



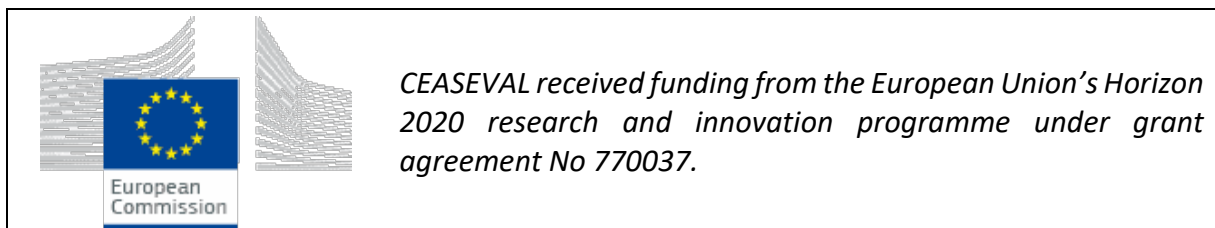
# **The Multilevel Governance of Refugee Reception policies in Spain**

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## **The Multilevel Governance of Refugee Reception policies in Spain**

### **Abstract**

*In Spain the number of asylum applications increased from 2,588 in 2012 and 5,947 in 2014 to 14,881 in 2015, 31,120 in 2017 and over 53,000 in 2018. Following the increase in the number of asylum applications and the state budget, the number of reception places went from 930 in September 2015 to 8,600 in December 2018. This growth has been made possible by the increase in the funding to (old and new asylum) CSOs. As a consequence, the balance in public-private management was broken: while before 2015 it was almost fifty-fifty, after 2015 CSOs are responsible for managing 94 percent of the reception places. In parallel, regional and local administrations entered into the picture despite not having any (legal and formal) competency in asylum and asylum seekers reception. In terms of policies, many Autonomous Communities and municipal councils prepared themselves for the arrival of those who had to be relocated from Italy and Greece. As relocated asylum seekers did not arrive though, or not in significant numbers, facilities were then adapted for those who were already in the country and who were not part or had already went through the state reception system and found themselves without access to (proper) housing. Beyond complementarity at the policy level, at the political level some regional and local administrations challenged the state-led reception system. Barcelona did it by “going Europe” and “going global” and the Catalan government by bringing the Spanish government to Courts alleging that “social services and assistance” aimed at the immigrant population were the competency of the autonomous communities. In January 2018 the Madrid’s High Court of Justice ruled in favour of the Catalan government, which means not only the restructuring of the financing but also the redefinition of the reception system itself, implying more decentralisation and therefore the need for a formal redistribution system of asylum seekers across the national territory.*

**Keywords:** asylum seekers’ reception system, multilevel governance,

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## **Glossary**

ACCEM	Asociación Comisión Española de Migración
AMIF	Asylum Migration and Integration Fund
CAR	Centros de Acogida de Refugiados
CEAR	Comisión Española de Ayuda al Refugiado
CiU	Convergència i Unió
FEMP	Federación Española de Municipios y Provincias
PSC	Partit Socialista de Catalunya
PSOE	Partido Socialista Obrero Español
PP	Partido Popular

## Introduction

In Spain the number of asylum applications increased from 2,588 in 2012 and 5,947 in 2014 to 14,881 in 2015, 31,120 in 2017 and over 53,000 in 2018 (CEAR, 2019). The state budget for the reception of asylum seekers increased proportionately: from almost 13 million in 2012 to more than 266 million in 2018 (numbers obtained from the Ministry of Employment and Social Affairs). What did not change in these years was the governance of the reception system: while legal procedures are in the hands of the Minister of Interior, reception of asylum seekers continues to be the responsibility of the Ministry of Employment and Social Security<sup>1</sup>, which delegates part of the reception facilities to few social organisations (from now on CSOs) specialised in asylum and migration. It is thus a highly centralised system, without *any* participation of regional and local administrations, and with a significant proportion of reception facilities outsourced to CSOs, which act as service providers.

Since 2015 few things changed though. First of all, following the increase in the number of asylum applications and the state budget, the number of reception places went from 930 in September 2015 to 8,776 in October 2018 (numbers obtained from the Ministry of Employment and Social Affairs through the transparency portal, October 2018). This growth was made possible by the increase in the funding to (old and new asylum) CSOs. As a consequence, the balance in public-private management was broken: while in 2015 it was almost fifty-fifty, in 2018 CSOs were responsible for managing 94 percent of the reception places. This has meant the oversizing of the three traditional asylum CSOs and the entry of new CSOs with no experience in the field of asylum.

Second, since 2015 regional and local administrations entered into the picture despite not having any (legal and formal) competence in asylum and asylum seekers reception. In terms of policies, many Autonomous Communities and municipal councils prepared themselves for the arrival of those who had to be relocated from Italy and Greece. In October 2015 there was a widespread feeling that they would arrive at any moment and that something had to be done at the different administrative levels. Relocated asylum seekers did not arrive though, or not in significant numbers. Two years later, the Spanish government had only complied with 16% of the quota agreed in September 2015. Facilities prepared for those who had to arrive were then adapted for those who were already in the country and who were not part or had already went through the state reception system and found themselves without access to (proper) housing. Thus regional and particularly local administrations developed their own programmes (with their own resources) in view to complement the (increasingly saturated) state reception system.

Beyond complementarity at the policy level, at the political level some regional and local administrations challenged the state-led reception system. Barcelona did it by “going Europe” and “going global”. Lacking formal and informal structures to channel its demands, Barcelona went up to the international arena to denounce the Spanish government for not doing more, for failing to honour its own (relocation) commitments, for not being transparent with the management of EU funds, for not counting on cities and for not funding local integration policies. In these same fora the Barcelona city council did also demand a different (European and national) policy response, more transparency

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<sup>1</sup> Note that the Ministry of Employment and Social Security changed its name after the arrival of Partido Socialista Obrero Español (PSOE) in government in June 2018. Its current name is Ministry of Work, Migrations and Social Security. In order to avoid misunderstandings, we will keep referring to the original name.

and accountability of states and a truly multilevel governance, without much specification but asking for direct funds to cities and support to city-to-city relocation programmes. While Barcelona was “going Europe and global”, the Catalan government brought the Spanish government to Courts alleging that “social services and assistance” aimed at the immigrant population were the competence of the autonomous communities. In January 2018 the Madrid’s High Court of Justice ruled in favour of the Catalan government, which means not only the restructuring of the financing but also the redefinition of the reception system itself, implying more decentralisation and therefore the need for a formal redistribution system of asylum seekers across the national territory.

In this working paper, we analyse how the Spanish asylum reception system and its model of governance adapted to the increase in the number of asylum applications since 2015. With this purpose, we draw on policy documents and newspaper articles. In addition, we have based our analysis on 30 interviews from our own previous research (conducted in 2016 and 2017) and 19 interviews (conducted from November 2018 to January 2019 in the context of the H2020 Project CEASEVAL) with policymakers at different administrative levels and representatives of social entities in Barcelona and Madrid.

## **1. The background**

### *1.1. Asylum policy*

Before the 1980s Spain had neither an immigration law nor an asylum law. With the end of the Franco dictatorship in 1975, Spain immediately ratified the main international human rights treaties, for example, the International Covenant on Civil and Political Rights (1966), the Universal Declaration of Human Rights (1948), the European Convention on Human Rights (1950) and, in the field of asylum, the Geneva Convention Relating to the Status of Refugees (1951) and the accompanying New York Protocol (1967). Furthermore, the new Constitution (1978) introduced basic matters for the future development of immigration and asylum policy such as the possibility of both parliamentary and judicial control over all administrative action (Aja 2006: 18). Nonetheless, given the almost imperceptible immigration trickling into Spain at the time, the Constitution did not take up the matter of defining the rights of immigrants and refugees beyond those recognised as fundamental such as individual freedom, due process or the right of asylum (Escobar Hernández 1992).

In fact it was not until Spain entered the European Economic Community (EEC) in 1986 that the need arose to enact the first immigration and asylum laws. In contrast to the immigration law, which was aimed to prevent Spain from becoming a transit or “immigrant sieve” country for people heading for Northern Europe, the first Asylum and Refugee Law (Law 5/1984) was rather generous. In a moment when other European countries were trying to reduce immigration and refugee flows by means of more restrictive policies, this law provided the applicants, either Convention refugees or persons in need of protection, with the right of entry, residence and judicial appeals, as well as protection against *refoulement*, expulsion and extradition. According to Gil Bazo (1998: 215), this law can only be understood when taking into account the recent history of Spain, which at the moment was more concerned with putting in place an asylum system respectful of human rights and which was still very

much aware of the debt that it owed for the role played by other countries in receiving over three million Spanish refugees during the forty years of the Franco dictatorship.

