

Country Report: Portugal



2022
Update



Acknowledgements & Methodology

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The views expressed in this report are those of the author and do not in any way represent the views of the contributing organisations.

The information in this report is up to date as of 31 December 2022, unless otherwise stated.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is coordinated by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 23 countries. This includes 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI) and 4 non-EU countries (Serbia, Switzerland, Turkey, United Kingdom) which is easily accessible to the media, researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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Glossary & List of Abbreviations

ACM	High Commission for Migration Alto Comissariado para as Migrações
ACSS	Central Administration of the Health System Administração Central do Sistema de Saúde
ANMP	National Association of Portuguese Municipalities Associação Nacional de Municípios Portugueses
ANQEP	National Agency for Qualification and Vocational Education and Training Agência Nacional para a Qualificação e o Ensino Profissional, I.P.
APD	Asylum Procedures Directive
APF	Family Planning Association Associação para o Planeamento da Família
CACR	Refugee Children Reception Centre Casa de Acolhimento para Crianças Refugiadas
CAP	Anti-Trafficking Reception and Protection Centre Centro de Acolhimento e Proteção para Vítimas de Tráfico
CAR	Refugee Reception Centre Centro de Acolhimento para Refugiados
CATR	Temporary Reception Centre for Refugees Centro de Acolhimento Temporário para Refugiados
CAVITOP	Centre for the Support of Torture Victims in Portugal Centro de Apoio às Vítimas de Tortura em Portugal
CHPL	Psychiatric Hospital Centre of Lisbon Centro Hospitalar Psiquiátrico de Lisboa
CIT	Temporary Installation Centre Centro de Instalação Temporária
CJEU	Court of Justice of the European Union
CNAIM/CLAIM	National and Local Support Centres for Migrant Integration Centros Nacionais e Locais de Apoio à Integração de Migrantes
CPR	Portuguese Refugee Council Conselho Português para os Refugiados
CRegC	Central Registrations Service Conservatória dos Registos Centrais
CSTAF	High Council of Administrative and Fiscal Courts Conselho Superior dos Tribunais Administrativos e Fiscais
CVP	Portuguese Red Cross Cruz Vermelha Portuguesa
DGAL	Directorate General of Local Municipalities Direcção-Geral das Autarquias Locais
DGE	Directorate General for Education Direcção-Geral da Educação
DGES	Directorate General for Higher Education Direcção-Geral do Ensino Superior

DGEstE	Directorate General for Schools and School Clusters Direcção-Geral dos Estabelecimentos Escolares
DGS	Directorate General for Health Direcção-Geral da Saúde
EASO	European Asylum Support Office (now named EUAA)
ECHR	European Convention on Human Rights
ECRI	European Commission Against Racism and Intolerance
ECtHR	European Court of Human Rights
EDAL	European Database of Asylum Law
EECIT	Detention facilities qualified as Temporary Installation Centres Espaço Equiparado a Centro de Instalação Temporária
EPVA	Teams for the Prevention of Violence between Adults Equipas para a Prevenção da Violência entre Adultos
EUAA	European Union Agency for Asylum (formerly EASO)
GAR	Asylum and Refugees Department Gabinete de Asilo e Refugiados
GIP	Professional Insertion Office Gabinete de Inserção Profissional
GRETA	Group of Experts on Action Against Trafficking in Human Beings
GTO	Technical Operative Group Grupo Técnico Operativo
ICRC	International Committee of the Red Cross
IEFP	Employment and Vocational Training Institute Instituto do Emprego e Formação Profissional
IGAI	General Inspectorate of Internal Administration Inspeção Geral da Administração Interna
IHRU	Institute for Housing and Urban Rehabilitation Instituto da Habitação e da Reabilitação Urbana
INE	National Institute for Statistics Instituto Nacional de Estatística
INMLCF	National Institute of Legal Medicine and Forensic Science Instituto Nacional de Medicina Legal e Ciências Forenses
IOM	International Organisation for Migration
IPDJ	Portuguese Institute of Sports and Youth Instituto Português do Desporto e da Juventude
IRN	Institute of Registries and Notary Instituto dos Registos e Notariado
ISS	Institute of Social Security Instituto da Segurança Social

JRS	Jesuit Refugee Service
MAI	Ministry of Home Affairs Ministério da Administração Interna
MdM	Doctors of the World Médicos do Mundo
MoU	Memorandum of Understanding
NISS	Social Security Identification Number Número de Identificação da Segurança Social
OA	Bar Association Ordem dos Advogados
OM	Observatory for Migration Observatório das Migrações
OTSH	Observatory on Trafficking in Human Beings Observatório do Tráfico de Seres Humanos
RSI	Social Insertion Revenue Rendimento Social de Inserção
SCML	Santa Casa da Misericórdia de Lisboa
SEF	Immigration and Borders Service Serviço de Estrangeiros e Fronteiras
SGMAI	General Secretariat of the Ministry of Home Affairs Secretaria Geral do Ministério da Administração Interna
SEIM	Secretary of State for Integration and Migration
SOG	Single Operative Group Grupo Operativo Único
STA	Supreme Administrative Court Supremo Tribunal Administrativo
SNS	National Health Service Serviço Nacional de Saúde
TAC	Administrative Circle Court Tribunal Administrativo de Círculo
TAF	Administrative and Fiscal Court Tribunal Administrativo e Fiscal
TCA	Central Administrative Court Tribunal Central Administrativo
UHSA	Unidade Habitacional de Santo António
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund

Statistics

Overview of statistical practice

The Immigration and Borders Service (SEF) publishes a yearly statistical report providing information on asylum applications: number, nationalities, place of application, gender, unaccompanied children, positive first instance decisions, relocation.¹ In June 2022, the Observatory for Migration (OM) published 'Applicants and Beneficiaries of International Protection - Statistical Report of Asylum 2022'.²

Applications and granting of protection status at first instance: 2022

	Applicants in 2022	Pending at end of 2022	Refugee status	Subsidiary protection	Rejection	Refugee rate	Sub. Prot. Rate	Rejection rate
Total	1,992	N.A.	632	62	256	66.5%	6.5%	26.9%

Breakdown by countries of origin of the total numbers

Afghanistan	287	N.A.	539	8	0	98.5%	1.5%	0
India	229	N.A.	0	0	21	0	0	100%
Gambia	167	N.A.	-	0	-	17.6%	0	82.4%
Pakistan	122	N.A.	-	0	-	25%	0	75%
Morocco	108	N.A.	-	0	-	3%	0	97%
Dominican Republic	92	N.A.	0	0	-	0	0	100%
Senegal	88	N.A.	-	0	-	5.9%	0	94.1%
Colombia	85	N.A.	-	0	-	7.1%	0	92.9%
Democratic Republic of Congo	60	N.A.	0	-	-	0	33.3%	66.7%
Russia	54	N.A.	-	-	-	12.5%	37.5%	50%
Angola	54	N.A.	6	0	30	26.7%	0	83.3%

¹ SEF, *Yearly Statistical Reports*, available at: <https://bit.ly/3vHDYbz>. These reports are usually published in June (with information on the previous year).

² Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2022*, June 2022, available in Portuguese at: <https://bit.ly/3XySyzg>. The publication of OM's reports follows the adoption of Parliament resolution no. 292/2018 that recommended the publication of a yearly report on national asylum policy.

Source: Information provided by SEF (April 2023). Rates are calculated by AIDA on the basis of the data provided. Refugee, subsidiary protection and rejection rates are based on the overall number of decisions (refugee status, subsidiary protection and rejection) issued during the year. Figures below 5 and figures higher than 5 not displayed for privacy reasons are marked with ‘-’.

The figures and rates above only include in-merit decisions at first instance (both in the regular and in accelerated procedures). As such, inadmissibility decisions (343), including Dublin, are not included in the rejection figures. As further explained in the corresponding section of the report, in the national system, an application is examined on the merits in a regular procedure if it is deemed admissible (and not processed under an accelerated procedure) or if the determining authority does not comply with the corresponding time limit. Decisions deeming an application admissible to the regular procedure are not included in the table above as they do not grant/refuse protection to the applicant concerned. According to information provided by SEF, in 2022, 625 admissibility decisions were issued (the vast majority of which concerned Afghan nationals).

Gender/age breakdown of the total number of applicants: 2022

	Number	Percentage
Total number of applicants	1,992	100%
Men	1,492	74.9%
Women	500	25.1%
Children	354	17.8%
Unaccompanied children	83	4.2%

Source: Information provided by SEF (April 2023). Rates are calculated by AIDA on the basis of the data provided. [Note: The gender breakdown (men/women) refers to all applicants, not only adults.]

Information on appeals: 2022

According to information provided by the High Council of Administrative and Fiscal Courts (*Conselho Superior dos Tribunais Administrativos e Fiscais*, CSTAF), in 2022, the Administrative Circle Court (*Tribunal Administrativo de Círculo*, TAC) of Lisbon and the Administrative and Fiscal Courts of Almada and Sintra were the only Courts with a specific registration string pertaining to asylum-related appeals.³ While the remaining first instance administrative courts did not have such a registration string, CSTAF was able to provide data on appeals based on information available on the corresponding IT system and in cooperation with each Court. Higher Courts do not collect autonomous data on asylum-related processes.

³ Until 2021, only TAC Lisbon had such a registration string.

A total of 242 appeals against negative decisions were filed in national first instance courts. This represents a decrease of approximately 18% compared to 2021, when 294 appeals were registered in total.

TAC **Lisbon** continued to be (by far) the first instance court adjudicating the majority of asylum-related cases in Portugal. Out of the 242 appeals against negative asylum decisions, 206 were registered in this Court (i.e., 85% of all appeals). In 2022, appeals were further lodged in TAF **Almada**, TAF **Aveiro**, TAF **Braga**, TAF **Castelo Branco**, TAF **Leiria**, TAF **Porto** and TAF **Sintra**.

Those appeals concerned applicants of 37 nationalities. The most represented nationalities among appellants included Gambia (36), Morocco (26), Guinea Bissau (22), Senegal (20), and Pakistan (16). According to CSTAF, out of the total of 242 appeals, 202 concerned male applicants and 40 concerned female applicants.

In 2022, first instance courts issued a total of 233 asylum-related appeal decisions, of which 125 concerned Dublin cases (53.6%). The data available does not include a breakdown of the remaining procedures concerned.

Out of the total of 233 decisions, 197 were issued by TAC **Lisbon**. Out of the total of 233 asylum-related appeal decisions (first instance courts), 34 were in favour of the applicant (5 granting subsidiary protection, 13 determining that the procedure should be resumed/reanalysed by the administrative authority, 16 determining Dublin procedures should be resumed/reanalysed by the administrative authority).⁴ There were 199 decisions ruling against the appellants.

Out of the total of 197 decisions issued by TAC **Lisbon**, 30 were decided in favour of the appellant, and 167 against the appellant.

As such, the overall success rate of appeals⁵ at TAC **Lisbon** (all countries of origin and procedures included) stood at roughly 15%. The overall success rate of appeals in courts outside Lisbon stood roughly at 11%. The overall success rate of appeals at national level stood at 15%. In the case of Gambia, the most represented nationality at appeal stage, the overall success rate of appeals was around 11%. With a few exceptions, success rates for other nationalities were equally low. For the other most represented countries of origin at appeals stage, the success rates were as follows: Morocco (8%); Guinea Bissau (10%); Senegal (0%); Pakistan (33%).

The available information does not allow for clear-cut statistics on decision rates per type of procedure. Nevertheless, according to information available to CPR, the main type of asylum procedures used in 2022 to reject asylum applications at first instance consisted of Dublin procedures for all the most represented countries of origin at appeal stage. For Morocco, accelerated procedures were equally relevant.

According to information provided by CSTAF, a total of 64 appeals were filed in second instance courts (TCA South and TCA North) in 2022. A total of 32 such appeals were decided during the year.

⁴ According to CPR's observation of national jurisprudence, instances where national courts decide to grant protection directly are traditionally extremely rare.

⁵ Success rates are based on the number of relevant decisions issued during the year.

Overview of the legal framework

Main legislative acts on asylum procedures, reception conditions, detention, and content of international protection

Title (EN)	Original Title (PT)	Abbreviation	Web Link
Act n. 27/2008 of 30 June 2008 establishing the conditions for granting asylum or subsidiary protection, last amended by Act n. 18/2022, of 25 August 2022	Lei n.º 27/2008, de 30 de Junho, que estabelece as condições e procedimentos de concessão de asilo ou protecção subsidiária e os estatutos de requerente de asilo, de refugiado e de protecção subsidiária, Alterada pela última vez pela Lei n.º 18/2022, de 25 de Agosto	Asylum Act	https://bit.ly/3j3r6c6 (PT) https://bit.ly/3pHbedv (EN – does not include the 2022 amendment)
Act n. 23/2007 of 4 July 2007 on the legal status of entry, residence, departure and removal of foreigners from the national territory <i>Amended by:</i> Act n. 18/2022, of 25 August 2022	Lei n.º 23/2007, de 4 de Julho, que aprova o regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional Alterada pela última vez pela Lei n.º 18/2022, de 25 de Agosto	Immigration Act	https://bit.ly/3iXOKIO (PT)
Decree-Law n. 4/2015 of 7 January 2015 - Code of Administrative Procedure <i>Amended by:</i> Act n. 72/2020 of 16 November 2020	Decreto-Lei n.º 4/2015, de 7 de janeiro, que aprova o novo Código do Procedimento Administrativo (alterado pela Lei n.º 72/2020, de 16 de novembro)	Administrative Procedure Code	http://bit.ly/2mmF8Hw (PT)
Act n. 15/2002 of 22 February 2002 approving the Code of Procedure in Administrative Courts <i>Amended by:</i> Act n. 56/2021 of 16 August 2021	Lei n.º 15/2002, de 22 de Fevereiro, que aprova o Código de Processo nos Tribunais Administrativos <i>Última alteração:</i> Lei n.º 56/2021, de 16 de agosto	Administrative Courts Procedure Code	http://bit.ly/2yekj3x (PT)

<p>Act n. 73/2021 of 12 November 2021 approving the restructure of the Portuguese system of border control, reshaping the regime of the forces and services responsible for internal security and establishing other rules for the redistribution of competences and resources of the Immigration and Borders Service</p> <p><i>Amended by:</i> Act n. 11/2022, of 6 May 2022</p>	<p>Lei n.º 73/2021, de 12 de novembro, que aprova a reestruturação do sistema português de controlo de fronteiras, procedendo à reformulação do regime das forças e serviços que exercem a atividade de segurança interna e fixando outras regras de reafetação de competências e recursos do Serviço de Estrangeiros e Fronteiras, alterando as Leis n.os 53/2008, de 29 de agosto, 53/2007, de 31 de agosto, 63/2007, de 6 de novembro, e 49/2008, de 27 de agosto, e revogando o Decreto-Lei n.º 252/2000, de 16 de outubro</p> <p>Alterada pela Lei n.º 11/2022, de 6 de maio</p>		<p>https://bit.ly/3OitRkJ (PT)</p>
<p>Act n. 13/2003 of 21 May 2003 establishing the Social Insertion Revenue</p> <p><i>Amended by:</i> Act n. 100/2019 of 6 September 2019</p>	<p>Lei n.º 13/2003, de 21 de Maio, que cria o rendimento social de inserção</p> <p><i>Última alteração:</i> Lei n.º 100/2019, de 6 de Setembro de 2019</p>	<p>RSI Act</p>	<p>http://bit.ly/2zyQuOc (PT)</p>
<p>Act n. 220/2006 of 3 November 2006 establishing the legal framework for the social protection in case of unemployment of persons working for an employer</p> <p><i>Amended by:</i> Decree-Law n. 119/2021 of 16 December 2021</p>	<p>Lei n.º 220/2006, de 3 de Novembro - Regime jurídico de protecção social da eventualidade de desemprego dos trabalhadores por conta de outrem</p> <p><i>Última alteração:</i> Decreto-Lei n.º 119/2021, de 16 de dezembro</p>		<p>https://bit.ly/2sppYFA (PT)</p>
<p>Decree-Law 176/2003 of 2 August 2003 establishing the family allowance to children and youth and defining protection in case of family expenses in the context of the family protection subsystem</p> <p><i>Last amended by:</i> Decree-Law n.56/2022, of 19 August 2022</p>	<p>Decreto-Lei n.º 176/2003, de 2 de Agosto, que Institui o abono de família para crianças e jovens e define a protecção na eventualidade de encargos familiares no âmbito do subsistema de protecção familiar</p> <p><i>Última alteração:</i> Decreto-Lei n.º 56/2022, de 19 de agosto</p>		<p>https://bit.ly/2IDrmGX (PT)</p>

Act n. 35/2014 of 20 June 2014 governing employment in public functions <i>Last amended by:</i> Decree-Law n.84-F/2022, of 16 December 2022	Lei n.º 35/2014, de 20 de junho, que aprova a Lei Geral do Trabalho em Funções Públicas <i>Última alteração:</i> Decreto-Lei n.º84-F/2022, de 16 de dezembro		https://bit.ly/3iIPqgu (PT)
Act n. 7/2009 of 12 February 2009 approving the Labour Code <i>Last amended by:</i> Act n. 1/2022 of 3 January 2022	Lei n.º 7/2009, de 12 de Fevereiro, que aprova a revisão do Código do Trabalho <i>Última alteração:</i> Lei n.º 1/2022, de 3 de janeiro	Labour Code	https://bit.ly/2rJtbzm (PT)
Act n. 37/81 of 3 October 1981 approving the Act on Nationality <i>Amended by:</i> Organic Law n. 2/2020 of 10 November 2020	Lei n.º 37/81, de 3 de Outubro, que aprova a Lei da Nacionalidade <i>Última alteração:</i> Lei Orgânica n.º 2/2020, de 10 de Novembro	Nationality Act	http://bit.ly/2jukiBm (PT) https://bit.ly/2u63cD5 (EN – this version does not include the 2020 amendment)
Act n. 81/2014 of 19 December 2014 <i>Amended by:</i> Act n. 32/2016 of 24 August 2016	Lei n.º 81/2014, de 19 de dezembro, alterada pela Lei n.º 32/2016, de 24 de agosto, que estabelece o novo regime do arrendamento apoiado para habitação <i>Alteração:</i> Lei n.º 32/2016, de 24 de agosto	Public Leasing Act	https://bit.ly/3iXQThm (PT)
Decree-Law n. 26/2021 of 31 March 2021 creating the National Pool of Urgent and Temporary Accommodation	Decreto-Lei n.º 26/2021, de 31 de março que procede à criação da Bolsa Nacional de Alojamento Urgente e Temporário		https://bit.ly/3L3aXfq (PT)

Main implementing decrees, guidelines and regulations on asylum procedures, reception conditions, detention, and content of international protection

Title (EN)	Original Title (PT)	Abbreviation	Web Link
<p>Decree-Law n. 252/2000 of 16 October 2000 Organisational structure of the Immigration and Borders Service</p> <p><i>Amended by:</i> Act n.73/2021 of 12 November 2021 (restructures the Portuguese border control system)</p>	<p>Decreto-Lei n.º 252/2000, de 16 de Outubro, que aprova a estrutura orgânica e define as atribuições do Serviço de Estrangeiros e Fronteiras</p> <p><i>Última alteração:</i> Lei n.º 73/2021, de 12 de novembro (aprova a reestruturação do sistema português de controlo de fronteiras)</p>	<p>SEF Structure Decree-Law</p>	<p>https://bit.ly/3agkrmq (PT)</p>
<p>Act n. 147/99 of 1 September 1999 - Children and Youths at Risk Protection Act</p> <p><i>Amended by:</i> Act n. 26/2018 of 5 July 2018</p>	<p>Lei n.º 147/99, de 01 de Setembro – Lei de Protecção de Crianças e Jovens em Perigo</p> <p><i>Última alteração:</i> Lei n.º 26/2018, de 5 de julho</p>		<p>https://bit.ly/3XdCVvi (PT)</p>
<p>Act n. 141/2015 of 8 September 2015 - General Regime of Civil Guardianship Process</p> <p><i>Amended by:</i> Act n. 24/2017 of 24 May 2017</p>	<p>Lei n.º 141/2015, de 08 de Setembro – Regime Geral do Processo Tutelar Cível</p> <p><i>Alteração:</i> Lei n.º 24/2017, de 24 de maio</p>		<p>https://bit.ly/3CQHq6G (PT)</p>
<p>Resolution of the Council of Ministers no. 103/2020 of 23 November 2020, establishing a single system of reception and integration of applicants for and beneficiaries of international protection</p>	<p>Resolução do Conselho de Ministros n.º103/2020, de 23 de novembro, que estabelece um sistema único de acolhimento e integração de requerentes e beneficiários de protecção internacional</p>	<p>Single Reception and Integration System Resolution</p>	<p>https://bit.ly/3oBLXQm (PT)</p>

Decree-Law n. 464/80 of 13 October 1980 establishing new conditions of access and entitlement to social pension <i>Amended by:</i> Decree-Law n.136/2019 of 6 September 2019	Decreto-Lei n.º 464/80, de 13 de Outubro, que estabelece em novos moldes as condições de acesso e de atribuição da pensão social <i>Última alteração:</i> Decreto-Lei n.º 136/2019, de 6 de setembro		https://bit.ly/2MVXE4L (PT)
Ministerial Order n. 301/2021, of 15 December 2021, updating the pensions for 2022	Portaria n.º 301/2021, de 15 de dezembro, que procede à atualização das pensões para 2022		https://bit.ly/3XxUhCD (PT)
Ministerial Order n. 294/2021, of 13 December 2021 approving the annual revaluation of the social assistance index value	Portaria n.º 294/2021, de 13 de dezembro, que procede à atualização anual do valor do indexante dos apoios sociais (IAS)		https://bit.ly/3QHqEG (PT)
Ministerial Order n. 120/2021 of 8 June 2021 establishing the functioning and management of the National Pool of Urgent and Temporary Accommodation	Portaria n.º 120/2021, de 8 de junho que define o modelo de funcionamento e gestão da Bolsa Nacional de Alojamento Urgente e Temporário		https://bit.ly/3jTh0qX (PT)
Ministerial Order n. 257/2012 of 27 August 2012 implementing Law 13/2013 on the Social Insertion Revenue (RSI) and determining the value of the RSI <i>Amended by:</i> Ministerial Order n. 65/2021 of 17 March 2021	Portaria n.º 257/2012, de 27 de agosto, que estabelece as normas de execução da Lei n.º 13/2003, de 21 de Maio, que institui o rendimento social de inserção, e procede à fixação do valor do rendimento social de inserção. <i>Última alteração:</i> Portaria n.º 65/2021, de 17 de março		https://bit.ly/2u6W6hL (PT)
Ministerial Order n. 22/2019 of 17 January 2019 amending the value of the Social Insertion Revenue	Portaria n.º 22/2019, de 17 de janeiro, que atualiza o valor do Rendimento Social de Inserção		https://bit.ly/366echM (PT)

Decree Law n. 113/2011 of 29 November 2011 regulating access to National Health Service in respect to co-payments and special benefits <i>Last amended by:</i> Decree-Law n.96/2020 of 4 November	Decreto-Lei n.º 113/2011, de 29 de novembro, que regula o acesso às prestações do Serviço Nacional de Saúde por parte dos utentes no que respeita ao regime das taxas moderadoras e à aplicação de regimes especiais de benefícios <i>Última alteração:</i> Decreto-Lei n.º 37/2022, de 27 de maio		http://bit.ly/2iaqtL7 (PT)
Ministerial Order n. 30/2001 of 17 January 2001 establishing the specific modalities of health care in different stages of the asylum procedure	Portaria n.º 30/2001, de 17 de Janeiro, que estabelece as modalidades específicas de assistência médica e medicamentosa a prestar nas diferentes fases do procedimento de concessão do direito de asilo, desde a apresentação do respectivo pedido à decisão final que recair sobre o mesmo		https://bit.ly/2F8gRMe (PT)
Ministerial Order n. 1042/2008 of 15 September 2008 establishing the terms of access of asylum seekers and their family members to the National Health Service	Portaria n.º 1042/2008, de 15 de Setembro, que estabelece os termos e as garantias do acesso dos requerentes de asilo e respectivos membros da família ao Serviço Nacional de Saúde		https://bit.ly/2u6dyTt (PT)
Decree-Law n. 227/2005 of 28 December 2005 defining the framework of granting the recognition of foreign qualifications	Decreto-Lei n.º 227/2005, de 28 de Dezembro, que define o novo regime de concessão de equivalência de habilitações de sistemas educativos estrangeiros a habilitações do sistema educativo português ao nível dos ensinos básico e secundário		https://bit.ly/39ssv26 (PT)
Ministerial Order n. 224/2006 of 8 March 2006 approving comparative tables between the Portuguese education system and other education systems	Portaria n.º 224/2006, de 8 de Março, que aprova as tabelas comparativas entre o sistema de ensino português e outros sistemas de ensino, bem como as tabelas de conversão dos sistemas de classificação correspondentes		https://bit.ly/2FUHTYE (PT)

Ministerial Order n. 699/2006 of 12 July 2006 approving comparative tables between the Portuguese education system and other education systems	Portaria n.º 699/2006, de 12 de Julho 2006, que aprova as tabelas comparativas entre o sistema de ensino português e outros sistemas de ensino, bem como as tabelas de conversão dos sistemas de classificação correspondentes		https://bit.ly/2HUJgxn (PT)
Decree-Law n. 83/2000 of 11 May 2000 on the new regime for the issuance of passports <i>Amended by:</i> Act n. 49/2018 of 14 August 2018	Decreto-Lei n.º 83/2000, de 11 de Maio, que aprova o novo regime legal da concessão e emissão dos passaportes <i>Última alteração:</i> Lei n.º 49/2018, de 14 de agosto	Travel Documents Order	http://bit.ly/2AjwA7G (PT)
Implementing Decree n. 84/2007 of 5 November 2007 regulating Act n. 23/2007 of 4 July 2007 on the legal status of entry, residence, departure and removal of foreigners from the national territory <i>Last amended by:</i> Implementing Decree n.4/2022, of 30 September 2022	Decreto Regulamentar n.º 84/2007, de 5 de Novembro, que regulamenta a Lei n.º 23/2007, de 4 de Julho, que aprova o regime jurídico de entrada, permanência, saída e afastamento de cidadãos estrangeiros de território nacional <i>Última alteração:</i> Decreto Regulamentar n.º 4/2022, de 30 de setembro		https://bit.ly/2Pj0N2U (PT)
Ministerial Order n. 1334-E/2010 of 31 December <i>Amended by:</i> Ministerial Order n. 204/2020 of 24 August 2020	Portaria n.º 1334 -E/2010, de 31 de Dezembro, que fixa as taxas e demais encargos a cobrar pelos procedimentos administrativos previstos na Lei n.º 23/2007, de 4 de Julho, com as alterações introduzidas pela Lei n.º 29/2012, de 9 de agosto <i>Última alteração:</i> Portaria n.º 204/2020, de 24 de agosto		https://bit.ly/3iXuSzb (PT)

Decree-Law n. 131/95 of 6 June 1995 approving the Civil Registration Code <i>Amended by:</i> Act n. 49/2018 of 14 August 2018	Decreto-Lei n.º 131/95, de 6 de Junho, que aprova o Código do Registo Civil <i>Última alteração:</i> Lei n.º 49/2018, de 14 de Agosto	Civil Registration Code	https://bit.ly/3gxLDIA (PT)
Decree-Law n. 237-A/2006 of 14 December 2006 approving the regulation of the Portuguese nationality <i>Last amended by:</i> Decree-Law n. 26/2022, of 18 March 2022	Decreto-Lei n.º 237-A/2006, de 14 de Dezembro, que aprova o Regulamento da Nacionalidade Portuguesa <i>Última alteração:</i> Decreto-Lei n.º 26/2022, de 18 de março	Nationality Regulation	http://bit.ly/2neIr5o (PT)
Ministerial Order n. 176/2014 of 11 September 2014	Portaria n.º 176/2014, de 11 de setembro, que regulamenta a realização da prova do conhecimento da língua portuguesa, prevista na alínea <i>b</i>) do n.º 2 do artigo 25.º do Regulamento da Nacionalidade Portuguesa, aprovado pelo Decreto-Lei n.º 237-A/2006, de 14 de Dezembro, na sua atual redação.	Nationality Language Assessment Test Order	https://bit.ly/2MHt3aS (PT)
Decree-Law n. 322-A/2001 of 14 December 2001 approving the Regulation of Administrative Fees of Registries and Notary <i>Amended by:</i> Decree-Law n.109-D/2021 of 9 December 2021	Decreto-Lei n.º 322-A/2001, de 14 de Dezembro de 2001, que aprova o Regulamento Emolumentar dos Registos e Notariado <i>Última alteração:</i> Decreto-Lei n.º 109-D/2021, de 9 de Dezembro		https://bit.ly/3592YrB (PT)

<p>Ministerial Order n. 302/2015 of 22 September 2015, Template refugee travel document</p> <p><i>Amended by:</i> Ministerial Order n. 412/2015 of 27 November 2015</p>	<p>Portaria n.º 302/2015, de 22 de setembro, Modelo do título de viagem para os cidadãos estrangeiros residentes em Portugal na qualidade de refugiados</p> <p><i>Alteração:</i> Portaria n.º 412/2015 de 27 de novembro</p>	<p>Refugee Travel Document Order</p>	<p>https://bit.ly/36cs22b (PT)</p>
<p>Ministerial Order n. 183/2020 of 5 August 2020, approving the creation of Portuguese host language courses and the rules pertaining to its organisation, functioning and certification.</p> <p><i>Amended by:</i> Ministerial Order n. 184/2022, of 21 July 2022</p>	<p>Portaria n.º 183/2020, de 5 de agosto que cria os cursos de Português Língua de Acolhimento, assim como as regras a que obedecem a sua organização, funcionamento e certificação</p> <p><i>Alteração:</i> Portaria n.º 184/2022, de 21 de julho</p>		<p>https://bit.ly/3r6zPZB (PT)</p>
<p>Regulation n. 84/2018 of 2 February 2018 governing the public leasing of housing from IHRU, IP</p>	<p>Regulamento n.º 84/2018, de 2 de fevereiro, de Acesso e Atribuição de Habitações do IHRU, I.P., em Regime de Arrendamento Apoiado</p>		<p>https://bit.ly/2SD3PhF (PT)</p>

Overview of the main changes since the previous report update

The report was previously updated in **May 2022**.

Background information

In January 2022, the European Commission announced having opened **infringement procedures** to Portugal “for failing to transpose in a fully conform manner all provisions” of both the Qualification and the Reception Conditions Directives.⁶ Further information was not available at the time of writing.

As previously reported, in 2020, the Government announced its intention to conduct a **structural reform of SEF** (asylum authority). The main piece of legislation governing this reform was approved in November 2021.⁷ Its entry into force has been repeatedly postponed. In May 2022, it was postponed *sine die*, until the entry into force of the legal framework creating and governing the new Migrations and Asylum Agency.⁸ In December 2022, the government publicly announced that the change would be in place until March 2023.⁹ However, the creation of the new Agency was only approved by the Government in April 2023.¹⁰ According to the information publicly available, minorities were also added to the mandate of the entity, and, as such, it will be called Agency for Minorities, Migration and Asylum (APMMA). It is expected to start its operations within six months.

The **Asylum Act and the Immigration Act were recast** in August 2022. The major change for applicants of international protection relates to the right to work (see infra).

The **UN Working Group on People of African Descent** published the report on its visit to Portugal in August 2022.¹¹ Notably, it:

- ❖ Underlined the need for “[a] clear and effective distinction between migration policy and policies against racism [...]”;¹²
- ❖ Emphasised having “heard many credible accounts of racially motivated violence, ill-treatment, racial profiling, abuse of authority, frequent police brutality and excessive force deployed by different police entities [...] towards people of African descent.”;¹³
- ❖ Noted that people of African descent report specific difficulties in a number of areas of life – housing, employment, healthcare, and education;¹⁴
- ❖ Observed that “[i]n asylum and refugee determination processes, people of African descent reported the imposition of European norms and standards for the recognition of lesbian, gay, bisexual, transgender, queer or intersex status, the effect of which is to erase those identities of Portuguese-speaking people from African countries.”;¹⁵
- ❖ Concluded that “[d]espite the welcoming environment in Portugal for migrants, refugees and asylum seekers, people of African descent report significant bureaucratic and financial barriers to integration.”¹⁶

⁶ European Commission, January Infringements package: key decisions, 26 January 2023, available at: <https://bit.ly/3nD0sJg>.

⁷ Act n. 73/2021 of 12 November 2021 approving the restructure of the Portuguese system of border control, reshaping the regime of the forces and services responsible for internal security and establishing other rules for the redistribution of competences and resources of the Immigration and Borders Service, amended by Act n. 89/2021 of 16 December 2021, available at: <https://bit.ly/3OitRkJ>.

⁸ Act n.11/2022, of 6 May 2022, available at: <https://bit.ly/3GShQQ9>.

⁹ See, for instance: Visão, *MAI anuncia que reestruturação do SEF se vai concretizar até março de 2023*, 20 December 2022, available at: <https://bit.ly/3CWSeAt>.

¹⁰ Comunicado do Conselho de Ministros de 6 de abril de 2023, 6 April 2023, available at: <https://bit.ly/41h8G8q>.

¹¹ Human Rights Council, *Visit to Portugal – Report of the Working Group of Experts on People of African Descent*, A/HRC/51/54/Add.2, 16 August 2022, available at: <https://bit.ly/3CiMwIK>.

¹² Par.74.

¹³ Par.26.

¹⁴ For instance, par.37, 38, 41, 53, 54, 60, 88, and 96.

¹⁵ Par.42.

¹⁶ Par.62.

For 2022, Portugal pledged to **resettle** 300 persons from Turkey, Egypt and Jordan. However, according to the information available to CPR, no one was resettled during the year.

International protection

Asylum procedure

- ❖ **Applicants for international protection:** In 2022, SEF registered a total of 1,992 applications for international protection (including 150 made by persons relocated to Portugal). However, CPR received 2,135 communications throughout the year. According to CPR's observation and to the information provided by SEF, this difference may be due to the fact that SEF deemed asylum applications made by Ukrainian citizens before the activation of the Temporary Protection Directive as being "transposed" to the temporary protection regime (not counting them as applications for international protection in its yearly figures).
- ❖ **Border procedure:** The border procedure was not systematically applied in 2022. According to the information provided by SEF, while a total of 694 were made at the border in 2022, only a residual number was analysed under the border procedure (due to the existence of relevant precautionary measures).
- ❖ **Legal assistance:** Following prior jurisprudence of TCA South, STA ruled on a case concerning the right of the applicant for international protection to request legal aid in order to have a lawyer present during the interview.¹⁷ Overall, the Court ruled that SEF is not bound by a duty to inform applicants of international protection that they may request legal aid for the purposes of legal representation within the administrative stage of the procedure. Furthermore, it considered that, *in extremis*, CPR legal officers will explain the differences between the different types of assistance to applicants and facilitate access to legal aid if the applicant so wishes.
- ❖ **Vulnerable groups:** In June 2022, the Group of Experts on Action on Trafficking in Human Beings (GRETA), published its third report on Portugal, focusing on access to justice and effective remedies for victims, and following-up on issues specific to the national context, including the link between asylum and trafficking in human beings.¹⁸ Asylum-related recommendations mostly focused on identification and referral. In its Concluding Observations published in July 2022, the Committee on the Elimination of Discrimination Against Women (CEDAW) also highlighted the need for effective identification and referral of victims of trafficking in Portugal.¹⁹

Reception conditions

- ❖ **Housing:** Access to adequate housing is identified as a major issue within the national context by asylum seekers, refugees and NGOs. Factors such as high prices, and contractual demands including high deposits, need of guarantors and proof of income hinder the capacity of asylum seekers and refugees to access the market directly, and that of frontline service providers to increase reception capacity. Consequently, asylum seekers and refugees often have to resort to overcrowded or sub-standard housing options when accessing the private housing market.
- ❖ **Access to the labour market:** An amendment to the Asylum Act enacted in August 2022, determines that asylum seekers are entitled to the right to work from the moment of the application for international protection.

¹⁷ STA, Decision 02144/20.3BELSB, 25 January 2022, available at: <https://bit.ly/3EMaIEI>.

¹⁸ Group of Experts on Action on Trafficking in Human Beings (GRETA), Evaluation Report – Portugal – Third Evaluation Round – Access to justice and effective remedies for victims of trafficking in human beings, 13 June 2022, available at: <https://bit.ly/3ii2V9o>.

¹⁹ CEDAW, *Concluding Observations on the tenth periodic report of Portugal*, CEDAW/C/PRT/CO/10, 12 July 2022, available at: <https://bit.ly/3vkbN1n>.

Content of international protection

- ❖ **Status and residence:** In June 2022, the Government amended Decree-Law 10-A/2020,²⁰ determining, inter alia, that documents (including visas and residence permits) expired since its entry into force (or within the previous 15 days) were to be accepted as valid until 31 December 2022. It further determined that, after 31 December 2022, such documents would continue to be accepted providing the holder has an appointment for its renewal. Said Decree-Law was further amended in December 2022,²¹ inter alia extending the validity of such documents until 31 December 2023. It further clarified that this special regime is not applicable to documents concerning temporary protection.
- ❖ **Cessation of international protection:** In 2022, a total of 33 decisions of cessation of subsidiary protection were issued by the Portuguese authorities, mostly concerning nationals of Ukraine (19) and DRC (7). As in 2021, according to the information provided by SEF, in 2022, cessation of refugee status also occurred (while extremely rare).

Temporary protection

The information given hereafter constitute a short summary of the Spain Report on Temporary Protection, for further information, see [Annex on Temporary Protection](#).

Temporary protection procedure

- ❖ **Scope of temporary protection:** On 1 March 2022, the Council of Ministers adopted a Resolution establishing the criteria for granting of temporary protection for displaced people from Ukraine.²² The Resolution was subsequently amended on 11 March to widen its personal scope of application (and to bring it in line with the Council decision on the same issue). In December 2022, the personal scope of temporary protection in Portugal was once again redefined, this time restricting eligibility.²³ As such, at the time of writing, third country nationals and stateless persons who were not beneficiaries of international protection in Ukraine are only eligible if they are family members of a Ukrainian national/beneficiary of international protection in Ukraine, or if they were permanent residents in the country and cannot return to their country of origin in a safe and lasting manner.
- ❖ **Registration for temporary protection:** According to the information provided by SEF, in the course of 2022, 56,599 persons requested registration for temporary protection to the Portuguese authorities. Out of these, 44,524 were Ukrainian nationals, and 12,075 third country nationals that lived in Ukraine. By the end of the year, there were 45,613 beneficiaries of temporary protection registered in the country. SEF has also reported that 1,535 statuses were cancelled during the year. Persons whose registration for temporary protection is refused are not issued a written decision, nor informed of the right to appeal on a systematic basis. Data on such refusals is not available.

Content of temporary protection

- ❖ **Residence permit:** While this is established in the law, according to CPR's experience beneficiaries of temporary protection have not been issued the residence permit (card), at least on a systematic basis. SEF confirmed that this is the case and that the non-issuance of residence permits was determined by the Ministry of Home Affairs.

²⁰ Decree-Law 10-A/2020 of 13 March 2020, available in Portuguese at: <https://bit.ly/3iQ0IYE>.

²¹ Decree-Law 90/2022, of 30 December 2022.

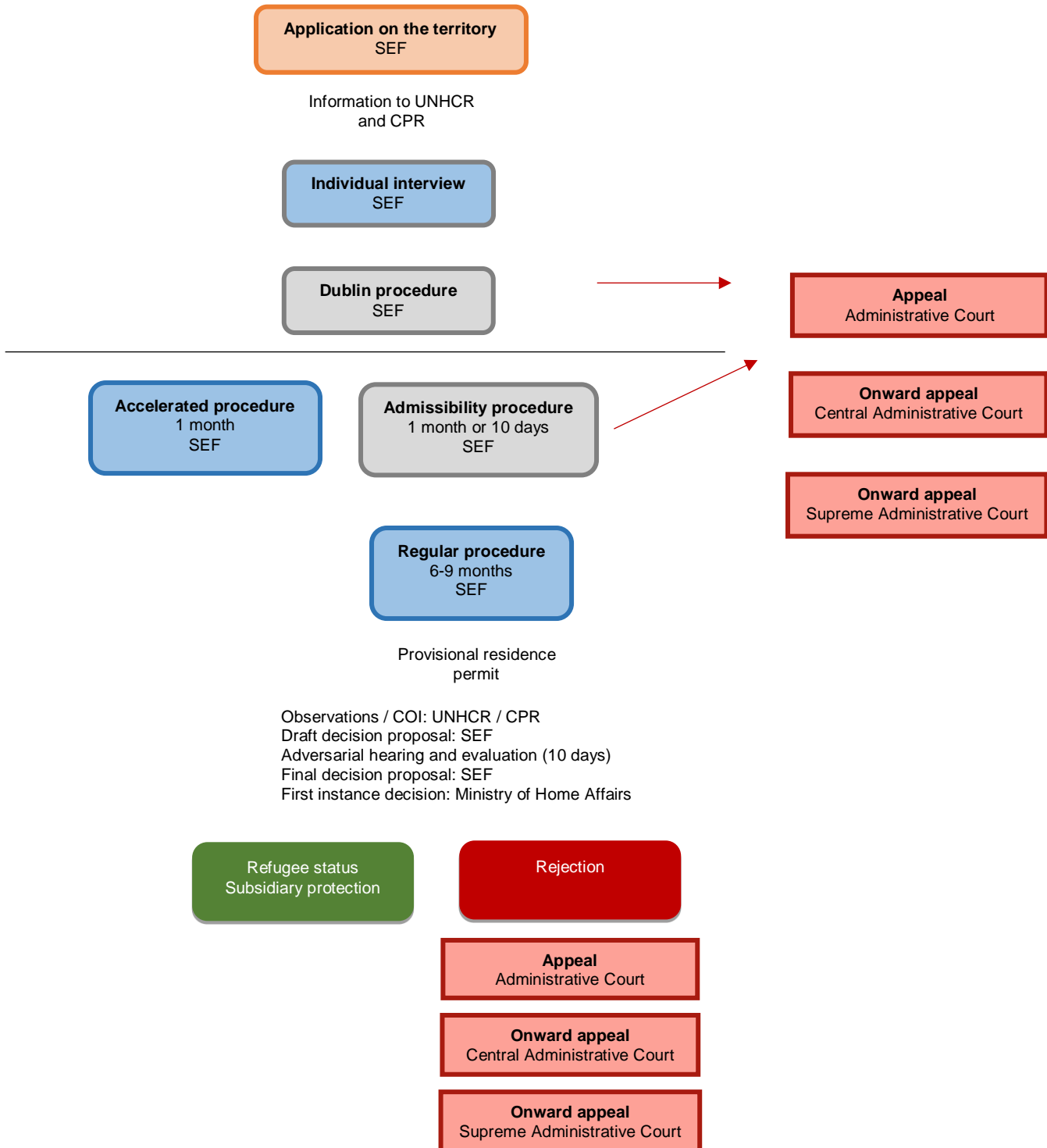
²² Resolution of the Council of Ministers no.29-A/2022 of 1 March 2022, available at: <https://bit.ly/3vRYoie>

²³ Resolution of the Council of Ministers no.135/2022, of 28 December 2022, available at: <https://bit.ly/3HTIWbf>. The fully amended text is available at: <https://bit.ly/3I9Xx9l>.

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

- | | | |
|--|---|--|
| ❖ Regular procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: ²⁴ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ▪ Fast-track processing: ²⁵ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Dublin procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Admissibility procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Border procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Accelerated procedure: ²⁶ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Specific admissibility rules apply to subsequent applications and to applications following a removal order.

Are any of the procedures that are foreseen in the law, not being applied in practice? Yes No

3. List of authorities that intervene in each stage of the procedure

Stage of the procedure	Competent authority (EN)	Competent authority (PT)
Registration of applications	Immigration and Borders Service	Serviço de Estrangeiros e Fronteiras (SEF)
Dublin	Immigration and Borders Service	Serviço de Estrangeiros e Fronteiras (SEF)
Refugee status determination	Immigration and Borders Service Ministry of Home Affairs	Serviço de Estrangeiros e Fronteiras (SEF) Ministério da Administração Interna
First appeal	Administrative and Fiscal Courts	Tribunais Administrativos e Fiscais
Onward appeal	Central Administrative Courts Supreme Administrative Court	Tribunais Centrais Administrativos Supremo Tribunal Administrativo
Subsequent application	Immigration and Borders Service Ministry of Home Affairs	Serviço de Estrangeiros e Fronteiras (SEF) Ministério da Administração Interna

4. Determining authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
Immigration and Borders Service (SEF), Asylum and Refugees Department (GAR)	24	Ministry of Home Affairs	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Source: Information provided by SEF (April 2023).

²⁴ For applications likely to be well-founded or made by vulnerable applicants.

²⁵ Accelerating the processing of specific caseloads as part of the regular procedure, without reducing procedural guarantees.

²⁶ Entailing lower procedural safeguards, whether labelled as “accelerated procedure” in national law or not.

In accordance with the Asylum Act and the internal regulation of the Immigration and Borders Service (SEF), the responsibility for examining applications for international protection and drafting first instance decisions lies with the Asylum and Refugees Department of SEF (SEF-GAR). Decisions granting, refusing (except in accelerated and admissibility procedures), ceasing, and withdrawing international protection are formally adopted by the Ministry of Home Affairs.²⁷ In practice, the latter adopts such decisions based on the assessment and recommendations of the determining authority, which thus remains the main entity responsible for the examination of asylum claims.

SEF-GAR is the specialised determining authority in the field of asylum. Its competencies are restricted to the following asylum-related tasks:²⁸

- (i) to organise and process asylum applications;
- (ii) to organise and process subsidiary protection applications;
- (iii) to organise and process Dublin procedures and, where necessary, to issue *laissez passer*;
- (iv) to issue reasoned opinions on submissions for refugee resettlement;
- (v) to issue reasoned opinions on applications for the renewal of refugee travel documents presented before the Portuguese Consulates;
- (vi) to issue refugee identity cards and travel documents as well as residence permits provided for in the Asylum Act, and to renew and extend the validity of such documents;
- (vii) to act as contact point of the EUAA; and
- (viii) to provide for the strategic planning of EUAA-related activities.

In 2022, SEF-GAR was composed of 24 officials, including: (i) 11 caseworkers responsible for the examination of applications for international protection under all the applicable procedures (except the Dublin procedure), including 2 officials responsible for revising files and proposals and one official responsible for the final decision; (ii) 2 caseworkers responsible for Dublin procedures; and (iii) 8 administrative support officers. The Department was further composed by one head of Department, one head of the examination unit and one head of administrative personnel.

According to SEF, caseworkers conduct interviews, COI research, case analysis, and draft decision proposals. Such decisions are revised by supervisors who also investigate suspicions of fraud (cancellation procedures) and draft and supervise the implementation of procedural and eligibility guidelines. Administrative officers ensure the registration of applications and the screening/referral of cases.

Quality assurance

According to the information provided by SEF, quality is ensured through the following mechanisms: (i) the supervisors review each report drafted by the caseworkers; (ii) case law is constantly taken into account; (iii) caseworkers receive regular training within the European training curriculum of the EUAA.

As previously reported, in 2020, the Government announced its intention to conduct a structural reform of SEF. The main piece of legislation governing this reform was approved in November 2021.²⁹ It provides for the reallocation of SEF's competencies to existing/new entities:

- ❖ The National Republican Guard (*Guarda Nacional Republicana*, GNR) will be in charge of surveillance and control of maritime and land borders, and will be responsible for executing expulsion decisions within its jurisdiction;³⁰

²⁷ Article 29(1) Asylum Act; Article 17 Decree-Law 252/2000.

²⁸ Article 17(1) Decree-Law 252/2000.

²⁹ Act n. 73/2021 of 12 November 2021 approving the restructure of the Portuguese system of border control, reshaping the regime of the forces and services responsible for internal security and establishing other rules for the redistribution of competences and resources of the Immigration and Borders Service, amended by Act n. 89/2021 of 16 December 2021, available at: <https://bit.ly/3OitRkKJ>.

³⁰ Article 2 Act n. 73/2021 of 12 November 2021.

- ❖ The Public Security Police (*Polícia de Segurança Pública, PSP*) will be in charge of surveillance and control of air borders, and will be responsible for executing expulsion decisions within its jurisdiction;³¹
- ❖ The Criminal Police (*Polícia Judiciária, PJ*) will investigate crimes related to illegal migration and trafficking in human beings;³²
- ❖ The administrative competencies of SEF will be allocated to the Institute of Registries and Notary (*Instituto dos Registos e Notariado, IRN*) and to a entity to be created, the Portuguese Agency for Migration and Asylum (*Agência Portuguesa para as Migrações e Asilo, APMA*). The IRN will be responsible for foreigners with a residence permit and for the issuance of travel documents. APMA will be the entity in charge of the implementation of public policies related to migration and asylum and to issue opinions on requests for visas, applications for asylum and resettlement.³³
- ❖ Regular training on human rights, migration law and asylum law is to be provided to the officers of PSP, GNR, PJ and IRN.³⁴

The entry into force of this law has been repeatedly postponed. In May 2022, it was postponed *sine die*, until the entry into force of the legal framework creating and governing the new Migrations and Asylum Agency.³⁵ In December 2022, the government publicly announced that the change would be in place until March 2023.³⁶ However, the creation of the new Agency was only approved by the Government in April 2023.³⁷ According to the information publicly available, minorities were also added to the mandate of the entity, and, as such, it will be called Agency for Minorities, Migration and Asylum (APMMA). It is expected to start its operations within six months.

5. Short overview of the asylum procedure

The Portuguese asylum procedure is a single procedure for both refugee status and subsidiary protection.³⁸ Different types of procedure are applicable depending on whether the asylum application:

- ❖ is submitted to the regular procedure;
- ❖ is deemed unfounded (including in the case of applications following a removal procedure) and therefore submitted to an accelerated procedure;
- ❖ is deemed inadmissible, or
- ❖ is presented at a national border and processed under the border procedure.

Applications for international protection must be presented, orally, or in writing, to SEF or to any other police authority as soon as possible.³⁹ In the latter case, the police authority has 48 hours to inform SEF of the application.⁴⁰

SEF has to register the asylum application within 3 working days of presentation and to issue the applicant a certificate of the asylum application within 3 days after registration.⁴¹ The applicant must be informed of their rights and duties in a language they understand or are expected to understand.⁴² Moreover, SEF must immediately inform the United Nations High Commissioner for Refugees (UNHCR) and the Portuguese Refugee Council (CPR), as an organisation working on its behalf, of all asylum applications.⁴³

³¹ Article 2 Act n. 73/2021 of 12 November 2021.

³² Article 2 Act n. 73/2021 of 12 November 2021.

³³ Article 3 Act n. 73/2021 of 12 November 2021.

³⁴ Article 12 Act n. 73/2021 of 12 November 2021.

³⁵ Act n.11/2022, of 6 May 2022, available at: <https://bit.ly/3GShQQ9>.

³⁶ See, for instance: Visão, *MAI anuncia que reestruturação do SEF se vai concretizar até março de 2023*, 20 December 2022, available at: <https://bit.ly/3CWSeAt>.

³⁷ Comunicado do Conselho de Ministros de 6 de abril de 2023, 6 April 2023, available at: <https://bit.ly/41h8G8q>.

³⁸ Article 10(2) Asylum Act.

³⁹ Articles 13(1) and 19(1)(d) Asylum Act.

⁴⁰ Article 13(2) Asylum Act.

⁴¹ Articles 13(7) and 14(1) Asylum Act.

⁴² Article 14(2) Asylum Act.

⁴³ Articles 13(3), 24(1), 33(3), 33-A(3) Asylum Act.

UNHCR and CPR are further entitled to be informed of the most relevant procedural acts (e.g. interview transcripts and decisions) upon consent of the applicant,⁴⁴ and to provide their observations to SEF at any time during the procedure.⁴⁵ The Asylum Act also determines that UNHCR and CPR are to be informed of decisions determining loss of international protection, regardless of the consent of the applicant.⁴⁶

Except for special cases, such as applicants lacking legal capacity,⁴⁷ all asylum applicants must undergo either a Dublin interview or an interview that addresses the remaining inadmissibility grounds and the merits of the application. This is provided both on the territory,⁴⁸ and at the border.⁴⁹

According to the law, following the interview on the territory, SEF produces a document narrating the essential facts of the application and the applicant has 5 days to seek revision of the narrative (with the exception of subsequent applications and applications following a removal decision).⁵⁰ National jurisprudence provides that the applicant must be granted an opportunity to reply to the prospective outcome of the application (admission to the regular procedure, accelerated refusal on the merits or inadmissibility) and not only to the facts adduced during the personal interview.

The admissibility of subsequent applications⁵¹ and applications following a removal order⁵² is subject to specific rules.

Admissibility procedure

The National Director of SEF has 30 days to make a decision on the admissibility of applications on the territory⁵³ (10 days for subsequent applications and applications following a removal order).⁵⁴ In the border procedure, that timeframe is reduced to 7 days.⁵⁵

If an application on the territory is rejected as inadmissible, the asylum seeker has 8 days to appeal the decision before the Administrative Court, with automatic suspensive effect,⁵⁶ with the exception of inadmissible subsequent applications and applications following a removal order (4 days to appeal, with automatic suspensive effect).⁵⁷ Failing an appeal, the applicant has 20 days to leave the country.⁵⁸ In the case of border procedures, the time limit to appeal is reduced to 4 days.⁵⁹

In the case of Dublin procedures, the deadline for the admissibility decision is suspended pending a reply from the requested Member State.⁶⁰ Upon notification of a 'take charge'/'take back' decision, the applicant has 5 days to appeal before the Administrative Court with suspensive effect.⁶¹

⁴⁴ E.g. Articles 17(3), 20, 24(5), 29(6) Asylum Act.

⁴⁵ Article 28(5) Asylum Act.

⁴⁶ Article 43(3) Asylum Act.

⁴⁷ Article 16(5) Asylum Act.

⁴⁸ Articles 16 Asylum Act and 33-A(4) (for applications following a removal decision).

⁴⁹ Article 24(2) and (3) Asylum Act.

⁵⁰ Article 17 Asylum Act.

⁵¹ Article 33 Asylum Act.

⁵² Article 33-A Asylum Act.

⁵³ Article 20(1) Asylum Act.

⁵⁴ Articles 33(4) and 33-A(5) Asylum Act.

⁵⁵ Article 24(4) Asylum Act.

⁵⁶ Articles 22(1) Asylum Act.

⁵⁷ Articles 33(6) and 33-A(6) Asylum Act.

⁵⁸ Articles 21(2) and (3) and 33(9) Asylum Act.

⁵⁹ Article 25(1) Asylum Act.

⁶⁰ Article 39 Asylum Act. This article refers to applications on the territory and border applications with the exception of subsequent applications and applications following a removal decision.

⁶¹ Article 37(4) Asylum Act.

Regular procedure

As soon as an asylum application is deemed admissible,⁶² it proceeds to an eligibility evaluation.⁶³ In accordance with the law, this stage lasts up to 6 months but can be extended to 9 months in particularly complex cases.⁶⁴ The asylum seeker receives a provisional residence permit valid for 6 months (renewable).⁶⁵

SEF must evaluate all relevant facts to prepare a reasoned decision.⁶⁶ This is generally done on the basis of the personal interview conducted during the admissibility stage of the procedure, given that it also encompasses the merits of the application. As mentioned above, UNHCR and CPR are entitled to present their observations to SEF at any time during the procedure in accordance with Article 35 of the 1951 Refugee Convention.⁶⁷

Upon notification of the proposal for a final decision, the applicant has 10 days to respond.⁶⁸ SEF then sends the recommendation to its Director, who has 10 days to present it to the Ministry of Home Affairs. In turn, the Ministry of Home Affairs has 8 days to adopt a final decision.⁶⁹

In case of a negative decision, the applicant may lodge an appeal with automatic suspensive effect before the Administrative Court within 15 days,⁷⁰ or voluntarily depart from national territory within 30 days (after this period, the applicant will be subject to the general removal regime).⁷¹

Accelerated procedure

The law contains a list of grounds that, upon verification, determine that an application is subjected to an accelerated procedure and deemed unfounded. These grounds include, among others, subsequent applications that are not deemed inadmissible and applications following a removal procedure.⁷²

While the rules governing accelerated procedures provide for the basic principles and guarantees of the regular procedure,⁷³ they lay down time limits for the adoption of a first instance decision on the merits of the application that are significantly shorter than those of the regular procedure.⁷⁴ In addition, these rules entail reduced procedural guarantees, such as exclusion from the right of the applicant to seek a revision of the narrative of their personal interview,⁷⁵ or to be notified of and respond to SEF's reasoning of the proposal for a final decision,⁷⁶ as well as shorter appeal deadlines.⁷⁷

⁶² Article 20(4) Asylum Act. In the absence of a decision within 30 days the application is automatically admitted to the procedure.

⁶³ Article 21(1) Asylum Act.

⁶⁴ Article 28(2) Asylum Act.

⁶⁵ Article 27(1) Asylum Act. Ministerial Order 597/2015 provides for the model and technical features of the provisional residence permit.

⁶⁶ Article 28(1) Asylum Act.

⁶⁷ Article 28(5) Asylum Act.

⁶⁸ Article 29(2) Asylum Act.

⁶⁹ Article 29(4) and (5) Asylum Act.

⁷⁰ Article 30(1) Asylum Act.

⁷¹ Article 31 Asylum Act.

⁷² Article 19 Asylum Act.

⁷³ This includes access to the procedure, the right to remain in national territory pending examination, the right to information, personal interviews, the right to legal information and assistance throughout the procedure, the right to free legal aid, special procedural guarantees, among others.

