



STUDY

2020

Accurate, timely, interoperable? Data management in the asylum procedure



GOBIERNO DE ESPAÑA

MINISTERIO DE ASUNTOS EXTERIORES, UNIÓN EUROPEA Y COOPERACIÓN

MINISTERIO DE JUSTICIA

MINISTERIO DEL INTERIOR

MINISTERIO DE INCLUSIÓN, SEGURIDAD SOCIAL Y MIGRACIONES

The European Migration Network (EMN) is an initiative of the European Commission. The EMN has been established via Council Decision 2008/38/EC and is cofinancially supported by the European Union.

Its objective is to meet the information needs of EU institutions and of Member States' authorities and institutions by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the European Union in these areas. The EMN also serves to provide the general public with such information.

To that end, the EMN has a network of National Contact Points (NCPs). The Spanish NCP is composed by experts from the Ministry of Inclusion, Migration and Social Security, Ministry of the Interior, Ministry of Foreign Affairs, European Union and Cooperation, and Ministry of Justice and the General Prosecutor's Office, It is coordinated by the Deputy General Directorate for Legal Affairs of the, Secretariat of State for Migration.

Contact:

Deputy General Directorate for Legal Affairs

(Co-ordinator of the National Contact Point for the European Migration Network)

José Abascal, 39. 28071 Madrid

E-mail: rem@inclusion.gob.es

Internet:

<http://extranjeros.inclusion.gob.es/es/redeuropeamigracion/index.html>

NIPO: 121-21-020-5

Accurate, timely, interoperable? Data management in the asylum procedure

Common Template for the EMN Study 2020

Final version: 16 March 2020 (updated 14 April 2020)

1 BACKGROUND AND RATIONALE FOR THE STUDY

A smooth and fast registration and identification procedure and ensuring the accuracy of the information collected, are **essential aspects of a functioning asylum procedure**. Several Member States have recently taken a wider range of measures to also improve interoperability to assist operational efficiency.¹ An **effective** asylum system relies on the collection of timely information that could appropriately channel asylum applicants into the right track, as well as on accurate and reliable information that could inform subsequent asylum decisions. Similarly, the smooth transmission of information to relevant authorities as well as the interoperability of databases where this information is collected avoid duplication and contribute to the **efficiency** of the asylum system. Finally, the use of information collected during different phases of the asylum procedure to inform further related steps of the process (including the Dublin procedure) reception conditions, and to inform future planning for the migration system (including integration and possibly return) increase the **preparedness** of the migration system overall.

Changing circumstances in asylum applications in recent years, including increases and decreases in the volume and types of applications, has led to several procedural changes in how Member States manage the asylum process. In many Member States this has also impacted on how data is collected, managed and shared throughout the process. In particular, the following policy developments have been registered.

1. In the years of high influx of asylum seekers in the EU (2015–2016) several Member States experienced major **challenges with regard to their capacities to register asylum seekers as well as with subsequent data management** across different databases within their respective asylum authorities and with regard to other authorities linked to the asylum procedure and reception of asylum applicants.² In several Member States there were backlogs and delays in the asylum procedure. Asylum applicants were not always able to make their application upon arrival and once their application was registered, it sometimes took months before they could finally lodge the asylum application.³ Furthermore, multiple registrations occurred in some Member States due to a lack of interoperability of databases and a lack of technologies to digitalise the individual information and make it accessible to the different authorities. With regard to the high numbers of asylum applicants, several Member States experienced a need for automation, digitisation and innovation (such as the implementation of artificial intelligence) of various processes within the asylum procedure in order cope with the large numbers by saving resources, to limit double work, to ensure accuracy and transferability of individual information among different data systems.
2. With regard to the making, registering and lodging of an asylum application, a **trend towards shifting the collection of additional information of asylum seekers forward** (frontloading) in the asylum procedure may be observed in several

¹ MPI, Chasing Efficiency: Can Operational Changes Fix European Asylum Systems? March 2020:

<https://www.migrationpolicy.org/sites/default/files/publications/MPIE-ChasingEfficiency-EuropeAsylum-Final.pdf>

² EMN, Synthesis Report, Changing Influx of Asylum Seekers 2014-2016, August 2018: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_changing_influx_study_synthesis_final_en.pdf

³ ECRE, Access to protection in Europe. The registration of asylum applications, 2018:

http://www.asylumineurope.org/sites/default/files/shadow-reports/aida_accessii_registration.pdf; EMN, Annual Report on Migration and Asylum 2017, May 2018: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_annual_report_on_migration_2017_highres_en.pdf

EU Member States in recent years.⁴ One reason is another development in several Member States, namely the introduction of channelling systems in their asylum procedures. Based on different pre-defined profiles, asylum applicants are channelled into different “first-instance procedures (prioritised procedures; accelerated procedures; border procedure; admissibility procedure”.⁵ In many cases, this had an impact on the asylum process as relevant information on asylum seekers needed to be collected at an earlier phase in order to allocate them to these different channels. In some Member States, information collection was also frontloaded for other reasons. Amongst other things, in order to shorten lengthy processing times in the asylum procedure (e.g. by limiting the need for paper and double work by digitising the collected information and implementing data quality assessments from the very beginning). A frontloaded information collection in some Member States again serves to better plan and coordinate reception facilities, estimate the need for integration and language courses for asylum seekers (e.g. number and types of courses needed in different regions) as well as other integration measures (e.g. labour market integration by asking for information on individual qualifications of the asylum seekers).

3. Last but not least, by further interlinking processes, actors and IT systems, **challenges occurred with regard to the interoperability of data systems and databases**, as well as with regard to data protection. However, several Member States introduced a range of measures to enhance interoperability on a federal and regional level or implemented larger reforms with regard to their data management, raising questions again with regard to safeguards of the individual data and ‘legal’ limitations of the data collection and processing mechanisms. The question of interoperability has also been discussed at EU-level in recent years with regard to the EU large scale IT systems. The Interoperability Regulation provides for future tools to enhance intra-EU data sharing and has as one of its aims to assist in the assessment of international protection applications.

Against this backdrop, the objective of this study is to examine how data is managed in the different phases of the asylum procedure and to identify any recent trends. In particular, it will (i) map Member States’ data management approaches in the asylum procedure, (ii) examine whether there have been any procedural changes to enhance data sharing within the asylum authorities and beyond and how these have impacted on data management in these processes, and (iii) challenges and good practices that have arisen in relation to data management.

Scope

As for its **scope**, the study will cover different phases of the asylum procedure, beginning from the moment a person makes his or her asylum application until the first instance decision is made. It will focus, on the one hand, on data collected by various actors involved in the asylum procedure (e.g. border police registering an asylum application upon arrival; main authority for the asylum procedure; authorities responsible for unaccompanied minors etc.). On the other hand, the study will also cover data collected in the context of the asylum procedure but meant for other purposes than the asylum procedure itself (e.g. information on language skills used to better plan and coordinate integration and language courses; information on previous qualifications in order to smoothen labour market integration etcetera).

2 EU LEGAL FRAMEWORK

Directives and regulations

The functioning of the Common European Asylum System is based upon a series of EU legal instruments governing the asylum procedure. However, the management of personal data is only marginally regulated. With the exception of the **recast Eurodac Regulation (Regulation No 603/2013**, analysed below) that concerns the processing of biometric data of applicants of international protection for Dublin-related purposes, the registration of personal data in the asylum process is governed by national law. The **recast Asylum Procedures Directive (Directive 2013/32/EU)** sets out some rules in that respect, namely that the applicants must inform the competent authorities of their current place of residence and of any changes thereof as soon as possible, which suggests that this information is collected by the competent authorities. Competent authorities are also allowed to take a photograph of the applicant; however, this is not compulsory under EU law. Crucially, Article 30 of that Regulation proscribes national authorities from disclosing information regarding individual applications or the fact that an application has been made to the alleged actor(s) of persecution or serious harm.

From a privacy and personal data protection perspective, the **General Data Protection Regulation (EU) No 2016/679** is applicable to the processing of personal data in the asylum procedure. This entails the application of a series of data protection safeguards in the collection and further processing of personal data, such as the principles of lawfulness, purpose

⁴ EASO, Workshop Discussion Paper, Workshop 2: Registration procedure, 9th Consultative Forum, 12th November 2019, Brussels: <https://easo.europa.eu/sites/default/files/Workshop2-Discussion-Paper.pdf>

⁵ EASO, Workshop Discussion Paper, Workshop 3: channelling based on the profile of the applicant and the identification of special needs, 9th Consultative Forum, 12th November 2019, Brussels: <https://easo.europa.eu/sites/default/files/Workshop3-Discussion-Paper.pdf>

limitation, data minimisation, accuracy, storage limitation and integrity and confidentiality. The data protection regime specific to the handling of personal data in the Eurodac system is covered in the Eurodac Regulation 603/2013.