After the enactment of this first law the number of asylum applications increased. In 1984 Spain received 1,100 asylum applications, going up to 4,000 in 1989, 8,600 in 1990, 11,700 in 1992 and 12,615 in 1993. Though higher than ever, the number of applications in 1993 was still much lower than in other European countries such as France (26,662), Germany (322,599), the Netherlands (35,399) or the UK (28,000) (Gil Bazo 1998: 216). Nevertheless, the law was reformed in 1994 on the grounds that the procedures of the earlier system required a revision to avoid its 'fraudulent use' by economic migrants (as stated in the Preamble) and also to integrate new international and European instruments on the matter (e.g. the Dublin Convention signed in 1990). According to Gil Bazo (1998: 216), the final reason for this policy shift is found *not* in the situation of the country itself but in the demands placed upon Spain to implement more restrictive policies in its new role as gatekeeper of the southern border of the EU. It is thus not a coincidence that the second and more restrictive round of asylum legislation arrived only one year after Spain ratified the Schengen Convention in 1993.

The 1994 Refugee and Asylum Law (Law 9/1994) introduced two major changes, one in content and one procedural. Regarding the former, this law incorporated the special protection of persons in need, but who were not Convention refugees, into the general regime for migrants. From then on asylum could only be granted to refugees under the strict and proven sense of the Geneva Convention. Procedurally, it introduced the 'inadmissibility procedure', which established a new asylum screening stage before asylum seekers could be recognised as such and thus be able to apply for asylum. From 1994 to 2009 the inadmissibility procedure rejected half of the asylum applications presented at the border without passing them on for review (Fullerton, 2005). Among those that were admitted for review, approximately 70 per cent were rejected. These numbers reveal that the Spanish asylum system was in crisis, in the sense that it was nearly impossible to receive asylum in Spain. These data, along with the need to introduce European directives regarding asylum, led to a third round of asylum legislation in 2009. According to Solanes (2010: 107), the new Asylum and Subsidiary Protection Law (Law 12/2009) could have been an opportunity to reinforce the right to asylum, by incorporating an even broader definition than the one proposed by the 1951 convention and less restrictive procedures. However, this was not the case: in some aspects it represented an advance, not so in others.

One of the most significant changes was the reduction in the number of causes of inadmissibility. According to the 2009 law, inadmissibility should be reserved for cases in which it was not the competence of the Spanish authorities to examine the application (e.g., when the responsibility fell to another member state according to the Dublin Regulation) and when certain requisites were not met (e.g., when the applicant came from a 'safe' third country or an EU member state). Although in practice some applications are still deemed inadmissible due to their content (e.g., doubts surrounding the allegations of the applicant), the number of inadmissible applications has decreased significantly since 2010<sup>2</sup> (Morgades, 2015: 244). Other positive changes incorporated in this law include the acknowledgement of refugee status for women who are victims of trafficking, the explicit inclusion of gender and sexual orientation as motives of persecution and the protection of people in a vulnerable

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<sup>2</sup> While between 1995 and 2009 over 50 per cent of asylum applications were inadmitted, this percentage decreased to 5 per cent since 2010. In 2009 only 59.89 per cent were admitted in contrast to 4.7 in 2010 and 0.4 per cent in 2015 (The Home Office Statistical Yearbook 1995-2015).



situation, which includes accompanied minors, pregnant women, single-parent families with children, victims of rape or other serious forms of psychological, physical or sexual violence.

In contrast, one of the largest limitations of the Spanish asylum system is that, ten years later, the Spanish asylum law still lacks regulatory development. This should be explained by the low level of priority it had by the different governments and in the last years by the expected changes in the European Directives, which according to the responsible politicians would make the new regulation immediately outdated. The lack of regulatory developments means that some of the dispositions in the law that must be developed by regulations (e.g., access to embassies and the procedure to evaluate the need to be transferred to Spain) and procedures (among them on reception) that require greater detail and formalisation in order to be implemented have not been defined. This led the Ombudsman to denounce in her report (2014, 238), 'the dysfunctions created by the lack of regulations should be on record, given that the law delegates to regulation a total of fourteen times, so there are many issues affected by this situation'. Moreover, this lack of regulation, which should be the instrument used to transpose European directives regarding asylum, has hindered Spain from complying with community agreements. This is why in September 2015 the European Commission opened three infringement procedures against Spain for not providing information about how it had adapted Spanish legislation to the three main directives of the second phase of CEAS regarding asylum requisites (2011/95/EU), asylum procedures (2013/32/EU) and reception conditions (2013/33/EU).

## *1.2. Reception system*

From the very beginning the reception system was highly centralised, without the participation of regional and local administrations, and with a significant proportion outsourced to social organisations. Though set up in 1987, the four state reception centres (Centros de Acogida a Refugiados, CAR) were not formalised by ministerial decree until 1989. While CSOs in the field of asylum have received subsidies since the 1980s, it wasn't until 1992 – with rising applications due to the war in the Balkans – that a concerted housing effort was made. So it was that in 1993, Comisión Española de Ayuda al Refugiado (CEAR) – an organisation set up in 1979 to defend the rights of refugees – offered 450 places as part of the state reception programme; the Spanish Red Cross, with a long history in the field of asylum, provided 150 places; and Asociación Comisión Católica Española de Migración (ACCEM), established in 1991 taking on the legacy and experience of the refugee and migrant service of the Comisión Episcopal de Migraciones, had 128. In the early 1990s, the three asylum organisations managed (on behalf of and financed by the state) over 700 places while the state centres (the so-called CARs) had fewer than 500. This proportion, as well as the total number of places for housing asylum seekers and refugees, barely changed until 2014.

Article 30 of Asylum Law 12/2009 states that asylum seekers without their own financial resources shall be provided with the services necessary to guarantee their basic needs. It is important to note that the aim of the state reception programme is not only to cover basic needs while waiting for an asylum decision, but to facilitate the progressive autonomy of recipients and their social and labour integration into the host society. This is one of the Spanish system's defining features: in contrast to other European countries, integration is one of the reception programme's central goals from day one. Hence, housing and maintenance assistance and legal and psychological guidance are supplemented

by language learning and employability programmes. Another defining feature of the Spanish reception system is its lack of regulatory development: the law specifies that “the reception services, their definition, availability, programs and services, specifically intended for those persons applying international protection, would be determined by the competent Ministry through regulatory development”. Given that ten years later the law still lacks it, there is a clear shortage of detail and formalisation of reception procedures.

This explains why in practice the reception system continues to be regulated by the same ministerial decree that formalised the four state centres in 1989. The decree states that asylum seekers’ stay in the CARs (it does not mention the centres administered by the CSOs) should last six months, except when the asylum application is resolved before the end of this period (meaning the end of the stay) or in cases of “proved necessity” (meaning the possibility of extension, which should not take longer than the asylum procedure). Interestingly, the accompaniment programmes and allowances after this first six months are not defined in this decree nor in the Asylum Law. In consequence, the whole reception system has been defined through the daily management handbook issued on a regular basis by the Ministry of Employment and Social Security. According to our interviewees, before 2015 the tempos of the whole reception system were much more flexible: though the stated period of stay in a CAR or a centre run by a CSO was 6 months, in case of necessity it could be prolonged till the resolution of the application, meaning even one or two years. Since 2015, with the increasing mismatch between applications and reception places, the period of stay and reception conditions have been much more limited, which have turned to be particularly problematic for the most vulnerable cases.

Despite the system’s stability between 1992 and 2014, it is important to note the precariousness that characterised (and continues to characterise) the form of management. First, as we have just said, depending on the resources and the number of asylum applications, the management handbook has changed the conditions of the reception system, for instance redefining the criteria for accessing the system and the duration and characteristics of each reception phase. Second, each organisation has had its own agreements with the government and its own way of implementing each of its services. In this sense it has been a highly centralised system while at the same time being worryingly fragmented due to its poorly coordinated outsourcing to the three social organisations. Third, despite being a fundamental part of the reception system, since 2013 social organisations have been financed via annual grant contests. This form of funding has produced a great deal of instability for the organisations themselves, as well as placing at risk the continuity of the services and assistance provided.

