



GUIDE ON THE ORDINARY PROCEDURE OF INTERNATIONAL PROTECTION

*Information document of the Service of the Attention
to Immigrants, Migrants and Refugees (SAIER)*

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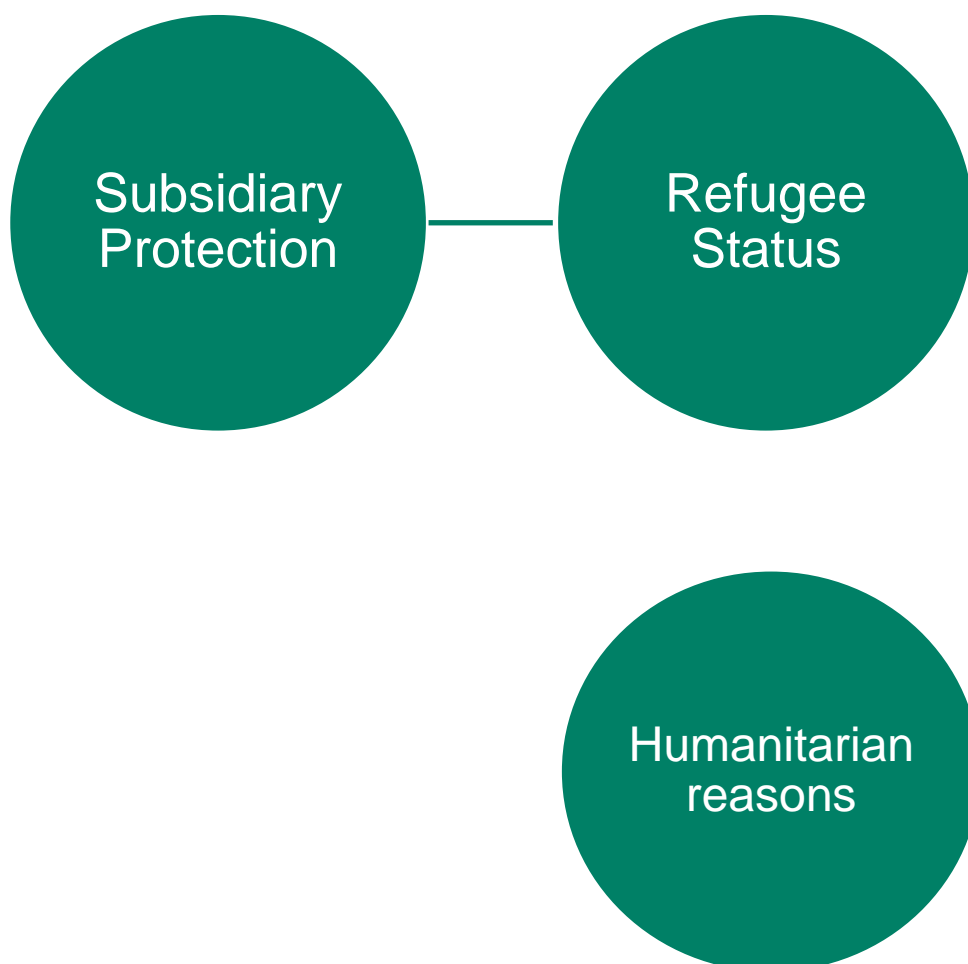


BASIC NOTIONS

Object of the International Protection

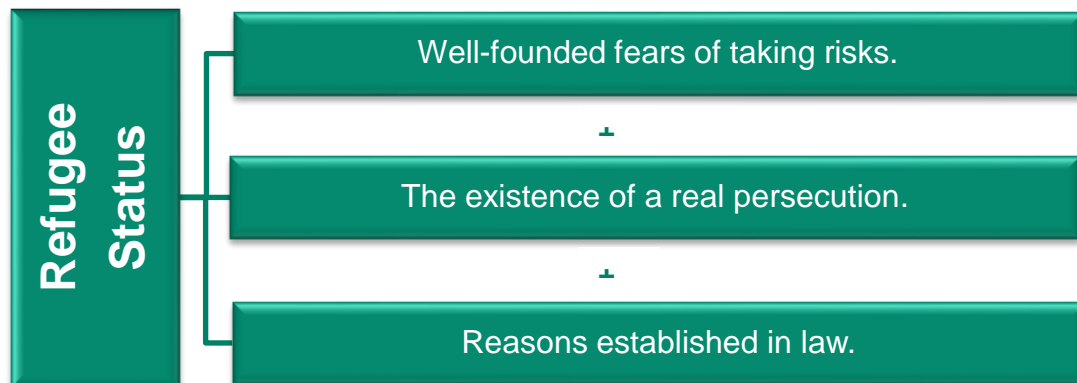
The main purpose of the International Protection is to offer protection to persons who have fled their country of origin or, natural country of residence or, being abroad, cannot return for non-economic reasons.

