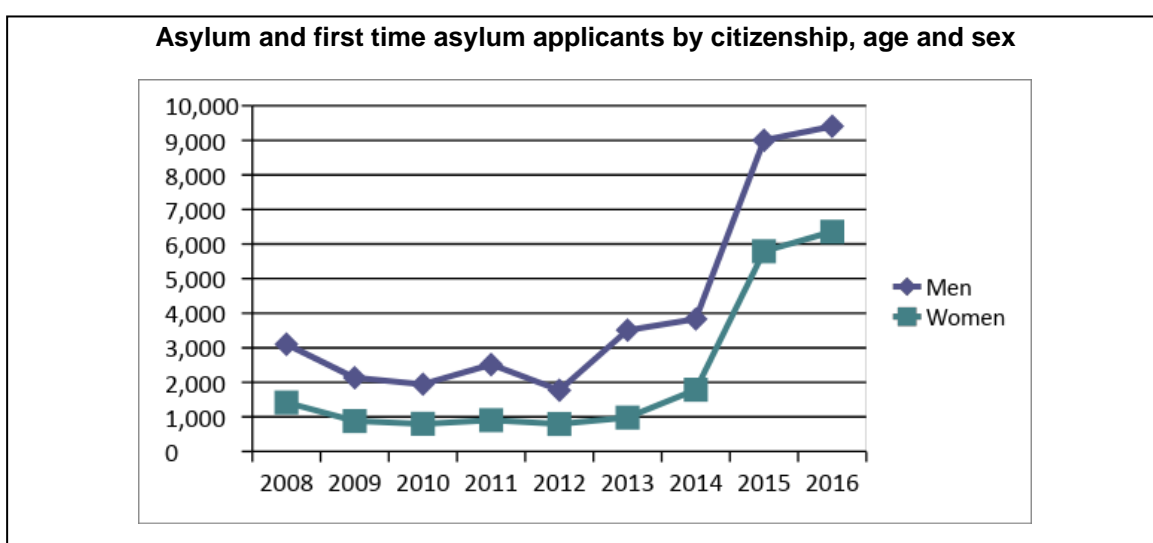
The main source of data about asylum seekers is the Office of Asylum and Refugees (OAR), an agency dependent on the Ministry of Interior, and Eurostat. Even though the OAR provides figures for Eurostat asylum statistics, their reports analyse less data than Eurostat segregated by sex, failing to comply with the requirements of the Spanish legislation (Plataforma CEDAW Sombra, 2017). The delays in reporting data and the deficiencies in the information provided made the Spanish Ombudsman request more publicity of the data, incorporating a characterisation of refugees that includes not only the sex variable but the belonging to vulnerable groups, including the times of resolution of claims (Spanish Ombudsman, 2016). In this absence of official data, the NGO CEAR (Spanish Commission for Refugee Assistance)



publishes annual reports with comprehensive exploitation and analysis of Eurostat data, as well as own data, which make the basis of this report (CEAR, 2017).

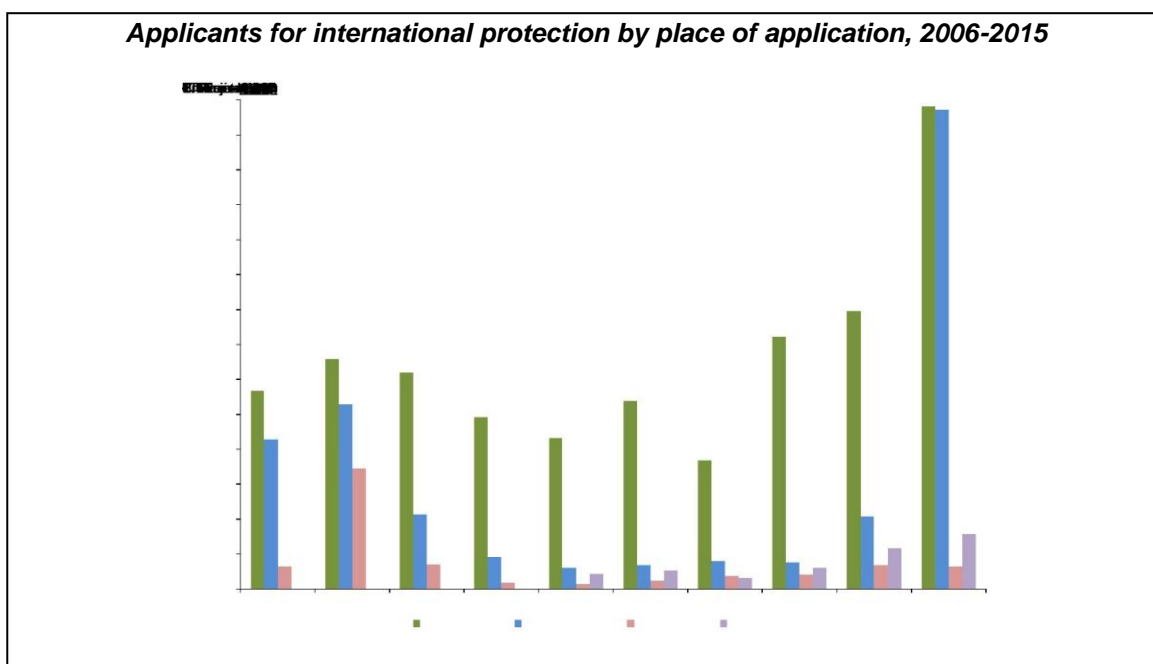
Spain has been and still is one of the EU member states with less asylum applications, only 1% of the whole of the EU. However, since 2015 the number of asylum applications rose steeply and, in 2016, Spain registered the highest number of asylum applications since the adoption of the first Asylum Law in 1984, 15.755, with an increase of 874 people compared to 2015.

The majority of asylum applicants are male (59.6%), but the proportion of women has been increasing (21.8% in 2013, 40.3% in 2016). By age, many asylum-seekers are 18 to 34, an age range while the percentage of single men is higher than at other ages, where the difference is very small (CEAR, 2017).



Source: Eurostat

Data about the place of application to asylum shows a very high increase of applications at the asylum offices established at border points in 2015, which include Northern and Southern land borders, all ports and airports, and Ceuta and Melilla (asylum offices at the borders' crossing points in Ceuta and Melilla were opened by the Ministry of Interior in November 2014 and UNHCR has guaranteed their presence as well since 2015).



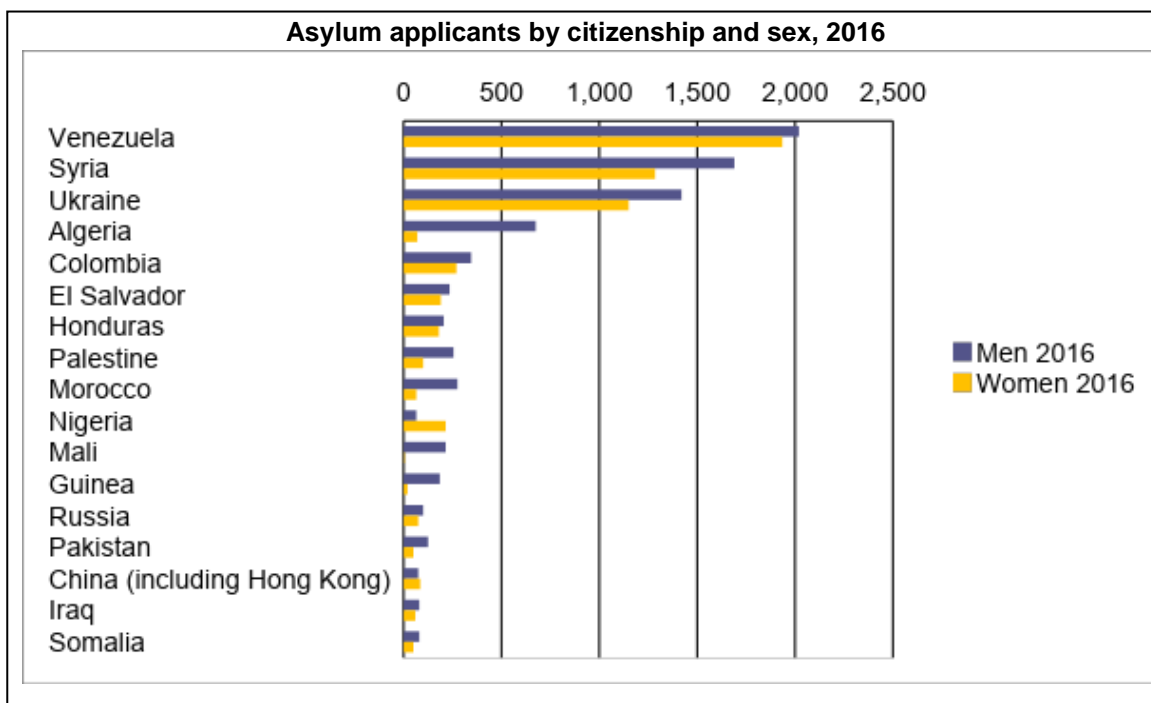
Source: Ministry of Interior, Directorate General of Interior Politics, Subdirectorato General of Asylum

However, the more recent data provided by CEAR (2017) show that, despite the general increase in asylum applications, the number of applicants in the Southern border dramatically decreased this year. At the Melilla border crossing, only 2,038 applications were received, a third of the submissions in 2015. The access to this office is barred to Sub-Saharan migrants. In Ceuta, only 220 claims were registered, due to the existing restrictions to transfers of applicants to the Peninsula. As CEAR denounces, this legally unsustainable and discriminatory practice in relation to Melilla has acted as a deterrent to give up continuing the procedure.

### ***Number of applicants per nationality and sex***

In 2016, for the first time Venezuela was the country with the highest number of asylum seekers (3.960), due to the increasing political and social unrest in the country. Syrian applicants were reduced by half (5.724 in 2015 to 2.975 in 2016), due to the harsh decline in applications submitted in Melilla.

The reasons for asylum applications are very different among these nationalities. CEAR points to the gender relevant characteristics of some of the nationalities applying for asylum. Applications related to gender persecution are mentioned for Algerian applicants, as well as those from El Salvador and Honduras, linked to the violence exerted by organised crime groups (including SGBV against young women and girls). Applications due to persecution for sexual orientation are mentioned in relation to Venezuelan and Algerian applicants.



Source: Eurostat

Men outnumber women in all nationalities applying for international protection except Nigeria, a known country for the recruitment of victims of trafficking for the purpose of sexual exploitation. Among Ukrainians, CEAR mentions the applications by monomarental families.

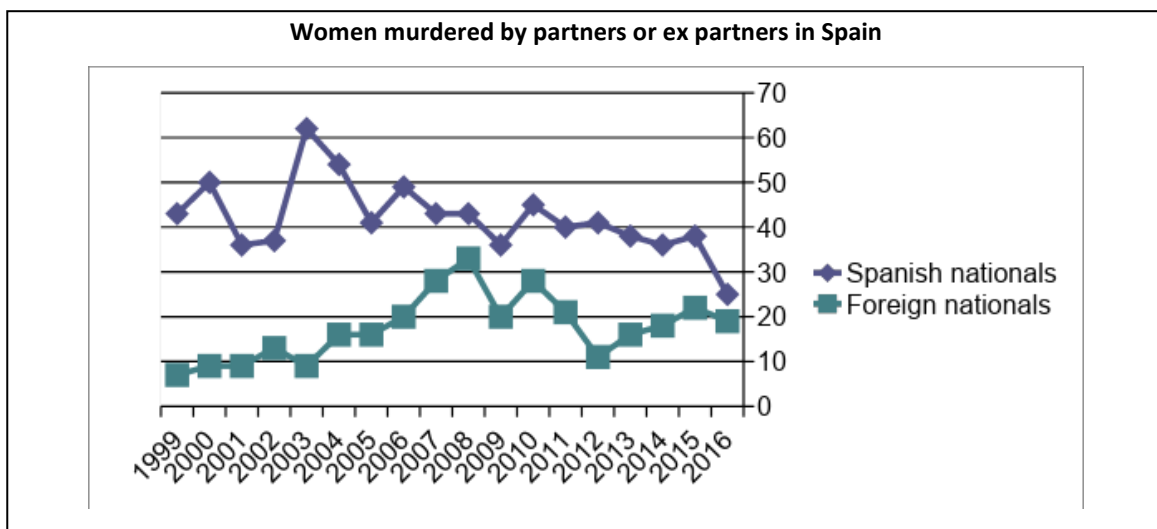
## 1.2. SGBV cases among migrants and refugees

### Official data

Several administrative sources (police, judicial, support services) provide data about GBV disaggregated by country of origin and specific forms of GBV suffered by migrant women.