## 2. Recent processes of reconfiguration

### 2.1. Process of decision-making

Up to 2015 asylum was not a political issue. According to the Spanish government, the 2013 Reception Directive had been transposed to Spanish legislation through different laws and regulations. This was the official answer given by the Spanish government as a response to a question formulated in the Senate in January 2017. The same response had been given to the European Commission in October 2015. In both cases the response was accompanied by a table with all those laws, decrees and regulations (on asylum, migration, health, education, minors and unaccompanied minors) that according to the government included any of the questions raised in the Directive. In contrast to the government's official position, representatives of CSOs and other critical voices argue that there is no clear transposition of the Directive as there is no regulatory development of the asylum law. The key question in Spain is not whether the Directive has been transposed or not but rather why after almost 10 years there is no regulatory development of the law and the implications this has in terms of asylum procedures and reception.

Asylum became a political issue only in 2015. At the beginning discussions on the asylum accommodation system were intermingled with discussions on the relocation quota. From April to September 2015 the Spanish government was against resettling refugees within the European Union. It warned that such a system would generate a 'pull effect' and described the quota assigned to Spain as 'unfair and disproportionate' (*El País*, 17 June 2015). 'Unfair and disproportionate' because it did not fully take into consideration the unemployment rate, underestimated the effort Spain had made in receiving immigration over the past few years, particularly irregular immigration, and because it also did not take into consideration the effort Spain was making to control the southern European border. With these arguments, at the end of July the Spanish government was able to have the quota assigned to it by the European Commission reduced from 5,800 to 2,749 refugees. However, at the start of September the position of the Spanish government changed. On 4 September, to be more exact, Prime Minister Mariano Rajoy announced his willingness to 'constructively' and 'flexibly' accept the quota proposed by Brussels.

The shift in the Spanish government's position cannot be disentangled from the publication of the photo of Aylan, the Syrian child who died on a beach in Turkey on 2 September while trying to reach the European coast. This picture produced horrified statements from the majority of European leaders, followed by commitments to accept new quotas of refugees and dedicate more resources to their reception. In addition, in Spain cities and autonomous communities had already been mobilising since the end of August. The first was Barcelona, whose mayor Ada Colau (from a local left wing party created after the 2011 15M social movement) proposed creating a network of refuge cities on August 28. 'We want', she said, 'cities committed to human rights and life, cities that we can be proud of'. In the same message Colau criticised the cynicism of 'part of Europe' and made an appeal for change: 'Europeans, open your eyes. There will never be enough walls or barbed wire to stop this. Nor tear gas or rubber bullets. Either we deal with this human drama using the capacity to love that makes us human, or we will end up dehumanised. And there will be more deaths, many more. This is not a battle to protect us from others. Right now there is a war against life' (*El Periódico*, 29 August 2015).

A week after Colau's proposal, 55 Spanish city councils had joined the refuge city network. Among them were the city councils of Valencia, Madrid, Cádiz, Zaragoza, A Coruña, Córdoba, Huelva, Palma de Mallorca, Toledo, Valladolid, Vitoria and Pamplona. The regional governments of many of Spain's autonomous communities also began to offer their availability to receive refugees. These were Aragon, Asturias, Balearic Islands, Canary Islands, Cantabria, Castile-La Mancha, Catalonia, Extremadura, Galicia, Navarre, Basque Country and Valencia. At the same time, on 3 September the Socialist Party (PSOE), the main opposition party, put forth a motion in the Congress for the chamber to urge the government to accept the quota initially proposed by the European Commission and approve a humanitarian reception plan that included every political party, the regional governments and the federation of municipalities.

The government's response was rapid. The next day, on 4 September, the Council of Ministers agreed to create an Inter-ministerial Commission which, just as the one created in 2006 to deal with the cayuco crisis<sup>3</sup>, would coordinate the policies of the different ministries involved (Interior, Foreign Affairs, Defence, Health and Social Services, Justice and Education). That same day, in response to the mobilisation of the cities and autonomous communities, the government also agreed to convene the Sectoral Conference on Immigration, with representatives of the autonomous communities and the Spanish Federation of Municipalities and Provinces (FEMP). Five days later, on 9 September, the Spanish government accepted the quota of 14,931 people proposed by the European Commission and increased its budget for receiving refugees from 53 to 253 million euros. The acceptance of the relocation quota, the set up of a coordination mechanism with regional and local governments and the increase in the budget allocated to the refugee accommodation system went thus hand in hand. However, the whole decision-making process remained concentrated in the hands of the central government despite these few initial symbolic gestures.

One example of such gestures was the Sectoral Conference on Migration, which took place on 8 September to discuss relocation plans together with the autonomous communities and the Spanish Federation of Municipalities and Provinces (FEMP). Leaving the meeting, delegates from Andalusia, Extremadura, Aragon, Valencia and Catalonia formally expressed their "disappointment" at the government's vagueness. The spokeswoman for the government of Andalusia reproached the government in the following terms: "Apart from insisting that the Spanish people are very solidary, the Minister for Employment Fátima Báñez, did not as much as inform us as to whether there is any plan for coordination. We have been given no information." The councillor from Aragon also criticised the government's imprecision. "We would have liked to know how they are going to distribute the contingent that is supposed to arrive. Whether they are all coming at once or little by little. And how this is to be financed" (*El País*, 8 September 2015). The vice-president of Valencia's regional government concluded, "This meeting was absolutely essential. It was held so it would appear that we are doing something" (*El País*, 9 September 2015). Three years later the same feeling applies. According to one representative of the Municipality of Barcelona, "they have received us only twice since 2015. They receive us very politely but nothing else" (interview in Barcelona 19/12/2019).

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<sup>3</sup> In 2006 the number of arrivals to the Canary Islands raised to more than 30,000, representing 81 percent of all maritime arrivals intercepted by Spain that year. This peak became to be known as "the cayuco crisis". Having drawn the media's attention to the Canary Islands, in September 2006 59% of the Spanish population considered irregular migration as the main problem in Spain.

In the lack of a truly multilevel governance, the Barcelona City Council – from then on alone – initiated a series of actions that combined the condemnation of the Spanish government and the EU more broadly for responding “inhumanly” to the “refugee crisis” with demands for a greater role of cities in migration and asylum policies. On the 5<sup>th</sup> of September 2015, in one of her first letters to the Spanish Prime Minister Mariano Rajoy, Ada Colau condemned Europe’s passivity regarding “the horror of what is happening in the Mediterranean” and made two requests. First, she asked for his commitment to support the cities in their refugee reception policies. “The city councils need funds and we know there are resources”, she claimed. After noting that 50% of the 521.7 million euros allocated to Spain by the European Union are earmarked for a migration and asylum fund, Ada Colau called for transparency in administering the fund and expressed her wish that it should be used to strengthen “the reception network being set up by cities working together with entities and different branches of the administration”. Second, she asked the Spanish government to push within the EU so that funds would be “used to construct a more human Europe, which is worthy of its founding values”<sup>4</sup>.

Few days later, on the 13<sup>th</sup> of September, in a second letter written together with the mayors of Paris, Lesbos and Lampedusa and directed to European cities, Ada Colau called again for a more prominent role of cities: “We, the cities of Europe, wish to welcome these refugees. It may be the States that grant asylum but the cities provide shelter.” Once again they urged European governments to stop using asylum and migration funds for “reinforcing our borders” and to allocate them in order to ensure that refugees will be welcomed, and to provide with resources cities that have offered themselves as places of refuge<sup>5</sup>. It was hoped that the letter would be the embryo of a network of cities at the European level. However, this was not to be the case. According to Ignasi Calbó, coordinator of the Barcelona Refuge City plan (set up by Ada Colau in September 2015), there were two main reasons for this. First, Paris’s support for the initiative waned after the November 2015 attacks and, second, it was decided that there was no need to create a new network since it was possible to work with already existing networks of cities (interview in Barcelona, 8 February 2016). In fact, once the international network of refugee cities did not succeed, Barcelona chose for bilateral relations city to city and for “going Europe and going global” through Barcelona’s presence in international events and city networks.

