

**LAW 5/1984 (March 26) REGULATING REFUGEE STATUS AND  
THE RIGHT TO ASYLUM**

## STATEMENT OF PURPOSE

STATEMENT OF PURPOSE FOR LAW 9/1994 (March 19), amendment to Law 5/1984 (March 26) regulating refugee status and the right to asylum

### CHAPTER I. General Provisions.

- Article 1. The right to request asylum.
- Article 2. Definition of asylum.
- Article 3. Grounds for the granting or the rejection of asylum.

### CHAPTER II. On the Granting of Asylum.

- Article 4. Submitting the request for asylum.
- Article 5. Consequences of the request for asylum.
- Article 6. Interministerial Eligibility Commission.
- Article 7. Procedures for the granting of asylum.
- Article 8. Requirements for the granting of asylum.
- Article 9. Re-examination of rejected requests.
- Article 10. Extension of asylum to family members.
- Article 11. Refusal of asylum due to a stay in another State.

### CHAPTER III. The consequences of granting and revoking asylum.

- Article 12. The right not to be returned.
- Article 13. On residence and employment.
- Article 14. Special conditions for residence and employment.
- Article 15. Other protective measures.
- Article 16. Special circumstances.
- Article 17. Consequences of asylum refusal.
- Article 18. Precautionary measures.
- Article 19. Expulsion of refugees.
- Article 20. Revocation of asylum.
- Article 21. Appeals.
- Article 22. Recognition of refugee status.
- Article 23. Processing of the request.
- Article 24. Appeals.

Additional Provisions.

Transitional Provisions.

Final Provision.

# LAW 5/1984 (March 26) REGULATING REFUGEE STATUS AND THE RIGHT TO ASYLUM

(Published in the *BOE* [*Official Bulletin of the Spanish State*] no. 74, 27 March 1984)

## STATEMENT OF PURPOSE

### I

*The purpose of this Law is to achieve compliance with the mandate of article 13.4 of the Constitution while at the same time offering a legal solution to an actual problem: that of providing asylum in Spain to individuals persecuted in their own countries for ideological or political motives. In doing so, the values of solidarity, hospitality and tolerance inspired by the democratic form of government defined within our Constitution must be adhered to. The Law herein includes two titles, one regarding the right to asylum and another regarding refugee status, both of which regulate the circumstances specific to these two conditions.*

### II

*Title I, regarding asylum, deals with the following issues:*

*1. Grounds for asylum. Throughout its long-standing existence, the right to asylum has undergone a transformation in terms of its scope of legal protection. At first, it benefited only common criminals, but never politicians. However, since the late eighteenth century, the trend has been reversed such that protection is now provided only to the politically persecuted, in the broadest sense of this term (interpreting it as including persecution on the basis of race, religion, nationality, etc.). Our Law is generous in this matter, because, together with the persecuted, it includes individuals who have committed political or politically-related crimes, which are not considered unlawful in Spain.*

*2. The protection provided under asylum. The main, essential form of protection consists of not expelling the individual to the persecuting State, thereby dismissing any requests for extradition. A request for asylum therefore defers the verdict of any pending trial for extradition of the individual or enforcement thereof until a final decision has been handed down on the request (article 5.2). In any case, an alien will never be expelled to the persecuting country, unless extradition is formally agreed upon (article 19.1). Asylum may also entail the measures provided for in article 2 herein (authorisation to take employment, social assistance, etc.).*

*3. Recognition of the right to asylum. The request for asylum may be made at any Spanish border, even if the applicant's official documents are not in order. If this is the case, precautionary measures may be taken. Naturally, the request may be submitted within Spanish national territory, as well. The asylum-seeker may exercise his right to legal counsel, which will be provided by the government if the asylum-seeker so requests. The intervention of the United Nations High Commissioner for Refugees is also provided for during this procedure (article 5.5). The status of asylum is extended to the parents and children of the individual who has been granted asylum, as well as to the spouse (article 10).*

*4. Jurisdiction. Jurisdiction on asylum, because it involves the exercise of national sovereignty (in the granting, revocation and placement of conditions), is attributed to the Government at the proposal of the Interministerial Eligibility Commission created within the Ministry of the Interior. This Commission must be made up of Representatives of the Departments of the various ministries affected by the granting of asylum. Decisions by the Ministry of the Interior declaring a request for asylum inadmissible to the regular refugee status determination procedure, as well as decisions of refusal of asylum, may be appealed before a contentious-administrative Court, which hears appeals against administrative decisions. The same type of appeal may be made against decisions handed down by the Government to revoke the granting of asylum. The chance to obtain an administrative re-examination of rejected asylum requests has also been introduced, in accordance with the recommendations of the international*

*organisations which specialise in this matter.*

### III

*Title II of this Law regulates the legal status of refugees in Spain and is a complement to the 1951 Convention on the Status of Refugees (Geneva, 28 July 1951) and to the Protocol on the Status of Refugees (New York, 31 January 1967). These instruments now form part of the Spanish legal system as a result of the country's adherence to them on 22 June 1978.*

### IV

*In drawing up this Law, the United Nations High Commissioner for Refugees and the Spanish Commission of Aid for Refugees were consulted.*

**STATEMENT OF PURPOSE FOR LAW 9/1994 (March 19) AMENDMENT TO  
LAW 5/1984 (March 26)  
REGULATING REFUGEE STATUS AND  
THE RIGHT TO ASYLUM**

(Published in the *BOE* [*Official Bulletin of the Spanish State*]  
nos. 122, 27 March 1984, and 131, 6 June 1994)

STATEMENT OF PURPOSE

*The period of over ten years during which Law 5/1984 (March 26) regulating refugee status and the right to asylum, a legal text which evolved from article 13.4 of the Constitution, has been in force have demonstrated the great potentialities of this Law, which has allowed for the granting of asylum to all those individuals who have fulfilled the requirements stipulated by the legal system.*

*However, the experience gathered in the implementation of this Law has made certain defects apparent which must be rectified. At the same time, because of the ratification of international Instruments regarding the entrustment of the responsibility to examine requests for asylum, and because of the gradual harmonisation of the legislation in many countries regarding this matter, a review of the rules in force on refugee status recognition and the granting of asylum is advisable.*

*Compliance with the parliamentary mandate included in the motion passed by the Spanish Parliament on 9 April 1991 is in this way fulfilled. This motion prompted the Government to “adopt the measures necessary to guarantee the speed warranted in the individualised examination of requests for asylum,” and to “impede the fraudulent use of the refugee protection system for the purpose of economically-motivated immigration.”*

*The amendment to the Law regulating refugee status and the right to asylum includes four main points:*

*First of all, the two differentiated statuses of asylum and refuge have been eliminated. This duality has in no way arisen from any need created in protecting aliens who have fallen victim to persecution and has proven to be a source of confusion and abuse.*

*This revised text defines asylum, recognised in article 13.4 of the Constitution, as the protection provided by Spain to those aliens whose refugee status has been recognised in accordance with the 1951 Geneva Convention, or in other words, to anyone who, owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. The concept of persecution on the basis of political opinions, as applied to refugees, should be interpreted in the broadest sense, as is the standard practice in those States which are signatories of the Geneva Convention. The definition of this concept should include individuals who have committed punishable offences for political motives, provided that, in light of the circumstances, it may be established that the individual in question has a fear of being persecuted.*

*The current form of asylum given for humanitarian reasons, which could previously be granted to certain aliens who had not suffered persecution, is now to be channeled through the procedures provided for in the general legislation on the status of aliens.*

*Moreover, the protection that Spanish Law provides to refugees goes above and beyond the stipulations of the aforementioned Geneva Convention in that it unequivocally includes the right to reside and work within Spanish territory.*

*Second, a preliminary phase, herein referred to as the admissibility procedure to the regular refugee status determination procedure, has been established in the process of examination of requests for asylum, allowing for the speedy rejection of those requests that are openly abusive or unfounded, as well as those whose examination is not the responsibility of Spain and those cases in which another State may*

*provide protection. This type of rejection is to be handed down by way of an official administrative decision declaring the request for asylum inadmissible to the regular refugee status determination procedure, in accordance with due process of law. Legal guarantees in the case of such a declaration of inadmissibility must especially include the chance to submit a request for re-examination, which results in the deferral of certain legal actions and in the participation of the United Nations High Commissioner for Refugees, provided the request for asylum is declared inadmissible while the asylum-seeker is at the border. The entry of an alien requesting asylum at the border into Spanish territory is therefore dependent upon the admission of his request for asylum to the regular refugee status determination procedure.*

*On one hand, this measure has been taken in response to the considerations compiled within the aforementioned parliamentary motion of 9 April 1991, which observed that “the political refugee protection system is being adversely affected by the growing number of asylum requests, submitted mainly by economically-motivated immigrants. This situation is making it ever more difficult to provide proper refuge and is resulting in a delay of the decisions to be made on these requests. In practice, this has become the main channel for illegal immigration towards our country.”*

*Furthermore, the amendment in question has been adjusted to conclusion number 30 of the Executive Committee of the program of the United Nations High Commissioner for Refugees, which states that “it would be helpful if the national procedure used to determine refugee status included special measures whereby requests considered to be so openly unfounded that they do not deserve serious examination would be dealt with very quickly, because such requests constitute a heavy burden on the countries affected and jeopardise the interests of those who have well-founded motives to request that their status as refugees be acknowledged.”*

*Lastly, this amendment has been made in response to those international Conventions to which Spain is a party, such as the Dublin Convention and the Schengen Convention, which determine which member State of the E.U. is responsible for examining each request for asylum.*

*Third, the change in the consequences produced by decisions of refusal of asylum is discussed. Current regulations regarding the consequences produced when asylum is denied have had a significant effect in attracting economically-motivated immigrants towards the asylum system by placing those aliens whose asylum requests have been rejected, even in those cases in which the request is completely unfounded, in a privileged position with respect to those who have undergone the regular procedure for immigration established by the Spanish legal system, in which the proper visa is to be requested.*

*The amendment has therefore evolved from the general principle, accepted by those countries which are contracting parties to the Geneva Convention, that those asylum-seekers whose requests are declared inadmissible to the regular refugee status determination procedure or who are denied asylum must abandon Spanish territory, unless they fulfill the requirements necessary to enter or remain in the country through an arrangement made under the general rules established for aliens or unless, as an exception, they are given authorisation to do so on humanitarian grounds or for reasons of public interest.*

*Finally, the stipulations of article 18.3 of the Law herein, regarding the legal capacity bestowed upon the Ministry of the Interior to suspend the activities of associations made up of aliens, have been adapted to the doctrine of the Constitutional Court. In compliance with sentence 115/1987 (July 7) of the Constitutional Court, this legal capacity has been abolished.*

**Sole article.** *Amendment to Law 5/1984.*

The articles and rubrics set out below from Law 5/1984 (March 26) regulating refugee status and the right to asylum are now worded in the following terms:

See detailed text of the Law herein.