The International Protection is recognised through Refugee Status or subsidiary protection. However, they can deny this and grant, through the procedure of International protection, the residence for humanitarian reasons.



Refugee Status

The 1951 Geneva Convention establishes that a refugee is a person who, with 'well-founded fears of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of their nationality and cannot or, because of these fears, does not want to avail itself of the protection of such a country'.



Reasons

To be considered a refugee, a person must show well-founded fears for one of the reasons indicated above. It is indifferent that the persecution occurs for one of these reasons or for the combination of two or more of them. It often happens that the applicant himself ignores the reasons for the persecution of which he fears being a victim of. However, you are not obliged to analyse your situation to the extent that you cannot specify these reasons in detail.



Race



Nationality



Religion



Political opinion



Membership of a particular social group



Gender



Sexual Orientation



✓ Notable definitions¹

Race: the concept of race must be understood in its broadest sense which reaches all ethnic groups commonly called ‘races’. If, due to racial discrimination, a person’s human dignity is violated to an extent incompatible with elemental and inalienable human rights, they will have the right to refugee status.

The Spanish Asylum law, in its article 7.1.a), states that ‘the concept of race will cover, in particular, the colour, origin or membership to a certain ethnic social group.

Nationality: The Spanish Asylum law, in its article 7.1.c), states that ‘the concept of nationality will not be limited to possessing or not ‘the citizenship of a State, ‘but will cover, in particular belonging to a group determined by their cultural, ethnic or linguistic identity, their common geographical or political origins or their relationship with the population of another State.

Religion: The Spanish Asylum law, in its article 7.1.b), states that ‘the concept of religion will include, in particular, the confession of theistic, non-theistic and atheistic beliefs, the participation, or the abstention from doing so, in formal cults in private or in public, either individually or in community, as well as other acts or expressions that involves an opinion of a religious nature, or forms of personal or community conduct based on any religious belief or ordered by it.

Political opinions: The fact of holding political opinions different from those of public powers does not, in itself, justify the claim of refugee status and the applicant must show that there are fears of being followed for holding such opinions.

This presupposes that the requesting person maintains opinions not tolerated by the authorities, which expresses a criticism of their policy or methods.

The Spanish Law of Asylum, in its article 7.1.d), states that ‘The concept of political opinions’ will cover, in particular, the profession of opinions, ideas or beliefs on a matter related to potential agents of persecution and their policies and methods, regardless of whether or not the applicant has acted according to such opinions, ideas or beliefs.

Membership of a particular social group: a ‘certain social group’ includes people similar background, customs or similar social status. The fears alleged by a person of being persecuted for this reason can often coincide with their fears of being persecuted by others, for example, their race, their religion or their nationality.

¹ <https://www.acnur.org/fileadmin/Documentos/BDL/2011/7575.pdf>



The Spanish Asylum law, in its article 7.1.e), recognises this reason under the following terms:
a) when the members of a group share an innate characteristic or a common background that cannot be changed, or they share a characteristic or belief that is so fundamental due to their identity or conscience that they cannot be required to renounce it. b) and when this has a different identity to the country in question it is perceived as different surrounding society or by the persecuting agent or agents.

Gender: starting from the concept of persecution, defined in the scope of the right of asylum as a serious, sustained or systematic violation of human rights, we can understand that the persecution based on the gender of the person, and the social role assigned in relation to this can also lead to the recognition of status of refugee.

Gender identity and sexual orientation: in the same way, this persecution can be given by the sexual orientation or gender identity of the person, a characteristic that has been considered as 'belonging to a certain social group'.

✓ **Notable definitions²**

Well-founded fears: Since the concept of fear is subjective, the definition implies a subjective element in the person who requests to be recognised as a refugee. Therefore, determination of refugee status primarily requires an assessment of the applicant's statements. However, the statements of the applicant cannot be considered in the abstract and must be considered in the context of the relevant situation. Knowledge of the situation of the country of origin is an important element to assess the degree of credibility of this person.