Cities to cities relations sought to learn from the successes and failures of cities in the North of Europe. For this purpose, the Mayor of Barcelona travelled to the German cities of Leipzig and Munich. Beyond the experiences learned, which were not as different from those already in place in Barcelona, the city council sought to form alliances with these cities in view to call for a greater role for local administration in refugee reception. Cities to cities relations were also promoted with cities from the South of Europe. With Lesbos and Lampedusa, the agreement sought to provide them “with technical, logistical, social and environmental” support. With Athens the agreement, purely symbolic as this is a state competence, was aimed to take a hundred of refugees from the Greek capital. In all cases, the message was the same: faced with a “failing” European Union and a Spanish state that was not abiding by what it had agreed to with regard to relocation programmes (of the 17,000 refugees agreed to in 2015, only 18 had arrived in March 2016) and, moreover, was not accounting for its “management of the millions of euros it was receiving from Europe”, cities were taking action. According to Ignasi Calbó,

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<sup>4</sup> [http://ajuntament.barcelona.cat/premsa/wp-content/uploads/2015/09/CartaRajoyCiutatRefugi\\_DEF.pdf](http://ajuntament.barcelona.cat/premsa/wp-content/uploads/2015/09/CartaRajoyCiutatRefugi_DEF.pdf)

<sup>5</sup> [https://ajuntament.barcelona.cat/alcaldessa/en/noticia/238006\\_238006](https://ajuntament.barcelona.cat/alcaldessa/en/noticia/238006_238006)

coordinator of the Barcelona Refugee City plan, it was a way of saying, “listen, if cities can work together, states too!” (interview in Barcelona, 8 February 2016).

Beyond city to city agreements, Barcelona also turned to Europe and the world in order to condemn the Spanish government and reiterate its petitions. On 5 April 2016, at a meeting in Brussels organised by Eurocities, the mayors of Barcelona, Athens, Amsterdam, Ghent, Helsinki, Berlin, Leipzig, Malmö, Paris and Rome met with several European Union commissioners. At this gathering, which was once again widely covered by the media, Ada Colau denounced the Spanish state’s “immoral” management of the refugee crisis and called for advances to be made towards true multilevel governance. In her blog, Colau stated that true multilevel governance needs financing. After again pointing out that the Spanish government refuses to explain how it manages European Union funds for refugees and asylum, a situation she described as “anomalous” and “dysfunctional”, Colau asked for a “percentage (of European financial support) as direct funding to the municipalities”. In response to cities’ claims the Commissioner for Migration, Home Affairs and Citizenship, Avramopoulos, recalled that the “interlocutors” of the European Commission were the governments of member states and that European aid to local authorities “is always through the member states” and never given directly (*La Vanguardia*, 5 April 2016). However, he also asked the member states to “listen to the local governments” because “internal cooperation and coordinated efforts could give impressive results”.

Similar claims were made in May 2016 in New York at the preparatory meeting for the United Nations Habitat III Conference. There Colau deplored the Spanish president’s rejection of the help offered by Barcelona in the city-to-city (Athens-Barcelona) relocation initiative and she repeated her demands, stating that cities should become the space in which a new model of more open governance and more open to society would be organised. Urging the United Nations to pressure Europe to “bring about a radical change in its present policies”, she concluded, “if Europe wants to remain an international benchmark for human rights and democracy, it must radically change its policy” (*Eldiario.es*, 17 May 2016). Beyond Barcelona mayor’s claims, widely covered by the media, the municipality defended the same stances in working committees of a more technical nature. For instance, in the meetings organised around the so-called “Urban Agenda for the EU”, which took place in the European Parliament on 25 January 2016, Ramon Sanahuja – Director of Immigration and Interculturality in the Barcelona City Council – called again for a greater role for cities and more coordination among the different administrative levels. He also expressed the view that member states should be obliged to finance local integration policies and that cities should have direct access to EU emergency assistance funds as well as to the Asylum Migration and Integration Fund (AMIF).

Based on the “Urban Agenda for the EU”, the “Pact of Amsterdam” (30 May 2016) led to the set up of different thematic partnerships bringing together cities, member states and the European Commission on particular issues. Referring to the thematic partnership on policies of inclusion for immigrants and refugees, a civil servant from the Barcelona’s city council highlighted once more Barcelona’s priorities: “we are not interested in identifying good practices, we have already talked about and identified good practices fifty times in fifty projects and that material is in fifty databases”. What does interest Barcelona is a redefinition of the financial channels within the European Union and laying the foundations for true multilevel governance. In the interview, he explained that at one partnership meeting when a European Commission representative urged cities to contact the “managing authority” in each country, he answered: “Excuse me. My managing authorities haven’t spoken to us for the last five years (...). They have never, never, never been in touch with us”. In this interview in

which he quotes his own remarks he continues: “The guy [from the Commission] didn’t get it. They’re very rigid. They live in a world where they think that everything works because there’s a decree. But the states do what they damn well like. There are some countries in which the relationship between levels works, where institutional loyalty exists. Not here. In Spain, it’s a disgrace!” (interview in Barcelona, 25 May 2016).

While Barcelona denounced the Spanish government's policy and demanded genuine multilevel governance, in April 2016, the Catalan government began a judicial appeal against the Spanish government, alleging that “social services and assistance” aimed at the immigrant population were the competence of the autonomous communities. It therefore requested that subsidies for asylum seeker reception be managed by the autonomous communities themselves. In January 2018 Madrid's High Court of Justice found in favour of the Catalan government: according to the ruling, though asylum may legally be a state competence, the reception “devices” or “routes” are effectively the competence of the autonomous communities. As well as prior case law, the ruling cited the Asylum Law itself, which differentiates between the legal process and the services and programmes aimed at the accommodation of asylum seekers, under the responsibility of the autonomous communities in accordance with their respective competences in the health, education and social fields. The ruling also referred to the Asylum, Migration and Integration Fund, according to which integration strategies must above all be the responsibility of local or regional authorities and non-state actors, the administrations that are ultimately closest to citizens.

In October 2018 the Supreme Court rejected the Spanish government's last appeal, which was made alongside the social organisations working on asylum, concluding once again that the management of the services and programmes specifically aimed at people seeking asylum in the health, education and social fields is the competence of the autonomous communities. According to the Catalan Secretary of Immigration, “we have always had conflicts over competences on this issue. The state has competence for asylum, but it has to be exercised via cooperation with autonomous communities and city councils, who are the ones that receive the direct impact of the arrival of displaced persons and who end up dealing with them and incorporating them into their system.” And he added that: “The law says that refugees must have the same social rights as the collective of the state’s citizens, so if Catalonia is responsible for the health, education and employment of 7.5 million citizens it makes no sense for immigrants and refugees who arrive here to be an exception” (Ara, 8 November 2018). The rejection of the last appeal by the Supreme Court finally opens the door to the restructuring of the grant contests and the redefinition of the reception system itself. Although application should in principle be immediate, many questions remain to be answered: What will be the extent of each community’s resources? How can the same rights and services be guaranteed in all autonomous communities? To what extent will the same model be maintained, meaning centralisation (except with the economic management in the hands of the autonomous communities) alongside outsourcing to social organisations?

## *2.2. Main revisions of the current reception system*

Between 2014 and 2018 the number of asylum seekers multiplied by a factor of ten and the state budget for the reception of asylum seekers increased proportionately. Despite the increase in the number of applications and the introduction of the EU 2013 Reception Directive (2013), the reception system has remained the same. However, given the mismatch between applications and resources, the management handbook did limit the criteria for entry into the system as well as the de facto possibility for further extensions in cases of vulnerability.

Up to 2018 the state's reception programme has consisted of three phases. During the first (or "reception") phase, which lasts six months and can be extended to nine depending on level of vulnerability, asylum seekers are housed in one of the government's refugee reception centres (CAR, in their Spanish initials) or in the centres and apartments managed by CSOs with public funding. The centres are located throughout the country and the person seeking asylum must go where space is available. Therefore territorial distribution depends on availability of places in the so-called CARs and in the centres and apartmentes managed by CSOs. As well as accommodation, asylum seekers are given social and psychological assistance and language and employability courses. In the second (or "integration") phase, which last six months and can be extended to eleven again depending on vulnerability, asylum seekers continue with accompaniment programmes provided by the social organisations, but are expected to live independently with rent and maintenance assistance. Rent assistance ranges from €376 for a single person to €717 for a family unit of four and €870 for a family of nine or more. Maintenance support ranges from €350 for a single person to €620 for a family unit of four and €820 for a family of nine or more (Manual de Gestión, July 2017: 24). This phase coincides with the granting of the authorisation to work from the sixth month onwards. Given the complexity of the housing market, in recent years CSOs also assist vulnerable cases in finding a house. Finally, in a third (or "autonomy") phase, which lasts four months extendable to six, the state – again through the CSOs – provides occasional aid and specific services. In addition to these three phases, there is a prior initial phase, lasting a maximum of 30 days, in which temporary accommodation is provided in hostels and specific facilities for the most vulnerable cases still waiting to request asylum, and who, as a result, have yet to enter the first phase of the programme.