## TRANSITIONAL PROVISIONS.

### **One.** *Pending requests.*

1. Administrative processing of requests for asylum submitted prior to the date at which this Law takes effect is to be governed by the stipulations of Law 5/1984 in terms of jurisdiction, procedure and the consequences produced by the refusal of asylum mentioned in article 20 of the Implementing Decree for the Law in question.

2. The Government will deliver a report to the Spanish Parliament on the position of those individuals whose situation could be affected by the contents of this transitional provision, in any event indicating the following:

- a) The number of requests undergoing administrative processing as of the date at which the Law is to take effect.
- b) The average amount of time that each file has existed.
- c) A statistical analysis of the situations of these individuals.
- d) Forecast of decisions on asylum and the number of individuals affected.

### **Two.** *Previously and currently granted refugee status.*

The protection recognised within this Law will be applied to all those individuals who have been granted asylum or refugee status prior to the date at which the Law takes effect.

## FINAL PROVISIONS.

### **One.** *Structure of Law 5/1984.*

The division into Titles of Law 5/1984 (March 26) regulating refugee status and the right to asylum is hereby repealed.

### **Two.** *Authorisation to order provisions for implementation.*

The Government is hereby authorised to order as many provisions as required in the implementation of this Law, during a time period no greater than six months after the Law takes effect.

### **Three.** *Adaptation of Regulation.*

Within a term of three months, the Government must adapt the Implementing Decree for the Law regulating refugee status and the right to asylum, which was approved by Royal Decree 511/1985 (February 20), to the provisions of the Law herein, and must above all complete regulation of the procedure to be followed for declaring requests inadmissible to the regular refugee status determination (hereafter "RSD") procedure.

## CHAPTER ONE

### GENERAL PROVISIONS

#### **Article 1.** *The right to request asylum.*

Spanish territory will constitute an inviolable place of refuge for those individuals who are granted asylum in accordance with this Law. The right of aliens to request asylum is hereby acknowledged.

*Article drafted in accordance with Law 9/1994 (May 19)*

#### **Article 2.** *Definition of asylum.*

1. The right to asylum recognised in article 13.4 of the Constitution is defined as the protection provided to those aliens whose status as refugees is recognised. This protection consists of neither returning nor expelling the individual under the terms of article 33 of the Convention on the Status of Refugees, signed in Geneva on 28 July 1951. This protection also consists of the adoption of the following measures during the time in which the circumstances motivating the request for asylum persist:

- a) Authorisation to reside in Spain.
- b) Issue of necessary travel documents and identification.
- c) Authorisation to work, by taking employment and/or engaging in business activity.
- d) Any other measures mentioned in the international Conventions on refugees of which Spain is a signatory.

2. Likewise, refugees may be provided with social and economic assistance, if necessary, as determined by rules and regulations.

*Article drafted in accordance with Law 9/1994 (May 19)*

#### **Article 3.** *Grounds for the granting or the rejection of asylum.*

1. Refugee status will be recognised for, and therefore asylum will be granted to, any alien who fulfills the requirements provided for in the International Instruments ratified by Spain, especially those mentioned in the Convention on the Status of Refugees signed in Geneva on 28 July 1951 and in the Protocol on the Status of Refugees, signed in New York on 31 January 1967.

2. Asylum will not be granted to those who fit any of the conditions provided for in articles 1.F and 33.2 of the aforementioned Geneva Convention.

*Article drafted in accordance with Law 9/1994 (May 19)*

## CHAPTER TWO

### ON THE GRANTING OF ASYLUM.

#### **Article 4.** *Submitting the request for asylum.*

1. If an alien who wishes to request asylum is inside Spanish territory, he may submit his request to the competent authority either personally or, if it is impossible for him to do so, by proxy. In the latter case, the asylum-seeker must ratify the request once he is no longer impeded from doing so. In any case, he will have the right to legal counsel, an interpreter and medical attention.

Illegal entry into Spanish territory may not be punished if the person who has done so fulfills the

requirements necessary to be granted refugee status, provided he comes forward to the authorities without delay.

2. If a request for asylum submitted at the border is admitted to the RSD procedure, the asylum-seeker will be authorised to enter the country and remain there provisionally, without prejudice to the final decision on his request.

3. If the alien lacks the official documents required to reside in Spain, the Ministry of the Interior may decide to choose an obligatory place of residence for the asylum-seeker until a decision on his request has been handed down.

4. Requests for asylum submitted before a Spanish Embassy or Consulate are to be processed by the Ministry of Foreign Affairs.

5. The asylum-seeker must fully co-operate with the authorities in the accreditation and verification of his identity, and in that of the facts and allegations upon which his request is based.

6. He must also report his place of residence to the authorities, as well as any changes in his address, as soon as possible, and, when appropriate, must provide the same information regarding his immediate family members.

#### **Article 5.** *Consequences of the request for asylum.*

1. If any alien requests asylum, he may not be turned away or expelled at the border until a decision rejecting asylum is delivered or until his request has been declared inadmissible to the regular RSD procedure. The competent authority on the matter may take precautionary measures for reasons of health or public safety, or to attend to the immediate human needs of the asylum-seeker.

2. Any request for asylum based on any of the grounds provided for within this Law will result in the deferral of the verdict on any pending trial for extradition of the individual and, if applicable, the enforcement thereof. In view of this objective, the request for asylum is to be immediately reported to the authority under which the trial in question is taking place.

3. The rules governing the procedures for the granting of asylum, as well as the provisional situation of asylum-seekers and the official documents used to determine their situation are to be established following official rules and regulations.

4. The asylum-seeker will receive instructions from the authority to which he has submitted his request regarding the rights that he is entitled to under the Law herein and, in particular, regarding his right to legal counsel.

5. Submission of requests for asylum will be reported to the United Nations High Commissioner for Refugees. The High Commissioner has the right to be informed of the situation of the requests and to be present at the hearings of the asylum-seeker. The High Commissioner, or a Representative agent chosen for this purpose, can also submit verbal or written reports to the Minister of the Interior. Furthermore, legally recognised associations must be allowed to pursue such objectives as providing advice and aid to refugees, and submitting reports to the Ministry of the Interior.

6. The Minister of the Interior, at the proposal of the competent authority responsible for examination of the request for asylum, and following a hearing with the Representative of the United Nations High Commissioner for Refugees in Spain, may hand down a decision declaring any request for asylum inadmissible to the regular RSD procedure, stating the grounds upon which this decision is based, if the asylum-seeker fits any of the following conditions:

a) Those provided for in articles 1.F and 33.2 of the 1951 Geneva Convention on the Status of Refugees.

b) None of the grounds for recognition of refugee status are invoked in the request for asylum.

c) The request submitted is merely the reiteration of a request that has already been rejected in Spain, provided that no new circumstances have arisen in the country of origin involving a substantial change in the merits of the request.

d) The request is based on facts, information or allegations which are openly false, implausible or, because they are no longer valid or significant, do not constitute the basis of a need for protection.

e) When examination of the request is not the responsibility of Spain according to those International Conventions to which Spain is a party.

Any declaration of inadmissibility of a request for asylum must indicate the name of the State

whose responsibility it is to examine the asylum-seeker's request. If this is the case, this other State must have explicitly acknowledged its responsibility to do so. In any case, protection of the asylum-seeker's life, freedom and other principles included in the Geneva Convention must be guaranteed within the territory of this State.

f) If the asylum-seeker has been recognised as a refugee and has the right to reside and be granted asylum in another State, or if the asylum-seeker has arrived from another State from which he could have requested protection. In either case, there must be no danger to his life or liberty in the other State, nor may he be exposed to torture or other inhuman or degrading forms of treatment there. In the other country, he must also be effectively protected against refoulement to the persecuting country, under the conditions of the Geneva Convention.

7. If a request is submitted at the Spanish border, the asylum-seeker must be served with a decision on the admissibility of his claim within fewer than four days. The Representative of the High Commissioner for Refugees in Spain will immediately be informed of the submission of the request and may interview the asylum-seeker, if so desired.

The asylum-seeker has twenty-four hours from the time at which he is served with the declaration of the inadmissibility of his request for re-examination, which results in the deferral of the consequences of the declaration of inadmissibility, as provided for in article 17 herein.

This request for re-examination will be decided upon by the Ministry of the Interior, which must report its decision to the individual concerned within two days of the time the request is submitted. In this case, a hearing must also take place with the Representative of the United Nations High Commissioner for Refugees in Spain prior to the decision on the re-examination of the request for asylum.

While the request for asylum or for re-examination is being processed, the asylum-seeker must remain at the border point. Adequate facilities will be provided for this purpose.

If the maximum time period set for a decision to be made on the admissibility of a request submitted at the border expires, or if the time period set for a decision to be made on a request for re-examination expires, and notification regarding the decision has not been provided to the asylum-seeker, it is implied that his request has been declared admissible to the regular RSD procedure, and, in compliance with the stipulations of number 2 of article 4 herein, that he has been given authorisation to enter Spanish territory.

8. If any of the grounds for not admitting the request to the regular RSD procedure comes to light after the request has been admitted to the regular RSD procedure, it will be considered grounds for refusing the request.

*Article drafted in accordance with Law 9/1994 (May 19)*

#### **Article 6. Interministerial Eligibility Commission.**

1. A Commission, which is to examine the requests for asylum and make any corresponding proposals thereupon, is hereby created within the Ministry of the Interior.

2. The Commission is to be made up of one Representative from each of the following Ministries: the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of the Interior and the Ministry of Labour and the Ministry of Social Affairs.