⁷⁴ These consist of 30 days (Article 20(1) Asylum Act) except for applications following a removal procedure which are subject to a time limit of 10 days (Article 33-A(5) Asylum Act). The time limit is reduced to 7 days in the case of accelerated procedures at the border (Article 24(4) Asylum Act).

⁷⁵ This is limited to accelerated procedures at the border and in the case of applications following a removal procedure.

⁷⁶ See infra the section on Accelerated Procedures for details on the current practice in this regard.

⁷⁷ These consist of 8 days for accelerated procedures on the territory (Article 22(1) Asylum Act) except for the case of subsequent applications and applications following a removal procedure, where the deadline is 4 days (Articles 33(6) and 33-A(6) Asylum Act). The time limit is reduced to 4 days in the case of accelerated procedures at the border (Article 25(1) Asylum Act).

As in the regular procedure, the appeal has an automatic suspensive effect.⁷⁸ However, the onward appeal in the case of an application following a removal order does not.⁷⁹

Border procedure

The law provides for a special procedure regarding applications made at a national border.⁸⁰ While this procedure provides for the basic principles and guarantees of the regular procedure,⁸¹ it lays down a significantly shorter time limit for the adoption of a decision regarding admissibility or merits (if the application is furthermore subject to an accelerated procedure).⁸²

Additionally, the border procedure is characterised by reduced procedural guarantees such as the removal of the applicant's right to seek revision of the narrative of their personal interview,⁸³ and a shorter appeal deadline before the Administrative Court (4 days).⁸⁴ Furthermore, asylum seekers can be detained during the border procedure.⁸⁵

The border procedure has not been applied in practice since March 2020.⁸⁶ Asylum seekers that apply for international protection at the border have generally been granted entry into national territory, not subject to detention, and their applications have been processed according to the rules applicable to applications made in the territory.

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? Yes No
2. Is there a border monitoring system in place? Yes No
3. Who is responsible for border monitoring? National authorities NGOs Other
4. How often is border monitoring carried out? Frequently Rarely Never

The Portuguese authorities are bound by the duty to protect asylum seekers and beneficiaries of international protection from *refoulement*.⁸⁷ National case law has reaffirmed the protection against *refoulement* both on national territory and at the border, regardless of the migrant's status,⁸⁸ and in cases

⁷⁸ Articles 22(1) and 33-A(6) Asylum Act.

⁷⁹ Article 33-A(8) Asylum Act.

⁸⁰ Article 23(1) Asylum Act.

⁸¹ This includes access to the procedure, the right to remain in national territory pending examination, the right to information, personal interviews, the right to legal information and assistance throughout the procedure, the right to free legal aid, special procedural guarantees, among others.

⁸² These consist of 7 days for both admissibility decisions and accelerated procedures at the border (Article 24(4) Asylum Act) as opposed to 30 days for admissibility decisions on the territory and between 10 and 30 days for accelerated procedures on the territory.

⁸³ Article 24 Asylum Act.

⁸⁴ Article 25(1) Asylum Act.

⁸⁵ Articles 26(1) and 35-A(3)(a) Asylum Act.

⁸⁶ Persons applying for international protection at the border have generally been granted entry into national territory, and their applications have been processed according to the rules applicable to applications made in the territory.

⁸⁷ Articles 2(aa), 47 and 65 Asylum Act; Articles 31(6), 40(4) and 143 Immigration Act.

⁸⁸ Nevertheless, the recent replies of Portugal to the list of issues of the Committee on the Elimination of Discrimination against Women (CEDAW) seem to indicate an understanding of the principle of non-refoulement as being almost exclusively linked to refugee status determination: “[t]he principle of “non-

of either direct or indirect exposure to *refoulement*.⁸⁹ CPR is unaware of national case law that addresses the extraterritorial dimension of *non-refoulement*.

There are no published reports by NGOs about cases of actual *refoulement* at the border of persons wanting to apply for asylum.

CPR does not conduct border monitoring. Furthermore, it only has access to applicants after the registration of their asylum claim and, within the context of border procedures, once SEF conducted the individual interview.⁹⁰ At times, CPR receives third party contacts reporting the presence of individuals in need of international protection at the border. With rare exceptions, and even where CPR does not immediately intervene, the registration of the corresponding applications in these cases is normally communicated by SEF to CPR in the following days (see [Registration of the asylum application](#)).

In 2014, CPR carried out research on access to protection and the principle of *non-refoulement* at the border and in particular at **Lisbon Airport**.⁹¹ While no cases of actual push backs at the border were registered, the research allowed for the identification of certain shortcomings such as extraterritorial *refoulement* in the framework of extraterritorial border controls by air carrier personnel in conjunction with SEF in Guinea Bissau.

Regarding persons refused entry at border points, shortcomings with the potential to increase the risk of *refoulement* identified in 2014 included: (a) challenges in accessing free legal assistance and an effective remedy, compounded by the absence of a clear legal/policy framework for the systematic assessment of the risk of *refoulement*; and (b) poor information provision to persons and lack of training to immigration staff on *non-refoulement* obligations. These risk factors were aggravated by the absence of border monitoring by independent organisations. To CPR's knowledge, no further research on the topic has been conducted on this issue since then.

With regard to access to free legal assistance, in November 2020, the Ministry of Home Affairs, the Ministry of Justice and the Bar Association signed a protocol to ensure the provision of legal counselling and assistance to foreigners to whom entry into national territory was refused (Lisbon, Porto, Faro, Funchal and Ponta Delgada airports).⁹² According to available information this protocol was made within the framework of Article 40(2) of the Immigration Act and is not intended to cover asylum procedures.⁹³

While available information does not substantiate any ongoing instances of extraterritorial *refoulement*, to the extent of CPR's knowledge, there are no other significant changes regarding shortcomings for persons refused entry at the border. As such, the situation in relation to refusals of entry and related possible risks of *refoulement* remains unclear.

refoulement" is established in Law 27/2008 and guarantees the applicant's right to not be returned to a country (of origin, residence or otherwise), where his/her life or freedom would be threatened if specific conditions are met and referred in the Geneva Convention and in the Portuguese Asylum Law - provided that this risk occurs "(...) because of their race, religion , nationality , membership of a particular social group, or opinions policies (...)" and should be a clear and intrinsic relation of cause and effect between the return of the applicant and the specific threat that can be targeted. The observance of the principle of non-refoulement is intrinsically linked to the determination of refugee status, thus when it is established that an asylum application is unfounded, for not meeting any of the criteria defined by the Geneva Convention and New York Protocol in recognition of refugee status, the principle mentioned above is fully observed to that extent." (available at: <https://bit.ly/3cnDTjy>).

⁸⁹ See e.g., TAC Lisbon, Decisions 1480/12.7BELSB and no. 2141/10.7BELSB (unpublished). More recently, TCA South noted that Portugal is also bound to protect applicants against indirect refoulement within the context of Dublin procedures (TCA South, Decision 775/19.3BELSB, 10 September 2020, available at: <https://bit.ly/3mzaaYx>).

⁹⁰ Please note that border procedures have not been systematically applied since March 2020.

⁹¹ CPR, *Access to Protection: A Human Right, country report, Portugal*, 2014, available at: <https://bit.ly/3sWjYNx>.

⁹² Ministry of Home Affairs, *Estrangeiros impedidos de entrar em Portugal vão ter direito a advogado*, 4 November 2020, available in Portuguese at: <https://bit.ly/3oCd8L3>.

⁹³ The information publicly available regarding the implementation of this Protocol was still limited at the time of writing. See Ombudsman, *Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*, 24 June 2021, pp.96 et seq, available at: <https://bit.ly/3lCCedl>.

The UN Committee Against Torture noted in 2019 that Portugal should '[e]nsure that, in practice, no one may be expelled, returned or extradited to another State where there are substantial grounds for believing that he or she would run a personal and foreseeable risk of being subjected to torture and ill-treatment' and that procedural safeguards and effective remedies regarding the prohibition of *refoulement* are available.⁹⁴

CPR is aware of one case in the course of 2022 where an extradition was carried out while the asylum application was pending.

According to the information provided by SEF, no sea arrivals occurred in the course of 2022.

Legal access to the territory (beyond family reunification)

Since 2018, Portugal has systematically participated in *ad hoc relocation* mechanisms following rescue operations in the Mediterranean and disembarkation in Malta and Italy.⁹⁵

IOM supports the implementation of relocation to Portugal through the use of medical screenings, the provision of pre-departure orientation information, and logistical support for the transfer.

According to information provided by SEF, a total of 150 applicants were relocated to Portugal in 2022.

In 2020, Portugal committed to receiving 500 unaccompanied children from Greece.⁹⁶ According to IOM, 126 children and young adults were transferred to Portugal in 2022 within this programme.

Portugal was one of the EU Member States that signed the declaration on a voluntary solidarity mechanism promoted by the French Presidency of the Council.

Resettlement is explicitly provided for in the Asylum Act since 1998.

The law determines that requests for resettlement of refugees under UNHCR's mandate are to be presented to the Ministry of Home Affairs.⁹⁷ Within 60 days, SEF must conduct all the actions needed for the analysis and decision of each case.⁹⁸ The law provides for the issuance of an opinion on each request by an NGO named for that purpose within the framework of a specific MoU.⁹⁹ Following referral of the case by SEF, the Ministry of Home Affairs must issue a decision within 15 days.¹⁰⁰

Portugal has a resettlement programme in place since 2006. Currently, resettlement is mostly funded through European funds. Within the context of an MoU with the Portuguese authorities, IOM performs medical assessments and organises pre-departure orientation activities.

For 2022, Portugal pledged to resettle 300 persons from Turkey, Egypt and Jordan. However, according to the information available to CPR, no one was resettled during the year.

In 2021, Portugal was involved in the **evacuation of Afghan citizens**. In August 2021, the Government announced the country's availability to host Afghans who had collaborated with the Portuguese military forces deployed to Afghanistan, and persons who have collaborated with EU, NATO and UN missions in

⁹⁴ Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, available at <https://bit.ly/2G1F07z>, par.38(a) and (b).

⁹⁵ According to the information provided by IOM, 8 persons were transferred from Malta and 26 from Italy in the course of 2022.

⁹⁶ Reuters, 'Portugal to take in 500 unaccompanied migrant children from Greek camps', 12 May 2020, available at: <https://reut.rs/3lCCBoC>.

⁹⁷ Article 35(1) Asylum Act.

⁹⁸ Article 35(2) Asylum Act.

⁹⁹ Article 35(3) Asylum Act.

¹⁰⁰ Article 35(4) Asylum Act.

the country.¹⁰¹ Specific references to vulnerable cases (e.g., women and girls) were also made by Government officials.

While official information on the selection criteria and procedures has not been shared by the authorities, according to the information available to CPR, those evacuated mostly fell in one of the following categories: persons who worked with the Portuguese Military Forces in Afghanistan, in the EU mission or with links to the UN; journalists; persons identified by the Directorate General for Consular Affairs and Communities (*Direcção-Geral dos Assuntos Consulares e das Comunidades*), or relatives of national citizens. A group of the Afghanistan Women's Soccer Team,¹⁰² and another of the Afghanistan National Institute of Music,¹⁰³ and respective family members have also been hosted in the country.¹⁰⁴

A specific scheme was adopted to ensure the reception of those evacuated to Portugal (see [Differential treatment in reception](#)).¹⁰⁵ The asylum applications followed the regular procedure. According to the information available to CPR, admission to the regular procedure and issuance of the corresponding temporary residence permits were overall quick, and, according to the information available to CPR the vast majority of first instance decisions issued to these applicants granted them refugee status.

A total of 768 applications for international protection were made in 2021 within this context.

In 2022, the national authorities continued to allow for humanitarian admissions of Afghans for the purposes of family reunification.

Such requests must be submitted to ACM, and fulfil the following requirements: (1) existence of travel documents; (2) logistical ability to travel from a third country, as the persons concerned must be outside Afghanistan to request the relevant visa;¹⁰⁶ (3) financial ability to travel – as costs must be fully covered by the persons concerned; (4) prior identification of a hosting entity in Portugal to ensure the provision of support.¹⁰⁷ ACM assesses the request, and accepted applications are referred to the relevant Portuguese Embassy for the purposes of visa issuance.

According to the information provided by SEF, a total of 140 persons evacuated from Afghanistan applied for international protection in Portugal in 2022.

¹⁰¹ See, for instance: Expresso, *Afeganistão: Portugal participa na mobilização internacional de apoio a refugiados*, 15 August 2021, available at <https://bit.ly/36EvmBY>.

¹⁰² Diário de Notícias, *Portugal recebeu grupo de 80 afegãos, a maioria jogadoras de futebol*, 20 September 2021, available at: <https://bit.ly/3LbtYfS>.

¹⁰³ Euronews, *Jovens músicos afegãos encontram esperança em Portugal*, 14 December 2021, available at: <https://bit.ly/3xMZKvQ>.

¹⁰⁴ See also Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2022*, June 2022, pp.78-79, available in Portuguese at: <https://bit.ly/3XySyzg>.

¹⁰⁵ The corresponding financial framework was adopted by Decision of the Council of Ministers no.166/2021, of 10 December, available at: <https://bit.ly/3MBvuvv>.

¹⁰⁶ According to the information available at the time of writing, Portuguese Embassies in Pakistan and Iran are only able to issue visas if the persons concerned left Afghanistan legally.

¹⁰⁷ According to the information available at the time of writing, no public funding stream will be available for such provision of such support by civil society organisations.

2. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for making an application? Yes No
❖ If so, what is the time limit for making an application?
2. Are specific time limits laid down in law for lodging an application? Yes No
❖ If so, what is the time limit for lodging an application?
3. Are making and lodging an application distinct stages in the law or in practice? Yes No
4. Is the authority with which the application is lodged also the authority responsible for its examination? Yes No
5. Can an application for international protection for international protection be lodged at embassies, consulates or other external representations? Yes No

While the asylum application can be presented ('made') either to SEF or to any other police authority, the responsibility to register asylum claims lies solely with SEF.¹⁰⁸ If an asylum application is presented to a different police authority, it must be referred to SEF by the relevant authority within 48 hours.¹⁰⁹

The responsibility for organising asylum files (including registration) lies with SEF's Asylum and Refugees Department (SEF-GAR).¹¹⁰ SEF-GAR is required to inform CPR, as an organisation working on UNHCR's behalf, of the registration of individual asylum applications.

In 2022, SEF registered a total of 1,992 applications for international protection (including 150 made by persons relocated to Portugal). However, CPR received 2,135 communications throughout the year.¹¹¹ According to CPR's observation and to the information provided by SEF, this difference may be due to the fact that SEF deemed a number of asylum applications made by Ukrainian citizens before the activation of the Temporary Protection Directive as being "transposed" to the temporary protection regime (not counting them as applications for international protection in its yearly figures).¹¹²

In accordance with the law, applications for international protection must be presented to SEF or to any other police authority as soon as possible.¹¹³

While there are no specific time limits for asylum seekers to lodge their application, the law provides for use of the [Accelerated Procedure](#) in case the asylum applicant enters or remains irregularly on national territory and fails to apply for asylum as soon as possible without a valid reason.¹¹⁴ This provision has rarely been applied in practice and, according to the experience of CPR, when applied, it is usually combined with other grounds for the application of accelerated procedures.

Failure to apply for asylum at the earliest possible time, unless the applicant can demonstrate good reason for not having done so, also constitutes a ground for not granting the benefit of the doubt.¹¹⁵ According to CPR's observation, this provision has been applied by SEF in practice.

¹⁰⁸ Article 13(1) and (7) Asylum Act.

¹⁰⁹ Article 13(2) Asylum Act.

¹¹⁰ Article 17 Decree-Law 252/2000.

¹¹¹ As of 31/01/2023. Please note that statistics included in this report from CPR refer to the total number of applications communicated to the organisation in accordance with the communication duties established in the Asylum Act.

¹¹² CPR considers that all the applications for international protection registered during the year should be accounted for (even if the applicant subsequently withdraws it, for instance). There is no specific legal basis for this so called "transposition" of applications for international protection to the temporary protection regime, and it is unclear whether this amounts to formal withdrawal of the applications for international protection.

¹¹³ Article 13(1) Asylum Act.

¹¹⁴ Article 19(1)(d) Asylum Act.

¹¹⁵ Article 18(4)(d) Asylum Act.

Persons refused entry at the border are liable to immediate removal to the point of departure,¹¹⁶ meaning that, in practice, they are required to present their asylum application immediately.

Upon presentation of the application, the asylum seeker is required to fill out a preliminary form, which includes information on identification, itinerary, grounds of the asylum application, supporting evidence, and witnesses. This preliminary form is available in Portuguese, English, French, Spanish, Arabic, Lingala, Russian, Ukrainian, and Pashtu. According to CPR's experience, asylum seekers are not systematically provided with quality interpretation services at this stage of the procedure, which may result in the collection of insufficient and low-quality information.

Since December 2019, following an agreement between SEF and CPR, two CPR liaison officers have been deployed to the premises of SEF-GAR, where the majority of applications are made, inter alia, to facilitate registration, provide information to applicants, and to perform the necessary referrals (e.g. for housing). According to CPR's observation, this measure has facilitated communication between the relevant entities and the provision of support to asylum seekers.

SEF is required to register the asylum application within 3 working days of presentation and to issue the applicant with a certificate of asylum application within 3 days of registration.¹¹⁷ Despite isolated delays (e.g. related to the registration of asylum applications presented in SEF's regional branches), CPR has not encountered systemic or serious problems regarding the registration of applications as opposed to occasional delays in the renewal of documents (usually linked to difficulties in making appointments with SEF).¹¹⁸

A decision from the Central Administrative Court South (TCA South) issued in 2021 considered that applications for international protection presented remotely may not be altogether disregarded by SEF. In the case analysed, the application had been initially filed by a lawyer representing the applicant via fax, and was not taken into account by SEF, which demanded it be made in person in order for the necessary checks to be performed (namely because it was not possible to confirm whether the applicant was indeed in Portugal at the time of application).¹¹⁹ According to CPR's observation, this did not lead to changes in practice. SEF did not provide information on the implementation or consequences of this decision in its practice.

In 2020, the UN Human Rights Committee highlighted that Portugal should '[e]nsure that all applications for international protection at the border and in reception and detention facilities are promptly received, registered and referred to the asylum authorities' and '[c]ontinue its efforts to maintain and strengthen the quality of its refugee status determination procedures, in order to fairly and efficiently identify and recognize those in need of international protection and to afford sufficient guarantees of respect for the principle of non-refoulement under the Covenant'.¹²⁰ The Committee further recommended that Portugal strengthens '[...] training for the staff of migration institutions and border personnel on the rights of asylum seekers and refugees under the Covenant and other international standards'.¹²¹

A study focusing on the situation of asylum-seeking unaccompanied children and ageing out in Portugal published in 2021 revealed that the majority of those questioned stated that they were not aware of the possibility of applying for international protection upon arrival in the country, and that they had been informed of it by the national authorities in light of their situation.¹²²

¹¹⁶ Article 41(1) Immigration Act.

¹¹⁷ Articles 13(7) and 14(1) Asylum Act.

¹¹⁸ Appointments are generally made through a phone line that is often quite difficult to reach.

¹¹⁹ TCA South, Decision 107/21.0BELLE, 18 August 2021, available at: <https://bit.ly/3qJ1fqo>.

¹²⁰ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5. 28 April 2020, par.35(a) and (b), available at: <https://bit.ly/2Q1ftn8>.

¹²¹ *Ibid.*, par.35(f).

¹²² Sandra Roberto, Carla Moleiro, ed. Observatório das Migrações, *De menor a maior: acolhimento e autonomia de vida em menores não acompanhados*, April 2021, available at: <https://bit.ly/3fqMKBK>, 50.

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

- | | |
|--|---|
| 1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance: | 6 months |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases at first instance as of 31 December 2022: | Not available |
| 4. Average length of the first instance procedure in 2022: | Not available |

The first instance determining authority is required to take a decision on the asylum application within 6 months. This time limit is additional to the duration of the admissibility procedure and can be extended to 9 months in particularly complex cases.¹²³ The Asylum Act does not provide for specific consequences in case of failure to meet the time limit. Asylum seekers are reluctant to act on the delay on the basis of general administrative guarantees, e.g., by requesting Administrative Courts to order SEF to issue a decision on the application within a given time limit.¹²⁴

The significant increase in the number of spontaneously arriving asylum seekers and relocated asylum seekers has led SEF-GAR to recruit additional staff in the recent years (the number of staff slightly decreased in 2021 but increased again in 2022).

SEF was not able to share an estimation of the average duration of the procedure at first instance for 2021. OM's Statistical Reports of Asylum do not indicate the average duration of the asylum procedure either.

The UN Human Rights Committee, in its Concluding Observations published in 2020, expressed concern with '[r]eported delays in the processing of regular asylum applications and in the issuance and renewal of residence permits.' The Committee recommended that Portugal 'continue its efforts to maintain and strengthen the quality of its refugee status determination procedures, in order to fairly and efficiently identify and recognize those in need of international protection and to afford sufficient guarantees of respect for the principle of non-refoulement under the Covenant.'¹²⁵

CPR was able to gather information on 11 regular procedure decisions issued in the course of 2022, including decisions communicated by SEF in accordance with the law, and decisions that reached CPR's knowledge by other avenues, i.e., through direct contacts with applicants. In these cases, the overall duration of the procedure¹²⁶ ranged from 813 to 2,674 days, with an average duration of 1,366 days. CPR is uncertain whether the low number of notifications of asylum decisions is related to gaps in communication or indicates further delays in the decision-making process (or a combination of both).

A study focusing on the situation of asylum-seeking unaccompanied children and ageing out in Portugal published in 2021 revealed that among those questioned, the majority waited for more than 12 months for a decision on their application for international protection.¹²⁷

¹²³ Article 28(2) Asylum Act.

¹²⁴ Article 129 Administrative Procedure Code; Article 66(1) Administrative Courts Procedure Code.

¹²⁵ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5. 28 April 2020, par.35(a) and (b), available at: <https://bit.ly/2Q1ftn8>.

¹²⁶ Time comprised between the date of the application and the date of issuance of the first instance decision on the (regular) asylum procedure.

¹²⁷ Sandra Roberto, Carla Moleiro, ed. Observatório das Migrações, *De menor a maior: acolhimento e autonomia de vida em menores não acompanhados*, April 2021, p.43, available at: <https://bit.ly/3fqMKBK>.

In the context of the provision of legal assistance to asylum seekers, CPR has also at times observed significant delays in the execution of judicial decisions by SEF (up to one year or more in some cases). According to CPR's observation, this mostly concerned the execution of judicial decisions ruling that an application should not be processed under an accelerated procedure and consequently ordering the Administration to reanalyse the case under the regular procedure, or Dublin cases that should be reprocessed. It has also been observed that the authorities do not consider the 30 days' mandatory deadline for decisions deeming an application inadmissible/unfounded to apply in these circumstances. As such, SEF does not deem the applications admitted to the regular procedure when the deadline is elapsed.

1.2. Prioritised examination and fast-track processing

While no statistics are available,¹²⁸ according to SEF, cases of pregnant women, of applicants accompanied by young children, of elderly persons, and of applicants in need of medical care are generally fast-tracked. SEF did not share information on the impact of such fast-tracking in the analysis of the applications.

CPR's observation does not indicate a clear trend in this regard.

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? Yes No
 - ❖ If so, are interpreters available in practice, for interviews? Yes No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? Yes No
3. Are interviews conducted through video conferencing? Frequently Rarely Never
4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender? Yes No
 - ❖ If so, is this applied in practice, for interviews? Yes No

The Asylum Act provides for the systematic personal interview of all asylum seekers in the regular procedure prior to the issuance of a first instance decision.¹²⁹ The personal interview can only be waived where:

- ❖ The evidence already available allows for a positive decision; or
- ❖ The applicant lacks legal capacity due to long-lasting reasons beyond their control.¹³⁰

If the interview is waived, SEF is required to offer the applicant or their dependant(s) the opportunity to communicate relevant information by other means.¹³¹

The asylum seeker is entitled to give their statement in their preferred language or in any other language that they understand and in which they are able to communicate clearly.¹³² To that end, the asylum seeker is entitled to the assistance of an interpreter when applying for asylum and throughout the asylum

¹²⁸ Neither regarding the number of cases to which prioritised analysis was applied, nor on the impact of the adoption of fast-track procedures in the duration of the analysis.

¹²⁹ Article 16(1) (2) and (3) Asylum Act.

¹³⁰ Article 16(5) Asylum Act.

¹³¹ Article 16(6) Asylum Act.

¹³² Article 16(1) Asylum Act.

procedure, if needed.¹³³ The asylum seeker can also be assisted by a lawyer but the absence thereof does not preclude SEF from conducting the interview.¹³⁴

The transposition of the provisions of the recast Asylum Procedures Directive (APD) regarding the personal interview into national legislation presents some incompatibilities, most notably:

❖ **Cases of applicants deemed unfit/unable to be interviewed due to enduring circumstances beyond their control** - the final part of Article 14(2)(b) of the recast APD was not transposed ('[w]hen in doubt, the determining authority shall consult a medical professional to establish whether the condition that makes the applicant unfit or unable to be interviewed is of a temporary or enduring nature'). The safeguard contained in Article 14(4) of the recast APD, determining that the absence of a personal interview in such situations 'shall not adversely affect the decision of the determining authority', was also not explicitly transposed to the Asylum Act.

❖ **Conditions of the personal interview** - the requirements set out in Article 15 of the recast APD, particularly those regarding to the characteristics of the interviewer and the use of interpreters (Article 15(3) recast APD), are not fully transposed. Furthermore, and without prejudice to Article 84 of the Asylum Act which refers to the adequate training of all staff working with applicants and beneficiaries of international protection, the specific training requirement for interviewers provided for in Article 4(3) of the recast APD was not transposed to the domestic order ('[p]ersons interviewing applicants pursuant to this Directive shall also have acquired general knowledge of problems which could adversely affect the applicants' ability to be interviewed, such as indications that the applicant may have been tortured in the past').

❖ **Content of the personal interview** - the final part of Article 16 of the recast APD, establishing that the personal interview 'shall include the opportunity to give an explanation regarding elements which may be missing and/or any inconsistencies or contradictions in the applicant's statements' was not transposed to the Asylum Act.

The Asylum Act does not provide the right of the applicant to request the interviewer and/or the interpreter to be of a specific gender (Article 15(3)(b) and (c) of the recast APD). According to the information provided by SEF, this can happen in practice when the applicant so requests and if it is possible. It is unclear to CPR whether applicants are systematically made aware of that possibility. Information on the criteria used to analyse such requests or the arrangements in place to ensure effective implementation is not available.

SEF affirmed that applicants are guaranteed the right to an interview before any decision regarding their application is adopted, emphasising that interviews can only be waived in the cases listed in the Asylum Act. SEF also noted that interviews are conducted in all types of procedure, including Dublin.

According to CPR's observation in 2022, personal interviews were generally conducted in practice. Nevertheless, in 2021 and 2022 CPR has identified cases of relocated applicants where the interview conducted in the Member State of arrival was apparently used to analyse the case in Portugal without the applicant being offered a full interview in accordance with the applicable Portuguese legislation. CPR could not ascertain whether this is, or has been, a systematic practice within the context of relocation of applicants for international protection.

According to SEF, interviews were not conducted by remote communication means, but interpretation may be provided by phone/videoconferencing.

The interview is generally conducted by SEF-GAR, although some interviews may be conducted by SEF's regional delegations in cases of asylum applications made outside the Lisbon area. Such interviews are conducted on the basis of a questionnaire prepared by SEF-GAR. According to CPR's observation, the

¹³³ Article 49(1)(d) Asylum Act.

¹³⁴ Article 49(7) Asylum Act.

interviews conducted by the SEF's regional delegations tend to have further accuracy issues and sometimes fail to adequately clarify the material facts of the claim.

Since 2021, CPR has observed the adoption of decisions not to proceed with the analysis of the application due to the impossibility of performing the personal interview (e.g., because the applicant absconded). These decisions are based on general administrative procedure rules.¹³⁵ Procedures were also suspended in cases while the results of age assessment procedures triggered by the Family Courts were pending.¹³⁶

Throughout the year, CPR was also informed of decisions extinguishing the asylum procedure according to Article 32 of the Asylum Act, either due to explicit or implicit withdrawal of the application.

According to the law, an application is deemed as implicitly withdrawn if the procedure is inactive for more than 90 days, namely if the applicant:

- (i) does not provide essential information for their application when requested to do so;
- (ii) does not attend the personal interview;
- (iii) absconds without contacting SEF;
- (iv) does not comply with the obligation to appear or to communicate with the authorities.¹³⁷ The competence to determine the extinction of an application belongs to the National Director of SEF.¹³⁸

Notwithstanding, the applicant is entitled to reopen their asylum case by presenting themselves to SEF at a later stage. In this case, the file is to be resumed at the exact stage where it was discontinued.¹³⁹ According to CPR's observation, the extinction of a procedure usually follows a decision to halt the analysis of an application.

A number of decisions from TCA South issued in 2021 focused on the right of the applicant to request legal aid in order to have a lawyer present during the interview. According to the analysed decisions, the Court overall considered that:

- ❖ Applicants for international protection may request legal aid in order to have a lawyer present in the asylum interview;¹⁴⁰
- ❖ The performance of an asylum interview without a lawyer present *per se* does not violate the Portuguese Constitution;¹⁴¹
- ❖ To effectively guarantee the applicant's rights, the authority (SEF) must fully and correctly inform the applicant of the possibility of being accompanied by a lawyer in the interview and of applying to legal aid for that purpose. If that does not happen, the decision on the asylum application may be annulled.¹⁴²

The appeal of one such case was decided by the Supreme Administrative Court (STA) in 2022.¹⁴³ Overall, the Court considered that:¹⁴⁴

- ❖ CPR does not have legal representation powers, and its role does not prevent representation by certified lawyers;

¹³⁵ Article 119(3) Administrative Procedure Code.

¹³⁶ Article 38(1) Administrative Procedure Code.

¹³⁷ Article 32(1) Asylum Act.

¹³⁸ Article 31(2) Asylum Act.

¹³⁹ Article 31(3) Asylum Act.

¹⁴⁰ TCA South, Decision 2285/20.7BELSB, 21 April 2021, available at: <https://bit.ly/3tQAjHc>.

¹⁴¹ Ibid.

¹⁴² TCA South, Decision 806/21.7BELSB, 23 September 2021, available at: <https://bit.ly/3iQyns9>; TCA South, Decision 2144/20.3BELSB, 7 October 2021, available at: <https://bit.ly/3IR83IZ>.

¹⁴³ STA, Decision 02144/20.3BELSB, 25 January 2022, available at: <https://bit.ly/3EMaIEI>.

¹⁴⁴ Following the same reasoning, see also TCA North, Decision 02331/21.7BELSB, 2 March 2022, available at: <https://bit.ly/3YmUcSA>.

- ❖ The Asylum Act determines that legal assistance in the administrative stage of the procedure is primarily provided by CPR, which is due to the non-governmental character of the organisation, its independence, impartiality and the gratuity of the support provided;
- ❖ While the role of CPR's legal officers is not equivalent to that of certified lawyers, they are particularly suited to provide assistance in first instance procedures due to their specialisation in the field of asylum;
- ❖ The law provides CPR and UNHCR broad intervention powers in the asylum procedure;
- ❖ The legal framework as a whole does not lack avenues to access adequate legal assistance and information.

As such, the Court ruled that SEF is not bound by a duty to inform applicants of international protection that they may request legal aid for the purposes of legal representation within the administrative stage of the procedure. Furthermore, it considered that, *in extremis*, CPR legal officers will explain the differences between the different types of assistance to applicants and facilitate access to legal aid if the applicant so wishes.

1.3.1. Interpretation

The quality of interpretation services used for interviews remains a serious challenge, as in many cases service providers are not trained interpreters but rather individuals with sufficient command of source languages. Interpreters are bound by a legal duty of confidentiality. It is unclear whether SEF has a code of conduct/guidance applicable to interpreters.¹⁴⁵

According to SEF, interpretation may be provided by phone/videoconferencing.

According to CPR's experience, securing interpreters with an adequate command of certain target languages remains challenging (e.g., Amharic, Somali, Punjabi, Tigrinya, Pashto, Bambara, Lingala, Tamil, Kurdish, Mandinka, Nepalese, Sinhalese, Bengali, and Gujarati).

1.3.2. Recording and report

The Asylum Act does not provide for the audio and/or video recording of the interview or for conducting interviews and/or interpretation through videoconferencing.

SEF produces a written report summarising the most important elements raised during the interview. Until 2020, the interview report was immediately provided to the applicant who had 5 days to submit comments.¹⁴⁶ Since the second half of 2020, CPR observed a shift in this regard.

Currently, while the interview report is provided to the applicant upon completion of the personal interview, they are not given the 5-day deadline to comment/correct/add information to the document. Instead, SEF notifies the asylum seeker of another document, that summarises the key information that will underlie the decision to deem the application admissible/not unfounded and, as such, submit it to the regular procedure, or to reject it as inadmissible/unfounded (accelerated procedure). The applicant then has 5 days to submit comments to the summary report.

This summary report broadly contains information on: (i) identification of the applicant; (ii) family members; (iii) time and place of the application for international protection; (iv) prior information; (v) itinerary; (vi) summary of the facts that will underlie the decision;¹⁴⁷ (vii) the prospective decision to be taken (brief reference to the relevant legal basis).

¹⁴⁵ In this regard, SEF only reported that the entity follows the interview recommendations issued by EUAA.

¹⁴⁶ Article 17 (1) and (2) Asylum Act.

¹⁴⁷ Presentation of the application, motives, relevant elements.

This change in practice was likely linked to the jurisprudential understanding that applicants have a right to be heard about the prospective decision to be taken on their files in any decision within the procedure.¹⁴⁸

According to law, upon consent of the applicant, the report must also be communicated to UNHCR and to CPR, and the organisations may submit observations within the same deadline.¹⁴⁹ In the past, interview reports were usually communicated to CPR accordingly. Within the context of the above-mentioned shift in practice, SEF-GAR ceased the systematic communication of interview reports and currently communicates the summary reports (although it does not communicate reports for Dublin cases). As such, access to interview transcripts by CPR depends on the applicant. The systematic non-communication of interview transcripts is an obstacle to the full monitoring of the national asylum procedure.

CPR provides systematic legal assistance to asylum seekers at this stage, with the support of interpreters, for the purpose of reviewing and submitting comments/corrections to the summary report and to the interview transcript.

According to CPR's observation, the summary reports sometimes oversimplify the statements provided by the applicant to the authorities, and the merits analysis conducted tends to be simplistic. Furthermore, applicants usually find it difficult to understand the meaning of the document and to comment meaningfully on its content. Given its content and context, this new practice has not improved the quality of the asylum procedure.

CPR has also observed that some case workers usually deem any clarifications or corrections provided by asylum seekers as inconsistencies, even when such elements are provided within the relevant legal framework and are duly justified.

CPR has observed inconsistent practices with regard to cases that are to be admitted to the regular procedure. Depending on the assigned caseworker, the applicant may be notified of a report and given the corresponding deadline to provide written comments or may only be notified of a decision deeming the application admissible. The latter may prove problematic given that, usually, no further interviews are conducted during the procedure. Consequently, in practice, such applicants are not given the possibility to offer comments on the facts adduced during the interview before being notified of a decision at the final stage of the procedure.

CPR has made efforts to mitigate the negative impacts of this practice by adding the applicant's comments to the file in accordance with article 28(5) of the Asylum Act, that allows the organisation to add observations on individual cases at any stage of the procedure.

CPR has also been made aware that, when the interview is conducted following admission to the regular procedure, the written report of the interview is not systematically provided to the applicants. Such reports are not communicated to CPR on a systematic basis as well.¹⁵⁰

This practice is problematic as it curtails the applicant's right to submit comments and corrections to the interview report and may also impact the applicant's ability to fully exercise other procedural rights at later stages of the procedure (e.g., replying to a proposal of decision on the grant of international protection). Moreover, it seems to be in contradiction both with the domestic legal framework and the recast Asylum

¹⁴⁸ E.g., TCA South, Decision 1560/19.8BELSB, 16 January 2020, available at <https://bit.ly/39i4xZ0>. For a detailed overview of the jurisprudence on the right to be heard, please revert to the Dublin: personal interview section of the 2021 AIDA Update, available at: <https://bit.ly/3HUIBW5>.

¹⁴⁹ Article 17(3) Asylum Act.

¹⁵⁰ According to article 17(3) Asylum Act, upon consent of the applicant, the report is to be communicated to UNHCR and to CPR as organisation working on its behalf. Such entities may submit observations.

Procedures Directive as the relevant requirements apply to the personal interview, regardless of the moment in which it is conducted.¹⁵¹

A decision from TCA South issued in 2021 considered that, despite the absence of an explicit reference in the relevant norm,¹⁵² the authorities are bound by articles 16 and 17 of the Asylum Act (personal interview and report) within the examination of applications made following a removal order.¹⁵³

1.4. Appeal

Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?

<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No			
❖ If yes, is it	<input checked="" type="checkbox"/>	Judicial	<input type="checkbox"/>	Administrative		
❖ If yes, is it automatically suspensive	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	Some grounds	<input type="checkbox"/>	No
2. Average processing time for the appeal body to make a decision: 2 to 3 months (first instance courts)

1.4.1. First appeal before the Administrative Court

The Asylum Act provides for an appeal against the first instance decision in the regular procedure consisting of judicial review of relevant facts and points of law by the Administrative Court.¹⁵⁴ The asylum seeker has 15 days to lodge the appeal, which has automatic suspensive effect.¹⁵⁵

A ruling of the Supreme Administrative Court has clarified that appeals against decisions regarding the grant of asylum are free of charge.¹⁵⁶ This is also established by the Asylum Act that provides for the free and urgent nature of procedures regarding the grant or loss of international protection both in the administrative and judicial stages.¹⁵⁷

Administrative Courts have a review competence, which allows them to either:

- ❖ confirm the negative decision of the first instance decision body;
- ❖ annul the decision and refer the case back to the first instance decision body with guidance on applicable standards;¹⁵⁸ or
- ❖ overturn it by granting refugee or subsidiary protection status.¹⁵⁹

The Asylum Act qualifies the judicial review as urgent,¹⁶⁰ and provides for a simplified judicial process with reduced formalities and time limits with the objective of shortening the duration of the judicial review.¹⁶¹

¹⁵¹ Article 17(3) Asylum Procedures Directive. Articles 16 and 17 of the Asylum Act do not make a distinction between interviews conducted prior to admission and interviews conducted following admission to the regular procedure.

¹⁵² Article 33-A Asylum Act.

¹⁵³ TCA South, Decision 139/21.9 BELSB, 23 September 2021, available at: <https://bit.ly/3N7cHov>. Note that, while the decision systematically refers to subsequent applications, it is indeed analysing the rules applicable to asylum applications made following a removal order (article 33-A Asylum Act).

¹⁵⁴ Article 30(1) Asylum Act; Article 95(3) Code of Procedure in Administrative Courts.

¹⁵⁵ Article 30(1) Asylum Act.

¹⁵⁶ Supreme Administrative Court, Decision 408/16, 17 November 2016, available in Portuguese at: <https://bit.ly/2W9NY9L>.

¹⁵⁷ Article 84 Asylum Act.

¹⁵⁸ Article 71(2) Code of Procedure in Administrative Courts. In practice this is normally the case when the courts find that there are relevant gaps in the assessment of the material facts of the claim, thus requiring the first instance decision body to conduct further investigations.

¹⁵⁹ Article 71(1) Code of Procedure in Administrative Courts.

¹⁶⁰ Article 84 Asylum Act.

¹⁶¹ Article 30(2) Asylum Act; Article 110 Code of Procedure in Administrative Courts.

A decision issued by TCA South in 2021 confirmed that, when legal aid is requested by the appellant, the appeal is deemed as having been filed on the date of submission of the request for legal aid.¹⁶²

The information provided by the High Council of Administrative and Fiscal Courts (*Conselho Superior dos Tribunais Administrativos e Fiscais* – CSTAF) for 2022 regarding the duration of judicial reviews of first instance decisions does not make a distinction between the type of asylum procedure. According to these statistics, the average duration of appeals at first instance courts in 2022 was of 2 to 3 months.

While the Asylum Act does not specifically provide for a hearing of the asylum seeker during the appeal procedure, such a guarantee is enshrined in the general rules.¹⁶³ This is rarely used in practice by lawyers and accepted by the Court when requested, as procedures before the Administrative Court tend to be formalistic and essentially written.¹⁶⁴ As a general rule, the hearing of the appeal body is public but the judge may rule for a private audience based on the need to protect the dignity of the individual or the smooth operation of the procedure.¹⁶⁵ CSTAF confirmed that no such hearings occurred in 2022.

In practice, and without prejudice to issues such as the poor quality of [Legal Assistance and the merits test applied by the Bar Association](#), and language barriers that have an impact on the quality and effectiveness of appeals, CPR is not aware of systemic or relevant obstacles faced by asylum seekers in appealing a first instance decision in the regular procedure.

It should be noted that while CPR may be requested to intervene in the judicial procedure, namely by providing country of origin information, Dublin country information or guidance on legal standards, it is not a party thereto and is therefore not systematically notified of judicial decisions by the courts.

According to CSTAF, a total of 242 appeals were lodged against negative asylum decisions in 2021, marking a decrease of around 18% compared to 2021. Out of these, 206 were filed in TAC **Lisbon**.

The information provided by the CSTAF for 2021 regarding the outcome of judicial reviews of first instance decisions indicates a poor success rate at appeal stage (15% both at TAC **Lisbon** and at national level). As mentioned in [Statistics](#), these figures do not make a distinction between the type of asylum procedure. In the experience of CPR, the majority of the appeals filed usually follow decisions adopted in the accelerated and Dublin procedures. In this regard, it must also be acknowledged that the quality of many appeals submitted is often poor, given that very few lawyers have relevant expertise in the field.

According to the information provided by CSTAF, in early 2022, the Working Group for Administrative and Fiscal Justice, created by the Ministry of Justice, proposed an amendment to the Statute of the Administrative and Fiscal Courts that would allow CSTAF to create specialised sections in the Administrative Courts, namely in the field of asylum. In order for this to be implemented, the Statute would have to be amended and the CSTAF would then have to deliberate on the creation of the relevant section. No further developments were observed in the course of 2022 in this regard.

¹⁶² TCA South, Decision 1441/20.2BELSB, 18 March 2021, available at: <https://bit.ly/3Lo2bbP>.

¹⁶³ Article 90(2) Code of Procedure in Administrative Courts.; Article 466 Act 41/2013.

¹⁶⁴ Quite strangely, despite having the possibility of hearing the applicant directly, TAC South determined in a 2019 decision that the opinion of the officer that conducted the applicant's interview on his/her credibility is relevant as only direct contact with the applicant will allow to ascertain the credibility of his/her statement, as well as his/her general credibility "as a person". Therefore, in the absence of a gross error of the determining authority, the court cannot query its assessment of the credibility of the statements. TCA South, Decision 713/18.0BELSB, 10 January 2019, unpublished.

¹⁶⁵ Article 91(2) Code of Procedure in Administrative Courts; Article 606 Act 41/2013.

1.4.2. Onward appeal

In case of rejection of the appeal, an onward appeal may be presented to the Central Administrative Court (*Tribunal Central Administrativo – TCA*). This is a full judicial review of relevant facts and points of law,¹⁶⁶ with automatic suspensive effect.¹⁶⁷

The law further provides for an additional appeal with automatic suspensive effect before the Supreme Administrative Court (*Supremo Tribunal Administrativo, STA*) on points of law but only in exceptional cases of fundamental importance of the appeal for legal and social reasons or to improve the quality of legal reasoning in decision-making more broadly.¹⁶⁸ STA makes its own assessment and decision on the facts of the case.¹⁶⁹ In both cases the asylum seeker has 15 days to lodge the appeal.¹⁷⁰

The rulings of second instance Administrative Courts (TCA) and the STA are systematically published.¹⁷¹

According to information provided by CSTAF, Higher Courts do not collect autonomous data on asylum-related processes. Nevertheless, CSTAF reported that, in 2022, a total of 64 appeals were filed in second instance courts (TCA South and TCA North).

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

1. Do asylum seekers have access to free legal assistance at first instance in practice?
 Yes With difficulty No
❖ Does free legal assistance cover:
 Representation in interview
 Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
 Yes With difficulty No
❖ Does free legal assistance cover
 Representation in courts
 Legal advice

The Portuguese Constitution enshrines the right of every individual to legal information and judicial remedies regardless of their financial condition.¹⁷²

1.5.1. Legal assistance at first instance

The Asylum Act provides for the right of asylum seekers to free legal assistance at all stages of the asylum procedure, which is to be understood as including the first instance of the regular procedure.¹⁷³ Such legal assistance is to be provided without restrictions by a public entity or by a non-governmental organisation in line with a Memorandum of Understanding (MoU).¹⁷⁴

Furthermore, under the Asylum Act, UNHCR and CPR as an organisation working on its behalf must be informed of all asylum applications and are entitled to personally contact all asylum seekers irrespective of the place of application to provide information regarding the asylum procedure, as well as regarding their intervention in the procedure (dependent on the consent of the applicant).¹⁷⁵ These organisations are also entitled to be informed of key developments in the asylum procedure upon consent of the

¹⁶⁶ Article 149(1) Code of Procedure in Administrative Courts; Article 31(3) Act 13/2002.

¹⁶⁷ Article 143(1) Code of Procedure in Administrative Courts.

¹⁶⁸ Articles 143(1) and 150(1) Code of Procedure in Administrative Courts.

¹⁶⁹ Article 150(3) Code of Procedure in Administrative Courts.

¹⁷⁰ Article 147 Code of Procedure in Administrative Courts.

¹⁷¹ Decisions are available at: <https://bit.ly/3abzUaZ>.

¹⁷² Article 20(1) Constitution.

¹⁷³ Article 49(1)(e) Asylum Act.

¹⁷⁴ Ibid.

¹⁷⁵ Article 13(3) Asylum Act. See also Article 24(1) concerning applications at the border; Article 33(3) concerning subsequent applications; Article 33-A(3) concerning applications following a removal procedure.

applicant,¹⁷⁶ and to present their observations at any time during the procedure pursuant to Article 35 of the 1951 Refugee Convention.¹⁷⁷

In practice, CPR provides free legal assistance to spontaneous asylum seekers during first instance procedures on the basis of MoUs with the Ministry of Home Affairs and UNHCR. The legal assistance provided by CPR at this stage includes:

- ❖ Providing information regarding the asylum procedure, rights and duties of the applicant;
- ❖ Conducting refugee status determination interviews in order to assist the applicants in reviewing and submitting comments/corrections to the report narrating the most important elements of their interview/application with the determining authority;
- ❖ Providing SEF with observations on applicable legal standards and country of origin information (COI);
- ❖ Providing assistance in accessing free legal aid for appeals; and
- ❖ Assisting lawyers appointed under the free legal aid system in preparing appeals with relevant legal standards and COI.

Regarding particularly vulnerable asylum seekers, CPR provides specific legal assistance to unaccompanied asylum-seeking children. This includes the presence of a legal officer during the personal interview with SEF (see [Legal Representation of Unaccompanied Children](#)) as well as the provision of information and assistance in the framework of procedures before the Family and Juvenile Court.¹⁷⁸

CPR also provides legal information and assistance to beneficiaries of international protection, including resettled refugees. This includes, for instance, providing information on the legal status, providing information and assistance in family reunification procedures, nationality acquisition and other integration-related matters, and submitting observations on applicable legal standards when relevant.

In 2022, CPR provided legal support to 1,437 spontaneously arrived asylum seekers in all types of asylum procedures lodged throughout the year, which represents around 67% of the total number of applications communicated to CPR according to the law (2,135) and 72% of the total number of applicants registered by SEF (1,992). As in 2021, this percentage represents a significant decrease from usual figures (around 90%). This can be explained by the fact that a significant number of the applications registered in 2021 and 2022 concern applicants who were evacuated from Afghanistan or relocated persons, whose reception did not follow the general rules applicable to spontaneous asylum seekers. Furthermore, CPR has observed that, given the circumstances surrounding their individual situation and arrival in Portugal, such applicants (and occasionally, the organisations providing reception assistance) tend to assume that legal assistance within the context of the asylum procedure is not necessary.¹⁷⁹

All the applicants whose cases are communicated to CPR that are not provided accommodation by the organisation are sent a letter setting out details of the legal assistance provided by CPR and relevant contacts. Bilateral contacts are also established with organisations responsible for the reception of evacuated and relocated applicants. In early 2022, CPR conducted a legal information session for applicants evacuated from Afghanistan, who are provided reception conditions by the Portuguese Red Cross (CVP).

There are other organisations that provide legal information and assistance to asylum seekers during the first instance of the regular procedure such as the Jesuit Refugee Service (JRS) Portugal, and the High

¹⁷⁶ Article 17(3) Asylum Act: document narrating the essential facts of the request; Article 20(1): decision on admissibility and accelerated procedures in national territory; Article 24(5): decision on admissibility and accelerated procedures at the border; Article 29(6) first instance decision in the regular procedure; Article 37(5): Dublin take charge decision.

¹⁷⁷ Article 28(5) Asylum Act.

¹⁷⁸ These procedures are provided in the General Regime of Civil Guardianship Process, 141/2015, and the Children and Youths at Risk Protection Act, 147/99.

¹⁷⁹ As happened in the past within the context of EU relocation, it is expected that a number of such citizens may contact CPR later in order to obtain support in integration-related procedures such as family reunification and naturalisation, or if their applications are rejected.

Commissioner for Migration (ACM) through its National Centres for Migrants' Integration (CNAIM) and Local Support Centres for Migrants Integration (*Centro Local de Apoio à Integração de Migrantes*, CLAIM) spread throughout the country, and Crescer. According to the available information, these services remain residual and mostly focused on integration.

A number of decisions from TCA South issued in 2021 focused on the right of the applicant to request legal aid in order to have a lawyer present during the interview. According to the analysed decisions, the Court overall considers that:

- (i) Applicants for international protection may request legal aid in order to have a lawyer present in the asylum interview;¹⁸⁰
- (ii) The performance of the asylum interview without a lawyer present *per se* does not violate the Portuguese Constitution;¹⁸¹
- (iii) To effectively guarantee the applicant's rights, the authority (SEF) must fully and correctly inform the applicant of the possibility to be accompanied by a lawyer in the interview and of the possibility to apply to legal aid to that purpose. If that does not happen, the decision on the asylum application may be annulled.¹⁸²

The appeal of one such case was decided by the Supreme Administrative Court (STA) in 2022.¹⁸³ Overall, the Court considered that:¹⁸⁴

- ❖ CPR does not have legal representation powers, and its role does not prevent representation by certified lawyers;
- ❖ The Asylum Act determines that legal assistance in the administrative stage of the procedure is primarily provided by CPR, which is due to the non-governmental character of the organisation, its independence, impartiality and the gratuity of the support provided;
- ❖ While the role of CPR's legal officers is not equivalent to that of certified lawyers, they are particularly suited to provide assistance in first instance procedures due to their specialisation in the field of asylum;
- ❖ The law provides CPR and UNHCR broad intervention powers in the asylum procedure;
- ❖ The legal framework as a whole does not lack avenues to access adequate legal assistance and information.

As such, the Court ruled that SEF is not bound by a duty to inform applicants of international protection that they may request legal aid for the purposes of legal representation within the administrative stage of the procedure. Furthermore, it considered that, *in extremis*, CPR legal officers will explain the differences between the different types of assistance to applicants and facilitate access to legal aid if the applicant so wishes.

1.5.2. Legal assistance in appeals

Regarding legal assistance at the appeal stage, the Asylum Act provides for the right of asylum seekers to free legal aid in accordance with the law.¹⁸⁵

The legal framework of free legal aid provides for a 'means assessment' on the basis of the household's income,¹⁸⁶ as only applicants who do not hold sufficient income are entitled to free or more favourable

¹⁸⁰ TCA South, Decision 2285/20.7BELSB, 21 April 2021, available at: <https://bit.ly/3tQAJHc>.

¹⁸¹ Ibid.

¹⁸² TCA South, Decision 806/21.7BELSB, 23 September 2021, available at: <https://bit.ly/3iQyNs9>; TCA South, Decision 2144/20.3BELSB, 7 October 2021, available at: <https://bit.ly/3IR83IZ>.

¹⁸³ STA, Decision 02144/20.3BELSB, 25 January 2022, available at: <https://bit.ly/3EMaIEI>.

¹⁸⁴ Following the same reasoning, see also TCA North, Decision 02331/21.7BELSB, 2 March 2022, available at: <https://bit.ly/3YmUcSA>.

¹⁸⁵ Article 49(1)(f) Asylum Act.

¹⁸⁶ Act 34/2004; Ministerial Order 10/2008.

conditions to access legal aid.¹⁸⁷ The application is submitted to the Institute of Social Security (*Instituto da Segurança Social*, ISS) that conducts the means assessment and refers successful applications to the Portuguese Bar Association (*Ordem dos Advogados*).¹⁸⁸

The Bar appoints a lawyer,¹⁸⁹ on the basis of a random/automatic selection procedure.¹⁹⁰ The sole responsibility for organising the selection lies with the Portuguese Bar Association but such procedure should ensure the quality of the legal aid provided.¹⁹¹ While the average duration of this procedure in 2022 was around 1 to 2 weeks, the law provides for the suspension of the time limit for the appeal upon presentation of the free legal aid application and until the appointed lawyer submits the judicial appeal.¹⁹²

The national legislation provides for a ‘merits test’ to be conducted by the appointed lawyer. Accordingly, free legal assistance can be refused on the basis that the appeal is likely to be unsuccessful. In that case, the appointed lawyer can excuse themselves from the case and the Portuguese Bar Association can choose not to appoint a replacement.¹⁹³

CPR supported the submission of 293 applications for legal aid in the course of 2022. While a breakdown by type of procedure is not available, the overwhelming majority of such requests followed refusals in accelerated and Dublin procedures.

In general, asylum seekers enjoy unhindered access to free legal aid at appeal stage. Nevertheless, the practical implementation of the ‘means test’ conducted by ISS, and of the ‘merits test’ conducted by appointed lawyers have occasionally raise some concerns:

- ❖ In the case of the ‘**means test**’ conducted by the ISS, the fact that some asylum seekers (particularly those admitted to the regular procedure) are employed has at times resulted in asylum applicants having a level of income that excludes them from the free legal aid regime. In this case, given the usually limited levels of income, applicants can still be offered more favourable conditions to access legal aid such as payment in instalments. Occasionally, CPR has been informed of sporadic cases where legal aid requests by applicants within the regular procedure have been refused due to the residency documents presented and to the lack of proof of income (notably where such applicants were benefiting from social support provided by the ISS due to the lack of income).
- ❖ In the case of the ‘**merits test**’, as reported in previous years, the practice of the Portuguese Bar Association remains inconsistent. Since 2019, CPR has observed a significant number of cases where, following a refusal by the appointed lawyer to provide free legal aid on the grounds that the chances of success were limited, the Bar Association chose not to appoint a replacement. In some instances, this happened following the assessment of only one lawyer. The objective criteria for such decisions remain unclear. While CPR has provided support in the submission of revision requests, reversals have not been significant.¹⁹⁴ Up until now, this practice has mostly impacted applicants within Dublin/Admissibility/Accelerated procedures. This remains a concerning practice that may have an impact on the effective access to legal aid by asylum seekers.

Another concern relates to the overall quality of free legal aid at appeal stage, as the current selection system is based on a random/automatic selection procedure managed by the Portuguese Bar Association. This is done on the basis of preferred areas of legal assistance chosen beforehand by the

¹⁸⁷ Article 8-A and Annex Act 34/2004.

¹⁸⁸ Article 22 Act 34/2004.

¹⁸⁹ Article 30 Act 34/2004.

¹⁹⁰ Article 2(1) Ministerial Order 10/2008.

¹⁹¹ Article 10(2) and (3) Ministerial Order 10/2008.

¹⁹² Article 33(4) Act 34/2004. See e.g., TCA South, Decision 10733/13, 2 April 2014, available in Portuguese at: <http://bit.ly/2gyVQOJ>.

¹⁹³ Article 34(5) Act 34/2004.

¹⁹⁴ In such cases, the solution suggested by the Bar Association is to file a new application for legal aid, which raises questions with regard to respect for the applicable deadlines and the efficiency of the solution.

appointed lawyers.¹⁹⁵ Such areas are general in nature and not specifically related to Asylum Law. In general, appointed lawyers are not trained in Asylum Law and have limited experience in this specific field. Throughout 2022, CPR continued to deliver trainings on asylum-related matters to diverse audiences, including legal professionals.

Additional persisting challenges in this regard include the absence of an easily accessible interpretation service, which hinders communication between the lawyer and the client during the preparation of the appeal. Although ACM's translation hotline can constitute a useful tool in this regard, according to CPR's experience, it is insufficiently used by lawyers.¹⁹⁶ Moreover, the expenses for the preparation of the appeal, including for interpretation and translation of documents, need to be paid in advance by the appointed lawyer who can then ask the court for reimbursement.¹⁹⁷

2. Dublin

2.1. General

Dublin statistics: 2022

Outgoing procedure					Incoming procedure				
	Requests			Transfers		Requests			Transfers
	Take charge	Take back	Total			Take charge	Take back	Total	
Total	91	524	615	22	Total	583	382	965	80
Italy	8	162	170	-	France	372	124	496	15
Germany	7	100	107	5	Germany	111	184	295	28
France	14	88	102	3	Switzerland	22	15	37	5
Spain	35	35	70	8	Belgium	9	23	32	1
Netherlands	1	30	31	2	Greece	31	-	31	21
Austria	-	28	28	-	Netherlands	10	14	24	3
Switzerland	-	20	20	1	Austria	8	7	15	3
Belgium	-	15	15	1	Italy	7	1	8	-
Slovakia	-	12	12	-	Spain	2	6	8	-
Poland	6	1	7	-	Sweden	4	2	6	2
Romania	4	3	7	-	Finland	4	-	4	2
Sweden	1	6	7	1	Ireland	-	2	2	-
Hungary	4	2	6	-	Norway	2	-	2	-
Finland	2	2	4	1	Denmark	1	-	1	-
Croatia	2	2	4	-	Hungary	-	1	1	-
Ireland	3	1	4	-	Lichtenstein	-	1	1	-
Malta	-	4	4	-	Luxembourg	-	1	1	-
Bulgaria	-	3	3	-	Slovenia	-	1	1	-
Norway	1	2	3	-					
Czechia	1	1	2	-					
Denmark	-	2	2	-					
Latvia	1	1	2	-					

¹⁹⁵ Article 3(3)(c) Regulation of the Bar Association 330-A/2008 of 24 June 2008.