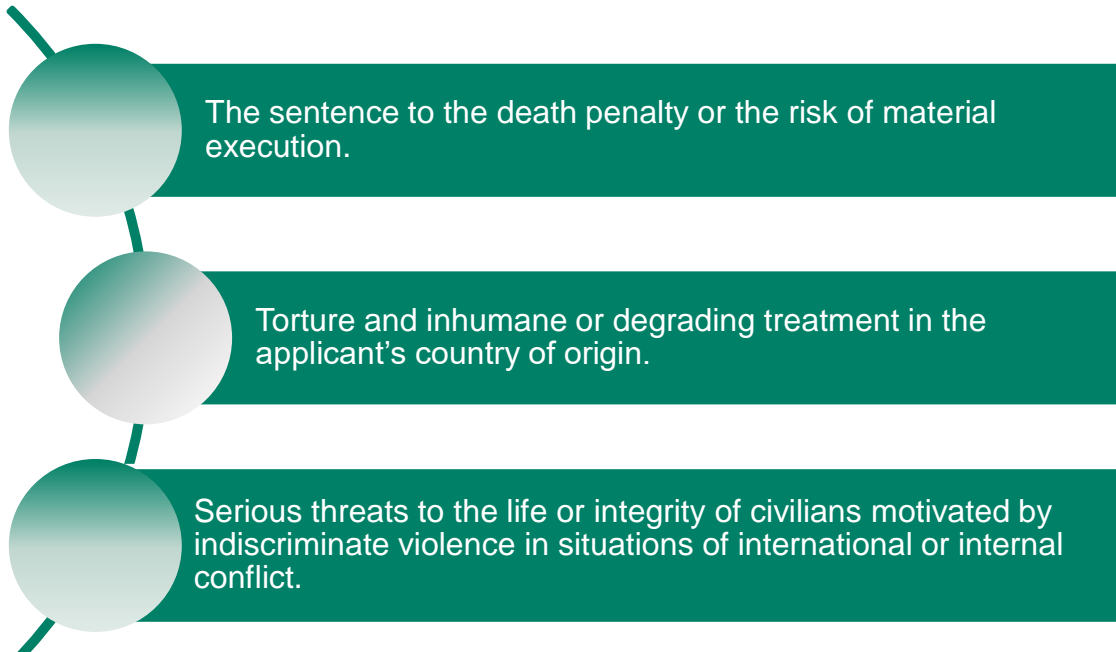
Persecution: Any threat against the life or liberty of a person for reasons of, race, religion, nationality, membership of a certain social group or political opinions is always persecution. Other serious violations of human rights will also constitute persecution for the same reasons. People who receive less favourable treatment because of these differences are not necessarily victims of persecution. Only in certain circumstances will this discrimination constitute persecution. This would be the case if the discrimination measures had essentially damaging consequences for the person.

² <https://www.acnur.org/fileadmin/Documentos/BDL/2011/7575.pdf>



Subsidiary protection

Subsidiary protection is granted to foreigners who are not refugees but cannot return to their country of origin because they are at real risk of serious harm, such as:



The sentence to the death penalty or the risk of material execution.

Torture and inhumane or degrading treatment in the applicant's country of origin.

Serious threats to the life or integrity of civilians motivated by indiscriminate violence in situations of international or internal conflict.

Humanitarian Reasons

The international protection Law provides for the granting of a residence authorisation for humanitarian reasons other than those indicated in the Statute and in the subsidiary protection.

Humanitarian reasons can be granted when:

Humanitarian reasons

You suffer from a serious illness that requires a specialised health treatment not accessible in the country of origin.

When the transfer to the country of origin or proceeding implies a danger to the safety of the applicant or his family.