The Representative of the United Nations High Commissioner for Refugees in Spain will be summoned to the sessions of the Commission.

3. Rules of order for the Commission will be established by an Implementing Decree.

*Article drafted in accordance with Law 9/1994 (May 19)*

#### **Article 7. Procedures for the granting of asylum.**

Every request will result in the creation of a file by the Ministry of the Interior, that includes, when appropriate, reports made by legally recognised Associations which pursue such objectives as providing advice and aid to refugees.

The file will then be submitted to the Interministerial Eligibility Commission mentioned in article 6 above, so that the Commission may send the corresponding proposal on to the Ministry of the Interior.

Once the Commission's proposal has been drafted, the procedure to be followed is explained below:

a) If the Commission's proposal coincides with that of the Minister of the Interior, the latter will proceed to hand down the corresponding decision.

b) If the Commission's proposal does not coincide with that of the Minister of the Interior, the latter will send the file on to the Council of Ministers so that it may hand down a decision on the request.

*Article drafted in accordance with Law 9/1994 (May 19)*

**Article 8.** *Requirements for the granting of asylum.*

For an asylum request to be decided upon favourably, it need only include sufficient evidence, depending on the nature of each individual case, to demonstrate that the asylum-seeker fulfills the requirements mentioned in number 1 of article 3 of the Law herein.

*Article drafted in accordance with Law 9/1994 (May 19)*

**Article 9.** *Re-examination of rejected requests.*

Any alien whose request for asylum has been rejected may at any time request that the Ministry of the Interior re-examine his file, if he can produce new evidence of his statements or if he considers the grounds for the rejection to have disappeared.

**Article 10.** *Extension of asylum to family members.*

1. By extension, asylum will be granted to the parents, children and spouse of the refugee, or to the person to whom he is united by an analogous emotional relationship of cohabitation, except in the case of a legal separation, a *de facto* separation, divorce, adulthood or independence from the family. In these cases, the situation of each member of the family will be taken into consideration separately.

2. Asylum will never be granted by extension to any individuals who fit one of the conditions mentioned in number 2 of article 3.

*Article drafted in accordance with Law 9/1994 (May 19)*

**Article 11.** *Refusal of asylum due to a stay in another State.*

*Repealed by Law 9/1994 (May 19)*

## CHAPTER III

### THE CONSEQUENCES OF GRANTING AND REVOKING ASYLUM.

**Article 12.** *The right not to be returned.*

Refugee status entitles the alien to the right not to be returned to the country in which he has well-founded motives for fearing persecution or punishment, under the terms of article 2 herein.

*Article drafted in accordance with Law 9/1994 (May 19)*

**Article 13.** *On residence and employment.*

When refugee status is recognised, it entails the authorisation to reside in Spain, the authorisation

to take employment and/or engage in professional and business activity. The proper identification and, when appropriate, travel documents are to be issued, all under the stipulations of the Law herein.

*Article drafted in accordance with Law 9/1994 (May 19)*

**Article 14. *Special conditions for residence and employment.***

*Repealed by Law 9/1994 (May 19)*

**Article 15. *Other protective measures.***

The adoption of any of the other measures provided for in article 2.2 of the Law herein will be carried out while taking into account the actual means that the State has at its disposal, in compliance with the Conventions subscribed to by Spain, and always with attention to humanitarian principles.

*Article drafted in accordance with Law 9/1994 (May 19)*

**Article 16. *Special circumstances.***

1. In general, for special circumstances of a political, economic or social nature, granting of the authorisation to reside and work as stipulated in the Law herein may be rejected.

2. The set of circumstances and the scope of the measures to be adopted must be determined by a rule with the rank of a Law. In any case, previously existing situations are to be respected.

*Article drafted in accordance with Law 9/1994 (May 19)*

**Article 17. *Consequences of asylum refusal.***

1. A decision rejecting asylum, or a decision declaring a request inadmissible to the regular RSD procedure, results in rejection of the individual's entry into Spain at the border or the obligatory exit or expulsion of the alien from Spanish territory, as each individual case warrants, were the alien not to fulfil any one of the requirements necessary to enter or remain in Spain under the general legislation regarding the status of aliens.

2. Despite the stipulations of number 1 above, on humanitarian grounds or for reasons of public interest, and within the framework of the general legislation regarding the status of aliens, authorisation for the individual concerned to remain in Spain may be granted despite the decision rejecting asylum, or the declaration of inadmissibility, handed down on his request for asylum. This is especially applicable to individuals who, as a result of grave conflicts or disturbances of a political, ethnic or religious nature, have been forced to abandon their country, but who do not fulfill the requirements mentioned in number 1 of article 3 of this Law.

3. In any case, rejection or expulsion of the individual concerned does not imply the failure to comply with the obligation established in section 1 of article 33 of the Geneva Convention on the Status of Refugees, nor may it result in refoulement to a third State where the individual will be without effective protection against refoulement to the persecuting country, as stipulated in the aforementioned Convention.

*Article drafted in accordance with Law 9/1994 (May 19)*

**Article 18. *Precautionary measures.***

1. Besides those rights provided for in the Law herein, aliens with refugee status are to have the same rights and freedoms as do all other aliens in Spain.

2. Nevertheless, for duly motivated reasons of State security, the Minister of the Interior may temporarily adopt measures to distance the refugee from border areas or individually determined population centers. The Minister may set an obligatory place of residence for the refugee and may also, for the same reasons, declare that the refugee must present himself periodically before the competent authorities.

3. When Spain's foreign affairs are gravely and directly affected by activities carried out within Spain by an Association made up totally or partially of refugees, who surpass the level of freedom of expression recognised by the Constitution, the Minister of the Interior may seek out dissolution of the Association before judicial authorities, as well as the precautionary suspension of the Association's activities.

*Article drafted in accordance with Law 9/1994 (May 19)*

**Article 19. Expulsion of refugees.**

1. Aliens with refugee status may be expelled from Spanish territory under the terms stipulated in articles 32 and 33 of the Geneva Convention on the Status of Refugees.

2. The Minister of the Interior must inform the individual concerned of his expulsion, making him aware of the appeals he may file against the expulsion, as well as informing him that, if he files an appeal within ten days, his expulsion will be deferred, without prejudice to any other safety measures that may be taken in this case.

3. In any case, the individual to be expelled will be granted a reasonable period of time in which to seek legal entry into another country.

*Article drafted in accordance with Law 9/1994 (May 19)*

**Article 20. Revocation of asylum.**

1. The Government has the authority to declare the revocation of asylum or of one or all of the benefits mentioned in article 2 of this Law in any of the following cases:

a) When asylum has been obtained through the use of information, documents or declarations which are false and were determinant in obtaining recognition of refugee status.

b) When one of the reasons for withdrawing refugee status stipulated in the International Conventions ratified by Spain or for the non-application of these Conventions is applicable.

2. Despite the stipulations of number 1 above, on humanitarian grounds or for reasons of public interest, and within the framework of the general legislation regarding aliens, authorisation may be granted for the individual concerned to remain in Spain.

*Article drafted in accordance with Law 9/1994 (May 19)*

**Article 21. Appeals.**

1. The decisions provided for in the Law herein bring the administrative procedure to an end. These decisions may be appealed before a contentious-administrative Court, which hears appeals against administrative decisions, unless the request for re-examination referred to in article 5.7 has been submitted. It is understood that the administrative procedure has been brought to an end once a decision has been handed down on this type of request. Appeals will be given preferential processing.

2. If the asylum-seeker files an appeal against the decision handed down on the re-examination mentioned in article 5.7 herein before a contentious-administrative Court, the administrative decision will be suspended provided the asylum-seeker has requested so and the Representative of the United Nations High Commissioner for Refugees in Spain has given a report in favour of admitting the request for asylum into the regular RSD procedure.

*Article drafted in accordance with Law 9/1994 (May 19)*

**Article 22. Recognition of refugee status.**

*Repealed by Law 9/1994 (May 19)*

**Article 23. Processing of the request.**

*Repealed by Law 9/1994 (May 19)*

**Article 24. Appeals.**

*Repealed by Law 9/1994 (May 19)*

ADDITIONAL PROVISIONS.

**One.** Regardless of the grounds upon which it is based, a asylum rejection does not impede the competent authorities on extradition from considering, in accordance with the legislation on this matter, that extradition is not appropriate because the crime upon which the request for extradition is based is of a political nature or, although actually a common crime, because the request for extradition is based on motives of a political nature.

When, in accordance with the stipulations of section 2 of article 5 of the Law herein, a request for extradition is pending, the Government's decision will be reported to the competent authority.

**Two.** The Government will form the Commission provided for in article 6 of the Law herein within three months of the time at which the Law takes effect.

TRANSITIONAL PROVISIONS.

**One.** Until the rules regulating judicial protection are enacted, the procedure contained in article 21 herein are to be carried out in accordance with Law 62/1978 (December 26).

**Two.** Those individuals who are in Spain and who have not obtained refugee status may avail themselves of the benefits granted by this Law during the time periods determined in the properly established way.

FINAL PROVISION.

1. The Government is hereby authorised to order as many provisions as required in the implementation of this Law.

2. Before the expiry of a time period of six months, the Government is to regulate the procedure for the recognition of refugee status.

**ROYAL DECREE 203/1995 (February 10) APPROVING  
THE IMPLEMENTATION REGULATION OF LAW 5/1984 (March 26)  
REGULATING REFUGEE STATUS AND  
THE RIGHT TO ASYLUM**

## FOREWORD. General Provisions.

Article 1. Applicable regulation

Article 2. The Interministerial Eligibility Commission on Asylum and Refuge (CIAR).

Article 3. The Office for Asylum and Refuge (OAR).

## CHAPTER I. The request for asylum and its consequences.

### *Section one. Submitting the request for asylum.*

Article 4. Where to submit the request for asylum.

Article 5. Informing the asylum-seeker of his rights.

Article 6. Sending the request of asylum on to the Office for Asylum and Refuge and informing the organisations and entities concerned.

Article 7. Time limit for submission of the request for asylum.

Article 8. How to submit the request for asylum.

Article 9. Obligations of the asylum-seeker.

Article 10. Duty of collaboration among different entities of the Public Administration.