EU centralised information systems

The abolition of internal borders in the Schengen area has required strong and reliable management of the movement of persons across the external borders, including through robust identity management. In that respect, three centralised information systems have been developed by the EU, which are currently operational: the Schengen Information System (SIS), Visa Information System (VIS) and Eurodac, all of which assist in verifying or identifying third-country nationals falling in different categories and who are on the move. SIS, VIS and Eurodac were originally envisaged to operate independently, without the possibility of interacting with one another. Progressively, the need has emerged to provide technical and legal solutions that would enable EU information systems to complement each other. To that end, the **Interoperability Regulations 2019/817 and 2019/818** adopted on 20 May 2019 prescribe four main components to be implemented: a European Search Portal (ESP), a shared Biometric Matching Service (BMS), a Common Identity Repository (CIR) and a Multiple Identity Detector (MID). An EU agency, eu-LISA, is responsible for the operational management of these three systems.⁶

The most relevant EU information system in this regard is **Eurodac**, a biometric database storing fingerprints of applicants for international protection and irregular immigrants found on EU territory. Its primary objective is to serve the implementation of Regulation (EU) No. 604/2013 ('the Dublin Regulation'). Eurodac may also be accessed by national law enforcement authorities and Europol for the purposes of preventing, detecting and investigating terrorist offences and serious crimes. A recast proposal⁷ tabled since May 2016 is currently negotiated as part of the revised Common European Asylum System (CEAS), with the aim of expanding the purpose, scope and categories of personal data stored in the system.

The **Visa Information System (VIS)** is also relevant for the purposes of the study not only in the context of further interoperability but also because it is used in the asylum procedure. The VIS processes personal data (both biographical and biometric) of short-stay (Schengen) visa applicants and to allows immigration, border control and asylum authorities to exchange such data for various purposes, including the implementation of the common EU visa policy and the assistance in the identification of the Member State responsible for an asylum claim in line with the Dublin rules. The current legal framework consists of Regulation 767/2008⁸ governing the use of the system for immigration control purposes, and Council Decision 2008/633/JHA⁹ on law enforcement access. A proposal is currently negotiated¹⁰ that among other things, lowers the threshold age for fingerprinting (six years).

As for the **Schengen Information System (SIS)**, it aims at ensuring a high level of security in the Schengen area by facilitating both border control and police investigations. To those ends, the SIS registers alerts on various categories of persons including third-country nationals to be refused entry or stay in the Schengen area, as well as alerts on objects, such as banknotes and identity documents. Failed asylum seekers may be registered in the SIS in accordance with the SIS rules. In 2018, the SIS legal framework was revised with a view to adding certain categories of alerts.¹¹

The aforementioned information systems will be complemented in the future by three new ones that are currently under development: **the Entry/Exit System (EES)** that will register the border crossings, both at entry and exit, of all third-country nationals admitted for a short stay, irrespective of whether they are required to obtain a Schengen visa or not;¹² **the European Travel Information and Authorisation System (ETIAS)** that will enable to identify whether the presence of a visa-free traveller

⁶ Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011, OJ L 295, 21.11.2018.

⁷ COM (2016) 272final.

⁸ Regulation (EC) 767/2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas, OJ L 218, 13.8.2008, as amended by Regulation (EC) 810/2009, OJ L 243, 15.9.2009..

⁹ Council Decision 2008/633/JHA concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences, OJ L 218, 13.8.2008.

¹⁰ COM (2018) 302final.

¹¹ Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals, OJ L 312, 7.12.2018, p. 1–13; Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006, OJ L 312, 7.12.2018, p. 14–55; Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU. OJ L 312, 7.12.2018, p. 56–106.

¹² Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011, OJ L 327, 9.12.2017.

in the territory of the Member States would pose a security, irregular migration or high epidemic risk;¹³ the **European Criminal Record Information System for third-country nationals (ECRIS-TCN)** that will enable the exchange of criminal records on convicted third-country nationals and stateless persons.¹⁴ All six information systems will be part of the interoperable data processing environment.

3 PRIMARY QUESTIONS TO BE ADDRESSED BY THE STUDY

This study will focus on the following primary questions:

- Which information is collected in the context of the asylum procedure at which point of time by whom?
- How is the information collected, fed into different data systems and further managed and shared with relevant actors?
- How is data quality assessed, and which data protection safeguards are in place for asylum applicants during the asylum procedure?
- Which changes did Member States introduce in recent years with regard to data management in the asylum procedure and why?
- What challenges do Member States face with regard to data management in the asylum procedure, how have these been overcome, and what good practices can be shared?

The asylum procedure is divided in different phases in all Member States. First, an asylum applicant needs to make an asylum application which then needs to be registered and/or lodged by the competent authorities before the asylum interview may take place. Subsequently, a first-instance decision is made on the basis of an examination of the application. While the competent authorities responsible for the single phases may be different in some Member States, in others it may be a single competent authority covering all phases. In addition, in some Member States some of the phases mentioned above may in practice be conducted concurrently which is why there might not be the need for some Member States to differentiate between (some of) the phases. However, the asylum procedure will be subdivided into at least two phases in all Member States.

The Study will cover four main phases, based on EASO's guidance on asylum procedure:¹⁵

- 1 Making an application:** during this phase the person expresses the intention to apply for international protection;
- 2 Registering an application:** the applicant's intention to seek protection is registered, which may be done by an authority not competent for the asylum procedure itself, such as the border police;
- 3 Lodging an application:** the asylum application is formally lodged at the competent authority for the asylum procedure;
- 4 Examination of the application.**

4 RELEVANT CASE LAW FROM THE COURT OF JUSTICE OF THE EU

CJEU, Case C-670/16 *Mengesteab*, Judgment of 26 July 2017: One of the questions referred to the CJEU involved the relationship between the two-time limits for take charge requests set out in Article 21 of the Dublin III Regulation. The Court clarified that the two months allowed to notify a Member State after a Eurodac hit may not result in a take charge request being issued more than three months after the application is lodged.

EU centralised systems have not generated any relevant case law before the CJEU in relation to their substance. However, more generally, case law on centralised storage of personal data for immigration-related purposes in the broader sense that may be relevant for the present study is the following:

- **CJEU, Opinion 1/15 of 26 July 2017:** In this case, the Grand Chamber of the CJEU evaluated the draft PNR Agreement between the EU and Canada. The Court elaborated on a series of safeguards as regards to data management, in particular: the need for clarity in specifying the scope of the data to be processed; the transfer of sensitive data requires a precise and solid justification; automated processing of personal data should take place under pre-established models and criteria that are specific and reliable; the authorities accessing the personal data are specified; any transfer of personal data to third countries must take place only if that third country ensures an

¹³ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226, OJ L 236, 19.9.2018.

¹⁴ Regulation (EU) 2019/816 of the European Parliament and of the Council of 17 April 2019 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System and amending Regulation (EU) 2018/1726, OJ L 135, 22.5.2019.

¹⁵ Available at: https://easo.europa.eu/sites/default/files/Guidance_on_asylum_procedure_operational_standards_and_indicators_EN.pdf

essentially equivalent level of personal data protection; and the exercise of individual rights by persons whose personal data is processed is ensured.

- **CJEU, Case C-70/18, Staatssecretaris van Justitie en Veiligheid v A and Others, Judgment of 3 October 2019:** This case involves the processing of personal data of residence permit holders in a Dutch centralised database. The CJEU highlighted that the processing of 10 fingerprints and a facial image, besides providing a reliable way of identifying the person concerned, is not of an intimate nature and does not cause any particular physical or mental discomfort for the person concerned.

Since the objective of the retention of data is to prevent and combat identity and document fraud, a five-year retention period establishes a satisfactory connection between the personal data to be retained and the objective pursued and thus is proportionate.