¹⁹⁶ ACM's interpretation hotline relies on a database of 60 interpreters/translators to enable communication with non-Portuguese speaking citizens. Access is free of charge (cost of a local call) and can be used on working days, between 9:00 and 19:00. It is possible to request the interpretation immediately (upon availability of interpreter) or to schedule a call. Additional information, including the list of languages covered, is available at <http://bit.ly/2A4Ekga>.

¹⁹⁷ Article 8(3) Ministerial Order 10/2008.

Luxembourg	-	2	2	-					
Cyprus	-	1	1	-					
Iceland	-	1	1	-					
Lithuania	1	-	1	-					

Source: Information provided by SEF (April 2023).

Outgoing Dublin requests by criterion: 2022	
Dublin III Regulation criterion	Requests sent
'Take charge':	
Article 8 (minors)	1
Article 9 (family members granted protection)	2
Article 10 (family members pending determination)	-
Article 11 (family procedure)	3
Article 12 (visas and residence permits)	54
Article 13 (entry and/or remain)	30
Article 14 (visa free entry)	-
'Take charge': Article 16	1
'Take charge' humanitarian clause: Article 17(2)	-
'Take back': Article 18	
Article 18 (1) (b)	229
Article 18 (1) (c)	1
Article 18 (1) (d)	280
Article 20(5)	-
Rejected outgoing requests: 2022	
Total	277

Source: Information provided by SEF (April 2023).

Incoming Dublin requests by criterion: 2022	
Dublin III Regulation criterion	Requests received
'Take charge':	
Article 8 (minors)	29
Article 9 (family members granted protection)	4
Article 10 (family members pending determination)	-
Article 11 (family procedure)	4
Article 12 (visas and residence permits)	525
Article 13 (entry and/or remain)	15
Article 14 (visa free entry)	-
'Take charge': Article 16	-
'Take charge' humanitarian clause: Article 17(2)	6
'Take back': Articles 18 and 20(5)	
Article 18 (1) (b)	368
Article 18 (1) (c)	-
Article 18 (1) (d)	9
Article 20(5)	4

Source: Information provided by SEF (April 2023).

2.1.1. Application of the Dublin criteria

The Asylum Act refers to the criteria enshrined in the Dublin III Regulation for determining the responsible Member State.¹⁹⁸ According to the information available, no additional formal guidelines regarding the practical implementation of such criteria are in place.

Empirical evidence of the implementation of the Dublin criteria pertaining to **family unity** is scarce given the usually limited number of incoming or outgoing requests pursuant to responsibility criteria provided in Articles 8-11 of the Regulation. According to the information provided by SEF, in 2022, there were 6 outgoing and 37 incoming ‘take charge’ requests under Articles 8-11.

In the very few instances where CPR has contacted SEF regarding the potential application of family unity criteria, in particular regarding Article 8 on children, evidence and information required to apply those provisions included identification documents, address and contacts of relatives residing in other EU Member States. In general, such contacts did not result in the outgoing transfer of the unaccompanied children as they generally absconded prior to any relevant development in the procedure.

According to the information provided by SEF on the practical application of Article 8, the best interest of the child is the only relevant criterion in practice. SEF further reported that, when family reunification through this avenue is a possibility, the capacity of the family members to receive the child is also analysed.

In the past, SEF issued multiple transfer decisions regarding unaccompanied asylum seekers claiming to be under 18 years of age, who had been previously registered as adults in other Member States.¹⁹⁹ These decisions made no reference to the applicant’s claim of minority in Portugal. Such decisions lead to a number of judicial decisions with discrepant outcomes. While in some cases, the best interest of the child was a clear concern,²⁰⁰ in at least one, the applicant was deemed to be an adult due to the lack of evidence proving childhood.²⁰¹

CPR is not aware of similar decisions since 2020. Instead, in some cases, SEF suspended the deadlines applicable to the asylum procedure on the grounds that such a decision required adjudication of the age assessment requested by the competent Family Court. In at least some instances, however, SEF eventually admitted the cases to the regular procedure before the age assessment was finalised (which could be linked to significant delays in the age assessment).

CPR is not aware of relevant recent indications regarding the application of the remaining family unit criteria.

2.1.2. The discretionary clauses

The ‘sovereignty clause’ enshrined in article 17(1) of the Dublin Regulation and the ‘humanitarian clause’ enshrined in its article 17(2) are at times applied in practice, but the criteria for their application remain unclear and no specific statistics are usually available on their use, except for the overall number of outgoing and incoming take charge requests under such clauses.²⁰²

¹⁹⁸ Article 37(1) Asylum Act.

¹⁹⁹ For a detailed explanation of this practice, please revert to the 2021 AIDA Update, available at: <https://bit.ly/3UuxLdQ>.

²⁰⁰ TAC Lisbon, Decision 2334/17.5BELSB, 24 November 2017, unpublished; TAC Lisbon, Decision 1516/19.0BELSB, 16 October 2019, unpublished.

²⁰¹ TAC Lisbon, Decision 1216/19.1BELSB, 22 October 2019, unpublished. It is interesting to note that the same course of action was followed by the Family Court responsible for the application of the protective measure. The decision from TAC Lisbon was confirmed by TCA South: TCA South, Decision 1216/19.1BELSB, 13 February 2020, available at <https://bit.ly/3rj1gPf>.

²⁰² According to SEF, there were 4 outgoing and 3 incoming take charge requests pursuant to Article 17(2) of the Regulation in 2019, and 0 outgoing and 2 incoming such requests in 2020.

According to information provided by SEF, both article 17(1) and (2) may be applied by the national authorities for the purposes of family reunion, humanitarian reasons, other family or cultural reasons depending on the interest of the parties involved. In CPR's experience, the underlying criteria in the application of the clause remain unclear.

A decision from TCA South recently stated that article 17 of the Dublin Regulation is only applicable in exceptional situations in order 'not to subject the applicant for international protection to inhuman or degrading treatment',²⁰³ apparently following a very narrow understanding of the logic and purpose of the clause.

According to the data shared by SEF for 2022, there were 6 incoming and 0 outgoing requests based on the 'humanitarian clause'. However, SEF has also stated that 34 applicants for international protection were relocated to Portugal from Malta and Italy, and 126 unaccompanied children and young adults were relocated from Greece pursuant to the humanitarian clause.

According to SEF, the 'sovereignty clause' has not been applied since 2018.

No transfer decisions to Greece have been adopted since the *M.S.S. v. Belgium and Greece* judgment of the European Court of Human Rights (ECtHR). For information on relocation to Portugal, see [Access to the territory and push-backs](#).

2.2. Procedure

Indicators: Dublin: Procedure

1. Is the Dublin procedure applied by the authority responsible for examining asylum applications?
 Yes No
2. On average, how long does a transfer take after the responsible Member State has accepted responsibility?
15 to 20 days

According to the Asylum Act a procedure for determining the Member State responsible for examining an application for international protection under the Dublin Regulation shall be conducted whenever there are reasons to believe that such responsibility lies with another Member State. In such cases, SEF shall make a 'take charge' or 'take back' request to the competent authorities of the relevant Member State.²⁰⁴

The Dublin procedure is preliminary to the assessment of the application and, once initiated, suspends the applicable time limits for the issuance of a decision on the (remaining) inadmissibility grounds or the merits of the application (accelerated procedures).²⁰⁵

While the law allows for the detention of asylum seekers submitted to a procedure for determining the responsible Member State pursuant to Article 28 of the Dublin III Regulation,²⁰⁶ the consequences of an asylum seeker's refusal to comply with the obligation to be fingerprinted²⁰⁷ are limited to the application of an [Accelerated Procedure](#).²⁰⁸ There are no legal provisions on the use of force to take fingerprints and CPR is not aware of any operational guidelines to that end. According to the information available to CPR, asylum seekers are systematically fingerprinted and checked in Eurodac in practice. According to CPR's observation, accelerated procedures triggered by a refusal to be fingerprinted are a very rare occurrence.

In practice, SEF systematically determines which country is responsible for examining the asylum application in accordance with the criteria set out in the Dublin Regulation. This is done, among others,

²⁰³ TCA South, Decision 137/21.2BELSB, 31 August 2021, <https://bit.ly/3iM3NQv>.

²⁰⁴ Articles 36 and 37(1) Asylum Act.

²⁰⁵ Article 39 Asylum Act. A recent decision from TCA South clarified that the suspension of the 30-day deadline provided for in article 20 is operated by the internal order determining that a case will be processed under the Dublin procedure following the identification of a Eurodac hit. TCA South, Decision 1167/20.7BELSB, 17 December 2020, available at: <https://bit.ly/3tMrfAn>.

²⁰⁶ Article 35-A(3)(c) Asylum Act.

²⁰⁷ Article 15(1)(e) Asylum Act.

²⁰⁸ Article 19(1)(j) Asylum Act.

on the basis of the information collected through a preliminary form that must be filled by the asylum seeker upon registration and/or the individual interview. The preliminary form includes information on identification, itinerary, grounds for the asylum application, prior stays in Europe and supporting evidence.

During the interview with SEF, the asylum seeker is also asked to clarify relevant Dublin-related issues such as their identity and nationality, travel documents, visas and travel arrangements, itinerary and transportation to Portugal, and prior asylum applications.

Even when the personal interview focuses on the grounds of the application for international protection, the document narrating the individual interview that is signed and handed out to the applicant includes a reference to the Dublin Regulation, as well as a waiver for sharing information under Article 34 of the Regulation.

The full extent and implications of the right to be heard in Dublin procedures has been discussed in in the national courts (see [Dublin: Personal interview](#)).

The Asylum Act provides for the right of the asylum seeker to be informed of the purpose of fingerprinting as well as of other rights provided in the Eurodac Regulation.²⁰⁹ CPR has no indication on whether this obligation is systematically implemented in practice as, to the extent of its knowledge, the leaflets distributed contain limited information on fingerprinting and on the Eurodac Regulation. Moreover, CPR has no indication on whether the common information leaflet set out in Article 4(3) of the Dublin III Regulation is systematically distributed. According to the observation of CPR, the information contained in the documents that are systematically distributed to asylum seekers by SEF²¹⁰ does not include all the information included on the Annex X (Parts A and B) of the corresponding Implementing Regulation.²¹¹ Notwithstanding, SEF reported that such information is provided to the applicants.

2.2.1. Individualised guarantees

According to information available to CPR, SEF does not seek individualised guarantees ensuring that the asylum seeker will have adequate reception conditions upon transfer in practice, either systematically or for specific categories of applicants or specific Member States.²¹²

CPR has no indication that individualised guarantees are sought following the notification of the transfer decision/prior to the transfer of the asylum applicant to the responsible Member State as well.

While certain Dublin-related judicial decisions refer to the individual circumstances of the applicant as a relevant element to assess the legality of a transfer decision (for instance in order to determine if there is a risk of inhuman or degrading treatment),²¹³ CPR is not aware of judicial decisions focusing specifically on individualised guarantees.

²⁰⁹ Article 49(1)(b) Asylum Act.

²¹⁰ While the version distributed to applicants, according to CPR's knowledge, is an handout in Portuguese, English and French, another version of the document (containing similar information) is available online in Portuguese at: <https://bit.ly/2Hq5aEy>.

²¹¹ Commission Implementing Regulation (EU) no.118/2014 of 30 January 2014, available at: <https://bit.ly/3emtXFT>.

²¹² ECtHR, *Tarakhel v. Switzerland*, Application No 29217/12, 4 November 2014.

²¹³ For example: TCA South, Decision 1982/18.1BELSB, 22 August 2019, available in Portuguese at: <https://bit.ly/36vzJAV>, confirming a judgement of TAF Sintra (unpublished) that annulled the decision to transfer an applicant with hepatitis B to Italy; TAC Lisbon, Decision 2364/18.0BELSB, 22 March 2019 (unpublished), annulling a transfer decision to Italy, *inter alia*, because the adjudicating authority did not properly assess the nature and severity of health issues referred by the applicant in the personal interview; TAC Lisbon, Decision 2048/19.2BELSB, 13 December 2019 (unpublished), confirming a transfer decision to Italy as it was not proved that there are systemic flaws in the receiving Member State and, even so, the applicant would have to demonstrate that, given his/her specific circumstances, the situation would amount to a risk of inhuman or degrading treatment.

2.2.2. Transfers

While the law provides for the detention of asylum seekers subject to the Dublin procedure,²¹⁴ this provision is not implemented in practice and CPR is unaware of detention cases on this ground.

Asylum seekers are entitled to a standard *laissez-passer* upon notification in writing of the transfer decision.²¹⁵ However, given the high rate of appeals, such a document is usually not issued at this point. According to the information available to CPR, all transfers are voluntary, and the applicant is informed of the exact date, time, and place they should present themselves to SEF for travel purposes.

According to SEF, in the absence of a judicial appeal or abscondment, the average duration of the Dublin procedure from the moment an outgoing request is issued until the effective transfer takes place was 35 days ('take back') or 80 days ('take charge'). The average duration from the moment another Member State accepts responsibility until the effective transfer takes place, if the applicant does not abscond or appeal, was 15 to 20 days.

Practical experience in this regard remained limited as only 22 transfers were implemented out of the total of 615 outgoing requests. The transfer rate was thus of 3.6% in 2022.

According to the information provided by SEF, the most common obstacles to the implementation of transfers include: (1) suspension of transfers by a Member State; (2) challenges in securing flights complying with the requirements set out by the relevant Member State, and (3) abscondence of applicants.

2.3. Personal interview

Indicators: Dublin: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the Dublin procedure? Yes No
❖ If so, are interpreters available in practice, for interviews? Yes No
2. Are interviews conducted through video conferencing? Frequently Rarely Never

The Asylum Act provides for the systematic personal interview of all asylum seekers, including those in a Dublin procedure.²¹⁶ The personal interview can only be waived where: (i) the evidence already available allows for a positive decision; or (ii) the applicant lacks legal capacity due to long lasting reasons that are not under their control.²¹⁷

As mentioned above (see: [Regular Procedure: Personal interview](#)), SEF affirmed that applicants are guaranteed the right to an interview before any decision regarding their application is adopted, emphasising that interviews can only be waived in the cases listed in the Asylum Act. SEF also noted that interviews are conducted in all types of procedure, including Dublin.

According to CPR's observation, in 2022, applicants in a Dublin procedure were systematically invited to an interview. Nevertheless, CPR is aware of cases where a transfer decision was adopted in the absence of an interview when the applicant absconded.²¹⁸

²¹⁴ Article 35-A(3)(c) Asylum Act.

²¹⁵ Article 37(3) Asylum Act.

²¹⁶ Article 16(1)-(3) Asylum Act.

²¹⁷ Article 16(5) Asylum Act.

²¹⁸ Pursuant to article 5(2)(a) of the Dublin Regulation.

Overall, the modalities of the interview are the same as those of the [Regular Procedure](#) and the interview is generally conducted by SEF-GAR, although interviews can be at times conducted by regional representations in cases of asylum applications made outside the Lisbon area.

The Dublin transcripts/interviews include an explanation of the aims and criteria of the Dublin Regulation as well as questions focusing on identification and contacts of family members, travel documents/visas, Eurodac registrations, information on entry/stay, and previous applications for international protection. The interview form also contains a section on vulnerability but follows a limited understanding of the concept, as it only includes questions on the health condition of the applicant and family members. Furthermore, it includes a section where the relevant Dublin Regulation criteria for the case are signalled and a question allowing the applicant to reply to such information.

Applicants interviewed within the context of Dublin Procedures are further notified of a document stating that the application will likely be subject to an inadmissibility decision and corresponding transfer to a concrete Member State according to the Dublin Regulation.²¹⁹ This document also notifies the applicant of the possibility to provide written comments pursuant to the general administrative rules.²²⁰ However, despite the general rule determining that the deadline for response cannot be of less than 10 days,²²¹ the deadline prescribed by the above-mentioned notifications is of only 5 days. Such documents are not communicated to CPR by the authorities on a systematic basis.²²²

2.4. Appeal

Indicators: Dublin: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the Dublin procedure?

<ul style="list-style-type: none"> ❖ If yes, is it ❖ If yes, is it suspensive 	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> Judicial <input checked="" type="checkbox"/> Yes 	<ul style="list-style-type: none"> <input type="checkbox"/> No <input type="checkbox"/> Administrative <input type="checkbox"/> No
---	--	---

The Asylum Act provides for an appeal against decisions in the Dublin procedure consisting of a judicial review of relevant facts and points of law by the Administrative Court.²²³ The asylum seeker has 5 days to lodge the appeal.²²⁴ As in the [Regular Procedure](#), the initial and onward appeals are automatically suspensive,²²⁵ and the law provides for a simplified judicial process with reduced formalities and time limits with the objective of shortening the duration of the judicial review.²²⁶

The available case law indicates that the asylum seeker can challenge the correct application of the Dublin criteria,²²⁷ as per the ruling of the Court of Justice of the European Union (CJEU) in *Ghezelbash*.²²⁸ The court also verifies if all formalities have been respected by SEF, including applicable deadlines set forth in the Dublin Regulation.²²⁹

²¹⁹ For a detailed analysis on the relevance of national jurisprudence in shaping this practice, and the different interpretations of the legal basis of the right to be heard in Dublin procedures, see the 2021 AIDA Report, available at: <https://bit.ly/3wayt4r>.

²²⁰ Article 121 Administrative Procedure Code.

²²¹ Article 122 Administrative Procedure Code.

²²² A practice observed at least since the third trimester of 2019.

²²³ Article 37(4) Asylum Act; Article 95(3) Code of Procedure in Administrative Courts.

²²⁴ Ibid.

²²⁵ Article 37(4) and (6) Asylum Act.

²²⁶ Article 37(5) Asylum Act.

²²⁷ TAC Lisbon, Decision 2183/15.6BESLB, 25 November 2015, unpublished, which states that a Dublin transfer decision can be challenged in case of incorrect application of the criteria enshrined in the Dublin Regulation and then moves on to assess the content of the criteria enshrined in Articles 8 to 10 and 17(1) in light of the particular circumstances of the applicant.

²²⁸ CJEU, Case C-63/15 *Ghezelbash*, Judgment of 7 June 2016.

²²⁹ TAC Lisbon, Decision 1235/16.0BESLB, 14 September 2016, unpublished.

It should be noted that, while CPR may be requested to intervene in the judicial procedure, namely by providing country of origin information, Dublin country information or guidance on legal standards, it is not a party thereto and is therefore not systematically notified of judicial decisions by the courts.

The information provided by the CSTAF for 2022 regarding the number, nationalities of appellants, average duration and results of judicial reviews does not make a distinction between the type of asylum procedures (see [Statistics](#)). Nevertheless, the data shared shows that, out of a total of 233 decisions rendered by first instance courts in 2022, 125 concerned Dublin procedures. According to the same source, within the context of Dublin cases, first instance courts decided in favour of the applicant on 16 occasions.

According to the information available to CPR, Dublin procedures were the main type of asylum procedure used in 2022 to reject asylum applications at first instance in the case of all of the five most represented nationalities at appeal stage (Gambia, Morocco,²³⁰ Guinea Bissau, Senegal, and Pakistan).

2.5. Legal assistance

Indicators: Dublin: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> With difficulty	<input type="checkbox"/> No
---	--	-----------------------------

 - ❖ Does free legal assistance cover:

<input type="checkbox"/> Representation in interview
<input checked="" type="checkbox"/> Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> With difficulty	<input type="checkbox"/> No
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 - ❖ Does free legal assistance cover

<input checked="" type="checkbox"/> Representation in courts
<input checked="" type="checkbox"/> Legal advice

With regard to access to free legal assistance for asylum seekers during the Dublin procedure and at appeal stage, the general rules and practice of the regular procedure apply (see [Regular Procedure: Legal Assistance](#)).

With regard to access to legal aid for appeals, see [Regular Procedure: Legal Assistance](#). Notably, as mentioned, applicants within the Dublin procedure were among the most affected by the practice of the Portuguese Bar Association according to which, following a refusal by the appointed lawyer to provide free legal aid on the grounds that the chances of success were limited, a replacement was not appointed.

2.6. Suspension of transfers

Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
---	-----------------------------

 - ❖ If yes, to which country or countries?

Greece

According to the information available to CPR the only country to which Dublin transfers are suspended as a matter of practice (as no requests are made by the Portuguese authorities) is **Greece**. This has been the case since the 2011 *M.S.S. v. Belgium and Greece* judgment of the ECtHR.

Given the significant number of Dublin cases analysed by the national courts in recent years, there has been a wide array of jurisprudence focusing on the legality of Dublin transfers.

²³⁰ For Morocco, accelerated procedures were equally relevant.

TCA South underlined in a 2019 judgement that the mere allegation by an asylum seeker that they would enjoy better conditions in Portugal than in the receiving Member State, is not enough to waive the rules on responsibility established by the Dublin Regulation.²³¹

In another case, TCA South considered that the fact that the applicant stated, during the personal interview, that he would like to stay in Portugal because the population was friendly and not racist, without referring to racist acts suffered in Spain was not sufficient to trigger an obligation for SEF to analyse the existence of systemic flaws in the Spanish asylum system as it is not publicly known that such system has clear systemic deficiencies.²³²

In a 2020 judgement, concerning a transfer decision to Spain, TCA South considered, *inter alia*, that the strong migratory pressure and poor reception conditions,²³³ were not sufficient to consider that there would be a serious risk of inhuman or degrading treatment.²³⁴

In 2020, TCA South analysed the case of an Iraqi national (from Mosul) whose application for international protection in Denmark was previously rejected and who was subject to a transfer decision from Portugal to Denmark.

While considering that the reception conditions in Denmark (including vis-à-vis detention) were not of such severity to fulfil the threshold of *Jawo*, the Court considered that it must also analyse if the return decision may imply a risk of indirect refoulement due to the likely removal from Denmark to Iraq, therefore violating Article 33 of the Geneva Convention and Articles 4 and 19(2) of the Charter of Fundamental Rights of the European Union. Within that context, the Court concluded, *inter alia*, that, in light of the available information on the human rights, humanitarian and security situation in the applicant's region of origin and relevant recommendations of international organisations, return may imply a serious risk of torture, inhuman or degrading treatment or a threat to his life and physical integrity.

Given that the information available on the individual case did not allow for an assessment of such risks, TCA South determined that the administrative authority must complete the analysis of the case namely by obtaining all the relevant information on the applicant's profile and individual situation and on the situation in Iraq.²³⁵

In a case adjudicated in 2021, TCA South noted that the applicant did not make statements that led to the conclusion that they would likely be deported to Afghanistan in case of return to Sweden. The Court emphasised that, in order to rule on a potential violation of the prohibition of refoulement in such circumstances, it has to be shown that the applicant is at a serious risk of deportation or that the deportation is very likely to occur. According to the Court, it is insufficient to merely refer to such a fear.²³⁶

Dublin transfers to Italy have been by far one of the most frequent asylum-related topics addressed by superior administrative courts in Portugal in recent years, allowing for conclusions not only regarding transfers to Italy themselves, but also regarding the applicant's burden of allegation, and the Administration's duties of assessment within this context.²³⁷

²³¹ TCA South, Decision 235/19.2BELSB, 26 September 2019, available in Portuguese at: <https://bit.ly/2QI4SdC>.

²³² TCA South, Decision 409/19.6BELSB, 7 November 2019, available in Portuguese at: <https://bit.ly/2tu6U8Y>.

²³³ The applicant described having been accommodated in containers shared with other people (increasing the risk of coronavirus infection) and unable to find a job in Spain.

²³⁴ The Court further noted that SEF is only exceptionally required to analyse the existence of systemic flaws per the jurisprudence of the STA regarding Italy (see *infra*). TCA South, Decision 938/20.9BELSB, 15 October 2020, available at: <https://bit.ly/3vUViYC>.

²³⁵ TCA South, Decision 775/19.3BELSB, 10 September 2020, available at: <https://bit.ly/34FHYM0>. One of the three judges dissented on the grounds that a transfer to Denmark would not violate the principle of non-refoulement as the country is also bound to the relevant rules of EU and International Law and is therefore obliged to take them into account in any return procedure. The dissent also notes that the applicant may appeal of any such decision.

²³⁶ TCA South, Decision 1323/19.0BELSB, 4 March 2021, available at: <https://bit.ly/3tP8y1G>.

²³⁷ For a detailed overview of the evolution of jurisprudence on this topic, please revert to the 2019, 2020 and 2021 AIDA reports, all available at: <https://bit.ly/3GubAhN>.

Notably, in January 2020, STA ruled on a case concerning the issue of systemic flaws in Italy and the duties of national authorities within this context.²³⁸

The Court considered that the statements provided by the applicant within the administrative procedure and the information collected by lower instance courts on the situation in Italy were not sufficiently detailed/severe to create a duty on the requesting Member State to further investigate the situation in the requested Member State. STA also affirmed that the requesting Member State is only obliged to collect up-to-date information on the risk of inhuman or degrading treatment in the receiving Member State where there are valid reasons to consider that there are systemic flaws in the asylum procedure/reception conditions of such Member State and where such flaws amount to a risk of inhuman or degrading treatment. The Court further noted that the information collected/considered by lower instance courts regarding Italy revealed an anomalous situation but that such situation is one of an abnormal influx of 'illegal migration'. According to the Court, such situation (that includes 'potential refugees' but also other persons) does not create a risk of torture, inhuman or degrading treatment in Italy.²³⁹

This interpretation has been reaffirmed in subsequent cases.²⁴⁰ Overall, an analysis of the jurisprudence of STA in this regard, indicates that the Court considers that:

- ❖ The determining authority is not bound to a general duty to inquire the situation in the responsible Member State. It remains unclear if there are situations where the Court would consider that such an obligation exists regardless of the applicant's allegations (e.g., notorious deficiencies that cannot be ignored by the determining authority).
- ❖ The applicant bears a burden of allegation and demonstration of the risk in case of return (see *infra*).
- ❖ The flaws in the asylum system of the responsible Member State must be extremely severe.
- ❖ The situation in Italy does not amount to one of generalised risk of torture, inhuman or degrading treatment.²⁴¹

With regard to the burden imposed on the applicant the following main features can be inferred from the decisions of STA:²⁴²

²³⁸ Supreme Administrative Court, Decision 2240/18.7BELSB, 27 September 2019, available in Portuguese at: <https://bit.ly/2FftdSu>.

²³⁹ Supreme Administrative Court, Decision 2240/18.7BELSB, 16 January 2020, available in Portuguese at: <https://bit.ly/3cq4BFd>.

²⁴⁰ STA, Decision 01108/19.4BELSB, 11 May 2020, available at: <https://bit.ly/3IXMxZ9>; STA, Decision 01322/19.2BELSB, 4 June 2020, available at: <https://bit.ly/3feFnOY>; STA, Decision 01088/19.6BELSB, 2 July 2020, available at: <https://bit.ly/3riiCN1>; STA, Decision 01786/19.4BELSB, 2 July 2020, available at: <https://bit.ly/3rlpk4h>; STA, Decision 01419/19BELSB, 9 July 2020, available at: <https://bit.ly/3fdz51X>; STA, Decision 03421/19.1BEPRT, 10 September 2020, available at: <https://bit.ly/3d3nmjT>; STA, Decision 01705/19.8BELSB, 10 September 2020, available at: <https://bit.ly/39dV SXH>; STA, Decision 02364/18.0BELSB, 5 November 2020, available at: <https://bit.ly/3tUOI2i>; STA, Decision 01932/19.8BELSB, 5 November 2020, available at: <https://bit.ly/3w1B67x>; STA, Decision 01301/19.0BELSB, 19 November 2020, available at: <https://bit.ly/39fas0S>; STA, Decision 02212/19.4BELSB, 10 December 2020, available at: <https://bit.ly/3d5ncbB>.

²⁴¹ With regard to the situation in Italy in particular, in a number of cases adjudicated in 2021, TCA South valued the fact that a number of the restrictive measures implemented by Matteo Salvini as Ministry of Home Affairs has been reverted in the meantime. See TCA South, Decision 998/20.2BELSB, 18 February 2021, available at: <https://bit.ly/3Nywsqo>; TCA South, Decision 1113/20.8BELSB, 4 February 2021, available at: <https://bit.ly/3IT2nyf>; TCA South, Decision 88/21BELSB, 17 June 2021, available at: <https://bit.ly/36E5SLK>. Furthermore, it has also been considered that the "overall situation in the country" does not lead to the conclusion that all Dublin transfers to Italy would violate article 3 ECHR and article 4 CFREU. See: TCA South, Decision 998/20.2BELSB, 18 February 2021, available at: <https://bit.ly/3Nywsqo>; TCA South, Decision 88/21BELSB, 17 June 2021, available at: <https://bit.ly/36E5SLK>. In one case, TCA South used as an indicator of the absence of systemic flaws in the Italian reception system the fact that there are also foreigners sleeping on the streets and without food in Portugal. TCA South, Decision 1696/20.2BELSB, 18 February 2021, available at: <https://bit.ly/3K90lpL>.

²⁴² Unofficial translations.

- ❖ It is insufficient for the applicant to invoke ‘generic and abstract deficiencies’;²⁴³
- ❖ The allegation of systemic flaws by itself is not sufficient neither to invalidate a transfer decision, nor to require SEF to examine the conditions in Italy;²⁴⁴
- ❖ The applicant must invoke ‘concrete facts allowing to conclude that there is an effective risk that they could be subject to inhuman treatment in Italy’;²⁴⁵
- ❖ The applicant must invoke and demonstrate ‘exceptional personal circumstances and not only a common and generalised knowledge of the reception difficulties in Italy’;²⁴⁶
- ❖ The personal circumstances of the applicant must not be described ‘in an overly generic manner and with lack of detail’;²⁴⁷
- ❖ The absence of references in the applicant’s statements/allegations to prior inhuman or degrading treatment in Italy is detrimental to their claim (especially if they were in the relevant Member State for a long period of time);²⁴⁸
- ❖ The applicant’s statements must allow the conclusion that ‘there is a concrete situation in which the applicant was affected in a manner beyond acceptable by the deficient reception conditions’;²⁴⁹
- ❖ Among the allegations deemed to be insufficient are claims regarding the excessive length of procedures, lack of access to employment, security concerns and challenges in accessing medical assistance.

These features reveal a significant focus on the applicant’s statements as well as on past treatment and events directly experienced in the responsible Member State.²⁵⁰ Furthermore, apparently, the applicant is required to disclose such treatment/events *proprio motu*, as the authorities are not specifically required to ask follow-up questions regarding potential risks in the responsible Member State.

While according to CPR’s analysis, some diverging decisions were identified²⁵¹ the jurisprudence of TCA South has predominantly adopted similar positions since then.²⁵²

²⁴³ STA, Decision 01322/19.2BELSB, 4 June 2020, available at: <https://bit.ly/3feFnOY>.

²⁴⁴ STA, Decision 01108/19.4BELSB, 11 May 2020, available at: <https://bit.ly/3lXmXZ9>.

²⁴⁵ STA, Decision 01322/19.2BELSB, 4 June 2020, available at: <https://bit.ly/3feFnOY>.

²⁴⁶ STA, Decision 01322/19.2BELSB, 4 June 2020, available at: <https://bit.ly/3feFnOY>; STA, Decision 01786/19.4BELSB, 2 July 2020, available at: <https://bit.ly/3rlpk4h>.

²⁴⁷ Decision 01786/19.4BELSB, 2 July 2020, available at: <https://bit.ly/3rlpk4h>.

²⁴⁸ STA, Decision 03421/19.1BEPRT, 10 September 2020, available at: <https://bit.ly/3d3nmjT>.

²⁴⁹ STA, Decision 02364/18.0BELSB, 5 November 2020, available at: <https://bit.ly/3tUOI2i>.

²⁵⁰ It is thus unclear how the assessment would be conducted in cases of take-charge procedure where the applicant was not physically present in the relevant Member State before but claims that there are systemic deficiencies or that they would be subject to a risk of torture, inhuman or degrading treatment in such Member State.

²⁵¹ In three cases, the TCA South considered, *inter alia*, that there were “clear, obvious and proven indications of the existence of systemic flaws” in the Italian system and that its malfunctioning was “endemic and deliberate” and reached the severity threshold required by the relevant European jurisprudence. Such conclusions were based on information from specialised NGOs and international organisations. The Court further considered that the applicant is not bound to a duty of allegation of systemic flaws. According to this understanding, the applicant is only required to provide information on their personal circumstances that can be relevant for the application of the safeguard clause. At least two of these judgements were later overturned by the STA. See: TCA South, Decision 2364/18.0BELSB, 14 May 2020, available at: <https://bit.ly/3d3LrqC> (an English EDAL case summary is available at <https://bit.ly/3t1EJZ5>). This decision was later reversed by the STA. TCA South, Decision 1301/19.0BELSB, 14 May 2020, available at: <https://bit.ly/3177qYm>). This decision was later reversed by the STA. TCA South, Decision 2317/19.1BELSB, 14 May 2020, available at: <https://bit.ly/3cdccctC>. In another case, the Court stated that Article 3(2) of the Dublin Regulation contains “a legal duty for the Member States to consider the possible existence of systemic flaws in the asylum procedure and reception conditions” (TCA South, Decision 2221/19.3BELSB, 18 June 2020, available at: <https://bit.ly/3fbGONR>). While the applicant was not vulnerable, the existence of such deficiencies has been reported and was raised by the applicant during the interview (the applicant stated that he lived on the street for nine months before coming to Portugal and that he would have to do so again in case of return). The Court concluded that SEF should have added reliable and up-to-date information on the situation in Italy to the process.

²⁵² E.g. TCA South, Decision 2329/19.5BELSB, 30 April 2020, available at: <https://bit.ly/3rfQ0TO> (referring to the relevance of mutual trust); TCA South, Decision 2323/19.6BELSB, 02 July 2020, available at: <https://bit.ly/3vQVo3m> (referring to the relevance of mutual trust and the need to prevent asylum shopping); TCA South, Decision 695/20.9BELSB, 24 September 2020, available at: <https://bit.ly/3vUzs7q> (highlighting the inexistence a general *ex officio* duty of analysis of the situation in the relevant Member State that the

This understanding of the applicant's burden of allegation/substantiation has also been applied by the Court in cases concerning transfers to other Member States.

According to the analysis conducted, the most relevant consequences seem to be:

- ❖ A significant focus on the need to describe concrete situations that have impacted the applicant directly;²⁵³
- ❖ The reference to the absence of individual vulnerabilities/risk factors as an element to determine the (in)existence of a duty on the authorities to inquire the situation in the relevant Member State.²⁵⁴

In a more protective approach, TCA South affirmed that national courts are obliged to conduct an exhaustive and *ex nunc* analysis of facts and points of law of the case which includes the risk of inhuman or degrading treatment of Dublin transfers. According to the decision, this comprises an analysis of all the information necessary, regardless of whether it is provided by the parties or gathered by the Court itself.²⁵⁵

In two cases adjudicated in 2021, TCA South also concluded that the applicant's health condition is a vulnerability factor that may lead to the existence of special needs. According to these decisions, in such cases the lack of analysis of the reception conditions and its impact on the health of the applicant is a violation of the duties of the Administration.²⁵⁶ A similar reasoning has been followed by the same court in at least two cases adjudicated in 2022.²⁵⁷

With regard to the conditions offered in the receiving Member State, TCA South recently decided that an allegation of non-satisfaction of basic housing needs must be analysed by the administrative authorities.²⁵⁸ STA decided that the non-provision of financial support to an asylum seeker for almost a month does not amount to inhuman or degrading treatment.²⁵⁹ TCA South has also decided in at least two cases that the pressure faced by Poland due to the displacement from Ukraine was not sufficient to oblige the administrative authority to assess possible risks of inhuman or degrading treatment of Dublin returnees.²⁶⁰

applicant's statements did not point towards the applicability of article 3(2) Dublin Regulation and the notorious facts do not require an *ex officio* evaluation); TCA South, Decision 1052/20.2BELSB, 15 October 2020, available at: <https://bit.ly/3sfK6Uc>; TCA South, Decision 357/20.7BELSB, 29 October 2020, available at: <https://bit.ly/3setb4t>; TCA South, Decision 1117/20.0BELSB, 12 November 2020, available at: <https://bit.ly/318BJxV>; TCA South, Decision 1122/20.7BELSB, 26 November 2020, available at: <https://bit.ly/3tMPXAO>.

²⁵³ TCA South, Decision 1112/20.8BELSB, 18 February 2021, available at: <https://bit.ly/3iMS3wT>; TCA South Decision 1908/20.2BELSB (Germany), 21 April 2021, available at: <https://bit.ly/3uyiVWQ>.

²⁵⁴ TCA South, Decision 998/20.2BELSB, 18 February 2021, available at: <https://bit.ly/3Nywsqo>; TCA South, Decision 2300/20.4BELSB, 17 June 2021, available at: <https://bit.ly/3wPHGAW>; TCA South, Decision 88/21.0BELSB, 17 June 2021, available at: <https://bit.ly/36E5SLK>.

²⁵⁵ The Court also refers to some of the requirements that the sources used should comply with. TCA South, Decision 1323/19.0BELSB (Sweden), 4 March 2021, available at: <https://bit.ly/3tP8y1G>.

²⁵⁶ Concerning the transfer to France of an applicant with cardiac-related issues that had not yet been evaluated in Portugal - TCA South, Decision 1960/20.0BELSB, 24 August 2021, available at: <https://bit.ly/3uxtSrQ>. Concerning the transfer to Spain of an applicant with gastric complaints that had not yet been evaluated in Portugal - TCA South, Decision 1673/20.3BELSB, 24 August 2021, available at: <https://bit.ly/3Nuj1aS>. Nevertheless, in another case, the TCA South considered that an allegation of chest pain was not enough to require further inquiries or to preclude a transfer to France. TCA South, Decision 739/21.7BELSB, 15 September 2021, unpublished.

²⁵⁷ TCA South, Decision 917/21.9BELSB, 9 March 2022, available at: <https://bit.ly/3KPt0Zn>; TCA South, Decision 1988/20.0BELSB, 20 October 2022, unpublished. On the contrary, it has been decided that young, healthy and autonomous persons (even if with minor health issues) are not part of an at-risk group, and, as such, there is no duty on the authorities to assess potential risks of the reception conditions in the receiving Member State. TCA South, Decision 545/21.9BELSB, 3 February 2022, available at: <https://bit.ly/3ZCtSot>.

²⁵⁸ TCA South, Decision 177/22.4BELSB, 23 June 2022, unpublished (case concerning France).

²⁵⁹ STA, Decision 0269/22.0BELSB, 25 November 2022, available at: <https://bit.ly/3y5YONc>

²⁶⁰ TCA South, Decision 2040/22.0BELSB, 17 November 2022, not publicly available. It is worth mentioning that this decision had a dissent from one of the judges, underlining the information publicly available on the situation in Poland, as well as the need to consider the applicant's individual circumstances and characteristics in the

While this does not seem to be the predominant interpretation, there are also multiple judgements from TCA South determining that the safeguard clause of Article 3(2) of the Dublin Regulation is not applicable to take back procedures under Article 18(1)(d) of the Dublin Regulation. The Court considered that, in such cases, compliance with the principle of non-refoulement should be verified.²⁶¹

CPR is aware that, since 2020, some transfer decisions to Italy issued by SEF included information on the situation in the Member State, and references to relevant national jurisprudence (see [Suspension of Transfers](#)), concluding that there was no risk of ‘extreme material poverty’ constituting a risk of inhuman or degrading treatment in the case of transfer.²⁶² In some instances (e.g., when the applicant referred to health issues during the interview), the decisions contained a general analysis of the specific allegation.

2.7. The situation of Dublin returnees

The National Director of SEF is the competent authority to accept the responsibility of the Portuguese State for ‘assessing an application for international protection’ presented in other another EU Member State.²⁶³ In practice, asylum seekers returned under Dublin do not face relevant or systematic obstacles in accessing the asylum procedure and reception conditions following a transfer to Portugal.

SEF usually informs CPR beforehand of the date of arrival, flight details and medical reports (if applicable). Upon arrival at the airport, asylum seekers receive a notification to present themselves at SEF-GAR in the following day(s) and are referred to CPR’s Refugee Reception Centre (CAR) in Bobadela or to other facilities or organisations (ISS/SCML), as applicable, for the provision of reception conditions.

In accordance with the Asylum Act, where the asylum seeker withdraws their application implicitly by disappearing or absconding for at least 90 days without informing SEF, the file can be deemed closed by the National Director of SEF.²⁶⁴ Notwithstanding, the applicant is entitled to reopen their asylum case by presenting themselves to SEF at a later stage. In this case, the file is to be resumed at the exact stage where it was discontinued by the National Director of SEF.²⁶⁵

According to the information available to CPR, asylum seekers who had previously abandoned their application and left the country have not faced relevant or systematic problems in reopening their asylum cases and have not been treated as subsequent applicants following incoming transfers.

Since 2018, **Portugal** and **Germany** have an administrative arrangement pursuant to Article 36 of the Dublin Regulation to facilitate the implementation of transfers. The agreement aims to facilitate returns by

assessment of the risk of inhuman or degrading treatment in the receiving State. TCA South, Decision 879/22.5BELSB, 6 October 2022, available at: <https://bit.ly/3kHRQzC>. While the decision was appealed to STA, the court refused to analyse the case deeming the decision in line with STA’s jurisprudence on Dublin transfers. STA, Decision 879/22.5BELSB, 7 December 2022, available at: <https://bit.ly/3y3kG0H>.

²⁶¹ TCA South, Decision 1889/19.5BELSB, 14 May 2020, available at: <https://bit.ly/3rfSscW>; (referring both to the risk of direct and indirect refoulement); TCA South, Decision 61/20.6BELSB, 2 July 2020, available at: <https://bit.ly/3f9Od0a> (referring only to the absence of risks in the relevant Member State, one of the judges dissented on the grounds that the transfer to Italy would amount to a violation of the principle of non-refoulement and that risk of refoulement in case of return to the country of origin should have also been assessed; an English EDAL case summary is available at <https://bit.ly/3cVM0E8>); TCA South, Decision 65/20.9BELSB, 24 September 2020, available at: <https://bit.ly/3cV2IIK> (referring only to the absence of risks in the relevant Member State); TCA South, Decision 988/20.5BELSB, 1 October 2020, available at: <https://bit.ly/3tMexSj>; TCA South, Decision 1050/20.6BELSB, 29 October 2020, available at: <https://bit.ly/3sb5dXE>; TCA South, Decision 1065/20.4BELSB, 21 January 2021, available at: <https://bit.ly/3DnVjIA>; TCA South, Decision 1120/22.6BELRS, 6 October 2022, available at: <https://bit.ly/3kNYHHM>. This interpretation has also been explicitly rejected by the same court in the course of 2022: TCA South, Decision 545/21.9BELSB, 3 February 2022, available at: <https://bit.ly/3ZCtSot>; TCA South, Decision 177/22.4BELSB, 26 June 2022, unpublished.

²⁶² CJEU, *Jawo*, Case C-163/17, 19 March 2019.

²⁶³ Article 40(1) Asylum Act.

²⁶⁴ Article 32(1)(c) and (2) Asylum Act.

²⁶⁵ Article 32(3) of the Asylum Act.

introducing non-binding shorter timeframes – one month instead of three months for a ‘take charge’ request – and providing for group instead of individual transfers.²⁶⁶

According to the observation of CPR, applicants have been returned similarly to other Dublin cases, and the agreement does not impact the treatment of Dublin returnees.

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

The law provides for an admissibility procedure that is characterised by:

- (i) specific grounds for considering an asylum application inadmissible;²⁶⁷
- (ii) specific time limits for the first instance decision on admissibility;²⁶⁸
- (iii) legal implications in case the competent authority does not comply with those time limits;²⁶⁹
- (iv) the right to an appeal against the inadmissibility decision;²⁷⁰ and
- (v) specific rights related to admission to the regular procedure²⁷¹

The grounds laid down in article 19-A (1) of the Asylum Act for considering an asylum application inadmissible include cases where the asylum seeker:

- ❖ Falls under the Dublin procedure;²⁷²
- ❖ Has been granted international protection in another EU Member State;²⁷³
- ❖ Comes from a **First Country of Asylum**, i.e., has obtained refugee status or otherwise sufficient protection in a third country and will be readmitted to that country;²⁷⁴
- ❖ Comes from a **Safe Third Country**, i.e., due to a sufficient connection to a third country, can reasonably be expected to seek protection in that third country, and there are grounds for considering that they will be admitted or readmitted to that country;²⁷⁵
- ❖ Has made a subsequent application without new elements or findings pertaining to the conditions for qualifying for international protection;²⁷⁶ and
- ❖ Is a dependant who had lodged an application after consenting to have their case be part of an application lodged on their behalf, in the absence of valid grounds for presenting a separate application.²⁷⁷

The National Director of SEF has 30 days to take a decision on the admissibility of the application,²⁷⁸ which is reduced to 10 days in the case of subsequent applications²⁷⁹ and applications following a removal decision,²⁸⁰ and to 7 days in the case of the **Border Procedure**.²⁸¹ In case SEF does not comply with these time limits, the claim is automatically admitted to the procedure.²⁸²

²⁶⁶ The agreement has been deemed as generally in line with the Dublin Regulation by European Commission, Ares (2018) 4489201, 31 August 2018.

²⁶⁷ Article 19-A Asylum Act.

²⁶⁸ Articles 20(1),24(4), 33(4) and 33-A(5) Asylum Act.

²⁶⁹ Articles 20(2) and 26(4) Asylum Act.

²⁷⁰ Articles 22(1) and 25(1) Asylum Act.

²⁷¹ Article 27(1)-(3) Asylum Act pertaining to the issuance of a provisional residence permit. Furthermore, until the amendment to the Asylum Act enacted in 2022, only applicants admitted to the regular procedure had the right to work according to article 54(1) Asylum Act.

²⁷² Article 19-A(1(a) Asylum Act.

²⁷³ Article 19-A(1(b) Asylum Act.

²⁷⁴ Article 19-A(1(c) and Article 2(1)(z) Asylum Act.

²⁷⁵ Article 19-A(1(d) and Article 2(1)(r) Asylum Act.

²⁷⁶ Article 19-A(1(e) Asylum Act.

²⁷⁷ Article 19-A(1(f) Asylum Act.

²⁷⁸ Article 20(1) Asylum Act.

²⁷⁹ Article 33(4) Asylum Act.

²⁸⁰ Article 33-A(5) Asylum Act.

²⁸¹ Article 24(4) Asylum Act.

²⁸² Articles 20(2) and 26(4) Asylum Act. However, according to information gathered by CPR in the course of 2021, SEF seems to consider that the deadline prescribed in article 33-A(5) Asylum Act is not mandatory and

In practice, all asylum applicants undergo an interview that assesses the above-mentioned inadmissibility clauses along with the merits of the application.²⁸³

According to the information available to CPR, except for Dublin-related decisions, the number of asylum applications deemed inadmissible in 2022 was low. Statistics shared by SEF for 2022 indicate that out of 343 inadmissibility decisions, there were only 8 non-Dublin inadmissibility decisions, either on the grounds of protection in another Member State,²⁸⁴ or subsequent applications deemed not to have new elements.²⁸⁵

While SEF generally admits asylum seekers to the regular procedure in case of non-compliance with applicable time limits, the automatic admission and issuance of a provisional residence permit has at times required a proactive intervention of the asylum seeker or of their legal counsel.

3.2. Personal interview

Indicators: Admissibility Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the admissibility procedure? Yes No
 - ❖ If so, are questions limited to nationality, identity, travel route? Yes No
 - ❖ If so, are interpreters available in practice, for interviews? Yes No
2. Are interviews conducted through video conferencing? Frequently Rarely Never

The Asylum Act provides for the systematic personal interview of all asylum seekers, including to assess admissibility,²⁸⁶ except for cases where:

- (i) the evidence already available allows for a positive decision; or
- (ii) the applicant lacks legal capacity due to long lasting reasons that are not under their control.²⁸⁷

As mentioned above, SEF confirmed that applicants are guaranteed the right to an interview before any decision regarding their application is adopted, emphasising that interviews can only be waived in the cases listed in the Asylum Act. SEF also noted that interviews are conducted in all types of procedure, including Dublin (see [Regular procedure: Personal interview](#) and [Dublin procedure: Personal interview](#)).

In practice, the individual interview can either focus on Dublin related questions only or cover both the admissibility and the merits of the claim. The modalities of the interview are the same as those of the regular procedure and the interview is generally conducted by SEF-GAR, although interviews are at times conducted by SEF's regional representations in cases of asylum applications made outside the Lisbon area (see [Regular procedure: Personal interview](#)).

CPR is not aware of the use of videoconferencing for interviews, even within the context of the coronavirus pandemic. This has been confirmed by SEF.

that elapsing of such a deadline without a decision being issued with regard to the admissibility/merits (accelerated procedure) does not entail admission to the regular procedure. Such an understanding seems to be at odds with an adequate interpretation of the provision and is not in line with the generalised practice in this regard.

²⁸³ Article 16 Asylum Act.

²⁸⁴ Article 19-A(1)(b) Asylum Act.

²⁸⁵ Article 19-A(1)(4).

²⁸⁶ Article 16(1)-(3) Asylum Act.

²⁸⁷ Article 16(5) Asylum Act.

A decision from TCA South issued in 2021 considered that, despite the absence of an explicit reference in the relevant norm,²⁸⁸ the authorities are bound to articles 16 and 17 of the Asylum Act (personal interview and report) within the examination of applications made following a removal order.²⁸⁹

3.3. Appeal

Indicators: Admissibility Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against an inadmissibility decision?

- | | | |
|--|--|---|
| ❖ If yes, is it | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it automatically suspensive | <input checked="" type="checkbox"/> Judicial | <input type="checkbox"/> Administrative |
| | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Some grounds <input type="checkbox"/> No |

The Asylum Act provides for an appeal against an inadmissibility decision consisting of a judicial review of relevant facts and points of law by the Administrative Court.²⁹⁰ The time limit for lodging the appeal varies according to the inadmissibility ground. It is further impacted by the application of the border procedure.

Time limits for appealing inadmissibility decisions in calendar days		
Inadmissibility ground	Asylum Act provision	Days
Inadmissibility at the border	Article 25(1)	4
Inadmissibility on the territory :		
Subsequent application with no new elements	Article 33(6)	4
Application following a removal decision	Article 33-A(6)	4
Dublin decision	Article 37(4)	5
Protection in another EU Member State	Article 22(1)	8
First country of asylum	Article 22(1)	8
Safe third country	Article 22(1)	8
Application by dependant	Article 22(1)	8

As in the regular procedure, the first and onward appeals are automatically suspensive,²⁹¹ with the exception of onward appeals concerning inadmissible subsequent applications and applications following a removal order.²⁹²

The law provides for a simplified judicial process with reduced formalities and time limits with the objective of shortening the duration of the judicial review.²⁹³

Without prejudice to issues already discussed in [Regular Procedure: Appeal](#), such as the poor quality of legal assistance and language barriers therein that have an impact on the quality and effectiveness of

²⁸⁸ Article 33-A Asylum Act.

²⁸⁹ TCA South, Decision 139/21.9 BELSB, 23 September 2021, available at: <https://bit.ly/3N7cHov>. Note that, while the decision systematically refers to subsequent applications, it is indeed analysing the rules applicable to asylum applications made following a removal order (article 33-A Asylum Act).

²⁹⁰ Articles 22(1), 25(1), 33(6) and 37(4) Asylum Act and Article 95(3) Code of Procedure in Administrative Courts.

²⁹¹ Articles 22(1), 25(3) and 37(6) Asylum Act.

²⁹² Articles 33(8) and 33-A(8) Asylum Act, respectively.

²⁹³ Articles 22(2), 25(2), 33(7) and 37(5) Asylum Act.

appeals, CPR is not aware of systemic or relevant obstacles faced by asylum seekers when appealing a first instance decision on admissibility in practice.

While CPR may be requested to intervene in the judicial procedure, namely by providing country of origin information or guidance on legal standards, it is not a party thereto and is therefore not systematically notified of judicial decisions by the courts.

The information provided by the CSTAF for 2022 regarding the number, nationalities of appellants, and average duration and results of judicial reviews of first instance decisions does not make a distinction between the type of asylum procedures (see [Statistics](#)).

3.4. Legal assistance

Indicators: Admissibility Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance during admissibility procedures in practice?
 Yes With difficulty No
❖ Does free legal assistance cover:
 Representation in interview
 Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against an inadmissibility decision in practice?
 Yes With difficulty No
❖ Does free legal assistance cover:
 Representation in courts
 Legal advice

Regarding access to free legal assistance for asylum seekers during the first instance admissibility procedure and at appeal stage, the general rules and practice of the regular procedure apply (see section on [Regular Procedure: Legal Assistance](#)).

4. Border procedure (border and transit zones)

4.1. General (scope, time limits)

Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? Yes No
2. Where is the border procedure mostly carried out? Air border Land border Sea border
3. Can an application made at the border be examined in substance during a border procedure? Yes No
4. Is there a maximum time limit for a first instance decision laid down in the law? Yes No
❖ If yes, what is the maximum time limit? 7 days
5. Is the asylum seeker considered to have entered the national territory during the border procedure? Yes No

The law provides for a specific procedure regarding applications made at a national border.²⁹⁴ A distinctive feature of the legal framework of border procedures consists in the provision for the detention of asylum seekers for the duration of the admissibility stage/accelerated procedure (see [Detention of Asylum Seekers](#)).²⁹⁵

Despite some unclear instances, the border procedure has not been applied in practice since March 2020.

²⁹⁴ Article 23(1) Asylum Act.

²⁹⁵ Articles 26(1) and 35-A(3)(a) Asylum Act.

Persons applying for international protection at the border have, according to CPR's experience, been granted entry into national territory, referred to the provision of reception conditions if needed, and had their cases under the rules governing applications made in the national territory. According to the information provided by SEF, while a total of 694 were made at the border in 2022, only a residual number were analysed under the border procedure (due to the existence of relevant precautionary measures).

It is unclear whether this is temporary or will become permanent practice, and whether it will apply to all national border posts or just to Lisbon Airport.

Location and number of border procedures

Portugal has 36 external border posts, of which 8 are air border posts and 28 are maritime border posts.²⁹⁶ SEF is responsible for border controls, including for refusing entry and exit from the territory.²⁹⁷ The overwhelming majority of border procedures used to be conducted at **Lisbon Airport**.²⁹⁸

Grounds for activating the border procedure and main characteristics

According to the law, a person who: (i) does not meet the entry requirements set in the law; (ii) is subject to a national or an EU entry ban; or (iii) represents a risk or a serious threat to public order, national security, or public health is refused entry in national territory²⁹⁹ and is notified in writing by SEF of the corresponding decision.³⁰⁰ Such a notification bears a reference to the right of individuals refused entry at the border to seek asylum as enshrined in the law.³⁰¹

SEF must inform the carrier company (i.e., the air company in most cases) for the purposes of return of the individual in the shortest possible time either to: the point where the individual initiated travel with the company; the country that issued the travel document; or any country where entrance is guaranteed.³⁰² This is done in accordance to the Convention on International Civil Aviation,³⁰³ as, according to SEF, the individual remains in the international area of the airport and is therefore not subject to the rules applicable to removal procedures from national territory.³⁰⁴ If the individual refused entry into national territory applies for asylum, the air company must be immediately informed by SEF of the suspension of return.

While the border procedure provides for the basic principles and guarantees of the regular procedure,³⁰⁵ it lays down time limits for a decision on admissibility or for accelerated procedures regarding applications deemed unfounded on certain grounds (see [Accelerated Procedure](#) grounds) that are significantly shorter than those applicable in national territory. Additionally, border procedures are characterised by shorter appeal deadlines, as well as reduced procedural guarantees such as the exclusion from the right of the applicant to seek revision of the narrative of their personal interview,³⁰⁶ or the possibility to consult with CPR prior to the individual interview conducted by SEF. This is in addition to the provision for the detention of asylum seekers for the duration of the admissibility stage/accelerated procedure (see [Detention of Asylum Seekers](#)).³⁰⁷

²⁹⁶ Annex II Decree-Law 252/2000.

²⁹⁷ Article 2 Decree-Law 252/2000.

²⁹⁸ For a detailed overview of the use of border procedures before March 2020, please consult the corresponding AIDA reports, available at: <https://bit.ly/3GubAhN>.

²⁹⁹ Article 32 Immigration Act.

³⁰⁰ Article 38(2) Immigration Act.

³⁰¹ Article 40(4) Immigration Act.

³⁰² Articles 38(3) and 41(1) Immigration Act.

³⁰³ Chicago Convention on International Civil Aviation, 7 December 1944, Annex IX, Chapter V, points 5.9-5.11.1.

³⁰⁴ CPR, 'Access to Protection: A Human Right, country report, Portugal', 2014, para 2.1, available in Portuguese at: <https://bit.ly/3sWjYNx>.

³⁰⁵ This includes access to the procedure, the right to remain in national territory pending examination, the right to information, to a personal interview, the right to legal information and assistance throughout the procedure, the right to free legal aid, special procedural guarantees, among others.

³⁰⁶ Article 25 Asylum Act.

³⁰⁷ Articles 26(1) and 35-A(3)(a) Asylum Act.