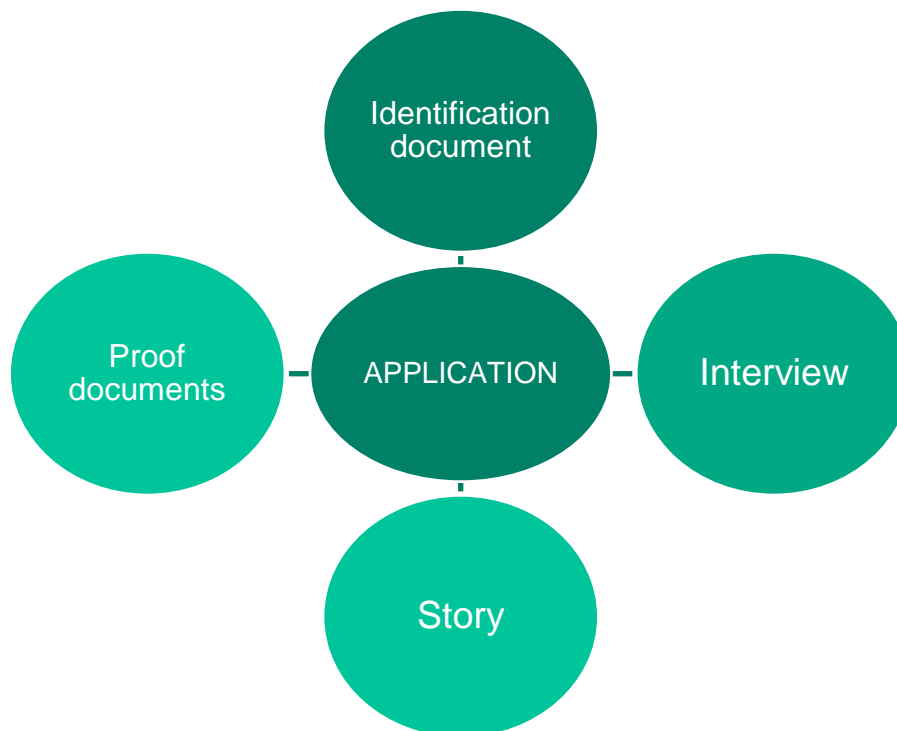
INTERNATIONAL PROTECTION PROCEDURE

Application for the International Protection

To start the International Protection application in Spain, it is necessary to ask for an appointment at a police station or at the corresponding immigration and asylum offices. In the case of being in the province of Barcelona, you should ask for the due appointment by calling the telephone number 932 903 098, Monday to Friday, 08:30h to 11:30h in the morning hours. The information about the day and time of your appointment will be given to you during the phone call.

Formalisation of the Application

The application for International Protection is made through the interview, which must explain in detail and chronologically, the reasons for the flight (story), present the available identity documents and proof documents that support the request.



The persons in charge of conducting the interview will inform the applicants:

- ✓ On how to make the request, your rights and obligations.
- ✓ the possibility of contacting UNHCR and other NGOs.
- ✓ and they will collaborate with the parties to establish the relevant facts of their request.



Interview

PERSONAL INFORMATION

- Including the level of studies, profession and last address of the applicant in the country of origin.
- It will also be necessary to provide the applicant's personal documentation (if available): passport, visa, Identity card or other type of personal and /or identification document.
- Provide a notification address in Spain.

FAMILY DATA

- It will be necessary to carry supporting documentation of filiation or marriage.
- It will be necessary to provide the data of the closest relatives (father, mother, siblings, spouse and children), including relatives who reside in Spain or other EU countries.

TRAVEL ITINERARY

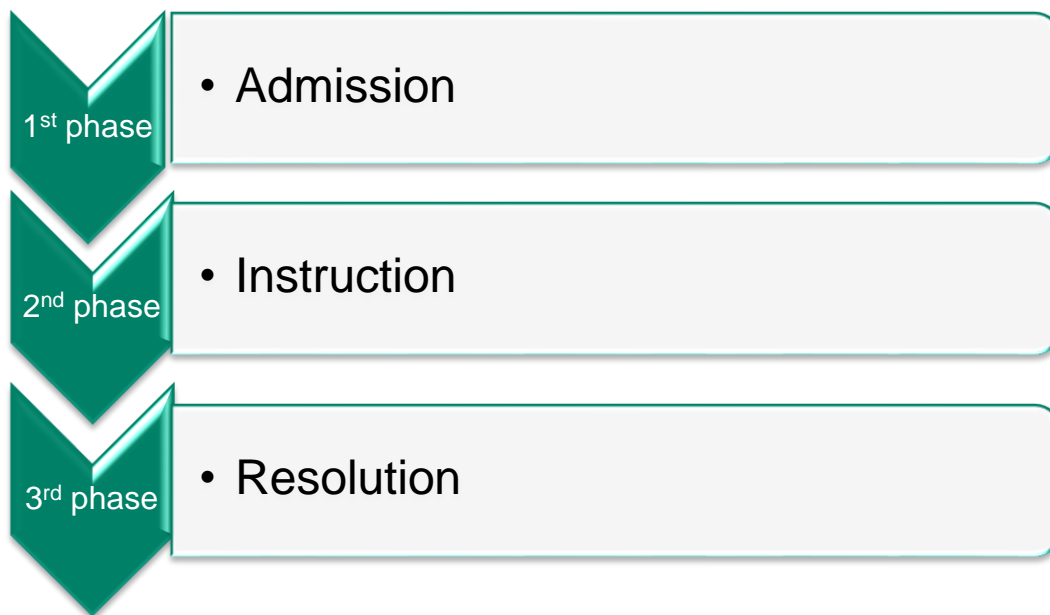
- Specially specifying the day and place of departure from the country of origin, countries of transit and day and time of entry into Spain and the means of transport used.
- If you have applied for international protection before in Spain or in another country.