According to Spanish statistics of murders related to intimate partner violence (women murdered by partners or ex partners), foreign-born women are clearly overrepresented (43% of the victims in 2016). Interpretation of these data, however, should take into account not only the country of origin and nationality, but also the fact that most migrants are younger than the general population, which places them at more risk of suffering violence.

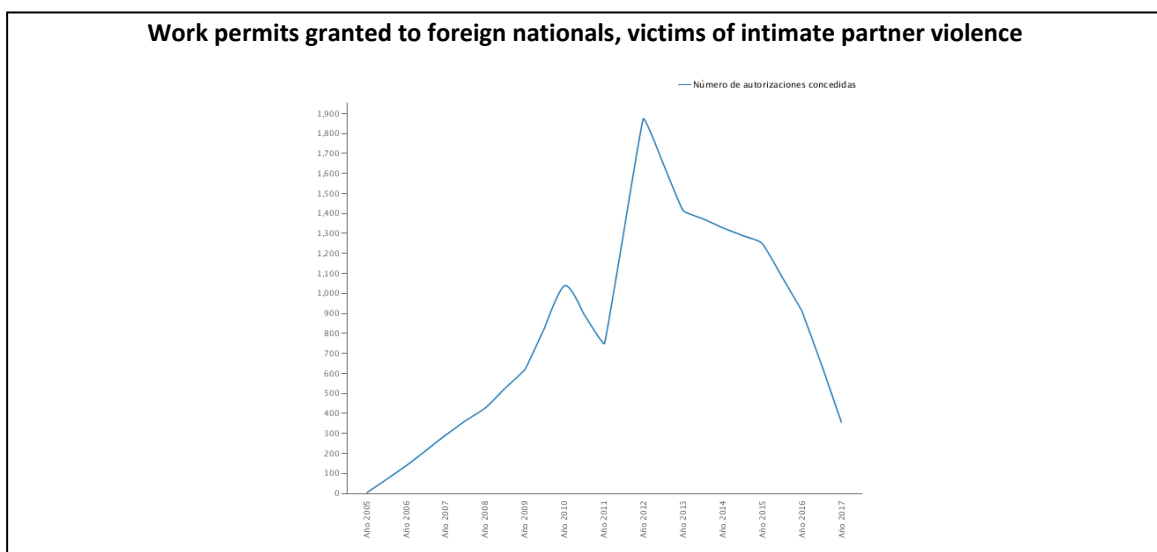
In recent years, there has been a moderate decrease of feminicide cases of Spanish women, but a general increase of murders against foreign-born women.



Source: Delegation of the Spanish Government for Gender Violence, Ministry of Health, Social Services and Equality

According to court data, in 2016 non-Spanish nationals accounted for the 29.9% of women pressing charges for intimate partner violence in Spain, which means they are over-represented in respect of their share of population. The percentage of protection orders was also 29%. Non-Spanish born women tend to interrupt the process (by refusing to give a statement declaration) slightly higher than that of Spanish-born (14.2% over 11.1%).

The number of residence and work permits granted to foreign-born victims of IPV shows an increase until 2012 and then a gradual decrease, which may be partly explained by the decrease in immigration flows.



Source: Ministry of Finance and Public Service

### ***Trafficking, FGM and forced marriages***

Regarding specific forms of violence which mainly affect migrant women, human trafficking is key in terms of its interrelation with asylum: not only smuggling practices may be interrelated with human trafficking but also human trafficking victims have the right to asylum.

The prevalence rate of human trafficking in Spain is equal to the EU average. According to the most comprehensive Eurostat study to date, including police and judicial data on human trafficking victims in Spain between 2010 and 2012, in this period there were 1,964 victims, that is, 2.6 people per 100,000 Spanish residents.

According to more recent data from the immigration unit of the State Prosecutor's Office, in 2014, investigations were opened on 1,428 victims of trafficking for sexual exploitation (including victims, victims at risk and potential victims, according to the classification of the Prosecutor's Office). 98.7% of them, 1,400 victims, were women. Sexual exploitation is the main purpose of exploitation (91.6%). The main countries of origin of identified victims of trafficking for the purpose of sexual exploitation are Romania, China, Nigeria and Paraguay. Recent cases of victims from other regions of Sub-Saharan Africa may point to changes in trafficking routes.

Regarding female genital mutilation, in the late 1990s there were some reported cases of FGM being practiced in Catalonia, but there is no reliable evidence that more mutilations have been carried out on the Spanish territory since then.

There are no national data on women who had been victims of FGM and now are residing in Spain. There are also no data on forced marriages. Some autonomous communities collect regional data: following the Catalan law against GBV, which includes FGM and forced marriage as forms of community-based GBV, the Catalan police registered in 2016, 14 cases of female genital mutilation, as well as 14 cases of forced marriages.

#### **FGM and forced marriage cases investigated by the Catalan police, 2008-2016**

	2008	2009	2010	2011	2012	2013	2014	2015	2016
FGM	114	55	28	36	31	35	24	22	14
Forced marriages	no data	13	15	21	16	26	10	15	14

*Data compiled from the Unitat de Suport a l'Atenció de Víctimes, Departament d'interior de la Generalitat de Catalunya.*

## Survey data

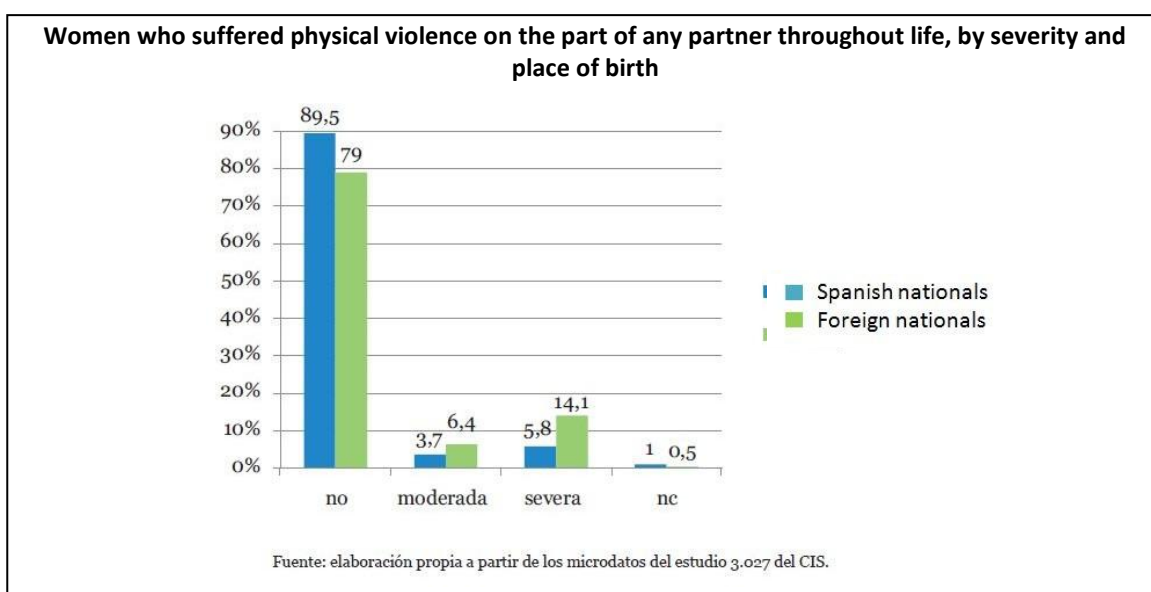
Periodical large-scale surveys provide insight on the prevalence, forms and severity of GBV among migrant and refugee women in Spain (Spanish Macro Survey of violence against women, 2015). The prevalence of gender-based violence among women who are not Spanish nationals is higher concerning all forms of violence (physical psychological, sexual, economic...), perpetrated by partners or ex partners and also by other male family members, acquaintances or strangers (stalking, rape).

### Prevalence of different types of intimate partner violence by any partner throughout life, by place of birth (women over 16 who have had a partner)

	Physical	Sexual	Control	Emotional	Fear	Economic
Spain	9,5	7,6	24,3	21,3	12	9,9
Another country	20,5	15,3	42,7	34,7	25	21,2

Source: Spanish Macro Survey of violence against women, 2015

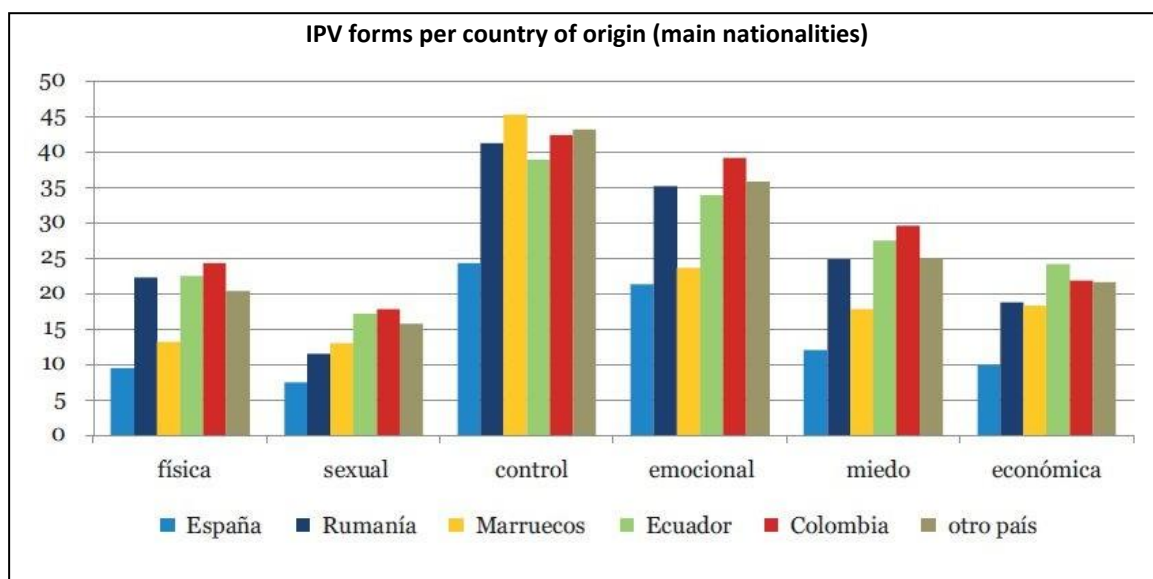
Foreign women are also victims of more severe forms of physical violence, in absolute terms, 14.1% compared to 5.8% of Spanish-born women. They also receive more serious physical injuries.



Source: Spanish Macro Survey of violence against women, 2015

The 2015 Survey also provides some data about the prevalence of the different forms of IPV among the main nationalities of female migrants in Spain. Women born in Colombia have the highest values in general (physical violence 24.3%, sexual violence 17.8% and emotional violence 39.1%, and fear 29.6%), but control violence is slightly more prevalent among Moroccan-born women (45.3%) and economic violence, among Ecuadorians (24.1%). Women of Moroccan origin tend to have a similar pattern to Spanish women in terms of physical

violence, emotional violence and fear, with prevalence below the rest of the geographical origins.



Source: Spanish Macro Survey of violence against women, 2015

Physical or sexual violence exerted by non-partners (relatives, acquaintances, strangers) is also more common among women born outside of Spain: 16.5% over 10.9% of Spanish-born women.

There are no data available about violence against asylum seekers or about the specific timing and locations of violent incidents, in relation to the migration or displacement process.

### ***Complaints filed and access to services***

Migrant and refugee women tend to press charges more than Spanish nationals. However, they have less access to services (Spanish Macro Survey of violence against women, 2015). They tend to file more complaints to the police or the court (33.2% for them compared to 27.6% of Spanish-born women). However, they resort less to social services (psychologists, doctors, lawyers, telephone support for victims of GBV, etc.), with 40.2% of them as against 46.2% of those born in Spain.