5 RELEVANT SOURCES AND LITERATURE

UNHCR

- UNHCR, Discussion Paper Fair and Fast – Accelerated and Simplified Procedures in the European Union, July 2018¹⁶

EU Agencies

- EASO, Practical Guidance Series, EASO Guidance on asylum procedures: operational standards and indicators, September 2019¹⁷
- EASO Online-Tool ‘Identification of persons with special needs’(IPSN)¹⁸

EMN Studies

- EMN, Synthesis Report, Changing Influx of Asylum Seekers 2014-2016, August 2018¹⁹
- EMN, Synthesis Report, Challenges and practices for establishing the identity of third-country nationals in migration procedures, December 2017²⁰

EMN Ad-Hoc Queries

- 2019.49 - Processing times first instance asylum cases. Requested on 8 April 2019.
- 2018.1348 - Member States’ practice regarding the storage of photographs and fingerprints in national systems/databases. Requested on 5 December 2018
- 2018.1335 - Equipment to collect biometric data. Requested on 17 September 2018.
- 2018.1262 - Use of Cloud Services for Processing Personal Data in Immigration Cases. Requested on 17 January 2018.
- 2017.1191 - Biometric information for legal migration cases. Requested on 30 May, 2017.
- 2017.1180 - Mobile device information. Requested on 9 May, 2017

Other studies and reports

- ECRE - European Council on Refugees and Exiles, Report, Access to protection in Europe. The registration of asylum applications, Asylum Information Database (AIDA), June 2018²¹
- MPI – Migration Policy Institute, Cracked Foundation, Uncertain Future: Structural Weaknesses in the Common European Asylum System, March 2018²²
- FRA – European Union Agency for Fundamental Rights, Biometric data in large EU IT systems in the areas of borders, visa and asylum – fundamental rights implications. Data protection, privacy and new technologies; Asylum, migration and borders²³

¹⁶ Available at: <https://www.refworld.org/docid/5b589eef4.html>

¹⁷ Available at: https://www.easo.europa.eu/sites/default/files/2019.1882_EN.pdf

¹⁸ Available at: <https://ipsn.easo.europa.eu/european-asylum-support-office>

¹⁹ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_changing_influx_study_synthesis_final_en.pdf

²⁰ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_synthesis_report_identity_study_final_en_v2.pdf

²¹ Available at: http://asylumineurope.org/sites/default/files/shadow-reports/aida_accessii_registration.pdf

²² Available at: https://www.migrationpolicy.org/sites/default/files/publications/CEAS-StructuralWeaknesses_Final.pdf

²³ Available at: <https://fra.europa.eu/en/publication/2015/fundamental-rights-implications-obligation-provide-fingerprints-eurodac>

6 AVAILABLE STATISTICS

The following statistics are available through **Eurostat**:

Number of first-time asylum applications (lodging; migr_asyappctza) — compare with number of first-time decisions (migr_asydcfsta)

The following statistics may be available through national statistics:

Number of registrations of asylum applications

The following statistics are available through **EU databases**:

Number of lodged asylum applications

Number of Eurodac hits 2014 - 2019

Use of VIS and n of hits 2014 – 2019

Use of SIS and n of hits 2014 – 2019

7 DEFINITIONS

The following key terms are used in the Common Template. The definitions are taken from the EMN Glossary v6.0²⁴ unless specified otherwise in footnotes.

'Application for international protection' is defined as a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status, and who does not explicitly request another kind of protection, outside the scope of Directive 2011/95/EU (Recast Qualification Directive), that can be applied for separately.

'Asylum procedure': see definition for 'Procedure for international protection'.

'Beneficiary of international protection' is defined as a person who has been granted refugee status or subsidiary protection status.

'Channelling' of the asylum procedure (also 'triaging'): "The core premise of accelerated and simplified procedures is the differentiation between caseloads for their channelling into distinct case processing modalities. The triaging process is therefore the central tenet of the process. [...] Depending on the results of the analysis, claims will be channelled into appropriate case processing modalities, or as is already done in several Members States [...] into different streams or 'tracks'. Groups, as well as any specific profiles, with high and very low protection rates would be channelled into accelerated and/or simplified procedures, while other cases would be adjudicated under the regular procedure."²⁵

'Country of origin' is the country or countries of nationality or, for stateless persons, of former habitual residence.

'Data management' is understood as the administrative process that includes all operations that are performed on data or on sets of data, through automated or other means, such as collection, recording, storage, retrieval, use, disclosure by transmission, dissemination or erasure.²⁶

'Examination of an asylum application': see definition for 'Examination of an application for international protection'.

'Examination of an application for international protection': Any examination of, or decision or ruling concerning, an application for international protection by the competent authorities in accordance with Directive 2013/32/EU (Recast Asylum Procedures Directive) and Directive 2011/95/EU (Recast Qualification Directive) except for procedures for determining the EU Member State responsible in accordance with Regulation (EU) No 604/2013 (Dublin III Regulation).

'Lodging an asylum application': An application for international protection shall be deemed to have been lodged once a form submitted by the applicant or, where provided for in national law, an official report, has reached the competent

²⁴ Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/docs/interactive_glossary_6.0_final_version.pdf

²⁵ UNHCR, Discussion Paper *Fair and Fast – Accelerated and Simplified Procedures in the European Union*, July 2018, pp. 8f. Available at: <https://www.refworld.org/pdfid/5b589eef4.pdf>

²⁶ Definition for the purposes of this study.

authorities of the Member State concerned. Member States may require that applications for international protection be lodged in person and/or at a designated place.²⁷

‘Making an asylum application’: see definition for “Making application for international protection”.

‘Making application for international protection’: The expression of intent to apply for international protection.

‘Refugee status’ is defined as the recognition by a Member State of a third-country national or a stateless person as a refugee.²⁸

‘Registering an asylum application’: Record the applicant’s intention to seek protection.²⁹ When a person makes an application for international protection to an authority competent under national law for registering such applications, the registration shall take place no later than three working days after the application is made. If the application for international protection is made to other authorities which are likely to receive such applications, but not competent for the registration under national law, Member States shall ensure that the registration shall take place no later than six working days after the application is made.³⁰

‘Procedure for international protection’: Set of measures described in the Directive 2013/32/EU (Recast Asylum Procedures Directive) which encompasses all necessary steps for granting and withdrawing international protection starting with making an application for international protection to the final decision in appeals procedures.

8 ADVISORY GROUP (Core Group and Wider Group)

An ‘Advisory Group’ (AG) has been established within the context of this Study for the purpose of (i) developing the (common) specifications for the study, (ii) providing support to EMN NCPs during the development of the national contributions to the Study, as well as (iii) providing support to the drafting of the Synthesis Report. In addition to COM (DG HOME and JRC) and the EMN Service Provider (ICF-Odysseus), Frontex and EASO, the members of the AG for the Study include EMN NCPs from AT, BE, CY, DE, FI, HR, IE, IT, LU, NO, PL, SI, UK. Furthermore, the Migration Policy Institute (MPI) was included as an external expert.

In addition, the AG was split into a Core Group and a Wider Group, introducing a new structure of an AG within the EMN. Core Group members agreed to take more responsibility for the revision and to invest more time in all the follow-up processes (including a 2nd AG meeting). Wider Group members gave their input at the 1st AG meeting and agreed to comment on the 2nd draft of the common template before a 2nd AG meeting of the Core Group.

EMN NCPs are invited to send any requests for clarification or further information on the Study to the representatives of the Core Group.

Advisory Group (core AG members are in **bold**)

- **DE EMN NCP (Chair, Janne Grote and Anja Kuntscher)**
- **COM (Marion Finke, DG HOME)**
- COM (Anna Kadar, DG HOME)
- **COM (Martina Belmonte, DG JRC)**
- EASO (Karolina Lukaszczyk)
- **Frontex (Ilze Perczaka)**
- **AT EMN NCP (Julia Lendorfer, Martin Stiller)**
- BE NCP (Jessy Carton, Peter van Costenoble)
- CY EMN NCP (Michalis Beys)
- **IE EMN NCP (Anne Sheridan)**
- IT EMN NCP (Stefania Nasso, Francesco Giunta, Giulia Mezzetti)
- FI NCP (Tuukka Lampi)
- LU EMN NCP (Ralph Petry)
- NO EMN NCP (Stina Schulstock Holth)
- PL NCP (Patrycja Turska, Ewelina Zabardast)
- SI EMN NCP (Helena Korosec)
- UK EMN NCP (Zoe Pellatt)
- MPI (Timo Schmidt)
- **Odysseus network expert (Niovi Vavoula, Queen Mary, University of London)**
- **ICF (Nina Mavrogeorgou, Rocio Naranjo Sandalio EMN Service Provider)**

²⁷ Article 6(2, 3, 4) of Directive 2013/32/EU (Recast Asylum Procedure Directive).

²⁸ Article 2 of Directive 2011/95/EU (Recast Qualification Directive).

²⁹ EASO, presentation, 9th Consultative Forum, 12th November 2019, Brussels.