The National Director of SEF has 7 days to issue a decision either on admissibility or on the merits of the application in an accelerated procedure.³⁰⁸ In the absence of inadmissibility grounds or grounds for deeming the application unfounded in an accelerated procedure, SEF must admit the application to the regular procedure and authorise entry into national territory/release from border detention.³⁰⁹ Non-compliance with the time limit results in the automatic admission of the applicant to the regular procedure and release from the border.³¹⁰

Within the context of border procedures, asylum seekers were detained in the international area of the airport until the National Director of SEF issued a decision on the admissibility/merits of the claim,³¹¹ or for up to 60 days in the case of appeal (see [Duration of Detention](#)).³¹²

Exempted categories

The law identifies a sub-category of individuals whose special procedural needs result from torture, rape or other serious forms of psychological, physical or sexual violence who may be exempted from the border procedure under certain conditions (see [Special Procedural Guarantees](#)).³¹³ Furthermore, the ‘temporary installation’ of unaccompanied and separated children in temporary installations at the border (detention) – and hence application of border procedures – must comply with applicable international standards such as those recommended by UNHCR, UNICEF, and ICRC.³¹⁴

According to the available information, no standard operational procedures and tools allowing for the early and effective identification of survivors of torture and/or serious violence and their special procedural needs are in place. As such, asylum seekers who claim to be survivors of torture, rape, or other serious forms of psychological, physical, or sexual violence were not exempt from border procedures in practice on such grounds, despite the lack of provision of special procedural guarantees at the border.³¹⁵

4.2. Personal interview

Indicators: Border Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the border procedure?

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If so, are questions limited to nationality, identity, travel route?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
❖ If so, are interpreters available in practice, for interviews?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

2. Are interviews conducted through video conferencing?

<input type="checkbox"/> Frequently	<input type="checkbox"/> Rarely	<input checked="" type="checkbox"/> Never
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The rules and modalities of the interview applicable to the border procedure are the same as those of the regular procedure and interviews were generally conducted by SEF-GAR.

Interviews were conducted a few days after arrival, while the applicant was detained. This meant that there was little time to prepare and substantiate the asylum application. Furthermore, the legal framework

³⁰⁸ Article 24(4) Asylum Act. On the territory, decisions on admissibility must be taken within 30 days and decisions in the accelerated procedure within 10 to 30 days.

³⁰⁹ Article 26(4) Asylum Act.

³¹⁰ Ibid.

³¹¹ Article 26(1) Asylum Act.

³¹² Article 35-B(1) Asylum Act.

³¹³ Article 17-A(4) Asylum Act. Exemption from border procedures is dependent on the impossibility to offer “*support and conditions to asylum seekers identified as being in need of special procedural guarantees.*”

³¹⁴ Article 26(2) Asylum Act.

³¹⁵ Italian Council for Refugees *et al.*, ‘Time for Needs: Listening, Healing, Protecting’, October 2017, available at: <https://bit.ly/3gEoe1T>.

provides for reduced procedural guarantees such as the exclusion from the right of the applicant to seek revision of the interview report.³¹⁶

Many asylum seekers arrive at the border without valid identification documents or supporting evidence to substantiate their asylum application and contacts with the outside from within the EECIT were usually limited and rarely effective for the purposes of securing supporting evidence, given the short period of time between the arrival, the personal interview and the first instance decision.

An additional concern regarding interviews conducted at **Lisbon Airport** were the space and privacy constraints of the interview offices, notably due to inadequate sound isolation (see [Conditions in Detention Facilities](#)). While the facility has been subject to extensive renovation work in 2020, CPR confirmed that the problems of the offices persisted during visits in 2022.

The absence of identification and vulnerability assessments means that potential special needs may not be known to the asylum authorities and may not have been taken into account at the time of interview. CPR is unaware of the implementation of special procedural guarantees at the border, such as the postponement of the interview, additional time for submitting supporting evidence, or the presence of supporting personnel in the interview within this context.³¹⁷

4.3. Appeal

Indicators: Border Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the border procedure?

- | | | |
|--|--|---|
| ❖ If yes, is it | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it automatically suspensive | <input checked="" type="checkbox"/> Judicial | <input type="checkbox"/> Administrative |
| | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Some grounds <input type="checkbox"/> No |

The Asylum Act provides for an appeal against a rejection decision at the border, either on admissibility grounds or on the merits in an accelerated procedure. The appeal consists of a judicial review of relevant facts and points of law by the Administrative Court.³¹⁸ The time limit for lodging the appeal is of 4 days.³¹⁹

Similarly to the regular procedure, the first and onward appeals have an automatic suspensive effect.³²⁰ The law provides for a simplified judicial process with reduced formalities and time limits with the objective of shortening the duration of the judicial review.³²¹ However, the Administrative Courts rarely reach a decision on the appeal within the maximum detention time limit of 60 days, meaning that asylum applicants subjected to the border procedure were granted access to the territory, albeit liable to a removal procedure in case their application is rejected by final decision.³²²

In practice, the average duration of the judicial review of a first instance rejection decision at the border was similar to the regular procedure (see [Statistics](#)).

Without prejudice to issues discussed in [Regular Procedure: Appeal](#) such as the poor quality of legal assistance and language barriers therein that have an impact on the quality and effectiveness of appeals, CPR is not aware of specific obstacles faced by asylum seekers in appealing a first instance decision in the border procedure.

³¹⁶ Article 25 Asylum Act. TCA South, Decision 1539/19.0BELSB, 11 September 2020, available at: <https://bit.ly/31gEInN>.

³¹⁷ Article 17-A(3) Asylum Act. See also Italian Council for Refugees *et al.*, 'Time for Needs: Listening, Healing, Protecting', October 2017, available at: <https://bit.ly/3gEoe1T>.

³¹⁸ Article 25(1) Asylum Act; Article 95(3) Code of Procedure in Administrative Courts.

³¹⁹ Article 25(1) Asylum Act.

³²⁰ Article 25 Asylum Act.

³²¹ Article 25(2) Asylum Act.

³²² Article 21(2) and (3) Immigration Act.

4.4. Legal assistance

Indicators: Border Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
 Yes With difficulty No

❖ Does free legal assistance cover: Representation in interview Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
 Yes With difficulty No

❖ Does free legal assistance cover Representation in courts Legal advice

There are a few distinctions to be made between the border procedure and the regular procedure regarding access to free legal assistance in law and in practice (see [Regular Procedure: Legal Assistance](#)).

As regards free legal assistance at first instance, the law expressly provides the possibility for UNHCR and CPR to interview the asylum seeker at the border³²³ and to provide assistance.³²⁴ In practice, following the registration of the asylum claim, CPR only had access to applicants once SEF conducted its individual interview covering admissibility and eligibility.

The Asylum Act also provides for an accelerated free legal aid procedure at the border for the purposes of appeal on the basis of a MoU between the Ministry of Interior and the Portuguese Bar Association.³²⁵ However, such a procedure has not been implemented, meaning that securing access to free legal aid at appeal stage remained an integral part of the legal assistance provided by CPR at the border. To that end, CPR resorted to the same procedure used in the territory albeit faced with specific constraints (e.g., shorter deadlines for application, communication problems, timely access to interpreters, etc.).

In November 2020, the Ministry of Home Affairs, the Ministry of Justice and the Bar Association signed a protocol to ensure the provision of legal counselling and assistance to foreigners to whom entry into national territory was refused (Lisbon, Porto, Faro, Funchal and Ponta Delgada airports. This protocol was made within the framework of Article 40(2) of the Immigration Act and is not intended to cover asylum procedures.

The provision of information and assistance to asylum seekers placed in detention at the border by CPR was typically challenging due to factors such as short deadlines, communication barriers, and bureaucratic clearance procedures for accessing the EECIT (particularly regarding interpreters).³²⁶ Other challenges included the lack of timely provision of information by SEF on the dates of interviews and languages spoken by the asylum seekers. This made it challenging to ensure assistance by interpreters.

In practice, free legal assistance provided by CPR in first instance procedures at the border included: (a) providing legal information on the asylum procedure and the legal aid system; (b) enabling access to free legal aid for the purpose of appeals; (c) assisting lawyers appointed under the free legal aid system in preparing appeals with relevant legal standards and COI; and (d) advocating with SEF for the release of particularly vulnerable asylum seekers such as unaccompanied children, families with children, pregnant women, and the severely ill.

³²³ Article 24(1) Asylum Act.

³²⁴ Article 49(6) Asylum Act.

³²⁵ Article 25(4) Asylum Act.

³²⁶ The renovation work in the facility has solved the physical access constraints.

Similarly, to the regular procedure, the overall quality of free legal aid at appeal stage was a relevant concern.

5. Accelerated procedure

5.1. General (scope, grounds for accelerated procedures, time limits)

The law contains a list of grounds that, upon verification, determine that an application is subjected to an accelerated procedure and deemed unfounded. The accelerated procedure has significantly shorter time limits for the adoption of a decision on the merits than those of the regular procedure.

The grounds laid down in article 19(1) of the Asylum Act for applying an accelerated procedure are:

- ❖ Misleading the authorities by presenting false information or documents or by withholding relevant information or documents with respect to identity and/or nationality that could have had a negative impact on the decision;³²⁷
- ❖ In bad faith, destroying or disposing of an identity or travel document that would have helped establish identity or nationality;³²⁸
- ❖ Making clearly inconsistent and contradictory, clearly false or obviously improbable statements which contradict sufficiently verified COI, thus making the claim clearly unconvincing in relation to qualification for international protection;³²⁹
- ❖ Entering the territory of the country unlawfully or prolonging the stay unlawfully and, without good reason, failing to make an application for international protection as soon as possible;³³⁰
- ❖ In submitting the application and presenting the facts, only raising issues that are either not relevant or of minimal relevance to the examination of whether the applicant qualifies for international protection;³³¹
- ❖ Coming from a [Safe Country of Origin](#);³³²
- ❖ Introducing an admissible subsequent application;³³³
- ❖ Making an application merely to delay or frustrate the enforcement of an earlier or imminent decision which would result in removal;³³⁴
- ❖ Representing a danger to the national security or public order;³³⁵ and
- ❖ Refusing to comply with an obligation to have fingerprints taken.³³⁶

The wording of the law does not seem to be fully in line with the recast Asylum Procedures Directive and with the applicable international standards as its literal application may lead not only to the accelerated processing but also to the automatic rejection of applications based on grounds such as the delay in making the application.

A first instance decision on the territory must be taken within 30 days for all grounds, except for applications following a removal order which must be decided within 10 days.³³⁷ In contrast to the [Regular Procedure](#),³³⁸ the National Director of SEF is the responsible authority for issuing a first instance decision

³²⁷ Article 19(1)(a) Asylum Act.

³²⁸ Article 19(1)(b) Asylum Act.

³²⁹ Article 19(1)(c) Asylum Act.

³³⁰ Article 19(1)(d) Asylum Act.

³³¹ Article 19(1)(e) Asylum Act.

³³² Article 19(1)(f) Asylum Act.

³³³ Article 19(1)(g) Asylum Act. In the case of subsequent applications admitted to the procedure under Article 19(1)(g) Asylum Act, there seems to be incoherence in the law as Article 33(5) provides for the application of the regular procedure where, following a preliminary assessment within 10 days, the application is deemed admissible because it includes new elements or findings pertaining to the conditions for qualifying as a beneficiary of international protection.

³³⁴ Article 19(1)(h) Asylum Act.

³³⁵ Article 19(1)(i) Asylum Act.

³³⁶ Article 19(1)(j) Asylum Act.

³³⁷ Articles 20(1) and 33-A(5) Asylum Act.

³³⁸ Article 29(5) Asylum Act.

on the merits of the application in the accelerated procedure.³³⁹ Non-compliance with the applicable time limits grants automatic access to the regular procedure.³⁴⁰

SEF generally admits asylum seekers to the regular procedure in case of non-compliance with applicable time limits. Nevertheless, issuance of the corresponding provisional residence permit has at times required a proactive intervention of the asylum seeker or of their legal counsel.

In the context of the provision of legal assistance to asylum seekers, CPR has also at times observed significant delays in the execution of judicial decisions by SEF (up to one year or more in some cases). According to CPR's observations, this mostly concerned the execution of judicial decisions that annulled first instance decisions rejecting applications in accelerated procedures and consequently directed the Administration to analyse them under the regular procedure, or to reprocess Dublin. It has also been observed that the authorities do not consider the 30 days' mandatory deadline for decisions deeming an application inadmissible/unfounded to apply in these circumstances. As such, SEF does not deem the applications admitted to the regular procedure when the deadline is elapsed.

In practice all applications are channelled through the accelerated procedure where the specific grounds provided in the law apply.³⁴¹ Data shared by SEF regarding 2022 indicates that 202 asylum applications were processed and rejected under an accelerated procedure. A breakdown by grounds applied was not available.

Nevertheless, according to CPR's observation, most rejections in accelerated procedures continued to be based on inconsistency and/or irrelevance.

While judicial decisions focusing on the interpretation of the grounds for the application of the accelerated procedure tends to be limited, two particular decisions from the TCA South issued in 2021 focused on the threshold that should be used to ascertain whether a case should be rejected in such procedures.

According to the Court, the application should not be rejected at this stage if the applicant's statements are not contradictory and unlikely in light of the country of origin information and an objective evaluation of the situation.³⁴²

In a different case, the Court noted that the interpretation of concept of 'unfounded application' referred to in article 19 of the Asylum Act must be guided by 'criteria of obviousness', and that only applications that clearly do not fulfil the minimum requisites should be rejected under an accelerated procedure.³⁴³

In its recent Concluding Observations on Portugal, the UN Human Rights Committee expressed concern with the '[e]xcessive use of accelerated procedures, which might compromise the quality of the assessment of applications and increase the risk of refoulement.' Notably, the Committee recommended Portugal to '[c]ontinue its efforts to maintain and strengthen the quality of its refugee status determination

³³⁹ Articles 20(1) and 24(4) Asylum Act.

³⁴⁰ Articles 20(2) and 26(4) Asylum Act. However, according to information gathered by CPR in the course of 2021, SEF seems to consider that the deadline prescribed in article 33-A(5) Asylum Act is not mandatory and that elapsing of such a deadline without a decision being issued with regard to the admissibility/merits (accelerated procedure) does not entail admission to the regular procedure. Such an understanding seems to be at odds with an adequate interpretation of the provision and is not in line with the generalised practice in this regard.

³⁴¹ There is a distinction to be made between border procedures from which certain categories of vulnerable asylum seekers may be exempted and accelerated procedures. While the vulnerable asylum seeker may be exempted from the border procedure and be released from detention, he or she will remain liable to an accelerated procedure in national territory.

³⁴² TCA South, Decision 1645/20.8BELSB, 4 March 2021, available at: <https://bit.ly/3qDacBN>. The decision reiterates prior jurisprudence by the Court determining that an application should only be rejected in an accelerated procedure where there is not "some support and plausibility" in the applicant's statements in light of the country of origin information and an objective assessment of the fear of persecution.

³⁴³ TCA South, Decision 1001/21.0BELSB, 7 October 2021, available at; <https://bit.ly/3NADUkw>.

procedures, in order to fairly and efficiently identify and recognize those in need of international protection and to afford sufficient guarantees of respect for the principle of non-refoulement under the Covenant'.³⁴⁴

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview

Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure? Yes No
 - ❖ If so, are questions limited to nationality, identity, travel route? Yes No
 - ❖ If so, are interpreters available in practice, for interviews? Yes No
2. Are interviews conducted through video conferencing? Frequently Rarely Never

Regarding the personal interview for asylum seekers during the accelerated procedure, the general rules and practice of the regular procedure apply (see section on [Regular Procedure: Personal Interview](#)).

However, the law foresees reduced guarantees in the accelerated procedure, namely by excluding asylum seekers' right to seek revision of the statements made during the personal interview in cases concerning applications following a removal decision,³⁴⁵ or the right to be notified of and to respond to SEF's reasoning of the proposal for a final decision.³⁴⁶ Nevertheless, the right of the applicant to submit comments to the written report the interview within 5 days is fully applicable in accelerated procedures.³⁴⁷

The change of practice regarding interview reports fully described in [Regular Procedure: Interview](#).

A decision from TCA South issued in 2021 considered that, despite the absence of an explicit reference in the relevant norm,³⁴⁸ the authorities are bound to articles 16 and 17 of the Asylum Act (personal interview and report) within the examination of applications made following a removal order.³⁴⁹

5.3. Appeal

Indicators: Accelerated Procedure: Appeal

Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure?
 - Yes No
 - ❖ If yes, is it Judicial Administrative
 - ❖ If yes, is it suspensive Yes Some grounds No

The Asylum Act provides for judicial review of facts and points of law by the Administrative Court against a rejection decision in an accelerated procedure.³⁵⁰

The time limit for lodging the appeal on the territory varies according to the specific ground of the accelerated procedure: it ranges from 4 days for applications following a removal decision,³⁵¹ to 8 days

³⁴⁴ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5. 28 April 2020, par 34(b) and 35(b), available at: <https://bit.ly/2Q1ftn8>.

³⁴⁵ Article 33-A(4) and (5) Asylum Act.

³⁴⁶ Article 29(2) Asylum Act. See infra the current practice in this regard as well as its link to the national jurisprudence.

³⁴⁷ Article 17(1) and (2) Asylum Act.

³⁴⁸ Article 33-A Asylum Act.

³⁴⁹ TCA South, Decision 139/21.9 BELSB, 23 September 2021, available at: <https://bit.ly/3N7cHov>. Note that, while the decision systematically refers to subsequent applications, it is indeed analysing the rules applicable to asylum applications made following a removal order (article 33-A Asylum Act).

³⁵⁰ Articles 22(1), 33-A(6) and 25(1) Asylum Act and Article 95(3) Code of Procedure in Administrative Courts.

³⁵¹ Article 33-A(6) Asylum Act.

for the remaining grounds.³⁵² Similarly to the regular procedure, the appeal has an automatic suspensive effect.³⁵³ The onward appeal in the case of an application following a removal decision does not.³⁵⁴ The law also provides for a simplified judicial process with reduced formalities and time limits with the objective of shortening the duration of the judicial review.³⁵⁵

While CPR may be requested to intervene in the judicial procedure, namely by providing country of origin information or guidance on legal standards, it is not a party thereto and is therefore not systematically notified of judicial decisions by the courts.

The information provided by CSTAF in 2022 regarding the number and nationalities of appellants, as well as the average duration and results of judicial reviews does not make a distinction between the type of asylum procedures (see [Statistics](#)). According to the information available to CPR, accelerated procedures were one of the main type of procedure used in 2022 to reject applications in the case of Morocco, one of the five most representative nationalities at appeal stage.

The information provided by CSTAF indicates, in general, a poor success rate at appeals stage. In this regard, it must be acknowledged that the quality of many appeals submitted is often poor, given that very few lawyers have any specific training or relevant expertise in the field.

The concerns regarding the poor quality of legal assistance, the merits test applied by the Bar Association, and language barriers during the regular procedure also apply to the accelerated procedure and have thus an impact on the quality and effectiveness of appeals. CPR is not aware of additional obstacles faced by asylum seekers in appealing a first instance decision in the accelerated procedure.

5.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance

Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

Yes With difficulty No

❖ Does free legal assistance cover:

Representation in interview

Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against a decision in practice?

Yes With difficulty No

❖ Does free legal assistance cover

Representation in courts

Legal advice

With regard to access to free legal assistance in the accelerated procedure, the general rules and practice of the regular procedure apply (see [Regular Procedure: Legal Assistance](#)).

³⁵² Articles 22(1) Asylum Act.

³⁵³ Articles 22(1) and 33-A(6) Asylum Act.

³⁵⁴ Article 33-A(8) Asylum Act.

³⁵⁵ Article 22(2) and 33-A(7) Asylum Act.

D. Guarantees for vulnerable groups

1. Identification

Indicators: Special Procedural Guarantees

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? Yes For certain categories No
❖ If for certain categories, specify which: Unaccompanied minors, victims of trafficking
2. Does the law provide for an identification mechanism for unaccompanied children? Yes No

The Asylum Act defines an ‘applicant in need of special procedural guarantees’ in terms of reduced ability to benefit from the rights and comply with the obligations stemming from the Asylum Act due to individual circumstances.³⁵⁶ Even though it does not include an exhaustive list of asylum seekers presumed to be in need of special procedural guarantees, it refers to age, gender, gender identity, sexual orientation, disability, serious illness, mental disorders, torture, rape or other serious forms of psychological, physical or sexual violence as possible factors underlying individual circumstances that could lead to the need of special procedural guarantees.³⁵⁷

The Asylum Act provides for the need to identify persons with special needs and the nature of such needs upon registration of the asylum application or at any stage of the asylum procedure.³⁵⁸ The nature of special procedural needs should be assessed before a decision on the admissibility of the application is taken.³⁵⁹

1.1. Screening of vulnerability

Despite these legal obligations, there are no (specific) mechanisms, standard operating procedures, or units in place to systematically identify asylum seekers who need special procedural guarantees.

In 2020, the UN Human Rights Committee expressed concern with the lack of such a mechanism and recommended the establishment of ‘an effective mechanism for the identification of vulnerable applicants, in particular stateless persons’.³⁶⁰

The questionnaire used by SEF in first instance asylum includes two questions on the applicant’s self-assessed health condition and capacity to undergo the interview.³⁶¹ Dublin interview forms also contain a couple of questions on health-related vulnerabilities.³⁶² According to CPR’s observation, there is no clear link between the answer provided by the applicant and the adoption of special procedural guarantees in practice.

According to SEF, its caseworkers received training on the identification of vulnerable persons, and specific interviewing techniques under the EASO training curriculum.

In September 2022, UNHCR and EUAA organised two training sessions on the Agency’s [Tool for Identification of Persons with Special Needs](#) in Lisbon.

³⁵⁶ Article 17-A(1) Asylum Act.

³⁵⁷ Ibid.

³⁵⁸ Article 77(2) Asylum Act.

³⁵⁹ Article 17-A(1) Asylum Act.

³⁶⁰ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5. 28 April 2020, para 34(c) and 35(c) available at: <https://bit.ly/2Q1ftn8>.

³⁶¹ The questions read (1) “Do you feel alright, are you comfortable? Do you have any health problems?”, and (2) “Do you feel capable of talking to me at the moment?”.

³⁶² The questions read (1) “Are you in good health – Y/N? Do you have health problems - Y/N? Which problems?” and (2) “Are you accompanied by a relative with health problems?”.

In 2022, a new SOG sub-group was created in order to address the area of vulnerabilities within the asylum system. The group is composed by ACM, CPR, ISS, SCML, SEF, and UNHCR. According to the information available at the time of writing, during the first semester of 2023, the sub-group will be led by UNHCR and will identify services and mechanisms to address specific vulnerabilities.

Publicly available statistics regarding vulnerable asylum seekers are scarce and relate mostly to unaccompanied children and families with children.³⁶³ According to the information provided by SEF, a total of 354 children applied for international protection in Portugal in the course of 2022, of which 83 were unaccompanied.³⁶⁴

CPR collects statistical information on asylum seekers who self-identify or are identified as vulnerable on the basis of information received from SEF in accordance with the law, collected directly from the applicants or shared by other service providers. In 2022, of the 2,135 asylum applicants whose cases were communicated by SEF, 513 were identified as vulnerable:

Asylum seekers communicated to CPR and identified as vulnerable: 2019-2022 ³⁶⁵				
Category of vulnerable group	2019	2020	2021	2022
Unaccompanied children	77	38	65	146
Accompanied children	236	88	304	245
Single-parent families	61	23	19	41
Pregnant women	13	6	10	6
Elderly persons	5	-	7	12
Disabled persons	-	-	-	-
Survivors of torture	19	6	8	8
Survivors of physical, psychological or sexual violence	49	18	8	20
Persons with chronic or serious illnesses	40	21	19	29
Persons with addictions	-	-	-	-
Total	503	204	438	513
% of applicants identified as vulnerable (out of the total spontaneous applications communicated to CPR)	29%	23%	31%	24%

Source: CPR.

³⁶³ While according to information provided by SEF all caseworkers have specific training in issues such as identification and interview of vulnerable persons under the EASO training curriculum and special needs of applicants are taken into account at all stages, no official data is available regarding the number of applicants identified as vulnerable.

³⁶⁴ Discrepancies between the number of unaccompanied children registered by SEF and by CPR (the former usually lower than the latter) have been common and may be explained by factors such as the use of different identification criteria and age assessment procedures and registration practices.

³⁶⁵ Figures below five are not included.

According to the information available to CPR, a number of age assessment procedures were pending at the time of writing. In previous years, some applicants were later determined to be adults including on the basis of their own statements, second-stage age assessment procedures requested by the Family and Juvenile Court, assessments made by SEF, or based on information received from other EU Member States. The number of such cases regarding unaccompanied children who applied for asylum in 2022 remained minimal at the time of writing.

Unaccompanied children

The Asylum Act determines that the staff handling asylum applications of unaccompanied children must be specifically trained.³⁶⁶

In 2019, the Committee on the Rights of the Child expressed concern with '[...] weaknesses in policy and practice relating to unaccompanied and separated children, particularly in respect of legal representation and guardianship during refugee determination processes'.³⁶⁷ The Committee recommended Portugal to 'strengthen policies and practices to improve the identification and registration of unaccompanied and separated children, including through ensuring that they are provided with effective legal representation and an independent guardian immediately after they have been identified'.³⁶⁸ The necessity and consistency of the assessment of the best interests of the child in asylum procedures were also highlighted by the Committee.³⁶⁹

Victims of torture and serious violence

In the case of survivors of torture and/or serious violence, research has demonstrated that identification is conducted on an *ad hoc* basis and mostly on the basis of self-identification during refugee status determination, social interviews, or initial medical screenings.³⁷⁰ Staff working with asylum seekers lacks specific training on the identification of survivors of torture and/or serious violence and their special needs.

According to the information provided by the Portuguese authorities to the UN Committee Against Torture in June 2018,³⁷¹ '[...] the number of asylum applicants that claimed to have been victims of torture or identified as victims of torture is residual.' The report also states that '[i]n general, the applicant is assessed as credible when the claims are reliable or visible signs of the act exist. This leads to a positive decision and to the granting of international protection status without the need for medical examinations. Applicants are then subject to evaluation as well as to medical and psychological monitoring in the reception centres in order to address potential traumas. There are no statistical data on these cases'.³⁷²

Following this report, the identification of survivors of torture was one of the issues addressed by the UN Committee Against Torture in its Concluding Observations on Portugal. The Committee observed that '[...] the State party has not provided complete information on the procedures in place for the timely

³⁶⁶ Article 79(12) Asylum Act. The provision of mandatory training on the rights of the child to all relevant professionals, including immigration and asylum officers was also recently recommended by the Committee on the Rights of the Child. See Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Portugal*, CRC/C/PRT/CO/5-6, 9 December 2019, par.13 (c), available at: <https://bit.ly/2G1F07z>.

³⁶⁷ Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Portugal*, CRC/C/PRT/CO/5-6, 9 December 2019, par.41(c), available at: <https://bit.ly/2G1F07z>.

³⁶⁸ *Ibid.*, para. 42(c).

³⁶⁹ *Ibid.*, paras 41(b) and 42(b).

³⁷⁰ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <https://bit.ly/3gEoe1T>.

³⁷¹ Committee Against Torture, *Seventh periodic report submitted by Portugal under article 19 of the Convention pursuant to the optional reporting procedure, due in 2017*, CAT/C/PRT/7, 18 December 2018, available at: <https://bit.ly/3cwgaec>.

³⁷² Committee Against Torture, *Seventh periodic report submitted by Portugal under article 19 of the Convention pursuant to the optional reporting procedure, due in 2017*, CAT/C/PRT/7, 18 December 2018, available at: <https://bit.ly/3cwgaec>, paras.133-134.

identification of victims of torture among asylum seekers [...] and recommended '[...] the establishment of effective mechanisms to promptly identify victims of torture among asylum seekers'.³⁷³

Victims of human trafficking

According to SEF, staff with specific training in trafficking indicators operate in cases involving victims of trafficking at the **Lisbon Airport**.³⁷⁴ The Observatory on Trafficking in Human Beings (*Observatório do Tráfico de Seres Humanos*, OTSH) previously reported that, in addition to the internal training provided by SEF, the Anti-Trafficking Unit of the entity developed a flowchart on procedures to address situations involving unaccompanied children at border points. According to the information provided by SEF-GAR specific attention is given to possible instances of trafficking in human beings within the asylum context.

In addition to the existing general national referral mechanism for victims of trafficking in human beings, in 2021 the national '*Protocol for the definition of procedures aimed at the Prevention, Detection and Protection of (presumed) children victims of Trafficking in Human Beings – National Referral Mechanism*' was launched.³⁷⁵ The new referral mechanism, comprised of nine practical tools, aims to establish specific procedures, to reinforce cooperation and communication among professionals and to ensure respect for the best interests of the child.³⁷⁶ One of the practical tools focus on identification at the border, explaining the referral and identification procedures together with relevant indicators.

With regard to asylum seeking children, CPR systematically flags presumed victims of trafficking under its care to OTSH (on the basis of an anonymous form with indicators), to SEF's asylum and criminal investigation departments for the purposes of criminal investigation and protection, and to the competent Family Court. Where CPR caseworkers are able to obtain the unaccompanied child's consent for adequate protection, the cases are further referred to the multidisciplinary team of the Family Planning Association (APF) that conducts an initial assessment that can lead to the placement of the presumed victim in an Anti-Trafficking Reception and Protection Centre (CAP).

Trafficking in human beings was addressed by the UN Committee Against Torture in its Concluding Observations published in 2019. The Committee expressed concern with reports of lack of training of law enforcement officers and with delays in the process of issuance of residence permits to victims.³⁷⁷ As such, the Committee recommended Portugal to, among other things: '(a) Intensify its efforts to prevent and combat trafficking in persons, including by putting in place effective procedures for the identification and referral of victims among vulnerable groups, such as asylum seekers and irregular migrants; (b) Improve the training of law enforcement officers and other first responders by including statutory training on the identification of potential victims of trafficking in persons; and (c) Ensure access to adequate

³⁷³ Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, par.38(d), available at <https://bit.ly/2G1F07z>.

³⁷⁴ See Expresso, 'SEF cria equipas especializadas para proteção das vítimas de tráfico de seres humanos', 18 October 2018, available in Portuguese at: <https://bit.ly/2TIN8OU>; Público, 'SEF vai ter três equipas especializadas em tráfico de seres humanos', 29 May 2018, available in Portuguese at: <https://bit.ly/2ANfFfj>. According to these sources, in 2018 SEF expanded its capacity for the identification and protection of victims of trafficking at the border and on national territory following the concerns raised by the Council of Europe Group of Experts on Action Against Trafficking in Human Beings (GRETA) report published in 2017, available at: <https://bit.ly/2RLfYRy>, which also raised specific concerns regarding the disappearance of unaccompanied asylum-seeking children.

³⁷⁵ OTSH (coord.), *Protocolo para a definição de procedimentos de atuação destinado à prevenção, deteção e proteção de crianças (presumíveis) vítimas de tráfico de seres humanos - Sistema de Referência Nacional*, May 2021, available at: <https://bit.ly/3k3BXQh>.

³⁷⁶ The tools focus on: 1. Guiding principles of children's protective intervention; 2. Overall indicators and types of exploitation by indicators. 3. Detection in National Territory. 4. Detection at External Borders. 5. Procedures for assessing the child's age. 6. Appointment of Tutor or Legal Representative. 7. Assistance, Sheltering, (Re) Integration and Return. 8. Rights of children victims of Trafficking in Human Beings. 9. Training Module.

³⁷⁷ Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, para 43, available at <https://bit.ly/2G1F07z>.

protection and support, including temporary residence permits, irrespective of their ability to cooperate in legal proceedings against traffickers'.³⁷⁸

According to the information provided by the national authorities to the UN Human Rights Committee on the occasion of the consideration of the relevant report, '[s]pecial emphasis had been placed on identifying trafficking victims among the children who arrived at the border accompanied by adults who might not be their parents or legal guardians. Strict procedural rules governed how those cases were handled; the minors in question were placed into care while investigations were conducted to clarify the circumstances surrounding their journey and the nature of their relationship with the adult or adults accompanying them'.³⁷⁹

In its assessment, with regard to trafficking in human beings and asylum, the UN Human Rights Committee flagged, inter alia, the absence 'of an adequate identification mechanism for victims of trafficking in persons in the asylum procedures, including with respect to children'. Importantly, the Committee recommended Portugal to '[p]rovide adequate training to judges, prosecutors, law enforcement officials, immigration officers and staff working in all reception facilities, including on procedures for identifying victims of trafficking in persons' and to '[e]nsure that victims of trafficking in persons have access to asylum procedures in which their potential needs can be determined'.³⁸⁰

In June 2022, the Group of Experts on Action on Trafficking in Human Beings (GRETA), published its third report on Portugal, focusing on access to justice and effective remedies for victims, and following-up on issues specific to the national context, including the link between asylum and trafficking in human beings.³⁸¹ Notably, GRETA:

- ❖ Urged the national authorities to '*set up effective procedures on the identification of victims of trafficking among applicants for international protection and their referral to assistance*', to '*provide systematic training and guidance to staff working at immigration detention facilities and asylum seekers accommodation centres, including social workers, medical and other staff, on the identification of victims of trafficking and the procedures to be followed*', as well as to ensure adequate legal support;³⁸²
- ❖ While welcoming the adoption of the national referral mechanism for children, recommended the adoption of '*guidance on the identification of child victims of trafficking among unaccompanied and separated asylum-seeking children*', and the provision of training to relevant actors;³⁸³
- ❖ Recommended the authorities to ensure that '*assistance is provided to presumed THB victims who are detained in detention centres for migrants, by setting up specific protocols and by providing specific training on trafficking indicators to police forces, social workers, medical and other staff working at facilities for asylum seekers and detained migrants*'.³⁸⁴

GRETA also issued a number of recommendations concerning broader issues such as the national framework on trafficking, identification of victims, access to information, non-punishment provisions, and

³⁷⁸ Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, para 44, available at <https://bit.ly/2G1F07z>.

³⁷⁹ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant (continued)*, CCPR/C/SR.3697, 13 March 2020, para 33, available at: <https://bit.ly/2R7z2e0>.

³⁸⁰ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5, 28 April 2020, par 32 and 33(b) and (c), available at: <https://bit.ly/2Q1ftn8>.

³⁸¹ Group of Experts on Action on Trafficking in Human Beings (GRETA), *Evaluation Report – Portugal – Third Evaluation Round – Access to justice and effective remedies for victims of trafficking in human beings*, 13 June 2022, available at: <https://bit.ly/3ii2V9o>.

³⁸² *Ibid*, par.177.

³⁸³ *Ibid*, par.186.

³⁸⁴ *Ibid*, par.193.

return of victims of trafficking.³⁸⁵ The Group also highlighted the need to ensure that the reform of SEF does not impair the specialised law enforcement action in the field of trafficking in human beings.³⁸⁶

In its Concluding Observations published in July 2022, the Committee on the Elimination of Discrimination Against Women (CEDAW), also highlighted the need for effective identification and referral of victims of trafficking in Portugal.³⁸⁷

In July 2021, a Ministerial Order reviewing the documents issued to persons with victim status and particularly vulnerable victim status was published.³⁸⁸ Importantly, the documents to be handed to victims of trafficking in human beings and assistance to illegal migration clearly refer to their right to apply for international protection in Portugal.

OTSH previously reported that the project '*Improved prevention, assistance, protection and (re)integration system for victims of sexual exploitation*' (to be implemented with national and Norwegian partners) was launched in March 2022.

CPR is unaware of instances where asylum applicants were granted international protection on the basis of a well-founded fear of persecution for reasons of trafficking in human beings.

1.2. Age assessment of unaccompanied children

Despite the obligation to refer unaccompanied children to Family and Juvenile Courts for the purposes of legal representation,³⁸⁹ the Asylum Act does not provide for a specific identification mechanism for unaccompanied children or objective criteria to establish which asylum seekers must undergo an age assessment.

According to the Asylum Act, SEF may resort to medical expertise using a non-invasive examination to determine the age of the unaccompanied child who must be given the benefit of the doubt in case well founded doubts persist regarding their age after the examination.³⁹⁰

The unaccompanied child must be informed that their age will be determined by means of such expertise and their representative must give prior consent.³⁹¹ In early 2020, following the results of workshops with children on age assessment funded by the Council of Europe, the National Commission for the Promotion of Rights and the Protection of Children and Young People published a leaflet with information on age assessment procedures to children. The leaflet is available in Portuguese, English, and French.³⁹²

Refusal to allow an expert's examination does not prevent the issuance of a decision on the application for international protection but shall not determine its rejection.³⁹³

³⁸⁵ Ibid, pp. 47-52. See also the subsequent recommendation by the Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings: *Recommendation CP/Rec(2022)06 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Portugal*, 17 June 2022, available at: <https://bit.ly/3ii2V9o>.

³⁸⁶ Group of Experts on Action on Trafficking in Human Beings (GRETA), *Evaluation Report – Portugal – Third Evaluation Round – Access to justice and effective remedies for victims of trafficking in human beings*, 13 June 2022, par.27, available at: <https://bit.ly/3ii2V9o>.

³⁸⁷ CEDAW, *Concluding Observations on the tenth periodic report of Portugal*, CEDAW/C/PRT/CO/10, 12 July 2022, available at: <https://bit.ly/3vkbN1n>.

³⁸⁸ Ministerial Order n. 138-E/2021 of 1 July, available at: <https://bit.ly/3vD6kCk>.

³⁸⁹ Article 79(2) Asylum Act.

³⁹⁰ Article 79(6) Asylum Act.

³⁹¹ Article 79(7) Asylum Act.

³⁹² National Commission for the Promotion of Rights and the Protection of Children and Young People, *Une évaluation de l'âge qui respecte les droits des enfants/An age assessment procedure that respects children's rights*, 19 February 2020, available at: <https://bit.ly/3boC2YX>.

³⁹³ Article 79(8) Asylum Act.

The age assessment procedure may also be triggered by the Family and Juvenile Court in the framework of judicial procedures aimed at ensuring legal representation for the child and the adoption of protective measures (see [Legal Representation of Unaccompanied Children](#))³⁹⁴ or by the unaccompanied child's legal representative.

As such, age assessment procedures can be triggered either by SEF when there are significant doubts regarding the age of the applicant on the basis of physical appearance and/or demeanour, or by Family and Juvenile Courts in the framework of legal representation and child protection procedures (see [Legal Representation of Unaccompanied Children](#)). While official data is not available, in recent years CPR observed that age assessment procedures were triggered by Family and Juvenile Courts to almost all unaccompanied children by default.

The absence of objective criteria to establish what constitutes reasonable doubt, who must undergo an age assessment, and the nature of the initial age assessments is particularly problematic:³⁹⁵

- ❖ In cases of asylum applicants who were referred by SEF to CACR as children despite legitimate doubts regarding the age of the applicant on the basis of their physical appearance and/or demeanour thus putting at risk the integrity and security of the facility;
- ❖ In a few cases where asylum applicants claim to be adults but there are legitimate doubts about the possibility of them being children on the basis of statements, physical appearance and/or demeanour; and
- ❖ Due to the increased use of age assessments by Family and Juvenile Courts without adequate justification of their need and proportionality.

Currently, formal age assessment procedures are triggered by Family and Juvenile Courts and conducted by the National Institute of Legal Medicine and Forensic Science (INMLCF). It is unclear whether child protection concerns are specifically considered in such assessments and according to CPR's observation the procedures thereto fail to meet the holistic and multidisciplinary standards recommended by UNHCR.³⁹⁶ The methods used for age determination include wrist and dental X-rays, as well as an evaluation of sexual development as part of the age assessment procedure.³⁹⁷

According to the information available to CPR, where the applicant did not consent to an examination of their genitals, such examinations were not performed and the age assessment examinations proceeded.³⁹⁸

Despite the established technical limitations of such methods, their results have been used by SEF and Family and Juvenile Courts as evidence of the adulthood of the applicant, and as grounds for refusing the benefit of the doubt despite their inability to establish an exact age. This practice has been overturned by Administrative Courts in at least one instance regarding the asylum procedure,³⁹⁹ and was criticised by the Council of Europe.⁴⁰⁰

³⁹⁴ In this case, it is mandatory.

³⁹⁵ While the border procedure has not been applied since March 2020, it is worth mentioning that, within that context, SEF has in the past refused to trigger age assessment procedures and/or give the benefit of the doubt to asylum seekers claiming to be children, with significant implications regarding detention and access to procedural rights in the absence of a legal representative.

³⁹⁶ UNHCR, *The Way Forward to Strengthened Policies and Practices for Unaccompanied and Separated Children in Europe*, July 2017, available at: <http://bit.ly/2ngwmYT>.

³⁹⁷ While an examination of genitals was not used in age assessment in the past, INMLCF published a procedural note in 2019 on the estimation of age in living and undocumented persons that includes it in the age assessment procedure. See: INMLCF, *Norma procedimental – Estimativa da idade em indivíduos vivos indocumentados*, NP-INMLCF-018, 14 October 2019, available in Portuguese at: <https://bit.ly/3jqFiaV>. The grounds for this (regrettable) change of practice are not known.

³⁹⁸ According to CPR's observation, the refusal is usually referred in the relevant report together with an estimation of sexual development.

³⁹⁹ See e.g., TAC Leiria, Decision 784/14.9 BELRA, 19 July 2014, unpublished.

⁴⁰⁰ GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Portugal*, GRETA (2017)4, 17 March 2017, available at: <https://bit.ly/2RLfYRy>.

It is common for SEF to suspend the asylum procedure on the basis of general administrative rules in order to wait for the results of age assessment procedures ordered by the Family and Juvenile Courts.⁴⁰¹ According to the information available to CPR, if upon registration of the asylum application SEF identifies Eurodac hits with different personal information, the Family and Juvenile Court is informed accordingly.

The initial and second-stage of age assessment procedures are made for different purposes including: (i) the provision of special procedural guarantees i.e., referral to the Family and Juvenile Courts for the purposes of legal representation in the asylum procedure; (ii) the provision and the cessation of special reception conditions, i.e., immediate referral to the CACR and referral to the Family and Juvenile Courts for purposes of confirming the provision of special reception conditions there; and (iii) for the purposes of refugee status determination as a material fact of the asylum application.

The law does not provide for a specific legal remedy against the initial age assessment procedure conducted by SEF for purposes other than the refugee status determination. However, when adopted at administrative level, these that can be challenged before the Administrative Courts in accordance as per general Administrative Law.⁴⁰² Age assessments conducted within the context of Family and Juvenile Courts procedures may be appealed pursuant to general rules. In practice, this is rarely – if ever – the case given the individual circumstances, and the lack of available legal expertise.

As a general rule, upon the existence of medical examinations determining that the applicant is an adult, the protective measures adopted within the context of child-protection processes cease. It is concerning that, in some cases, however, the documents issued to the applicant within the asylum procedure do not reflect a change in the date of birth of the person concerning, thus hindering integration both as a child and as an adult.

According to information available to CPR, in some cases, upon reception of the results of the medical report and before the issuance of a decision on the age assessment procedure, the competent Family and Juvenile Court gave the applicant and the appointed guardian the opportunity to reply to the analysis. According to the experience of CPR's CACR, in some instances, where the protective measure is deemed to have a positive effect in the individual case by the Family and Juvenile Court, it can be maintained. Nevertheless, this is not a standard or systematic practice within the context of age assessment procedures.

At least in some instances, cases where the applicant is deemed to be an adult were immediately referred by the Family and Juvenile Court for criminal investigation for the provision of false statements to the authorities.

In 2019, the UN Committee on the Rights of the Child raised concerns about age assessment procedures and recommended that Portugal 'continue to enforce multidisciplinary and transparent procedures that are in line with international standards and adequately train staff to ensure that the psychological aspects and personal circumstances of the person under assessment are taken into account'.⁴⁰³

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people? Yes For certain categories No
❖ If for certain categories, specify which: Unaccompanied children, pregnant women

⁴⁰¹ Article 38(1) Administrative Procedure Code.

⁴⁰² Article 51(1) and (2) Code of Procedure in Administrative Courts.

⁴⁰³ Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Portugal*, CRC/C/PRT/CO/5-6, 9 December 2019, pars.41(e) and 42(e), available at: <https://bit.ly/2G1F07z>.

While the implementation of certain special procedural guarantees will necessarily require a decision from SEF, according to the law, the responsibility for implementing these measures lies with the Institute of Social Security (ISS).⁴⁰⁴

2.1. Adequate support during the interview

Applicants identified as needing special procedural guarantees can benefit from the postponement of refugee status determination interviews, extended deadlines for presenting evidence or carrying out interviews with the assistance of experts.⁴⁰⁵

As mentioned in [Identification](#), there is no specific unit in place with specially trained staff that can provide special procedural guarantees such as special interview techniques or tailored support during personal interviews. In practice, with the exception of asylum applicants whose reduced ability to benefit from the rights and comply with the obligations stemming from the Asylum Act are self-evident (e.g., due to serious illness, pregnancy), such guarantees are not implemented.

CPR is aware of a couple of instances in 2022 where SEF flagged cases of severe mental health concern to the organisation for further referral or analysis or requested a medical evaluation. It is unclear whether this is a systematic practice, why these were the measures adopted, and which criteria are used to determine appropriate action. This is so especially considering that according to CPR's observation other cases where there were clear signs of mental illness, no specific measures were adopted to address the special needs of the applicants. The procedural consequences of such measures are also unclear.

Case law regarding the provision of special procedural guarantees in the asylum procedure has consolidated the approach of not implementing such guarantees.⁴⁰⁶

According to CPR's observation, when applicants were unable to be interviewed because they were quarantining/subject to prophylactic isolation due to the coronavirus, SEF usually suspended the asylum procedure. In some cases supported by CPR, where applicants were not able to exercise procedural rights (e.g., provide comments to the interview report/summary report or to decision proposals) due to such constraints, extensions of the relevant deadlines were granted upon request. However, in one such case in 2022, SEF refused to extend a deadline on the grounds that it could not do so in the case of Dublin procedures (due to the applicability of EU legislation). In the case of an applicant that had given birth, an extension of only 2 weeks was granted.

Requests for the extension of deadlines due to the impossibility to secure interpreters to carry out the relevant diligences in due time were usually not accepted by SEF.

In the particular case of survivors of torture and/or serious violence, research conducted in the past found that the practical implementation of special procedural guarantees such as the possibility to postpone the refugee status determination interview is hampered by the lack of a specific identification tool or mechanism.⁴⁰⁷ Even where a medical report concerning the vulnerability of the applicant for mental health reasons is presented, SEF may refuse to postpone the interview unless the medical report clearly states

⁴⁰⁴ Article 17-A(5) Asylum Act.

⁴⁰⁵ Article 17-A(3) Asylum Act.

⁴⁰⁶ TAC Lisbon, Decision 1502/18.BELSB, 24 October 2018, unpublished. The case relates to an asylum seeker suffering from documented epilepsies and depression who was not identified as a vulnerable before the interview and was therefore not provided special procedural guarantees during the first instance procedure. The applicant was unable to review the report of his interview due to his condition and later (but before the issuance of a first instance decision) managed to submit SEF medical reports to SEF. According to TAC Lisbon, such issues were not material to the asylum application and were not relevant to assess the need for special procedural guarantees in accordance to the law "as the serious condition of the appellant was not due to him being a victim of torture, rape or other form of psychological, physical of sexual violence in his country of origin [...]".

⁴⁰⁷ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <https://bit.ly/3gEoe1T>.

the reduced capacity of the applicant, the need for medical assistance, as well as a prediction of when the applicant is expected to be able attend the interview, if need be accompanied by a mental health professional, in order to avoid excessive delays in the procedure. CPR is not aware of additional research on this topic.

In accordance with the law,⁴⁰⁸ CPR provides specific legal assistance to unaccompanied asylum-seeking children under its care, *inter alia*, through the presence of a legal officer during the personal interview with SEF (see [Legal Representation of Unaccompanied Children](#)).

2.2. Exemption from special procedures

Exemption from the border procedure⁴⁰⁹

According to the Asylum Act, victims of torture and/or serious violence in need of special procedural guarantees shall be exempted from the border procedure and from detention in the context of border procedures when the necessary support and conditions cannot be ensured within that context.⁴¹⁰ However, no standard operational procedures and tools allowing for the early and effective identification of survivors of torture and/or serious violence and their special procedural needs are in place. As such, asylum seekers who claim to be survivors of torture, rape, or other serious forms of psychological, physical or sexual violence have not been specifically exempted from border procedures in practice, despite the lack of provision of special procedural guarantees at the border.

As mentioned in [Border Procedure](#), since March 2020, the border procedure is not applied in Portugal.⁴¹¹

Exemption from the accelerated procedure

According to the Asylum Act, unaccompanied children are exempt from accelerated procedures (with the exception of subsequent applications that have not been deemed inadmissible) as well as from the application of certain grounds for inadmissibility, such as Dublin, and first country of asylum/third safe country grounds.⁴¹²

According to information available to CPR, SEF resorted to accelerated procedures once regarding an unaccompanied asylum-seeking child in 2018 and that decision was later overturned at appeal stage for being in breach of the Asylum Act and the recast Asylum Procedures Directive.⁴¹³

CPR requested clarification on this practice in the past, and was informed by SEF that all procedural guarantees for unaccompanied children were provided in such procedures.

This understanding was clearly at odds with the applicable legal provisions as well as with the national jurisprudence. In the beginning of 2020, TAC **Lisbon** confirmed this assessment by overturning another decision and reaffirming the reasoning adopted in 2018.⁴¹⁴

While jurisprudence focusing on the impact of vulnerabilities in the asylum procedure and particularly on the use of accelerated procedures remains extremely rare, TCA South issued a decision deeming that an application should not have been subject to an accelerated procedure as the health condition of the applicant's daughter amounted to a special vulnerability on health grounds. The Court noted that this

⁴⁰⁸ Article 79(3) Asylum Act.

⁴⁰⁹ For further information on the application of border procedures to vulnerable applicants prior to 2020, please check prior AIDA reports, available at: <https://bit.ly/43mdTxp>.

⁴¹⁰ Article 17-A(4) Asylum Act.

⁴¹¹ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <https://bit.ly/3gEoe1T>.

⁴¹² Article 79(9) Asylum Act.

⁴¹³ TAC Lisbon, Decision 869/18.2BELSB, 24 June 2018, unpublished.

⁴¹⁴ TAC Lisbon, Decision 2154/19.3BELSB, 17 January 2020, unpublished.

element was taken into account by the examining authority and considered that, in light of article 31(7)(b) of the APD and article 17-A of the Asylum Act, the application should not have been analysed in an accelerated procedure, but instead fast-tracked.⁴¹⁵

Statistical data from SEF for 2022 indicates that accelerated procedures were not used in such cases.⁴¹⁶

3. Use of medical reports

Indicators: Use of medical reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm? Yes In some cases No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements? Yes No

The Asylum Act contains a general provision on the right of asylum seekers to submit supporting evidence in the asylum procedure.⁴¹⁷ It further foresees the possibility for SEF to request reports on specific issues from experts (e.g. cultural or medical) during the regular procedure.⁴¹⁸ Nevertheless, there are no specific standards in law or administrative guidance relating to medical reports for those claiming to have been subjected to torture or other serious acts of physical, psychological and sexual violence.

The lack of standard operational procedures regarding the issuance, content and relevance of medical reports in the asylum procedure has been highlighted in the particular case of survivors of torture and/or serious violence.⁴¹⁹ According to the available information, medical reports are currently not issued based on the methodology laid down in the Istanbul Protocol.

According to CPR's observations in the course of 2022, the procedures and criteria followed by the authorities in order to request medical evaluations (including concerning mental health) were also unclear.

4. Legal representation of unaccompanied children

Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children? Yes No

The Asylum Act determines that all unaccompanied child asylum seekers and beneficiaries of international protection are entitled to legal representation.⁴²⁰ Legal representation can be provided by an organisation and can take the form and modalities laid down in law,⁴²¹ such as those provided by the General Legal Regime of Civil Guardianship Act.⁴²²

In this regard, SEF is required to immediately flag the need for legal representation to the Family and Juvenile Court.⁴²³

⁴¹⁵ TCA South, Decision 637/21.4BELSB, 18 November 2021, available at: <https://bit.ly/381jeBZ>.

⁴¹⁶ While according to SEF such procedures have not been used in 2019 and 2020, according to the information available to CPR, accelerated procedures were indeed applied to unaccompanied children in four cases in 2019 and in one case in 2020.

⁴¹⁷ Article 15(2) Asylum Act.

⁴¹⁸ Article 28(3) Asylum Act.

⁴¹⁹ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <https://bit.ly/3gEoe1T>.

⁴²⁰ Article 79(1) and (2) Asylum Act.

⁴²¹ *Ibid.* See also Article 2(1)(ad) Asylum Act.

⁴²² Act 141/2015 of 8 September 2015.

⁴²³ Article 79(1) and (2) Asylum Act.

The legal representative must be informed in advance and in a timely manner by SEF of the asylum interview and is entitled to attend and to make oral representations.⁴²⁴ The presence of the legal representative does not exempt the unaccompanied child from the personal interview.⁴²⁵ Additionally, SEF must ensure that the legal representative is given the opportunity to inform the child of the meaning and implications of the personal interview as well as to explain how to prepare for it.⁴²⁶ The legal representative must also give their consent to SEF for the purpose of age assessment procedures.⁴²⁷

In practice, the legal representation of unaccompanied children has taken varying legal modalities in accordance with the General Legal Regime of Civil Guardianship Act and the Children and Youths at Risk Protection Act.⁴²⁸ Its scope usually covers the representation of the child for all legal purposes, including the asylum procedure and reception conditions.⁴²⁹ In the case of spontaneous applicants for international protection, the Family and Juvenile Court usually appoints CPR's Director to act as legal representative. Material protection is provided in accordance with the protective measures set out in the Children and Youths at Risk Protection Act, which includes, in the case of spontaneous applicants, referring them to the CACR managed by the CPR.

CPR's Legal Department provides legal information and assistance to unaccompanied children throughout the asylum procedure. It further attends personal interviews given its legal representative capacity, ensures that children have access to legal aid for appeals when necessary, and provides assistance to lawyers appointed within this mechanism. The Family and Juvenile Court at times appoints a free legal aid lawyer to the child in the judicial procedures conducted under the framework of the Children and Youths at Risk Protection Act.

Where representation and/or accommodation of unaccompanied children are ensured by other organisations, CPR provides legal assistance to their staff and to the children concerned on a need's basis, and with due consideration for the relevant legal framework. Cooperation regarding social and integration issues is also common.

Following referral to adequate accommodation,⁴³⁰ SEF usually refers the need to provide the child with legal representation to the Family and Juvenile Court within a few days following the registration of the asylum application,⁴³¹ including in the case of border procedures. Practice regarding children accompanied by adults who are not their parents is variable.

Upon admission to one of its reception centres, CPR immediately informs the competent entities as well.

The Family and Juvenile Court usually appoints CPR as a legal representative/guardian of unaccompanied children within a few weeks following SEF's communication, including for the purpose of representation/assistance in the asylum procedure, given its knowledge and experience in the field of international protection.

⁴²⁴ Article 79(3) Asylum Act.

⁴²⁵ Article 79(5) Asylum Act.

⁴²⁶ Article 79(4) Asylum Act.

⁴²⁷ Article 79(7) Asylum Act.

⁴²⁸ Act 147/99 of 1 September 1999.

⁴²⁹ Article 25(1)(a) recast Asylum Procedures Directive; Article 24(1) recast Reception Conditions Directive.

⁴³⁰ Article 91 General Legal Regime of Civil Guardianship Act and the Children and Youths at Risk Protection Act.

⁴³¹ In addition to the relevant rules of the General Legal Regime of Civil Guardianship Act and the Children and Youths at Risk Protection Act, this is provided for in article 79(2) Asylum Act.

While SEF does not conduct individual interviews prior to the appointment of a legal representative, there is no best interests' assessment or intervention of a legal representative prior to the registration of the asylum claim.⁴³² The Asylum Act allows children to lodge their own asylum application.⁴³³

When appointed as legal representative, CPR was normally asked by SEF to give its consent to age assessments conducted within the asylum procedure. This is not the case regarding age assessment procedures that are conducted by the Family and Juvenile Courts in the framework of the General Legal Regime of Civil Guardianship Act and the Children and Youths at Risk Protection Act (the most frequent situation currently).

While the law does not provide for specific requirements for acting as legal representative of an unaccompanied child, the Children and Youths at Risk Protection Act contains rules governing the composition of the technical staff of reception centres for children. Accordingly, the teams must be multidisciplinary and include personnel which holds at least a BA in the field of Psychology and Social Work. The technical director of the centre must further be appointed among staff members with such an academic background.⁴³⁴

In 2019, the UN Committee on the Rights of the Child expressed concern with '[...] weaknesses in policy and practice relating to unaccompanied and separated children, particularly in respect of legal representation and guardianship during refugee determination processes'.⁴³⁵ The Committee recommended Portugal to 'strengthen policies and practices to improve the identification and registration of unaccompanied and separated children, including through ensuring that they are provided with effective legal representation and an independent guardian immediately after they have been identified'.⁴³⁶

UNICEF pointed out that the current model of legal representation has a number of shortcomings, namely the fact of the legal guardian is the representative of the organisation responsible for the implementation of the protective measure, leading to impartiality and independence concerns; and that the model allows for the appointment as legal representatives of child asylum seekers of organisations that do not have specific knowledge and skills in the field.⁴³⁷

A study focusing on the situation of asylum-seeking unaccompanied children and ageing out in Portugal published in 2021 states that the analysis conducted reveals the lack of a national strategy for unaccompanied asylum-seeking children.⁴³⁸

⁴³² A prior assessment of the best interest of the child would bring the procedure more in line with UNHCR's recommendations in this regard. See UNHCR, *The Way Forward to Strengthened Policies and Practices for Unaccompanied and Separated Children in Europe*, July 2017.

⁴³³ Article 13(6) Asylum Act.