### *Section two. Consequences of submitting the request for asylum.*

Article 11. Provisional stay of the asylum-seeker.

Article 12. Guarantee of non-expulsion of the asylum-seeker.

Article 13. Provisional documents of the asylum-seeker.

Article 14. Precautionary measures.

Article 15. Social benefits and employment of the asylum-seeker.

Article 16. Allowing the asylum-seeker to travel to Spain.

## CHAPTER II. Declaring a request inadmissible to the regular refuge status determination procedure.

### *Section one. Ordinary procedure for declaring a request inadmissible to the regular RSD procedure.*

Article 17. Evaluation of the grounds for declaring a request inadmissible to the regular RSD procedure.

### *Section two. Declaring a request inadmissible to the regular RSD procedure while at the border.*

Article 18. Criteria for applicability.

Article 19. Submitting and formalising requests for asylum while at the border.

Article 20. Procedure for declaring a request inadmissible.

Article 21. Procedure for re-examination.

### *Section three. Consequences of declaring a request inadmissible to the regular RSD procedure.*

Article 22. Consequences of declaring a request inadmissible while at the border.

Article 23. Consequences of declaring a request inadmissible during the ordinary procedure.

## CHAPTER III. Administrative processing of the request for asylum.

### *Section one. Examination of the file.*

Article 24. General rules for administrative processing.  
Article 25. Hearings for the individuals concerned.

*Section two. Decision on the file.*

Article 26. Proposal of the Interministerial Eligibility Commission.  
Article 27. Competent authority for the final decision on the file.  
Article 28. Notification of the decision.

*Section three. Consequences of the decision.*

Article 29. Consequences of the granting of asylum.  
Article 30. Social and economical benefits.  
Article 31. Consequences of a final decision of rejection.

CHAPTER IV. Situation of acknowledged refugees.

*Section one. Rights and duties.*

Article 32. General Obligation.  
Article 33. The right to residence and work.  
Article 34. Exceptions to the extension of asylum to family members.  
Article 35. Nationality.

*Section two. Sanctions and cessation of refugee status.*

Article 36. Expulsion of refugees and the revocation of asylum.  
Article 37. Cessation of refugee status.

CHAPTER V. Re-examination of the file and appeals.

Article 38. Re-examination of the file.  
Article 39. Judicial appeal.  
Article 40. Provisional documents to be provided during judicial proceedings.

First additional provision. Special consideration of displaced individuals.

Second additional provision. Emergency situations.

Third additional provision. Terms for the designation of lawyers working in collaboration with the UNHCR during the procedure.

First transitional provision. Individuals with a card for temporary stay.

Second transitional provision. Individuals who have previously requested asylum.

Third transitional provision. Individuals protected under the category of asylum.

**ROYAL DECREE 203/1995 (February 10) APPROVING  
THE IMPLEMENTATION REGULATION OF LAW 5/1984 (March 26)  
REGULATING REFUGEE STATUS AND  
THE RIGHT TO ASYLUM**

(Published in the *BOE* [*Official Bulletin of the Spanish State*]  
no. 52, 2 March 1995)

*Law 5/1984 (March 26) regulating refugee status and the right to asylum, which was amended by Law 9/1994, establishes the basic principles governing these matters within our legal system. To this effect, the new Law makes reiterated references to the precepts of the 1951 Geneva Convention and to the 1967 Protocol on the Status of Refugees, but, in terms of procedure, the Law is restricted to describing the general framework for the administrative processing of requests for asylum. The Law introduces the procedure of admissibility to the regular refugee status determination procedure so as to impede the fraudulent use of the refugee protection system by individuals whose objective is economically-motivated immigration. In order to complete the new Law, the Regulation below is hereby enacted, the contents of which are centred on the procedure to be followed in the recognition of refugee status, as well as on the rules and guarantees which are to govern the process of determining admissibility to the regular refugee status determination procedure, whether the asylum-seeker is at the border or inside Spanish territory. It also stipulates the consequences of decisions of acceptance or rejection of requests for asylum, and the appeals which may be filed against negative decisions through both administrative and judicial channels. In particular, it regulates the contents and consequences of favourable reports provided by the United Nations High Commissioner for Refugees during the procedure of admissibility to the regular refugee status determination procedure while the asylum-seeker is at the border. Last, the exceptional situation posed by those individuals displaced as a result of grave conflicts or disturbances of a political, technical or religious nature is discussed. For such individuals, specific legal coverage has been created providing for their access to the assistance intended for asylum-seekers and for refugees. In virtue thereof and at the proposal of the Ministers of Foreign Affairs, Justice and Interior, and Social Affairs; and with the favourable report provided by the Interministerial Commission on Alien Affairs; and with the approval of the Minister of Public Administration; and in accordance with the Council of State; and following deliberation of the Council of Ministers in their meeting on 10 February 1995,*

I DECLARE:

**Sole article.** The enactment of the Implementing Decree of Law 5/1984 (March 26) regulating refugee status and the right to asylum, which was amended by Law 9/1994, the text of which is included herein.

**SOLE ADDITIONAL PROVISION.**

Hereby created within the General Direction of Electoral Processes, Alien Affairs and Asylum within the Ministry of Justice and of the Interior is the Office for Asylum and Refuge, which will be directed by the General Under-director of Asylum. The structure of this Office will be that which is established using the corresponding employee position listing.

#### SOLE PROVISION OF REPEAL.

Royal Decree 511/1985 (February 20) approving the Implementing Decree for the Law regulating refugee status and the right to asylum is hereby repealed, as are all rules of equal or lower legal rank that preclude the Royal Decree herein.

#### FIRST FINAL PROVISION.

The Ministers of Foreign Affairs, Justice and Interior, and Social Affairs, either in conjunction with one another or by acting individually, are hereby authorised to order as many provisions as required in the implementation of the Royal Decree herein, within the scope of their authority.

#### SECOND FINAL PROVISION.

The Royal Decree herein will take effect the day after its publication in the *Boletín Oficial del Estado* (*Official Bulletin of the Spanish State*).

IMPLEMENTING DECREE OF LAW 5/1984 (March 26)  
REGULATING REFUGEE STATUS AND THE  
RIGHT TO ASYLUM, WHICH WAS  
AMENDED BY LAW 9/1994 (May 16)

FOREWORD

GENERAL PROVISIONS

**Article 1.** *Applicable Regulation.*

Recognition of refugee status and of the legal status to which asylum-seekers are entitled is regulated by the stipulations of the Geneva Convention of 28 July 1951 and the New York Protocol of 31 January 1967 on the Status of Refugees; by the International Treaties and Conventions on the status of refugees to which Spain is a signatory or to which it will be a signatory in the future, especially within the context of the European Union; by Law 5/1984 (March 26) regulating refugee status and the right to asylum, and by the Regulation herein.

**Article 2.** *The Interministerial Eligibility Commission on Asylum and Refuge (CIAR).*

The Interministerial Eligibility Commission provided for in article 6 of Law 5/1984 (March 26) regulating refugee status and the right to asylum, which was amended by Law 9/1994 (May 19), is to be made up of Representatives of the Ministries of Foreign Affairs, Justice and Interior, and Social Affairs. It is to be chaired by the General Director of Electoral Processes, Alien Affairs and Asylum, or failing him, by the General Under-director of Asylum. The General Under-director of Asylum will act as Secretary of the Interministerial Eligibility Commission on Asylum and Refuge as a speaking member without a vote, or failing him, any other public officer of the Office for Asylum and Refuge designated by the President. The Representative of the United Nations High Commissioner for Refugees (UNHCR) in Spain will be summoned to the sessions of the Commission, which this Representative will attend as a speaking member without a vote.

2. Applicable to this Commission are the measures regarding the operations of governmental bodies made up of a panel of voting members mentioned in chapter II of title II of the Law on the Legal System of the Public Administration and Common Administrative Procedure.

3. The Interministerial Eligibility Commission on Asylum and Refuge will:

a) Examine files of asylum and send proposals for the decisions to be handed down on them to the Ministry of Justice and of the Interior.

b) Establish and review periodically the general criteria upon which declarations of inadmissibility to the regular refugee status determination procedure (hereafter "RSD") sent from the Office for Asylum and Refuge to the Minister of the Interior are based, from among those circumstances listed in section 6 of article 5 of Law 5/1984 regulating refugee status and the right to asylum, and as stipulated in paragraph e) of article 3 of the Regulation herein.

c) Send to the Minister of Interior the authorisations to remain in the country decided upon under article 17.2, on humanitarian reasons related to the implementation of international instruments prohibiting the non-refoulement or, not coming within the scope of the 1951 Convention, with a certain link with the persecution grounds referred to in this Convention.

d) Decide which official documents will be issued to asylum-seekers, to recognised refugees and to those who have been given authorisation to remain in Spain as for the previous paragraph or according to the first additional provision of this regulation.

e) Be informed of the initiatives and criteria which serve as the basis for the social policy and the policy of integration aimed at the social groups who benefit from the enforcement of Law 5/1984 regulating refugee status and the right to asylum.

f) Gather information on the countries or regions of origin of the asylum-seekers and refugees in Spain and to report this information to the governmental agencies responsible for international cooperation.

g) Examine files of revocation and cessation of refugee status and make the proposals regarding decisions it deems appropriate to the Minister of the Interior.

h) When necessary, propose application of the status of displaced individuals provided for in section 6 of the first additional provision of this Regulation to the Minister of the Interior.

4. The Interministerial Eligibility Commission on Asylum and Refuge may gather complementary information from any other organization, both public and private, or from the very individual concerned in those cases in which the Commission deems it to be necessary.