³⁰ Article 6(1) of Directive 2013/32/EU (Recast Asylum Procedure Directive).

9 TIMETABLE

The following timetable is proposed for the next steps of the Study:

Date	Action
16 March 2020	Official <u>launch of the study</u>
3 July 2020	<u>Submission of national reports</u> by EMN NCPs
14 August 2020	First synthesis report (SR) to COM & AG members (1 week to provide comments)
21 August 2020	Deadline for comments (1 week to address comment and finalise)
28 August 2020	Circulation of the first SR to all NCPs (2 weeks to comment)
11 September 2020	Deadline for comments
25 September 2020	Circulation of the second draft to all NCPs (2 weeks to comment)
9 October 2020	Deadline for comments
16 October 2020	Circulation of the third (final) draft to all NCPs (2 weeks to comment)
30 October 2020	Deadline for comments
End of November 2020	Finalisation of the synthesis report, publication and dissemination

10 TEMPLATE FOR NATIONAL REPORTS

The template provided below outlines the information that should be included in the National Contributions of EMN NCPs and Switzerland to this Study. The indicative number of pages to be covered by each section is provided in the guidance note. For national reports, the total number of pages should ideally not exceed **50 pages** (excluding the Annex). A limit of **25 pages** (excluding the Annex) will also apply to the synthesis report, in order to ensure that it remains concise and accessible.

Common Template of EMN Study 2020

Accurate, timely, interoperable? Data management in the asylum procedure

SPAIN

Disclaimer: The following information has been provided primarily for the purpose of contributing to a synthesis report for this EMN study. The EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of the EMN NCPs' Member State.

Top-line factsheet [max. 2 pages]

Spain's Regulatory Act 12/2009 on the Right to Asylum and Subsidiary Protection in Spain accords refugee status to anyone with a justified fear of persecution in their own country for reasons of race, religion, nationality, political views or belonging to a specific social group, gender or sexual orientation.

The Spanish government is the sole authority with jurisdiction over asylum and refuge. The cases will be decided by Spain's Ministry of the Interior, on the initiative of the Inter-Ministerial Committee for Asylum and Refuge (CIAR).

The OAR (Asylum Office) centralizes the processing of all asylum applications which are officially lodged in Spain, both inside the country and at its borders, as well as the processing and decision-making concerning the cases of stateless persons. This Office has regular contacts with the Office of the Police Commissioner-General for Affairs Related to Foreign Nationals and Borders concerning documentation and with the Ministry of Inclusion, and Social Security and Migration, with authority over matters concerning the reception of asylum seekers.

The examination of an application by the OAR culminates in a draft decision which is submitted to the Inter-Ministerial Asylum and Refugee Commission (CIAR) which will decide to grant or to refuse international protection. The resolution passed within said Commission must be signed by the Minister of the Interior, although it is standard practice for it to be signed by the Under-Secretary of the Interior by delegation of signature authority. The CIAR is composed by a representation of each of the departments having competences on: home and foreign affairs; justice; immigration; reception; asylum.

Any person willing to request international protection in Spain must make a formal application to the competent authorities. There are two main ways to apply for asylum: on the Spanish territory or at border controls

In case the asylum seeker is outside the Spanish territory, he or she must make a formal application to the border control authority, i.e. the Border Police. If the person is already in Spanish territory, competent authorities with which an asylum application can be made are: the Office of Asylum and Refuge (OAR); any Aliens' Office (*Oficina de Extranjeros*), Detention Centre for Foreigners (CIE) or police station

Application		
<ul style="list-style-type: none"> • At the border • On the territory 	Border Police Office of Asylum and Refuge, Aliens' Office	Policía Fronteriza Oficina de Asilo y Refugio, Oficina de Extranjeros
Dublin	Office of Asylum and Refuge	Oficina de Asilo y Refugio
Refugee status determination	Office of Asylum and Refuge Inter-Ministerial Commission on Asylum (CIAR)	Oficina de Asilo y Refugio Comisión Interministerial de Asilo y Refugio
Appeal		
<ul style="list-style-type: none"> • First appeal • Onward appeal 	<ul style="list-style-type: none"> • National Court • Supreme Court 	<ul style="list-style-type: none"> • Audiencia Nacional • Tribunal Supremo
Subsequent application	Office of Asylum and Refuge	Oficina de Asilo y Refugio

Tipes of procedure

- Regular procedure
- Dublin procedure
- Admissibility procedure
- Border procedure

Rules on making (*presentación*), registering and lodging (*formalización*)

Persons willing to seek international protection in Spain must make a formal application during their first month of stay in Spain. When this time limit is not respected, the law foresees the possibility to apply the urgent procedure although in practice the competent authority will reject any asylum application that does not comply with the 1-month deadline when it considers that no valid justification exists for the delay.

The process begins with the presentation (“making”) of the application, which the applicant shall present in person or, if this is not possible, with representation by another person. For persons disembarking in ports, the intention to apply for international protection is registered by the police, usually following the intervention of NGOs.

Upon the registration of the intention to apply for asylum, the applicant receives a paper-form “certificate of intention to apply for asylum” (*Manifestación de voluntad de presentar solicitud de protección internacional*).

After registration has been completed, the applicant is given an appointment for the formalisation (“lodging”) of the application, which consists of an interview and the completion of a form, and shall be always be realised in the presence of a police official or an officer of the OAR. Upon the lodging of the application, the person receives a “receipt of application for international protection.

Authorities involved in the asylum procedure are the Police and the OAR depending on the Ministry of Interior, the Police register the applicant in ADEXTRA (Police Register of Aliens) database while the OAR is legally competent for lodging (case officers) and examining applications (decision makers). These two authorities also collect information from asylum seekers during the asylum procedure. Most of the data is gathered during the lodging phase, through a face-to-face interview, and is stored in an electronic file (in a database) ASILO. (The ASILO application, data base for the administrative procedure of international protection applications, has a special module for obtaining lists, statistics and queries, a tool used to obtain the data listed above.

The Police stores the collected personal information in the Central Police Database and provides the Ministry of the Interior with a copy of the registration form they had completed during registration

During the registration phase, the Police cross checks data against the national/central Police database, SIS, SLTD/INTERPOL database, and EURODAC. No processing/privacy notice about the personal data collected in this phase is provided to asylum applicants. However, guidelines are provided to staff responsible for data management with regard to information collected. Also, the quality of the collected data is assessed during this phase using a software application.

During the lodging phase, data is cross-checked against data taken by the Police at the registering phase and compared to data from a potential EURODAC hit.

During the examination phase, collected information is cross-checked against information available on different portals/public databases in order to ensure objectivity and neutrality of the information. The main challenge here is the lack of specific information available and the language of such information. No processing/privacy notice about the personal data collected in this phase is provided to asylum applicants and no guidelines are provided to staff responsible for data management with regard to information collected.

Different safeguards are applied for data protection supervision of the personal data collected during the asylum procedure.

The general objective of the information collected on the foreign population seeking asylum, refugees, beneficiaries of subsidiary protection, displaced persons and stateless persons is to satisfy the information needs of the department's governing bodies, in a way that allows them to monitor and evaluate the policies applied and respond to requests for information demanded by institutions, agencies and individuals with the degree of disaggregation, precision and timeliness required.

The most relevant statistics are disaggregated from the gender perspective,

In a disaggregated manner, the data corresponding to men and women in the data corresponding to the number of applicants for international protection, the resettlement program, the number of grants of refugee status, subsidiary protection, unaccompanied minors who formalize an application of international protection in Spain or in the statistics regarding Courts decisions .

Regarding the actions carried out by the SG of Asylum to foster confidence in the public statistical system, it should be noted that the annual publication Asylum in figures is already published constantly on the MINT website and that its format meets the criteria of accessibility for people with disabilities as established by Royal Decree 1494/2007, of November 12, which approves the Regulation on the basic conditions for access of people with disabilities to technologies, products and services related to the Information society and social media and the Accessibility Guidelines for Web Content.

*The top-line factsheet will serve as an overview of the **national reports** introducing the study and drawing out key facts and figures from across all sections, with a particular emphasis on elements that will be of relevance to (national) policy-makers.*

Please provide a concise summary of the main findings of Sections 0-7:

Section 0: Impact of COVID-19

Did your (Member) State introduce any major change(s)/reform(s) related to data management due to the COVID-19 pandemic?

Yes / No

If yes, please describe these changes.