Another relevant issue is the informal support received from acquaintances, friends and relatives. The figure is similar in both groups of women, even though non-Spanish born women may have smaller social networks: about three out of four have talked about their situation to a relative, friend or acquaintance.

Another result shows important information about the tolerance to violence. When women ask their family members for advice, the percentage of those recommending that she should

give a second chance to the partner is similar between Spanish and non-Spanish born women: 12.4 to 12.2%. However, the difference is important when the advice is provided by relatives of the partner or ex-partner (28.6 of non-Spanish born women receive the advice to give a second chances, but only 18% of Spanish nationals) or another person (9.7% versus 4%).

Regarding the exit from IPV, there are no significant differences in terms of place of birth: their reactions in the sense of breaking with the relationship as a result of abuse are equally frequent among Spanish and non-Spanish born women.

Other surveys also point to a higher prevalence of IPV among migrant women. A survey carried out to more than 10.000 women in health centres in Spain in 2006-2007 (Vives-Cases 2009) found out that the prevalence of intimate partner violence among immigrant women was of 27.3%, while that of Spanish women was 14.3%. The study also shows that immigrant women more frequently reported to press charges against their intimate partners, but they did not know how to manage the situation, which implies that starting a legal process does not guarantee effective results in overcoming violence.

### **1.3. Mapping of residence sites of refugees and migrants**

#### **Reception centres**

The Spanish reception system is a mixed system which combines:

1. A network of collective centres, consisting of Refugee Reception Centres (Centros de acogida de refugiados, CAR) and Migrant Temporary Stay Centres (Centros de estancia temporal para inmigrantes, CETI) managed by the Ministry of Employment and Social Services.
2. A reception and support network managed by NGOs, subcontracted by the Ministry of Employment and Social Services.

In the first phase of reception (see section 2.1), both kinds of centres are involved. In the second phase, they are placed in private housing in order to promote their autonomy.

The allocation to each specific centre (either government or NGO-managed centre) is decided on a case per case basis, taking into account the availability of places, as well as the characteristics of the asylum seeker; for example if he or she has relatives or social networks in the territory, among other issues, and giving specific attention to vulnerable cases. The only exception is the Migrant Temporary Stay Centres (CETI), which are based in Ceuta and Melilla,



and host any third-country migrant or asylum seeker who enters the Spanish territory undocumented, either by land or by sea and arrives in the Ceuta and Melilla enclaves.

The type of reception places varies depending on the institution or organisation that manages the centre. The reception system relies on places in big residential centres and also apartments, but some reception places are in urban neighbourhoods while others are located in rural areas. The different types of available accommodation also differ from the point of view of provided services and spaces.

As of December 2016, the global total capacity of the asylum reception system was 4,104 places, 3,143 of which occupied (Queipo de Llano and Zuppiroli, 2017).

The Refugee Reception Centres (CAR) across the Spanish territory are part of the first phase of the reception process. There are 4 centres: one in Southern Spain (Sevilla), one in the Eastern shore (Mislata, Valencia) and two in the region of the Madrid capital: Alcobendas and Madrid. They offer 416 places in total.

Moreover, reception places for asylum seekers are available in the reception centres and private apartments managed by NGOs, funded by the Ministry, and distributed across Spain. Until 2014, only 3 NGOs managed these reception places: Red Cross, CEAR and Accem. After subsequent legal and political measures, as of the end of 2016 there are 10 NGOs managing the system.

NGOs have gone from managing around 1,000 places in August 2015 to 4,607 places as of March 2017 (CEAR, 2017) and with a forecast of reaching more than 8,000 with the funding calls 2017-2018. This has required the participation in the management of the reception of new organisations with experience in migration, but not asylum, which have joined the three specialised organizations that traditionally managed places within the host system for more than thirty years.

## Capacity and occupancy of NGO centres/private housing

<b>Capacity and occupancy of the asylum</b>		
<b>NGO centres/private housing</b>	<b>Capacity</b>	<b>Occupancy at 31th December 2016</b>
Accem	856	745
CEAR	865	779
Led Cross	1.216	1.032
La Merced	26	21
CEPAIM	300	239
Dianova	192	175
APIP-ACAM	85	52
Red Acoge	86	67
Pro Vivienda	56	31
Adoratrices	2	2
<b>Total NG</b>	<b>3.684</b>	<b>3.143</b>

Source: Data from Queipo de Llano and Zuppiroli, 2017

There is no information about the number of women in these facilities. The only data are that the Sister Adorers organisation (Adoratrices) provides accommodation only to women victims of trafficking.

In Catalonia, as of 21 July 2017, there are 1.691 reception places available for asylum seekers, 1.092 in the inventory of the Catalan Government (65% del total). 793 are collective residences and 898 in apartments. Places are distributed among 70 towns. 877 places were occupied (514 in phase 1; 325 in phase 2 and 38 in phase 3). (Secretariad'Igualtat, MigracionsiCiutadania, June 2017).

In addition, the Royal Decree adopted in September 2015 to extend the reception system capacity added to the procedure an additional initial phase of reception in hostels and hotels during a maximum of 30 days, due to delays in the registration of asylum application (asylum seekers can wait now for the registration of their application from a reception place). As of June 2017, there is no information about the characteristics and occupancy figures of hotel accommodation in the first phase. In Barcelona, hotel accommodation is managed by the SAIER (through the Red Cross, which also provides hotel accommodation throughout Catalonia).

Regarding the Migrant Temporary Stay Centres (CETI), there are two, in the autonomous cities of Ceuta and Melilla. This type of centre hosts any migrant or asylum seeker who enters the Spanish territory undocumented, either by land or by sea and arrives in Ceuta and Melilla. Every third country national who enters irregularly the Spanish territory through the two cities

is placed in one of the two centres before being moved to the peninsular territory as an asylum seeker or an economic migrant.

The overcrowded and deficient facilities of the CETIs have been criticised by CSOs and the Spanish Ombudsman. As of December 2016, the overcrowding was of 59.5% in Ceuta and 40.6% in Melilla. Deficient conditions are related to the lack of places for family units, so that families are separated and children stay with only one of their parents. In both centres, the shortage of interpreters and psychologists has also been criticised (Amnesty International, 2015).

Attention has been drawn to the lack of specialised assistance to the group of asylum-seekers, and particularly to persons with particular vulnerability. Faced with the possible problems of sexual and gender-based violence due to the high number of people of different ages and nationalities residing in the centre, the Ombudsman made a recommendation to the General Secretariat of Immigration and Emigration to prevent and solve these issues (Spanish Ombudsman, 2016).

#### **Capacity and occupancy of CETI**

<b>CETI</b>	<b>Capacity</b>	<b>Occupancy at 31th December 2016</b>
Ceuta	512	1.109
Melilla	492	900
Total	1.004	2.009

#### *Overcrowding of the CETI*

<b>CETI</b>	<b>Capacity</b>	<b>Occupancy at 31th December 2016</b>
Ceuta	51,0%	110,5%
Melilla	49,0%	89,6%
Total	100,0%	100,0%

Source: Data from Queipo de Llano and Zuppiroli, 2017

### **Detention centres: CIES**

The Ministry of Interior does not provide figures on asylum seekers who have applied for asylum from detention, though this information has been requested.

Persons in asylum proceedings are not detained. However, people who apply for asylum after being placed in detention, both in detention centres for foreigners, called *Centros de*

*Internamiento de Extranjeros*(CIE), and in penitentiary structures, remain detained while the decision on admission into the asylum procedure is pending. CIES are notorious for their structural deficiencies, overcrowding, and violation of rights.

As of January 2017, in Spain there are 7 CIES under the responsibility of the Ministry of Interior. These facilities are located in Algeciras, Barcelona, Canary Islands, Madrid, Murcia, Tenerife, and Valencia, making up a total capacity of 2,572 places, 226 of which are for women.

Although detention of asylum seekers or vulnerable categories is not allowed by law, in practice several exceptions have been reported concerning unaccompanied children and victims of trafficking. This is due to the lack of identification of the minor age of the person, or of his or her status of victim of trafficking.

#### **Total of foreigners interned in the different Spanish CIEs, 2015**

<b>Location CIE</b>	<b>Men</b>	<b>Women</b>	<b>Total</b>
Algeciras	2.114	189	2.303
Barcelona	738	0	738
Madrid	1.342	127	1.469
Murica	690	0	690
Valencia	690	74	764
Las Palmas	843	51	894
Tenerife	58	14	72
<b>Total</b>	<b>6.475</b>	<b>455</b>	<b>6.930</b>

Source: Santiago YergaCobos, 2016.

Women accounted for only 6% in the 2016 population of the CIEs (Santiago YergaCobos, 2016). This report adds to previous studies documenting the harshness of living conditions of women in detention centres (Women's Link Worldwide, 2016). Women have no access to psychosocial counselling, legal counselling to press IPV charges or apply for international protection. There are reported situations of sexual violence and particularly precarious hygienic and health conditions (Plataforma CEDAW Sombra 2017).

There are no established identification mechanisms of vulnerable groups, and especially victims of trafficking are not properly identified. The Ministry of the Interior has not provided the statistics regarding victims of trafficking in human beings identified in the CIE of Spain since "computer applications do not collect the place where the possible victims of trafficking have been identified" (Santiago YergaCobos, 2016).

## 2. Legal framework

### 2.1. Legal framework of asylum

The right to asylum in Spain is set forth under Article 13.4 of the 1978 Constitution. The Law on international protection in Spain is Law 12/2009 of October 30<sup>th</sup>, governing the right to asylum and subsidiary protection, later amended by Law 2/2014 of March 25<sup>th</sup>, for the purpose of fully incorporating Article 2.j of Directive 2011/95/EU of December 13<sup>th</sup> (Spanish Ombudsman, 2016). The Law details the right to asylum, refugee status and subsidiary protection, the rights which are guaranteed by way of both, the procedural rules for the recognition of these rights, the legal standards for the process of cancelling and revoking international protection, provisions for family reunification and the regime for the protection of minors and other vulnerable groups.

Seven years after the Law was passed, no regulations for the amendment of the law have been published, as it has been denounced by the Spanish Ombudsman and civil society organisations. The European Commission has sent Spain a Letter of formal notice due to the failure to have transposed the Asylum Procedures Directive 2013/32/EU<sup>36</sup>. With regard to the Reception Conditions Directive 2013/33/EU, the notification of Spain regarding full transposition of the Directive is currently being evaluated. Similarly, the European Union sent a reasoned opinion due to the failure of having been informed of the transposition of the Asylum Requirements Directive 2011/95/EU, and Spain has notified the partial transposition (Spanish Ombudsman, 2016).

Law 12/2009 recognises the status of refugee “to any person who has a well-founded fear of being persecuted in his country for reasons of race, religion, nationality, political opinions, membership to a particular social group, gender or sexual orientation” and “to the stateless person who, lacking nationality and being outside the country of habitual residence, does not want or cannot return to his/her place of residence for the same reasons”.

The Law also explicitly includes the right to subsidiary protection for the first time. This article is important because it opens the door to people who do not meet the requirements to acquire refugee status, but they are susceptible to some level of protection and would be at risk if returned to their country.

If asylum requests are rejected, the Asylum Law makes reference also to authorisation of residence for humanitarian reasons, as described by the Foreigners Law, a 1-year residence

permit which may be granted in different situations, including “being a victim of crime of domestic violence, provided that a judicial decision has established the status of victim”.

The Foreigners Law details the residence permits granted to refugees and beneficiaries of subsidiary protection (both 5 years, after which a long-term residence permit can be requested).

## Asylum procedure

There are two main ways to request international protection: submitting a formal application in the Spanish territory or at border controls. Asylum applications cannot be submitted through embassies or consular representations outside the Spanish territory, although the Asylum Law initially foresaw that possibility, because no Regulation has been published for the implementation of this Law and the previous Law did not contemplate this option.