### **Article 3.** *The Office for Asylum and Refuge.*

The duties of the Office for Asylum and Refuge, created by the sole additional provision of the Royal Decree approving this Regulation, include the following:

a) To direct the procedure for granting asylum.

b) To provide the infrastructure and premises for the Secretariat of the Interministerial Eligibility Commission on Asylum and Refuge.

c) To notify the individuals concerned of the decisions handed down on their requests for asylum, without prejudice to the stipulations of Royal Decree 1521/1991 (October 11) regarding the creation, jurisdiction and operations of the Offices of Alien Affairs.

d) To give information and guidance on existing social services to asylum-seekers.

e) To send declarations of inadmissibility to the regular RSD procedure to the Minister of the Interior through the General Director of Electoral Processes, Alien Affairs and Asylum, in compliance with the stipulations of article 5, sections 6 and 7, of Law 5/1984 regulating refugee status and the right to asylum.

f) To give periodical reports on the declarations of inadmissibility to the regular RSD procedure handed down and the grounds upon which they are based to the Interministerial Eligibility Commission on Asylum and Refuge.

g) To submit those proposals of authorisation to remain in Spain provided for in article 17.2 of Law 5/1984, regulating refugee status and the right to asylum, based on humanitarian reasons related to the implementation of international instruments prohibiting the non-refoulement or, if not coming within the scope of the 1951 Convention, with a certain link with the persecution grounds referred to in this Convention.

h) To provide the Representative of the UNHCR in Spain with statistical data and any other information regarding refugees and asylum-seekers in Spain, in compliance with the stipulations of article 35 of the 1951 Geneva Convention on the Status of Refugees.

## CHAPTER I

### THE REQUEST FOR ASYLUM AND ITS CONSEQUENCES

#### **Section 1.** *Submitting the request for asylum*

#### **Article 4.** *Where to submit the request for asylum.*

1. Any alien who wishes to be granted asylum in Spain must submit his request for asylum to any of the following governmental agencies:

a) The Office for Asylum and Refuge.

- b) Border points of entry into Spanish territory.
- c) Offices for Alien Affairs.
- d) Provincial Police Departments or District Police Departments as indicated by Orders from the Minister of the Interior.

e) The Diplomatic Missions and Consular Offices of Spain located abroad.

2. When the Representative of the UNHCR in Spain requests that the Spanish Government urgently admit a refugee or refugees recognised under its mandate, because the refugee(s) is in a position of high risk inside a third country, the Ministry of Foreign Affairs, acting through the Spanish Diplomatic Mission, Consular Office or diplomatic mission of another country acting in cooperation with Spain, will avail itself of any means necessary to verify the situation, interview the individual concerned and inform the Interministerial Eligibility Commission. The Ministry of Foreign Affairs will order the issue, if necessary, of visas, official travel documents, safe-conducts or any other arrangements deemed necessary, according to the instructions given by the State Office of Consular Affairs, which is a division of the Ministry of Foreign Affairs, so as to facilitate the individual's travel to Spain under the terms of article 16 and 29.4 of the Regulation herein.

**Article 5.** *Informing the asylum-seeker of his rights.*

1. The Administration, in collaboration with the UNHCR and the non-governmental organisations that pursue such objectives as providing aid to refugees, must produce a brochure in several languages with all of the information useful to asylum-seekers. This document will be available at any of the governmental agencies mentioned in article 4 above and must be given to asylum-seekers when they submit their request so that they may contact those organisations that they deem necessary.

2. Those asylum-seekers who are inside Spanish national territory will receive information on the need to provide evidence to support their request from the governmental agency that they have addressed. This agency must also provide information on the rights to which asylum-seekers are entitled under Law 5/1984 regulating refugee status and the right to asylum. In particular, they are to be informed of the right to have an interpreter and legal counsel. Likewise, the authority to which they have submitted their request will provide the asylum-seeker with medical attention, when appropriate, and will provide guidance regarding the currently-existing social services intended to cover the asylum-seeker's immediate human needs.

**Article 6.** *Sending the request of asylum on to the Office for Asylum and Refuge and informing the organisations and entities concerned.*

1. Requests for asylum and any reports on these requests are to be forwarded and communicated to the competent authorities and to the organisations and entities concerned using electronic, telematic and computerised forms of communications, and the techniques and media based thereupon, of the most advanced type currently available.

2. Requests for asylum submitted abroad are to be processed by the Office for Asylum and Refuge through the Ministry of Foreign Affairs, and must be accompanied by the proper report from the Diplomatic Mission or Consular Office.

3. In all other cases, requests for asylum which are accompanied by the adequate documents will be sent both directly and immediately from the governmental offices mentioned in article 4 to the Office for Asylum and Refuge.

4. The Office for Asylum and Refuge must report the submission of all requests for asylum to the Representative of the UNHCR in Spain. This account must be given within twenty-four hours of the time at which the request is received by the Office for Asylum and Refuge.

**Article 7.** *Time limit for submission of the request for asylum.*

1. Once the individual is inside Spanish territory, he must come forward to the authorities within one month of the time at which he enters this territory, unless he is entitled to a legal stay of more than one month. If this is the case, he may come forward at any time prior to the expiration of his term of stay. When circumstances justifying the request for asylum arise due to the occurrence of an unexpected event

in the country of origin, the time limit of one month will be calculated from the moment at which the events justifying the fear of persecution take place.

2. If the asylum-seeker has remained in the country illegally for more than one month, or if he has submitted the request for asylum after the initiation of a expulsion order, it is implied that the request is subject to the process described in paragraph d) of section 6 of article 5 of Law 5/1984 regulating refugee status and the right to asylum, and is to be examined following the ordinary process for declaring a request inadmissible to the regular RSD procedure.

**Article 8.** *How to submit the request for asylum.*

1. Aliens who intend to request asylum and who are already inside Spanish territory must submit their request personally to the competent governmental office, as stipulated in article 4 herein. If his doing so is made impossible for physical or legal motives, he may submit his request through a representative who has been given accreditation by any valid legal means for which there is a reliable record.

2. The governmental offices mentioned in section 1 of article 4 herein will make use of a special application form for asylum-seekers, printed in Spanish and in other languages.

3. The request is formalised when the asylum-seeker fills in and signs the proper application form. The asylum-seeker must give a detailed explanation of the events, information or allegations upon which his request is based. Along with the request, he must provide a photocopy of his passport or other travel document, which he must eventually submit if his request is admitted to the regular RSD procedure, as well as any other personal identification documents or other types of documents that are deemed necessary in supporting the request. If the asylum-seeker does not provide any type of official personal document, he must provide justification for not doing so.

4. Asylum-seekers who are inside Spanish national territory have the right to an interpreter and legal counsel during the formalisation of their requests and throughout the entire procedure.

5. If necessary, the asylum-seeker will name his dependents or immediate family members, indicating whether he is requesting an extension of asylum to these individuals, in virtue of the stipulations of article 10 of Law 5/1984 regulating refugee status and the right to asylum. If these individuals are inside Spanish territory and are requesting the extension of asylum, they themselves must appear along with the asylum-seeker and facilitate their official personal documents. If they do not request the extension of asylum to family members, the names and documentary data of those individuals that the asylum-seeker has named as dependents will be registered.

**Article 9.** *Obligations of the asylum-seeker.*

1. The asylum-seeker must provide proof of his identity and a plausible account of the persecution suffered, using pertinent evidence and sufficient indications of the circumstances justifying the granting of asylum. Based upon the account of the asylum-seeker, the Administration must investigate the adduced objective circumstances and evaluate their relevance to the case for asylum.

2. He must also indicate a place of residence and inform the competent authority of any changes of address as soon as possible. If necessary, he must also say who makes up his immediate family. The place of residence that appears on the request will be considered the asylum-seeker's official address for the purpose of sending notifications, unless the asylum-seeker certifies that he has another official address during processing of the file.

**Article 10.** *Duty of collaboration among different entities of the Public Administration.*

The competent agencies of the Public Administration must report any procedure affecting asylum-seekers or refugees, when appropriate, to the Office for Asylum and Refuge, under the terms stipulated in article 4 of Law 30/1992 (November 26) on the Legal System of the Public Administration and Common Administrative Procedure.

**Section 2.** *Consequences of submitting the request for asylum*

**Article 11.** *Provisional stay of the asylum-seeker.*

1. Any request for asylum submitted inside Spanish territory entails authorisation to stay in Spain provisionally, regardless of the legal situation of the asylum-seeker as determined by the legislation on aliens or the official documents in his possession, without prejudice to the stipulations of article 14 of the Regulation herein or the conditions for declaring a request inadmissible to the regular RSD procedure provided for in chapter II herein.

2. The admission of a request for asylum submitted at the border to the regular RSD procedure will have the consequences provided for in the preceding paragraph.

**Article 12.** *Guarantee of non-expulsion of the asylum-seeker.*

If asylum is requested inside Spanish territory under the terms and time limits established in article 7 herein, and in compliance with the stipulations of article 5.1 of Law 5/1984 regulating refugee status and the right to asylum, the alien may not be expelled until his request is analysed and a decision is handed down on it, without prejudice to the precautionary measures that may be adopted by the authority concerned.

**Article 13.** *Provisional documents of the asylum-seeker.*

1. The asylum-seeker will be provided with a duly stamped receipt of his request for asylum. He must attach this receipt to his passport, thereby enabling him to remain in Spain for a term no longer than sixty days. He must notify the competent authority whenever he changes his place of residence.

2. Once the request for asylum has been admitted to the regular RSD procedure, authorisation to remain in the country will be accredited through the issuance of a document to the asylum-seeker, thereby enabling him to remain inside Spanish territory while his file is being processed.

3. When the aforementioned document is given to the individual concerned, he must, if he has not already done so, turn in his official personal documents and travel documents, which will be held on deposit should a favourable decision on the request for asylum be handed down.

4. During administrative processing of his file, the asylum-seeker must immediately inform the Office for Asylum and Refuge, through the competent authority determined by his place of residence, of any change of address.

**Article 14.** *Precautionary measures.*

If the asylum-seeker does not possess the official documents required to reside in Spain, the Ministry of Justice and of the Interior may set an obligatory place of residence for the individual concerned until a final decision on his file is handed down. The asylum-seeker must be informed of the decision to set an obligatory place of residence by the Governor of the province in which he is located. Likewise, for reasons of public safety, the Minister of the Interior has the authority to adopt any of the measures stipulated in article 6 of Constitutional Law 7/1985 (July 1) regarding the Rights and Freedoms of Aliens in Spain.

**Article 15.** *Social benefits and employment of the asylum-seeker.*

1. Once their request has been admitted to the normal RSD procedure, asylum-seekers may benefit from the social, educational and health-related services rendered by the competent agencies of the Public Administration, within the means and budget availabilities of these agencies, provided said asylum-seekers lack economic resources.