The Office has pivoted to tele-working; meetings of the interministerial committee which decides on applications are held via video conference and a new automatized process for notification has been undertaken not due to COVID-19 but concurrent with it. But, none of this impacts on the phases for filing an application.

Section 1: The asylum procedure

Please note that the data management aspects of each phase of making, registering, lodging and examining an asylum claim will need to be described in more detail in the following Sections. This introductory section shall serve as a first overview to better understand the following sections on data management within each phase. If your (Member) State has implemented specific procedures (e.g. 'airport procedure') that deviate from the usual procedure(s), please point this out. However, (Member) States may decide on their own, into how much depth they want to go with regard to such specific or more exceptional procedures. In case (Member) States decide not to elaborate in more detail on specific procedures but focus more on their 'general asylum procedure', a reference can be made to the fact that the specific procedure will not be further elaborated in order to reduce the complexity of the study.

1.1 Overview of the asylum procedure

Please provide an overview on the regular asylum procedure in your (Member) State by answering the following questions.

1. Does your (Member) State clearly distinguish in national legislation among the abovementioned phases of **making**, **registering** and **lodging** of an application? (clear distinction – see the background section 7 - Definitions)

Yes / No

Rules on making (*presentación*), registering and lodging (*formalización*)

Persons willing to seek international protection in Spain must make a formal application during their first month of stay in Spain. When this time limit is not respected, the law foresees the possibility to apply the urgent procedure although in practice the competent authority will reject any asylum

application that does not comply with the 1-month deadline when it considers that no valid justification exists for the delay.

The process begins with the presentation (“making”) of the application, which the applicant shall present in person or, if this is not possible, with representation by another person. For persons disembarking in ports, the intention to apply for international protection is registered by the police, usually following the intervention of NGOs.

Upon the registration of the intention to apply for asylum, the applicant receives a paper-form “certificate of intention to apply for asylum” (*Manifestación de voluntad de presentar solicitud de protección internacional*).

After registration has been completed, the applicant is given an appointment for the formalisation (“lodging”) of the application, which consists of an interview and the completion of a form, and shall be always be realised in the presence of a police official or an officer of the OAR. Upon the lodging of the application, the person receives a “receipt of application for international protection.

Authorities involved in the asylum procedure are the Police and the OAR depending on the Ministry of Interior, the Police register the applicant in ADEXTRA (Police Register of Aliens) database while the OAR is legally competent for lodging (case officers) and examining applications (decision makers). These two authorities also collect information from asylum seekers during the asylum procedure. Most of the data is gathered during the lodging phase, through a face-to-face interview, and is stored in an electronic file (in a database) ASILO. (The ASILO application, data base for the administrative procedure of international protection applications, has a special module for obtaining lists, statistics and queries, a tool used to obtain the data listed above.

The Police stores the collected personal information in the Central Police Database and provides the Ministry of the Interior with a copy of the registration form they had completed during registration

During the registration phase, the Police cross checks data against the national/central Police database, SIS, SLTD/INTERPOL database, and EURODAC. No processing/privacy notice about the personal data collected in this phase is provided to asylum applicants. However, guidelines are provided to staff responsible for data management with regard to information collected. Also, the quality of the collected data is assessed during this phase using a software application.

During the lodging phase, data is cross-checked against data taken by the Police at the registering phase and compared to data from a potential EURODAC hit.

If no, please briefly describe the different phases of the asylum procedure in your (Member) State.

2. a) Does your (Member) State clearly distinguish in practice among the abovementioned phases of **making**, **registering** and **lodging** of an application? (clear distinction – see background section 7 - Definitions)

X Yes / No

If no, please briefly describe the different phases of the asylum procedure in your (Member) State specifying whether in practice some of the abovementioned phases are merged/overlapping.

b) in practice, are there any differences in the division of the phases based on the different types of entry routes (i.e. land, sea, air)? For Member States implementing the **hotspot approach**, does this distinction hold in the hotspots?

yes

3. a) Does ‘channelling’ of specific caseloads take place in the asylum procedure of your (Member) State?

Channelling: Yes / X No

Notwithstanding, there is a unit solely devoted to applications filed at the frontier and centres where immigrants about to be expelled are kept since there a stringent deadlines for its processing and decision.

If yes, please elaborate how the asylum procedure is organised, in relation to the single channels/tracks.

b) Did your (Member) State introduce any changes on 'channelling' since 2014?

If so, please describe the change(s) and intended purpose. If applicable and feasible, please also refer to findings of studies or evaluations on these changes made.

4. a) Are there any national time frames/limits for each of the single phases (making, registering, lodging and examining a claim) in the context of Article 6 of the recast Asylum Procedures Directive?³¹

X Yes / No

If yes, please describe and specify the time frames/limits for the phases applicable in your (Member) State.

Border procedure

If the applicant is outside the Spanish territory or is claiming asylum from a CIE, the border procedure applies. In this case, the OAR will have 4 days to declare the application admissible, inadmissible or unfounded. If any of the deadlines is not met, the applicant will be admitted to territory in order to undergo the regular procedure

Admissibility procedure

For applications made on the territory, the OAR shall have one month to examine the admissibility of the application. If the OAR does not issue a decision within that time, it is understood that the application has been admitted. The decision shall determine whether the request is admissible or inadmissible. The Office may deem the application as inadmissible on the following grounds: (a) lack of jurisdiction for the examination of the application; or (b) failure to comply with admissibility requirements.

Regular and urgent procedure

If the OAR declares the application admissible in the regular procedure, it will have a period of six months to examine the application on the merits. However, in practice this period is usually longer and can take up to 2 years. During this time, the applicant will receive new documentation certifying his or her status as asylum seeker, in the form of a red card (*tarjeta roja*). During the first 6 months, the red card authorizes the asylum seekers to reside in Spain. After six months, the red card has to be renewed and further grants the asylum seeker access to employment.

The Inter-Ministerial Commission of Asylum (*Comisión de Asilo y Refugio*, CIAR) is competent to decide on the application, upon a draft decision of the OAR. Asylum applications must always be examined and decided upon, including in cases where the six months deadline is not met.

In case the application is made at the border or from a CIE, the procedure to be followed is the urgent procedure, even if the person is on Spanish territory. The OAR will have three months to decide on the application in the urgent procedure. The applicant can ask for the application of the urgent procedure, or the Ministry of Interior can apply the procedure *ex officio*.

b) Did your (Member) State introduce any changes in the national timeframes / limits in the years since 2014? no

If so, please describe the change(s) and intended purpose. If applicable and feasible, please also refer to findings of studies or evaluations on these changes made.

³¹ Directive 2013/32/EU (NB Denmark and Ireland do not participate in the recast Asylum Procedures Directive).

5. a) In practice, how long does the procedure take from an asylum applicant making an application to lodging the application (average days)?

Table 1

Year	Average duration (days) from making to lodging a claim ³²
2014	N/A
2015	N/A
2016	N/A
2017	N/A
2018	N/A
2019	N/A

- b) In practice, how long does the procedure take from lodging the application until a first instance decision is made (average days)? If information is not available, please indicate legal time limits and an indication that these are legal limits. We indicate legal time limits.

In case your (Member) State applies 'channelling', please specify the average time for each channel (average days; and please add additional columns in case more Channels apply). If (Member) State rather differentiates between special procedures in place (such as fast track procedures) and/or if these are interconnected with the 'channelling' please add additional columns and elaborate in a footnote what the special procedure is about – if not yet done so in Chapter 1.1)

Table 2

Year	From lodging until first time decision				
	Average days	Channel 1 (please specify)	Channel 2 (please specify)	Channel 3 (please specify)	Channel 4 (please specify)
2014	6 months normal procedure -3 months accelerated procedure 4 days border Procedure				
2015	-6 months normal procedure -3 months accelerated procedure 4 days border procedure				
2016	-6 months normal procedure -3 months accelerated procedure 4 days border procedure				
2017	-6 months normal procedure -3 months accelerated procedure 4 days border procedure				
2018	-6 months normal procedure				

³² In case there is no information on the exact average duration, please include estimates about the average duration.

	-3 months accelerated procedure - 4 days border procedure				
2019	-6 months normal procedure -3 months accelerated procedure - 4 days border procedure				

1.2 Authorities involved in the asylum procedure

6. Which authorities are involved in and responsible for the asylum procedure from making an application to first instance decision?