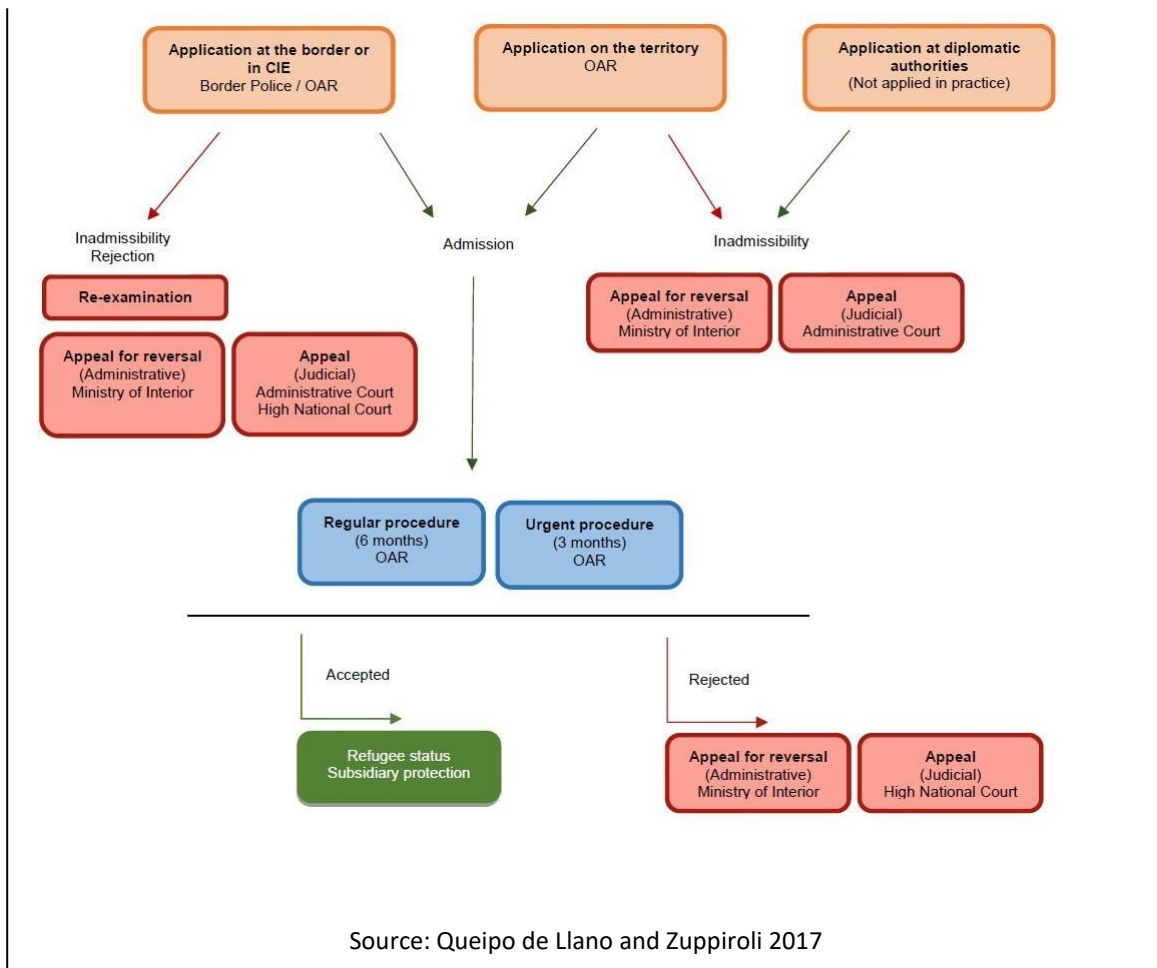
Asylum seekers can also apply to the border control authority. In the Spanish territory, competent authorities are represented by the Office of Asylum and Refuge (OAR), any Foreigners’ Office, Foreigner Detention Centre (CIE) or authorised police stations. The flowchart on the next page summarises the procedure.

The examination of applications on the territory in theory takes 1 month, but in practice it takes much longer than 6 months and CSOs also denounce waiting periods of up to 4 months before the asylum claim is even registered (Queipo de Llano and Zuppiroli, 2017; CEAR, 2017). Applications made outside mainland have established shorter response periods: borders (72 hours) or in CIEs (4 days).

Assessment of admissibility of asylum applications at borders and in the CIEs has no transparent criteria and is less subjected to guarantees, leading to higher number of rejections and non-admissions compared to applications in the mainland, increasing even more the vulnerability of applicants concerned. This has been put in evidence by several CSOs and supported by the jurisprudence of the Spanish Supreme Court.

When applications are considered admissible, the Ministry of Interior has a period of six months to examine the request, if the regular procedure is followed, or three months in case of urgent procedures (applied in specific conditions, such as to people with special needs, especially unaccompanied minors). The period is again longer and may amount to 2 or 3 years or more for some sending countries, such as Ukraine, as they wait for the conflict to evolve (CEAR, 2017).

### Flowchart of asylum procedure



During this time, the applicant will receive new documentation certifying his or her status as asylum seeker, a red card. If the application is admitted, the person will be authorised to enter Spanish territory. A restriction to freedom of movement is imposed on applicants to asylum in Ceuta or Melilla, who have to wait for the decision regarding the admissibility of their claim in order to be transferred to the Spanish peninsula and its asylum reception system. Limitations are also applied to asylum applicants who pass the admissibility phase, who are entitled to freedom of movement in the rest of the Spanish territory. This limitation has been declared unlawful by Spanish courts but the situation has not completely changed. Although since 2015 transfers to the peninsula have been sped up, the criteria applied by the competent authority are still not transparent and clear.

In case the application is declared inadmissible or rejected, the person shall return or leave the Spanish territory or will be transferred to the territory of the State responsible for examining the asylum application (Dublin regulations). Notwithstanding this, the person could be eligible to stay in Spain on humanitarian grounds.

Asylum claims are examined by the Inter-ministerial Commission on Asylum (CIAR) of the Ministry of Interior, including representatives of different government departments: home and

foreign affairs, justice, immigration, reception, asylum and equality. The UNHCR participates by providing their opinion, but has no veto power.

The duration of the asylum process is on average 1.5 years. As of December 2016, there was a backlog of 20,365 pending cases to be solved, which according to UNHCR affected mainly nationals from Ukraine, Venezuela, Syria, Nigeria and Mali (Queipo de Llano and Zuppiroli, 2017).

### **Number of beneficiaries of protection status**

In 2016, according to Eurostat, 6,855 people achieved some form of international protection in Spain, the highest figure since the adoption of the first Asylum Law in 1984 and six times higher than the number of 2015 beneficiaries (1,020). There was also a significant increase in the number of cases resolved: from 3,240 in 2015 to 10,250 in 2016. Refugee status was only granted to 355 people, 3.4% of the total (much less than other EU countries, e.g. Germany (41%) or France (21%)). 6,500 people benefited from subsidiary protection.

The increase in the recognition of international protection concerns almost exclusively refugees from Syria (90% of the beneficiaries). According to CEAR, this implies unequal treatment to asylum seekers from other countries involved in serious armed conflicts or indiscriminate violence situations. 100% of Iraqis and 90% of Somalis receive some form of protection, but in the case of Ukraine the percentage lowers to a 15% and to 0% among those coming from Venezuela, Colombia, Mali, Honduras or El Salvador; the case of the two Central American countries constitutes one of the most invisible refugee crisis in the world today.

Women accounted for the 42.2% of beneficiaries. A remarkable achievement is the recognition of refugee status for twelve women and their minor children trafficked for the purpose of sexual exploitation in the last quarter of 2016 (see section on vulnerable groups for further details).

### **Rights during the asylum procedure**

The legal precept that asylum applications must be formalised through individual personal interviews, with an interpreter, is respected, but there are some procedural problems. First, interviews may be conducted not only by the OAR, but also by police and border guards who lack the necessary competences.

Secondly, there have been several difficulties with interpreters. There have been some reported cases of quality and conduct problems. Additionally, since June 2016, the government suspended the contract with interpreters of specialised NGOs to appoint a private translation company non-specialised on asylum and migration. Interpreters working at NGOs also have



now worsened conditions. Finally, the relocation of asylum seekers from Greece and Italy's hotspots has brought to Spain nationalities of asylum seekers who cannot count on a community in the country, such as Iraqis, Kurds and Eritreans. This has led to difficulties in finding interpreters in certain languages, causing shortcomings and obstacles not only to asylum authorities but also to NGOs providing services and accommodation to asylum seekers (Queipo de Llano and Zuppiroli, 2017).

Additionally, persons who apply for asylum at borders or in airports must remain in *ad hoc* spaces, with restricted freedom of movement, until their application is admitted to proceedings. This has affected interviews with vulnerable groups, such as victims of trafficking. The maximum duration of their restriction of movement and their obligation to remain in border asylum spaces is 7 days, including the time for responding to possible appeals against the resolution. If this time limit is not respected, applicants will be admitted to territory in order to continue their asylum claim under the regular procedure.

Legal assistance is provided free of charge throughout all stages of the procedure for those lacking sufficient financial means. In practice, again the obstacles to access to legal assistance, as well as access to information and support by NGOs and UNHCR, are reported mainly in the CIEs detention centres and land borders.

Once international protection is granted, they have the right not to be deported to the sending country, a residence and work permit and a shortened period to become Spanish national.

Rights during the reception phase are described in section 3 on policy measures, in relation to their implementation.

### **Especially vulnerable groups**

The vulnerable groups set forth under Law 12/2009, include the following: minors, unaccompanied children, disabled people, people of advanced age, pregnant women, single parents with minor children, persons who have suffered torture, rape or other forms of serious violence, psychological or physical or sexual, and victims of human trafficking.

However, the Asylum Law does not provide a specific mechanism for the early identification of asylum seekers that are part of the most vulnerable groups. It does encourage the adoption of necessary measures to guarantee a specialised treatment to these groups, but not in terms of procedural arrangements, but regarding protection measures and assistance and services provided to the person. However, in practice, the participation and contribution of UNHCR

specialised organisations inside the asylum system enable the identification of some, “most evident”, vulnerable cases (Queipo de Llano and Zuppiroli, 2017).

### **Women in asylum procedures**

The CEDAW Shadow Platform Spain considers in its recent report that the government fails in the provision of adequate treatment to refugee women and girls, as it does not integrate a gender perspective in the asylum programme, following the UNHCR guidelines for a comprehensive strategy against GBV, including health, legal, social and security measures. In the asylum procedure, the specific needs of women and girls are not recognised, as regards the right to:

- Submitting an independent application for asylum and being interviewed separately by a trained professional, without the presence of family members.
- Receiving information, advice and translation from a woman.
- When asylum claims are not admitted, receiving information about the cause, so that they are able to appeal.
- Guaranteeing personal safety, dignity and social and economic security.

These deficiencies may be partly due to the fact that an effective transposition of the community directives in the area of asylum has not been completed, especially the asylum concession procedures and reception rules (Spanish Ombudsman, 2016).

The situation is aggravated in claims submitted in border checkpoints, most of them in Melilla, where there are reports of automatic pushbacks affecting women and girls, so that they would not have an individual examination of their case. At border points, airports and ports there is no suitable staff to handle asylum applications.

Additionally, the lack of sufficient staff, translators and lawyers, and the short term to appeal prevents an accurate individual analysis that integrates a gender perspective (Plataforma CEDAW Sombra, 2017).

### **Gender-related claims for asylum**

The Spanish Organic Law 3/2007, of March 22, for the effective equality of women and men (Equality Law), required an amendment of the Asylum Law (12/2009) to include persecution on the basis of gender.

However, the amended Asylum Law does not fully reflect this mandate of the gender equality Law. Article 3 collects gender motives (as well as sexual orientation) in the definition of refugee status, but states that these reasons are not sufficient, but will depend on the "circumstances prevailing in the country of origin" instead of recognising GBV in itself as a cause, considering the human rights of women as second-order rights, without their own entity (CEAR, 2009).

The wording of the Law also underestimates the difficulties that human rights organisations in home countries have to gather reliable information about human rights violations that are not yet considered as such in many states: violations are masked by state and non-state structures and activists face persecution themselves (CEAR, 2009). The implication is that women may face obstacles in the asylum-seeking process.