2. The asylum-seeker may be granted authorisation to work in Spain by the competent authority, in accordance with the rules and regulations in force regarding aliens, depending on the circumstances surrounding his file and current situation.

3. Requests submitted by one-parent families, senior citizens, the handicapped or other vulnerable

social groups will be taken into consideration in compliance with the directives that appear in the international recommendations used in harmonising the treatment of these social groups of refugees or displaced individuals. These social groups may be given assistance from the time they submit their requests under the terms provided for in the regulatory scheme of the State or the Autonomous Region.

4. Asylum-seekers who are under the age of eighteen years and who are in a situation of abandonment must be sent to the competent child protection services. Likewise, the Public Prosecutor's office must be made aware of the situation. The tutor assigned to the minor will represent him throughout administrative processing of his file. Requests for asylum will be processed in compliance with the criteria included in the international conventions and recommendations applicable to requests of asylum submitted by minors.

**Article 16.** *Allowing the asylum-seeker to travel to Spain.*

1. If the individual concerned is at risk and has submitted his request for asylum before a Diplomatic Mission or Consular Office in a third country, or if he falls under the conditions stipulated in section 2 of article 4 herein, the Office for Asylum and Refuge may submit the case to the Interministerial Eligibility Commission on Asylum and Refuge, so as to provide authorisation for the asylum-seeker to travel to Spain while his file is being processed. Before doing so, the asylum-seeker must obtain the proper visa, safe-conduct or authorisation for entry, which will be processed urgently.

2. The Office for Asylum and Refuge will report the decision of the Interministerial Eligibility Commission to the Head Office of the Police, which will send the information on to the proper border point.

3. The asylum-seeker whose travel to Spain has been authorised because he is in a situation of risk must be informed of the rights he is entitled to under section 2 of chapter I of the Regulation herein, and must be informed that he must exercise these rights within one month of his entry into Spanish territory.

4. The competent office of the Ministry of Social Affairs must adopt the appropriate measures so that the asylum-seeker may be received by the public or private institution appointed for that purpose.

## CHAPTER II

### DECLARING A REQUEST INADMISSIBLE TO THE REGULAR REFUGEE STATUS DETERMINATION PROCEDURE

**Section 1.** *Ordinary procedure for declaring a request inadmissible to the regular RSD procedure.*

**Article 17.** *Evaluation of the grounds for declaring a request inadmissible to the regular RSD procedure.*

1. When the Office for Asylum and Refuge evaluates the contents of a request for asylum and establishes that the request clearly fits one of the conditions provided for in section 6 of article 5 of Law 5/1984 regulating refugee status and the right to asylum, this Office must propose that the request be declared inadmissible to the regular RSD procedure to the Minister of the Interior, through the General Director of Electoral Processes, Alien Affairs and Asylum. This proposal must be individualised and must include a statement of the grounds upon which it is based. The proposal must include a copy of the notification that was addressed to the Representative of the UNHCR in Spain, as well as a report made out by the UNHCR, when appropriate. The UNHCR must produce this report within ten days of receiving the notification.

2. This proposal, which must include a statement of the grounds upon which it is based, must be sent on to the Minister of the Interior within thirty days of the time at which the request for asylum was submitted. Sixty days after the request for asylum is submitted, if the request has still not been sent on to the Minister of Justice and of the Interior, or if this authority has not handed down a decision on the

request during the same period of time, the request will then be admitted to the regular RSD procedure. If this occurs, the competent authority must authorise the asylum-seeker to remain in the country, as explained in section 2 of article 13 of the Regulation herein.

***Section 2. Declaring a request inadmissible to the regular RSD procedure while at the border.***

**Article 18. Criteria for applicability.**

The procedure followed for declaring a request inadmissible to the regular RSD procedure while the asylum-seeker is at the border is only to be applied when the asylum-seeker clearly and conclusively fits one or more of the conditions for declaring his request inadmissible to the regular RSD procedure. These circumstances are provided for in section 6 of article 5 of Law 5/1984 regarding refugee status and the right to asylum. The same procedure must be followed if the alien does not fulfill the necessary requirements to enter Spain as prescribed in the general legislation on aliens.

**Article 19. Submitting and formalising requests for asylum while at the border.**

1. A request for asylum made at the border is considered officially submitted from the moment at which it is formalised under the terms of article 8.3.

2. The competent official of the National Police Corps or, when appropriate, that of the Office for Asylum and Refuge to whom the request for asylum is to be submitted must inform the individual concerned of the rights to which he is entitled under the terms established in article 5 of the Regulation herein. This official must also provide the individual concerned with an application form intended for requesting asylum in compliance with article 8.2 herein, as well as providing legal counsel and an interpreter under the terms of article 8.4 herein.

3. The application form for asylum requests must be filled in and signed by the asylum-seeker in compliance with article 8.3 herein. Then the application is to be sent directly and immediately to the Office for Asylum and Refuge, along with a copy of the official documents submitted by the asylum-seeker. This last office will proceed to send the application to the UNHCR. Either the request will be admitted to the regular RSD procedure in light of its contents, or a proposal that the request be declared inadmissible to the regular RSD procedure will be sent on to the Minister of the Interior.

4. In either case, this decision will be reported to the border point within seventy-two hours. If the asylum-seeker is given authorisation to enter Spain, he must be provided with official documents under the terms of article 13.2 herein. If this is the case, administrative processing of his file will continue to be governed by the stipulations of chapter III of the Regulation herein.

**Article 20. Procedure for declaring a request inadmissible.**

If the Office for Asylum and Refuge finds any of the grounds for declaring a request inadmissible to the regular RSD procedure to be applicable, as provided for in Law 5/1984 regulating refugee status and the right to asylum, then the following procedure is to be adhered to:

a) The Office for Asylum and Refuge will immediately report the event to the Representative of the UNHCR in Spain. The Office for Asylum and Refuge must also send a copy of the official documents it has received. The UNHCR may draw up a report within twenty-four hours and may, if it so desires, meet with the asylum-seeker. This meeting may take place with the UNHCR itself or with a Representative who is a qualified lawyer. Reports made by the UNHCR requesting that the file be admitted to the regular RSD procedure must include a statement of the grounds upon which this request is based.

b) The asylum-seeker must remain at the border point, for the sole purpose of being notified of the decision handed down on his request, for a time period no longer than seventy-two hours from the time at which the request is submitted.

c) A declaration of refusal of admissibility to the regular RSD procedure must be individualised and must include a statement of the grounds on which the refusal of admissibility is based. The asylum-seeker must be informed of the possibility to request re-examination of his request or to abandon Spanish national territory in order to return, if he so wishes, to his country of origin or to a third State. He must also be informed of the possibility having administrative processing of his file continued through the Spanish Embassy in the appropriate country. If this is the case, the asylum-seeker must express his wish to leave Spain in writing, with the assistance of a lawyer and, if necessary, with that of an interpreter. This opportunity will also be granted to the asylum-seeker if his request for re-examination of the request for asylum is rejected.

2. If after four days the individual concerned has not received notification that his request has been declared inadmissible to the regular RSD procedure, it will result in the admission of his request to the regular RSD procedure, and he is to be given the proper authorisation to enter Spanish territory.

**Article 21.** *Procedure for re-examination.*

1. If an asylum-seeker whose request for asylum was declared inadmissible to the regular RSD procedure asks for a re-examination within twenty-four hours of notification of the decision, the following procedure is to be adhered to:

a) The competent official at the border will provide the asylum-seeker with an application form for this purpose, on which the asylum-seeker may explain his objections to the grounds for declaring his request inadmissible to the regular RSD procedure and may make any allegations he deems necessary.

b) The aforementioned request will be ruled upon by the Minister of the Interior. The asylum-seeker must be informed of the decision within two days of the time at which the request is made. If this is the case, then before the decision is handed down on the request for re-examination and within twenty-four hours of the submission of this request, the Representative of the UNHCR in Spain must be heard.

c) Reports made by the UNHCR in favour of accepting a request for re-examination must include a statement of the grounds upon which this recommendation is based. If this is the case, and if the asylum-seeker expresses that he intends to file an appeal before a contentious-administrative Court, the procedure provided for in articles 39.2 and 40 herein must be followed.

d) If the time period provided for expires and the asylum-seeker has not been informed of the decision made on his request for re-examination, his request will then be admitted to the regular RSD procedure, and he is to be given the proper authorisation to enter Spanish territory. If this is the case, administrative processing of his file will continue to be governed by the stipulations of chapter III of the Regulation herein.

2. The time period stipulated to declare a request submitted at the border inadmissible to the regular RSD procedure, and that stipulated for decisions on eventual requests for re-examination, may not exceed seven days, as set out in article 5.7 of Law 5/1984 regulating refugee status and the right to asylum.

**Section 3.** *Consequences of declaring a request inadmissible to the regular RSD procedure.*

**Article 22.** *Consequences of declaring a request inadmissible while at the border.*

1. In compliance with article 5.6, a), b), c) and d) of Law 5/1984 regulating refugee status and the right to asylum, if a request for asylum submitted at the border is declared inadmissible to the regular RSD procedure, the alien will be rejected at the border, in accordance with the stipulations of article 17.1 of Law 5/1984 regulating refugee status and the right to asylum.

2. Despite the stipulations of number 1 above, when the Minister of the Interior issues a declaration of inadmissibility of a request for asylum made at the border to the regular RSD procedure, the Minister may apply article 17.2 of Law 5/1984 regulating refugee status and the right to asylum, thereby authorising the alien to enter and remain in Spanish territory for no less than six months.

3. After providing notification that the request has been declared inadmissible and after the time periods provided for in article 5.7 of Law 5/1984 regulating refugee status and the right to asylum have expired, and if the alien may not be expelled because he lacks the proper official documents or because of a transportation delay, the Ministry of Justice and of the Interior is to grant authorisation for his entry into Spain in accordance with article 12.4 of Constitutional Law 7/1985 on the Rights and Freedoms of Aliens in Spain. Depending on circumstances, this decision may be made in conjunction with those precautionary measures deemed necessary under the legislation on aliens in force. When appropriate, the competent judicial authority must be informed.