REASONS FOR REQUESTING INTERNATIONAL PROTECTION

- It is important that the facts are explained in a detailed, orderly and chronological way.
- Documentation may be submitted to support the reasons for the request.

Delivery of the receipt for the application for international protection and fingerprints.

International Protection Procedure



✓ **The Procedure: - 1st Phase – admission and procedure.**

Within a month from the submission of the application, the applicant will be informed if his application has been admitted or not. If after one month, the Asylum and Refugee Office has not contacted you, it will be understood as admitted for processing.

In case of admission, after 5 more months, the person will automatically obtain **authorization to work in Spain for 3 more months**, when the presentation receipt will have to be renewed.

If the request is not admitted for processing, an appeal may be filed, so we recommend seeking legal advice from the SAIER as soon as possible.

✓ **The procedure: 2nd Phase: - Instruction.**

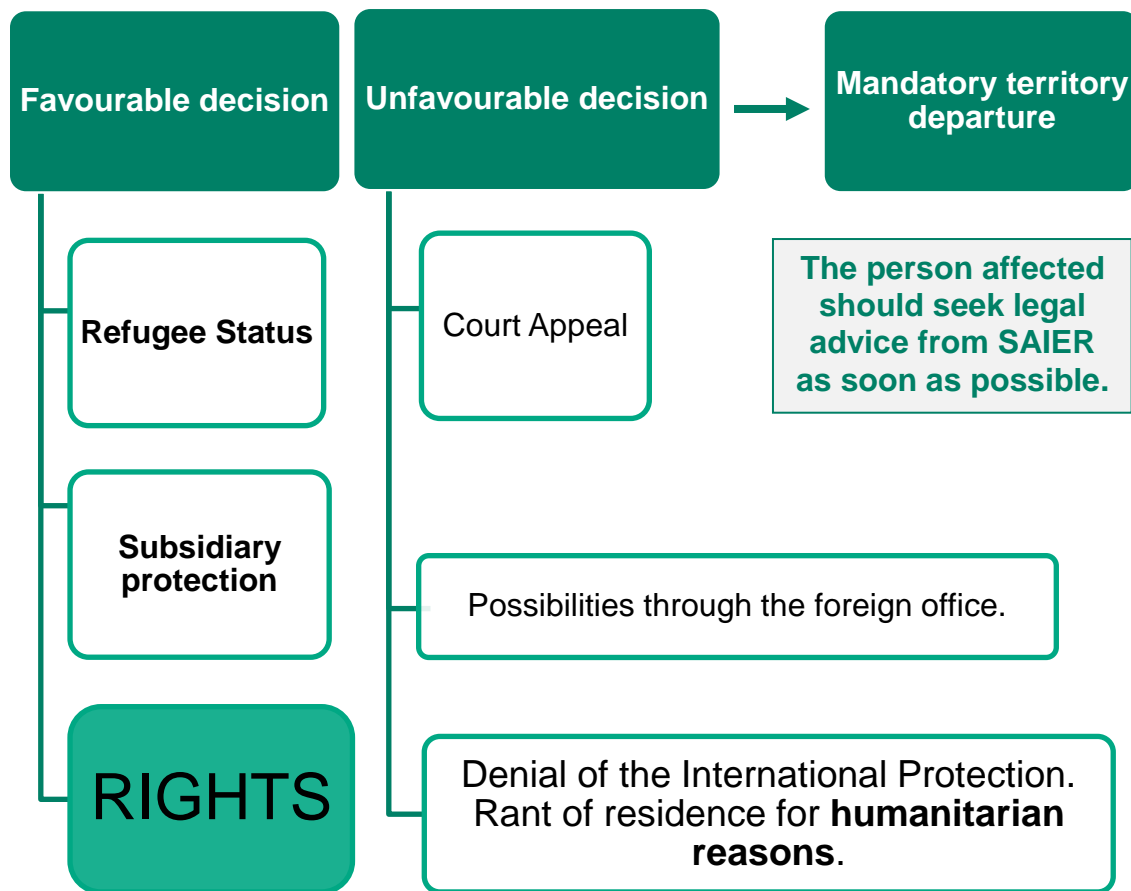
If the application is admitted for processing, it will be examined in more depth.