⁴³⁴ Article 54 Children and Youth at Risk Protection Act.

⁴³⁵ Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Portugal*, CRC/C/PRT/CO/5-6, 9 December 2019, available at: <https://bit.ly/2G1F07z>, par.41 (c).

⁴³⁶ Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Portugal*, CRC/C/PRT/CO/5-6, 9 December 2019, available at: <https://bit.ly/2G1F07z>, par. 42(c).

⁴³⁷ Information provided by UNICEF (March 2023).

⁴³⁸ Sandra Roberto, Carla Moleiro, ed. Observatório das Migrações, *De menor a maior: acolhimento e autonomia de vida em menores não acompanhados*, April 2021, p.60, available at: <https://bit.ly/3fqMKBK>.

E. Subsequent applications

Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? Yes No
2. Is a removal order suspended during the examination of a first subsequent application?
 - ❖ At first instance Yes No
 - ❖ At the appeal stage Yes No
3. Is a removal order suspended during the examination of a second, third, subsequent application?
 - ❖ At first instance Yes No
 - ❖ At the appeal stage Yes No

The law provides for specific features in the [Admissibility Procedure](#) of subsequent applications, including:

- ❖ a time limit of 10 days for the adoption of an admissibility decision at first instance i.e., to conduct a preliminary assessment;⁴³⁹
- ❖ the absence of automatic consequences in case of non-compliance with the time limit for deciding on admissibility;
- ❖ reduced guarantees regarding the right to a personal interview and to seek revision of the narrative of the personal interview;⁴⁴⁰
- ❖ specific criteria for assessing the admissibility of the claim;⁴⁴¹ and
- ❖ partially different time limits and effects of (onward) appeals.⁴⁴²

However, the Asylum Act does not provide for specific rules regarding the right to remain on the territory pending the examination of the application,⁴⁴³ or the suspension of a removal decision,⁴⁴⁴ nor does it provide specific time limits or limitations on the number of subsequent applications a person can lodge.⁴⁴⁵ Nevertheless, an 'unjustified' subsequent application can lead to the [Reduction or Withdrawal of Reception Conditions](#).⁴⁴⁶

The National Director of SEF is the competent authority to take a decision on the admissibility of subsequent applications.⁴⁴⁷

The analysis of admissibility of a subsequent claim must determine (i) whether new elements of proof have been submitted or (ii) if the reasons that led to the rejection of the application have ceased to exist.⁴⁴⁸ The law does not provide further clarification on what is to be considered as a new element of proof or on how to assess cessation of the rejection motives. The preliminary admissibility assessment also applies to cases where the applicant has explicitly withdrawn their application and where SEF has rejected an application following its implicit withdrawal.⁴⁴⁹

Given the usually low number of subsequent applications, it is difficult to ascertain relevant practical guidance.

A first instance decision on the admissibility of a subsequent application from 2016 referred to a 'substantial and fundamental' difference as criteria for assessing the admissibility of the subsequent

⁴³⁹ Article 33(4) Asylum Act.

⁴⁴⁰ Article 33(2), (4) and (6) Asylum Act.

⁴⁴¹ Article 33(1) and (6) Asylum Act.

⁴⁴² Article 33(6) Asylum Act.

⁴⁴³ Articles 13(1) and 33(9) Asylum Act.

⁴⁴⁴ In this case it should be understood that the general rule providing for the suspension of a removal order until a final decision is reached in the asylum application applies: Article 12(1) Asylum Act.

⁴⁴⁵ Article 33(1) Asylum Act, according to which the asylum seeker is entitled to present a new application whenever there are new elements in light of the first asylum procedure.

⁴⁴⁶ Article 60(3)(f) Asylum Act.

⁴⁴⁷ Article 33(6) Asylum Act.

⁴⁴⁸ Article 33(1) Asylum Act.

⁴⁴⁹ Article 2(1)(t) Asylum Act.

application. Several first instance decisions from 2018 referred to ‘any event occurred since prior decisions at first instance and appeal stages [were adopted]’, ‘new elements of proof regarding the alleged facts’, and that the ‘absence of new facts is also enhanced by the fact that according to his statement the applicant did not return to his country of origin or left European soil since his last application’. According to the available information, more recent decisions do not offer further guidance with regard to the interpretation of the relevant concepts.

Recent case law has failed to provide guidance in this regard.⁴⁵⁰ However, it has been ruled that facts that were not presented during the initial application without reason cannot be considered as new facts. In the same case, the Court also conducted an analysis – echoing SEF’s first instance assessment – of whether the new facts stated by the applicant constitute relevant grounds for a well-founded risk of persecution, which seems to be at odds with the admissibility assessment at hand.⁴⁵¹

The limited number of subsequent applications registered – according to SEF, 16 in 2022 (compared to 6 in 2021, less than 5 in 2020, 8 in 2019, 13 in 2018, and 9 in 2017) – does not allow for a general assessment of existing obstacles in lodging a subsequent application.

According to information collected by CPR, in recent years, subsequent applicants are generally provided a personal interview to assess whether new elements were submitted.⁴⁵² Such an interview tends to differ from those conducted in the admissibility/accelerated/regular procedure insofar as it mainly seeks to ascertain new facts, evidence or changes in circumstances related to persecution since the presentation of the initial asylum application. The reasoning of inadmissibility decisions generally includes an assessment of the existence, credibility and relevance of new facts and changes in circumstances since the presentation of the initial asylum application. The evidentiary value of documents and other elements of proof submitted, as well as the inconsistencies between the information provided and the facts described in the context of the original application, are usually analysed.

The information available to CPR indicates a typically low success rate of subsequent applications.

The Asylum Act provides for an appeal against the decision to reject a subsequent application (see [Admissibility Procedure: Appeal](#)). The time limit for lodging the appeal is 4 days.⁴⁵³ The initial appeal has automatic suspensive effect,⁴⁵⁴ as opposed to onward appeals that have no automatic suspensive effect.⁴⁵⁵

With regard to access to free legal assistance for asylum seekers during the preliminary admissibility assessment and at appeal stage, the general rules and practice of the regular procedure apply (*mutatis mutandis* given the specific changes in the procedure, e.g., the possible absence of a personal interview, see [Regular Procedure: Legal Assistance](#)).

In practice, CPR is not aware of systemic or relevant obstacles faced by asylum seekers to appealing a first instance decision on the admissibility of a subsequent application.

⁴⁵⁰ TAC Lisbon, Decision 1748/18.9BELSB, 26 November 2018, unpublished.

⁴⁵¹ A similar approach was followed in a 2019 judgement of TAF Porto that noted that a subsequent application should only go beyond the preliminary evaluation if there are new facts, circumstances or evidence that by themselves show that it is likely that the applicant is eligible for international protection. TAF Porto, Decision 649/18.5BELSB, 17 January 2019, unpublished.

⁴⁵² Article 33 Asylum Act states that subsequent applications are submitted to SEF with all available supporting evidence and that SEF may, following the application, provide the applicant with a reasonable time limit to present new facts, information or evidence.

⁴⁵³ Article 33(6) Asylum Act.

⁴⁵⁴ Ibid.

⁴⁵⁵ Article 33(8) Asylum Act.

F. The safe country concepts

Indicators: Safe Country Concepts

- | | | |
|--|---|--|
| 1. Does national legislation allow for the use of “safe country of origin” concept? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Is there a national list of safe countries of origin? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ❖ Is the safe country of origin concept used in practice? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. Does national legislation allow for the use of “safe third country” concept? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Is the safe third country concept used in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3. Does national legislation allow for the use of “first country of asylum” concept? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

1. Safe country of origin

The Asylum Act provides for a definition of ‘safe country of origin’ that is in line with Article 36 of the recast Asylum Procedures Directive.⁴⁵⁶ However, the law does not further regulate its application. The only exception is that the ‘safe country of origin’ concept is listed as one of the grounds for the application of the **Accelerated Procedure**.⁴⁵⁷

To date, the authorities have not introduced legislation that allows for the national designation of safe countries of origin for the purposes of examining applications for international protection in line with Annex I of the Directive.

According to the information available to CPR, SEF does not have a list of safe countries of origin as a matter of administrative guidance and the concept is not used in practice as a ground for channelling asylum applications into an accelerated procedure.

2. Safe third country

The Asylum Act provides for a definition of ‘safe third country’ that presents some inconsistencies with Article 38 of the recast Asylum Procedures Directive.⁴⁵⁸ These inconsistencies were raised by CPR during the legislative process that transposed the second-generation *acquis* into national law,⁴⁵⁹ and include the following:

- ❖ The wording of the provision seems to indicate that it applies *ratione personae* to asylum seekers alone, as opposed to applicants for international protection;⁴⁶⁰
- ❖ The provision does not include the absence of a risk of serious harm as a condition for the application of the concept;
- ❖ The provision does not include the possibility for the applicant to challenge the existence of a connection between him or her and the third country;
- ❖ A standard of possibility rather than one of reasonableness is set with regard to return on the basis of a connection between the applicant and the third country concerned.⁴⁶¹

While excluding EU Member States from the concept of safe third country,⁴⁶² the Asylum Act does not provide for specific rules regarding EU and non-EU European safe third countries.

⁴⁵⁶ Article 2(1)(q) Asylum Act.

⁴⁵⁷ Article 19(1)(f) Asylum Act.

⁴⁵⁸ Article 2(1)(r) Asylum Act.

⁴⁵⁹ CPR, *Proposta de Lei 187 - XII que altera a Lei n.º 27/2008, de 30 de Junho – Comentários*, January 2014, available in Portuguese at: <http://bit.ly/2zT1oef>.

⁴⁶⁰ Article 2(1)(r) Asylum Act.

⁴⁶¹ Article 2(1)(r)(i) Asylum Act.

⁴⁶² Article 19-A(1)(d) Asylum Act that excludes EU Member States from the concept of third safe country.

Although the concept is a ground for inadmissibility (see [Admissibility Procedure](#)),⁴⁶³ the authorities have not introduced further rules in national legislation to date (e.g., relevant connection indicators or rules regarding the application of the concept to a particular country or to a particular applicant).

According to the information available to CPR, SEF does not currently have a list of countries designated to be generally safe as a matter of administrative guidance. While the number of inadmissibility decisions on safe third country grounds is generally low, countries such as include **Brazil, Ecuador, Morocco, Mozambique, South Africa, United States of America, and Turkey** have been deemed as such.

According to SEF, in 2022 there were no negative decisions based on the concept of ‘safe third country’ (see [Admissibility Procedure](#)).⁴⁶⁴

Connection criteria

To date, SEF has used indicators such as transit (sometimes as short as a few weeks), the registration of an asylum application or the existence of residence rights to assess the connection between the applicant and the third country. The remaining legal requirements of the clause have usually not been (adequately) analysed.

A 2018 judgment of TCA South determined that mere transit (for 28 days) and the submission of an asylum application were not sufficient to establish a meaningful connection for purposes of rendering the applicant’s transfer to the safe third country reasonable.⁴⁶⁵

A decision from TCA South issued in 2021 focused on the application of the safe third country concept to the United States of America.⁴⁶⁶ The applicant, a transgender woman from Honduras, left her country at the age of 16 fearing persecution on the basis of her gender identity. Since then, she lived in the United States irregularly for a number of years. She eventually left because, inter alia, she was not able to apply for asylum or to otherwise regularise her stay in the country, was exposed to extreme poverty as a consequence, and feared discrimination and violence on the grounds of her gender identity (particularly in light of the risk of being subject to migration detention). The United States was deemed as a safe third country both by SEF and the first instance court.

Closely following the reasoning adopted by the lower court, in its analysis, the TCA South considered, inter alia, that:

- ❖ It is ‘unequivocal’ that the United States is a safe country, and, as such, the Portuguese authorities do not have to anticipate the actions of the American authorities as it must be assumed that fundamental rights are respected in the country (arguing that a similar reasoning to that applied to EU Member States should be adopted);
- ❖ There was an effective link because the applicant lived in the third country for a number of years, studied and worked there and has personal, cultural and language connections to it;
- ❖ It was not deemed relevant that the applicant was irregularly present in the country and the risk of deportation to the country of origin was disregarded, based on the fact that, as a State Party to the 1951 Convention, the United States are bound to the prohibition of *refoulement*.

While the applicant also alleged that in order to have a chance to regularly stay in the United States she would necessarily have to return to Honduras, where she feared persecution, TCA South has disregarded the concern, deeming it only relevant that there is a chance for the applicant to regularise her stay in the

⁴⁶³ Article 19-A(1)(d) Asylum Act.

⁴⁶⁴ However, data collected by CPR on the basis of communications from SEF/legal support provided to asylum seekers indicates that there was in fact a residual number of such decisions in 2022.

⁴⁶⁵ TCA South, Decision 2163/17.7BESLB, 15 March 2018, available in Portuguese at: <https://bit.ly/2DpS327>. A previous decision from TAC Lisbon had already excluded the mere transit and the presentation of an asylum application as sufficient to establish a meaningful connection: TAC Lisbon, Decision 1792/17.3BESLB, 30 September 2017, unpublished.

⁴⁶⁶ TCA South, Decision 2238/20.5BELSB, 7 October 2021, available at: <https://bit.ly/3Omfs6W>.

United States and pointing to the change of President as an indicator of improvements in the country's migratory system.

This is a highly flawed decision for a number of reasons, in particular:

- ❖ It is unclear why the Court considers that a presumption of respect for fundamental rights should be applied to the United States and whether it should also be applied to other countries (and which criteria should be used to assess that);
- ❖ While the applicant indeed lived in the United States for a number of years and has clear links to the country, the Court failed to analyse the impacts of the irregular nature of her stay and the risks that it implied. Furthermore, the Court did not assess how the applicant could return to a country where she did not legally reside;
- ❖ While referring to the prohibition of *refoulement* applicable to the United States, the Court seemed to disregard that the same prohibition applies to Portugal and failed to assess the likelihood and potential impact of a return to Honduras (while accepting that it may occur), in order to regularise the applicant's stay in the United States;
- ❖ The Court seems to assume that a change in the Presidency automatically entails a change in a specific policy area without fully substantiating such an assumption.

Despite all of these flaws, in 2022, the STA refused to analyse an appeal concerning this case on the grounds that its relevance was limited to the individual situation, and that every element of the case indicated that the lower courts had decided it correctly, following a careful, coherent and reasonable interpretation of the law.⁴⁶⁷

Asylum seekers assisted by CPR whose applications were rejected on the basis of this inadmissibility ground were not given a document in the language of the safe third country stating that their claim was not examined on the merits. It should be noted that the issuance of such document is currently not enshrined in the law.

3. First country of asylum

The Asylum Act provides for a definition of 'first country of asylum' that is in line with Article 35 of the recast Asylum Procedures Directive,⁴⁶⁸ and that attempts to merge the criteria listed in Article 38(1) of the Directive.⁴⁶⁹ Without prejudice to challenges in clarity resulting from the merger, the current definition seems to exclude formal recognition of refugee status or sufficient protection in accordance to the Refugee Convention as stand-alone criteria to apply the concept as it also requires that:

- ❖ Life and liberty are not threatened;
- ❖ The principle of *non-refoulement* in accordance with the Refugee Convention is respected;
- ❖ The prohibition of the right to freedom from torture and cruel, inhuman or degrading treatment is respected.

The 'first country of asylum' concept is included among the inadmissibility grounds enshrined in the Asylum Act.⁴⁷⁰

The number of inadmissibility decisions on first country of asylum grounds is generally limited. According to SEF, there were no such decisions in 2022.

In those limited cases, the analysis conducted by SEF into the requirements of the concept generally focused on the legal status of the applicant, failing to adequately assess security risks in the first country of asylum alleged by the applicant.

⁴⁶⁷ STA, Decision 02238/20.5BELSB, 13 January 2022, available at: <https://bit.ly/3ZcrNj6>.

⁴⁶⁸ Article 2(1)(z) Asylum Act.

⁴⁶⁹ Indeed, certain elements of the definition of the "safe third country" such as that contained in Article 38(1)(b) of the recast Asylum Procedures are not included.

⁴⁷⁰ Article 19-A(1)(c) Asylum Act.

According to the information available to CPR, case law regarding the interpretation of the concept is highly limited but includes a ruling from a second-instance Administrative Court focusing on the definition of ‘sufficient protection’. According to the court’s interpretation of the provision enshrined in the Asylum Act, such protection should be interpreted to encompass the principle of *non-refoulement* in accordance with the Refugee Convention but also *refoulement* where a civilian’s life or person is at risk by reason of indiscriminate violence in situations of armed conflict.⁴⁷¹

However, as stressed by TAC Lisbon in a ruling from November 2017, the formal recognition of refugee status is not *per se* sufficient to qualify a third country as a first country of asylum in the absence of a meaningful assessment of possible risks to the security of the applicant in that country.⁴⁷²

G. Information for asylum seekers and access to NGOs and UNHCR

1. Provision of information on the procedure

Indicators: Information on the Procedure

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? Yes With difficulty No

❖ Is tailored information provided to unaccompanied children? Yes No

The Asylum Act provides for the right to:

- ❖ A broad set of information on the asylum procedure and reception conditions in general;⁴⁷³
- ❖ Information on key developments and decisions relating to the individual asylum file;⁴⁷⁴

⁴⁷¹ TAC Lisbon, Decision 1791/15.0BESLB, 29 September 2015, unpublished; TCA South, Decision 12873/16, 11 February 2016, available at: <http://bit.ly/2zUrEVt> on Brazil as a first country of asylum for a Syrian asylum seeker.

⁴⁷² TAC Lisbon, Decision 2163/17.7BESLB, 30 November 2017, unpublished. Another judgement from 2019, considered that episodes of robbery in the country of asylum were “*personal circumstances*” that did not amount to “*a situation of indiscriminate violence*”. TAC Lisbon, Decision 271/19.9BELSB, 13 September 2019, unpublished.

⁴⁷³ This includes information on assistance and the asylum procedure by the UNHCR and CPR (Article 13(3)); information on the right to an individual application regarding dependent relatives (Article 13(5)); general information on the rights and duties in the asylum procedure (Article 14(2)); information in writing on the rights and duties in border procedures (Article 24(2)); information on the extension of the time limit for the examination and, upon demand, of the grounds for the extension and expected time limit for the decision in the regular procedure (Article 28(2)); oral information or an information brochure on the rights and duties of asylum seekers and in particular regarding the asylum procedure; applicable time limits; the duty to substantiate the claim; available service providers of specialised legal assistance; available reception and health care service providers; legal consequences of failing to cooperate with SEF in substantiating the asylum claim; the purpose of fingerprinting and of all rights of data subjects in accordance to the EURODAC Regulation; information on the admissibility decision (Article 49(1)(a), (b), (c) and (2)); information on the rights and duties of beneficiaries of international protection (Article 66).

⁴⁷⁴ This includes the individual notification of first instance decisions in admissibility and accelerated procedures on national territory (Article 20(3)); the individual notification of first instance decisions in admissibility and accelerated procedures and the right to appeal at the border (Article 24(5)); individual notification of SEF’s proposal for a first instance decision in the regular procedure (Article 29(2)); individual notification of the first instance decision and the right to appeal in the regular procedure (Article 29(6)); individual notification of the first instance decision, the right to appeal and the obligation to abandon national territory within 20 days regarding subsequent applications (Article 33(6) and (9)); individual notification of the first instance decision and the right to appeal regarding applications following a removal procedure (Article 33-A(6)); individual notification of outgoing Dublin take charge or take back decisions (Article 37(2)); individual notification of SEF’s proposal for the cessation, revocation, ending or refusal to renew the international protection status (Article 41(6)); individual notification of the cessation, revocation, ending or refusal to renew the international protection status (Article 43(2)).

- ❖ Information on detention;⁴⁷⁵ and
- ❖ Specific information rights of unaccompanied children.⁴⁷⁶

Furthermore, the law provides for a general right to interpretation ‘whenever necessary’ during registration of the application and throughout the asylum procedure.⁴⁷⁷ This refers to the right to interpretation into a language that the asylum seeker understands or is reasonably expected to understand.⁴⁷⁸

In practice, while SEF generally complies with the obligation to inform asylum seekers of key developments, decisions and associated rights during asylum procedures, interpretation for that purpose is not systematically available and rarely includes an explanation of the grounds of the decision. The absence of translation has also been problematic in cases where SEF informs asylum seekers of developments in their applications by postal mail and email in Portuguese.⁴⁷⁹

Information at the registration stage

Upon registration, asylum seekers receive an information leaflet from SEF, informing them of their rights and duties. In CPR’s experience, the leaflet is only available in a limited number of foreign languages (e.g., Portuguese, French, English, Russian, Arabic, Ukrainian, and Lingala). While some specific information leaflets, including one on reception and another for unaccompanied children are available online,⁴⁸⁰ CPR is not aware of their systematic distribution to asylum seekers, including to unaccompanied children. The information contained in the leaflets is brief and not considered user-friendly, particularly in the case of unaccompanied children.

CPR’s liaison officers present at SEF-GAR develop efforts to explain the content of the documents handed to applicants, especially when they are not able to read.

Information on the Dublin procedure

CPR has no indication that the common information leaflet provided for in Article 4(3) of the Dublin III Regulation is being systematically distributed. Nevertheless, SEF confirmed that such information is provided.

In CPR’s experience, the only information provided on the functioning of the Dublin system seems to be contained in the general information leaflet on the Dublin III and Eurodac Regulations, which is limited.

Asylum seekers are systematically informed in writing of the likely responsibility of another Member State, and the corresponding supporting evidence during the personal interview. If the take back/take charge request is refused by the Member State and another Member State is deemed responsible by the Portuguese authorities, the asylum seekers is usually notified of the likelihood of being transferred to that Member State. In such cases, according to CPR’s experience, the asylum seeker is not informed of details

⁴⁷⁵ This includes immediate information in writing on the grounds of detention as well as the right to appeal and to free legal aid (Article 35-B(2)); information on the internal rules of the detention facility and the detainee’s rights and duties (Article 35-B(5)).

⁴⁷⁶ This includes information on mandatory legal representation (Article 79(1)); information on the purpose, potential consequences and preparation of the personal interview by the legal representative (Article 79(4)); information on the submission to an age assessment expertise (Article 79(7)).

⁴⁷⁷ Article 49(1)(d) Asylum Act.

⁴⁷⁸ Articles 14(2), 24(2) and (5), 29(6), 33(6), 35-B(2) and (5), 37(2), 43(2), 49(1)(a), (b) and (2) and 66 Asylum Act.

⁴⁷⁹ Attaching documents such as accelerated procedures decisions, Dublin transfer decisions or proposals for a final decision in the regular procedure, also in Portuguese.

⁴⁸⁰ SEF, *Informação para Menores Não-Acompanhados Requerentes de Proteção Internacional em Portugal*, available in Portuguese at: <https://bit.ly/2FFVjc3>; SEF, *Acolhimento em Portugal*, available in Portuguese at: <https://bit.ly/2MkBnvC>; SEF, *Informação para Requerentes de Proteção Internacional em Portugal*, available in Portuguese at: <https://bit.ly/2MoTRez>; SEF, *Regulamento Dublin III*, available in Portuguese at: <https://bit.ly/2Hq5aEy>.

regarding the refusal to take back/take charge (see [Dublin: Procedure](#)).

Information on the border procedure

In the case of asylum seekers detained at the border, the certificate of the asylum application used to contain a brief reference to Article 26 of the Asylum Act that provides for the systematic detention of asylum seekers in the border procedure. Asylum seekers were not systematically informed or aware of their rights and obligations in detention despite the existence of information leaflets available in a limited number of foreign languages.⁴⁸¹ Gaps in the provision of information within the context of detention at the border have been flagged by the National Preventive Mechanism,⁴⁸² both with regard to the applicable legal frameworks and the individual situation of the applicants.

Child-friendly information

Despite having been designated as legal representative of a significant number of unaccompanied children who applied for asylum in 2022, CPR is unaware of the provision of child-friendly information by SEF, including the specific information leaflet for unaccompanied children and the information leaflet provided for by Article 4(3) of the Dublin Regulation.

Information on procedural developments

Despite written requests to that purpose, asylum seekers are usually not informed of the extension of the time limit for the examination of their application, the grounds for the extension and the expected time limit for the decision in the regular procedure as required by law.⁴⁸³

Information by NGOs

CPR provides free legal information to asylum seekers throughout the asylum procedure that broadly covers the information requirements provided in the law, including tailored information to unaccompanied children, on the basis of individual interviews and legal counselling. Challenges in capacity have at times restricted the provision of legal information during the first instance asylum procedure, particularly regarding asylum seekers placed in detention or private accommodation outside the Lisbon area (see [Regular Procedure: Legal Assistance](#)).

There are other organisations that provide legal information and assistance to asylum seekers such as the Jesuit Refugee Service ([JRS Portugal](#)), the High Commissioner for Migration ([ACM](#)) through its National Centres for Migrants' Integration (CNAIM) and Local Support Centres for Migrants Integration (*Centro Local de Apoio à Integração de Migrantes*, CLAIM) spread throughout the country and Crescer. According to the available information, these services remain residual and mostly focused on integration.

In 2022, UNHCR launched the Help information website Portugal.⁴⁸⁴

⁴⁸¹ Portuguese Ombudsman, *Tratamento de Cidadãos Estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, available in Portuguese at: <http://bit.ly/2z15JPu>, Chapter II, Section 9.

⁴⁸² Portuguese Ombudsman, *Mecanismo Nacional de Prevenção – Relatório à Assembleia da República 2018*, 30 May 2019, available in Portuguese at: <https://bit.ly/2XTmicn>.

⁴⁸³ Article 28(2) Asylum Act.

⁴⁸⁴ Available at: <https://bit.ly/414z4BN>.

2. Access to NGOs and UNHCR

Indicators: Access to NGOs and UNHCR

1. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? Yes With difficulty No
2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? Yes With difficulty No
3. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice? Yes With difficulty No

Regarding access to UNHCR, CPR and other NGOs at the border and in detention, see the sections on [Border Procedure](#) and [Access to Detention Facilities](#).

H. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? Yes No
❖ If yes, specify which:
2. Are applications from specific nationalities considered manifestly unfounded?⁴⁸⁵ Yes No
❖ If yes, specify which:

While this is not an official practice, CPR has observed that SEF systematically deems applications lodged by **Venezuelans** as unfounded within accelerated procedures (notably on grounds of irrelevance),⁴⁸⁶ and refers the cases to regularisation procedures through the humanitarian clause of the exceptional regularisation regime of the Immigration Act.⁴⁸⁷

According to the decisions, such a referral is due to the political, social, and humanitarian crisis in the country and its impacts in the regular functioning of institutions and public services. While further information on the implementation and outcome of such procedures is not available to CPR, this is an uncommon practice from the authorities that was only systematically applied to Venezuelans.⁴⁸⁸

TCA South analysed one such decision in 2020. In the case concerned, the applicant referred to the overall conditions in Venezuela (insecurity, lack of living conditions, lack of access to essential goods) and, particularly, to the lack of access to necessary medication. The Court considered that the first instance decision was contradictory. It was also concluded, *inter alia*, that given the publicly available information regarding the situation in Venezuela, it is notorious that the socio-economic situation is harsh, with shortages of food and medicines, and growing violence. The Court concluded that, given the applicant's statements and the available information, the allegations were *pertinent* and *relevant*, and the application should be analysed within the regular procedure.⁴⁸⁹

⁴⁸⁵ Whether under the “safe country of origin” concept or otherwise.

⁴⁸⁶ Article 19(1)(e) Asylum Act.

⁴⁸⁷ Article 123 Immigration Act. Note that this practice was confirmed in the Statistical Report of Asylum (2020): Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, p.62, available in Portuguese at: <https://bit.ly/2MGYtB9>.

⁴⁸⁸ The decisions analysed do not clarify whether such procedures are triggered automatically by SEF and if residence permits on humanitarian grounds are effectively granted.

⁴⁸⁹ TCA South, Decision 1574/19.8BELSB, 17 March 2020, unpublished. A decision from TAC Lisbon followed a similar understanding, while also pointing out, *inter alia*, the broader scope of subsidiary protection in the national context (that also includes situations of *systematic violation of human rights* and *generalised and indiscriminate violation of human rights*). TAC Lisbon, Decision 1371/22.9BELSB, 26 June 2022, not publicly available.

Furthermore, the practice seems to contradict the position adopted by Portugal externally regarding persons fleeing Venezuela, notably through the pledges made in the 2019 Global Refugee Forum where the country committed 'to ensure financial contributions for [...] joint operations of the UNHCR/IOM operation in Colombia (to address the urgent needs of Venezuelan refugees) [...]' and also referred to supporting the higher education of Venezuelan refugees.⁴⁹⁰

While statistical data is not available, CPR has observed that persons relocated to Portugal following rescue operations in the Mediterranean Sea whose applications for international protection were rejected are also (at least at times) referred to regularisation procedures through the humanitarian clause of the exceptional regularisation regime of the Immigration Act.⁴⁹¹ This was due, according with at least some decisions analysed, to the commitment made by Portugal following the disembarkation.

According to CPR's observation, and to the information provided by UNICEF, this has also happened in the case of relocated unaccompanied children and young adults whose asylum applications were rejected.

CPR has observed that access to this regime may be hampered by the lack of documents issued by the country of origin (e.g., passports). This has also been noticed by UNICEF with regard to unaccompanied children and young adults in particular.

According to the data provided by SEF, a total of 140 humanitarian protection statuses were granted in the course of 2022, all of which to Afghan nationals.

⁴⁹⁰ *Statement from Portugal at the Global Refugee Forum*, 17 December 2019, available at: <https://bit.ly/38OHMdM>.

⁴⁹¹ Article 123 Immigration Act.

Short overview of the reception system

The primary responsibility for the provision of material reception conditions lies with the Ministry of Home Affairs.⁴⁹² However, the responsibility for reception lies with the Ministry of Employment, Solidarity, and Social Security for asylum seekers who pass the admissibility procedure and are in the regular procedure.⁴⁹³ The authorities can cooperate with other public entities and/or private non-profit organisations within the framework of a MoU to ensure the provision of such services.⁴⁹⁴

The practical framework for the reception of asylum seekers in Portugal currently stems from bilateral MoUs,⁴⁹⁵ the resolution of the Council of Ministers no. 103/2020 of 23 November 2020, establishing a **single system of reception and integration** of applicants for and beneficiaries of international protection, and the internal regulations of the Single Operative Group (SOG) it created.⁴⁹⁶

In practice, the following entities are competent to provide reception conditions to spontaneous applicants depending on the type and stage of the procedure and/or the profile of the applicant:

- ❖ The **Institute for Social Security (ISS)** provides material reception conditions to asylum seekers in the regular procedure;
- ❖ **Santa Casa da Misericórdia de Lisboa (SCML)** assists asylum seekers who have submitted an appeal against a Dublin decision or a first instance decision (with the exception of a first instance decision in the regular procedure) as well as certain categories of asylum seekers in the regular procedure;
- ❖ The **Portuguese Refugee Council (CPR)** provides reception services to asylum seekers in the admissibility (including Dublin) and accelerated procedures on the national territory. As regards unaccompanied children, CPR also provides for material reception conditions in the regular procedure and at appeal stage in accordance with the relevant protective measures.
- ❖ The **Immigration and Borders Service (SEF)** retains responsibility for material reception conditions in border procedures and procedures in detention following a removal order.⁴⁹⁷

Asylum seekers who lack resources⁴⁹⁸ are entitled to support from the moment they apply for asylum,⁴⁹⁹ and until a final decision is reached on their asylum application,⁵⁰⁰ without prejudice to the suspensive effect of appeals,⁵⁰¹ and to the provision of material reception conditions beyond final rejection in case of ongoing need for support on the basis of an individual assessment of the applicant's social and financial circumstances.⁵⁰²

In practice, the majority of spontaneous asylum applicants are systematically referred by SEF and benefit from the provision of material reception conditions by CPR in the framework of admissibility and accelerated procedures on the territory.

In the current reception system, adults, and families with children are mostly accommodated at CPR's Refugee Reception Centre (CAR) or in private accommodation provided by CPR (apartments and rooms in the private market or hostels) during admissibility (including Dublin) and accelerated procedures on the

⁴⁹² This includes admissibility procedures (including Dublin procedures); accelerated procedures, border procedures, subsequent applications and applications following a removal decision: Article 61(1) Asylum Act.

⁴⁹³ Article 61(2) Asylum Act.

⁴⁹⁴ Article 61(1) and (2) *in fine* Asylum Act.

⁴⁹⁵ Notably MoUs between the Ministry of Home Affairs / SEF and CPR, between ISS and CPR, and between the ISS and Santa Casa da Misericórdia de Lisboa (SCML).

⁴⁹⁶ Resolution of the Council of Ministers no. 103/2020 of 23 November 2020, available at: <https://bit.ly/3oBLXQm>.

⁴⁹⁷ Article 61(1) Asylum Act.

⁴⁹⁸ Articles 51(1) and 56(1) Asylum Act.

⁴⁹⁹ Articles 51(1), 56(1) and 2(1)(ae) Asylum Act.

⁵⁰⁰ Article 60(1) Asylum Act.

⁵⁰¹ Articles 60(1) *in fine* and 30(1) Asylum Act.

⁵⁰² Article 60(2) Asylum Act.

territory. In the case of unaccompanied children, CPR's Refugee Children Reception Centre (CACR) offers appropriate housing and reception conditions during the regular procedure and at appeal stage.

Asylum seekers supported by ISS are mostly provided with private housing (rented flats/houses and rooms) without prejudice to accommodation provided by relatives in Portugal and collective accommodation such as hotels or non-dedicated reception centres e.g., emergency shelters, nursing homes, etc. While the majority of applicants for international protection supported by SCML are accommodated in private housing, since 2020, SCML also resorts to hostels to accommodate asylum seekers in order to guarantee accommodation while other solution is not available.

CPR ensures accommodation until ISS or SCML take over and asylum seekers only leave its facilities when alternative accommodation is secured.

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?

❖ Regular procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Dublin procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Admissibility procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Border procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Accelerated procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ First appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Onward appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Subsequent application	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Reduced material conditions	<input checked="" type="checkbox"/> No

2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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1.1. Responsibility for reception

The primary responsibility for the provision of material reception conditions lies with the Ministry of Home Affairs.⁵⁰³ However, the responsibility for reception lies with the Ministry of Employment, Solidarity and Social Security for asylum seekers who pass the admissibility procedure and are in the regular procedure.⁵⁰⁴ The authorities can cooperate with other public entities and/or private non-profit organisations within the framework of a MoU to ensure the provision of such services.⁵⁰⁵

The practical framework for the reception of asylum seekers in Portugal currently stems from bilateral MoUs,⁵⁰⁶ the resolution of the Council of Ministers no. 103/2020 of 23 November 2020, establishing a **single system of reception and integration** of applicants for and beneficiaries of international protection, and the internal regulations of the Single Operative Group (SOG) it created.⁵⁰⁷

According to the Resolution, the main features of the single system of reception and integration are as follows:

⁵⁰³ This includes admissibility procedures (including Dublin procedures); accelerated procedures, border procedures, subsequent applications and applications following a removal decision: Article 61(1) Asylum Act.

⁵⁰⁴ Article 61(2) Asylum Act.

⁵⁰⁵ Article 61(1) and (2) *in fine* Asylum Act.

⁵⁰⁶ Notably MoUs between the Ministry of Home Affairs / SEF and CPR, between ISS and CPR, and between the ISS and Santa Casa da Misericórdia de Lisboa (SCML).

⁵⁰⁷ Resolution of the Council of Ministers no. 103/2020 of 23 November 2020, available at: <https://bit.ly/3oBLXQm>.

- ❖ The system covers all applicants and beneficiaries of international protection, including unaccompanied children, resettled refugees, and relocated asylum seekers;
- ❖ A Single Operative Group (SOG) is established. The SOG has a restricted and an extended line-up;
- ❖ The restricted line-up of the SOG ensures its coordination and is composed by ACM, SEF and ISS;
- ❖ The extended line-up of the SOG develops technical and operational tasks. In addition to ACM, SEF and ISS it includes: the Directorate General for Higher Education (DGES), DGEstE, Portuguese Institute of Sports and Youth (IPDJ), IEFP, ANQEP, SCML, ACSS, DGS, and IHRU. The resolution further establishes that other entities with competences in the fields of reception and integration, namely CPR, are also part of this line up.
- ❖ ACM is responsible for organising periodic meetings (at least one every month), providing logistical and administrative support, and preparing the regulation of the SOG;
- ❖ The resolution further details the responsibilities of ACM, SEF and ISS within the context of the SOG;
- ❖ The SOG is established for 5 years with possibility of extension. Instruments concerning reception and integration of applicants for and beneficiaries of international protection in force must be adjusted to the provisions of the resolution.

Within the framework of the SOG, three subgroups have been created so far to handle operational matters: the social monitoring subgroup, the unaccompanied children subgroup, and the programmed arrivals subgroup.⁵⁰⁸

In practice, the following entities are competent to provide reception conditions to spontaneous applicants, depending on the type and stage of the procedure and/or the profile of the applicant:

- ❖ The **Institute for Social Security (ISS)** provides material reception conditions to asylum seekers in the regular procedure;
- ❖ **Santa Casa da Misericórdia de Lisboa (SCML)** assists asylum seekers who have submitted an appeal against a Dublin decision or a first instance decision (with the exception of a first instance decision in the regular procedure) as well as certain categories of asylum seekers in the regular procedure (e.g., vulnerable cases such as unaccompanied children initially accommodated at CACR that move into assisted apartments and former unaccompanied children initially accommodated at CACR; or individuals and families with strong social networks in the Lisbon area);
- ❖ The **Portuguese Refugee Council (CPR)** provides reception services to asylum seekers in the admissibility (including Dublin) and accelerated procedures on the national territory. CPR also provides for material reception conditions to unaccompanied children within the regular procedure and at appeal stage, in accordance with protective measures adopted by Family and Juvenile Courts in the framework of the Children and Youths at Risk Protection Act (see [Legal Representation of Unaccompanied Children](#)).
- ❖ The **Immigration and Borders Service (SEF)** is responsible for the provision of material reception conditions within the context of border procedures and procedures in detention following a removal order (see [Conditions in Detention Facilities](#)).⁵⁰⁹

The social monitoring subgroup of the SOG replaced the previous structure for referral and follow up on the provision of reception conditions to spontaneous asylum seekers. The group is composed by ACM,

⁵⁰⁸ In 2022, a new SOG sub-group was created in order to address the area of vulnerabilities within the asylum system. It is composed by ACM, CPR, ISS, SCML, SEF, and UNHCR. According to the information available at the time of writing, the sub-group will be led by UNHCR during the first semester of 2023, and will identify services and mechanisms to address specific vulnerabilities.

⁵⁰⁹ Article 61(1) Asylum Act.

CPR, ISS, SCML and SEF, and meets twice a month. The extended line-up of the SOG meets once a month.

1.2. The right to reception and sufficient resources

The law provides for the right of asylum seekers to material reception conditions regardless of the procedure they are in,⁵¹⁰ with the exception of a possible withdrawal or reduction of those conditions in the case of ‘unjustified’ subsequent applications.⁵¹¹

Asylum seekers are entitled to support from the moment they apply for asylum,⁵¹² and until a final decision is reached on their asylum application,⁵¹³ without prejudice to: (i) the suspensive effect of appeals,⁵¹⁴ and (ii) the provision of material reception conditions beyond the final rejection in case of ongoing need for support on the basis of an individual assessment of the applicant’s social and financial circumstances.⁵¹⁵

Only asylum seekers who lack resources are entitled to material reception conditions.⁵¹⁶ The law provides for criteria to assess the sufficiency of resources that consist in either the lack thereof or a level of financial resources which is inferior to the ‘social support allowance’.⁵¹⁷ To date, ISS has interpreted this provision as referring to the social pension (*pensão social*) that, in 2022, stood at € 213.91 per month.⁵¹⁸ According to the information provided by ISS, cases are reassessed every three months and the provision of material reception conditions is maintained where indicators of a lack of resources subsist.

Asylum seekers can be requested to contribute,⁵¹⁹ or reimburse,⁵²⁰ partly or in full, the cost of material reception conditions and health care depending on the level and the point in time when the authorities become aware of their financial resources. However, neither the law nor administrative guidelines specify at what point the asylum seeker is required to declare any financial resources they might have.

In practice, the majority of spontaneous asylum applicants are systematically referred by SEF and benefit from the provision of material reception conditions by CPR in the framework of admissibility and accelerated procedures on the territory. This has been done without a strict assessment of resources by SEF as most asylum seekers had recently arrived in the country and were considered as being manifestly in need of assistance. In cases where they had financial resources or relatives in Portugal, certain asylum seekers chose not to benefit from the accommodation provided by CPR.

Access to CPR’s Refugee Reception Centre (*Centro de Acolhimento para Refugiados, CAR*) that accommodates isolated adults and families is dependent on written referral from SEF-GAR. The transition from border facilities to reception centres within the territory is carried out smoothly in general. As for unaccompanied children, referral by SEF to CPR’s CACR is made by the most expedient means available such as telephone or email, and children released from the border are escorted by SEF to the premises. For those asylum seekers who have opted for private housing with relatives, the provision of material

⁵¹⁰ Articles 51(1) and 56(1)-(2) Asylum Act.

⁵¹¹ Article 60(3)(f) Asylum Act. The meaning of “unjustified subsequent application” seems to indicate that the potential withdrawal or reduction would only intervene at the end of the 10-day admissibility/preliminary assessment as per Article 33(4). According to the information available to CPR, such possibility was not enforced in 2018 and 2019, as SEF referred subsequent applicants in need of housing to the relevant entities.

⁵¹² Articles 51(1), 56(1) and 2(1)(ae) Asylum Act that entitle third-country nationals or stateless persons who have “presented” an asylum application to material reception conditions. The presentation of the asylum application is to be understood as preceding the registration of the asylum claim under Article 13(1) and (7) Asylum Act.

⁵¹³ Article 60(1) Asylum Act.

⁵¹⁴ Articles 60(1) *in fine* and 30(1) Asylum Act.

⁵¹⁵ Article 60(2) Asylum Act.

⁵¹⁶ Articles 51(1) and 56(1) Asylum Act.

⁵¹⁷ Article 56(3) Asylum Act.

⁵¹⁸ Decree-Law 464/80 and Ministerial Order 301/2021. According to the referred Decree-Law, the social pension is measure of solidarity to offer social protection to the most vulnerable populations. It is provided, among others, to nationals, who are not entitled to a pension from the contributory social security system who lack any revenue or whose revenue is below the value of the social pension (Article 1).

⁵¹⁹ Article 56(4) Asylum Act.

⁵²⁰ Article 56(5) Asylum Act.

reception conditions such as financial assistance by CPR is dependent on the presentation of an individual certificate of the asylum application.

CPR does not proactively engage in means assessments for the duration of the provision of material reception conditions given that access to paid employment is, in practice, limited at this stage.

Following admission to the regular procedure, or if the application is deemed inadmissible or is rejected in an accelerated procedure,⁵²¹ the asylum seeker is referred CPR to the Single Operative Group (SOG) through its social monitoring subgroup. The SOG decides on the provision of material reception conditions in the regular procedure (by ISS), or at appeal stage (by SCML), based on an individual report that includes information on the socio-economic circumstances of the individual. Given that asylum seekers admitted to the regular procedure are often unemployed, and lack financial resources, it is not common to cease the provision of material reception conditions at this point.

While spontaneous asylum applicants do not face systematic obstacles in gaining access to available material reception conditions (e.g., due to delays in the issuance of the individual certificate of the asylum application or a strict assessment of resources), some concerns remain regarding access to support. These include the provision of support by CPR to asylum seekers accommodated in private accommodation in remote locations (e.g., due to the lack of information from SEF's regional representations regarding available assistance and costs associated with travel and communications for initial and follow-up interviews with social workers at CPR). Another concern stems from the potential exclusion of asylum seekers from material reception conditions in the regular procedure in the event of a refusal to accept the geographical dispersal policy managed by the GTO (see [Freedom of Movement](#)).

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to adult asylum seekers as of 31 December 2022 (in original currency and in €): € 213.91 - € 273.42

The Asylum Act provides for a general definition of material reception conditions,⁵²² as well as a closed list of forms of provision of material reception conditions in article 57(1) that includes:

- ❖ Housing;⁵²³
- ❖ Food;
- ❖ Monthly social support allowance for food, clothing, transport, and hygiene items;
- ❖ Monthly complementary allowance for housing; and
- ❖ Monthly complementary allowance for personal expenses and transport.

Additionally, Article 57(3) establishes a closed list of possible combinations of forms of material reception conditions that consist of:

- ❖ Housing and food in kind with a [monthly] complementary allowance for personal expenses and transportation; and
- ❖ Housing in kind or complementary allowance for housing with a social support allowance [for food, clothing, transportation and hygiene items].

⁵²¹ This includes rejected asylum seekers released from the border after the expiry of the 60-day time limit (see [Duration of Detention](#)).

⁵²² Article 2(1)(e) Asylum Act: housing, food, clothing and transportation offered in kind, through financial allowances, vouchers or daily allowances.

⁵²³ Under Article 57(2), housing and food in kind can consist of: (a) housing declared as equivalent to reception centres for asylum seekers in the case of border applications; (b) installation centres for asylum seekers or other types of housing declared equivalent to installation centres for asylum seekers that offer adequate living conditions; and (c) private houses, apartments, hotels, or other forms of housing adapted to accommodate asylum seekers.

However, asylum seekers may exceptionally be offered forms and combinations of material reception conditions other than those provided in the law for a limited period of time where:

- ❖ There is a need for an initial assessment of the special needs of the applicant;
- ❖ The housing in kind as per the law is not available in the area where the asylum seeker is located; and/or
- ❖ Available reception capacity is temporarily exhausted and/or the international protection applicants are detained at a border where housing equivalent to reception centres is not available.⁵²⁴

While the Asylum Act enshrines the right of asylum seekers to the satisfaction of their basic needs to a level that guarantees their human dignity,⁵²⁵ it does not provide for specific criteria to determine what is an adequate standard of living which guarantees their subsistence and protects their physical and mental health as per Article 17(2) of the recast Reception Conditions Directive.

The specific criteria for establishing the value of the financial allowances consists of a percentage of the ‘social support allowance’,⁵²⁶ which, to date, has been interpreted by the ISS as referring to the social pension (*pensão social*).⁵²⁷ These percentages represent the upper limit of the allowances.

In 2022, the following amounts applied:⁵²⁸

Level of financial allowances per expense: 2022			
Type of monthly allowance	Percentage	Amount	
		ISS	SCML
Social support allowance for food, clothing, transport and hygiene items	70%	€ 149.74	€ 147.22
Complementary allowance for housing	30%	€ 64.17	€ 63.10
Complementary allowance for personal expenses and transport	30%	€ 64.17	€ 63.10

In practice, asylum seekers referred by SEF to CPR in the framework of admissibility procedures (including Dublin) and accelerated procedures on the territory benefit from housing at CAR or in other facilities (e.g. hostels, apartments or rooms in private accommodation) provided by CPR (see [Types of Accommodation](#)), along with a monthly allowance of € 150 per adult, € 50 per child below the age of four, and € 75 per child over the age of four, to cover food and transport expenses.

CPR’s Social Department provides asylum seekers with second-hand clothes as well as food items as needed and/or weekly with the support of the charities/projects such as the Food Bank (*Banco Alimentar*), ReFood and *Missão Continente*, as well as sporadic private donations.

Depending on the individual circumstances, CPR also pays for: (i) medication - due to problems related to access to State funded medication through the National Health Service (*Serviço Nacional de Saúde*, SNS), and in the case of non-funded medication; (ii) school supplies for children; (iii) differentiated health

⁵²⁴ Article 57(4) Asylum Act.

⁵²⁵ Article 56(1) Asylum Act.

⁵²⁶ Article 58 Asylum Act.

⁵²⁷ In 2022, the value of the social pension stood at €213.91/ month – Decree-Law 464/80 and Ministerial Order 301/2021.

⁵²⁸ While the ISS updated the amounts in 2022, SCML confirmed that they continued to use the 2019 social pension as a reference. Hence, the amounts for each entity are slightly different.

care, e.g., dentists; and (iv) taxi transportation, e.g., in case of a medical emergency or for particularly vulnerable individuals.

In the case of unaccompanied children in the regular procedure and at appeal stage, CPR provides material reception conditions in kind such as housing, food, clothing, transportation, school supplies, sports, social and cultural activities, capacity-building and personal development activities. They also receive a monthly allowance for personal needs, whose amount varies according to the child's age: € 12 for children between the age of 13 and 14; and €16 for children aged 15 and over. Unaccompanied young people in pre-autonomy stage under CPR's care are responsible for managing their own monthly allowance of €150.

In the regular procedure or pending an appeal against a rejection decision during the admissibility stage or in an accelerated procedure, the financial allowance provided by ISS and by SCML is expected to cover all expenses. SCML provides an additional monthly allowance in cases of severe economic vulnerability (which are often linked to the extremely high costs of accommodation). In 2022, 42 applicants were covered by this measure.⁵²⁹ ISS has also confirmed that in 2022 it has continued to provide further support for housing expenses (first two months of rent upon presentation of a lease proposal) and that, when deemed justified following assessment, additional support for housing and other expenses can be granted.

The monthly allowance for all expenses is calculated in accordance with the percentages of the social pension set out in the Asylum Act,⁵³⁰ as mentioned above, albeit with a regressive percentage per additional member of the household.

While in previous years, the amount of the allowances granted by ISS and SCML was the same, this has not been the case since 2020. According to ISS, an audit carried out in 2020 concluded that the 'social support allowance for food, clothing, transport and hygiene items' could not, according to Article 57(3) of the Asylum Act, be combined with the 'complementary allowance for personal expenses and transport'. SCML continued to follow the previous model to determine the amount of the financial allowances it granted. Consequently, in 2022, the amounts applied were as follows:

Level of ISS / SCML financial allowance for all expenses: 2022		
Category of applicant	Amount	
	ISS	SCML
Head of household	€ 213.91	€ 273.42
Other adult(s) in household	€ 149.74	€ 191.39
Child	€ 106.96	€ 136.71

Even though no qualitative research has been conducted to date on destitution of asylum seekers in the asylum procedure, the level of financial allowances is manifestly low, particularly in light of the current living costs in the country. CPR's Social Department receives regular complaints from asylum seekers at all stages of the asylum procedure regarding financial difficulties to meet basic needs and anxiety regarding low levels of income. In the course of 2022, CPR also noted an increase in the number of requests for additional food support, particularly from families with children.

⁵²⁹ Moreover, according to information provided by SCML, the organisation also allows asylum seekers under its care to access its healthcare units in accordance with medical needs.

⁵³⁰ Article 58 Asylum Act.

A study focusing on unaccompanied asylum-seeking children and ageing out in Portugal published in 2021 revealed that, while the children and young people involved generally rated the response of relevant entities in a positive manner, the vast majority stated that the financial allowances received are insufficient to cover their expenses.⁵³¹

Such difficulties might constitute a contributing factor to the level of absconding and cessation of support (see [Reduction or Withdrawal of Reception Conditions](#)).

The 2022 Statistical Report of Asylum describes the reception of spontaneous asylum seekers, relocated asylum seekers (within the different programmes), and resettled refugees, but does not assess the amount of the financial allowance granted or their potential impact on the integration of applicants for and beneficiaries of international protection.⁵³²

Throughout 2022, the SOG discussed the possibility of increasing the financial allowances granted to asylum seekers, particularly in light of the increasing number of complaints of their insufficiency, but no change was decided until the end of the year.

3. Reduction or withdrawal of reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?
 Yes No
2. Does the law provide for the possibility to withdraw material reception conditions?
 Yes No

The Asylum Act provides for an exhaustive list of grounds that may warrant the reduction or withdrawal of material reception conditions.⁵³³ These consist of **unjustifiably**:

- (a) Abandoning the place of residence determined by the authority without informing SEF or without adequate permission;
- (b) Abandoning the place of residence without informing the reception organisation;
- (c) Failing to comply with reporting duties;
- (d) Failing to provide information that was requested or to appear for personal interviews when summoned;
- (e) Concealing financial resources and hence unduly benefiting from material reception conditions; and
- (f) Lodging a subsequent application.

For the reduction or withdrawal to be enacted, the behaviour of the applicant needs to be unjustified,⁵³⁴ implying the need for an individualised assessment of the legality of the decision, which is however not clearly stated in the law.

Reduction or withdrawal decisions must be individual, objective, impartial, and reasoned.⁵³⁵ The asylum seeker is entitled to appeal the decision before an Administrative Court,⁵³⁶ with suspensive effect,⁵³⁷ and may benefit from free legal aid to that end.⁵³⁸ Reception conditions reduced or withdrawn pursuant to grounds (a) to (c) above can be reinstated if the asylum seeker is found or presents him/herself to the authorities.⁵³⁹

⁵³¹ Sandra Roberto, Carla Moleiro, ed. Observatório das Migrações, *De menor a maior: acolhimento e autonomia de vida em menores não acompanhados*, April 2021, p.44, available at: <https://bit.ly/3fqMKBK>.

⁵³² Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2022*, June 2022, available in Portuguese at: <https://bit.ly/3XySyzg>.

⁵³³ Article 60(3) Asylum Act.

⁵³⁴ Article 60(3) Asylum Act.

⁵³⁵ Article 60(5) Asylum Act.

⁵³⁶ Article 60(8) Asylum Act.

⁵³⁷ Articles 63(1) and 30(1) Asylum Act.

⁵³⁸ Article 63(2) Asylum Act.

⁵³⁹ Article 60(4) Asylum Act.

SEF affirmed that it does not have official data on reduction or withdrawal of reception conditions. Nevertheless, CPR is aware of multiple instances where withdrawal of reception conditions was determined by the entity as per article 60 of the Asylum Act. CPR is however not aware of the issuance of formal decisions in such cases, and the criteria and procedures used in this regard remain unclear. According to the experience of the organisation, where support was suspended because an applicant repeatedly failed to present themselves as required by SEF, it was reinstated upon appearance.

According to the data provided by ISS, out of the 1,762 persons supported by the entity in 2022, a total of 54 disappeared or failed to comply with their duties, thus leading to the termination of support provision.

According to the available information, other instances of cessation of support were connected to situations where the applicant no longer lacked financial resources according to the relevant criteria (see above).⁵⁴⁰

The law does not provide for specific sanctions for seriously violent behaviour or serious breaches of the rules of accommodation centres and other housing provided in the framework of material reception conditions. Nevertheless, service providers are required to adopt adequate measures to prevent violence, and notably sexual and gender-based violence.⁵⁴¹

In the case of **CAR**, both the Regulation of the centre and the individual contract signed between CPR and the asylum seeker include specific prohibitions of abusive and violent behaviour. Such behaviour can ultimately result in withdrawal of support following an assessment of the individual circumstances and taking into consideration the vulnerability of the applicant.⁵⁴² In the case of **CACR**, while the Regulation contains similar prohibitions and age appropriate remedial action,⁵⁴³ the accommodation of unaccompanied children stems from and can only be reviewed by the competent Family and Juvenile Court in the framework of the Children and Youths at Risk Protection Act (see [Legal Representation of Unaccompanied Children](#)).

In practice, without prejudice to criminal proceedings where applicable, instances of withdrawal of support from CPR following abusive and/or violent behaviour in breach of internal rules remain rare events. For most cases, the consequences consist of a transfer to alternative accommodation to ensure the security and well-being of the remaining residents.⁵⁴⁴ In the case of unaccompanied children, Family and Juvenile Courts generally prioritise the stability of the living environment,⁵⁴⁵ and are extremely reluctant to uproot the child by transfer to another institution.

4. Freedom of movement

Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country?
 Yes No
2. Does the law provide for restrictions on freedom of movement? Yes No

⁵⁴⁰ Articles 51(1) and 56(1) Asylum Act.

⁵⁴¹ Article 59(1)(e) Asylum Act.

⁵⁴² The contract is currently available *inter alia* in Portuguese, English, French and is otherwise interpreted to the client if not available in a language that he understands.

⁵⁴³ These include, by order of increasing severity, an oral warning; a reprimand; to execute a repairing task; reduction of pocket money; limitation of authorisations to leave the CACR; restriction of ludic and pedagogical activities, notably with fellow children; and transfer to another institution.

⁵⁴⁴ According to SCML this measure is also adopted by the organisation when the behaviour of the beneficiary jeopardises the well-being of other other residents and staff.

⁵⁴⁵ Article 78(2)(e) Asylum Act provides for stability of housing as a contributing factor to upholding the best interests of the child.

The Asylum Act does not contain specific restrictions on the freedom of movement or grounds for residence assignment but provides for the duty of asylum seekers to keep SEF informed of their place of residence.⁵⁴⁶ Furthermore, the authorities may decide to transfer the asylum seekers from housing facilities when needed for an adequate decision-making process regarding the asylum application or to improve housing conditions.⁵⁴⁷

Since 2012, the operational framework for the reception of asylum seekers in Portugal provides for a dispersal mechanism (see [Criteria and Restrictions to Access Reception Conditions](#)).

Following the admissibility procedure and admission to the regular procedure, or if the application is deemed inadmissible or rejected in an accelerated procedure, the asylum seeker is generally referred by frontline service providers such as CPR to the social monitoring sub-group of the SOG. The social monitoring sub-group meets at least twice a month to discuss individual cases and decides on the provision of material reception conditions in the regular procedure (generally by ISS) or at appeal stage (by SCML). This is done on the basis of an individual monitoring report and in accordance with existing reception capacity countrywide. This can either result in a dispersal decision for those admitted to the regular procedure (with assistance provided by local Social Security services) or placement in private housing/hostels in the **Lisbon** area for those who have appealed the rejection of their application (under the responsibility of SCML).

When an asylum seeker needs to move to a different part of the country within this context, the trip (public transportation) is organised, and the cost covered, by ISS. CPR usually provides logistical support to the applicant. Applicants are informed about the travel arrangements in a language they understand, and it is standard practice for a member of ISS staff to be present on arrival.