4. If the request is declared inadmissible to the regular RSD procedure, because examination of the request is the responsibility of another State, by virtue of paragraphs e) and f) of article 5.6 of Law 5/1984 regulating refugee status and the right to asylum, the Ministry of Justice and of the Interior must grant authorisation for the alien to enter Spanish territory if, in no more than seventy-two hours from the time at which the request for asylum is submitted, the proper arrangements have not been made with the State responsible. The process is thereby suspended until a response is received from the State in question. Were this response negative, the proposal that the request be declared inadmissible to the regular RSD procedure would be voided, and administrative processing of the request would continue following the ordinary procedure.

**Article 23.** *Consequences of declaring a request inadmissible during the ordinary procedure.*

1. The notification that those requests for asylum submitted inside Spanish territory have been declared inadmissible to the RSD procedure must be accompanied by the order of obligatory exit of the alien, to occur in the time period indicated, or the order of expulsion from Spanish national territory, depending on the circumstances of the case, and in compliance with the stipulations of articles 17.1 and 17.3 of Law 5/1984 regulating refugee status and the right to asylum, and with those rules on aliens currently in force.

2. Despite the stipulations of number 1 above, if the asylum-seeker whose request has not been admitted to the regular RSD procedure fulfills the requirements necessary to stay in Spain under the general legislation on aliens, or if there are humanitarian grounds or reasons of public to do so under article 17.2 of Law 5/1984 regulating refugee status and the right to asylum, the Minister of the Interior, if so proposed by the Interministerial Eligibility Commission on Asylum and Refuge, may grant authorisation for the asylum-seeker to remain in Spain, under the terms in article 31.3 of the Regulation herein, for a time period of at least six months.

## CHAPTER III

### ADMINISTRATIVE PROCESSING OF THE REQUEST FOR ASYLUM

#### **Section 1.** *Examination of the file*

**Article 24.** *General rules for administrative processing.*

1. The individual concerned may submit any complementary documents or information that he considers appropriate and may make those allegations he deems necessary to support his request at any moment throughout the administrative processing of his file by the Office for Asylum and Refuge. Such acts must be verified before the hearing stage of the procedure and before the file is sent on to the Interministerial Eligibility Commission on Asylum and Refuge provided for in article 6 of Law 5/1984 regulating refugee status and the right to asylum.

2. The Office for Asylum and Refuge may gather as many reports as it deems necessary from agencies of the State Administration and from any other public entity.

3. When appropriate, the reports of the UNHCR and of the legally recognised associations which

pursue such objectives as providing advice and aid to refugees are to be incorporated within the file.

4. The maximum time period allowed for administrative processing of the file is six months. If this time period expires without an explicit decision on the request for asylum, it is implied that the request has been rejected, without prejudice to the obligation of the Administration to hand down an explicit decision. If administrative processing is carried out through a Diplomatic Mission or Consular Office, the time period of six months will be counted from the time at which the request is received by the Office for Asylum and Refuge.

5. If the procedure is paralysed on grounds attributable to the asylum-seeker, the Office for Asylum and Refuge must warn him that, after three months, the procedure will no longer be valid. If this time period expires and the individual notified has taken the steps necessary to resume administrative processing, the matter will be ignored and the individual concerned will be notified at his last known address.

**Article 25.** *Hearing for the individuals concerned.*

1. Once the file has been processed and immediately prior to drawing up the proposal for the final decision, the individuals concerned will be informed so that, in a time period of ten days, they may make the allegations and submit the documents and evidence they deem necessary.

2. The procedural step of the hearing may be omitted if it is not included within the official procedure or if no other facts, allegations or proof given by the individual concerned are to be taken into account.

**Section 2.** *Decision on the file*

**Article 26.** *Proposal of the Interministerial Eligibility Commission.*

1. Once the examination has come to an end and the procedural stage of the hearing, when necessary, has been completed, the file must be sent on to the Interministerial Eligibility Commission on Asylum and Refuge, which will examine it. If the Commission considers the file incomplete, it may ask the authority heading the examination to rectify the errors observed or to add complementary information or documents to the file. If this is the case, the additional procedural step of a hearing will be carried out so as to inform the individual concerned of these occurrences and so he may make those allegations he deems necessary.

2. If the file is considered complete, the Interministerial Eligibility Commission must send on the corresponding proposal for the final decision, which must be individualised and must include a statement of the grounds upon which it is based, to the Minister of the Interior.

**Article 27.** *Competent authority for the final decision on the file.*

1. If the criteria of the proposal made by the Commission coincide with those of the Minister of the Interior, jurisdiction for the final decision on the file corresponds to the latter.

2. If the Minister of the Interior disagrees with the proposal to grant or deny asylum drawn up by the Interministerial Eligibility Commission on Asylum and Refuge, the file must be sent on to the Council of Ministers so that it may make the appropriate decision.

3. The final decision handed down by the Minister of the Interior must be individualised and must include a statement of the grounds upon which it is based. The decision must also include a decision on the extension, if this extension was requested, of refugee status and the right to asylum to the family members mentioned in article 10.1 of Law 5/1984 regulating refugee status and the right to asylum. Such extensions to family members may still be requested at a later point in time, despite the fact that they were not requested when the initial request for asylum was submitted, or in light of the unexpected arising of new circumstances.

4. If the family members or dependents of the refugee are granted the right to stay in Spain under

the general legislation on aliens, the competent authorities are to be informed of the situation so that they may ensure the most favourable treatment possible under the aforementioned legislation.

**Article 28.** *Notification of the decision.*

1. The individual concerned will be notified of the decision handed down on his file of request for asylum under the terms stipulated in article 58 of Law 30/1992 (November 26) on the Legal System of the Public Administration and Common Administrative Procedure.

2. This notification will be sent to the address indicated by the individual concerned, or lacking this address, at the last official address that appears in his file. Likewise, the decision is to be sent to the competent authority in compliance with article 4 herein, as well as to the non-governmental organisation that has given guidance to the individual concerned, when appropriate.

3. If the request was submitted abroad or if an appeal was made on the request while the asylum-seeker was in another country, he will be notified through the competent Diplomatic Mission or Consular Office.

**Section 3.** *Consequences of the decision*

**Article 29.** *Consequences of the granting of asylum.*

1. A favourable decision on the request for asylum in Spain results in the recognition of refugee status, in accordance with the 1951 Geneva Convention on the Status of Refugees, for both the asylum-seeker and his dependents or family members, under the terms established in section 3 of article 27 with the exception of the stipulations of section 4 of the same article of the Regulation herein.

2. The competent authority must issue a document of identification which will enable the refugee and those dependents or family members for whom an extension of authorisation to live in Spain has been granted to take employment and/or engage in professional and business activity in accordance with the legislation in force provided he continues to hold refugee status in Spain.

3. Likewise, he will be issued with the travel document provided for in article 28 of the aforementioned Convention.

4. If the asylum-seeker requested asylum at a Spanish Diplomatic Mission or Consular Office, this office must issue a visa or authorisation to enter and travel to Spain to the individual concerned, who must also be given a travel document, if necessary, under the terms provided for in article 16 herein.

**Article 30.** *Social and economic benefits.*

If the refugee has no employment or economic resources to attend to his needs or to those of his family, he may receive the benefits provided for in article 15 of the Regulation herein and of the general and specific programmes established to ease his integration.

**Article 31.** *Consequences of a final decision of rejection.*

1. The notification of a final decision of rejection of the request for asylum is to be accompanied by an order of obligatory exit of the alien, to occur in the time period indicated, under the stipulations of the legislation on aliens in force at the time. Once this time period has expired, the asylum-seeker may not receive the benefits provided for in article 15 of the Regulation herein, and he will be subject to the initiation of a file of expulsion from Spanish national territory.

2. Nevertheless, if an alien's request for asylum receives a final decision of rejection, he may stay in Spain if he fulfills the necessary requirements stipulated by the general legislation on aliens. If administrative processing of or the execution of an order of expulsion has been suspended in virtue of the request for asylum, the final decision of rejection would result in the resumption of these procedures.

3. When due to reasons of public interest or on humanitarian grounds related to the

implementation of international instruments prohibiting the non-refoulement or, if when the applicant does not come within the scope of the 1951 Convention, there is a certain link with the persecution grounds referred to in this Convention, the stay in Spain of the applicant is justified, the rejection of the asylum claim must be accompanied by a decision stating that he may stay in Spain under the stipulations of article 17.2 of Law 5/1984 regulating refugee status and the right to asylum. The final decision of rejection of asylum must specify the status to be assigned to the individual concerned under the legislation on aliens in force at the time, which must be proposed to the Minister of the Interior by the Interministerial Eligibility Commission on Asylum and Refugee. Likewise, it may be recommended that the asylum-seeker be granted the status of a displaced individual as provided for in the first additional provision herein.

## CHAPTER IV

### SITUATION OF ACKNOWLEDGED REFUGEES

#### *Section 1. Rights and duties*

**Article 32.** *General obligation.*

All refugees have the duty to abide by the Constitution and the Spanish legal system.

**Article 33.** *The right to residence and work.*

1. All recognised refugees have the right to reside in Spain and take employment and/or engage in professional and business activity, in compliance with the legislation in force.

2. Under the terms provided for in article 25 of the 1951 Geneva Convention on the Status of Refugees, the measures necessary to provide refugees with those documents or certificates necessary for the exercise of a right must be adopted, especially those measures which may ease his integration into Spain and which would otherwise require the intervention of foreign authorities to which he may not appeal.

**Article 34.** *Exceptions to the extension of asylum to family members.*

1. When a marriage or stable relationship is formed after the recognition of refugee status, the individual concerned may not request the extension of asylum for these dependents, but instead the most favourable treatment permitted under the legislation in force on aliens.

2. The stipulations of number 1 above do not hinder the family members mentioned therein from requesting asylum through another individual procedure provided they fulfill the requirements to do so.

**Article 35.** *Nationality.*

1. Acknowledged refugees may request Spanish nationality, in accordance with the stipulations of article 22.1 of the Civil Code.

#### *Section 2. Sanctions and cessation of refugee status.*

**Article 36.** *Expulsion of refugees and the revocation of asylum.*

The expulsion of refugees and the revocation of asylum are governed, respectively, by the stipulations of articles 19 and 20 of Law 5/1984 regulating refugee status and the right to asylum.