The body in charge of instructing the application for International Protection will be the Asylum and Refugee Office (OAR), in Madrid.

✓ **The Procedure: 3rd phase, the Resolution.**

The instructor, once the application has been instructed, submits a report proposal to the Inter-ministerial commission for Asylum and Refuge. (CIAR). The final decision is signed by the Minister of Interior.

Procedure: Phase of Resolution



Rights in case of a favourable decision:

- ✓ Long-term **residence and work authorisation**.
- ✓ The issuance of **identity and travel documents**.
- ✓ **Free movement**.

- ✓ Denial of International Protection, but with the granting of a **residence permit for Humanitarian Reasons** will entitle you to residency and work for one year.

Documentation as applicant

The documents which will be handed in to the international protection applicants in Barcelona during the process are the following:

RESGUARDO DE PRESENTACIÓN DE SOLICITUD DE PROTECCIÓN INTERNACIONAL
(Art. 18 Ley 52/2007)

NIE:
Nombre: _____
Apellidos: _____
Hijo de: _____
Fecha nacimiento: _____
País: _____
Nacionalidad: _____
Sexo: _____

Nº de Pasaporte: _____
F. Exp.: _____ F. Cad.: _____

Dirección: _____
Localidad: _____
Teléfono: _____

Nº EXPEDIENTE O.A.R.: _____

Si transcurrida la fecha de (____/____/____) no se ha notificado la resolución de su solicitud, el titular quedará en posesión provisional de la **fecha de caducidad** de este documento hasta el día ____/____/____ **sólo 9 meses**.

Expedido en (PROVINCIA) a ____ de ____ de 20__.

ADVERTENCIAS:
En virtud de la Directiva 2013/32/UE, el recurrente de Protección Internacional estará autorizado para trabajar en España con las condiciones establecidas en la propia Directiva a partir de la fecha de expedición de este resguardo **sólo 9 meses**.
A la fecha de su caducidad el titular deberá comparecer ante la dependencia policial más cercana a su domicilio. En caso de incomparecencia o de no atender las comunicaciones que se le efectúen en su domicilio se procederá al archivo. Cesará la validez de este documento si antes de finalizar su vigencia se produce la resolución del RECURSO PRESENTADO.
Este documento garantiza la "no devolución" de su titular.
Este documento garantiza la validez para el acceso al espacio de fronteras (Reglamento CE 569/2014) Código de Fronteras Schengen y Acuerdo de adhesión de España al espacio Schengen.

Presentation receipt of the application for the International Protection

Once the interview is finalised, this document will be delivered. It is a document that identifies as an applicant for International Protection and it has duration of one month, extendable for 8 more months.

It is an interim document, while the request is being studied. Six months after the application, this document grants an authorization to work.

NIE _____
Nombre: _____
Apellidos: _____
Fecha de nacimiento: _____
País: _____
Nacionalidad: _____
Sexo: _____

CADUCIDAD _____

Nº 16.836
EXP. Nº _____

ESTE DOCUMENTO NO ES VÁLIDO PARA EL CRUCE DE FRONTERAS
CONSEJO GENERAL DE COLEGIOS DE FARMACÉUTICOS
AUTORIZA A TRABAJAR

The Red Card

This document identifies you as an applicant for international protection and it allows you to stay and work in Spain for a one year's period.

It is an interim document while studying the submitted application.

RESGUARDO DE PROHIBICIÓN DE EJERCICIO POR RECURSO ADMINISTRATIVO Y JUDICIAL
DIRECTIVA 2013/32/UE DEL PARLAMENTO EUROPEO Y DEL CONSEJO de 26 de junio de 2013

NIE:
Nombre: _____
Apellidos: _____
Hijo de: _____
Fecha de nacimiento: _____
País: _____
Nacionalidad: _____
Sexo: _____

Nº de pasaporte: _____
F. Exp.: _____ F. Cad.: _____

Dirección: _____
Localidad: _____
Teléfono: _____

Nº EXPEDIENTE O.A.R.: _____

Expedido en ____ a las ____ horas del día ____ de 20__.