When asking to representatives of CSOs and regional and local administrations, the criticism of the state reception programme is three-pronged. There is broad consensus that the first (or reception) phase is excessively rigid: asylum seekers must go wherever a place is available, whether in one of the four state centres (two in Madrid, one in Seville and another in Valencia) or one of the centres or apartments managed by the social organisations. If the waiting time before entering the first phase increases (in recent years it may take as long as five or six months), entering the first phase may involve a change of province. What is more, although the presence of friends and relatives ought to be a factor when allocating a place, in practice they are awarded based on availability – all the more so given the overloading of recent years. If the members of a single family unit arrive at different times, this may mean their dispersal across the country.

The second criticism relates to the second and third phases. In contrast to the rigidity of the first phase, within the space of just six months (only very vulnerable cases are granted more) subjects are expected to be living "autonomously", and by 12 this "autonomy" is expected to be total (meaning without maintenance and rent assistance). That is when, as a technician at a social entity explained, autonomy



becomes complete solitude (interview in Madrid, 7 February 2017). This supposed integration, promoted from day one, ends up depending on the conditions of the labour and housing markets. At present, with high unemployment rates, tremendously precarious contracts and extremely high rental prices (especially in the large cities, where most asylum seekers are located), the chances of being effectively “autonomous” are extraordinarily small. Even those still receiving maintenance and rent assistance have great difficulty surviving. To all of this must be added the discrimination they often suffer, not only as foreigners and recent arrivals, but also for having residence permits of limited duration (six months), which may end at any time with the rejection of the asylum application. We should remember that, with the exception of Syrians, the vast majority of asylum seekers in Spain end up receiving a negative response, meaning that at the end of the process they are left in an irregular situation.

The third criticism is that, with more applications than reception places, since 2015 the Spanish government has placed limits on reception system entry criteria. This has been a common practice, done by changing the management handbook and without prior discussion with or a posteriori notification to the main actors involved. So in January 2015 entering the state reception system was limited to those who had already formalised their asylum applications with the first interview. In other words, the desire to seek asylum (expressed in the interview request) was no longer enough. In July 2017, the government again restricted access requirements. Asylum seekers who had spent more than six months in Spanish territory, more than two years in the European Union or who were not categorised as vulnerable, had to live by their own means until their asylum application was accepted for processing. As a result, immediate access to the reception programme was only given to those who had just arrived and were in a situation of extreme vulnerability.

That is how the system has progressively left out growing numbers of asylum seekers. Those who have yet to formalise their asylum applications are left out, meaning the state's delays, which may at times last five or six months, are at their expense. Those who, because they did not want to go to the designated centre in the first six months, can no longer continue with the subsequent phases of the state reception programme are left out. Those who, unable to find work or housing and without family networks, cannot survive with the assistance provided in the second phase are left out. Those who “should be” “autonomous” once the 18 or 24 months envisaged by the state reception system have passed, but are not, are also left out. That is precisely where local and regional administrations are working, along with non-governmental organisations and civil society. As we shall see below (Section 3.2), their reception programmes seek to respond specifically to the situation of asylum seekers who have been left out before, during and after the state reception programme.

### **3. Concrete functioning of the reception system today**

#### *3.1 National governance*

Despite the exponential rise in applications and state budget, the reception system has remained largely unchanged. A former Ministry of Employment and Social Security employee complained that it remains a very “artisanal” system, which worked for few but not for so many. The resources and with them the places offered by social organisations have grown. But not enough. What is more, as we shall

see below, everything has been done without planning and in a rush, as if the growth in asylum applications was a circumstantial phenomenon that would soon pass.

Since 2015, the increase in the budget allocated to protecting asylum seekers has been used to expand, on the one hand, the staff of the Ministries of the Interior and of Employment and Social Security and, on the other, the reception places provided by social organisations. Limited resources have only been part of the problem, the way of management has been another. Increased staff at the two ministries was meant to speed up the resolution of asylum cases (competence of the Interior Ministry via the Office of Asylum and Refuge) and the allocation of places, as well as the coordination of the state reception system (competence of the Ministry of Employment and Social Security). Both functions are fundamental, and yet the staff increases were limited and temporary in nature. The Interior Ministry maintained the same permanent staff employed by the Office of Asylum and Refuge since its creation in 1992 (60 posts) and hired 94 temporary staff. This was clearly insufficient: in 2018 only 10,000 applications were decided despite over 53,000 new requests being made and 68,000 pending resolution.

But what is more, the temporary contracts that began in autumn 2015 ended three years later with no possibility of renewal. So it was that overnight in autumn 2018 a significant number of the staff of the Office of Asylum and Refuge found themselves out of work and, in consequence, any cases underway were halted, including requests for a first appointment and therefore the possibility of entering the reception system. At the end of 2018, the ministry, recognising the “lamentable state” of the office, planned to open 231 permanent positions. At the same time it announced other temporary places that would have to be filled with new contracts. The chaos generated was alarming. As one of the replaced temporary workers denounced: “the stocks of temporary staff are exhausted and those arriving still need to be trained. I didn’t work autonomously for six months” (*El País*, 7/12/2018). The same happened within the Ministry of Employment and Social Security. According to a Ministry representative, in January 2018 they had 40 percent less capacity than few months before. Though this is expected to be solved in 2020 with new permanent positions, meanwhile it means – among other things – that entry to the state reception system can take longer. According to a social worker working in one of the asylum CSOs, in November 2018 this meant having people living on the streets while CSOs had hundreds of reception places available.

Beyond handling asylum cases and allocating places, and coordinating the asylum system, which were in the hands, respectively, of the Ministry of Interior and the Ministry of Employment and Social Security, the growth in the reception system was performed via the CSOs. In September 2015, with 480 places in reception centres managed by the ministry and 450 in those run by social organisations, the proportion of public and private places was approximately 50%. From 930 places in September 2015 the number grew to 4,300 by January 2017 and 8,776 by December 2018. Increasing the number of places fell entirely to the social organisations. So CSOs went from managing around 1,000 places in 2015 to 3,863 in 2016, 4,607 in 2017 and around 8,600 in December 2018 (CEAR, 2018). A former Ministry of Employment and Social Security employee condemned how “the balance in public-private management has been broken since 2015. The three asylum organisations are encouraged to create new places, and new organisations with experience in immigration but not asylum are encouraged to join”. And added: “It’s cheaper to do it this way than through civil servants working at centres managed by the ministry. It is a form of outsourcing and of precarious work” (interview in Madrid, November 29th 2018).

The exponential growth in reception places overstretched the CSOs that had worked on asylum to that point (ACCEM, CEAR and the Red Cross). As a worker in one of these three organisations starkly underlined, “these organisations are overstretched. There isn't enough time for training. In our province the organisation has grown from 60 to 250 workers. Many are in training [...] The teams are worn out. They only have time to manage emergencies, they duplicate sessions, only put out fires, race against time without being able to dedicate themselves to deep problems, without being able to conduct in-depth interviews with users. All the organisations are the same”. Adding: “At the same time, the situation of asylum seekers is getting ever worse. They have many problems with mental health and multiple functional diversities. Now the ministry is systematically denying extensions (to extend the reception period). Ask for a four-month extension and they give you a month and tell you the family must leave the resource within a few weeks. This happens even with mothers with four children and domestic violence cases” (interview in Madrid, November 30th 2018).

Increasing the numbers of places in the reception system has also been made possible by the incorporation of social organisations not previously dedicated to asylum, such as Provivienda, Red Acoge, CEPAIM, APIP-ACAM, Dianova, Adoratrices Esclavas and Fundación La Merced Migraciones<sup>6</sup>. These organisations have not only had to train the new staff but also get up to speed with the new system. In other words, they not only lacked specialised staff but the organisations themselves did not have experience in the field either. All of this took place in a context of exponential growth in the number of asylum seekers and, as we said, with increasingly complex cases. To make things worse, the system continues to be based on annual grant contests. Beyond the instability this generates, one of the conditions for entering the grant contests is being a state-wide organisation. This leaves out local organisations that are better rooted in certain territories and, by contrast, means there are organisations that are beginning to work in areas where they hadn't worked until now. For a former employee of the Ministry of Employment and Social Security, “this is one of the problems with centralised coordination. The important thing would be to work with organisations that are already in the field” (interview in Madrid, November 29th 2018). A civil servant from the Barcelona City Council spoke in similar terms: “I call them parachute organisations. All this is done so they can be controlled from Madrid, which is what they want” (interview in Barcelona, December 19th 2018).