Please indicate whether those authorities are legally competent for registering an asylum application or not. For those authorities which are not, please also see Section 2.1

Table 3

Type of Authority	Specify name of the authority involved in <u>making</u> an application	Legally competent for <u>registering</u> an asylum application (please indicate type of authority and specify name)	Legally competent for <u>lodging</u> an asylum application (please indicate type of authority and specify name)	Legally competent for <u>examining</u> an asylum application (please indicate type of authority and specify name)
Border Police	Border Guards	Border Guard	Border Guard	
Central Police	Police officer	Police Officer	Police Officer	
(Branch) office for Refugees				Asylum Office
Ministries (Interior, Justice, etc.)	OAR , Officer	OAR Officer	Oar Officer	Decision -maker
Local Citizen's Office/Mayor of a local city/town				
(Local) immigration office				
(Shared) accommodation for refugees				
EU Agency				
International Organisation				
Detention facility				
Reception centre				
Others (please specify)				

1.3 Data collected during the asylum procedure

7. Which information is gathered during the asylum procedure at the different phases and by whom? Please, fill Table 4 below.

Table 4

1. Categories of data collected	2. In which phase(s) is this information collected? (including self-registration) - Registering (1) - self-registration (1.1) - lodging (2) - examination (3) <i>Please use the numbers provided for each phase to indicate the phase the data is collected. In case phases are combined in your state, please indicate it accordingly by using a dash (see example below).</i> <i>If data is re-used but not re-collected in a following phase, data is not collected in that phase. Therefore, if data is not collected in a specific phase but only re-used or not used at all, please do not add any number for that phase.</i>	3. Which organization collects this information in each of the different phases? (whenever possible please refer to the authorities listed in section 1.2)	4. How is this particular category of data /biometric data collected? - online self-registration - written questionnaire (in paper) - oral (interview, face-to-face) - oral (interview via phone/ videocall) - open source (e.g. social media) - analysing documents - analysing content of mobile devices (e.g. phones, laptops) - using automated or artificial intelligence for analysis of data - other: please specify (multiple answers possible) <i>If different data collection tools are used in the different phases, please specify it. If possible, please indicate if any specific technology is used in the process.</i>	5. Where is this particular category of data /biometric data stored? - in an electronic file - in a database - on paper	6. If applicable, please specify the name of the database(s)
Name					
- <i>current name</i>	(1) and (2)	Police and Ministry of the Interior	Interview	- Electronic	Central Police Database, Asylum Register,
- <i>birth name</i>	(1) and (2)	Police and Ministry of the Interior	Interview	Electronic	Asylum Register,
- <i>previous name(s)</i>	(1) and (2)	Police and Ministry of the Interior	Interview	Electronic	Asylum Register,
- <i>pen name (alias)</i>	(1) and (2)	Police and Ministry of the Interior	Interview	Electronic	Asylum Register,

- <i>religious names</i>	(1) and (2)	Police and Ministry of the Interior	Interview	Electronic	Asylum Register,
- <i>other names</i>	(1) and (2)	Police and Ministry of the Interior	Interview	Electronic	Asylum Register
Sex	(1) in (2)	Police and Ministry of the Interior	Interview	Electronic	Central Database, Police Asylum Register
- <i>photo</i>	Police and Ministry of the Interior	Interview	Electronic	Electronic	Central Database, Police Eurodac database
- <i>fingerprints (which fingers, rolled or pressed fingerprints)</i>	Police and Ministry of the Interior	Interview	Electronic	Electronic	Central Database, Police Eurodac database
- <i>iris scan</i>					
- <i>other</i>					
Eye colour					
Height					
Date of birth	(1) and (2)	Police and Ministry of the Interior	Interview	Electronic	Asylum Register, Asylum Documents
Citizenship(s)	(1) and (2)	Police and Ministry of the Interior	Interview	Electronic	Asylum Register, Asylum Documents
Country of origin	(1) and (2)	Police and Ministry of the Interior	Interview	Electronic	Asylum Register, Asylum Documents
- town	(1) and (2)	Police and Ministry of the Interior	Interview	Electronic	Asylum Register

- region	(1) and (2)	Police and Ministry of the Interior	Interview	Electronic	Asylum Register
- country	(1) and (2)	Police and Ministry of the Interior	Interview	Electronic	Asylum Register
- town	(1) and (2)	Police and Ministry of the Interior	Interview	Electronic	Asylum Register
Date of arrival in the (Member) State	(1) and (2)	Police and Ministry of the Interior	Interview	Electronic	Asylum Register
Last place of residence in the country of origin	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register
Contact details					
- phone number			written questionnaire (in paper)	Electronic	Asylum Register
- email address			written questionnaire (in paper)	Electronic	Asylum Register
- current address			written questionnaire (in paper)	Electronic	Asylum Register
- other			written questionnaire (in paper)	Electronic	Asylum Register
Civil status			written questionnaire (in paper)	Electronic	Asylum Register
Family members in the (Member) State					
- - - spouse or civil partner -	(2)	Ministry of the Interior	written questionnaire (in paper) and Interview	Electronic	Asylum Register
- - - children -	(2)	Ministry of the Interior	written questionnaire (in paper) and Interview	Electronic	Asylum Register
- - - parents -	(2)	Ministry of the Interior	written questionnaire (in paper) and Interview	Electronic	Asylum Register

- - <i>other relatives</i> -	(2)	Ministry of the Interior	written questionnaire (in paper) and Interview	Electronic	Asylum Register
- <i>name</i>	(2)	Ministry of the Interior	written questionnaire (in paper) and Interview	Electronic	Asylum Register
- <i>residency</i>	(2)	Ministry of the Interior	written questionnaire (in paper) and Interview	Electronic	Asylum Register
- <i>citizenship</i>	(2)	Ministry of the Interior	written questionnaire (in paper) and Interview	Electronic	Asylum Register
- <i>other</i>	(2)	Ministry of the Interior	written questionnaire (in paper) and Interview	Electronic	Asylum Register
Family members in another (Member) State	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register
Close relatives in the (Member) State	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register
Close relatives in another (Member) State	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register
Health status					
- <i>specifics on health status</i>	(2)	Ministry of the Interior /International or national organisation	Interview	Electronic	Asylum Register
- <i>reference that a general health check has been carried out</i>	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register
- <i>other</i>	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register
Education					
- <i>school attendance</i>	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register
- <i>academic studies</i>	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register

- <i>trainings</i>	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register
- <i>apprenticeships</i>	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register
- <i>non-formal work experience</i>	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register
- <i>other</i>	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register
Language skills	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register
Profession	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register
Criminal record	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register
Financial resources	(2)	Ministry of the Interior	Interview	Electronic	Asylum Register
Supporting documents					
- passport	(1)		Analysing documents	Electronic	Central Police database Asylum Register
- travel document	(1)		Analysing documents	Electronic	Central Police database
- other	(1)		Analysing documents	Electronic	Asylum Register
Reasons for fleeing	(2)		Interview	Electronic	Asylum Register
Reasons for not wanting to be returned to the competent Member State as part of a Dublin procedure	(2)		Interview	Electronic	Asylum Register
Previous applications	(3)		Analysing documents	Electronic	Asylum Register
Information on the route taken	(1) and (2)		Interview	Electronic	
Information on exclusion grounds	(1) and (3)		Interview	Electronic	Asylum Register
Religious affiliation	(2)		Interview	Electronic	Asylum Register
Vulnerabilities					

- <i>Unaccompanied minor</i>	(1)		Interview	Electronic	Asylum Register
- <i>Pregnant</i>	(1) And (2)		Interview	Electronic	Asylum Register
- <i>Disabilities (which?)</i>	(1) And (2)		Analysing documents	Electronic	Asylum Register
- <i>Elderly</i>	(1)		Interview	Electronic	Asylum Register
- <i>Single parent with minor child(ren)</i>	(1) And (2)		Interview	Electronic	Asylum Register
- <i>Victims of human trafficking</i>	(2)	Ministry of the Interior /International or national organisation	Interview	Electronic	Asylum Register
- <i>Mental disorders</i>	(2) and (3)	Ministry of the Interior /International or national organisation	Analysing documents	Electronic	Asylum Register
- <i>Victims of torture, physical or sexual violence (female genital mutilation)</i>	(2)	Ministry of the Interior /International or national organisation	Interview	Electronic	Asylum Register
- <i>other</i>				Electronic	Asylum Register
Other (please specify)				Electronic	Asylum Register

8. Has your (Member) State identified any good practice in frontloading information collected by other authorities not directly connected to the asylum procedure? If yes, please elaborate and specify in which phase does the frontloading take place.

For each good practice mentioned, please describe a) for whom it is a good practice, b) why it is considered a good practice and c) what is the source of the statement – (please indicate sources)

1.4 Data management during the asylum procedure

9. Please fill Table 5 based on the information given in column 6 of Table 4 (filling as many rows as the databases indicated that Table).