ADVERTENCIAS:
En virtud de la DIRECTIVA 2013/32/UE, el recurrente de Protección Internacional estará autorizado para trabajar en España con las condiciones establecidas en la propia Directiva desde el día 00/00/0000. Por un periodo de **NOVENA MESES** a partir de la fecha de expedición de este resguardo.
Este documento garantiza la "no devolución" de su titular.
A la fecha de su caducidad el titular deberá comparecer ante la dependencia policial más cercana a su domicilio. En caso de incomparecencia o de no atender las comunicaciones que se le efectúen en su domicilio se procederá al archivo. Cesará la validez de este documento si antes de finalizar su vigencia se produce la resolución del RECURSO PRESENTADO.
Este documento garantiza la validez para el acceso al espacio de fronteras (Reglamento CE 569/2014) Código de Fronteras Schengen y Acuerdo de adhesión de España al espacio Schengen.

Receipt proof for the extension of rights by legal appeal

Any applicant for international protection, who, after an unfavourable decision, has filed an appeal, either through the administrative or judicial channels, can request this receipt proof, according to which their rights as an applicant will be extended until the appealing process is resolved.

In the case of other Spanish provinces, other documents may be granted according to the procedure established for the International Protection application.



Rights and Obligations

RIGHTS DURING THE PROCEDURE

To be documented as an applicant for the International Protection; and, know the content of the profile at any time.

To communicate the request to UNCHR.

A free legal assistance and interpreter. A free health sanitary assistance.

To stay in Spain.

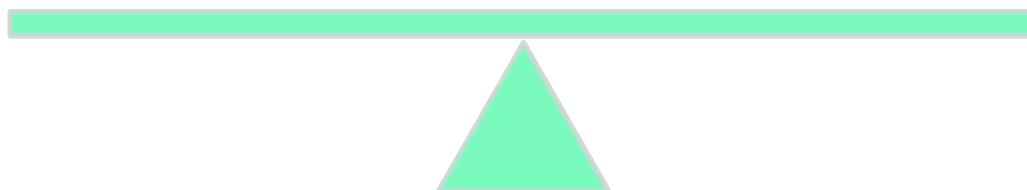
OBLIGATIONS DURING THE PROCEDURE

To provide fingerprints and allow to be photographed. To consent to have your statements recorded.

To cooperate with the Spanish authorities and, present, as soon as possible, those elements that together with the statement will help to contribute and sustain the application.

To appear before the authority when so required.

To report your address in Spain.