### *3.2 Local governance: Barcelona and Madrid*

Madrid and Barcelona are two of the main destination cities for asylum seekers in Spain. The numbers are very different though: while in 2017 the Autonomous Community of Madrid received 11,230 asylum applications, Catalonia (most of them in Barcelona) received 3,522. When asked for such a difference, most interviewees responded that this has to do with Madrid having the biggest international airport (thus main point of entry, particularly for those arriving from Latin America) and with Madrid being the state capital and therefore having the main offices and CSOs responsible for asylum. In terms of state reception places, the difference is not as big: in October 2018 Catalonia had

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<sup>6</sup> In 2017 the state reception counted 20 organisations: ACCEM, Adoratrices, Apip-Acam, CEAR, CEPAIM, CESAL, Spanish Red Cross, Dirección General de Migraciones, Diaconia, Dianova, Entidad, Andalucía Acoge, Fundación Juan Ciudad, La Merced, Movimiento por la Paz, Obra Mercedaria, Provivienda, Red Acoge, Rescate Internacional, Salesianas (Asylum Information Database 2017: 50).

1,032 places (in comparison to 107 in 2015) and Madrid 1,266 (378 in 2015). Beyond these differences, both Madrid and Barcelona are “ayuntamientos del cambio” (in English, “city councils of change”), an expression used to refer to those municipalities where Podemos (the new left wing party) or local platforms linked to Podemos (such as Barcelona en Comú) won the last municipal elections, which took place in May 2015. It is interesting to note that the so-called “refugee crisis” took these parties at the beginning of their new position in the City Council. The main difference between Madrid and Barcelona is their past, having been Madrid in the hands of the right wing party Partido Popular (PP) for decades and Barcelona of the Partit Socialista de Catalunya (PSC), with the exception of the previous mandate with the centre-right nationalist party Convergència i Unió (CiU) in house. Moreover, the role of Madrid as the political and institutional capital, together with the territorial grievances between Catalonia and the Spanish government, are also relevant when analysing and comparing both cases.

In terms of asylum, as said several times already, asylum is entirely a state competence. It is a state competence to process asylum seekers applications and it is a state competence to accommodate them during the first 18 or 24 months. As we have seen, reception is contracted out, first to 3 and since 2015 to an increasing number of CSOs. Given that the state directly administers the process through CSOs, local administrations have little say in the matter. This explains why up to 2015 municipalities had limited their actions to offering legal advice to potential asylum seekers, directing asylum seekers to state reception programmes and including asylum seekers and refugees in the city’s general reception programmes. All changed in 2015, with the expected increase in the number of refugees arriving through the relocation quota from Italy and Greece and later on with the real increase in the number of asylum seekers, mostly from Ukraine, Syria, and North African and Latin American countries. Is to this expected and real growth in the number of asylum seekers, and to the consequent saturation of the state reception system, that municipalities reacted.

The first programmes were urgently prepared in September and October 2015 as the feeling at the time was that the first refugees resettled from Italy and Greece would begin arriving immediately<sup>7</sup>. The Barcelona Town Council developed the Barcelona Refugee City Plan, with the objective of ‘preparing the city to receive, assist and provide the necessary services for refugees and guarantee their rights’. Following the model of local emergency plans in other areas, this plan included three phases: a first phase (or phase zero) in which a multi-disciplinary group of doctors, social workers and psychologists had to evaluate the social and psychological state and health of recent arrivals; a second phase (or welcoming phase) in which they were provided with medical, social and psychological attention and assigned to a reception centre or immediate reception space; and a third phase (or reception phase) in which the refugees were distributed to a more standard reception centre from which, after 7 to 10 days, they were sent to other municipalities in Catalonia or to the specific reception services of the city of Barcelona. This plan was coordinated by the City Council’s Technical Director (who is part of the Mayor’s Office) and was supported by a broad volunteer network managed by social organisations.

In parallel, in September 2015 the Government of Catalonia created the Refugee Reception Committee to advise, participate and coordinate Catalonian public administrations and social organisations. In addition to the different departments of the Catalonian government, this committee also included local administrations, professional colleges, social organisations and experts. Just like the Barcelona

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<sup>7</sup> It was expected that Barcelona and Madrid would receive the largest number of relocated asylum seekers: 2,246 in Barcelona and 2,639 in Madrid.

City Council, one of the committee's first initiatives was to design an initial reception plan. This caused some friction between the Catalanian government and the City Council, given that the plan directly sent the refugees to a standard reception centre (without passing through the welcoming phase in an intermediate centre) and also proposed using a building that the Barcelona City Council did not consider appropriate. In addition to organizing the initial reception, the Refugee Reception Committee also created a general inventory of all the resources made available by individuals, entities and businesses in all of Catalonia. This inventory included material resources (housing, residential equipment, training spaces) and immaterial resources (work training and guidance, translation services and intercultural mediation, personal accompaniment, leisure activities and sports, etc.). The committee also created a series of internal work groups to design more specific programmes for raising awareness, reception, healthcare, employment and childhood.

In Madrid, also in response to the expected increase in arrivals following the acceptance of the relocation quota by the Spanish government, in September 2015 the city council approved funding of 10 million euros (0.25 per cent of the municipal budget) for the Refugee Reception Plan. Among the main services planned to provide were assistance in school enrolment and carrying out bureaucratic paperwork, as well as psychological support and healthcare. At that time the municipality also provided the three traditional asylum CSOs (ACCEM, Red Cross and CEAR) 40 housing units for the second phase of the state reception system. This housing was offered to the refugees rent-free and with utilities included until they became self-sufficient enough to incorporate into society normally. According to the counsellor, "we are trying to provide housing to refugees that need it (...) they are meant for those who have already arrived and for those who are coming" (Interview 16 December 2016).

The Autonomous Community of Madrid, governed by the same conservative party as the central government, the Popular Party, also developed an Integral Assistance Plan, coordinated by the Council of Social and Family Policies. This plan set up various apparatuses and resources: a coordination office including representatives from the Madrid regional government, city councils and NGOs; the Community's volunteer service; and eight integration and participation centres (CEPI), which were expected to offer legal assistance, active employment searches, training courses, psychological and social support, cultural activities and community mediation. These services were planned to be offered again by the three CSOs (CEAR, ACCEM and Red Cross) specialised in refuge and asylum. Both the Madrid regional government and the Madrid City Council coordinated their actions following the directives of the central government. As a city council's counsellor pointed out 'we do not want parallel channels or uncoordinated actions' (Interview 16 December 2015). However, while the regional government decided to recycle already existing resources and waited for specific directives from the central government, the Madrid City Council provided new resources specifically for refugees and asylum seekers.

While the sensation at the end of 2015 was that an unprecedented number of refugees were about to arrive from Greece and Italy – hence the reception plans made at both municipal and regional levels – the reality was very different. The asylum seekers meant to be relocated from Greece and Italy did not arrive, or not in large numbers: two years after the relocation agreement, only 16% had arrived. Those who came did so on their own account, mainly from countries such as Ukraine, Venezuela and Algeria. Despite asylum seeker reception being the responsibility of national government, cities set up (on their own) reception programmes for those waiting to come in, those who had been left outside, and those

who had already gone through the state reception system. Though this was a shared problem essentially resulting from the presence of asylum seekers without access to housing and who therefore found themselves living on the street, the responses of Barcelona and Madrid were quite different.

In Barcelona, as well as increasing the number of temporary accommodation places in council guesthouses and schemes, municipal authorities met with the three CSOs specialised in asylum and designed a reception plan to complement the state system. According to a council civil servant, in parallel to Mayor Ada Colau's more political action, Barcelona City Council began a participative process with the three asylum organisations (CEAR, ACCEM and the Red Cross) to assess the main problems and what the council could do. It immediately became clear that the problem was the people who did not enter, who fell out of, or who left the state programme. That's where the Nausica Plan emerged from. All of this was done with no relationship with the Spanish government. The same council technician clarified: "since 2015 we have had just two meetings with the state. They receive us very politely but nothing more [...] With the People's Party we been living in a desert, it's been terrible. With the PSOE governments it was much better. The Popular Party does not believe in local governments, it is not an issue for Catalonia" (interview in Barcelona, December 19th 2018).