**Article 37. Cessation of refugee status.**

1. The benefits mentioned in the 1951 Geneva Convention, in Law 5/1984 regulating refugee status and the right to asylum, and in the Regulation herein will be automatically suspended in the following cases:

- a) When the refugee obtains Spanish nationality.
- b) When the refugee voluntarily re-avails himself of the protection of the country of which he is a national.
- c) When the refugee has established himself voluntarily inside another country and the responsibility to provide him with protection has been transferred.

2. When, by virtue of a fundamental change in the circumstances inside a certain country, the grounds for recognition of the refugee status of its nationals, or of a certain group of its nationals, have disappeared, the Interministerial Eligibility Commission on Asylum and Refuge, after the UNHCR has been heard, may decide to suspend their status as refugees. Such a decision must be reported to the individuals concerned when they renew their official documents, and they will be given a certain period of time to make those allegations they deem necessary.

3. In the case described in number 2 above, the individual concerned will be allowed to continue residing in Spain under the protection of the general legislation on aliens, provided he supply reasonable justification for remaining in Spain.

## CHAPTER V

### RE-EXAMINATION OF THE FILE AND APPEALS

**Article 38. Re-examination of the file.**

1. Those individuals who have been denied asylum may request that the Office for Asylum and Refuge re-examine their file, if they fulfill one of the conditions provided for in article 9 of Law 5/1984 regarding refugee status and the right to asylum.

2. The Office for Asylum and Refuge will inform the UNHCR of the request for re-examination and will decide whether the information given justifies re-examination. If it does, the file will be processed in the same way as the initial request was, with the exception of those procedural steps that were already completed for the first request.

3. If it is determined that none of the circumstances provided for in article 9 of Law 5/1984 regarding refugee status and the right to asylum are applicable, and after a time period of one month, the General Director of Electoral Processes, Alien Affairs and Asylum, at the proposal of the Office for Asylum and Refuge, must reject the request for re-examination and notify the individual concerned. An ordinary appeal may be filed against this decision to the State Secretary of the Interior within one month.

**Article 39. Judicial appeal.**

1. The decisions provided for in article 21 of Law 5/1984 regarding refugee status and the right to asylum will bring the administrative procedure to an end and may be appealed before a contentious-administrative Court, unless a request for re-examination has already been submitted at the border as referred to in article 5.7 of the aforementioned Law. If this is the case, it is understood that the administrative procedure has been brought to an end by the decision handed down on the request. Appeals will be given preferential processing.

2. If the UNHCR produces a report in favour of admitting a request for asylum submitted at the border to the regular RSD procedure, and the asylum-seeker manifests that he intends to file an appeal against the declaration of inadmissibility before a contentious-administrative Court, he must express that he will do so in writing in a document which will be included within his file. If this is the case, the

asylum-seeker will be granted authorisation to enter Spanish territory and to remain there until the competent judicial authority hands down a decision on the suspension of the administrative act. If a time period of two months expires and the individual concerned has not filed a contentious-administrative appeal against the declaration of inadmissibility to the regular RSD procedure, the consequences provided for in article 23 are to be applied.

**Article 40.** *Provisional documents to be provided during judicial proceedings.*

The admission of a request for re-examination of the file, or the filing of a contentious-administrative appeal entailing judicial suspension of the administrative act, are to result in the renovation of or, when appropriate, the issue of provisional official documents to the asylum-seeker until a final decision is handed down granting or denying his status as a refugee.

## FIRST ADDITIONAL PROVISION

### SPECIAL CONSIDERATION OF DISPLACED INDIVIDUALS

1. For humanitarian reasons or as a result of an international agreement or commitment, at the proposal of the Ministry of Foreign Affairs, and once the Interministerial Commission on Alien Affairs has been heard, the Government may receive in Spain groups of displaced individuals who, as a result of grave conflicts or disturbances of a political, ethnic or religious nature, have been forced to abandon their country of origin or may not remain there. They will be provided with protection under the terms of this additional provision until the conflict is resolved, or until conditions favourable to their return are produced, or until they voluntarily decide to move to a third country.

2. Their reception is to be coordinated by the Ministries of Foreign Affairs, Justice and Interior, and Social Affairs, which may request the collaboration of any other Department or of the international organisations and non-governmental organisations concerned. In conducting the aforementioned reception inside Spanish national territory, the participation of any other part of the Public Administration may be requested.

3. The displaced individuals referred to in this additional provision may benefit from the programmes of reception and integration intended for refugees under the terms set by the CIAR. In any case, they will be entitled to the social benefits provided for in articles 15 and 30 of the Regulation herein.

4. These individuals will be furnished with annually renewable residence permits, following a report from the CIAR, which must periodically evaluate whether conditions exist favouring the return of the individuals concerned under the terms of article 37.2 and 3 of the Regulation herein. If three years pass from the date of entry into Spain and the situation which caused the individuals to flee their country of origin has not changed, the validity of the residence permits may be extended for longer periods of time, as determined by predictions on the solution to the conflict. The competent authority may grant authorisation for the holders of these residence permits to work, under the stipulations of the legislation on aliens.

5. Displaced individuals will be entitled to the protection of article 33 of the Geneva Convention on the Status of Refugees for as long as this situation continues to exist. Likewise, any person who belongs to a group that has been granted authorisation to reside in Spain under a program intended for displaced individuals may, as an alien, request recognition of refugee status in accordance with Law 5/1984 (March 26) regulating refugee status and the right to asylum, which was amended by Law 9/1994 (May 19), from which the Regulation herein evolved.

6. Although a request has been declared inadmissible to the regular RSD procedure or asylum has been refused, when the Minister of Justice has granted authorisation for the alien to remain in Spain, under the protection of the stipulations in section 2 of article 17 of Law 5/1984 (March 26) regulating refugee status and the right to asylum, which was amended by Law 9/1994 (May 19), because he comes from an area where a grave conflict or disturbance of a political, ethnic or religious nature is occurring, the regulation provided for in this additional provisional will be applied to the alien.

## SECOND ADDITIONAL PROVISION

### EMERGENCY SITUATIONS

1. If a number of individuals approach Spanish borders or enter into Spanish territory as a result of a grave conflict or disturbance of a political, technical or religious nature, such that the precautionary measures provided for in Law 5/1984 (March 26) regulating refugee status and the right to asylum, which was amended by Law 9/1994 (May 19) and those provided for in the Regulation herein are rendered insufficient, the civil protection services of the Ministry of Justice and of the Interior must coordinate the steps necessary to attend to the immediate human needs of the individuals concerned, especially the need for food, accommodation and medical attention.

2. After the emergency phase, the Office for Asylum and Refuge, in co-operation with civil protection services and those public and private institutions deemed appropriate, must make a record of the individuals affected and evaluate the situation of the group as a whole while taking into account the personal circumstances of the individuals therein.

3. The report written as a result of this evaluation must be accompanied by the proposals provided for in Law 5/1984 (March 26) regulating refugee status and the right to asylum, which was amended by Law 9/1994 (May 19), and must be submitted by the head of the Office for Asylum and Refuge to the Interministerial Eligibility Commission on Asylum and Refuge for its examination and approval.

4. The final proposal resulting from these procedures must include short-, medium- or long-term measures regarding the group in question, and must be sent on to the Council of Ministers through the Minister of Justice and of the Interior, which will make the decision it deems appropriate.

## THIRD ADDITIONAL PROVISION

### TERMS FOR THE DESIGNATION OF LAWYERS WORKING IN COLLABORATION WITH THE UNHCR DURING THE PROCEDURE

1. In order to carry out effectively the duty provided for in Law 5/1984 (March 26) regulating refugee status and the right to asylum, especially during the process of declaring a request inadmissible to the regular RSD procedure while the asylum-seeker is at the border, the UNHCR may create collaboration agreements with non-governmental organisations which pursue such objectives as providing advice to refugees and to asylum-seekers. The UNHCR may also name independent collaborating lawyers who specialise in this matter, in compliance with criteria of professionalism and independence. The lawyers designated will receive the training from the UNHCR that this organisation deems appropriate. These lawyers will act under the responsibility of the UNHCR and are subject to any legally established rules against the holding of multiple posts.

2. The UNHCR will inform the Interministerial Eligibility Commission on Asylum and Refuge of the appointment of collaborating lawyers, along with a brief curriculum including an indication, where appropriate, of the non-governmental organisation that supports them. The Commission must also be informed of the withdrawal of those lawyers who are no longer working in collaboration with the UNHCR.

3. The appointment of collaborating lawyers must be officially reported to the competent authorities in each province and especially to the border points through the Office for Asylum and Refuge.

4. In those provinces where no lawyer is working in collaboration with the UNHCR, an agreement may be made with the Bar Association in order to establish a spell of duty for legal aid so as to cover this need.

## FIRST TRANSITIONAL PROVISION

### INDIVIDUALS WITH A CARD FOR TEMPORARY STAY

Individuals who have been issued a temporary protection card prior to the time at which the Regulation herein took effect and who fall under one of the categories defined in Law 5/1984 regulating refugee status and the right to asylum and in the Regulation herein, are entitled to the benefits described therein, especially those mentioned in the first additional provision herein, from the time at which it takes effect.

## SECOND TRANSITIONAL PROVISION

### INDIVIDUALS WHO HAVE PREVIOUSLY REQUESTED ASYLUM

Those articles on the procedure, jurisdiction and consequences of a refusal of asylum and of declaring a request inadmissible to the regular RSD procedure included in the Royal Decree herein are not to be applied to those individuals who requested asylum prior to the time at which the Regulation herein took effect. Such requests will continue to be governed by Royal Decree 551/1985 (February 20) with the exception of those stipulations which were appealed by Law 9/1994 (May 19).

## THIRD TRANSITIONAL PROVISION

### INDIVIDUALS PROTECTED UNDER THE CATEGORY OF ASYLUM

Those individuals who were granted protection under the category of asylum prior to the time at which Law 9/1994 (May 19), amendment to Law 5/1984 (March 26) regulating refugee status and the right to asylum, took effect will retain this status until their documents of identification are renewed. At that time, they will be issued the sole official document for refugees. Nevertheless, these individuals may request the travel document provided for in the 1951 Geneva Convention once the Regulation herein takes effect. Likewise, those whose status as refugees was previously recognised may request the official documents provided for in article 29.2 of the Regulation herein.