The CEDAW shadow report also condemns a lack of a gender-sensitive approach to the examination of asylum claims. As a report made by the Spanish Ombudsman in 2016, the OAR systematically disagrees with the UNHCR in the acceptance of asylum applications related to different forms of gender-based violence (cases of human trafficking, forced marriages and female genital mutilation) as well as requests related to sexual orientation and gender identity. The OAR regularly questions the credibility of the allegations that are presented, as well as the information from the country of origin, when asylum claims are related to gender-based violence manifestations (human trafficking, cases of forced marriages and female genital mutilation) or sexual orientation and gender identity and expression. The Spanish Supreme Court itself has ruled on several occasions on this issue, as the Spanish Ombudsman has also underlined. The Ombudsman denounces as well that in 2016 the OAR had no professionals specialised in GBV and that gender and LGBTQI training had been insufficient, though 2015 saw some improvement.

## **Trafficking of human beings**

The rights to asylum of victims of trafficking have not been considered until recently. Human trafficking is included as a crime in the Spanish Criminal Code (article 177 bis.1), including several purposes of exploitation (sexual exploitation, forced labour, forced begging, extraction of body organs and forced marriages). The Spanish legislation does not link human trafficking to gender-based violence, but the National Plan against Trafficking for Sexual Exploitation only refers explicitly to women and girls (even if a gender approach is not mainstreamed). The 2011 Framework Protocol for the Protection of Victims of Trafficking, aimed at coordinating the action of all involved actors for guaranteeing protection to the victims, and the amendment of

the Foreigners' law to establish mechanisms allowing potential victims to have a temporary residence permit provided they cooperate with the authorities.

Only a few identified victims of trafficking have been granted refugee status in Spain. The first accepted asylum claim was in 2009, and since then and up to 2016, only 6 women have been granted refugee status in Spain. The situation and OAR's attitude has started changing concerning this topic between the last months of 2016 and January 2017. In that period, 12 sub-Saharan women and their children were granted international protection (Queipo de Llano and Zuppiroli, 2017).

The Spanish Network against Trafficking (*Red Española contra la Trata*) and the Spanish Ombudsman agree that it is a malfunctioning of the protection system that the victims, after being formally identified by Spanish security forces, are given a residence permit based on provisions of the Foreigners Law, instead of taking into consideration their possible fulfilment of the requirements for refugee status, granting them greater protection. The Ombudsman has demanded a specific procedure for the referral of victims of trafficking in human beings to international protection and vice versa (Spanish Ombudsman, 2016).

Specialised support organisations for victims of trafficking consider that both protection systems (asylum and trafficking) are compatible and non-exclusive, and may be applied in parallel, when necessary. In any case, the State must always guarantee the principle of non-return of a person to a place where it may suffer inhuman or degrading treatment (SICAR.cat and Proyecto Esperanza, 2017). The organisations describe specific situations of human trafficking victims they support in which international protection is applicable, such as:

- Victims of trafficking who were victims of IPV in their home country and this fact contributed to their recruitment, in their wish to leave the country. They would be exposed again to IPV if they returned.
- Victims of trafficking for the purpose of exploitation in Europe who are afraid to return to their country of origin, as they would be exposed to rejection and stigmatisation.
- Victims of trafficking who escaped the criminal networks, but would be at great risk of retaliations and risk of being recruited again if they come back to their countries, for different reasons (e.g. the debt demanded by traffickers has not been settled or they cooperated with the police or judicial authorities against the perpetrators of the crime), due to impunity, inefficiency and corruption of authorities in many of their home countries.

CEAR alerts that asylum-seekers without a formal identification as victims of trafficking cannot access specific reception and psychosocial resources and 3 out of 4 women whose applications were admitted to the process left the shelter without prior notice, and CEAR lost contact with them (CEAR, 2015).

Regarding numbers of asylum approvals, in late 2016 a new positive tendency emerged, as the Spanish authorities began to recognise more consistently the international protection of women victims of trafficking for the purpose of sexual exploitation. In January 2017, CEAR announced that 12 African women and some of their minor children were granted international protection and received legal assistance from the organisation (CEAR, 2017b).

Similarly, Proyecto Esperanza (Madrid) and SICAR cat (Catalonia), two key organisations providing support to victims of trafficking, recently declared that in 2016 one of the victims supported by their organisations was granted subsidiary protection in 2017 and a total of 6 had obtained refugee status. The cases were related to “gender persecution in the country of origin during the migratory process, and had signs of human trafficking” and were identified in airports. Almost 100% of the submitted applications have been admitted to the procedure.

Results are related to the presence of SICAR.cat at the El Prat airport in Barcelona for identification purposes, whenever necessary, and an agreement with the OAR to open the possibility that, when there are signs of trafficking of human beings in an asylum application, they proactively contact a specialised organisation that can assess the case (SICAR.cat and Proyecto Esperanza, 2017). The organisations also report changes in the nationalities of victims identified in airports: a decline of Nigerian victims and an increase of women from other sub-Saharan countries such as Cameroon and the Central African Republic.

However, trafficked women continue to encounter serious difficulties in other airports and foreigners' Internment Centres (CIEs) in order to obtain adequate protection according to their specific needs.

In relation to airports, according to the latest report from CEAR (2017), based on their attention at the border post of the Madrid-Barajas airport, although part of the requests for international protection of possible trafficking victims are admitted to the process, none have been officially identified as victims. The lack of official data from the OAR for 2016 prevents a more complete analysis of the identification numbers of trafficking victims in border posts. Also according to the experience of CEAR assistance at the border post of the Madrid-Barajas airport, during 2016, the OAR maintained the good practice of communicating to the specialised unit on organised crime of the National Police all the cases in which they found signs of trafficking, in compliance with the 2011 Framework Protocol for Victims of Trafficking,

but the police only carried out a 37% of identification interviews, the period of reflection was never granted and in some cases it carried out a "pre-identification" interview, not foreseen in any regulations, without notifying a reasoned resolution that can be appealed.

CEAR also alerts of the conditions in which these interviews are carried out: "The peculiar situation of the persons requesting international protection at the airport, retained in facilities that prevent a climate of confidence, with the rest of asylum-seekers, among which possible traffickers may be, and the accelerated deadlines of the border procedure seriously prevent the protection needs to be correctly identified" (CEAR, 2015).

### **Relocation and resettlement**

The Spanish government is not complying with the EU relocation and resettlement agreement. As of 3 July 2017, according to the UNHCR, the Spanish government complied with 11% of its commitment. The Spanish government promised to relocate 15.888 people who were already in Europe before September 2017, plus 1.449 living in settlements in Lebanon, Jordan and Turkey.

However, until the beginning of July 2017 only 144 people were relocated from Italy, 925 from Greece and 9.323 remain to be relocated, according to UNHCR. The main nationalities concerned in the relocation process are Syrians, Iraqis and Eritreans. Spain is one of the countries showing less commitment to relocation, only after Hungary, Austria and Poland (0%), Czech Republic (0.4%), Slovakia (2%), and Bulgaria (4%).

Upon arrival in Spain, asylum seekers are referred to the OAR for the registration of their asylum application. At the same time, they are immediately placed within the official reception system as all other asylum seekers, in equal conditions relating to duration of reception, conditions and level of financial allowances. Relocated refugees receive the same treatment as all other asylum seekers and refugees in Spain.

### **Spanish Southern border: access to the territory and push backs**

The main obstacles regarding the registration of asylum applications occur in cases of applications at the borders, and mostly at the Ceuta and Melilla border control checkpoints. These obstacles are mainly due to the impossibility of asylum seekers to cross the border and exit Morocco. There are several reported cases concerning refusal of entry, *refoulement*, collective expulsions and push backs at the Spanish borders. Although UNHCR has also established its presence in the Ceuta and Melilla borders, asylum seekers, and mostly

Sub-Saharan nationals, face huge obstacles in accessing the asylum points at the Spanish border.

In March 2015, the Spanish government adopted an amendment to the Foreigners Law, introducing the possibility to “reject at borders” third-country nationals that are found crossing the border illegally. The amendment, introduced through the adoption of the Law “on the protection of citizen security”, includes a specific regulation within the Aliens Law concerning the “special regime of Ceuta and Melilla”.

In spite of declaring that rejections respect international law on human rights and international protection, in practice, when a person is found within Spanish border territory, which includes the land between the Moroccan and Spanish border, he or she is taken outside the Spanish border through existing passages and doors controlled by border guards (Queipo de Llano and Zuppiroli, 2017).

The amendment aimed at legalis

ing the push backs practiced in Ceuta and Melilla has been criticised for ignoring human rights and international law obligations towards asylum seekers and refugees by several European and international organisations such as the UNHCR, the Council of Europe Commissioner for Human Rights and the UN Committee against Torture. Critics insist on the fact that people are not able to request asylum, and that the law mostly affects groups in vulnerable situations, including unaccompanied minors and victims of trafficking (Queipo de Llano and Zuppiroli, 2017).

Additionally, according to data from the Delegation of the Government of Andalusia gathered by CEAR (2017), in 2016 the number of people rescued on the coast of Andalusia, mostly sub-Saharan Africa, doubled. These sea rescue expeditions have been reported to contravene the asylum regulations (Spanish Ombudsman, 2016).

## **2.2. Legislation against GBV**

The main legal instrument against GBV in Spain is the Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence. The law establishes the concept of gender-based violence, equivalent to that of intimate partner violence. The purpose of the law is to combat the violence exerted against women by their present or former spouses or by men with whom they maintain or have maintained analogous affective relations, with or without cohabitation.

The Law introduced changes in the Spanish Criminal Code to establish harsher penalties in cases of male intimate partner violence against women, as this is considered an aggravating circumstance, and coercion and minor threats are considered crimes and not misdemeanours.

The law aims to provide a comprehensive and multidisciplinary response to IPV. The main action areas of the law are:

- Sensitisation, protection and detection measures in a wide range of fields like education, advertising and the media and the healthcare system.
- Awareness raising campaigns targeted to the whole of the society.
- Recognition of the rights of victims and their children so that they can put an end to violent relationships and recover their life project: right to information, integrated social assistance, labour and Social Security rights, economic rights (active labour integration income, priority access to protected housing and public care homes for elders), and other rights (pressing charges against violence, requesting a protection order, being part of the criminal procedure).
- Specific rights of foreign women.
- Establishment of an integrated system of institutional involvement and public policies for the protection, support and security of victims.
- Criminal protection of victims against physical and psychological damages.
- Specific and special jurisdiction, the “Specialised courts dealing with violence against women” with competences on criminal and civil matters at national level.

The recognition of the corresponding rights is accredited with the judgment finding the accused guilty as charged or the court protection order in favour of the victim and, exceptionally, pending the court protection order, the report from the Public Prosecutor’s Office pointing to existing evidence that the claimant is a victim of gender-based violence.

## **Sexual violence**

Sexual violence exerted on women by others than partners or ex partners is included in the Criminal Code in the crimes of sexual assault and sexual abuse, and it is not legally conceptualised as gender-based violence in the Spanish legislation.

Feminist jurists have criticised that sexual crimes as they are described in the Criminal Code follow a “regressive” conceptualisation, attributing the evidence of sexual abuse to violence or intimidation instead to the lack of consent (Toledo et al, 2016). This means that violence



exerted through less violent means (e.g. use of drugs or alcohol to incapacitate the victim) are considered less incidents of sexual assault and, consequently, less serious crimes. Seriousness of the crime is also linked to penetration, showing a phallogentric approach to sexual violence.

The analysis of legal judgement shows significant gaps in the information collected (e.g. relationship between the victim and the defendant, reasons why procedures are interrupted, etc.) and sexist bias.

Recent attempts to reach a non-partisan widespread agreement among Spanish political parties to define sexual violence by non-partners as a form of GBV have failed.

### **Visibility of women migrants and asylum seekers in GBV legal provisions**

Non-Spanish nationals, victims of intimate partner violence are granted specific rights, mainly that those in irregular situation may stay in Spain until the sentence is passed, and entitled to services. The 2009 change of the Spanish Law on the Rights and Freedoms of Foreign Citizens established that migrant women victims of gender violence, regardless of their current administrative situation, are entitled to a residence and work permit once a protection order is passed or there is a report of the Public Prosecutor. This way the latest legal modification corrects the earlier legal vulnerability of victims, so that when there is a deportation order, it is suspended. However, since 2005 a circular of the Secretary of State established that the order should be suspended only if an order of protection is granted (Amnistía Internacional, 2007). As it has been mentioned, the Foreigners Law regulation expressly introduces IPV as a case of residence authorisation for humanitarian reasons, but to prove the situation of violence there must be a final court judgement.