According to the Nausica Plan evaluation report, when the plan was drawn up it was evident that the state programme was incomplete both in terms of the time people could stay, the rigidity of various aspects, such as compulsory geographical mobility, and the feeling that the programme did not give enough consideration to situations of vulnerability for at-risk groups when allocating places in residential schemes. An increase in the number of asylum refusals was also detected, along with a worsening of the situations of vulnerability that exposed people and/or families to situations of social exclusion (Ajuntament de Barcelona, 2018: 15). As a result, a parallel reception system with city funds was created for asylum seekers. Granted over a million euros between 2016 and 2017, the Nausica Plan provides two instruments.<sup>8</sup> One is based on social intervention, and includes economic benefits to address situations of economic vulnerability, and a work plan aimed at increasing employability, while also covering other social and psychological needs. The other instrument has a reception scheme with temporary housing places that include basic needs and a work plan that is integrated and individualised, and accompanied by social, psychological and professional support, language learning, legal, educational and employment guidance and the education of minors.

The Nausica Plan began at the end of 2015, out of an agreement with two of the three asylum CSOs (ACCEM and CEAR). From then on, the council increased the number of places and incorporated other CSOs, this time at local level (ACATHI, Ficat, Benllar and Iniciatives Solidàries). From the time the first users entered (April 2016) to the end of 2017 the programme worked with a total of 178 people. 60% benefitted from the social intervention system with economic benefits and 55% received comprehensive care with reception places. According to the evaluation report, the programme achieved positive results in the social and relational autonomy of users, with training programmes that had meaningful short-term effects on employability, and successful results in language training (especially Spanish). The report also concluded that the seasonality and low salaries in work placements made full autonomy difficult. As with the wider population, labour integration is not a synonym for escaping situations of economic vulnerability. As a result, according to the report, after

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<sup>8</sup> €293,173 in 2016 and €949,770 in 2017 (Ajuntament de Barcelona, 2018).

going through the programme users are at great risk of falling back upon the normalised network of social services.

The response of Madrid City Council was quite different to that of Barcelona. First, the relationship with central government seems to have been much more fluid. This is shown by the fact that Madrid City Council provided a number of buildings to the state reception programme, as well as for receiving those coming directly from the southern border and those in the humanitarian reception programmes. This closer relationship also translates into a more fluid communication between the local administration and the two competent ministries. According to a representative of the Employment and Social Security Ministry, which is responsible for the reception system, "Madrid City Council sent us lists of vulnerable people in its schemes. They have a direct line to us. When there are emergency cases, we arrange the appointment with a social worker, which is what gives access to the reception system. We also have direct channels with social organisations and churches. So the most vulnerable cases go first" (interview January 8th 2019). Madrid City Council confirmed the relationship. Everything is coordinated based on Excel documents containing the names of asylum seekers, the municipal schemes in which they are placed and their length of stay. According to the interviewees, physical proximity facilitates this relationship. A former employee at the Ministry of Employment also explained this by citing the fact that the 92 temporary staff hired by the ministry between 2015 and 2018 came from local-level social organisations.

Secondly, in contrast to Barcelona City Council's Nausica Plan, Madrid response has fundamentally been one of emergency, focussing on providing temporary accommodation places. According to a Madrid City Council political official, "what we have is an emergency system. We don't want to set up another parallel system. It has to be a single system, the state one. If not, we could cause grievances. We also don't want to set up a more structural programme because we also don't want to whitewash the ministry and do its work for it" (interview in Madrid, November 30th, 2019). A council civil servant suggested the same: "asylum is a state competence. The council should only provide emergency services until people can be incorporated into the state system" (interview in Madrid, January 9th 2019). In the same sense, another council civil servant concluded: "they remain in our facilities according to how the two ministries open and close the access to the reception system. They may have to wait days or months. Some have even had to wait eight months. But our facilities are not for long stays". This emergency response has not always been looked upon favourably by social organisations and civil society. An activist for migrant rights pointed out: "Madrid City Council has made a significant budgetary effort but always from the perspective of an emergency. It's all emergency. There is no quality, no warmth, or social intervention. (...). But there hasn't been a flood. It's systematic. So then you have to create structural programmes. Why create schemes with places for ten days when you know they are going to be there four months?" (interview in Madrid, January 8th 2019).

In some cases, these temporary accommodation places – both for asylum seekers and for people arriving from the southern border who may or may not be in transit – have been created in cooperation with the government. In these cases, as mentioned above, Madrid City Council provides a place, the Ministry of Employment and Social Security provides the resources and the usual CSOs (CEAR, ACCEM and the Red Cross) provide the services. In other cases, Madrid City Council has created its own schemes aimed at different profiles, both in legal (asylum seekers waiting to enter the state system, Dublin Regulation cases, migrants from the southern border) and sociodemographic terms (women, single men, families with minors). It is interesting to observe how the schemes solely in council hands

are also managed by the same organisations from the state reception system as always. According to the same migrant rights activist mentioned above, "this is the real cancer in the system, the arrangements with NGOs, which function like para-governmental organisations. There is dialogue with the alternative social movements and social organisations, but the council always ends up dealing with the large organisations, the systemic organisations" (interview in Madrid, January 8th 2019).

It has always been the motto of Madrid's mayor, Manuela Carmena, that nobody should be sleeping on the street. But Madrid City Council's schemes have not always been able to meet all needs. These needs have been growing year after year due to the substantial rise in asylum applications as well as the number of arrivals over the southern border. On the one hand, this has led many asylum seekers to end up in centres for the homeless (the same has also occurred in Barcelona and in both cities has collapsed these social services). On the other hand, in the case of Madrid, alternative social organisations, many of them related with local churches and social movements, have ended up taking care of those who in spite of everything remain on the street. At the end of November 2018 there was a particularly serious moment when a lack of Interior Ministry staff (due to temporary contracts ending, as mentioned above) delayed access to asylum applications and therefore access to the state reception system. In addition to this, a police commissioner decided, unilaterally, to delay the appointments for identifying asylum seekers (again making access to reception places more difficult) and the council's social services evicted the families sleeping in their offices, citing security concerns. The result was that many ended up on the street and from there in local churches and centres run by alternative social organisations (*Eldiario.es*, November 28th 2018).

In Barcelona, social organisations such as *Cáritas* (linked to the Catholic Church) have also ended up taking care of many people who have sought asylum or expressed a desire to do so and who, despite all the council's resources, have ended up on the street. The difference from Madrid is that in Barcelona this alternative accommodation network was in the hands of a small number of organisations less connected to social movements and not directly linked with activists working for the rights of migrants. In this sense, we may conclude that in Barcelona the alternative accommodation network did not involve activist sectors for whom refugee reception was a political struggle. In fact, in Barcelona, the demands made in support of migrants and refugees have mainly condemned the deaths in the Mediterranean and the Spanish government's failure to abide by the relocation and resettlement agreements. In early 2017, given that the Spanish government had fulfilled less than 5% of its quota, Catalan civil society initiated the "*Casa nostra, casa vostra*" campaign. Made up of personalities and civil organisations of a diverse type – NGOs, unions, universities, professional associations, journalists, and so on – the campaign culminated in February 2017 in a demonstration in Barcelona under the slogan "we want to host" that gathered between 150,000 (according to the local police) and 500,000 people (according to the organisers). Interestingly, the Catalan government and the Barcelona city Council actively participated in this campaign. In the Barcelona's case thus, civil society organisations, CSOs and regional and local administrations went hand in hand in denouncing the central government. This cannot be disentangled of course from the political conflict over Catalonia's right to self-determination and the Spanish state reaction to these claims.

#### **4. Multilvel governance and policy outcomes**



Both asylum and asylum seekers' reception are the exclusive competence of the state. This is what in 2015 and 2016 the then Spanish Prime Minister Mariano Rajoy remembered to Ada Colau each time Barcelona asked for a truly multilevel governance. As already said, the Ministry of Interior is responsible for processing asylum applications, while the Ministry of Employment and Social Security is responsible for asylum seekers reception. There is no doubt about it. There are no formal structures of coordination at the decision-making level either. It is true that in September 2015 the Council of Ministers agreed to create an Inter-ministerial Commission which would coordinate the policies of the different ministries involved (Interior, Foreign Affairs, Defence, Health and Social Services, Justice and Education). It is also true that again in September 2015 the Spanish government agreed to convene the Sectoral Conference on Immigration, with representatives of the autonomous communities and the Spanish Federation of Municipalities and Provinces. But this was only in September 2015, when the sense of emergency (produced by the high numbers of arrivals to Greece and Italy) led the government to set up or re-activate structures of internal and multilevel coordination. Once the feeling of emergency was over, decision making went back (if ever went out) to the two competent ministries.