Table 5

Database	Overview/definition of the database (please indicate whether it is a regional, national or European database).	National authorities that have access to the databases or access to its data ³³			Data shared with other Member States (apart from the data that (Member) States share through EU databases e.g. Eurostat, VIS, SIS)	
		Name of authority/organisation	In which phase of the asylum procedure	For what purpose	Type of data	For what purpose
(Database 1)	asylum register National	Ministry of Interior	All	Processing of applications and statistics		
(Database 2)	Central Police database (Addreextra)	<u>Police Officers</u> <u>Authorised Asylum Office personnel</u>	All	Frontier and Foreign population control		
(Database 3)	Eurodac	Police officers	All	Illegal immigration control		
.....						

Section 2: Making an asylum application

This section requests information on asylum seekers making an asylum application to an authority that is not competent to register an asylum application.

'Making an application': The expression of intent to apply for international protection.

³³ Please differentiate between access to database and access to data. 'Access to database' is understood as a national authority being authorised to have direct access to a database without the need to request data to be transmitted to them via other authorities or intermediaries. 'Access to data' is reserved to cases where an authority has access to data contained to a database, through transmission or sharing by another authority.

2.1 Making an application to an authority not competent to register the asylum application

If your (Member) State does not differentiate between “making an application” and “registering an application”, or if these two phases are conducted concurrently, as referred to in Section 1.1, please skip and go to Section 3.

10. What information do authorities who are not competent to register an asylum application provide to the asylum applicants on where to go and what to do?
11. Do the authorities who are not competent to register any asylum application collect any data on the asylum applicant?
 Yes / No
If yes, please specify which type of data is collected.
If yes, is this data further transferred to the competent authorities?

Section 3: Registering an asylum application

‘Registering an asylum application’: Record the applicant’s intention to seek protection.

This section requests information on the registration of asylum applications.

If the process of registering and lodging of the asylum application are conducted concurrently (according to the law or in practice) in your (Member) State, please make this clear in Section 1 and proceed by skipping this Section and going directly to Section 4. If however, registering and lodging of an asylum application are conducted separately in your (Member) State (e.g. in crisis times or regionally with regard to islands vs. main land, cities vs. rural areas, centralised vs decentralised) please proceed by answering the following questions in Sections 3 and 4.

If the process of registering, lodging and examination of the asylum application are conducted concurrently (according to the law or in practice) in your (Member) State, please make this clear in Section 1 and proceed by skipping this Section and going directly to Section 5.

For Member States implementing **the hotspot approach**, please highlight whether there are differences in the processes applied in hotspots with regard to the standard/general asylum procedure.

3.1 Cross checking of data collected at the registration phase

12. Against which databases at i. local/regional, ii. national, iii. European and iv. international levels is the information collected during registration cross-checked³⁴ (please elaborate, what the purpose is of the cross-checking and if only specific categories of data are cross-checked)? National, European (Europol) and International (Interpol). To investigate criminal records and arrest warrants.
13. Does systematic cross-checking against (i) VIS and (ii) SIS take place?
 Yes / Information not available
14. What issues has your (Member) State encountered in cross-checking data collected at registration phase?
For each issue mentioned, please describe a) for whom it is an issue, b) why it is considered an issue and c) whether the assessment that this issue based on input from experts (please indicate sources)

3.2 Information provided to asylum applicants in the registration phase

15. Are asylum applicants provided with a processing/privacy notice³⁵ about the personal data collected from them during the registration phase?

³⁴ Purpose of cross-checking: Previous asylum applications, Prior legal residence/stay, Illegal border crossing, Illegal stay (overstay), Criminal record, Security risks, Detect counterfeit identity/travel documents, Other (please specify).

³⁵ The obligation to take appropriate measures to provide data subjects with a processing or privacy notice stems from Article 12 GDPR which obliges data controllers to provide “any information referred to in Articles 13 and 14 and any communication under Articles 15 to 22 and 34 relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain

X Yes / X

If yes, please describe which information is provided (i.e. the purpose for which personal data from the asylum applicant is collected and on what basis, who has access to the information, data protection rights etc). Processing in conformity with Data protection laws and rights of data subject.

16. a) Who provides the information mentioned above (under Q15) (public authorities, international organisations, CSO - civil society organisations)?

b) How is this information provided (orally, digitally, in writing or all three)?

Please describe. In writing

c) Where information is provided orally, is interpretation available?

Yes / No

d) Where information is provided digitally, is translation available?

Yes / No

If yes, who provides the digital information (e.g. national authorities, NGOs etc)? Police

e) Where information is provided in writing is translation available?

Yes / No

If yes, who provides the translation service (e.g. national authorities, NGOs etc)?

17. Is any specific training or guidance (i.e. guidelines) provided for staff responsible for data management with regard to information collected at the registration phase? Not available.

3.3 Where self-registration procedures apply, (Member) States are asked to elaborate more on the framework and experiences.

18. Does your (Member) State have any self-registration procedures in place?

Yes / No

If yes, please answer questions 19-23.

If not, please move to section 4.

19. When was the self-registration procedure introduced and why?

20. Where do asylum seekers self-register (e.g. website, by phone)?

21. Are asylum seekers provided with any guidance/assistance/information on how to self-register?

If yes, please elaborate and indicate who provides this information

22. In which languages is the self-registration procedure available?

23. Is self-registration mandatory or optional?

Please elaborate.

language." The information referred to in Articles 13 sets out the information to be provided where data has been collected from the data subject. It includes setting out the purpose of the data collected and legal basis; legitimate interests of the data controller (where this is used as the legal base); recipients of the data or categories of data; and if the data will be transferred to a third country or international organisation. Articles 15 to 22 refer to the data subject's rights including the rights to access, rectification and erasure; the right to object (if data is being collected for certain purposes including for a task carried out in the public interest or an official function vested in the data controller or in pursuit of legitimate interests of the data controller); right to data portability etc.

Section 4: Lodging an asylum application

This section requests information on asylum applicants lodging an asylum application.

4.1 Cross checking of data collected at the lodging phase

24. Against which databases at i. local/regional, ii. national, iii. European and iv. international levels is the information collected during the lodging phase cross-checked (please elaborate, what the purpose is of the cross-checking and if only specific categories of data are cross-checked)?
25. Does systematic cross-checking against (a) VIS and (b) SIS take place?
- Yes / No What issues have you encountered in cross checking data collected at the lodging phase?
- For each issue mentioned, please describe a) for whom it is an issue, b) why it is considered an issue and c) whether the assessment that this issue based on input from experts - please indicate sources)*

4.2 Information provided to asylum applicants at the lodging phase

28. Are asylum applicants provided with a processing/privacy notice³⁶ about the personal data collected from them during the lodging phase?
- Yes / No
- If yes, please describe which information is provided (i.e. the purpose for which personal data from the asylum applicant is collected and on what basis, who has access to the information, data protection rights etc).
29. a) Who provides the information mentioned above (under Q 28) (public authorities, international organisations, CSO - civil society organisations)?
- b) How is this information provided (orally, digitally, in writing or all three)?
- Please describe.
- c) Where information is provided orally, is interpretation available?
- Yes / No
- If yes, who provides the interpretation services (e.g. national authorities, NGOs etc)?
- d) Where information is provided digitally, is translation available?
- Yes / No
- If yes, who provides the digital information (e.g. national authorities, NGOs etc)?
- e) Where information is provided in writing is translation available?
- Yes / No
- If yes, who provides the translation service (e.g. national authorities, NGOs etc)?
30. Is any specific training or guidance provided for staff responsible for data management with regard to information collected at the lodging phase? No

³⁶ The obligation to take appropriate measures to provide data subjects with a processing or privacy notice stems from Article 12 GDPR which obliges data controllers to provide "any information referred to in Articles 13 and 14 and any communication under Articles 15 to 22 and 34 relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language." The information referred to in Articles 13 sets out the information to be provided where data has been collected from the data subject. It includes setting out the purpose of the data collected and legal basis; legitimate interests of the data controller (where this is used as the legal base); recipients of the data or categories of data; and if the data will be transferred to a third country or international organisation. Articles 15 to 22 refer to the data subject's rights including the rights to access, rectification and erasure; the right to object (if data is being collected for certain purposes including for a task carried out in the public interest or an official function vested in the data controller or in pursuit of legitimate interests of the data controller); right to data portability etc.