In practice, according to the statistics shared by the ISS, as of December 2022, a total of 1,762 applicants and beneficiaries of international protection benefited from ISS material support. The beneficiaries resided in the following areas:⁵⁴⁸

Dispersal of applicants and beneficiaries of international protection receiving ISS support: 2022	
Area	Number
Lisbon	726
Coimbra	191
Porto	167
Setúbal	149
Castelo Branco	121
Braga	83
Viseu	60
Santarém	54
Guarda	40
Viana do Castelo	38

⁵⁴⁶ Article 15(1)(f) Asylum Act.

⁵⁴⁷ Article 59(2) Asylum Act.

⁵⁴⁸ Figures below fifteen are not included.

Évora	29
Aveiro	26
Portalegre	24
Leiria	21
Vila Real	15

Source: Information provided by ISS (March 2023).

Most asylum seekers and beneficiaries of international protection receiving material reception conditions from ISS in 2022 resided in **Lisbon**. Additionally, SCML supported a total of 1,213 individuals, all of whom resided in Lisbon or in nearby districts due to difficulties in accessing the housing market in Lisbon (see [Types of Accommodation](#)).

There is some flexibility in the implementation of the dispersal policy, and, according to CPR's experience, the entities involved make an effort to take personal preferences into account. According to ISS, asylum seekers admitted to the regular procedure may request a review of their dispersal decision and their accommodation in a particular area where accommodation, education, employment and/or health related grounds justify an exception (e.g., regarding unaccompanied children enrolled in schools, asylum seekers who are employed at the time of the decision or particularly vulnerable asylum seekers who benefit from specialised medical care in Lisbon, see [Responsibility for Reception](#)). Otherwise, refusal to accept the dispersal decision by failing to report to the local Social Security service or abandoning its support following the dispersal decision will generally result in the withdrawal of material reception conditions. ISS noted, however, that if the reinstatement of support is subsequently requested, the services do evaluate the individual situation.

According to the information available to CPR, once the dispersal decision is made by the SOG, asylum seekers are not subjected to onward dispersal decisions resulting in their move from the initial District of assignment.⁵⁴⁹ Nevertheless, CPR is aware of cases where there is a subsequent move as deemed adequate for the integration process.

Even though no research has been conducted to date to assess the impact of the dispersal policy, according to the information collected by CPR, the main concerns raised by asylum seekers include isolation, lack of interpreters and specialised mental health care, difficulties in accessing specialised legal assistance (including that provided by CPR due to the geographical distance), lack of tailor-made integration services such as language training and vocational training, inequalities in access to public services and lack of homogenisation of information provided by such services, and the absence of culturally relevant facilities/services in certain parts of the country.

According to the Statistical Report of Asylum 2022, the dispersal mechanism is generally considered an example of good practice despite the implementation challenges. Among the challenges identified by the Report are: (i) the reluctance of applicants in moving from the **Lisbon** area to other parts of the country; (ii) the need to finetune the distribution criteria; and (iii) discrepancies in the response capacity of local Social Security services.⁵⁵⁰ These are persisting implementation challenges, also mentioned in prior reports.

⁵⁴⁹ It should be noted that in accordance with Article 59(2) Asylum Act, decisions ordering the transfer of asylum seekers from housing facilities can only occur when needed for an adequate decision-making process regarding the asylum application or to improve housing conditions.

⁵⁵⁰ Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2022*, June 2022, p.138, available in Portuguese at: <https://bit.ly/3XySyzg>.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation	
1. Number of reception centres:	2 (spontaneous asylum seekers)
2. Total number of places in the reception system:	74
3. Total number of places in private accommodation:	Variable
4. Type of accommodation most frequently used in a regular procedure:	<input type="checkbox"/> Reception centre <input type="checkbox"/> Hotel or hostel <input type="checkbox"/> Emergency shelter <input checked="" type="checkbox"/> Private housing <input type="checkbox"/> Other
5. Type of accommodation most frequently used in an accelerated procedure:	<input checked="" type="checkbox"/> Reception centre <input checked="" type="checkbox"/> Hotel or hostel <input type="checkbox"/> Emergency shelter <input type="checkbox"/> Private housing <input type="checkbox"/> Other

Accommodation of spontaneous asylum seekers

As mentioned in [Freedom of Movement](#), asylum seekers are generally referred by frontline service providers to the SOG following admission to the regular procedure, or in case of appeals against negative decisions. At this point, the provision of housing is relayed by either local Social Security services for the duration of the regular procedure or by SCML in the Lisbon area at appeal stage.

According to information provided by ISS, asylum seekers are mostly accommodated in private housing (rented flats/houses and rooms) without prejudice to accommodation provided by relatives in Portugal and placement in collective accommodation facilities such as hotels or non-dedicated reception centres, e.g., emergency shelters, nursing homes, etc. While ISS manages reception facilities where applicants for and beneficiaries of international protection may be accommodated in certain circumstances,⁵⁵¹ none of them has places specifically assigned to such persons.

While the majority of applicants for international protection supported by SCML are accommodated in private housing, since 2020, SCML also resorts to hostels to accommodate asylum seekers in order to guarantee accommodation while another solution is not available.⁵⁵² A very limited number of asylum seekers are sometimes referred to homeless shelters managed by the organisation on a temporary basis to address specific vulnerabilities.

In the current reception system, adults and families with children are accommodated at CPR's Refugee Reception Centre (**CAR**) or in private accommodation provided by CPR (apartments and rooms in the private market or hostels) during admissibility (including Dublin) and accelerated procedures on the territory. CPR's Refugee Children Reception Centre (**CACR**) offers unaccompanied children appropriate housing and reception conditions during the regular procedure and at appeal stage.

Capacity and occupancy of the asylum reception system in 2022		
Centre	Capacity	Occupancy at 31 December 2022
CAR	60	105
CACR	14	23
Total	74	128

Source: CPR.

⁵⁵¹ 16 persons in 2022.

⁵⁵² In 2021, a total of 120 places were available within this context.

CAR is an open reception centre located in **Bobadela**, Municipality of Loures, and operates in the framework of MoUs with the Ministry of Home Affairs and the Ministry of Labour, Solidarity and Social Security. The official capacity of the CAR stands at 60 places but, in practice, the centre can accommodate up to 80 persons. Nevertheless, due to the persisting needs, by the end of the year, a total of 105 persons were accommodated in the facility.

In 2022, CPR provided reception assistance to a total of 1,504 asylum seekers,⁵⁵³ of which 42% were accommodated at CAR/CAR 2, 52% in alternative private accommodation (including rooms in private apartments and hostels), 5% with friends/family, and the remaining 1% in other places of accommodation (e.g., accommodation for COVID-19 isolation).⁵⁵⁴

CPR ensures accommodation until ISS or SCML take over. As such, asylum seekers only leave its facilities when alternative accommodation is secured (see [Responsibility for Reception](#)).

Factors such as the number of referrals for accommodation, occasional delays in the transition into accommodation provided by other stakeholders, as well as the need to preserve family units, continued to determine the need to resort to external accommodation solutions such as hostels at this stage, as well as to instances of overcrowding.

While the average accommodation period with the assistance of CPR in 2022 continued to be of 2 and a half months, an increase has been observed during the second semester. By the end of the year, overcrowding in relevant facilities became a concern once again.

The Statistical Report of Asylum 2020 acknowledged the capacity challenges faced by frontline reception entities and noted that a number of entities consulted recommended the expansion of protocols to increase reception capacity for spontaneous asylum seekers.⁵⁵⁵

CACR is an open reception house for unaccompanied asylum-seeking children located in **Lisbon** that has operated since 2012 in the framework of MoUs with the Ministry of Home Affairs, the Municipality of Lisbon and the Ministry of Labour, Solidarity and Social Security. Its official capacity stands at 14 places.

In order to address overcrowding in the facility, CPR revisited its accommodation policy for unaccompanied children in 2020. Accordingly, young applicants at more advanced stages of the integration process may be transferred from CACR to CAR 2 in a process of growing autonomy. Furthermore, changing arrangements in rooms allowed to expand the capacity of the facility while preserving adequate accommodation standards. In some instances, unaccompanied children have to be provisionally accommodated at CAR due to shortage of places at CACR or other imperative motives. In 2022, CACR accommodated a total of 65 unaccompanied children.

Throughout 2022, CPR continued its operations in the **CAR 2**, located in S. João da Talha, Municipality of Loures, specifically devoted to the reception of resettled refugees. CAR 2 has a maximum capacity of 90 places. In 2022, CAR 2 accommodated a total of 173 persons, the majority of whom resettled refugees and Afghan asylum seekers evacuated to Portugal. The facility is also part of CPR's response to spontaneous asylum seekers in case of emergency, beneficiaries of temporary protection and ad hoc relocation (rescue operations in the Mediterranean).

⁵⁵³ Including applicants for international protection whose applications were made before 2022.

⁵⁵⁴ Accommodation by the end of the provision of support or by 31/12/2022. In total, and according to the reception model currently implemented by CPR, a total of 68% of the supported asylum seekers was accommodated in CAR during a period of time.

⁵⁵⁵ Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, p 226, available in Portuguese at: <https://bit.ly/2MGYtB9>.

JRS has also managed facilities providing temporary accommodation to Afghan applicants for/beneficiaries of international protection evacuated to Portugal, as well as beneficiaries of temporary protection.

It has been announced that AMIF funding has been granted to JRS for the creation of a reception centre in Vendas Novas. According to the available information, it is expected to start its operations in 2023.⁵⁵⁶

Housing of relocated unaccompanied children from Greece

Reception of unaccompanied children relocated from Greece is subject to a different practical framework. According to the available information, it includes an initial period of 3 to 6 months during which the psychological, educational, and social support are ensured. Support is then guaranteed through the general network of the ISS, 'independent living',⁵⁵⁷ or foster families.⁵⁵⁸

According to the information provided by the Secretary of State for Integration and Migration (SEIM) to the Parliament in December 2020, foster families⁵⁵⁹ are a solution meant to younger children and have been applied in practice.⁵⁶⁰ The SEIM also noted that reception entities involved in the programme receive training, and that a manual is being prepared. Furthermore, weekly visits are performed by ISS (and, in Lisbon, the SCML).⁵⁶¹

According to ISS, 5 specialised reception centres with a total of 67 places were involved in this programme in 2022. Out of the 5, 2 closed during the year (with 30 places remaining). Relocated unaccompanied asylum seekers were also accommodated in previously existing reception centres. According to the information provided by ISS, 60 unaccompanied children were received under this framework in 2022. Additionally, 10 young adults were directly referred to 'independent living' solutions.

According to the Statistical Report of Asylum 2022, the monitoring board of the programme flagged the need to analyse the number of unaccompanied children that absconded from reception centres within this programme and the possible need for changes in the reception model.⁵⁶²

Emergency reception

Decree-Law 26/2021 of 31 March 2021⁵⁶³ created a National Pool of Urgent and Temporary Accommodation and a National Plan of Urgent and Temporary Accommodation. Recognising the lack of solutions in this regard, the National Plan aims to create structured responses to people in need of emergency or transitional accommodation.⁵⁶⁴

⁵⁵⁶ For more, see: European Commission, *Portugal: AMIF-funded project to build reception facilities for refugees*, 22 December 2020, available at: <https://bit.ly/37tAPCe>; Secretaria-Geral Ministério da Administração Interna, *Autoridade Responsável do Fundo para o Asilo, para a Migração e Integração (FAMI), aprova uma candidatura no âmbito do Acolhimento/asilo, com um montante de Fundo de cerca de 1 Milhão de euros*, 22 December 2020, available at: <https://bit.ly/3v0AGyA>; JRS, *Novo Centro de Acolhimento em Vendas Novas*, 26 July 2021, available at: <https://bit.ly/3JnAVsr>.

⁵⁵⁷ Unofficial translation ("autonomia de vida").

⁵⁵⁸ See, for instance: *State Party report on Follow-up to Concluding Observations* [Human Rights Committee], CCPR/PRT/FCO/5, 27 July 2021, pp.11-13 available at: <https://bit.ly/3E42KoA>.

⁵⁵⁹ The legal framework for foster families is established by Decree-Law 164/2019 of 25 October 2019, available at: <https://bit.ly/3ejB02M>.

⁵⁶⁰ Reception through foster families has not been used in the case of asylum seeking/refugee children in other occasions/contexts.

⁵⁶¹ Video recording of the parliamentary hearing of the Ministry of the Presidency and the Secretary of State for Integration and Migration (21 December 2020) available at: <https://bit.ly/3ouCeeM>.

⁵⁶² Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2022*, June 2022, pp.177-178, available in Portuguese at: <https://bit.ly/3XySyzg>.

⁵⁶³ Available at: <https://bit.ly/3Oc68Ct>. The functioning of the National Pool of Urgent and Temporary Accommodation is governed by Ministerial Order 120/2021, 8 June, available at: <https://bit.ly/3uEmOLm>.

⁵⁶⁴ Article 11 Ministerial Order 120/2021, 8 June defines the maximum periods of emergency/transition accommodation – 15 days or 6 months, respectively, that may be renewed for an equal period. A specific regime applies to victims of domestic violence.

According to the Decree-Law, the National Plan covers persons under the mandate of the entities that form the restricted line-up of the SOG (SEF, ACM and ISS).⁵⁶⁵ Referrals of applicants for/beneficiaries of international protection to accommodation within this context should be made by ISS and ACM.⁵⁶⁶ Such referrals must be communicated to the SOG.⁵⁶⁷ Additionally, entities responsible for the reception of applicants and beneficiaries of international protection may access support to promote urgent and temporary accommodation solutions for the National Pool.⁵⁶⁸

At the time of writing, the implementation and impact of this legislation remained unclear.

2. Conditions in reception facilities

Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? Yes No
2. What is the average length of stay of asylum seekers in the reception centres?

❖ Adults	78 days
❖ Unaccompanied children	225 days
3. Are unaccompanied children ever accommodated with adults in practice? Yes No

The main forms of accommodation used during admissibility, including Dublin, and accelerated procedures on the national territory are CPR's (funded) private accommodation and reception centres. As regards the regular procedure, private accommodation is usually used (see [Types of Accommodation](#)).

There is currently no regular monitoring of the reception system in place.

ISS is among the competent authorities for licensing, monitoring and providing technical support to the operation of reception centres for asylum seekers.⁵⁶⁹ ISS has laid down specific rules for temporary reception centres for children at risk (such as CACR).⁵⁷⁰ Furthermore, the law provides for specific standards regarding housing in kind for asylum seekers,⁵⁷¹ and children at risk (such as unaccompanied children).⁵⁷² The specific material reception standards relevant to CAR and CACR are foreseen in the underlying bilateral MOUs (see [Types of Accommodation](#)) and in the internal regulations of each facility.

CAR is composed of shared rooms with dedicated bathrooms/toilets and is equipped to accommodate asylum seekers with mobility constraints, e.g., it includes a lift and adapted bathrooms/toilets. The residents are expected to cook their own meals in a communal kitchen and have access to common fridges and cupboards. The centre also has a laundry service, a playground, a day-care/kindergarten for resident and local community children, as well as a library connected to the municipal library system and a theatre/event space that can be rented out.

⁵⁶⁵ Article 5(1)(b)(iii) Decree-Law 26/2021 of 31 March.

⁵⁶⁶ Article 12(1) and (2) Ministerial Order 120/2021, 8 June.

⁵⁶⁷ Article 12(3) Ministerial Order 120/2021, 8 June.

⁵⁶⁸ Article 12 Decree-Law 26/2021 of 31 March; article 26(c) Decree-Law 37/2018 of 4 June; article 7(c) Ministerial Order 120/2021, 8 June.

⁵⁶⁹ Decree-Law No 64/2007.

⁵⁷⁰ These rules are contained among others in technical guidelines that provide for quality standards on issues such as capacity, duration of stay, composition and technical skills of staff, hygiene and security standards, location and connectivity, access to the building, construction materials, composition and size of the building, internal regulation, personal integration plans, activities planning, reporting and evaluation etc. An earlier version from 1996 is available at: <http://bit.ly/2meygMC>. According to the information available at: <http://bit.ly/2mljDHo>, the ISS has also adopted quality standards for other temporary reception centres (such as the CAR and the CATR) contained in technical guidelines dated 29 November 1996 (unpublished).

⁵⁷¹ Article 59 Asylum Act: protection of family life, including the unity of children and parents/legal representatives; right to contact relatives and representatives of UNHCR and CPR; adoption of adequate measures by the management of the facility to prevent violence, and notably sexual and gender-based violence.

⁵⁷² Articles 52-54 Children and Youth at Risk Protection Act.

The centre provides psychosocial and legal assistance, Portuguese language training, socio-cultural activities, as well as integration-related support (see [Access to the Labour Market](#)). Logistical support staff is present 24 hours a day and the overall cleaning of the centre is carried out by a private company, though the residents are expected to contribute to the cleaning of their room and that of the common kitchen.

According to the current reception strategy, in general, spontaneous asylum seekers are initially accommodated at CAR (until October 2022, after testing negative for COVID-19) for an initial period of 2 to 3 weeks during which social and health needs are identified and information on the host country is provided. Afterwards, the applicant generally moves to another accommodation with the support of CPR (either a hostel, apartment, or room in the private market). Vulnerable applicants remain in CAR if deemed appropriate. Support continues to be ensured by CPR's team.

While the average accommodation period with the assistance of CPR in 2022 continued to be two and a half months, an increase has been observed during the second semester. By the end of the year, overcrowding in relevant facilities became a concern once again, notably related to factors such as the increasing number of referrals, occasional delays in the transition into accommodation provided by other stakeholders, as well as the need to preserve family units.

CACR is composed of shared rooms with dedicated bathrooms/toilets and is equipped to accommodate asylum seekers with mobility constraints. Two resident cooks are responsible for the provision of meals in line with the nutritional needs of children, although children can be allowed to cook their own meals under supervision. The centre also has a laundry service, a playground and a small library, and provides psychosocial and legal assistance, Portuguese language training and socio-cultural activities. Children accommodated at CACR are systematically enrolled in local schools or in vocational training programmes. In 2022, the staff of CACR included three social workers and support staff (present 24 hours a day to ensure the overall functioning of the centre), who were assisted by legal officers and a language trainer.

CACR offers unaccompanied children appropriate housing and reception conditions regardless of the stage of the asylum procedure. Given the specific needs and contexts involved, the average stay in 2022 stood at 225 days.

The official capacity of CACR stands at 14 places but the existing gap in specialised reception capacity has resulted in overcrowding that has been partially averted by: changing arrangements in rooms to expand capacity while preserving adequate accommodation standards; resorting to separate accommodation of unaccompanied children above the age of 16 at the **CAR and CAR 2**, supervised by the Family and Juvenile Court (both as a measure of last resort in the case of capacity shortages, and in a process of growing autonomy for young applicants at more advanced stages of the integration process); and, depending on the individual circumstances, promoting the placement of children above the age of 16 in supervised private housing by decision of the Family and Juvenile Court in line with the protective measures enshrined in the Youths at Risk Protection Act.⁵⁷³

Absconding and the subsequent risk of human trafficking remain relevant concerns. A total of 12 out of 65 (18%) unaccompanied children accommodated by CPR absconded in 2022⁵⁷⁴ (see [Special Reception Needs](#)). CACR's team reports cases where unaccompanied children were suspected to be victims of human trafficking to the competent authorities (see [Guarantees for Vulnerable Groups: Identification](#)).

A study focusing on the situation of asylum-seeking unaccompanied children and ageing out in Portugal published in 2021 revealed, inter alia, that the children and young people involved reported challenges related to the cultural and religious diversity of those living in reception centres, as well as difficulties in adjusting to different alimentary practices. Some of those questioned also highlighted difficulties in

⁵⁷³ Act 147/99.

⁵⁷⁴ These figures include unaccompanied children who applied for asylum before 2022.

transitioning to autonomous living due to financial hurdles and, when dispersed to locations outside the Lisbon area, social isolation.⁵⁷⁵

Access to adequate housing is identified as a major issue within the national context by asylum seekers, refugees and NGOs.⁵⁷⁶ Factors such as high prices, and contractual demands including high deposits, need of guarantors and proof of income hinder the capacity of asylum seekers and refugees to access the market directly, and that of frontline service providers to increase reception capacity. Consequently, asylum seekers and refugees often have to resort to overcrowded or sub-standard housing options when accessing the private housing market.⁵⁷⁷

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market

1. Does the law allow for access to the labour market for asylum seekers? Yes No
❖ If yes, when do asylum seekers have access the labour market?
When they apply for asylum (since August 2022)
2. Does the law allow access to employment only following a labour market test? Yes No
3. Does the law only allow asylum seekers to work in specific sectors? Yes No
❖ If yes, specify which sectors:
4. Does the law limit asylum seekers' employment to a maximum working time? Yes No
❖ If yes, specify the number of days per year
5. Are there restrictions to accessing employment in practice? Yes No

An amendment to the Asylum Act enacted in 2022, determines that asylum seekers are entitled to the right to work from the moment of the application for international protection.⁵⁷⁸ Furthermore, asylum seekers are entitled to benefit from support measures and programmes in the area of employment and vocational training under specific conditions to be determined by the competent Ministries.⁵⁷⁹

There are no limitations attached to the right of asylum seekers to employment such as labour market tests or prioritisation of nationals and legally resident third country nationals. The issuance and renewal of declarations of asylum applications and provisional residence permits by SEF, which clearly state the right to employment,⁵⁸⁰ are free of charge.⁵⁸¹ The only restriction on employment enshrined in the law consists in limiting access to certain categories of the public sector for all third-country nationals.⁵⁸²

⁵⁷⁵ Sandra Roberto, Carla Moleiro, ed. Observatório das Migrações, *De menor a maior: acolhimento e autonomia de vida em menores não acompanhados*, April 2021, pp.53 et seq, available at: <https://bit.ly/3fqMKBK>

⁵⁷⁶ In addition to CPR, SCML and JRS also expressed this concern when providing information for the AIDA report.

⁵⁷⁷ It should be noted that while these issues are not only specific to applicants and beneficiaries of international protection, factors such as the absence of support networks increase their impact in asylum seeking and refugee families.

⁵⁷⁸ Articles 54(1), as amended by Act n.18/2022, of 25 August. Before this change, asylum seekers were entitled to access the labour market and to benefit from support measures and programmes in the area of employment and vocational training following admission to the regular procedure and issuance of a provisional residence permit.

⁵⁷⁹ Article 55 Asylum Act.

⁵⁸⁰ Ministerial Order 597/2015.

⁵⁸¹ Article 84 Asylum Act.

⁵⁸² Article 15(2) Constitution and Article 17(1)(a) and (2) Act 35/2014.

Asylum seekers benefit from the same conditions of employment as nationals, including regarding salaries and working hours.⁵⁸³ The law provides, however, for specific formalities in the case of employment contracts of third-country nationals such as the need for a written contract and its (online) registration with the Authority for Labour Conditions (*Autoridade para as Condições do Trabalho*, ACT).⁵⁸⁴

With the exception of the submission of beneficiaries of international protection to the same conditions applicable to Portuguese nationals,⁵⁸⁵ there are no specific rules regarding the recognition of diplomas and academic qualifications in the Asylum Act. The general rules for the recognition of foreign qualifications at primary, lower, and upper secondary levels include conditions that are particularly challenging for asylum seekers and beneficiaries of international protection (see [Access to Education](#)).

There are no statistics available on the number of asylum seekers in employment at the end of 2022. The Employment and Vocational Training Institute (Instituto do Emprego e Formação Profissional, IEFP),⁵⁸⁶ did not provide data on applicants and beneficiaries of international protection registered in their services for 2022.

A study focusing on the situation of asylum-seeking unaccompanied children and ageing out in Portugal published in 2021 revealed that, out of those consulted, 34.3% were working, mostly in civil construction. Only 65.2% of those questioned deemed the salaries as fair compensation for the work performed.⁵⁸⁷ The analysis conducted concluded that the participants are mostly engaged in unspecialised and likely precarious jobs.⁵⁸⁸

In 2022, within the context of CPR's integration-related support, asylum seekers were able to find jobs in areas such as cleaning, costumer services, civil construction, and agriculture. With the exception of specific functions (such as electrician jobs), low salaries were generally observed.

In CPR's experience, asylum seekers and beneficiaries of international protection face many **challenges** in securing employment, such as:

- ❖ Poor language skills and communication difficulties;
- ❖ Professional skills that are misaligned with the needs of employers;
- ❖ Difficulties in obtaining recognition of diplomas (particularly relevant for regulated professions);
- ❖ Lack of or difficulties in obtaining a social security identification number (*Número de Identificação da Segurança Social*, NISS) or fiscal identification (*Número de Identificação Fiscal*, NIF);
- ❖ Difficulties in opening bank accounts, in particular due to the requirement to present documents such as a residence permit;
- ❖ Reluctance by employers to hire asylum seekers (namely due to lack of knowledge regarding their legal status);
- ❖ Lack of support network;
- ❖ Limited knowledge about the labour market and cultural norms;
- ❖ Difficulties in accessing certified training due to lack of proof of prior qualifications

While the Fiscal authority drafted clear guidance regarding the sufficiency of the declaration of the asylum application for the issuance of fiscal numbers, throughout the year CPR continued to observe practical obstacles, such as difficulties in accessing the relevant services, and discrepancies in the treatment of

⁵⁸³ Article 4 Labour Code.

⁵⁸⁴ Article 5 Labour Code.

⁵⁸⁵ Article 70(3) Asylum Act.

⁵⁸⁶ The Employment and Vocational Training Institute (IEFP) is the public service responsible for employment at national level. For more information, see the official website available in Portuguese at: <https://bit.ly/3LFhSeq>.

⁵⁸⁷ Sandra Roberto, Carla Moleiro, ed. Observatório das Migrações, *De menor a maior: acolhimento e autonomia de vida em menores não acompanhados*, April 2021, p.46, available at: <https://bit.ly/3fqMKBK>.

⁵⁸⁸ Ibid, 64.

asylum seekers.⁵⁸⁹ Similar issues have been observed regarding registration with the Social Security, despite efforts from the authorities to simplify and digitalise processes.

Within the context of a specific project aiming to support the integration of unaccompanied children over 15 years old in the job market, internships and training opportunities, CPR observed additional challenges in the integration of asylum seekers in specific sectors such as sports, particularly by not being able to compete due to the lack of documentation.⁵⁹⁰ The project also highlighted the impacts of the challenges mentioned above in this specific group.

CPR's Integration department continued to observe persistent challenges with regard to access to recognition/validation/certification of professional and academic competencies of asylum seekers and refugees. Notably:

- ❖ Lack of original diplomas and certificates (for instance, IEFP does not accept personal statements regarding qualifications, simply registering these persons as literate job applicants);
- ❖ Difficulties in obtaining certified translations of existing documents;
- ❖ Long administrative procedures for recognition/validation/certification, and lack of regular communication flows;
- ❖ Lack of knowledge of Portuguese language.

Upon admission to the regular procedure, asylum seekers can register as 'job applicants' with IEFP, being able to search for jobs, and benefit from vocational training and assistance.

While there are no specific programmes targeting applicants for and beneficiaries of international protection, asylum seekers and beneficiaries of international protection are included among the target population of some of IEFP's employability support measures.

Governmental programmes Estágios ATIVAR.PT (which provides for 9 month paid internships) and Incentivo ATIVAR.PT (which provides financial incentives to employers who recruit employees for 12 months or longer under the obligation to provide them with vocational training)⁵⁹¹ include refugees in its priority groups.⁵⁹² As such, applicants are exempt of the need to be registered with IEFP for a certain period to be eligible, and the financial support provided to the employer is increased by 10%.

According to CPR's experience, the main challenge faced by applicants/beneficiaries of international protection within this context is that the amount paid to interns by the programme depends on their level of qualifications. As many applicants/beneficiaries of international protection cannot prove their qualifications, most of them are only eligible to the lowest tier of grant (in 2022, € 443.20).⁵⁹³ Furthermore, sometimes, asylum seekers are not allowed to register to these programmes, on the grounds of not yet being beneficiaries of international protection.

CPR's Integration Department offers individual assistance that covers job search techniques, recognition procedures, search and referrals to vocational training and volunteering opportunities. Other NGOs, such as JRS, also provide employment assistance to asylum seekers and develop projects in this field.

In the context of relocation, ACM has created a Refugee Support Unit as well as tailored services within the National and Local Support Centres for the Support of Migrants (*Centros Nacionais e Locais de Apoio à Integração de Migrantes*, CNAIM/CLAIM) to support asylum seekers (e.g., hiring a permanent Arabic-speaking intercultural mediator, promoting entrepreneurship training for refugees). A number of services, such as free legal support and information on employment, training and recognition of qualifications, provided by multiple institutions, are available at CNAIM, a space also known as one-stop-shop.

⁵⁸⁹ With some branches requiring a passport for registration, for instance.

⁵⁹⁰ For more information see <https://bit.ly/37eCZWD>.

⁵⁹¹ Additional information is available at: <https://bit.ly/3uFUhIC>.

⁵⁹² It was not possible to confirm whether applicants for international protection admitted to the regular procedure are also included as was the case with previous similar programmes.

⁵⁹³ See <https://bit.ly/3KDntSG> and <https://bit.ly/3jCG2KN>.

ACM has also launched the [Refujobs](#) online platform, that aims to match potential employers and asylum seekers and beneficiaries of international protection looking for employment as well as to build their capacity for self-employment.

The National Plan to Combat Racism and Discrimination 2021-2025 provides for the implementation of training courses with internships in the area of tourism to promote the integration of refugees and migrants in the labour market.⁵⁹⁴

Portuguese Language training

The legal framework for public Portuguese language was amended in 2022, expanding access to persons over 16 years old (previously, it only covered persons over 18), and to applicants for temporary protection.⁵⁹⁵ Access by asylum seekers was already provided for.

According to available information asylum seekers are able to register with IEFP to access to Portuguese language training.⁵⁹⁶

Among the challenges traditionally encountered in this area are the lack of training tailored to persons with low levels of education/illiteracy/poor knowledge of the Latin alphabet, the limited availability of alphabetic training for foreigners, as well as limited availability of training at B1 and B2 levels due to group size requirements. This was particularly challenging in certain parts of the country with lower numbers of eligible learners.

In 2022, CPR observed an improvement in the access of asylum seekers to 'Portuguese as a host language' courses, the public Portuguese language training scheme, with an increase of the number of entities that may organise relevant courses.⁵⁹⁷

ACM also funds informal language trainings, that are delivered by municipalities and civil society organisation.⁵⁹⁸

CPR provides literacy,⁵⁹⁹ and Portuguese language training free of charge to asylum seekers who are accommodated at **CAR**, **CACR**, in private housing provided by the institution, and to asylum seekers and beneficiaries of international protection assisted by other institutions that live nearby CPR's facilities or that can easily reach them. This training includes a sociocultural component, with activities inside and outside the classrooms, aiming to promote integration in the hosting society.

In 2022, CPR provided 1,385 hours of training to 347 applicants for and beneficiaries of international protection.

A partnership between CPR and the Faculty of Social and Human Sciences of NOVA University continued to enable the referral of applicants for and beneficiaries of international protection to Portuguese language classes throughout the year.

ACM an [Online Platform for Portuguese](#) to promote informal learning of Portuguese.

⁵⁹⁴ *National Plan to Combat Racism and Discrimination 2021-2025*, available at: <https://bit.ly/42GKTPA>, 74-75.

⁵⁹⁵ Ministerial Order no.183/2020, of 5 August 2020, amended by Ministerial Order no.184/2022, of 16 February 2022, available at: <https://bit.ly/3UeqD52>.

⁵⁹⁶ According to the information available to CPR's Integration Department, in 2022, enrolment in IEFP to access Portuguese language training was possible to all asylum seekers, regardless of their document and of the existence of NISS and NIF.

⁵⁹⁷ Available at: <https://bit.ly/39Z9WF0>. A guide by IEFP on the organisation of trainings under the new framework is available at: <https://bit.ly/2Qd2Jdc>.

⁵⁹⁸ For more information on these programmes see ACM, *Learning of the Portuguese Language*, available at: <http://bit.ly/2iqmXQg>.

⁵⁹⁹ Literacy courses were not held in 2022.

Vocational training

Regarding vocational training, the low level of language skills associated with the lack of diplomas and/or potentially challenging recognition procedures, render access to vocational training offered by IEFP and its partners within the public system challenging to most asylum seekers and beneficiaries of international protection while vocational training in the private sector is generally unaffordable. In this regard, as of 2018 asylum seekers admitted to the regular procedure and beneficiaries of international protection that are unable to present the relevant diplomas/certificates or whose documents and academic qualifications have not been recognised in the Portuguese educational system can be registered by IEFP as 'literate users' in the SIGO platform.⁶⁰⁰ Other than Portuguese language training courses, such registration only provides access to: (a) modular training⁶⁰¹ at basic education level; (b) training in basic skills (reading, writing, calculation and information and communication technologies) in preparation for EFA Courses; and (c) Education and Training Courses for Adults (*Cursos de Educação e Formação para Adultos*, EFA) with equivalence to the 4th or 6th year of basic education or a professional certificate.⁶⁰² Neither modular training nor training in basic skills entail an academic certification.

2. Access to education

Indicators: Access to Education

1. Does the law provide for access to education for asylum-seeking children? Yes No
2. Are children able to access education in practice? Yes No

The Asylum Act provides for the right of asylum-seeking children to public education under the same conditions as nationals and third-country nationals whose mother tongue is not Portuguese.⁶⁰³ This right cannot be curtailed if the asylum seeker reaches adulthood while already attending school to complete secondary education.⁶⁰⁴ The Ministry in charge of education is responsible for ensuring the right of children to education.⁶⁰⁵

Enrolment in schools (primary, lower and upper secondary education levels) requires a procedure for the recognition of foreign academic qualifications, but children must be granted immediate access to schools and classes while that procedure is pending.⁶⁰⁶

The general rules for the recognition of foreign qualifications at primary, lower, and upper secondary levels include conditions that are particularly challenging for asylum seekers and beneficiaries of international protection,⁶⁰⁷ such as:

- ❖ The presentation of documents certifying academic qualifications,⁶⁰⁸ and, eventually, of additional supporting documents;⁶⁰⁹
- ❖ The presentation of duly translated and legalised documents;⁶¹⁰

⁶⁰⁰ Integrated Information and Management System for Education and Training Courses (*Sistema Integrado de Informação e Gestão da Oferta Educativa e Formativa*, SIGO) which contains a national catalogue of education and training courses offered by training institutions at national level and the certification of individual trainees: DGEEC, 'Sobre o Sistema Integrado de Informação e Gestão da Oferta Educativa e Formativa', 3 July 2017, available in Portuguese at: <https://bit.ly/2uok84C>.

⁶⁰¹ Modular training aims to refresh and improve the practical and theoretical knowledge of adults and improve their educational and vocational training levels. For more information see IEFP, *Fomação Modular*, available in Portuguese at: <https://goo.gl/aCPTXI>.

⁶⁰² IEFP, *Cursos de Educação e Formação para Adultos (Cursos EFA)*, available in Portuguese at: <https://bit.ly/2HCey7a>.

⁶⁰³ Article 53(1) Asylum Act.

⁶⁰⁴ Article 53(2) Asylum Act.

⁶⁰⁵ Article 61(4) Asylum Act.

⁶⁰⁶ Article 8(5) Decree-Law 227/2005.

⁶⁰⁷ Decree-Law 227/2005.

⁶⁰⁸ Article 7(2) Decree-Law 227/2005.

⁶⁰⁹ Article 7(4) Decree-Law 227/2005.

⁶¹⁰ Article 7(2) Decree-Law 227/2005.

- ❖ In the absence of such documents, the presentation of a sworn statement issued by the applicant or their parents or legal guardian accompanied by a statement from an Embassy or a reception organisation related to the country of origin confirming exceptional individual circumstances;⁶¹¹ and the completion of a competency tests.⁶¹²

Given that asylum seekers are rarely in possession of duly legalised diplomas and other supporting documents, the procedure generally entailed a placement test conducted by the school taking into account the age and school year of the applicant.⁶¹³ In accordance with the law, schools should offer children in these conditions appropriate pedagogical support to overcome their difficulties on the basis of an individual diagnosis, notably regarding their Portuguese language skills.⁶¹⁴

In 2020, the Directorate-General for Education (DGE) and the National Agency for Qualification and Vocational Education and Training (ANQEP) issued a circular letter⁶¹⁵ regarding extraordinary educational measures applicable to children applicants for/beneficiaries of international protection. It clarifies procedures for the recognition of academic qualifications/school placement, the progressive integration in the Portuguese education system, and provides for the reinforcement of Portuguese language training, and school social support. These guidelines are only applicable to children within the compulsory school age (6 to 18 years old).

Accordingly, with regard to the recognition of qualifications/school placement:

- ❖ **In the absence of documents proving the academic/professional qualifications** (e.g. certificates, diplomas), applicants must present the following elements: (i) a sworn statement issued by the applicant, their parents or legal guardian, specifying the number of school years completed; (ii) a statement by a competent authority (such as SEF, CPR or ACM) confirming exceptional individual circumstances.⁶¹⁶ If any document concerning previous qualifications is available to the applicant, it should be added to the process. In this case the applicant is integrated in the education system, but no equivalence/recognition is granted. Placement must consider the age of the applicant and the corresponding school level. School attendance must be ensured during the first month following enrolment and may be progressive. While the analysis is pending, the applicant must be conditionally enrolled in school enabling them to attend the corresponding activities.
- ❖ **If documents proving the academic/professional qualifications are available**, in order to obtain an equivalence, the relevant norms⁶¹⁷ apply, but applicants are exempt from translating⁶¹⁸ and legalising the certificates/diplomas. Processes are analysed by DGE (primary, lower, and upper secondary levels) or by ANQEP (other qualifications, excluding higher education). School attendance must be ensured during the first month following enrolment and may be progressive. While the analysis is pending, the applicant must be conditionally enrolled in school enabling them to attend the corresponding activities.

As such, currently, in practice, school placement of children does not require the performance of tests.

The 2020 circular letter further reaffirmed the increased autonomy of schools in adjusting activities to the specific needs of asylum seekers and beneficiaries of international protection. Such adaptations include a progressive convergence with the regular curriculum by temporarily exempting students from certain

⁶¹¹ Article 10(1) and (2) Decree-Law 227/2005.

⁶¹² The content of the test varies according to the level of education and the curriculum, but always includes a Portuguese as a Second Language. See Article 10(5) and (6) Decree-Law 227/2005.

⁶¹³ Article 10(3) Decree-Law 227/2005.

⁶¹⁴ Article 11(2), (3) and (4) Decree-Law 227/2005.

⁶¹⁵ Circular letter - DGE and ANQEP, *Medidas educativas de integração de crianças e jovens no sistema educativo*, August 2020, available at: <https://bit.ly/3mwfSKq>.

⁶¹⁶ Applicants previously identified by governmental entities are exempt of presenting this statement.

⁶¹⁷ Decree-Law 227/2005 of 28 December (primary, lower and upper secondary levels) and Order 13584/2014 of 10 November.

⁶¹⁸ Only if the documents are written in German, Spanish, French or English.

subjects and providing additional Portuguese language classes. The guidelines also clarify the entitlement of asylum seekers and beneficiaries of international protection to the various modalities of social assistance available to students enrolled in the public education sector for the purposes of food, accommodation, financial assistance and school supplies.⁶¹⁹ Furthermore, the circular letter recommends the creation of multidisciplinary teams in hosting schools to support response to specific needs. However, such teams must be created with existing resources.

In the course of 2020, several reference documents were created to support schools and teachers. The relevant instruments are available online.⁶²⁰

A Ministerial Order issued in 2022 by the Secretary of State of Education,⁶²¹ defined further rules to support students whose first language is not Portuguese. This allows schools to adopt specific integration and support measures, based on the situation of each student.

DGEstE supports coordination between reception entities and public schools to ensure integration in the education system. According to the information provided by the entity in 2021, its staff provided follow up in schools and liaised with staff of relevant reception facilities.

In practice, accompanied and unaccompanied children are systematically referred to public schools upon accommodation at **CAR** and **CACR** or contact with CPR's social workers. According to the experience of the organisation, enrolment in local public schools is generally guaranteed within a reasonable period (on average, two weeks). Unaccompanied children enrolling in upper secondary education are usually enrolled in an area of their interest with subsequent adjustments introduced afterwards considering the individual progress. According to the experience of CPR, this has been positive, allowing a smoother integration in the education system and faster language learning.

Nevertheless, CPR has highlighted the need to consider other frequent challenges, such as the lack of adequate solutions to children over 15 years old with little or very low education. In the absence of dedicated solutions, these children are included in existing pathways (such as adult training) that are not necessarily adjusted to their needs. According to the information provided by DGEstE in 2021, efforts have been made to increase the response to older children and young adults with low qualifications (namely by increasing flexibility in the creation of training groups of adult learning programmes).

In 2022,⁶²² UNICEF Portugal conducted a number of training sessions on integration of unaccompanied children to school communities in partnership with ACM and DGEstE.⁶²³ According to the information shared by the organisation, these activities allowed for the identification of promising practices such as:

- ❖ The creation of the role of “tutor”, a school professional with an increased focus on the integration of the child;
- ❖ The adaptation of activities and spaces of the school to better respond to the needs of unaccompanied children;
- ❖ The use of interpreters and technology to facilitate communication.

Nevertheless, persistent challenges were also observed. Notably:

- ❖ Insufficient Portuguese language training;
- ❖ Dissonance between the expectations of the children with regard to school and labour integration and the reality;
- ❖ Insufficient specialised human resources in schools to ensure individual support/action;

⁶¹⁹ Ministry of Education Legislative Order 8452-A/2015 of 31 July 2015, as amended by Legislative Order 7255/2018 of 31 July 2018.

⁶²⁰ Available at <https://bit.ly/32dkFY9>.

⁶²¹ Order no.2044/2022, of 16 February 2022, available at: <https://bit.ly/437KqqN>.

⁶²² Until March 2023.

⁶²³ Covering 14 school clusters and 206 participants.

- ❖ Lack of structured communication between relevant actors.

UNICEF Portugal also reported that, in 2023, it will establish a community of practice between the schools covered by the training in order to facilitate information-sharing.

Following the 2022 amendment, the Asylum Act establishes that all asylum seekers are entitled to access **vocational training**.⁶²⁴

Nevertheless, according to CPR's experience, access to vocational training by adults remains particularly limited as opportunities generally require a good command of the Portuguese language and diplomas that asylum seekers and beneficiaries of international protection rarely have or are unable to legalise due to the legal requirements of recognition procedures (see [Access to the Labour Market](#)).

A study focusing on the situation of asylum-seeking unaccompanied children and ageing out in Portugal published in 2021 revealed that, out of those consulted 55.2% felt safe in school and only 4.5% disagreed. The report also observed that there is an overall positive image of teachers and of the overall school context.⁶²⁵ With regard to integration, however, language barriers have been mentioned as a significant challenge.⁶²⁶

Regarding **higher education**, the Government introduced the 'student in an emergency situation for humanitarian reasons' status in 2018,⁶²⁷ following a review of the Portuguese educational system by the Organisation for Economic Co-operation and Development (OECD).⁶²⁸

The status can be claimed by any non-Portuguese or EU student who originates from a region affected by armed conflict, natural disaster, generalised violence or human rights violations requiring a humanitarian response.⁶²⁹ According to the law, beneficiaries of international protection and asylum seekers admitted to the regular procedure are entitled to the status by operation of the law.⁶³⁰ Students with 'emergency situation for humanitarian reasons' status are entitled to alternative procedures for assessing entry conditions in the absence of documentation such as diplomas,⁶³¹ equal treatment to Portuguese students regarding university fees and other levies,⁶³² and full access to social assistance available to higher education students.⁶³³ It should be noted that the rules do not address the issue of access to entry visas for eligible students living abroad.⁶³⁴

With regard to the recognition of higher education degrees and diplomas, the law provides for the possibility of the exemption of documentary evidence in processes concerning applicants in an emergency situation for humanitarian reasons where the qualifications cannot be proved due to that situation.⁶³⁵ Such exemptions are analysed on a case-by-case basis. In 2020, this possibility was extended to situations where the applicant cannot prove their qualifications due to circumstances affecting the regular functioning of the institutions of the State concerned.⁶³⁶

⁶²⁴ Article 55(1) Asylum Act.

⁶²⁵ Sandra Roberto, Carla Moleiro, ed. Observatório das Migrações, *De menor a maior: acolhimento e autonomia de vida em menores não acompanhados*, April 2021, p.44, available at: <https://bit.ly/3fqMKBK>.

⁶²⁶ Ibid, 54.

⁶²⁷ Article 8A Decree-Law 36/2014, inserted by Decree-Law 62/2018.

⁶²⁸ OECD, *OECD Reviews of School Resources: Portugal 2018*, December 2018, available at: <https://bit.ly/2BlpEbS>.

⁶²⁹ Article 8A(1) Decree-Law 36/2014.

⁶³⁰ Article 8A(2) (a) and (b) and 3(a) Decree-Law 36/2014.

⁶³¹ Article 14(1)(c) Decree-Law 36/2014.

⁶³² Article 8A(5) Decree-Law 36/2014.

⁶³³ Article 10(1) Decree-Law 36/2014.

⁶³⁴ For a critical assessment of Decree-Law 36/2014, see JRS, *Estudante em Situação de Emergência por Razões Humanitárias: Mais um direito sem visto?*, November 2018, available in Portuguese at: <https://bit.ly/2q1pGF3>.

⁶³⁵ Article 13 Ministerial Order 33/2019 of 25 January, available at: <https://bit.ly/2Q7GjtT>.

⁶³⁶ Article 14 Ministerial Order 33/2019 of 25 January, available at: <https://bit.ly/2Q7GjtT>.

It is unclear to CPR whether this status has an effective impact on access to higher education by applicants for and beneficiaries of international protection.

D. Health care

Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?
 Yes No
2. Do asylum seekers have adequate access to health care in practice?
 Yes Limited No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?
 Yes Limited No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?
 Yes Limited No

The Asylum Act enshrines the right of asylum seekers and their family members to health care provided by the National Health System (*Serviço Nacional de Saúde*, SNS),⁶³⁷ and includes a specific provision on the right to adequate health care at the border.⁶³⁸

The primary responsibility for the provision of health care lies with the Ministry of Health,⁶³⁹ except for asylum seekers detained at the border that fall under the responsibility of the Ministry of Home Affairs.⁶⁴⁰ The latter can however cooperate with public entities and/or private non-profit organisations to ensure the provision of such services.⁶⁴¹

In accordance with the Asylum Act,⁶⁴² the specific rules governing access of asylum seekers and their family members to health care⁶⁴³ are provided by Ministerial Order No 30/2001 and Ministerial Order No. 1042/2008,⁶⁴⁴ according to which:

1. Access to health care encompasses medical care and medication, and is available from the moment the asylum seeker applies for asylum;⁶⁴⁵
2. Medical assistance and access to medicines for basic health needs and for emergency and primary health care are to be provided under the same conditions as for Portuguese citizens;⁶⁴⁶

⁶³⁷ Articles 52(1) and 56(1) Asylum Act.

⁶³⁸ Article 56(2) Asylum Act. This provision should be read in conjunction with Article 146-A(3) Immigration Act that provides for the right of pre-removal detainees in CIT to emergency and basic health care.

⁶³⁹ Article 61(3) Asylum Act.

⁶⁴⁰ Article 61(1) Asylum Act. While not included in this provision, SEF should also be considered responsible for providing access to health care to asylum seekers in pre-removal detention given its managing responsibilities of CIT: Article 146-A(3)-(4) Immigration Act.

⁶⁴¹ *Ibid.*

⁶⁴² Article 52(1) *in fine* Asylum Act.

⁶⁴³ The legal and operational background pertaining to the access of asylum seekers to health care was revisited by the ACSS and the DGS in an internal guidance note issued on 12 May 2016 in the framework of the European Agenda for Migration, available at: <http://bit.ly/2jdBIFW>.

⁶⁴⁴ Ministerial Order No 1042/2008 extends Ministerial Order No 30/2001 *ratione personae* to applicants for subsidiary protection and their family members.

⁶⁴⁵ Ministerial Order No 30/2001, para 2. Under Article 52(2) Asylum Act, the asylum seeker is required to present the certificate of the asylum application to be granted access to health care under these provisions. The internal guidance note issued on 12 May 2016 by the ACSS and the DGS provides for possible documents entitling the asylum seeker to access health care and includes a complete list of documents issued to the asylum seeker by SEF during the asylum procedure (e.g., renewal receipts of the certificate of the asylum application, provisional residence permit, etc.)

⁶⁴⁶ *Ibid.*

3. Asylum seekers have access to the SNS free of charge⁶⁴⁷ for emergency health care, including diagnosis and treatment, and for primary health care,⁶⁴⁸ as well as assistance with medicines, to be provided by the health services of their residence area.⁶⁴⁹

Asylum seekers are entitled to health care until a final decision rejecting the asylum application unless required otherwise by the medical condition of the applicant.⁶⁵⁰ Reduction or withdrawal of reception conditions cannot restrict the access of asylum seekers to emergency health care, basic treatment of illnesses and serious mental disturbances or, in the case of applicants with special reception needs, to medical care or other types of necessary assistance, including adequate psychological care where appropriate.⁶⁵¹ This provision remains to be tested in practice (see [Reduction or Withdrawal of Reception Conditions](#)).

The special needs of particularly vulnerable persons must be taken into consideration in the provision of health care,⁶⁵² through adequate medical care,⁶⁵³ and specialised mental health care including for survivors of torture and serious violence,⁶⁵⁴ and in detention.⁶⁵⁵ The responsibility for special treatment required by survivors of torture and serious violence lies with ISS.⁶⁵⁶

In practice, asylum seekers have effective access to free health care in the SNS in line with the applicable legal provisions. However, persisting challenges have an impact on the quality of health care. According to prior research,⁶⁵⁷ and to the information available to CPR, these include:

- ❖ Language and cultural barriers (e.g., the lack of interpreters for certain languages and the reluctance of health care services to use interpretation services such as ACM's translation hotline);
- ❖ Difficult access to diagnosis procedures and medication paid by the SNS due to bureaucratic constraints;
- ❖ Very limited access to mental health care and to other categories of specialised medical care (e.g., dentists)⁶⁵⁸ in the SNS.

According to CPR's experience, despite some challenges, it has been possible for unaccompanied children under its to access mental health care support within the SNS⁶⁵⁹ or through other resources. CPR's CACR has also registered an improvement in access to mental health care in 2022 due to a protocol established with Psychiatric Hospital Centre of Lisbon that allowed easier and faster access to services, medication and specialised care.

In 2021, CPR created a Psychological Support Department. The department, which has one psychologist, provides psychological assistance to applicants for international protection supported by CPR, and also facilitates referrals to relevant services provided by partners such as psychiatric follow-up. In the course of 2022, the Psychological Support Department provided 525 individual consultations, mediated

⁶⁴⁷ Article 4(1)(n) Decree-Law 113/2011.

⁶⁴⁸ For the purposes of free access to the SNS, primary health care is to be understood as including among others: (i) Health prevention activities such as out-patient medical care, including general care, maternal care, family planning, medical care in schools and geriatric care (ii) specialist care, including mental care (iii) in-patient care that does not require specialised medical care, (iv) complementary diagnostic tests and therapies, including rehabilitation and (v) nursing assistance, including home care: Ministerial Order No 30/2001, par.6.

⁶⁴⁹ Ministerial Order No 30/2001, par.5.

⁶⁵⁰ Ministerial Order No 30/2001, par.8.

⁶⁵¹ Article 60(7) Asylum Act.

⁶⁵² Article 77(1) Asylum Act.

⁶⁵³ Articles 52(5) and 56(2) Asylum Act.

⁶⁵⁴ Articles 78(3)-(4) and 80 Asylum Act.

⁶⁵⁵ Article 35-B(8) Asylum Act.

⁶⁵⁶ Article 80 Asylum Act.

⁶⁵⁷ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017.

⁶⁵⁸ In this regard, DGS noted in the past that such difficulties are similar to those faced by Portuguese citizens.

⁶⁵⁹ Particularly through programme "Aparece" (information available at: <https://bit.ly/3mzqd1>).

multicultural meetings with applicants for international protection and organised other group activities, and made referrals to external services.

According to the information provided by SCML, the team ensuring support to asylum seekers includes a psychologist. Applicants can also be referred to psychiatric care within the health care units managed by the organisation. SCML also confirms that access to mental healthcare within the SNS is often challenging, particularly due to delays, the suitability of available solutions, and language barriers. JRS also reported having a Mental Health Office, specialising migration-related matters.

In August 2020, the National Association of Pharmacies informed its associates of new procedures regarding medical prescriptions issued to applicants for international protection.⁶⁶⁰ According to CPR's experience, access to medication by the SNS has improved and, in general, applicants only have to pay for medication that is not (fully or partially) co-paid by the SNS. Nevertheless, there are still discrepancies in the procedures adopted by different health units for the issuance of prescriptions and flaws in the issuance of digital prescriptions. This led, for instance, to the need for CPR to pay for the medication of unaccompanied asylum-seeking children under the care of CACR on several occasions.

CPR and the local health centres of Loures-Odivelas cooperate closely. The long-term care unit conducts medical appointments at CAR once a week and ensures the implementation of the national vaccination plan as well as COVID-19 vaccination among applicants. Additionally, the unit provides routine support to persons in need of assisted medication, pregnant women, new-borns, as well as to persons with other health-related vulnerabilities. Within the context of the coronavirus pandemic, the team also supported testing whenever necessary.

CPR provides financial support to unaccompanied asylum-seeking children and asylum seekers in admissibility and accelerated procedures to cover the costs of diagnosis procedures and medication depending on the individual circumstances and available resources. Unaccompanied children residing at CPR's CACR usually have access to dental care in the private sector in urgent situations.

In 2022, CACR continued to face challenges in liaising with the geographically responsible healthcare unit, including for registration (a necessary requirement for subsequent medical follow-up, vaccination, Covid testing). Access has been ensured with the support of other healthcare units.

According to a study focusing on the situation of asylum-seeking unaccompanied children and ageing out in Portugal published in 2021, the majority of participants evaluated their health condition and the relationship with doctors positively and did not feel discriminated within the context of healthcare.⁶⁶¹

In 2021, DGS launched an awareness-raising campaign targeting the general population and healthcare practitioners focusing on the promotion of human rights and prevention of violence and discrimination towards migrants and refugees.⁶⁶²

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?
 Yes No

An 'applicant in need of special reception needs' is defined in terms of reduced ability to benefit from the rights and comply with the obligations stemming from the Asylum Act due to their vulnerability. The Asylum

⁶⁶⁰ Following what was prescribed in the handbook governing the relationship between Pharmacies and the SNS, available at <https://bit.ly/3sapk7K>.

⁶⁶¹ Sandra Roberto, Carla Moleiro, ed. Observatório das Migrações, *De menor a maior: acolhimento e autonomia de vida em menores não acompanhados*, April 2021, pp. 44 et seq, available at: <https://bit.ly/3fqMKBK>.

⁶⁶² For more information see: <https://bit.ly/3JuehPe>.

Act provides for a non-exhaustive list of applicants with an increased vulnerability risk profile that could need special reception conditions: minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of domestic violence and female genital mutilation.⁶⁶³

While the Asylum Act also refers to guarantees available to particularly vulnerable persons,⁶⁶⁴ the two concepts seem to be used interchangeably, meaning that any person with special reception needs is a *priori* a vulnerable person for the purposes of the Asylum Act.⁶⁶⁵

The identification of persons with special needs and the nature of such needs must take place upon registration of the asylum application or at any stage of the asylum procedure,⁶⁶⁶ but within reasonable time following registration.⁶⁶⁷

The provision of special reception conditions should take into consideration: (i) the material reception needs of particularly vulnerable persons;⁶⁶⁸ (ii) their special health needs, including those particular to survivors of torture and serious violence.⁶⁶⁹

The law further details the modalities of some of these categories of special reception conditions particularly regarding the special needs of children⁶⁷⁰ (including unaccompanied children)⁶⁷¹ and housing conditions.

There are no specific mechanisms, standard operating procedures, or units in place to systematically identify asylum seekers in need of special reception conditions. The only exceptions are age assessment procedures and procedures for the identification and protection of potential victims of trafficking that present practical and technical implementation challenges (see [Identification](#)).

In the framework of admissibility (including Dublin) and accelerated procedures on the territory, asylum seekers who present apparent vulnerabilities entailing special reception needs such as children, disabled people, elderly people, pregnant women, single parents with minor children, persons with serious illnesses or mental disorders would generally be identified by CPR within a reasonable period of time after registration. This is done based on information received from SEF prior to their referral to CPR's reception centres or collected directly during legal assistance, social interviews or initial medical screenings.

In 2021, CPR created a Psychological Support Department. The department, which has one psychologist, provides psychological assistance to applicants for international protection supported by CPR, and also facilitates referrals to relevant services provided by partners such as psychiatric follow-up. In the course of 2022, the Psychological Support Department provided 525 individual consultations, mediated multicultural meetings with applicants for international protection and organised other group activities, and made referrals to external services.

According to SCML, asylum seekers referred to the organisation by the SOG benefit from specific social counselling at the appeal stage and may be referred to homeless shelters managed by the organisation on a temporary basis to address specific vulnerabilities. Rooms with individual bathrooms can also be used to respond to certain special needs. Similarly, according to ISS special needs are assessed and

⁶⁶³ Article 2(1)(ag) Asylum Act.

⁶⁶⁴ Article 2(1)(y) Asylum Act.

⁶⁶⁵ Article 77(1) and (3) Asylum Act.

⁶⁶⁶ Article 77(2) Asylum Act.

⁶⁶⁷ Article 77(3) Asylum Act.

⁶⁶⁸ Articles 56(2) and 77(1) of Asylum Act.

⁶⁶⁹ Articles 35-B(8), 52(5), 56(2), 78(3)-(4) and 80 Asylum Act.