In cases of family reunification, victims of intimate partner violence with a regular administrative status may have an independent residence and work permit.

Protection measures are limited to intimate partner violence: sexual violence by others than non-partners is not included. It should be noted that there are reported cases of migrant women's discrimination in access to justice, for example in cases when they lack command of language or they have a low educational level and they have to make complex statements before the court, their credibility is questioned (Toledo et al, 2016).

The Spanish Criminal Code establishes Female Genital Mutilation as a specific crime (article 149); civil law and minors' protection legislation also include measures that can be applied when minors are at risk of being submitted to FGM.

Regarding forced marriages, since the 2015 amendment to the Criminal Code, it is considered an aggravated form of coercion and also a form of human trafficking; this double penalisation may result confusing (Toledo et al, 2016). In addition to the criminal framework, civil norms related to the regulation of marriage contracts and the rules regarding the right of asylum or refuge for women victims or potential victims are also relevant.<sup>1</sup>

Beyond legislation applicable to the whole Spanish territory, regional laws expand the scope of the Spanish law and establish *coordination mechanisms*. In Catalonia, it is relevant to mention Act 5/2008, of 24 April, on the right of women to eradicate sexist violence. It takes an innovative definition which encompasses violence committed by intimate partners and other perpetrators in various different spheres. The act defines "sexist violence" (sometimes translated as "male-based violence") as: "violence that is exercised against women in a display of the discrimination and inequality entailed in a relationship system that enshrines the power of men over women". This term includes different types of violence: physical and psychological violence, sexual violence and economic violence. Moreover, the law states that sexist violence may occur in different spheres: partnerships, family, employment and social sphere or community (the latter including sexual violence and harassment by non-partners, trafficking, FGM, forced marriages, violence in armed conflicts and violence against sexual and reproductive rights). However, it should be noted that the articles related to forms of violence that are not covered in the Spanish law are also those which have been less implemented in practice.

The main action areas of the law are described as follows:

- The law established a broad range of public policies to eradicate sexist violence in the field of prevention, detection, training and education of professionals, social media and prevention programmes in the educational system. It also includes actions as promoting research and social awareness initiatives.
- The law recognises a catalogue of rights of women in situations of sexist violence: real and effective protection, right to legal care and attention, healthcare, economic rights (housing, minimum income, indemnification, etc.), occupation and occupational training, and recovery through the public and free services of the Comprehensive Assistance and Recuperation Network.

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<sup>1</sup>Trafficking legislation was described in section 2.1.

- The Administration of the Catalan Government can appear as an interested party in trials for sexist violence in cases of a woman's death or serious injury.

The legal text broadens the range of the means for identifying situations of violence, as it does not require a criminal certification of the situation (e.g. protection order) to have access to certain resources.

The law includes all women regardless of their nationality, legal residence and administrative situation and takes an intersectional approach, as women in specific situations are recognised: immigration, prostitution, residence in rural areas, old age, transsexuals, disability, human immunodeficiency virus, Roma ethnic groups, women in prison and women at risk of female genital mutilation. In the case of migrant women, however, the law only mentions facilitating access to women's documents and legislation of countries of origin via consulates. In the case of Roma women, the law more specifically plans awareness-raising strategies agreed with associations of Roma women to address social pressure and cultural legitimisation.

It is relevant to note that one of the forms described in the Law as violence in the "social or community sphere" is "violence deriving from armed conflict: includes all forms of violence against women that may take place in these situations, such as murder, rape, sexual slavery, forced pregnancy, forced abortion, forced sterilisation, intentional infection with disease, torture or sexual abuse" (article 5). This has been interpreted as having implications on the situation of refugee women from countries with armed conflicts (Toledo et al, 2016).

For FGM some reparation measures are described, and there are also specific protocols dealing with prevention and police intervention. Forced marriages have also a specific prevention and police intervention protocol, which has as an objective to avoid women and girls' victimisation.

### **3. Policy measures and services to protect migrant and refugee women against the GBV: reception**

#### **3.1. Measures and services provided by the asylum and migration laws: reception**

##### **3.1.1. Reception: general framework in Spain**

The Spanish Asylum Law provides that "applicants for international protection, in the case they lack own financial means, will be provided with shelter and social services in order to ensure the satisfaction of their basic needs" (article 30). The Ministry of Employment and Social Security runs a comprehensive reception and integration system assisting asylum-seekers from

the time they submit their application to the completion of the integration process. The system is divided into three main phases, each lasting 6 months, which gradually reduce the material conditions granted to the asylum seeker, aiming to achieve autonomy and social integration in the final phase:

1. Temporary reception (first 6 months, or possibly 9 for vulnerable groups). Applicants are provided with accommodation, health care, full financial support for their subsistence and receive basic training to facilitate their integration.
2. Integration phase (6 months or possibly 9 for vulnerable groups). Applicants are housed in private apartments (with covered rent expenses) and coverage of basic expenses.
3. Autonomy phase (6 months), which foresees that applicants have achieved financial independence of applicants, and provides them with punctual support and service provision.

In September 2015, a Royal Decree was adopted in order to increase the capacity of the national reception system, due to the increase in applications for international protection in Spain. The Decree enlarged the number of accommodation centres (see section 1.3) and also introduced the possibility to host asylum seekers in hotels for a 30-day period, with coverage of basic necessities until they are referred to the first asylum reception phase. This additional initial phase (assessment and referral phase) is now officially part of the reception scheme.

The social reception programme often ends well before the asylum case is resolved, which leaves them unprotected. Finally, those who do not receive international protection are in an irregular situation. Asylum seekers whose application has been rejected may remain within the reception facilities until they reach the maximum duration of their stay.

The system is rigid and material reception conditions are the same for all asylum seekers, regardless of the type and the duration of the asylum procedure, as Amnesty International, among other organisations, have denounced.

It should also be mentioned that the system is based on the applicant's accommodation in official asylum reception places, which gives access to all other services provided. Those who can afford or decide to provide themselves with independent accommodation are in practice cut off the asylum system, and have no guaranteed access to financial support and assistance provided in reception centres; they should refer to social services for the general population. The decision to opt for independent accommodation is not allowed for applicants arriving in Spain from the Moroccan border, as they must be hosted in the Ceuta and Melilla's

Migrant Temporary Stay Centres (CETI) in order to be transferred to the Spanish peninsula and to access the official reception system.

Asylum applicants must complete the first reception phase in asylum facilities in order to access the support foreseen in the following phases. The completion of the first phase is mandatory.

Finally, the refugee protection system is mainly externalised to NGOs, but there is no supervision by government carried out and guidelines were only recently published in 2016. This means that there are different support criteria depending on the service provider and the professionals involved (Quarta Tinentia d'Alcaldia de Drets de Ciutadania, Transparencia i Participació, 2017).

### **Material and financial provisions**

In the first reception phase, asylum seekers receive coverage of personal expenses for basic necessities: transportation, clothing, training in social and cultural skills, host country language classes, vocational and lifelong training. They are also provided with leisure activities and childcare (Queipo de Llano and Zuppiroli, 2017).

Financial allowances and further details are decided on a yearly basis based on the available government budget, but the general allowance is of 51.60€ per month per person, plus 19.06€ per month per each minor in charge. In addition, other necessities are covered after presenting receipts (public transportation, clothing, health expenses, training expenses, administration proceedings expenses, translation fees...).

In the second phase, no pocket money is provided but rent expenses are covered and financial support is also provided, even though the kind financial support provided after the first phase is not meant to be fully adequate, but an additional provision.

Asylum seekers face the most serious obstacles after the first phase ends, as the system foresees that self-maintenance and autonomy can be achieved in 6 months, which is almost impossible for applicants with difficulties in learning Spanish, an important barrier to access employment.

## Housing

Asylum seekers are placed in the reception place which “better fits their profile and necessities”, on a case by case assessment made between the OAR and the NGO managing reception centres, with criteria such as the availability of reception spaces and the integral features of the applicant (age, sex, household, nationality, existence of family networks, maintenance, personal necessities etc.). Factors such as conflict prevention (e.g. among national or religious groups) and vulnerability are considered. Single women for example are usually placed in female-only apartments, while the same happens for single men. In this context, the unity of families is also respected and family members are placed together (Queipo de Llano and Zuppiroli, 2017).

Once the applicant is given a place in the reception system, they cannot move around the territory without losing the right to reception in the public system.

A longer description of housing characteristics is included in section 1.3. In general, there have not been reports of bad conditions of reception nor registered protests of applicants. The exception is the CETI centres in Ceuta and Melilla, and of course the 7 CIE detention centres across Spain.

As of June 2017, there is no information about the characteristics and occupancy of hotel accommodation in the first phase.

## Training and employment

Access to employment remains one of the biggest obstacles for integration. Asylum seekers are legally entitled to start working 6 months after their application for asylum is officially submitted, while their application is being examined. Once the 6-month period is over, applicants may request the renewal of their Red Card.

To facilitate their integration, reception centres for asylum seekers organise vocational and host language training. Labour integration supportive schemes offered to hosted asylum seekers may include services like personalised guidance interviews, pre-employment training, occupational training, and support to job search. However, actions depend on the responsible NGO in each case.

The 3 main NGOs that manage asylum reception centres (Accem, the Red Cross and CEAR) run the Ariadna Network within the 4 CAR managed by the Ministry of Labour, a comprehensive action plan for labour integration.

## Health care

Spanish law provides full access to the public health care system for all asylum seekers, including free psychological and psychiatric treatment. However, there are almost no specialised centres for victims of severe violations and abuse like those faced by asylum seekers escaping war, indiscriminate violence or torture. The exceptions are HeviaAccem-Arbeya centre (Asturias) or the Association Exil in Barcelona.

## Other issues

No information about actions at national level promoting participation has been found.

## Reception of vulnerable groups

Most vulnerable profiles are allowed to longer reception periods in the first two phases.

The criteria of case-by-case assessment of assignation of reception places take into account the vulnerability of asylumseekers (including age, sex, household, nationality, existence of family networks, maintenance, etc.), but also the availability of reception spaces. There is a monitoring mechanism of the response to reception needs (Queipo de Llano and Zuppiroli, 2017).

However, available resources have a generalised approach, and they do not cover needs of the most vulnerable asylum applicants, who are referred to external and more specialised services. This generalised approach has been criticised by several organisations (Spanish Ombudsman, 2016; UNICEF, 2016; Amnesty International, 2016). Specifically, the Spanish asylum system does not provide special reception places addressed to asylum applicants such as victims of trafficking (with the exception only 2 places made available by the Sister Adorers organisations), victims of torture or persons with mental disorders.

### 3.1.2. Regional and municipal experiences

The competence to manage reception and integration policies in the asylum system relies on the Spanish Government, but regional governments have under the Spanish Constitution competences on key services for integration (education, social services, housing, healthcare and access to employment), in cooperation with local administrations.

Since the onset of the Mediterranean 'refugee crisis', different positions in the political spectrum between the central government and some regional and local governments,

together with regional aspirations for greater autonomy and independence (in the case of Catalonia), have aroused an interest to participate in the management of the asylum system. Echoing the concept of “sanctuary cities” in North America, the UK and Ireland, a network of 25 Spanish “refuge cities” was established to demand from the state more coordination and complying with their international agreements on international protection.

Regional and local governments are implementing additional measures and providing resources to grant asylum seekers their full rights to information, protection and assistance. Some programmes are not effective beyond rhetoric solidarity statements that do not translate into budgeted policy plans. Others have supported specialised NGOs providing use of municipal buildings as housing units, intermediation for access to accommodation in the free market, training spaces for workshops, the promotion of the social and cultural participation of this population and the sensitisation of the Spanish population.

NGOs stress the need to avoid creating regional or local parallel systems and build on the experience of specialised organisations and providing them with more resources. In this sense, it is essential to develop and implement a protocol of coordination among all administrations and actors involved, as their lack of agility is “having important effects” on the reception system and to the process of integration.