Section 5: Examining an asylum application

The following sections request information on any additional data collected after an asylum application is deemed to have been lodged and before a first instance decision is issued.

5.1 Cross checking of data collected at the examination phase

31. Against which databases at i. local/regional, ii. national, iii. European and iv. international levels is the information collected during the examination phase cross-checked (please elaborate, what the purpose is of the cross-checking and if only specific categories of data are cross-checked)?

32. Does systematic cross-checking against (a) VIS and (b) SIS take place?

Yes / Information not available

33. What issues has your (Member) State encountered in cross checking data collected at the examination phase?

For each issue mentioned, please describe a) for whom it is an issue, b) why it is considered an issue and c) whether the assessment that this issue based on input from experts (please indicate sources).

5.2 Information provided to asylum applicants at the examination phase

34. Are asylum applicants provided with a processing/privacy note³⁷ about the personal data collected from them during the examination phase?

Yes / No

If yes, please describe which information is provided (i.e. the purpose for which personal data from the asylum applicant is collected and on what basis, who has access to the information, data protection rights etc). a) Who provides the information mentioned above (under Q 34) (public authorities, international organisations, CSO - civil society organisations)?

b) How is this information provided (orally, digitally, in writing or all three)?

Please describe.

c) Where information is provided orally, is interpretation available?

Yes / No

If yes, who provides the interpretation services (e.g. national authorities, NGOs etc)?

d) Where information is provided digitally, is translation available?

Yes / No

If yes, who provides the digital information (e.g. national authorities, NGOs etc)?

e) Where information is provided in writing is translation available?

Yes / No

If yes, who provides the translation service (e.g. national authorities, NGOs etc)?

³⁷ The obligation to take appropriate measures to provide data subjects with a processing or privacy notice stems from Article 12 GDPR which obliges data controllers to provide "any information referred to in Articles 13 and 14 and any communication under Articles 15 to 22 and 34 relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language." The information referred to in Articles 13 sets out the information to be provided where data has been collected from the data subject. It includes setting out the purpose of the data collected and legal basis; legitimate interests of the data controller (where this is used as the legal base); recipients of the data or categories of data; and if the data will be transferred to a third country or international organisation. Articles 15 to 22 refer to the data subject's rights including the rights to access, rectification and erasure; the right to object (if data is being collected for certain purposes including for a task carried out in the public interest or an official function vested in the data controller or in pursuit of legitimate interests of the data controller); right to data portability etc.

-
35. Is any specific training or guidance provided for staff responsible for data management with regard to information collected at the examination phase? Yes

Section 6: Data quality and safeguards [max 4 pages]

The following sections request information on how data quality is managed and the safeguards that (Member) States apply.

6.1 Data quality management

36. Is the quality of (at least some categories of) data (alphanumeric and biometric) collected during the asylum procedure assessed (e.g. with regard to accuracy, timeliness, completeness, consistency, duplication and validity of the data)?

Yes /

If yes, please elaborate on some contrasting³⁸ examples of data quality assessment and indicate:

The referential integrity of the model itself is evaluated and the application has lists to detect errors. A team of clerks check data collected by police officers during registration to ensure its coherence, completeness and accuracy before introducing data in the Asylum Register. .

- b) In which phase(s) of the asylum procedure is the quality of data assessed (quality assessment)?

At the very beginning. However, if errors are detected during the process, they are corrected.

- c) How (specific tools)³⁹ and by whom (centralised/decentralised) is the quality assessment carried out?

Manually and centralised.

- d) If decentralised, how is it ensured that the other actors get to know about data amendments and changes?

37. Do quality assessment measures only apply retroactively? No.

38. Are any preventative measures in place to get the information right at the very beginning? Yes/No. If yes, which safeguards are in place? Please, refer to answer to question 37.

6.2 Safeguards

39. Describe the supervision mechanism for data protection supervision of the personal data collected during the asylum procedure in your Member State.⁴⁰

Data Protection Officer in the Ministry of Interior and Spanish Data Protection Authority

40. Have (national) data protection authorities or similar entities assessed any of the databases described above?

³⁸ It will not be feasible to elaborate on all data quality assessment measures for each type of data collected which is why we are asking for contrasting examples where different types of quality assessment measure (e.g. tools, technical equipment, data analytics etc.) apply.

³⁹ E.g. name transliteration, screening for duplicates against data already stored in the database, automated data quality checks, data analytics, artificial intelligence.

⁴⁰ The question does not refer to the legal framework but to how a data protection authority in a Member State supervises the implementation of that legal framework (what are the structures in place in your Member State to ensure the data subject's data protection rights are being ensured).

/ X No

If yes, please specify the relevant authorities, briefly describe what conclusions have they drawn, including whether such conclusions have led to changes in data management. *Please indicate sources and whether there are any published reports or audits available on these inspections.*

41. How is it arranged in practice the manner in which the rights of asylum applicants in relation to access, rectification and erasure of their data stored in the national systems are exercised? *Please provide available statistics concerning the number of requests made by asylum applicants, if any.*

Through a form available at <http://www.interior.gob.es/web/servicios-al-ciudadano/participacion-ciudadana/proteccion-de-datos-de-caracter-personal/tutela-de-los-derechos>

Section 7: Responding to challenges in data management: recent reforms to the asylum procedure

7.1 Challenges and changes/reforms in data management

42. Has your (Member) State experienced any of the following challenges related to data management in the past years (since 2014)? No

Please elaborate **on each of the selected challenges**, mentioning: a) for whom it is a challenge (policy-maker, organisation, other stakeholders); b) why it is considered a challenge; and c) how was it identified as a challenge (e.g. surveys, evaluation reports, focus groups, experts opinions etc).

X Lack of human or financial resources

Self-registration

Legal obstacles

Cooperation between national authorities

Interoperability of databases

Technical limitations in data processing The Asylum Register does not hold all data to fulfil our statistical duties. We will be migrating to a new and more powerful database this year.

Implementation of Eurodac and/or GDPR regulation

Lack of training/information

Transliteration (e.g. Arabic to Latin or other alphabets)

Other (please specify):

43. Did your (Member) State introduce any major change(s)/reform(s) related to data management in the past years (since 2014)?

Yes / No

If yes, please describe those changes and why they were made. Development of a new database to manage asylum files.

If not, please move to Q48.

44. Have any of the abovementioned changes become standard operating procedure in your (Member) State?

Yes / No

Please elaborate

45. Were any of these changes/reforms related to data management introduced due to the introduction of 'channelling'?

Yes / No

If yes, please elaborate.

46. Did the reforms introduced achieve the intended results? Why?

Please elaborate and explain why the reform(s) achieved/did not achieve the intended results.

47. Would your (Member) State consider this reform (s) as a good practice?

Please elaborate and explain why your (Member) State considers/ does not consider the reform(s) a good practice. In particular, please mention whether any of those reform(s) are believed to have improved the quality of the asylum procedure.

48. Have any on-going (unaddressed) challenges related to data management in the asylum procedure been identified in your (Member) State?

Yes / No

If yes, please elaborate.

If yes, is your (Member) State taking any steps to address these challenges?

7.2 Contingency measures

49. Are there any contingency measures in place to accelerate and/or ease the process in times of high influx of asylum seekers with regard to data management?

No. A high influx of asylum seekers is nothing out of the ordinary in Spain. The Asylum Office payroll has been increased in the last 2 years and will still grow in 2021 to cope with a high number of applicants as a matter of fact.

50. If yes, please describe those measures.

Section 8: Conclusions [max 2 pages]

This section of the Synthesis Report will draw conclusions as to the (Member) States' existing policies, practices and case law related to the registration and data management in the asylum procedure.

With regard to the aims of this study, what conclusions would you draw from your findings reached in elaborating your national contribution? In particular, what is the relevance of your findings to (national and/or EU level) policymakers?

We should pay more attention to new data protection Regulation (Regulation (EU) 2016/679).

Annex 1 National statistics

Please fill in the attached excel sheet with the respective statistics for your (Member) State – provided in a separate Excel file. The Statistical Annex consists of the following:

Annex 1.1. Number of registrations of asylum applications

2014	2015	2016	2017	2018	2019
5.958	14.908	16.540	31.742	55.778	118.488



GOBIERNO
DE ESPAÑA

MINISTERIO
DE ASUNTOS EXTERIORES, UNIÓN EUROPEA
Y COOPERACIÓN

MINISTERIO
DE JUSTICIA

MINISTERIO
DEL INTERIOR

MINISTERIO
DE INCLUSIÓN, SEGURIDAD SOCIAL
Y MIGRACIONES