⁶⁷⁰ Article 78 Asylum Act.

⁶⁷¹ Article 79 Asylum Act.

vulnerable asylum seekers are provided differentiated support during the regular procedure, notably in the case of children, disabled and the elderly.

According to the information provided by SCML, the team ensuring support to asylum seekers includes a psychologist. Applicants can also be referred to psychiatric care within the health care units managed by the organisation. SCML also confirms that access to mental healthcare within the SNS is often challenging, particularly due to delays, suitability of available solutions and language barriers.

JRS also reported having a Mental Health Office, specialising in the field of migration.

In November 2020,⁶⁷² a specific service to support victims of domestic violence and/or traditional harmful practices was inaugurated in CNAIM Lisbon. Another one was inaugurated in February 2021 in CNAIM Norte.⁶⁷³

In 2022, a new SOG sub-group was created in order to address the area of vulnerabilities within the asylum system. The group is composed by ACM, CPR, ISS, SCML, SEF, and UNHCR. According to the information available at the time of writing, during the first semester of 2023, the sub-group will be led by UNHCR, and will identify services and mechanisms to address specific vulnerabilities.

In September 2022, UNHCR and EUAA organised two training sessions on the Agency's [Tool for Identification of Persons With Special Needs](#) in Lisbon.

1. Reception of families and children

The accommodation of **unaccompanied children** who are 16 and over in adult reception centres and the initiation of family tracing are dependent on a best interests assessment.⁶⁷⁴ Under the Asylum Act, the best interest of the child also requires that children:

- ❖ Be placed with parents or, in their absence, with adult relatives, foster families, specialised reception centres or tailored accommodation;
- ❖ Not be separated from siblings;
- ❖ Are offered stability, notably by keeping changes in place of residence to a minimum;
- ❖ Are ensured well-being and social development;
- ❖ Have security and protection challenges addressed, notably where there is a risk of human trafficking; and
- ❖ Express their opinion, taking into consideration their age and maturity.⁶⁷⁵

The provision of special reception conditions during the asylum procedure includes a specialised reception centre for unaccompanied children, **CACR**, and the accommodation of unaccompanied children who are 16 or older in **CAR** and **CAR 2** as a measure of last resort, in the absence of appropriate alternatives or in pre-autonomy stages (see [Types of Accommodation](#)). CPR promotes family tracing, in partnership with the Portuguese Red Cross (CVP), if considered to be in the best interest of the child and taking into consideration the child's opinion.

CPR's reception centres offer facilities to accommodate disabled people and playgrounds for children who are systematically enrolled in public education. Despite practical challenges, **families** are generally given separate accommodation either at CAR or in external accommodation. Asylum seekers are

⁶⁷² EASO, *EASO Asylum Report 2021*, 2021, available at: <https://bit.ly/3MIIDFs>, 269-270.

⁶⁷³ For more information see: ACM, *Abertura do 1.º espaço atendimento às vítimas de violência doméstica migrantes e a vítimas de práticas tradicionais nefastas no CNAIM de Lisboa*, available at: <https://bit.ly/3EAQpJ1> and Comissão para a Cidadania e a Igualdade de Género (CIG), *Novo Gabinete de Apoio às Vítimas de Violência Doméstica e/ou de práticas tradicionais nefastas no CNAIM Norte*, 17 February 2021, available at: <https://bit.ly/3OsUBil>.

⁶⁷⁴ Article 79(10) and (14) Asylum Act.

⁶⁷⁵ Article 78(2)(a)-(h) Asylum Act.

generally referred to the SNS for health assessments and care, including differentiated care, even though referral constraints particularly for mental health care and certain categories of specialised medical care have been traditionally experienced.

To the extent that it is possible, and with consent of the applicants, family unity should be preserved in the provision of housing,⁶⁷⁶ while adult asylum seekers with special reception needs should be accommodated with adult relatives who are legally responsible for them and already present on the territory.⁶⁷⁷

According to the Asylum Act, adequate measures must be adopted to avoid sexual and gender-based violence and harassment in reception centres and other housing provided to asylum seekers.⁶⁷⁸ Among the measures adopted by CPR in this regard are the definition of separate room areas, the development awareness raising activities, the possibility to adopt accommodation arrangements adequate to specific needs, and monitoring by staff.

In May 2022, ACM signed a cooperation agreement with the organisation *Adolescer*, to implement a specific reception programme for single parent families and young people.⁶⁷⁹

While commending the efforts of the Portuguese authorities within the implementation of the bilateral relocation of unaccompanied children from Greece, UNICEF also pointed out that there is no structured reception strategy for this group, leading to discrepancies in the treatment granted to unaccompanied children depending on the particularities of their case (relocated/spontaneous applicant, for instance). The organisation also reported being aware of situations where unaccompanied children are housed in non-specialised residential care facilities without clear criteria thereto.

2. Reception of survivors of torture and violence

While ISS is responsible for ensuring access to rehabilitation services for survivors of torture and serious violence,⁶⁸⁰ the provision of material reception conditions and health care adapted to the special needs of vulnerable persons seems to be dependent on the responsibility-sharing rules applicable to asylum seekers in general.

The provision of reception conditions by ISS in the regular procedure following a dispersal decision by the SOG is done in accordance to agreed standards. In each district there is a responsible officer for reception conditions who reports directly to central services, but there is no specialised team dedicated to survivors of torture and/or serious violence. According to ISS, caseworkers can make referrals to specialised services at local level, for instance, for asylum seekers placed in the area of **Coimbra**, ISS has the possibility to make referrals to the [Centre for the Prevention and Treatment of Psychogenic Trauma](#) that provides differentiated mental health care adapted to the needs of survivors of torture and/or serious violence.

⁶⁷⁶ Articles 51(2) and 59(1)(a) and (b) Asylum Act.

⁶⁷⁷ Article 59(1)(c) Asylum Act.

⁶⁷⁸ Article 59(1)(e) Asylum Act.

⁶⁷⁹ For more, see: ACM, *ACM e Adolescere assinam protocolo de cooperação*, available at: <https://bit.ly/3m9FFfT> and *Adolescere, Programa ACOLHER – Famílias Monoparentais Refugiadas*, available at: <https://bit.ly/3Mnm2vA>.

⁶⁸⁰ Article 80 Asylum Act.

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

The Asylum Act provides for the right of asylum seekers to be immediately informed about their rights and duties related to reception conditions.⁶⁸¹ It also foresees that they must be informed about the organisations that can provide assistance and information regarding available reception conditions, including medical assistance.⁶⁸² Furthermore, SEF is required to provide asylum seekers with an information leaflet, without prejudice to providing the information contained therein orally.⁶⁸³ In both cases the information must be provided in a language that the asylum seeker either understands, or is reasonably expected to understand.

In practice, upon registration, asylum seekers receive an information leaflet from SEF regarding their rights and duties that briefly covers some information regarding reception conditions. According to CPR's experience, the leaflet is only available in a limited number of foreign languages (e.g., Portuguese, French, English, Ukrainian, Russian, Arabic, and Lingala). While specific information leaflets on reception and unaccompanied children (with information on reception conditions) are available online,⁶⁸⁴ CPR is not aware of their systematic distribution to asylum seekers, including to unaccompanied children. The information contained in the leaflets is brief and not considered user-friendly, particularly in the case of unaccompanied children.

In accordance with existing MoUs with the authorities (see [Responsibility for Reception](#)), CPR provides information to asylum seekers throughout the asylum procedure and particularly during admissibility (including Dublin) and accelerated procedures. This is done through individual interviews as well as through social and legal support. The information provided by CPR broadly covers the information requirements provided in the law as regards the institutional framework of reception, including on the dispersal policy, as well as the types and levels of material reception conditions, access to health care, education, employment, etc. Information leaflets regarding CAR's support are also distributed.

The information provided by CPR further includes the provision of tailor-made information to unaccompanied children upon their admission to CACR orally and using supporting materials such as a leaflet that contains child-friendly information on internal rules, available services, geographical location, general security tips and contacts, etc. (available in Portuguese, English, Russian, Tigrinya and French).

During the regular procedure and at appeal stage, asylum seekers should benefit from individual follow-up with ISS and SCML. While no research has been conducted to date to assess the impact of the dispersal policy, CPR is not aware of any serious challenges in accessing social services or in the provision of information regarding reception conditions during this stage of the asylum procedure despite some complaints regarding difficulties in securing an appointment/effective contact, accessing specific services, and language barriers.

Other organisations such as JRS, Crescer, and ACM through its Local Support Centres for Migrants Integration (CLAIM), also provide information and assistance to asylum seekers during the first instance of the regular procedure albeit in a limited number of cases and mostly focused on integration.

⁶⁸¹ Article 49(1)(a) Asylum Act.

⁶⁸² Article 49(1)(a)(iv) Asylum Act.

⁶⁸³ Article 49(2) Asylum Act.

⁶⁸⁴ SEF, *Informação para Menores Não-Acompanhados Requerentes de Proteção Internacional em Portugal*, available in Portuguese at: <https://bit.ly/2FFVjc3>. SEF, *Acolhimento em Portugal*, available in Portuguese at: <https://bit.ly/2MkBrvC>.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
 Yes With limitations No

The Asylum Act provides for the right of access to reception centres and other reception facilities for family members, legal advisers, UNHCR, CPR, and other refugee-assisting NGOs recognised by the State for the provision of assistance to asylum seekers.⁶⁸⁵

The internal regulation of **CACR** provides for the right of unaccompanied children to receive visits from family and friends upon approval by the Family and Juvenile Court. The internal regulation of **CAR** provides for a general right to visits upon authorisation of the Director of the Centre.

In practice, asylum seekers accommodated at CAR and CACR benefit from legal assistance from CPR's staff (see [Regular Procedure: Legal Assistance](#)) as well as from information and facilitation of contacts and meetings with lawyers at appeal stage. Such meetings can either take place at the reception centres or at the lawyers' offices, in the presence of a representative of CPR in the case of unaccompanied children.

G. Differential treatment of specific nationalities in reception

There is no information available regarding discrimination or preferential treatment of asylum seekers pertaining to reception conditions such as accommodation, health care, employment, education or others, on the basis of nationality.

Nevertheless, in 2021, the emergency reception of Afghans evacuated from their country of origin and transferred to Portugal was subject to different procedures. While their applications for international protection followed the regular procedure, the reception of those evacuated was structured in two stages: first, they remained in temporary reception centres in the Lisbon area (managed by different entities), and afterwards, they were transferred to individualised solutions organised by ACM and ISS.

⁶⁸⁵ Article 59(4) Asylum Act.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Total number of asylum seekers detained in 2022:	306
2. Number of asylum seekers in detention at the end of 2022:	39
3. Number of detention centres specifically for asylum seekers: ⁶⁸⁶	2
4. Total capacity of detention centres specifically for asylum seekers:	Not applicable

Since March 2020, detention of asylum seekers predominantly occurs when applicants for international protection were previously detained due to a removal procedure,⁶⁸⁷ and in cases where precautionary measures/alerts regarding the person concerned are active. Detention within the context of border procedures was the rule until March 2020 but, since then, such procedures have not been systematically applied.⁶⁸⁸ At the time of writing, it is not clear whether this is temporary or will become permanent practice and whether it applies to all national border posts. The border procedure and corresponding detention regime continue to be provided in national law.⁶⁸⁹

While the Asylum Act also provides for the possibility of placing other categories of asylum seekers in detention,⁶⁹⁰ including those subjected to Dublin procedures, according to CPR's experience, these are not used in practice.

The competent authority to place and review the detention of an asylum seeker in a CIT,⁶⁹¹ or in detention facilities at the border,⁶⁹² is the Criminal Court with territorial jurisdiction over the place where detention is imposed. In the case of detention at the border, SEF initially imposes detention, but is required to inform the Criminal Court of said detention measure within 48 hours of arrival at the border for the purpose of maintaining the asylum seeker in detention beyond that period.⁶⁹³

UNHCR, CPR, legal representatives, and other NGOs have effective access to asylum seekers in detention at the border in accordance with the law.⁶⁹⁴ Nevertheless, access to legal information as well as assistance in detention has been hindered by factors such as shorter deadlines, and limited capacity of service providers.

In addition to the impacts of detention, shorter deadlines and reduced procedural guarantees are applicable in the context of procedures conducted while the applicants are detained. These reduced guarantees may give rise to risks of poorer quality decision-making.

Unidade Habitacional de Santo António (CIT – UHSA)⁶⁹⁵ is the only temporary installation centre *per*

⁶⁸⁶ This includes facilities where asylum seekers were detained in the course of 2022, according to the information provided by SEF – detention facility located at the Lisbon airport and UHSA. These administrative detention facilities are not exclusively used to detain asylum seekers.

⁶⁸⁷ Article 35-A(3)(b) Asylum Act.

⁶⁸⁸ For more information on the change of practice, please revert to the [AIDA 2021 report](#).

⁶⁸⁹ The absence of uniform procedures in this area has also been highlighted by the Ombudsperson. See Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021*, July 2022, p.78, available at: <https://bit.ly/3wjJS29>.

⁶⁹⁰ Article 35-A(3) Asylum Act.

⁶⁹¹ Article 35-A(5) Asylum Act.

⁶⁹² Article 35-A(6) Asylum Act.

⁶⁹³ Ibid.

⁶⁹⁴ Article 49(6) Asylum Act.

⁶⁹⁵ Decree-Law 44/2006 provides for the creation and functioning of CIT – UHSA in Porto.

se currently functioning in Portugal. The main detention facility at the border is located in the international area of **Lisbon** airport, and has an overall capacity of 24 places.⁶⁹⁶

SEF reported that a total of 306 asylum seekers have been detained in 2022 within the context of coercive removal procedures/by court order (185 at CIT-UHSA and 121 at EECIT Lisbon).

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

- | | | | |
|--|---|--|---|
| 1. In practice, are most asylum seekers detained | | | |
| ❖ on the territory: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | |
| ❖ at the border: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | |
| 2. Are asylum seekers detained during a regular procedure in practice? | <input type="checkbox"/> Frequently | <input type="checkbox"/> Rarely | <input checked="" type="checkbox"/> Never |
| 3. Are asylum seekers detained during a Dublin procedure in practice? | <input type="checkbox"/> Frequently | <input type="checkbox"/> Rarely | <input checked="" type="checkbox"/> Never |

Under the Asylum Act, detention of asylum seekers cannot be based on the application for international protection alone,⁶⁹⁷ and can only occur on grounds of:

- ❖ National security, public order, public health; or
- ❖ Risk of absconding; and

Must be based on an individual assessment and occur only if the effective application of less severe alternative measures is not possible.⁶⁹⁸

The possible grounds for the detention of asylum seekers also include:⁶⁹⁹

- ❖ Applying for asylum at the border;
- ❖ Applying for asylum following a decision of removal from national territory; or
- ❖ The application of the Dublin procedure.

According to the law, detention may only be applied if it is not possible to effectively implement less severe alternative measures.

Moreover, Article 26(1) of the Asylum Act also determines that asylum seekers who applied for asylum at the border remain in the international area of the (air)port while waiting for the decision.⁷⁰⁰

As mentioned in **General**, systematic detention of asylum seekers in Portugal has been applied within the context of border procedures in which asylum seekers were detained until their application was admitted to the procedure (7 days),⁷⁰¹ or for a maximum of 60 days in case of an appeal against the rejection of

⁶⁹⁶ While pre-removal facilities also exist in the airports of Ponta Delgada and Madeira, CPR is unaware of its use for detention of applicants for international protection. According to the information provided by SEF, as in 2021, the detention facilities located in the international areas of Porto and Faro airports remained closed in 2022.

⁶⁹⁷ Article 35-A(1) Asylum Act.

⁶⁹⁸ Article 35-A(2) Asylum Act.

⁶⁹⁹ Article 35-A(3) Asylum Act.

⁷⁰⁰ It is our understanding that while this article seems to provide for the general detention of asylum seekers within the context of border procedures, it must be applied with due regard for the rules established in Art.35-A of the Asylum Act.

⁷⁰¹ Article 26(4) Asylum Act.

the application.⁷⁰² According to the information provided by SEF, while a total of 694 asylum applications were made at the border in 2022, only a residual was analysed under the border procedure (due to the existence of relevant precautionary measures).

At the time of writing, it remains unclear whether this was temporary or will become permanent practice.

Asylum seekers who apply for asylum in detention at a CIT due to a removal procedure remain in detention during the asylum procedure until their application is admitted to the procedure (10 days)⁷⁰³ or for a maximum of 60 days in case of an appeal against the rejection of the asylum application.⁷⁰⁴ While the Asylum Act provides for the suspension of all administrative and/or criminal procedures related to the irregular entry of the asylum applicant on the national territory - and thus requires that the competent authorities are informed of the asylum application within 5 days for that purpose - ⁷⁰⁵ detention at a CIT due to a removal procedure will rarely, if ever, be suspended *ex officio* by the Criminal Courts on that basis. Detention within this context continues to be systematically applied.

CPR is unaware of case law relating to or judicial interpretations of detention grounds such as the application of a Dublin procedure, threat to national security, public order, public health, or risk of absconding.

2. Alternatives to detention

Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law? Reporting duties
 Surrendering documents
 Financial guarantee
 Residence restrictions
 Other
2. Are alternatives to detention used in practice? Yes No

As mentioned in [Grounds for Detention](#), according to the Asylum Act, detention of asylum seekers requires an assessment of the individual circumstances of the applicant and of the possibility to effectively implement less severe alternative measures,⁷⁰⁶ thus demanding proof that alternatives to detention cannot be effectively applied. The Asylum Act lays down alternatives to detention consisting either of reporting duties before SEF on a regular basis or residential detention with electronic surveillance (house arrest).⁷⁰⁷

Despite the safeguards enshrined in the law to ensure that detention of asylum seekers, including at the border, is used as a last resort and only where necessary, in practice, criminal courts rarely conducted an individual assessment on whether it is possible to effectively implement alternatives to detention. Even where the Criminal Court of Lisbon invited SEF to consider the release of families with children and their referral to CAR,⁷⁰⁸ the decisions systematically fell short of conducting an individual assessment of necessity and proportionality and of issuing an order to SEF.

⁷⁰² Article 35-B(1) Asylum Act.

⁷⁰³ Article 33-A(5) Asylum Act.

⁷⁰⁴ Article 35-B(1) Asylum Act.

⁷⁰⁵ Article 12(1) and (3) Asylum Act.

⁷⁰⁶ Article 35-A(2) and (3) Asylum Act. While the need for an assessment of the individual circumstances of the applicant is only mentioned in the case of detention on the grounds of national security, public order, public health or when there is a flight risk, it is difficult to conceive an assessment of less severe alternative measures for the remaining grounds for detention that is not based on the individual circumstances of the applicant.

⁷⁰⁷ Article 35-A(4)(a) and (b) Asylum Act.

⁷⁰⁸ Judicial Court of the Lisbon District, Local Misdemeanour Court of Lisbon – Judge 2, Applications Nos 3881/17.5T8LSB, 13 February 2017; 19736/17.0T8LSB, 11 September 2017; 22330/17.2T8LSB, 16 October 2017; 22779/17.0T8LSB, 20 October 2017; 23770/17.2T8LSB, 3 November 2017; 25058/17.0T8LSB, 20 November 2017; 25060/17.1T8LSB, 20 November 2017; 8909/19.1T8LSB, 29 April 2019.

Concerns regarding the judicial review of decisions to detain were flagged by the Ombudsperson in a hearing at the Parliament in 2020 (see [Procedural Safeguards: Judicial review of the detention order](#)).⁷⁰⁹

In 2019, the practice was also condemned by the UN Committee Against Torture. It expressed concerns on multiple issues, including the excessive use of detention, the absence of individualised assessments as well as little consideration for alternatives to detention, the lack of adequate detention conditions in the relevant facilities, and entry fees charged to external parties at Lisbon airport.⁷¹⁰ Among other detention-related observations, the Committee recommended that detention is used only ‘as a measure of last resort and for as short a period as possible, by ensuring individualised assessments, and promote the application of non-custodial measures’.⁷¹¹

In 2020, the UN Committee on Human Rights, echoed concerns regarding detention at the border (namely regarding its duration and conditions), and recommended Portugal to ‘[e]nsure that the detention of migrants and asylum seekers is reasonable, necessary and proportionate [...] and that alternatives to detention are found in practice’.⁷¹²

With the exception of the release of asylum seekers without conditions from the border, CPR is unaware of the application of alternatives to detention in practice.

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?
 Frequently Rarely Never
- ❖ If frequently or rarely, are they only detained in border/transit zones? Yes No
2. Are asylum seeking children in families detained in practice?
 Frequently Rarely Never

The Asylum Act defines an ‘applicant in need of special procedural guarantees’ in terms of reduced ability to benefit from the rights and comply with the obligations stemming from the Asylum Act due to their individual circumstances.⁷¹³ Even though it does not include an exhaustive list of asylum seekers presumed to be in need of special procedural guarantees, it refers to age, gender, gender identity, sexual orientation, disability, serious illness, mental disorders, torture, rape or other serious forms of psychological, physical or sexual violence as possible factors underlying individual circumstances that could lead to the need of special procedural guarantees.⁷¹⁴

Within these applicants, the Asylum Act identifies a sub-category of individuals whose special procedural needs result from torture, rape, or other serious forms of psychological, physical or sexual violence that may be exempted from border procedures and hence detention.⁷¹⁵ Furthermore, it clearly determines that placement of unaccompanied and separated children in detention facilities at the border must comply with applicable international recommendations such as those by UNHCR, UNICEF, and the International Committee of the Red Cross (ICRC).⁷¹⁶

The asylum system continues to lack a systematic mechanism of identification of vulnerabilities, including within the context of detention (see: [Guarantees for vulnerable groups](#)).

⁷⁰⁹ Video recording available at: <https://bit.ly/3fZgcAd>.

⁷¹⁰ Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, para 39, available at <https://bit.ly/2G1F07z>.

⁷¹¹ Ibid. para 40(a).

⁷¹² Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5, 28 April 2020, par 34(d) and (e), and 35 (d), available at: <https://bit.ly/2Q1ftn8>.

⁷¹³ Article 17-A(1) Asylum Act.

⁷¹⁴ Ibid.

⁷¹⁵ Article 17-A(4) Asylum Act.

⁷¹⁶ Article 26(2) Asylum Act. For detailed information on the practices concerning detention of children in previous years, please refer to the corresponding AIDA reports.

Therefore, response to cases continued to happen mostly on an ad hoc basis, with no clear general guidance, leading to uncertainty. According to the information available to CPR, in at least one instance in 2022, SEF deemed detention at UHSA as adequate to a person with clear signs of severe mental illness, referring in particular to the fact that medical care and assistance by JRS were provided to the applicant in the facility.

According to the data provided by SEF for 2022, a residual number of children accompanied by family members has been detained in EECIT Lisbon with family members. According to SEF, unaccompanied asylum-seeking children have not been detained in 2022. SEF further informed that no cases of victims of trafficking in human beings or torture were reported within the context of detention of asylum seekers in 2022.

4. Duration of detention

Indicators: Duration of Detention

- | | | |
|----|---|-------------------|
| 1. | What is the maximum detention period set in the law (incl. extensions): | 60 days |
| 2. | In practice, how long in average are asylum seekers detained? | Less than 60 days |

An asylum seeker, either at the airport or land border, ‘who does not meet the legal requirements for entering national territory’ can be detained for up to 7 days for an admissibility procedure.⁷¹⁷ If SEF takes a positive admissibility decision or if no decision has been taken within 7 working days, the applicant is released. If the claim is deemed inadmissible or unfounded in an accelerated procedure, the asylum seeker can challenge the rejection before the administrative courts with suspensive effect and remains detained for up to 60 days during the appeal proceedings. After 60 days, even if no decision has yet been taken on the appeal, SEF must release the individual from detention and provide access to the territory. The maximum detention period of 60 days is equally applicable in instances where the application is made from detention at a CIT due to a removal procedure.⁷¹⁸

According to SEF the average detention period of applicants for international protection at CIT-UHSA in 2022 was 41 days. Data for EECIT Lisbon was not provided.

While SEF reported that a residual number of children accompanied by family members has been detained in EECIT Lisbon, data on the duration of such detention was not provided. According to SEF, unaccompanied asylum-seeking children were not detained in 2022.

CPR is not aware of instances where the maximum detention duration was exceeded in the case of asylum seekers.

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

- | | | | |
|----|---|------------------------------|--|
| 1. | Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. | If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

⁷¹⁷ Article 26 and 35-A(3)(a) Asylum Act.

⁷¹⁸ Article 35-B(1) Asylum Act.

The legal framework of detention centres is enshrined in Act 34/94 which provides for the detention of migrants in Temporary Installation Centres (*Centros de Instalação Temporária*, CIT) managed by SEF, either for security reasons (e.g., aimed at enforcing a removal from national territory) or for irregular entry at the border. Detention facilities at the border (EECIT),⁷¹⁹ which are not CIT *per se*, have been classified as such by Decree-Law 85/2000 for the purposes of detention following a refusal of entry at the border.⁷²⁰

Detention capacity in border detention centres: 2022	
Detention centre ⁷²¹	Total capacity
Detention facility – Lisbon airport	24

Source: Information provided by SEF (April 2023). This refers to the total capacity of the detention centre and is thus not limited to asylum seekers specifically.

According to information previously provided by SEF, **CIT-UHSA** has an overall capacity for 30 persons. Within the current context, CIT-UHSA is the facility where the majority of asylum seekers is detained. As far as CPR is aware, the facility does not have dedicated places for asylum seekers.

CPR is unaware of the detention of asylum seekers in police stations or in regular prisons for the purposes of the asylum procedure.

According to the 2020 report of the National Preventive Mechanism, the construction of a new CIT in Almoçageme (CATA) was halted by judicial order⁷²² and the construction of another CIT in Guarda was planned.⁷²³ According to the 2021 report, the construction of the CATA has been abandoned.⁷²⁴ Further information on the construction of a CIT in Guarda is not available.

In 2021, the Ministry of Home Affairs referred to the possibility of requalifying an area of the Caxias Prison to be used as a CIT.⁷²⁵ This project was strongly criticised by civil society organisations,⁷²⁶ and ended up being abandoned by the Government.⁷²⁷

⁷¹⁹ Council of Ministers Resolution 76/97.

⁷²⁰ See also Council of Ministers Resolution 76/97. In this context, it is important to underline, as recalled by the Ombudsperson: “The confinement of foreign citizens, including where it takes place in the international area of an airport, indeed consists in a deprivation of freedom (...) that goes beyond a mere restriction of freedom. On this matter cf. the judgement of the European Court of Human Rights n. ° 19776/92, 25 June 1992 (*Amuur v France*).” Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, available in Portuguese at: <https://bit.ly/3MKjmFq>. fn. 14 [unofficial translation].

⁷²¹ According to the information provided by SEF, as in 2021, the detention facilities located in the international áreas of Porto and Faro airports remained closed in 2022.

⁷²² Ombudsman, *Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*, June 2020, 50, available at: <https://bit.ly/2Pz1ZiN>. The National Preventive Mechanism conducted a preventive visit to the facility in 2019. The conditions observed are described in the report (p. 56-58).

⁷²³ Ibid, 58.

⁷²⁴ Ombudsman, *Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*, 24 June 2021, available at: <https://bit.ly/329nbSK>, 107.

⁷²⁵ See, for instance, TVI, *Exclusivo TVI: centro do SEF vai ser na prisão de Caxias. Cabrita envolvido em nova polémica*, 16 June 2021, available at: <https://bit.ly/3tr8wO>.

⁷²⁶ See, for instance, *ONG's exigem a revogação do protocolo de detenção administrativa de migrantes na prisão de Caxias*, 21 June 2021, available at: <https://bit.ly/3GDIYIE>.

⁷²⁷ See, for instance, TSF/Lusa, *MAI suspende reconversão de ala da prisão de Caxias em centro para imigrantes*, 8 July 2021, available at: <https://bit.ly/3GFHPZC>. This plan was also strongly criticised by the Ombudsperson in its report covering 2021, namely dur to the lack of public transportation to the area, to the physical features of the space, the lack of adequate conditions for the administrative detention of migrants. See Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021*, July 2022, pp.76-77, available at: <https://bit.ly/3wjJS29>.

The 2021 report of the National Preventive Mechanism also refers to the detention of a group of migrants in a Military Facility in 2021.⁷²⁸ Within this context, the Ombudsperson has mentioned the need to create further facilities, namely in the south and centre areas of the country. As per the report, SEF has indicated to the National Preventive Mechanism that a new CIT will be built in Alancil.⁷²⁹

According to the same source, SEF also signed a protocol providing for the creation of a hotspot in the port of Vila Real de Santo António.⁷³⁰ This facility would be meant to provide immediate support to persons arriving by sea in the coast of Algarve with the support of the Portuguese Red Cross. As underlined in the 2021 report, despite the limited information available in this regard, in light of previous experiences with such facilities within the European Union and particularly given the low number of sea arrivals that has been experienced in the past, this does not seem to be an appropriate solution. In the meantime, the Ombudsperson, has also expressed concern with this project, namely due the unavailability of information, the lack of clarity of the facility’s purpose, and the lack of physical conditions of the space (namely for being too small and for lacking outdoor areas). The Ombudsperson recommended the authorities to reconsider the adoption of this plan.⁷³¹ No further information was available at the time of writing.

The possible expansion of CIT-UHSA has also been addressed by the National Preventive Mechanism in its report covering 2021. The entity expressed concern with reports that the expansion will be implemented through the addition of prefabricated housing containers to the facility’s outdoor area.⁷³²

A project of €1,560,000 submitted by SEF to FAMI was approved in July 2020. The project aims to ‘reinforce the quality of temporary installation centres with adequate spaces, namely for families and vulnerable groups, and services of social, legal, linguistic, and health assistance’.⁷³³

SEF did not provide AIDA with any information regarding any of these projects or on new detention facilities that may be used to detain applicants for international protection.

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

- | | | |
|---|---|--|
| 1. Do detainees have access to health care in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it limited to emergency health care? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

2.1. Overall conditions

In the absence of legal standards for the operation of CIT, the detention facilities at the border and the CIT – UHSA in Porto are managed by SEF pursuant to internal regulations.⁷³⁴

The general regulation governing the placement of foreign and stateless persons in CIT and EECIT has been approved by the Minister of Home Affairs in July 2020.⁷³⁵ The regulation explicitly states that it is

⁷²⁸ Ombudsman, ‘Mecanismo Nacional de Prevenção, Relatório à Assembleia da República’, 24 June 2021, pp.99 et seq, available at: <https://bit.ly/329nbSK>.

⁷²⁹ Ibid, pp. 106 et seq.

⁷³⁰ Ibid, pp. 106 et seq.

⁷³¹ Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021*, July 2022, pp.77-78, available at: <https://bit.ly/3wjJS29>.

⁷³² Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021*, July 2022, p.74, available at: <https://bit.ly/3wjJS29>.

⁷³³ Secretaria-Geral do Ministério da Administração Interna, *Autoridade Responsável do FAMI – SGMAI aprova candidatura no âmbito do OE3 - REGRESSO - OE3.ON1–Medidas de Acompanhamento*, 6 July 2020, available at: <https://bit.ly/2OAVGuo>. (Unofficial translation).

⁷³⁴ Ministerial Decision n. 5863/2015 of 2 June 2015 regulates in detail detention conditions by police forces, including SEF, but is only applicable to the initial 48-hour detention period.

⁷³⁵ *Regulamento Regime geral sobre o acolhimento de estrangeiros e apátridas em Centros de Instalação Temporária (CIT) e Espaços Equiparados a Centros de Instalação Temporária (EECIT)*, 31 July 2020, available at: <https://bit.ly/3MmNbvP>.

applicable to applicants for international protection, and that, in such cases, detention is subject to the rules provided by the Asylum Act.⁷³⁶ It also establishes, inter alia, that:

- ❖ Possible victims of trafficking in human beings and unaccompanied children should be accommodated in adequate facilities;⁷³⁷
- ❖ SEF must inform detainees, according to the law, of the grounds of detention, status of their file and their rights and duties in a language that they understand or may be reasonably presumed to understand;⁷³⁸
- ❖ Transfers of persons between facilities may occur in order to ensure adequate reception conditions;⁷³⁹
- ❖ Each facility must have an internal regulation, to be approved by the National Director of SEF;⁷⁴⁰
- ❖ SEF is responsible for the management of the facilities and for the coordination of the fulfilment of the basic needs of detainees. The entity must appoint a person to be in charge of each facility;⁷⁴¹
- ❖ The Ministry of Social Security and the Ministry of Health are responsible for the fulfilment of needs within their scope of action in centres located within the national territory;⁷⁴²
- ❖ Private companies may be hired to ensure the security of persons and goods;⁷⁴³
- ❖ Staff working in the facilities must have multidisciplinary training (namely with regard to languages) and the teams must be composed of both men and women;⁷⁴⁴
- ❖ SEF may establish cooperation protocols with civil society organisations within this context;⁷⁴⁵
- ❖ Upon consent, detainees must be subject to a clinical evaluation performed by a healthcare professional. Access to healthcare (including psychological care) free of charge must be ensured during the detention, specific care is to be provided to particularly vulnerable persons;⁷⁴⁶
- ❖ Detainees are entitled to visits from direct family members and lawyers. Specific rules on schedules and duration of visits must be included in the internal regulation of each facility. Visits by entities entitled to access by the law are subject to the rules applicable to lawyers;⁷⁴⁷
- ❖ If they wish, detainees can be contacted and visited by the diplomatic/consular authorities of their country of origin;⁷⁴⁸
- ❖ Specific rules are established for telephone calls, namely the distribution of calling cards or access to telephones for a reasonable period of time. As a general rule, possession of communication equipment is forbidden unless the internal regulations state otherwise;⁷⁴⁹
- ❖ The facilities must ensure the dignity of detainees, provide for their separation by gender and age (except in the case of families), have an outdoor space and available leisure activities. Measures must be adopted to prevent violence, inhuman treatment or abuse by other detainees;⁷⁵⁰
- ❖ The food provided must be subject to quality control, be sufficient, and respect dietary or philosophical/religious beliefs;⁷⁵¹

⁷³⁶ Articles 1(1) and 3.

⁷³⁷ Article 1(2).

⁷³⁸ Article 5(2).

⁷³⁹ Article 7(1).

⁷⁴⁰ Article 8(4).

⁷⁴¹ Article 9(1) and (2).

⁷⁴² Article 9(3).

⁷⁴³ Article 9(4).

⁷⁴⁴ Article 9(5).

⁷⁴⁵ Article 9(6).

⁷⁴⁶ Article 10.

⁷⁴⁷ Articles 12, 13 and 15.

⁷⁴⁸ Article 14.

⁷⁴⁹ Article 16.

⁷⁵⁰ Article 19.

⁷⁵¹ Article 23.

- ❖ Detainees are to be provided with a hygiene kit, access to toilets bathrooms with hygiene and security, and the necessary conditions to wash clothes must be ensured. Access to luggage must also be ensured;⁷⁵²
- ❖ A monitoring commission to evaluate and monitor the functioning of the relevant facilities composed by representatives from SEF, IGAI, Ombudsperson and ACM is to be established. It must meet at least twice a year.⁷⁵³

In April 2020, the UN Human Rights Committee expressed concern over the detention conditions of migrants in Portugal, recommending that conditions and treatment in relevant facilities comply with international standards.⁷⁵⁴

EECIT Lisbon

Until March 2020, the detention facility at Lisbon airport was the most relevant detention space of applicants for international protection (mostly within the context of border procedures). However, according to the information publicly available, the new regulation of EECIT Lisbon explicitly excludes detention of applicants for international protection in the facility. Nevertheless, within the context of the provision of individual legal assistance, CPR became aware of multiple cases of applicants for international protection detained in the facility in 2022 (mainly cases where the application for asylum was made following a removal decision).

According to the information provided by SEF, in 2022, the EECIT Lisbon had an overall capacity of 24 places. According to prior information, 18 places are divided in two separate wings for men and women. It also has a family room and another room for persons with special needs (e.g., reduced mobility).

In its report covering 2020, the National Preventive Mechanism noted that the renovation of the space was overall positive and took into account relevant concerns such as security, privacy and contact with the exterior.⁷⁵⁵

The National Preventive Mechanism noted that the family and the multipurpose rooms have private bathrooms, and that there is a room that can be used for isolation.⁷⁵⁶ While the facility was previously composed of collective dormitories, these were converted into individual rooms (7 per wing) and double rooms (1 per wing). The Ombudsperson deemed the room's conditions adequate (dimension, natural light, security mechanisms – e.g., access through key card, panic button system).⁷⁵⁷

Each wing has a common area that includes a space for meals.⁷⁵⁸ The report also highlights the creation of a prayer room that can be used upon scheduling to avoid conflicting practices.⁷⁵⁹ The toilet and bathroom facilities are shared and were deemed as having good conditions by the Ombudsperson, who also highlighted that washing and dryer machines have been added to the facility.⁷⁶⁰ Each wing has a small courtyard.

The reception area of the facility includes an office for a member of SEF's staff and two offices for visits, including by lawyers and NGOs such as CPR. CPR's assessment is that the offices do not ensure adequate privacy, notably due to inadequate sound isolation.

⁷⁵² Article 25.

⁷⁵³ Article 28.

⁷⁵⁴ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5. 28 April 2020, par 34(e) and 35(e), available at: <https://bit.ly/2Q1ftn8>.

⁷⁵⁵ Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', 24 June 2021, available at: <https://bit.ly/329nbSK>, 89.

⁷⁵⁶ Ibid, 92 et seq.

⁷⁵⁷ Ibid.

⁷⁵⁸ Ibid.

⁷⁵⁹ Ibid.

⁷⁶⁰ Ibid, 92 and 94.

According to the National Preventive Mechanism, SEF officers are present in the facility 24h per day.⁷⁶¹ Staff of a private security company performs logistical tasks such as ensuring that the food provided to detainees is adequate to their diet/religious needs.⁷⁶² While the other tasks are not specified in the report, in the past, those included initial registration; collection and access to personal belongings; provision of medication; registration and referral of requests for medical assistance; and distribution of meals.

The preparation of meals is ensured by a catering company. According to the Ombudsperson, the number of meals and dietary options provided was reinforced.⁷⁶³

Information on the current cleaning arrangements is not available. According to CPR's observation, in the past, the facility was regularly cleaned by a cleaning company.

According to the National Preventive Mechanism, in 2021, detainees were allowed to keep hand luggage with them in the detention facility, but access to hold baggage remained dependent on coordination between SEF, staff from the private security company and the relevant airline. Valuable items are kept in safes managed by SEF.⁷⁶⁴

Detainees may use their mobile phones in the rooms, a significant change to the prior practice. Nevertheless, the Ombudsperson has repeatedly argued that access to free wi-fi internet should also be ensured.⁷⁶⁵

In the past, the Ombudsperson had raised concerns about the lack of specific training and language skills of supporting staff from security companies to perform their duties and the impact it could have on detainees in terms of isolation and access to services such as health care. Updated information in this regard was not available at the time of writing, but there is no information on significant measures adopted to address this issue.

In the latest report available at the time of writing, the Ombudsperson noted that the video security coverage of the facility must be improved, and that the announced panic button system to be installed in the rooms was not operational in 2021.⁷⁶⁶ It is also noted that capacity constraints were an issue in the course of 2021, leading to the need to accommodate men in the women's wing, possibly posing privacy risks.⁷⁶⁷

CIT-UHSA

The Ombudsperson deems the conditions at CIT-UHSA as overall adequate.⁷⁶⁸

According to the available information, the facility has separate wings for men and women, as well as a family room. There is a big outdoor space whose use depends on being accompanied by staff of the facility/volunteers.⁷⁶⁹ Daily cleaning is ensured, and the Ombudsperson deemed the food provided varied and adequate.⁷⁷⁰ Access to personal belongings that to do not jeopardise physical integrity is allowed.⁷⁷¹

⁷⁶¹ Ibid.

⁷⁶² Ibid.

⁷⁶³ Ibid, pp.92 and 97.

⁷⁶⁴ Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021*, July 2022, available at: <https://bit.ly/3wjJS29>, 70.

⁷⁶⁵ Ibid, 69-70.

⁷⁶⁶ Ibid.

⁷⁶⁷ Ibid, 69.

⁷⁶⁸ Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021*, July 2022, available at: <https://bit.ly/3wjJS29>, 74.

⁷⁶⁹ Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', 24 June 2021, available at: <https://bit.ly/329nbSK>, 102 et seq.

⁷⁷⁰ Ibid.

⁷⁷¹ Ibid.

Volunteers and workers from organisations such as JRS, IOM and Doctors of the World (MdM) are regularly present in the facility.⁷⁷² Access to personal mobile phones is allowed in certain periods of the day,⁷⁷³ and detainees may also have access to a mobile phone provided by the Jesuit Refugee Service (JRS) staff present in the facility.⁷⁷⁴

According to the information provided by IOM, a room for meetings between detainees and their lawyers was added to the facility in 2022.

In its 2022 report (covering 2021), the National Preventive Mechanism continued to express concern with the lack of access to free wi-fi, and with the lack of adequate regulation of the use and conditions of placement in the cell-room (a measure that may be adopted when the security of the facility is compromised).⁷⁷⁵

2.2. Activities

Each wing of the detention facility at **EECIT Lisbon** has a courtyard with tables and chairs. The courtyards in the border detention facilities have been criticised by the Ombudsperson in the past for being too small, surrounded by walls and lacking natural light.⁷⁷⁶ As far as CPR is aware, the situation remains unchanged.

According to the latest report of the Ombudsperson available at the time of writing, despite a prior commitment, no sports materials have been added to the space. The Ombudsperson also criticised the absence of a cultural mediator in the facility.⁷⁷⁷

According to the National Preventive Mechanism, in 2021, detainees were allowed to keep hand luggage with them in the detention facility, but access to hold baggage remained dependent on coordination between SEF, staff from the private security company and the relevant airline. Valuable items are kept in safes managed by SEF.⁷⁷⁸

Detainees may use their mobile phones in the rooms, a significant change to the prior practice. Nevertheless, the Ombudsperson has repeatedly argued that access to free wi-fi internet should also be ensured.⁷⁷⁹

CIT-UHSA has big outdoor space whose use depends on detainees being accompanied by staff of the facility/volunteers.⁷⁸⁰ Access to personal mobile phones is allowed in certain periods of the day.⁷⁸¹ Access to personal belongings that do not jeopardise physical integrity is allowed.⁷⁸² According to the report of

⁷⁷² Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021*, July 2022, p.74, available at: <https://bit.ly/3wjJS29>; information provided by IOM in March 2023.

⁷⁷³ According to the Ombudsperson, in 2021, the use of personal mobile phones was allowed between 10h and 21h30m. Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021*, July 2022, pp.75-76, available at: <https://bit.ly/3wjJS29>.

⁷⁷⁴ Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', 24 June 2021, pp.103 et seq, available at: <https://bit.ly/329nbSK>.

⁷⁷⁵ Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021*, July 2022, pp.74-76, available at: <https://bit.ly/3wjJS29>.

⁷⁷⁶ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, p.33, available in Portuguese at: <https://bit.ly/3eLMNX6>.

⁷⁷⁷ Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021*, July 2022, pp. 69-70, available at: <https://bit.ly/3wjJS29>.

⁷⁷⁸ Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021*, July 2022, p.70, available at: <https://bit.ly/3wjJS29>.

⁷⁷⁹ Ibid, pp.69-70.

⁷⁸⁰ Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', 24 June 2021, pp.101 et seq, available at: <https://bit.ly/329nbSK>.

⁷⁸¹ Ibid, pp.103 et seq.

⁷⁸² Ibid.

the National Preventive Mechanism published in 2021, in 2020, more toys were made available in the facility and it had a play room that was well equipped.⁷⁸³

In its 2022 report (covering 2021), the National Preventive Mechanism continued to express concern with the lack of access to free wi-fi internet.⁷⁸⁴

While the law provides for access to education of children asylum seekers under the same conditions as nationals,⁷⁸⁵ and the rules governing CIT provide for the access of detained children to education depending on the duration of their detention,⁷⁸⁶ children in detention do not have access to education in practice either at the detention facility or by accessing normal schools.

2.3. Health care and special needs in detention

The responsibility for providing health care to asylum seekers at the border lies with the Ministry of Home Affairs that can rely on public entities and/or private non-profit organisations in the framework of a MoU to ensure the provision of such services.⁷⁸⁷

The Asylum Act provides for the right of asylum seekers and their relatives to adequate health care at the border (i.e., in detention),⁷⁸⁸ and for the right of vulnerable asylum seekers in detention to regular health care that meets their particular needs.⁷⁸⁹ The Asylum Act does not, however, specify this particular standard,⁷⁹⁰ and/or whether it differs from the general standard of health care provision in the asylum procedure.⁷⁹¹

According to the available information, nursing and medical care, as well as referrals to the national healthcare system at **EECITs** and **CIT-UHSA** are ensured by the NGO Doctors of the World (*Médicos do Mundo*, MdM).⁷⁹² SEF reported that asylum seekers at the border are entitled to weekly medical checks.

According to previous research,⁷⁹³ and the information available to CPR, there are no specific mechanisms or standard operational procedures for the early identification of vulnerable asylum seekers and their special reception needs at the border or in pre-removal detention.

When detained (see [Detention of Vulnerable Applicants](#)), vulnerable applicants are granted access to services and medical treatment under the same standards that are applicable to all detainees.

⁷⁸³ Ibid, pp.102 et seq.

⁷⁸⁴ Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021*, July 2022, pp.74-76, available at: <https://bit.ly/3wjJS29>.

⁷⁸⁵ Article 53 Asylum Act.

⁷⁸⁶ Article 146-A(7) Immigration Act.

⁷⁸⁷ Article 61(1) Asylum Act.

⁷⁸⁸ Article 56(2) Asylum Act.

⁷⁸⁹ Article 35(b)(8) Asylum Act.

⁷⁹⁰ However, Article 146-A(3) Immigration Act states that a foreigner detained at a CIT or an equivalent detaining facility (i.e., at the border) is entitled to emergency and basic health care only and that special attention should be provided to vulnerable individuals, particularly to minors, unaccompanied minors, handicapped persons, elderly persons, pregnant women, families with children and survivors of torture, rape and other forms of serious psychological, physical or sexual violence.

⁷⁹¹ In accordance with Article 52(1) Asylum Act and Ministerial Orders (“Portaria”) No 30/2001 and No 1042/2008, asylum seekers and their relatives are entitled to medical assistance and access to medicines for basic needs, and for emergency and primary care in the National Health Service (SNS) under the same conditions as nationals. Primary care is to be understood as including at least access to general practitioners, access to specialists, inpatient care, complementary diagnostic tests and therapies, and nursing assistance. Furthermore, Article 4(1)(n) Decree-Law No 113/2011 (recast) provides for free access to the SNS by asylum seekers.

⁷⁹² Details on the project available at: <https://bit.ly/3GSfMYh>.

⁷⁹³ See Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available in Italian at: <https://bit.ly/3gEoe1T>.

3. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to:

- | | | | |
|-------------------|---|----------------------------------|-----------------------------|
| ❖ Lawyers: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ NGOs: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ UNHCR: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ Family members: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |

The Asylum Act and the general regulation governing the placement of foreign and stateless persons in CIT and EECIT⁷⁹⁴ provide for the right of detainees to receive visits from legal representatives, embassy representatives, relatives, as well as national and international human rights organisations.⁷⁹⁵

In accordance with the law, UNHCR and CPR have the right to be informed of all asylum claims presented in Portugal and to personally contact asylum seekers irrespective of the place of application in order to provide information on the asylum procedure, as well as regarding their intervention throughout the process.⁷⁹⁶

In the particular case of legal assistance, asylum seekers in detention are entitled to receive visits from lawyers, UNHCR, and CPR.⁷⁹⁷ Access restrictions can only be based on grounds of security, public order or operational reasons and only to the extent that they do not limit access in a significant or absolute manner.⁷⁹⁸

In practice, CPR has access to asylum seekers detained at the border (in the past depending on accreditation) or in pre-removal detention centres, but only following the status determination interview conducted by SEF, as opposed to lawyers who have unrestricted access to detainees prior to and during the status determination interview.

Following the renovation work conducted at **EECIT Lisbon**, access to the detention facility is no longer made by the international area of the airport. This is a significant change as, previously, access by visitors (including lawyers) was dependent on complex and bureaucratic procedures, and involved obtaining (paid) access cards in advance.⁷⁹⁹ According to the Ombudsperson, detainees may receive visits lasting up to one hour between 9h and 19h.⁸⁰⁰

Regarding other forms of contact with the exterior, detainees at EECIT Lisbon are allowed to use their mobile phones in their rooms.⁸⁰¹ While this has been commended by the Ombudsperson, the latest report

⁷⁹⁴ *Regulamento Regime geral sobre o acolhimento de estrangeiros e apátridas em Centros de Instalação Temporária (CIT) e Espaços Equiparados a Centros de Instalação Temporária (EECIT)*, 31 July 2020, available at: <https://bit.ly/3MmNbvP>.

⁷⁹⁵ Article 35-B(3) Asylum Act.

⁷⁹⁶ Article 13(3) Asylum Act.

⁷⁹⁷ Article 49(6) Asylum Act.

⁷⁹⁸ Article 35-B(4) Asylum Act.

⁷⁹⁹ Throughout recent years, legal aid lawyers have raised concerns regarding this fee which could discourage them from visiting their clients. See: Público, 'Taxa cobrada a advogados para ver detidos no aeroporto é "nonsense", acusa bastonário', 3 September 2018, available in Portuguese at: <https://bit.ly/2NocWka>. The fee, which was applied to all external visitors that are not accredited, was also repeatedly criticised by the Ombudsman that qualified it as a restriction to Article 35-B(4) of the Asylum Act (Ombudsman, 'Mecanismo Nacional de Prevenção, Relatório à Assembleia da República', June 2020, p.61, available at: <https://bit.ly/2Pz1ZiN>). The UN Committee Against Torture also expressed concern with the application of this access fee in its 2019 Concluding Observations on Portugal, thereby recommending the State to "guarantee that retained asylum seekers and irregular migrants have unhindered, prompt and adequate access to counsel, including legal services". Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, par.40(d), available at <https://bit.ly/2G1F07z>.

⁸⁰⁰ Ombudsman, 'Mecanismo Nacional de Prevenção, Relatório à Assembleia da República', June 2020, p.61, available at: <https://bit.ly/2Pz1ZiN>.

⁸⁰¹ Ombudsman, 'Mecanismo Nacional de Prevenção, Relatório à Assembleia da República', 24 June 2021, pp.94 et seq, available at: <https://bit.ly/329nbSK>. For information on the previous practice and significant

available at the time of writing continued to underline the importance of ensuring free access to wi-fi internet. The Ombudsperson also noted that, while a 5-minute prepaid card to be used in the public phone of the facility is provided to detainees, such a period of communications is clearly insufficient.⁸⁰² The Ombudsperson also criticised the absence of a cultural mediator in the facility.⁸⁰³

CPR's legal officers visit **EECIT Lisbon** on a needs basis to provide free legal information and assistance within the context of the asylum procedure to asylum seekers detained in the facility.

In the case of **CIT– UHSA**, the law provides for an MoU with the International Organisation for Migration (IOM) and the Jesuit Refugee Service (JRS) Portugal,⁸⁰⁴ that are responsible for training staff and providing social, psychological, and legal assistance to detainees. According to CPR's experience regarding asylum seekers who have applied from detention at CIT – UHSA, JRS Portugal has staff in the detention facility that provide in-house assistance. Medical and psychological assistance is provided by volunteer organisations such as MdM. Furthermore, IOM shares information materials at the facility (namely on the rights and duties of detainees, regular migration, removal and detention), organises information sessions and conducts interviews on the circumstances of detention.

Asylum seekers detained in CIT-UHSA benefit from legal assistance provided by CPR in cooperation with JRS staff present in the facility.

According to the National Preventive Mechanism, visits are also allowed in CIT-UHSA (1 visitor per detainee at each time).⁸⁰⁵

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention

- | | | |
|---|---|-----------------------------|
| 1. Is there an automatic review of the lawfulness of detention? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. If yes, at what interval is the detention order reviewed? | 7 days | |

The law provides for the right of asylum seekers to receive information in writing regarding the grounds for their detention, access to free legal aid and legal challenges against detention in a language they either understand or are reasonably expected to understand.⁸⁰⁶

The competent authority to impose and review the detention of an asylum seeker in a CIT,⁸⁰⁷ or in detention facilities at the border,⁸⁰⁸ is the Criminal Court which has territorial jurisdiction over the place where detention occurs. In the case of detention at the border, SEF is required to inform the Criminal Court of the detention within 48 hours upon arrival at the border for purposes of maintaining the asylum seeker in detention beyond that period.⁸⁰⁹

constraints to contact with the exterior, please refer to previous editions of the AIDA report, available at: <https://bit.ly/3XM0080>.

⁸⁰² Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021*, July 2022, pp.69-70, available at: <https://bit.ly/3wjJS29>.

⁸⁰³ Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021*, July 2022, pp. 69-70, available at: <https://bit.ly/3wjJS29>.

⁸⁰⁴ Article 3 Decree-Law 44/2006.

⁸⁰⁵ Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', 24 June 2021, p.103, available at: <https://bit.ly/329nbSK>.

⁸⁰⁶ Article 35-B(2) Asylum Act.

⁸⁰⁷ Article 35-A(5) Asylum Act.

⁸⁰⁸ Article 35-A(5) and (6) Asylum Act.

⁸⁰⁹ Ibid.

The review of detention can be made *ex officio* by the Criminal Court or upon request of the detained asylum seeker at all times on the basis of new circumstances or information that have a bearing on the lawfulness of the detention.⁸¹⁰

According to CPR's experience, detention reviews (either *ex officio* or upon request) are uncommon in practice. As such, release usually takes place following admission to the regular procedure or at the end of the maximum detention time limit of 60 days in cases of a negative decision and appeal (see [Duration of Detention](#)).

CPR has also observed instances where the special needs of the applicant were not taken into account by the Court when assessing the necessity and proportionality of detention.

In a hearing at the Parliament in December 2020, the Ombudsperson noted that there is a need for dialogue with judicial bodies to ensure that judicial actors are aware of the need for effective judicial control in these cases.⁸¹¹

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?
 Yes No
2. Do asylum seekers have effective access to free legal assistance in practice?
 Yes No

The law sets out the right of asylum seekers to free legal aid under the same conditions as nationals,⁸¹² which thus includes proceedings in front of the Criminal Court regarding detention at the border. Access to legal aid is processed under the same conditions as nationals, which include a 'means test'.⁸¹³ In the context of legal aid for the purposes of appealing the rejection of the asylum application, this test is generally applied in a flexible manner. CPR has no experience with legal aid applications for the purposes of detention review.

While the law provides for an accelerated free legal aid procedure at the border on the basis of a MoU between the Ministry of Home Affairs and the Bar Association,⁸¹⁴ such procedures are only for purposes of the application and remain to be implemented to date. The relevance of broader legal support within the context of detention and the possibility of implementing specific MoUs with the Bar Association for that purpose have also been repeatedly underlined by the Ombudsperson.⁸¹⁵

In practice, detained asylum seekers benefit from legal information and assistance from CPR, which also includes free legal assistance for the purposes of detention review, albeit limited to vulnerable asylum seekers due to capacity constraints.

In November 2020, the Ministry of Home Affairs, the Ministry of Justice, and the Bar Association signed a protocol to ensure the provision of legal counselling and assistance to foreigners to whom entry into national territory was refused (Lisbon, Porto, Faro, Funchal and Ponta Delgada airports).⁸¹⁶ According to

⁸¹⁰ Article 35-B(1) Asylum Act.

⁸¹¹ Video recording available at: <https://bit.ly/3fZgcAd>.

⁸¹² Article 49(1)(f) Asylum Act.

⁸¹³ Act 34/2004.

⁸¹⁴ Article 25(4) Asylum Act.

⁸¹⁵ Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', June 2020, p.64, available at: <https://bit.ly/2Pz1ZiN>.

⁸¹⁶ Ministry of Home Affairs, '*Estrangeiros impedidos de entrar em Portugal vão ter direito a advogado*', 4 November 2020, available in Portuguese at: <https://bit.ly/3oCd8L3>. According to the National Preventive Mechanism, the practical implementation of the Protocol was only ensured from March 2021. See: Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', 24 June 2021, available at: <https://bit.ly/329nbSK>.

the information available, this protocol was made within the framework of Article 40(2) of the Immigration Act and is not intended to cover applicants for international protection.

E. Differential treatment of specific nationalities in detention

CPR is unaware of any increased risk of detention and/or systematic detention and/or longer periods of detention of asylum seekers based on nationality.

A. Status and residence

1. Residence permit

Indicators: Residence Permit

1. What is the duration of residence permits granted to beneficiaries of protection?
 - ❖ Refugee status 5 years
 - ❖ Subsidiary protection 3 years

The Portuguese authorities are bound by a duty to issue beneficiaries of international protection a residence permit.⁸¹⁷ Its duration varies according to the type of international protection granted: the residence permit for **refugees** is valid for 5 years,⁸¹⁸ while the residence permit for **subsidiary protection** beneficiaries is valid for 3 years.⁸¹⁹ The issuance of these residence permits is free of charge.⁸²⁰

According to the statistics provided by SEF, in 2022 a total of 715 residence permits were issued to refugees and 252 residence permits were issued to beneficiaries of subsidiary protection.