A key aspect has been that some of the regional and local programmes are for the first time aimed at supporting those who do not receive enough support in the existing asylum system, such as asylum seekers who do not achieve autonomy in the 3-phases process or even those with rejected applications who stay in Spain.

One such case is the ongoing programme of the Valencia City Council, with an annual budget of 200.000 euros to implement additional support to those who are not autonomous when they leave the reception system, such as facilitating vocational training as mediators and awareness-raising agents (CEAR, 2017).

In Catalonia, the framework of reception and integration of migrants is established by the Law 10/2010 of 7 of May, on reception of immigrants and returnees to Catalonia, and since 2014 there is also a policy plan to international protection in Catalonia.

In 2015, the Catalan government established the Committee for the Reception of Refugees, as an interdepartmental and inter-administrative coordination body gathering different competent administrations in Catalonia and specialised NGOs. The Committee is comprised of different working groups: the working group on reception has provided some attention to the specific treatment of women as a vulnerable group (Castellà, 2017).



The Catalan Refuge Program started in January 2017 as a solidarity programme based on mentoring for low-income refugees “after they finish the Spanish refugee programme in Catalonia without achieving enough autonomy or, exceptionally, other refugees in situations of social exclusion”. Over 12 months, they receive financial support for basic needs, including housing and children’s schooling, and develop an individual action plan including language training, job counselling and training, and social participation. Voluntary citizens act as mentors, in groups of 3 to 5 mentors per mentee, to support refugees in their activities and the establishment of links with the Catalan society. Mentors must pass an interview before joining a programme and they also receive a training course. They are supported by specialised NGOs, while municipalities supervise the progress of beneficiaries.

In its first six months, 2,730 people registered as volunteers to the programme. 70% of them are women and 46% have already enrolled in one of the 64 courses organised in 21 Catalan municipalities. There are no available data about the number and profile of mentees, or the results of the programme.

### **Barcelona, Refuge City**

The Barcelona Municipality participates in the Committee for the Reception of Refugees of the Catalan Government and has developed joint actions with the regional authorities, such as the co-ordination of a new shelter for refugees in Barcelona. On the other hand, the Barcelona Municipality has denounced the lack of cooperation of the Spanish Government, their lack of transparency and even their refusal to provide data about asylum and reception in the city.

In September 2015, the Barcelona Municipality started the programme “Barcelona, refuge city”, to promote the reception of new refugees, the attention to refugees already living in Barcelona, awareness-raising and coordinated foreign action with other refuge cities in Spain and around the world. The coordination mechanism and emergency plan to receive new migrants via relocation has not been put into practice (Quarta Tinent d’Alcalde de Drets de Ciutadania, Transparència i Participació, 2017). The foreign coordination and advocacy strategy has led to the establishment of alliances and cooperation programmes with other cities, and the funding of Catalan cooperation NGOs working in other Mediterranean hotspots (e.g. Stop Mare Mortum’s legal advice in Greek refugee camps). However, municipal relocation agreements, such as the one reached with Athens to relocate 100 refugees in March 2016, were rejected by the Spanish government.

To deploy the Refugee City plan, Barcelona coordinates with local governments, and a variety of CSOs established in the city.

In terms of reception structures for current residents, a complementary reception programme (Nausica) was established, aimed at asylum seekers who have received support through the national programme, but have not achieved autonomy yet after finishing the 3-phase programme. It also addresses people who lost their right to asylum and were excluded, those who rejected the destination where they were sent, or those who, due to their health or sexual orientation, a programme of accommodation in collective residential centres was not advisable.

As of May 2017, the programme has 80 places and other 20 are planned, with a capacity to support 200 people/year. The 2016 budget was 165.000 and in 2017 the budget allocation is supposed to reach 950.000 euros.

Preference is given to vulnerable groups, including monomarental families, pregnant women, “possible cases of gender-based violence”, and people who have suffered discrimination due to sexual orientation or victims of torture, “rape or other serious forms of psychological, physical and/or sexual violence” (Quarta Tinentia d’Alcaldia de Drets de Ciutadania, Transparència i Participació, 2017).

In addition to temporary housing, it includes a comprehensive and individualised work plan with a wide range of services: from professional, social and psychological support, language courses, legal and job counselling, and support to children’s schooling.

The duration of the programme is six months, but it may be extended up to one year for people at risk of extreme vulnerability. The programme is carried out in cooperation with specialised NGOs: Acathi, ACCEM, Benallar, CEAR, Ficatan and Iniciatives Solidàries. Acathi (Catalan Association for the Integration of Homosexual, Biesexual and Transexual Immigrants) is supposed to manage 8 places for LGBTQI refugees (Quarta Tinentia d’Alcaldia de Drets de Ciutadania, Transparència i Participació, 2017).

In May 2017, the Barcelona City Council signed another important policy plan to guarantee the rights of people in irregular situation. The plan includes essential and innovative measures to promote the regularisation of immigrants:

- Creation of a “Barcelona neighbour” report issued by the Barcelona Municipality to certify the integration, as a way to achieve residence and work permit, avoiding internment in CIE detention centres and deportations.

- Increasing human and economic resources of immigrant reception centres and organisations providing legal counselling.
- Giving undocumented migrants access to the training courses of the municipal employment promotion institute.
- Promoting 12-month subsidised employment contracts that give access to regularisation through employment.
- Improving legal information for migrants on their rights, especially in economic sectors with a high prevalence of informal work, such as domestic work.
- Introducing risk analysis to prevent lapsing into irregular administrative situations, by referring people at risk to specific job counsellors and intensify support to job search. It must be noted that often asylum seekers sign a work contract, but if their request is denied, they must leave their jobs and lapse back into irregularity. If they want to regularise their situation, their working period is not registered as evidence and they have to start from scratch.
- Guaranteeing that all municipal services, including access to language courses and support and information centres for women and LGBTQI people are effectively accessed by showing any ID card (e.g. passport) or, in some cases, a registration in the population census. The measure promotes the guarantee to this access promoting information among newcomers and the training of frontline professionals to avoid discrimination.

Migrants' integration policies in Barcelona rely on a well-established reception programme for new residents, including information sessions about services and procedures, legal counselling, support to job search, language training or women's support actions, among others. Services are provided in cooperation with the Welcome and support network for immigrants, gathering 160 NGOs and associations.

The SAIER (Service Centre for Immigrants, Emigrants and Refugees) is a municipal service offering free information and advice on immigration, asylum, emigration and voluntary return. It is managed by the Barcelona Municipality and 5 organisations, including trade unions, NGOs, professional organisations and public language schools (CITE-CCOO, AMIC-UGT, ACSAR Foundation, the Barcelona Bar Association, Red Cross and the Consortium for Linguistic Normalisation). Regarding international protection, the SAIER has a legal service with an agreement with the ACSAR Foundation. The Red Cross provides social support in the framework of the Spanish asylum system.

In 2015, the SAIER provided support to 12,000 people, 12% of them international protection cases (it is the group with the highest increase: over 60% compared to the previous year and four times more than in 2012). In 2016, the upward trend was maintained, with an increase of 45%, according to data from September 2016. With regard to care for minors, the increase was of 33%.

The SAIER provides support to: people arriving at the city with the aim of requesting asylum; asylum seekers who have exhausted the benefits of the state reception programme before their application is resolved; asylum seekers who have been excluded for various reasons from the Spanish reception programme; refugees who have obtained legal protection but who have not achieved their autonomy; and/or people who have not obtained protection and become irregular immigrants at risk of being deported.

In 2015, the two main nationalities and those with the highest increase were Ukrainians and Syrians (mostly traveling Syrian families with serious adaptation problems and difficulties to understand and have effective access to support circuits). In 2016, the numbers of Venezuelans, Salvadorans and Hondurans have increased.

### **3.2. Measures and services provided by the laws for the protection of women GBV survivors**

An increasing concern about the prevalence and vulnerability of migrant women to GBV led the Spanish government to draft a specific plan for the support and prevention of IPV among foreign nationals for the period 2009-2012, which outlined strategies to improve access to information and resources and promote social awareness.

This plan has not been renewed, but the current GBV action plan (National strategy for the eradication of violence against women 2013-2016) includes several actions related to improving information to immigrant women with materials and helplines in several languages, supporting NGOs and associations of immigrants in the area of the integration of immigrants and international protection to carry out projects against GBV, introducing actions against GBV in integration programmes, introducing immigrant women's specificities in the GBV healthcare protocol and promoting training in gender-based violence to the technical staff of the Migration Centre. Regarding trafficking for sexual exploitation, the Plan commits to developing protocols in different areas (healthcare, social services, migration centres, assistance to victims offices, legal medicine institutions, etc.) to improve the detection, identification, assistance and

protection of victims of trafficking, and supporting projects providing assistance and protection to victims returning to their countries of origin.

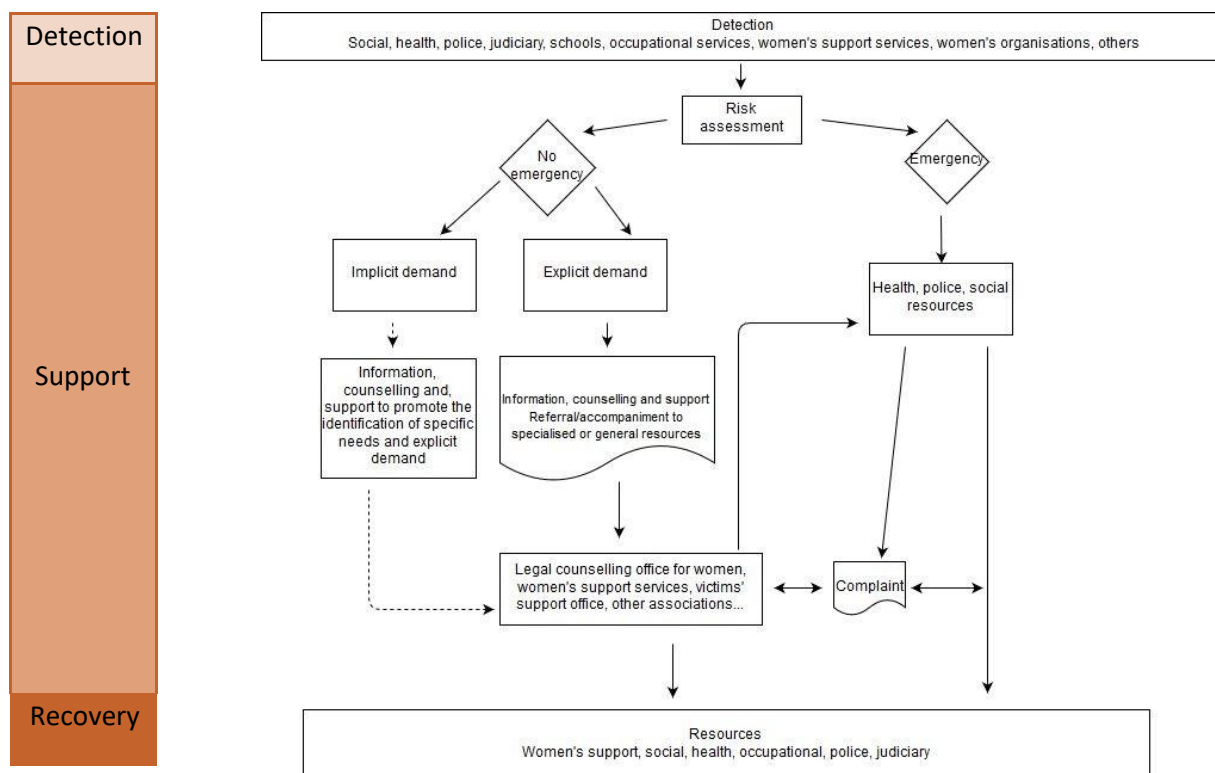
FGM is also included in the Spanish National Strategy for the Eradication of Gender Violence (2013-2016), which has promoted the establishment of a Common Health Protocol (2015) for healthcare professionals on detection, prevention and improvement of the health of the victims.

In Catalonia, political measures developed after the GBV law have established a coordinated implementation through a comprehensive protocol, involving diverse public services on education, social services, police, justice, health and occupational integration, among others (Institut Català de les Dones, 2009). This well-established protocol, however, has been limited by budget cuts related to austerity policies.