While asylum seekers' reception is the exclusive competence of the Ministry of Employment and Social Security, as we have seen, the implementation of the state reception system has ended up being almost exclusively in the hands of the CSOs. While before 2015 the public-private management was almost fifty-fifty, nowadays CSOs run 94 percent of all state-funded reception places. Given that the asylum law lacks regulatory development and therefore there is a clear lack of detail and formalisation of reception procedures, the conditions of the reception programme are defined by a management handbook (*Manual de Gestión*) issued by the Ministry on a regular basis. According to a representative of the Ministry, the Ministry meets regularly the CSOs to resolve any doubt from their side. On the basis of these discussions, and for the sake of clarity, the management handbook is continuously amended and regularly updated in new published versions (interview in Madrid, 9 January 2019). Referring to the same meetings, a representative of one of the three traditional asylum CSOs stated in an interview that "there are no real coordination mechanisms between and with the two ministries. They [the Ministry of Employment and Social Security] call us regularly for meetings but these are not coordination or co-decision making meetings. They inform us, we can pose questions on particular procedures, but that's all" (interview in Madrid, 30 November 2018).

Cities do also complain about the lack of coordination structures with the Ministry. Since they do not have any competence in asylum seekers' reception, cities are not seen as formal and legitimate interlocutors on the matter. According to a representative of the Barcelona City Council, the Ministry did receive them twice since 2015. As quoted before, "they receive us very politely but nothing more". The same representative of the Barcelona Council also noted that when more formal coordination meetings are celebrated, the Ministry calls the Spanish FEMP. According to him, this is a highly politicised organisation, representing the municipalism of the two main political parties (Partido Popular and Partido Socialista Obrero Español). "The presidency is led by the mayor of a very small town in Northern Spain with no experience on migration and asylum. He doesn't know anything about it. They sign anything they are asked for. The biggest cities (with the biggest number of asylum seekers) are not represented there" (interview in Barcelona, 19 December 2019). Interestingly, the perspective from the Madrid City Council is slightly different. According to a politician, "the communication with the Ministry is regular but they do not give us a real answer to our problems, *no nos hacen ni puto caso*" (interview in Madrid, 30 November 2019). There seems to be a better communication with the

Madrid City Council but again this communication seems to be rather unilateral and without involving a process of co-decision or real dialogue.

It is at the more technical level where the main difference between Barcelona and Madrid can be found. In Barcelona the City Council complains that the Ministry does not even inform them about the number of asylum seekers sent to the city to be accommodated in one of the CSO's reception facilities. For instance, a city representative argued that they had to contact the CSOs and ask them for the number of asylum seekers they were accommodating in their facilities in order to estimate numbers and get a picture of the situation (interview in Barcelona, December 19<sup>th</sup> 2018). According to the Catalan Secretary of Immigration, "the Ministry should give us the numbers each trimestre. This was agreed in a protocol between the Ministry and the Autonomous Communities. But they don't do it" (interview 27 November 2019). In Barcelona coordination structures at the more technical level exist thus between the Ministry and CSOs but not with the City Council, which informally has to rely on the information given by the CSOs. In contrast, in Madrid communication seems to be more fluent. This is particularly the case for those who are not in the state or state-funded reception facilities and therefore rely on local emergency services. In this case, the municipality informs the Ministry about names, place of stay and period covered and asks for preferent access to the state reception system for cases of extreme vulnerability. This is managed through Excel documents, which according to both the City Council and the Ministry are exchanged on a regular basis. The difference between Barcelona and Madrid does not seem to respond to the political colour of the municipality vis-à-vis that of the central government but rather to the physical proximity and therefore direct and in many cases long-term contact between social workers at both sides.

Such a centralised reception system leaves little room for significant divergencies in the functioning, accessibility and quality of reception services. Despite the asylum law still lacks regulatory implementation, the conditions of the reception programme are defined by the management handbook (*Manual de Gestión*) for social organisations. In this regard, reception services should not diverge much. However, in practice, there seems to be some differences. According to a former Ministry of Employment and Social Security employee (interview in Madrid, November 29<sup>th</sup> 2018), there is no standard intervention model – the grant contests establish a set of activities (language courses, psychological care, employability), but the way they are implemented depends on each organisation. For example, neither the hours for each activity nor who should develop them are established in the handbook. For instance, the former Ministry employee gave the example of one CSOs which covered language courses through volunteers. Since volunteers did not work in the summer, asylum seekers in their facilities during this period did not get any language course. The quality of services between CSOs may also differ depending on funding. Poor resource management by an organisation or an unexpected rise in asylum applications can also place at risk the quality of services and the level of assistance. However, since there is no truly monitoring system, no data exist on differences in implementation and policy outcomes.

Divergences may occur between CSOs and in time, depending on the saturation of the system and the resources available. Divergences may also take place outside the state reception system, depending on whether and how regional and local administrations put in place alternative reception systems or rather emergency facilities. Indeed, the Nausica Plan in Barcelona does make a difference. However, up to 2018 the Nausica Plan have had a total of 178 users, thus the majority of asylum seekers in Madrid and Barcelona have been offered similar alternative emergency housing. Coming back to the

state reception system, since it is extremely centralised, there are no key divergences between regions and cities. This may change soon though. As already said, the 2018 judgement of the Madrid's High Court of Justice in favour of the Catalan government demands opens the door to the restructuring of the system, implying not only the restructuring of the grant constests but also a decentralisation of the system itself. When asked for the implications of this judicial decision, both the Ministry and the Catalan government representatives agree that there are two main challenges: first, how to ensure homogeneity in the functioning, accessibility and quality of reception services, specially given the fact that these are rights that should be guaranteed to any asylum seeker in the country; and second, how to distribute asylum applications throughout the national territory. Up to now the distribution criteria was done in terms of availability of places. Both autonomous communities and local administrations had nothing to say in this process. Nobody seems to really know how it will be or how it will look like. Meanwhile, the Ministry is planning a visit to Germany to know more about their distribution system and the Catalan government has set up two working groups, one internal and one with the main (again) asylum CSOs. In this coming scenario, on the basis of the interviews conducted up to now, local governments do not seem to have entered into the picture yet.

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## Appendix

### a. List of officials documents

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Refugee and Asylum Law. <https://www.boe.es/eli/es/l/1994/05/19/9>

Asylum and Subsidiary Protection Law (Law 12/2009), <https://www.boe.es/buscar/act.php?id=BOE-A-2009-17242>

### b. List of interviewees

Interview no. 1, 14<sup>th</sup> November 2018 (Barcelona City Council – civil servant)

Interview no. 2, 23<sup>th</sup> November 2018 (Barcelona City Council – politician)

Interview no. 3, 27<sup>th</sup> November 2018 (Catalan government – politician)

Interview no. 4, 27<sup>th</sup> November 2018 (Catalan government – politician)

Interview no. 5, 29<sup>th</sup> November 2018 (Madrid City Council – civil servant)

Interview no. 6, 29<sup>th</sup> November 2018 (former employee Ministry of Employment and Social Security Municipality)

Interview no. 7, 30<sup>th</sup> November 2018 (CSO worker, Madrid)

Interview no. 8, 30<sup>th</sup> November 2018 (Madrid City Council – politician)

Interview no. 9, 2<sup>nd</sup> December 2018 (CSO worker, Barcelona)

Interview no. 10, 19<sup>th</sup> December 2018 (Barcelona City Council – civil servant)

Interview no. 11, 8<sup>th</sup> January 2019 (CSO worker, Madrid)

Interview no. 12, 8<sup>th</sup> January 2019 (CSO worker/activist, Madrid)

Interview no. 13, 8<sup>th</sup> January 2019 (social activist, Madrid)

Interview no. 14, 9<sup>th</sup> January 2019 (Madrid City Council – civil servant)

Interview no. 15, 9<sup>th</sup> January 2019 (Ministry of Employment and Social Security – politician)

Interview no. 16, 10<sup>th</sup> January 2019 (CSO worker, Barcelona)

Interview no. 17, 11<sup>th</sup> January 2019 (CSO worker, Barcelona)

Interview no. 18, 14<sup>th</sup> January 2019 (Social activist, Madrid)

Interview no. 19, 16<sup>th</sup> January 2019 (CSO worker, Barcelona)



The research project CEASEVAL (“Evaluation of the Common European Asylum System under Pressure and Recommendations for Further Development”) is an interdisciplinary research project led by the Institute for European studies at Chemnitz University of Technology (TU Chemnitz), funded by the European Union’s Horizon 2020 research and innovation program under grant agreement No 770037.) It brings together 14 partners from European countries aiming to carry out a comprehensive evaluation of the CEAS in terms of its framework and practice and to elaborate new policies by constructing different alternatives of implementing a common European asylum system. On this basis, CEASEVAL will determine which kind of harmonisation (legislative, implementation, etc.) and solidarity is possible and necessary.