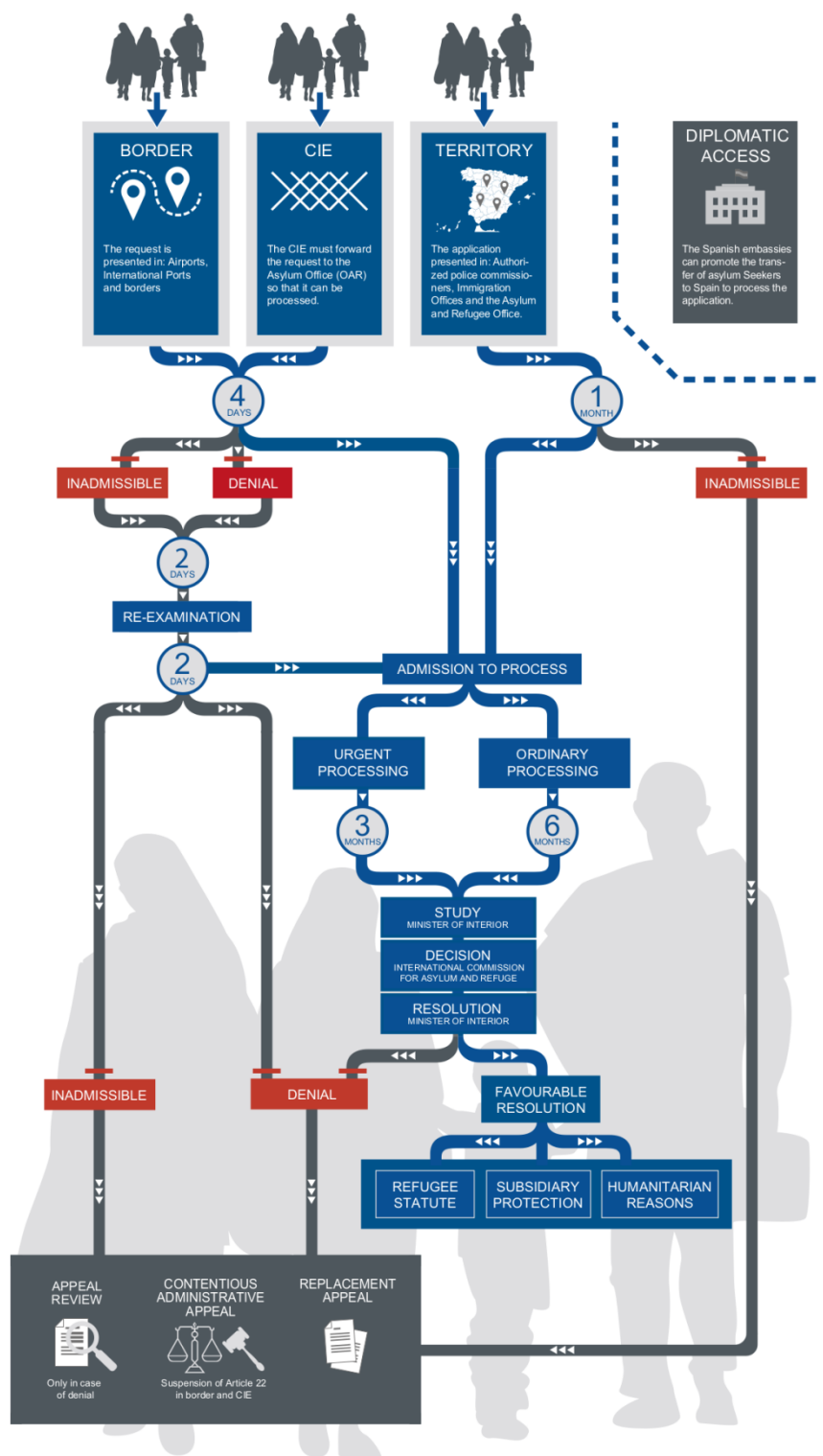


People who has initiated the international protection procedure in Spain and who do not have enough resources to cover their basic needs can request the access to the Spanish Government's **National Shelter System for applicants for international protection**.

In the province of Barcelona, access to this aid program is managed by the Red Cross.

En la provincia de Barcelona, el acceso a este programa de ayudas se gestiona desde la entidad Cruz Roja.

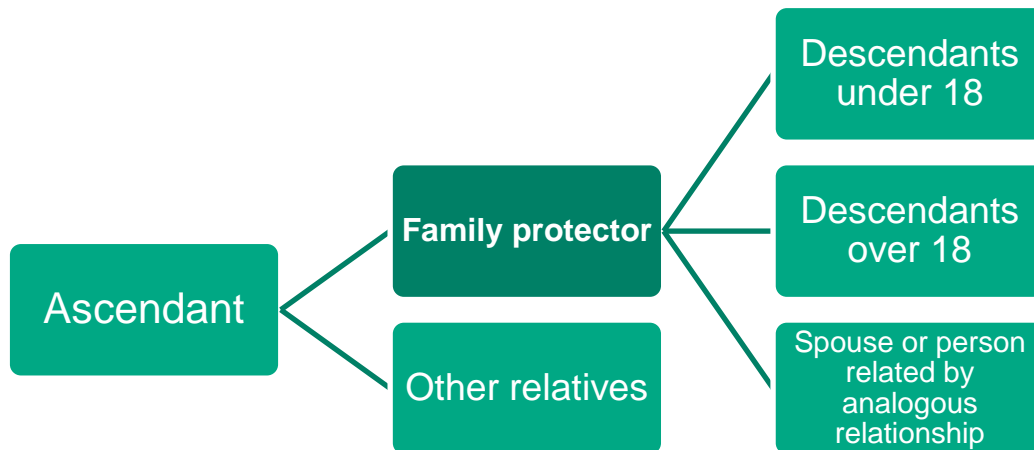
Synthesis



Scheme drawn up by ACCEM, the entity awarded the Barcelona City Council service of international protection legal consultancy.

Maintenance of the family unit

The legislation establishes a procedure for the maintenance and regrouping of the family unit for those relatives who have stayed back in the country of origin, guaranteeing the right to family life of refugees or beneficiaries of subsidiary protection (the right to family reunification).



The family protector can regroup:

- ✓ **First-degree ascendants** who prove the dependency and, your **first-degree descendant minors**.
- ✓ **Spouse** or person related by analogous relationship or coexistence.
- ✓ **Other family members** of the refugee or beneficiaries of the subsidiary protection provided that it is sufficiently established their dependency and, the previous **existence of coexistence** in the country of origin.

Procedure