The Catalan protocol provides specific focus on migrant women, mainly providing training workshops for professionals working with migrant women, and promoting cooperation with institutions and organisations of the country of origin.

As it was noted in the legal section, the Catalan GBV Law and the Protocol establish a comprehensive public and free multi-agency system involving detection, protection and support actors through a Comprehensive Support and Recovery Network. The network includes a telephone helpline, women's information and support offices, and emergency and longer stay shelters providing comprehensive support from interdisciplinary teams (psychological, legal, social professionals etc.). The following flowchart provides a summary of the protocol organising the network.

## Circuit of the Catalan Comprehensive Support and Recovery Network (simplified)



Source: Own

elaboration, based on the Catalan Framework Protocol.

Even though the Catalan network should cover all forms of GBV included in the Catalan Law, a recent diagnosis of the network has identified serious problems in the identification and support provided outside IPV (Grup d'Investigació Antígona, 2016). Data available from some shelters show that professionals provide support to very few cases of sexual assault and abuse outside partnerships (less than 3%). The services of the Network are not the most common way of detecting and intervening in situations of trafficking for the purpose of sexual exploitation (detection is carried out mainly by other services, such as the police forces and support organisations to sex workers). Many professionals lack knowledge about trafficking. On occasions, despite the different security standards, the network's shelters have hosted victims of trafficking.

Other protocols exist in Catalonia giving focus to situations of international trafficking of women for sexual exploitation, female genital mutilation (Catalan and different local protocols, mainly in the area of Health) and forced marriages (just a police protocol). In these areas, there is a focus on the prevention and identification of these forms of violence, through cultural mediators, training on migration and cultural diversity for professionals, and coordination between professionals working in different areas (health, welfare, etc.).

Research carried out under the Daphne project IRIS on the violence and abuse committed against women and young girls related to violence and harmful traditional practices (Alessi et al 2011) provides insight about the real implementation of measures preventing and combating FGM and forced marriages in Catalonia.

Results of this research show that knowledge about existing protocols on FGM is scarce among many professionals, their implementation depends on the frequency of cases being detected, the population at risk in the area and the attitude of the professionals involved. This last factor is crucial regarding the efficacy of the prevention measures. Professionals remark the need to improve information, awareness-raising and training for professionals and potentially practising families. Data should be better registered and support services to FGM victims should be improved.

Regarding cases of forced marriages, professionals think that the real figures are bigger than those provided by the Catalan police because identification is related to pressing charges for intimate partner violence under the Spanish law (Alessi et al 2011). Some of the limitations of the implementation of the existing police protocol on forced marriages are related to the lack of a specific criminal legislation on this issue, the reluctance of women to denounce the cases, the lack of adequate indicators to detect them and absent or inadequate public resources to address the needs of victims of violence and reinforce prevention.

The recent diagnosis of the Comprehensive Support and Recovery Network confirms that detection and intervention actions in FGM and forced marriage cases continue to be very scarce (Grup d'Investigació Antígona, 2016). There are no specific recovery interventions in these cases and professionals seem to perceive that the task is limited to prevention. For example, there is no specific programme to the physical and psychological recovery of FGM or no actions to promote the restitution of community networks among victims of forced marriages. Several Network professionals report identifying forced marriages in cases of IPV, but no special protocol has been developed, especially in terms of restitution of social and community network.

As it has been mentioned, the Catalan Law and Protocol adopt an intersectional perspective which takes into account the diversity of women and multiple inequalities. However, limited resources pose a serious problem to adapted individualised support. The most explicit situations of double discrimination are those suffered by some migrant women. The network provides support also to women regardless of their administrative situation, but undocumented women may be reluctant to report to the police authorities because if the perpetrator is not convicted, they may be subjected to deportation procedures. In addition, it

prevents them from accessing economic benefits (such as RAI, a monthly allowance for some vulnerable groups, including victims of IPV under the Spanish law) and, therefore, to economic resources that facilitate their independence. Finally, the lack of linguistic competences often causes inability to provide psychological assistance. The services of interpreters employed by the Network have room for improvement in terms of more presence in certain services and more languages.

The Network also has a serious lack of occupational programmes promoting job placement, career counselling professionals, as well as a scarcity of social housing units for independent living after leaving shelters.

### **Services for victims of trafficking**

The approval and application of the II Comprehensive Plan to Fight Trafficking in Women and Girls for the Purpose of Sexual Exploitation 2015-2018 and the different protocols drafted have met various difficulties, due both to the economic crisis and to political instability. In this sense, only the NGOs that carry out intervention have a clearer picture of the situation and there are no global data (CedawSombra, 2017).

The 2011 Framework Protocol for the Protection of Victims of Trafficking, aimed at coordinating the action of law enforcement forces and social providers to guarantee identification and support to the victims, provides almost no information on the coordination of social support.

Providers across Spain are almost exclusively NGOs: 60 with shelter places (420 places in residences or apartments) and providing comprehensive services (psychological counselling, social support, legal counselling, training, job counselling and psychiatric support), plus other 59 day centres (Ministerio de Sanidad, Servicios Sociales e Igualdad, 2016).

Specialised organisations on trafficking are mainly different charity organisations of the Sister Adorers order. Many other organisations provide support both to sex workers and victims of trafficking, without specific knowledge about trafficking and serious difficulties in detection, without commonly accepted indicators.

The main two specialised organisations are SICAR.cat (Catalonia) and Proyecto Esperanza (Madrid), which in 2016 provided support to 129 and 187 women, respectively. Both cooperate with police forces in the identification of victims, and with CEAR and Red Cross, among other organisations, to identify victims in airports and the CIE near Madrid (there are



no women in the Barcelona CIE). SICAR.cat provides cooperation for identification purposes in the Barcelona airport.

In Barcelona, CCAR (Catalan division of CEAR) provides legal counselling on international protection and Foreigners law to women victims of gender-based violence, human trafficking and smuggling. The purpose of this programme is providing integral support (in legal, social, occupational and therapeutic terms) to women victims of sexual trafficking. This programme involves: first-level identification of potential victims of trafficking, access to the international protection process, legal counselling in the administrative procedure, coordination and follow-up of the process with all CCAR professionals, coordination with other organisations specialised in support to victims of trafficking in human beings and, if the claim is rejected, appeal and subsequent regularisation by the regular immigration procedure.

#### **4. Other policy and social actors: public opinion and independent activism**

Policy actors involved in the protection and support of migrant and refugee women and their positions have been described in previous sections, including government actors, NGOs and feminist organisations. In this section, some more information is provided about independent activism and the Spanish public opinion.

The Spanish society does not perceive immigrants and refugees as problematic. According to the October 2016 Barometer (Centro de Investigaciones Sociológicas, 2016), only 3.2% of the population perceives immigration as a problem, and just a 0.2% are worried about the refugees. According to a survey conducted by Amnesty International in 2015, a 78% of the population is favourable to the reception of refugees. In Barcelona, the ongoing municipal opinion survey showed in June 2016 that the 87.8% of respondents are in favour or totally in favour that Barcelona hosts refugees.

Mass demonstrations have gathered thousands of people in several Spanish cities: 300.000 in the Barcelona demonstration “We want to host [migrants]; our house, your house”. Some of the most important civil society campaigns have been: the relevant presence of volunteers in refugee camps in Greece (with an important public presence of the Catalan sea rescue NGO Proactiva Open Arms), and initiatives such as SOS Refugiados, Red Solidaria de Acogida, Abriendo Fronteras or the caravans to Greece in 2016 and to Melilla in 2017.

Regarding initiatives focused on migrant women, it is highly relevant that the CEDAW Shadow Platform Spain (Plataforma CEDAW Sombra), integrating 58 Spanish CSOs, mostly

organisations focused on women's rights, devoted a central section to the treatment of refugee women and girls in its recently published interim examination report, after their first report in 2013, signed by 278 Spanish CSOs.

Other examples are the humanitarian collection campaign for the collection of tampons, compresses and diapers for the camps in Greece of the Council of Women of Gijón in 2017 or the monographic section in the feminist online magazine Pikara.

## 5. Conclusions: problems and gaps, and good practices

This final section summarises the main problems and gaps identified, and some good practices for the protection and support of migrant women in situations of SGBV.

### Problems and gaps

Asylum and immigration legislation:

- No comprehensive transposition of EU directives into the Spanish national Law and no regulation to implement the Asylum Law.
- Deficiencies in the wording of gender persecution in the Asylum law, limiting the scope of women's rights.
- Double legislation of trafficking in the Foreigners Law and Asylum Law (as gender persecution): asylum law claims are rarely considered, limiting women's protection.
- Push backs legalised, violating asylum law.
- Asylum seekers are not allowed to work in the first 6 months.

GBV legislation:

- The Spanish law only considers IPV. Trafficking, FGM, forced marriages and other forms of community violence are not considered as forms of GBV in the national law, but they are in the Catalan Law (together with violence in armed conflicts).
- Limitations in the treatment of sexual violence in the Criminal Code.

Access to asylum procedure:

- Push backs at the Melilla and Ceuta border, including women and children.
- No transparent criteria and violation of rights in the assessment of admissibility of asylum claims at the border points (especially Ceuta and Melilla), in CETIS (reception centres in Ceuta and Melilla) and CIES (detention centres). Ethnicity policies barring some nationalities.
- No clear criteria in the identification of vulnerable groups in the admissibility of the claims, including women potential victims of trafficking and other forms of SGBV, which may lead them to internment in detention centres.
- Failure of the Spanish State to comply with the relocation and resettlement commitments.
- No guarantee of women's rights: ad hoc spaces with restricted freedom of movement in borders, ports and airports, where they may be retained with traffickers; no access to submitting an independent application for asylum and being interviewed separately

by a trained professional, without the presence of family members; no access to receiving information, advice and translation from a woman; no information about the inadmission of asylum claims so that they are able to appeal; no guarantees to personal safety, dignity and social and economic security.

#### Examination of asylum claims:

- Lack of transparency of the Office of Asylum and Refuge: data are not provided.
- Serious delays in the examination of cases: cases may be resolved after asylum seekers end the 3-phase reception programme.
- No clear criteria in the examination of claims for gender persecution, with officials lacking gender training.
- Unequal treatment of specific nationalities which do not get their claim recognised. Some of them may be related to gender persecution (SGBV, sexual orientation).

#### Reception in the asylum system:

- An increased number of applications has overloaded the system which already had deficiencies: lack of a transparent national coordination mechanism, no clear criteria and supervision of NGO-managed services, lack of interpreters, lack of transparency.
- Lack of coordination between the Spanish asylum reception system and initiatives of regional and local administrations.
- Overcrowding and deficient conditions and services in the CETIs: risk of sexual violence.
- Restriction of freedom of movement to the Iberian Peninsula of people in the CETIs.
- Generally, no gender perspective in the Spanish, regional and local reception policies.
- No information about conditions of hotel accommodation in the zero phase.
- 3-phase system insufficient to provide autonomy.
- Rigid system which does not establish clear criteria to provide specific support vulnerable groups: actual support relies on the NGO and professionals' criteria.
- The new subcontracted NGOs are not specialised in asylum and may require training.

#### Support system to GBV:

- Lack of intervention and expertise of the support network in Catalonia to identify and support victims of sexual violence outside partnerships, FGM, forced marriages and trafficking.
- Discrimination against migrant women, especially in the judicial system.
- Lack of interpreters.
- No access of irregular migrants to social benefits for IPV victims.

## Good practices

- Initiatives at regional and local level, expanding the Spanish Asylum system with programmes aimed at those who are left out of the asylum reception system, including LGBTQI asylum seekers.
- Initiatives at local level to regularise migrants, including focus on domestic workers.
- Active specialised NGOs in the field of asylum and with a gender approach: CEAR/CCAR (gender persecution) and ACATHI (gender persecution for sexual orientation), SICAR and Proyecto Esperanza (trafficking).
- Recent changes in the examination procedure of the Office of Asylum of Refuge: more cases of asylum claims recognised, including trafficking cases, increased training of professionals and cooperation with expert NGOs in the identification.
- Public mobilisations in favour of the reception of migrants and refugees.

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