According to CPR's experience in providing legal information and assistance to asylum seekers and beneficiaries of international protection at all stages of the asylum procedure (see [Regular Procedure: Legal Assistance](#)), the average length of the procedure for issuing a residence permit following a decision granting international protection in previous years was considered reasonable, ranging from a few weeks to a month and a half. Starting in 2019, CPR noticed significant waiting periods for the issuance of residence permits, in particular due to difficulties in booking appointments for renewals. During such periods, asylum seekers are issued a declaration from SEF certifying their application for the issuance/renewal of a residence permit. It should be noted that asylum seekers admitted to the regular procedure are in possession of a provisional residence permit, valid and renewable for 6 months, at the time they are granted international protection (see [Short Overview of the Asylum Procedure](#)).⁸²¹

The delays in the issuance and renewal of residence permits have been flagged by the UN Human Rights Committee.⁸²² Such delays, with impacts in access to services and assistance, have also been identified by the Statistical Report of Asylum 2020.⁸²³

In late 2014 and 2015, the launch of a cessation procedure by SEF regarding Guinean nationals, the first ever to target citizens of a specific nationality in a collective manner, was characterised by significant shortcomings, including a curtailment of the residence rights of those concerned by failing to renew or by delaying the renewal of expired residence permits during the procedures. The same practice was observed since 2019 as a significant number of cessation procedures were triggered by the authorities (see [Cessation](#)).

While noting the existence of difficulties in determining the number of beneficiaries of international protection in the country each year, the Statistical Report of Asylum 2022 indicates that by the end of 2021, 2,725 beneficiaries of international protection had valid residence permits in Portugal (1,596

⁸¹⁷ Article 67 Asylum Act. This provision is generally in line with Article 24 recast Qualification Directive.

⁸¹⁸ Article 67(1) Asylum Act.

⁸¹⁹ Article 67(2) Asylum Act.

⁸²⁰ Article 67(4) Asylum Act.

⁸²¹ Article 27(1) Asylum Act.

⁸²² Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5. 28 April 2020, par 34(a), available at: <https://bit.ly/2Q1ftn8>.

⁸²³ Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, p.227, available in Portuguese at: <https://bit.ly/2MGYtB9>.

refugees and 1,129 beneficiaries of subsidiary protection).⁸²⁴ According to the same source, the majority of refugees were from Syria, Eritrea and Iraq, and the majority of subsidiary protection beneficiaries were from Syria, Iraq and Ukraine.⁸²⁵

In June 2022, the Government amended Decree-Law 10-A/2020,⁸²⁶ determining, inter alia, that documents⁸²⁷ expired since its entry into force (or within the previous 15 days) were to be accepted as valid until 31 December 2022. It further determined that, after 31 December 2022, such documents would continue to be accepted providing the holder has an appointment for its renewal.⁸²⁸ Said Decree-Law was further amended in December 2022⁸²⁹, determining inter alia that:

- ❖ Visas and documents related to the residency of foreign nationals expired since the entry into force of the Decree-Law, or within the previous 15 days, are accepted as valid until 31 December 2023;
- ❖ After 31 December 2023, such documents will continue to be accepted providing the holder has an appointment for its renewal;
- ❖ This regime does not apply to documents concerning temporary protection.

With regard to the **readmission of beneficiaries of international protection** in Portugal, SEF reported that requests for readmission are analysed according to the following criteria:

- a. The person concerned holds a valid residence permit;
- b. The person concerned has a valid right of residence in Portugal, regardless of the validity of the corresponding residence permit;
- c. The person concerned continues to benefit from international protection in Portugal, regardless of the issuance of the corresponding residence permit.

According to SEF, if the person concerned is undocumented, they can be either issued a laissez-passer by the requesting authorities or request a travel document to the Portuguese consular authorities for the purposes of readmission in Portugal.

According to SEF, in 2022, the Portuguese authorities received a total of 81 readmission requests concerning beneficiaries of international protection (49 concerning persons with valid residence permits and 32 concerning persons with expired/without residence permits). Given the extension of validity of documents referred to above, many of the expired documents were deemed as valid in national territory.

2. Civil registration

2.1. Registration of childbirth

Civil registration acts of foreign authorities regarding foreigners, can only be transcribed into the Portuguese civil registry if the applicant demonstrates a legitimate interest in the transcription,⁸³⁰ and if the act is: duly translated,⁸³¹ legal, and does not raise well-founded doubts as to its authenticity.⁸³²

⁸²⁴ Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2022*, June 2022, available in Portuguese at: <https://bit.ly/3XySyzg>.

⁸²⁵ Ibid, p.186.

⁸²⁶ Decree-Law 10-A/2020 of 13 March 2020, available in Portuguese at: <https://bit.ly/3iQ0IYE>.

⁸²⁷ Including visas and documents related to the residency of foreign nationals.

⁸²⁸ Decree-Law 42-A/2022, of 30 June 2022.

⁸²⁹ Decree-Law 90/2022, of 30 December 2022.

⁸³⁰ Article 6(4) Civil Registration Code.

⁸³¹ Article 49(8) Civil Registration Code.

⁸³² Article 49(1) Civil Registration Code. In case the civil registry officer is not satisfied with the credibility of the foreign registration act, it may suspend the procedure and contact *ex officio* the issuing authority for clarifications at the expense of the applicant, an option that is ill adapted to beneficiaries of international protection (Article 49(2) and (3) Civil Registration Code). The applicant may also lodge a judicial appeal against the decision of the civil registration officer to refuse partially or in total the authenticity of the document (Article

In practice, the need of beneficiaries of international protection to transcribe foreign birth certificates normally arises in the framework of naturalisation procedures that require the registration of birth by the Central Registrations Service (*Conservatória dos Registos Centrais*, CRC) based on a duly legalised birth certificate prior to the registration of the acquisition of Portuguese nationality.⁸³³ It may also arise in the case of marriage (transcription of foreign marriages and registration of marriages contracted in Portugal) and the regulation of parental authority as both are added to the birth registry of the parties involved.⁸³⁴ In the case of [Naturalisation](#) procedures and registration of marriages, the law provides for alternative avenues in case the applicant is unable to produce a duly legalised birth certificate.

According to the experience of CPR, there are no other recurring instances where the need for the registration of birth with the national authorities arises as SEF does not require such registration for identification and issuance of international protection residence permits. Furthermore, according to the law, residence permits issued by the authorities replace identification documents for all legal purposes.⁸³⁵

It is mandatory to register any birth occurred in Portuguese territory, regardless of nationality.⁸³⁶ The birth must be declared to the civil registry authorities either by: (1) the parents, another legal representative of the child, or a person assigned that responsibility in writing by the parents; (2) the next closest relative of the child, or; (3) an official of the institution where the birth took place or to which the birth was orally reported.⁸³⁷

According to the law, if the child is born in a medical facility where it is possible to declare the birth, that should be done before medical discharge of the mother. When that is not the case, the birth must be declared in a civil registry office within 20 days.⁸³⁸

The actual registration of birth that follows the declaration can either take place at the maternity ward or at a civil registry office.⁸³⁹

The law does not contain limitations on birth registration due to the legal status of parents.

The registration of birth requires that identification documents of the parents are presented 'whenever possible'.⁸⁴⁰ According to the Immigration Act, the residence permit replaces the identification document for all legal purposes.⁸⁴¹ Furthermore, according to the Civil Registration Code, if the parents cannot provide an identification document, this requirement may be replaced by the presentation of two witnesses.⁸⁴² An interpreter must be appointed in case the parents are unable to communicate with the civil registry officer in Portuguese and the civil registry officer is not familiar with the language spoken by the parents.⁸⁴³

If the child or their parent(s) are foreign citizens, were born abroad or have an additional nationality, the law allows for their registration under a foreign first name.⁸⁴⁴

833 49(4)-(6) and 292(2) Civil Registration Code) in which case he or she will be allowed to present statements and alternative evidence (Article 49(7) Civil Registration Code).
834 Article 50(1) Portuguese Nationality Regulation.
835 Article 69(1)(a) and (e) Civil Registration Code.
836 Article 84 Immigration Act.
837 Article 1(1) and (2) Civil Registration Code.
838 Article 97(1) Civil Registration Code.
839 Article 96 Civil Registration Code.
840 Articles 101, 101-A and 101-B Civil Registration Code.
841 Article 102 Civil Registration Code.
842 Article 84 Immigration Act.
843 Article 45 Civil Registration Code.
844 Article 42 Civil Registration Code.
844 Article 103 Civil Registration Code.

Following the registration of birth, the information is automatically transferred to the Ministry of Health, ISS and, upon request, to the Ministry of Finance for purposes of registration of the child with its services.⁸⁴⁵

According to CPR's experience, applicants for and beneficiaries of international protection whose children are born in Portugal do not face significant or systematic challenges in registering their birth. However, some problems may arise with the registration of paternity where the father cannot personally declare his willingness to be registered as such before a Portuguese civil registry office, and the marriage contracted abroad is not previously registered in Portugal, as is generally the case. In these cases, a paternity investigation is usually conducted by the Family Court with uncertain results given the potential difficulties of applicants and beneficiaries of international protection to meet evidentiary requirements.⁸⁴⁶ The requirement of presenting two witnesses in the absence of an identification document may also be challenging in some cases.

In this regard, it is also important to note that children born in Portugal to foreigners who are not representing their country (i.e. in an official capacity), are Portuguese by **birth** if:

- (i) one of the parents legally resides in the country at the time of the birth; or
- (ii) one of the parents resides in Portugal for at least one year at the time of birth (regardless of status), and if they do not declare that they do not want to be Portuguese.⁸⁴⁷

According to official information obtained by CPR within the context of provision of legal assistance to applicants for and beneficiaries of international protection, this provision, that was amended in 2020, is applicable retroactively.⁸⁴⁸

While according to information previously gathered by CPR, for this purpose, applicants for international protection were deemed to be legally residing in Portugal from the moment the application for international protection is made, discrepant practice was observed in 2021 and 2022, whereby some registration services did not consider the certificate of the asylum application as proof of regular residence. In the course of 2022, the Ministry of Justice officially informed CPR that the certificate of the asylum application is not to be accepted as proof of regular residence, as, according to the law, it only allows permanence in the national territory.⁸⁴⁹ Furthermore, the Nationality Regulation also determines that, for these purposes, legal residency requires the existence of a residence permit (Immigration Act or Asylum Act).⁸⁵⁰

In 2022, CPR has also observed instances where the temporary residence permit granted to asylum seekers admitted to the regular procedure was also insufficient to prove legal residency. While the former is in line with the applicable legal framework, the later seems to be at odd with the intent of the provisions of the Asylum Act. The issue was raised by CPR with the Ministries of Justice and Home Affairs, but official information on this matter was not available at the time of writing.

Additional problems observed in this regard relate to the (non)issuance of citizen cards to such children due to the lack of an identification document from the mother. This issue was also raised with the Ministry of Justice, that recognised that the practice was incorrect and reportedly clarified the internal procedures in this regard.

⁸⁴⁵ Article 102-A Civil Registration Code.

⁸⁴⁶ Article 120 Civil Registration Code and Articles 1847, 1853(a), 1864 and 1865 Civil Code.

⁸⁴⁷ Article 1(1)(f) Nationality Act. Until the 2020 recast, a minimum of 2 years of legal residence of one of the parents at the time of birth was required.

⁸⁴⁸ The provision's retroactive application has also been confirmed by an opinion of the Advisory Board of the Institute of Registries and Notary Affairs (IRN). See Conselho Consultivo do Instituto de Registos e Notariado, *Parecer n.º 1/CC/2021*, 21 February 2021, available at: <https://bit.ly/33jFXH3>.

⁸⁴⁹ Article 14(1) Asylum Act.

⁸⁵⁰ Article 10(3)(a) Nationality Regulation.

2.2. Registration of marriage

In practice, according to CPR's experience, the need of beneficiaries of international protection to transcribe foreign marriage registries is not a recurring issue given that SEF does not require such registration for the purposes of derivative international protection (i.e., when protection is extended to someone else) or family reunification of procedures (see [Family Criteria](#)).

Marriage between foreigners in Portugal, on the other hand, requires the presentation of the spouses' residence permits,⁸⁵¹ birth certificates,⁸⁵² and certificates of no impediment,⁸⁵³ that must be either duly legalised or not raise well-founded doubts regarding their authenticity.⁸⁵⁴ Where the spouses are unable to produce a legal birth certificate or a certificate of no impediment for the purposes of marriage, the law provides for alternative legal avenues to either replace the birth certificate,⁸⁵⁵ or justify the absence of the certificate of no impediment,⁸⁵⁶ where there are strong reasons thereto. To that end, the civil registry officer may choose to conduct the investigations deemed appropriate,⁸⁵⁷ and consider alternative evidence such as witness statements.⁸⁵⁸

According to CPR's experience, beneficiaries of international protection do not face significant or systematic challenges in contracting marriage in Portugal as civil registry offices generally accept alternative legal avenues to either replace the birth certificate or to justify the absence of the certificate of no impediment due to their legal status and recognised protection needs.

3. Long-term residence

Indicators: Long-Term Residence

1. Number of long-term residence permits issued to beneficiaries in 2022: 0

Competence for issuing a long-term residence permit lies with the National Director of SEF,⁸⁵⁹ that must issue a decision within 6 months of application.⁸⁶⁰ The residence permit is valid for 5 years and is automatically renewed at the request of the beneficiary of protection.⁸⁶¹

The following criteria must be met to obtain a long-term resident status regardless of the type of international protection held by the beneficiary.⁸⁶²

- ❖ Legal and continuous residence in the national territory for 5 years following the date of the application for international protection;
- ❖ Stable and regular resources to ensure their survival and that of their family members, without having to resort to the social assistance system;
- ❖ Health insurance;
- ❖ Accommodation;
- ❖ Fluency in basic Portuguese.

⁸⁵¹ Article 137(1) Civil Registration Code.

⁸⁵² Article 137(2) Civil Registration Code.

⁸⁵³ Article 166(1) Civil Registration Code.

⁸⁵⁴ Article 49(1) Civil Registration Code.

⁸⁵⁵ Articles 135(5), 137(5) and 266 to 269 Civil Registration Code.

⁸⁵⁶ Article 166(2) Civil Registration Code.

⁸⁵⁷ Article 268(1) Civil Registration Code.

⁸⁵⁸ Articles 143(1) and 166(3) Civil Registration Code.

⁸⁵⁹ Article 128 Immigration Act.

⁸⁶⁰ Article 129(4) Immigration Act. The time limit can be extended by 3 months in particularly complex cases but the applicant must be informed of the extension of the time limit (Article 129(5) Immigration Act) and the application is automatically accepted in the absence of a decision at the end of the 3-month time limit extension (Article 129(6) Immigration Act).

⁸⁶¹ Article 130(2) Immigration Act.

⁸⁶² Article 126 Immigration Act.

Long term resident status can be refused to a former beneficiary of international protection whose refugee status has ceased because they have voluntarily accepted the protection of the country of nationality or, have voluntarily re-acquired the nationality of their country of origin (see [Cessation](#)).⁸⁶³

According to SEF, no such permits were issued to beneficiaries of international protection in 2022.

As the main provider of legal information and assistance to asylum seekers and beneficiaries of international protection, CPR is not aware of the issuance of long-term residence status to beneficiaries of international protection in recent years and has provided legal assistance for that purpose in a very limited number of cases. According to its experience, access to such status by beneficiaries of international protection is rare for reasons mostly related to a lack of information and awareness, lack of the necessary financial resources, insufficient language skills, and the priority given to applications for [Naturalisation](#).

4. Naturalisation

Indicators: Naturalisation

1.	What is the minimum residence period for obtaining citizenship?	
❖	Refugee status	5 years
❖	Subsidiary protection	5 years
2.	Number of citizenship grants to beneficiaries in 2022: (procedures)	195 (naturalisation)

Competence for conferring Portuguese nationality lies either with the Minister of Justice regarding naturalisation,⁸⁶⁴ or with the Central Registry Office (*Conservatória dos Registos Centrais*, CRegC) regarding other modalities for obtaining Portuguese nationality.⁸⁶⁵ According to the law, and in the absence of any deficiencies or irregularities in the procedure attributable to the applicant the time limit for taking a final decision on the file is at least 3.5 months in naturalisation cases,⁸⁶⁶ and 3 months in the remaining cases.⁸⁶⁷ Official data on actual timeframes is not available but, according to CPR's experience, naturalisation procedures in particular tend to be much longer in practice.

The Portuguese Nationality regime is relatively flexible, and the amendments introduced in recent years, including in 2020, have generally broadened the scope for nationality acquisition.

Some of the modalities of acquisition of Portuguese nationality are of particular relevance to beneficiaries of international protection.

Foreign citizens, including refugees and beneficiaries of subsidiary protection, are eligible for **naturalisation** under the following conditions:⁸⁶⁸

- ❖ 18 years of age or emancipation in accordance with Portuguese law;
- ❖ Minimum legal residence of 5 years in Portugal;
- ❖ Proof of proficiency in Portuguese (at least, A2 level);
- ❖ Absence of conviction to a prison sentence of at least 3 years for a crime punishable by Portuguese law;
- ❖ Not being a danger or a threat to national security or defence due to their involvement in activities related to the practice of terrorism, in accordance with the law that governs terrorism.

According to the information available to CPR, in the case of beneficiaries of international protection, the regular residence period runs from the date of the application for international protection.

⁸⁶³ Article 127(3) Immigration Act.

⁸⁶⁴ Article 27 Portuguese Nationality Regulation.

⁸⁶⁵ Article 41 Portuguese Nationality Regulation.

⁸⁶⁶ Article 27 Portuguese Nationality Regulation.

⁸⁶⁷ Article 41(1) and (2) Portuguese Nationality Regulation.

⁸⁶⁸ Article 6(1) Nationality Act; Article 19 Portuguese Nationality Regulation.

Furthermore, the Nationality Act contains a number of **special naturalisation regimes** exempting certain applicants of some of the above-mentioned requirements.⁸⁶⁹ Notably, children of foreign nationals born on national territory are eligible for naturalisation under the following conditions:⁸⁷⁰

- ❖ Absence of conviction to a prison sentence of at least 3 years for a crime punishable by Portuguese law (if over 16 years old);
- ❖ Not being a danger or a threat to national security or defence due to their involvement in activities related to the practice of terrorism, in accordance to the law that governs terrorism (if over 16 years old);
- ❖ At least one parent resided in the country (regularly or not) at least for the 5 years prior to the application; or one of the parents regularly resides in the country; or the child has completed at least one level of pre-school, basic education, or the secondary education (including vocational training) in Portugal.

Naturalisation under this provision is free of charge.⁸⁷¹ For information on acquisition of nationality at birth by children born in Portugal see [Civil Registration](#).

Children in residential care to whom a definitive child protective measure has been applied by the Family and Juvenile Courts may also acquire Portuguese nationality through naturalisation, with exemption of residency requirements.⁸⁷² If the child is over 16 years old, eligibility depends upon:

- ❖ Absence of conviction to a prison sentence of at least 3 years for a crime punishable by Portuguese law (if over 16 years old);
- ❖ Not being a danger or a threat to national security or defence due to their involvement in activities related to the practice of terrorism, in accordance to the law that governs terrorism (if over 16 years old);

In this case, the process must be triggered by the Public Prosecutor Office,⁸⁷³ and is also free of charge.⁸⁷⁴

It should be noted that, on the basis of a reasoned request, the Ministry of Justice may decide to exempt naturalisation applicants from presenting supporting evidence in special and justified cases where it is shown that the facts for which supporting evidence is required are true beyond doubt.⁸⁷⁵ The law also details the proof of proficiency in Portuguese.⁸⁷⁶ ⁸⁷⁷

Foreign citizens, including refugees and beneficiaries of subsidiary protection, can acquire Portuguese citizenship if they have been **married** or have been in a **civil union** with a Portuguese citizen for at least 3 years.⁸⁷⁸

CPR's experience indicates that the main challenges in acquiring nationality through naturalisation are related to poor language skills and obtaining supporting evidence. Supporting evidence required in naturalisation applications generally consists of legalised and translated birth certificates as well as criminal records from the country of nationality and former countries of residence, including EU Member states. In accordance with the applicable provisions, the authorities are generally flexible regarding supporting evidence in naturalisation procedures involving refugees and beneficiaries of subsidiary protection who present reasoned justifications. CPR further provides support to that end, e.g., by clarifying the international legal standards that apply to administrative assistance.

⁸⁶⁹ Article 6(2) – (9) Nationality Act.

⁸⁷⁰ Article 6(2) Nationality Act; Article 20 Portuguese Nationality Regulation.

⁸⁷¹ Article 6(12) Asylum Act. The provision, added in 2020, determines that naturalisation under some of the special regimes is free of charge. Naturalisation under other provisions (including the general regime) has a cost of €250.

⁸⁷² Article 6(3) Nationality Act.

⁸⁷³ Ibid.

⁸⁷⁴ Article 6(12) Nationality Act.

⁸⁷⁵ Article 26 Portuguese Nationality Regulation.

⁸⁷⁶ Article 25(2)-(9) Portuguese Nationality Regulation.

⁸⁷⁷ Ministerial Order 176/2014.

⁸⁷⁸ Article 3 Nationality Act; Article 14 Portuguese Nationality Regulation.

Another issue identified in the course of 2021 that persisted in 2022 despite contacts with SEF in this regard, is related to the content of the declarations issued by SEF to certify the period of legal residence. According to CPR's observation, when the renewal of the residence permit is pending, that period of time is not referred to as legal residence by SEF. This is the case despite the beneficiary of international protection holding a certificate that replaces the actual residence permit for all legal purposes (including to attest regular residency in the country).

According to SEF, 195 beneficiaries of international protection were granted Portuguese nationality through naturalisation in 2022. Disaggregation per status was not available.

5. Cessation and review of protection status

Indicators: Cessation

1. Is a personal interview of the beneficiary in most cases conducted in practice in the cessation procedure? Yes No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure? Yes No
3. Do beneficiaries have access to free legal assistance at first instance in practice? Yes With difficulty No

Competence for taking decisions on the cessation of international protection lies with the Ministry of Home Affairs on the basis of a proposal put forward by the national director of SEF.⁸⁷⁹ The representative of UNHCR or CPR shall be informed of the declaration of loss of the right to international protection.⁸⁸⁰

The Asylum Act establishes the grounds for cessation of international protection.⁸⁸¹

Regarding **refugee status**, the right to asylum ceases when the foreign national or stateless person:⁸⁸²

- a. Decides to voluntarily accept the protection of the country of their nationality;⁸⁸³
- b. Voluntarily reacquires their nationality after having lost it;⁸⁸⁴
- c. Acquires a new nationality and enjoys the protection of the country of the newly acquired nationality;⁸⁸⁵
- d. Returns voluntarily to the country they left or outside which they had remained for fear of persecution;⁸⁸⁶
- e. Cannot continue to refuse the protection of the country of nationality or habitual residence, since the circumstances due to which they were recognised as a refugee no longer exist;⁸⁸⁷ or
- f. Expressly renounces to the right to asylum.⁸⁸⁸

Regarding **subsidiary protection**, the right ceases when the circumstances resulting in said protection no longer exist or have changed to such an extent that the protection is no longer necessary.⁸⁸⁹

The grounds relating to a change in circumstances justifying the cessation of refugee status or subsidiary protection can only be applied if SEF concludes that the change in circumstances in the country of origin

⁸⁷⁹ Article 43(1) Asylum Act.
⁸⁸⁰ Article 43(3) Asylum Act.
⁸⁸¹ Article 41 (1)-(4) Asylum Act.
⁸⁸² Article 41(1) Asylum Act.
⁸⁸³ Article 41(1) (a) Asylum Act.
⁸⁸⁴ Article 41(1) (b) Asylum Act.
⁸⁸⁵ Article 41(1) (c) Asylum Act.
⁸⁸⁶ Article 41(1) (d) Asylum Act.
⁸⁸⁷ Article 41(1) (e) and (f) Asylum Act.
⁸⁸⁸ Article 41(1) (g) Asylum Act.
⁸⁸⁹ Article 41(2) Asylum Act.

or habitual residence is significant and durable to exclude a well-founded fear of persecution or a risk of serious harm.⁸⁹⁰ Furthermore, this cessation ground is without prejudice to the principle of *non-refoulement*,⁸⁹¹ and is not applicable to refugees who are able to invoke imperative reasons related to prior persecution to refuse to avail themselves of the protection of the country of their nationality or habitual residence.⁸⁹² The latter safeguard is only explicitly provided in the Asylum Act for refugees, failing to adequately transpose Article 16(3) of the Qualification Directive.

SEF is required to notify the beneficiary of protection of the intended cessation in order to allow them to exercise the right to an adversarial hearing in writing within 8 days.⁸⁹³ A decision on cessation is subject to a judicial appeal with suspensive effect.⁸⁹⁴ In the absence of specific provisions, it should be understood that beneficiaries of international protection are entitled to apply for free legal aid at appeal stage under the same conditions as nationals as legal aid is an integral part of the social security system (see [Regular Procedure: Legal Assistance](#)).⁸⁹⁵

Cessation of international protection results in the applicability of the Immigration Act to former beneficiaries,⁸⁹⁶ according to which an individual whose refugee status has ceased is entitled to a temporary residence permit without the need to present a residence visa,⁸⁹⁷ even though other requirements such as a travel document, accommodation, and income still apply.

Cessation of subsidiary protection has become increasingly relevant in recent years. According to the information provided by SEF, cessation of refugee status also occurred in 2021 and 2022 (while extremely rare). CPR was not aware of prior cessation decisions concerning refugee status.

According to statistics provided by SEF, in 2016 there were 14 cessations of the subsidiary protection status of beneficiaries from Guinea. No cessation decisions were adopted in 2017 and 2018. In 2019, a total of 98 decisions ceasing subsidiary protection were adopted, of which 75 concerned beneficiaries from Ukraine. In 2020, 262 decisions ceasing subsidiary protection were adopted (of which 176 concerned beneficiaries from Ukraine, 25 beneficiaries from Guinea, and 20 beneficiaries from Pakistan). In 2021, a total of 36 cessation of subsidiary protection decisions were adopted by the national authorities, mostly concerning Ukrainian citizens (13).

According to the information provided by SEF for 2022, a total of 33 decisions of cessation of subsidiary protection were issued by the Portuguese authorities, mostly concerning nationals of Ukraine (19) and DRC (7).

In the framework of the legal assistance provided to some of those concerned in 2016, CPR identified several shortcomings in the cessation proceedings including the lack of renewal of the residence permits while the cessation process was pending and the poor quality of the assessment conducted into the change in circumstances in the country of nationality. Indeed, the assessments conducted did not take into consideration the specific/individual circumstances of each person concerned as the same information was used for all persons meaning that it lacked an actual assessment of whether there was a significant and durable change in circumstances for each individual. Similar shortcomings were subsequently observed.

According to the information provided by SEF on CPR's request following the invasion of Ukraine, cessation procedures concerning Ukrainian where a final decision was not adopted by the time of the

⁸⁹⁰ Article 41(3) Asylum Act.

⁸⁹¹ Article 47 Asylum Act.

⁸⁹² Article 41(4) Asylum Act.

⁸⁹³ Article 41(6) Asylum Act.

⁸⁹⁴ Article 44 Asylum Act.

⁸⁹⁵ Article 72 Asylum Act.

⁸⁹⁶ Article 42(2) Asylum Act.

⁸⁹⁷ Article 122(1)(f) Immigration Act. According to CPR's experience, persons in this situation are granted a residence permit valid for 2 years, that may be renewed for periods of 3 years, under article 77 Immigration Act.

invasion were to be reviewed. CPR does not have further information on the implementation of this measure.

National jurisprudence on cessation is limited. The existing decisions available at the time of writing concern subsidiary protection cessation due to a change of circumstances, and offer limited guidance. Two main general points are reinforced by such decisions:

- ❖ The burden of proof of a change in the circumstances lies with the national authorities;⁸⁹⁸
- ❖ A double test – sufficiency and durability - is applicable to cessation due to a change of circumstances.⁸⁹⁹

With regard to the **sufficiency** criterion, in one of the cases, the holding of an election in DRC, with a subsequent change of president was deemed as representative of a change of regime and, therefore, as sufficient within the cessation context.⁹⁰⁰ In the other case analysed, the court concluded that the armed conflict in Ukraine, even if (at the time) limited to certain regions, its indiscriminate and long lasting impact in the civilian population, and the risk of military conscription observed when the applicant was granted subsidiary protection (2016) persisted. As such, the changes in the country of origin were deemed as insufficient to trigger cessation of subsidiary protection.⁹⁰¹

With regard to **durability** of the change, TAF Braga considered that there has to be stability in the change, allowing the authorities to predict that it will last. The court further stated that the analysis cannot be based on a fixed timeframe, and that durability must be determined on a case-by-case basis. In the case analysed, the court concluded that the change observed in DRC two years after the presidential election and change was not yet consolidated, given the information available regarding the country's political setting. Furthermore, the court noted that the information to be considered in the analysis must be broad and go beyond the political context (for instance, information regarding the legal and judicial system must be analysed as well).⁹⁰²

The Statistical Report of Asylum 2022 (covering 2021) bears no reference to cessation procedures despite the relevance of the issue.⁹⁰³

6. Withdrawal of protection status

Indicators: Withdrawal

1. Is a personal interview of the beneficiary in most cases conducted in practice in the withdrawal procedure? Yes No
2. Does the law provide for an appeal against the withdrawal decision? Yes No
3. Do beneficiaries have access to free legal assistance at first instance in practice? Yes With difficulty No

The Asylum Act establishes specific grounds for revocation, ending or refusal to renew international protection that are assessed pursuant to the same procedural rules applicable to **Cessation**.

These include the cases where the beneficiary of international protection:⁹⁰⁴

⁸⁹⁸ TAC Lisbon, Decision 1837/21.2BELSB, 23 December 2021, not publicly available.

⁸⁹⁹ TAF Braga, Decision 1294/21.3BEBRG, 7 October 2021, not publicly available.

⁹⁰⁰ TAF Braga, Decision 1294/21.3BEBRG, 7 October 2021, not publicly available.

⁹⁰¹ TAC Lisbon, Decision 1837/21.2BELSB, 23 December 2021, not publicly available.

⁹⁰² TAF Braga, Decision 1294/21.3BEBRG, 7 October 2021, not publicly available.

⁹⁰³ Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, available in Portuguese at: <https://bit.ly/2MGYtB9>.

⁹⁰⁴ Article 41(5) Asylum Act.

- (a) Should have been or can be excluded from the right to asylum or subsidiary protection, pursuant to the exclusion clauses;⁹⁰⁵
- (b) Has distorted or omitted facts, including through the use of false documents, that were decisive for benefitting from the right to asylum or subsidiary protection;⁹⁰⁶
- (c) Represents a danger for national security;⁹⁰⁷
- (d) Having been sentenced by a final judgment for an intentional common law crime punishable with a prison term of more than three years, represents a danger for national security or for public order.⁹⁰⁸

Practice in this regard remains limited. According to the information provided by SEF, no such decision was adopted in 2022.

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification? Yes No
 - ❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application? Yes No
 - ❖ If yes, what is the time limit?
3. Does the law set a minimum income requirement? Yes No

Refugees and beneficiaries of subsidiary protection have the same right to family reunification under the law.⁹⁰⁹ While the right to family reunification encompasses the family members listed in the Asylum Act, its exercise is mostly governed by the provisions of the Immigration Act.⁹¹⁰

1.1. Eligible family members

A person granted international protection in Portugal can reunite with the following family members:⁹¹¹

- ❖ A spouse or unmarried partner,⁹¹² including same-sex partners, if the relationship is regarded as a sustainable relationship i.e., at least 2 years of living together in conditions analogous to marriage;⁹¹³
- ❖ Children under 18 years old if they are dependent on the sponsor and/or on their spouse or unmarried partner and regardless of their marital status. The right to family reunification also includes adopted children under 18 years old of the sponsor or of their spouse or unmarried partner. Adult children who lack legal capacity (e.g., for reasons of mental health) and are dependent on the sponsor and/or on their spouse or unmarried partner are also included; and
- ❖ Parents, if the sponsor is under 18 years old.

⁹⁰⁵ Article 41(5)(a) Asylum Act.

⁹⁰⁶ Article 41(5)(b) Asylum Act.

⁹⁰⁷ Article 41(5)(c) Asylum Act.

⁹⁰⁸ Article 41(5)(d) Asylum Act.

⁹⁰⁹ Article 68(1) Asylum Act.

⁹¹⁰ Ibid. Articles 98 *et seq* Immigration Act.

⁹¹¹ Articles 68 and 2(1)(k) Asylum Act.

⁹¹² Both the sponsor and the spouse/unmarried partner must be at least 18 years old.

⁹¹³ Unmarried partner unions may be attested by any means of proof provided in the law (testimony, documentary proof, affidavit, common children, etc.) In accordance with the law, when a refugee is unable to present official documents to prove his or her family relations, other means of proof will be taken into consideration.

Unaccompanied children can apply for family reunification with their parent(s). In the absence of biological parents, the child can apply for family reunification with an adult responsible for them (e.g., grandparents, legal guardians, or other family members).

It is not required that family formation pre-dates entry into Portugal.

The list of eligible family members in the case of beneficiaries of international protection is more restrictive than that enshrined in the Immigration Act for migrants. The latter also includes: (i) dependent children over 18 years old who are unmarried and studying in Portugal; (ii) dependent first-degree ascendants in the direct line; (iii) siblings under 18 years old, as long as the resident is their guardian, according to a decision issued by the competent authority of the country of origin, duly recognised in Portugal.⁹¹⁴

While in the past it was common for SEF to extend the more favourable regime to beneficiaries of international protection, information gathered by CPR indicates that this is no longer the case as the authorities now tend to restrict family reunification to the list of relatives included in the Asylum Act.

1.2. Family reunification procedure

The request for family reunification can be made immediately following the granting of international protection and there is no time limit for applying for family reunification upon arrival in Portugal.

The sponsor in Portugal must apply for family reunification at SEF's regional office in their residence area if the family member is living abroad at the time of application. If the family member is in Portugal at the time of application, the sponsor must apply for family reunification at SEF-GAR, in Lisbon. Applications are *not* accepted at Portuguese embassies.

The following official documents need to be presented with the application:⁹¹⁵

- ❖ Copy of the travel document of the family member;
- ❖ Criminal record of the family member, including country of nationality and any country of residence where the family member has lived for over 1 year;
- ❖ Where applicable, statement of parental authorisation from the other parent (if not travelling with the child);
- ❖ Death certificate of the child's other parent or evidence of sole legal guardianship if original death certificate is not obtainable, where applicable.

The following official documents are required to prove family relations:

- ❖ Spouses: marriage certificate;
- ❖ Children: birth certificate, decision of adoption duly recognised by a national authority (if applicable); proof of legal incapacity of adult child (if applicable);
- ❖ Other adults in charge of an unaccompanied minor: decision of guardianship duly recognised by a national authority.

In accordance with the law, all official documents need to be translated and duly legalised by the Portuguese embassy with territorial competence prior to their submission to SEF.⁹¹⁶

Regarding refugees, the law explicitly lays down that in the absence of official documents to demonstrate family relations, other types of proof should be taken into consideration. The application for family reunification cannot be refused on the sole basis of lack of documentary evidence.⁹¹⁷ Other types of proof can consist of interviews of the sponsor and family members; copies of original documents; witness

⁹¹⁴ Article 99 Immigration Act.

⁹¹⁵ Article 103 Immigration Act; Article 67 Governmental Decree n. 84/2007 of 5 November 2007.

⁹¹⁶ According to CPR's experience, documents in English, French and Spanish are usually accepted without translation.

⁹¹⁷ Article 106(4) Immigration Act.

testimonies; or common children in the case of unmarried partnerships. Portuguese authorities do not conduct DNA tests in the framework of family reunification applications. Even though not formally required, the law does not exclude DNA testing as means of proof of family relations.

In practice, this more favourable regime is generally extended to beneficiaries of subsidiary protection.

Furthermore, refugees are exempted from the general obligation to present proof of accommodation and income in family reunification procedures.⁹¹⁸ This legal provision has also been applied to beneficiaries of subsidiary protection.

The application may be refused on the following grounds:

- ❖ Misrepresentation or omission of facts;
- ❖ Non-fulfilment of legal requirements;
- ❖ Where the potential beneficiary family member would be excluded from refugee status or subsidiary protection;⁹¹⁹
- ❖ Where the potential beneficiary is barred from entering Portugal; and/or
- ❖ Where the potential beneficiary poses a risk to public order, public security or public health.

Non-fulfilment of legal requirements may involve: (a) lack of adequate travel documents; (b) lack of criminal records of the potential beneficiary family member; (c) situations where a parent other than the sponsor has not authorised the family reunification of their child with the sponsor; or (d) non-eligibility of the family member.⁹²⁰

The application should be decided within 3 months, with a possible extension for an additional 3 months if the delay is duly justified by the complexity of the case. In case of extension, the applicant should be informed of the reasons thereof.⁹²¹

In the absence of a decision within 6 months from the date of the application and unless the applicant bears responsibility for the delay (e.g., unanswered request for additional information and/or documents), the application is deemed automatically accepted.

A decision refusing an application for family reunification may be appealed in the administrative courts. In the absence of specific deadlines and procedures, the general rules on administrative appeals apply.⁹²² CPR does not have experience with appeals in this domain.

In recent years, significant waiting times for appointments at SEF for the purposes of family reunification has been registered by CPR. Difficulties in this regard continued to be observed in 2022.

Within the context of resettlement, CPR has observed that ACM has been making efforts to identify family members of resettled refugees present in Turkey and Egypt in order to assess the possibility of including such persons in resettlement quotas. For information on other forms of admission to the territory, see [Access to the Territory and Push-backs](#).

According to the analysis conducted by the Observatory for Migration, the number of holders of residence

⁹¹⁸ Article 101(2) Immigration Act.

⁹¹⁹ Article 68(3) Asylum Act.

⁹²⁰ Article 106 Immigration Act.

⁹²¹ Article 105 Immigration Act.

⁹²² General rules provided in the Administrative Procedure Code – CPA - (available at: <https://bit.ly/3mV8Ymn>), and in the Code of Procedure in Administrative Courts – CPTA - (available at: <https://bit.ly/3ToXKmo>). Notably, article 58(1)(b) CPTA provides for a general deadline for appeal of 3 months.

permits within the context of family reunification of beneficiaries of international protection has been increasing. According to the same source, 167 persons held such a permit by end of 2021.⁹²³

In 2022, SEF received 29 applications for family reunification from beneficiaries of international protection and issued 28 decisions (13 concerning refugee status holders, 15 concerning beneficiaries of subsidiary protection). A breakdown by outcome was not available.

2. Status and rights of family members

In accordance with the law, family members receive the same legal status and are entitled to the same rights as the sponsor.⁹²⁴ This is generally the case in practice. Nevertheless, CPR is aware of cases of issuance of Immigration Act residence permits (with inherent costs, different status, and subject to a different legal regime for renovation) to family members regarding whom family reunification was accepted and carried out, but who are not included in the restricted list of eligible members of the Asylum Act. According to CPR's observation, this is a systematic practice in such cases. According to the information provided by SEF, this is based on the understanding that a family member who is not eligible for family reunification under the Asylum Act, must be subject to the application of the general provisions of the Immigration Act.

According to CPR's observation, when cessation procedures are triggered with regard to the sponsor, family members are also subject to similar procedures.

C. Movement and mobility

1. Freedom of movement

Beneficiaries of international protection are guaranteed freedom of movement throughout the national territory under the same conditions provided for foreign nationals legally residing in Portugal.⁹²⁵

CPR is not aware of any limitations in this regard in practice, with the exception of those possibly arising from the dispersal policy implemented by the SOG that may result in limitations for reasons of access to material support (see [Reception Conditions: Freedom of Movement](#)).

2. Travel documents

The Portuguese authorities are bound by a duty to issue travel documents to refugees and beneficiaries of subsidiary protection.⁹²⁶

The **refugee** travel document consists of an electronic travel document,⁹²⁷ following the Refugee Convention format,⁹²⁸ which, since 2022, is valid for five years and renewable.⁹²⁹ The document is to be issued unless imperative national security/public order require otherwise.⁹³⁰ The authorities competent for granting refugee travel documents consist of the National Director of SEF for applications made on the national territory, and consulates for applications made abroad.⁹³¹

⁹²³ Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2022*, June 2022, p.215, available in Portuguese at: <https://bit.ly/3XySyzg>.

⁹²⁴ Article 68(2) Asylum Act.

⁹²⁵ Article 75 Asylum Act.

⁹²⁶ Article 69 Asylum Act; Article 19 Immigration Act.

⁹²⁷ Ministerial Order 302/2015 of 22 September 2015 and Ministerial Order 412/2015 of 27 November 2015.

⁹²⁸ Article 69(1) Asylum Act.

⁹²⁹ Article 19 Immigration Act. An amendment to the Immigration Act enacted in 2022 extended the validity of the refugee travel document from one to five years.

⁹³⁰ Article 69(1) Asylum Act.

⁹³¹ Article 20 Immigration Act.

In 2022, the issuance of the refugee travel document had a cost of €21.93.⁹³²

In the case of beneficiaries of **subsidiary protection**, the issuance of travel documents is left to the discretion of national authorities, at odds with Article 25(2) of the recast Qualification Directive. The Asylum Act states that a Portuguese passport for foreigners *may* be issued to beneficiaries of subsidiary protection who cannot demonstrably obtain a national passport unless imperative motives of national security/public order require otherwise.⁹³³

Beneficiaries of subsidiary protection are thus required to present a valid residence permit and to demonstrate their inability to obtain a national passport, notably on the basis of relevant proof or credible statements showing a potential risk to their own safety or the refusal of their country's consular representation to issue such a passport.⁹³⁴ The standard for this analysis is not further specified by law and guidance in this regard is not publicly available.

The Portuguese passport for foreigners is valid for a period of up to two years,⁹³⁵ and, in 2022, had a cost of €112.39.⁹³⁶

According to SEF, in 2022 a total of 512 travel documents were issued to beneficiaries of international protection, of which 390 to refugee status holders and 122 to beneficiaries of subsidiary protection.

According to the experience of CPR, the length of the procedure for issuing a travel document can be considered reasonable overall and does not exceed a couple of months.

According to the statistics provided by SEF, no request was refused in 2022.

D. Housing

Indicators: Housing

1.	For how long are beneficiaries entitled to stay in reception centres?	Data not available
2.	Number of beneficiaries staying in reception centres as of 31 December 2022	Data not available

The law provides for the right of refugees and beneficiaries of subsidiary protection to housing under the same conditions of foreign nationals legally residing in Portugal,⁹³⁷ therefore encompassing public housing.⁹³⁸

While CPR is not aware of systematic instances of homelessness among beneficiaries of international protection, **access to adequate housing is identified as a major issue** within the national context by asylum seekers, refugees and NGOs.⁹³⁹ Factors such as high prices, and contractual demands including

⁹³² Ministerial Order n. 1334-E/2010 of 31 December 2010 last amended by Ministerial Order 204/2020 of 28 August, available at <https://bit.ly/3mEANLq>. Amount applied from 03/05/2022 onwards, according to information publicly available at: <https://bit.ly/3XqEN3Y>. In 2021 it costed €21.66. Until September 2020 the refugee travel documents issued by the Portuguese authorities were not electronic and their issuance was free of charge.

⁹³³ Article 69(2) Asylum Act.

⁹³⁴ Decree-Law 83/2000 of 11 May 2000, as amended by Decree-Law 138/2006 of 26 July 2006.

⁹³⁵ Article 38 Decree-Law 83/2000 of 11 May 2000.

⁹³⁶ Ministerial Order n. 1334-E/2010 of 31 December 2010 last amended by Ministerial Order 204/2020 of 28 August, available at <https://bit.ly/3mEANLq>. Amount applied from 03/05/2022 onwards, according to information publicly available at: <https://bit.ly/3XqEN3Y>.

⁹³⁷ Article 74 Asylum Act.

⁹³⁸ Article 5 Public Leasing Act; Article 5 Regulation 84/2018.

⁹³⁹ In addition to CPR, SCML and JRS also expressed this concern when providing information for the AIDA report.

high deposits, need of guarantors and proof of income hinder the capacity of asylum seekers and refugees to access the market directly, and that of frontline service providers to increase reception capacity. Consequently, asylum seekers and refugees often have to resort to overcrowded or sub-standard housing options when accessing the private housing market.⁹⁴⁰

Given the impact of the matter, in 2022, the SOG decided to include it in the agenda of all its extended line-up meetings. Throughout the year, this topic continued to be discussed in the extended line up of the group, and the creation of a specific sub-group to deal with housing is being considered.

Access of beneficiaries of international protection to public housing remains extremely limited for reasons that according to CPR's experience have traditionally been linked to legal constraints under previous rules, limited stock of available public housing, lack of prioritisation of beneficiaries of international protection in public housing policy and heavy bureaucratic requirements.

Within the context of **resettlement**, hosting entities are responsible for the provision of accommodation. In the case of resettled refugees supported by CPR, the reception program includes an initial period of accommodation in a reception centre – CAR 2 (3 to 6 months).

The average length of stay in the centre has increased in recent years (no less than 8 months in 2022, compared to 4.5 months in 2019), namely due to challenges in accessing housing in the private market. These difficulties have also been compounded by rent increases and evictions of families that had already left the reception centre.

Decree-Law 26/2021 of 31 March 2021⁹⁴¹ created, inter alia, a National Pool of Urgent and Temporary Accommodation and a National Plan of Urgent and Temporary Accommodation. Recognising the lack of solutions in this regard, the National Plan aims to create structured responses to people in need of emergency or transition accommodation.⁹⁴²

According to the Decree-Law, the National Plan covers persons under the mandate of the entities that form the restricted line-up of the SOG (SEF, ACM and ISS).⁹⁴³ Referrals of applicants for/beneficiaries of international protection to accommodation within this context should be made by ACM/ISS.⁹⁴⁴ Such referrals must be communicated to the SOG.⁹⁴⁵ Additionally, entities responsible for the reception of applicants and beneficiaries of international protection may access support to promote urgent and temporary accommodation solutions for the National Pool.⁹⁴⁶

At the time of writing, the implementation and impact of this legislation was unclear.

E. Employment and education

1. Access to the labour market

⁹⁴⁰ It should be noted that while these issues are not only specific to applicants and beneficiaries of international protection, factors such as the absence of support networks increase their impact in asylum seeking and refugee families.

⁹⁴¹ Available at: <https://bit.ly/3Oc68Ct>. The functioning of the National Pool of Urgent and Temporary Accommodation is governed by Ministerial Order 120/2021, 8 June, available at: <https://bit.ly/3uEmOLm>.

⁹⁴² Article 11 Ministerial Order 120/2021, 8 June defines the maximum periods of emergency/transition accommodation – 15 days or 6 months, respectively, that may be renewed for an equal period. A specific regime applies to victims of domestic violence.

⁹⁴³ Article 5(1)(b)(iii) Decree-Law 26/2021 of 31 March.

⁹⁴⁴ Article 12(1) and (2) Ministerial Order 120/2021, 8 June.

⁹⁴⁵ Article 12(3) Ministerial Order 120/2021, 8 June.

⁹⁴⁶ Article 12 Decree-Law 26/2021 of 31 March; article 26(c) Decree-Law 37/2018 of 4 June; article 7(c) Ministerial Order 120/2021, 8 June.

The law provides for the right of refugees and beneficiaries of subsidiary protection to access the labour market pursuant to general rules.⁹⁴⁷

Similarly to asylum seekers (see [Reception Conditions: Access to the Labour Market](#)), there are no limitations attached to the right of beneficiaries of international protection to employment such as labour market tests or prioritisation of nationals and third-country nationals. The issuance and renewal of residence permits by SEF is free of charge.⁹⁴⁸ The only restriction on employment enshrined in the law consists in limited access for all third-country nationals to certain categories of employment in the public sector.⁹⁴⁹

Beneficiaries of international protection benefit from the same conditions of employment as nationals, i.e., in terms of salaries and working hours.⁹⁵⁰ The law provides, however, for specific formalities in the case of employment contracts of third-country nationals such as the need for a written contract and its (online) registration with the Authority for Labour Conditions (*Autoridade para as Condições do Trabalho*, ACT).⁹⁵¹

Beneficiaries of international protection are equally entitled to access work-related training opportunities for adults, vocational training and practical experiences under the same conditions as nationals.⁹⁵²

With the exception of the submission of beneficiaries of international protection to the conditions applicable to nationals of the same country,⁹⁵³ there are no specific rules regarding the recognition of diplomas and academic qualifications in the Asylum Act and the general rules and practical challenges facing asylum seekers apply (see [Reception Conditions: Access to the Labour Market](#)).

There are no statistics available on the number of beneficiaries of international protection in employment at the end of 2022. According to CPR's experience, despite existing support mechanisms pertaining to language training and employment assistance, asylum seekers and beneficiaries of international protection face many challenges in securing employment that are both general and specific in nature (see [Reception Conditions: Access to the Labour Market](#)).

2. Access to education

The Asylum Act provides for the right of children who are refugees or beneficiaries of subsidiary protection to education under the same conditions as national citizens.⁹⁵⁴ The right to education under the same conditions as nationals is extended to adult beneficiaries of international protection.⁹⁵⁵ The access of children who are beneficiaries of international protection to public education and recognition procedures bares no relevant distinction to asylum seeking children and has already been described in detail. The same holds true for access of adult beneficiaries of international protection to vocational training (see [Reception Conditions: Access to Education](#)).

F. Social welfare

⁹⁴⁷ Article 71(1) Asylum Act.

⁹⁴⁸ Article 67(4) Asylum Act.

⁹⁴⁹ Article 15(2) Constitution; Article 17(1)(a) and (2) Act 35/2014.

⁹⁵⁰ Article 71(3) Asylum Act; Article 4 Labour Code.

⁹⁵¹ Article 5 Labour Code.

⁹⁵² Article 71(2) Asylum Act. Even though related to the right to education, Article 70(2) Asylum Act seems to enshrine a similar right to training.

⁹⁵³ Article 70(3) Asylum Act.

⁹⁵⁴ Article 70(1) Asylum Act.

⁹⁵⁵ Ibid.

According to the Asylum Act, the general rules governing the social welfare system are applicable to refugees and beneficiaries of subsidiary protection.⁹⁵⁶ Refugees and beneficiaries of subsidiary protection are entitled to the same rights and to access social welfare under the same conditions as nationals.

The Social Insertion Revenue (*Rendimento Social de Inserção*, RSI) is a social protection measure that aims to support individuals in serious economic need and who are at risk of social exclusion. This is the most relevant social allowance available to beneficiaries of international protection.⁹⁵⁷

In addition to the financial allowance, RSI comprises an inclusion programme, based on a contract established with the concerned household. Access by beneficiaries of international protection is subject to the fulfilment of the general conditions prescribed by law, namely:

- ❖ If the applicant lives alone – their monthly income cannot exceed the amount of the allowance;
- ❖ If the applicant lives with family members – the combined monthly income cannot exceed the total amount of the allowance;
- ❖ The applicant must be 18 years of age or older (although there are situations in which younger persons are also eligible);
- ❖ The applicant must be registered with IEFP.

The financial allowance of the RSI is as follows:⁹⁵⁸

Rendimento Social de Inserção: 2022	
Category of applicant	Amount
Head of household	€ 189.66
Other adult in household	€ 132.76
Child	€ 94.83

A legislative amendment introduced in 2017⁹⁵⁹ removed the prerequisite of one year of regular residence in the country to access the RSI. Therefore, beneficiaries of international protection are immediately directed to this allowance upon recognition of the refugee status or conferral of subsidiary protection, while the assistance described in [Reception Conditions](#) ceases.

According to the law, refugees and beneficiaries of subsidiary protection are also entitled to other social allowances such as child benefits and family allowances⁹⁶⁰ unemployment benefits,⁹⁶¹ and other benefits, under the same conditions as nationals and as long as they meet the applicable requirements.

In practice, the follow up of social welfare matters is provided by ISS and SCML,⁹⁶² following the assistance provided throughout the asylum procedure.

⁹⁵⁶ Article 72 Asylum Act.

⁹⁵⁷ Act 13/2003.

⁹⁵⁸ Amended version of Ministerial Order 257/12 of 27 August, available at: <https://bit.ly/3s5DczW>.

⁹⁵⁹ Ministerial Order 253/17 of 8 August.

⁹⁶⁰ Decree-Law 176/2003.

⁹⁶¹ Act 220/2006.

⁹⁶² SCML also supports refugees and beneficiaries of international protection in specific situations, e.g., vulnerable cases such as unaccompanied children that move into assisted apartments and former unaccompanied children previously accommodated at CACR; individuals and families with strong social networks in the Lisbon area.

In general, refugees and beneficiaries of subsidiary protection are required to present their residence permit in order to have access to such support measures. While CPR is unaware of systemic problems in accessing support, refugees and beneficiaries of subsidiary protection often report difficulties in meeting their basic needs with the low income provided by the social welfare system.

The Statistical Report of Asylum 2022 estimates that 49.6% of the beneficiaries of international protection in Portugal were autonomous from social (financial) support by the end of 2021.⁹⁶³

G. Health care

The Asylum Act enshrines the right of refugees and beneficiaries of subsidiary protection, as well as their family members, to health care provided by the SNS under the same conditions as nationals.⁹⁶⁴ Furthermore, it provides for the right to tailored health care, including the treatment of mental conditions, for vulnerable refugees under the same conditions as national citizens.⁹⁶⁵

The special needs of particularly vulnerable persons including beneficiaries of international protection must be taken into consideration in the provision of health care,⁹⁶⁶ notably through rehabilitation and psychological support to children who have been subjected to various forms of violence,⁹⁶⁷ and adequate treatment to survivors of torture and serious violence.⁹⁶⁸ Responsibility for special treatment required by survivors of torture and serious violence lies with ISS.⁹⁶⁹

Asylum seekers and refugees are exempt from any fees to access the National Health System.⁹⁷⁰ Additionally, all children are exempt from such fees.⁹⁷¹

In practice, beneficiaries of international protection have effective access to free health care in the SNS in line with applicable legal provisions. However, as with asylum seekers (see [Reception Conditions: Health Care](#)) persisting challenges have a significant impact on the quality of the care available. According to research and information available to CPR, these include language and cultural barriers due to the reluctance of health care services to use available interpretation services such as ACM's translation hotline; restricted access to diagnosis procedures and medication paid by the SNS due to bureaucratic constraints; or very limited access to mental health care and other categories of specialised medical care (e.g., dentists) in the SNS.⁹⁷²

According to CPR's experience within the provision of support to resettled refugees, access to healthcare by beneficiaries of international protection worsened within the context of the pandemic given the overburdening of healthcare services. These challenges continued to be registered in 2022. According to the publicly available information, such difficulties are common to the whole population and not particular to refugees.

⁹⁶³ Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2022*, June 2022, available in Portuguese at: <https://bit.ly/3XySyzg>.

⁹⁶⁴ Article 73(1) Asylum Act.

⁹⁶⁵ Article 73(2) Asylum Act.

⁹⁶⁶ Article 77(1) Asylum Act.

⁹⁶⁷ Article 78 (3)-(4) Asylum Act.

⁹⁶⁸ Article 80 Asylum Act.

⁹⁶⁹ *Ibid.*

⁹⁷⁰ Article 4(1)(n) Decree-Law 113/2011 of 29 November 2011.

⁹⁷¹ Article 4(1)(b) Decree-Law 113/2011 of 29 November 2011.

⁹⁷² Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <https://bit.ly/3gEoe1T>.

ANNEX I – Transposition of the CEAS in national legislation

Directives and other CEAS measures transposed into national legislation

Directive / Regulation	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	5 May 2014	Act n. 26/2014 of 5 May 2014 amending Act n. 27/2008, transposing Directives 2011/95, 2013/32/EU and 2013/33/EU	http://bit.ly/1jd3hcG (PT) http://bit.ly/2AfJ7sS (EN)
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015 [Article 31(3)-(5) - 20 July 2018]			
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015			
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013			

The following section contains an overview of some of the most significant incompatibilities in transposition of the CEAS in national legislation:

Directive	Provision	Domestic law provision	Non-transposition or incorrect transposition
Directive 2011/95/EU Recast Qualification Directive	Article 12 recast QD	Article 9 Asylum Act (exclusion clauses)	<p>Article 9(1)(c)(ii) transposes Article 12(2)(b) of the recast Qualification Directive to the national legal order. While the directive refers to the commission of a serious non-political crime, the Asylum Act refers to the commission of an intentional non-political crime punishable with prison sentence of over three years. By operation of Article 9(2)(a) of the Asylum Act, this exclusion clause is also applicable to exclusion from subsidiary protection. While CPR is not aware of the practical application of this clause, defining the gravity threshold as a prison sentence of over three years may open the door to the exclusion of cases not envisaged by the relevant provision of the recast Qualification Directive.</p> <p>Furthermore, Article 9(1)(d) allows for the exclusion from refugee status where there are serious reasons for considering that the person constitutes a danger or substantiated threat to internal or external security or to the public order</p>

	Article 8 recast Qualification Directive	Article 18 Asylum Act (analysis of the application – internal protection alternative)	<p>Article 18(2)(e) of the Asylum Act establishes that an internal protection alternative may be considered in the adjudication of the application for international protection. There is some ambiguity in the transposition as a literal interpretation of the provision of the Asylum Act would determine that the criteria established in Article 8(1) <i>in fine</i> of the recast Qualification Directive ('and they can safely and legally travel to and gain admittance to that part of the country and can reasonably be expected to settle there.') would only apply to situations where the applicant 'has access to protection against persecution or serious harm'.</p> <p>Furthermore, while the definition mirrors Article 8(1) of the recast Qualification Directive, the procedural requirements established in Article 8(2) of the Directive were not transposed by the Asylum Act.</p>
	Article 16(3) recast QD	Article 41 Asylum Act (cessation of protection)	The Asylum Act does not contain the safeguard clause determining that subsidiary protection should not cease in situations where the beneficiary can reasonably invoke reasons connected to past serious offense not to return to the country of origin.
	Article 25(2) recast QD	Article 69(1) Asylum Act (issuance of travel documents to beneficiaries of international protection)	According to the Asylum Act, issuance of travel documents to beneficiaries of subsidiary protection is left to the discretion of national authorities.
	Article 12 recast QD	Article 41 Asylum Act (revocation of, ending or refusal to renew international protection)	See <i>supra</i> the analysis of exclusion clauses, relevant to revocation of, ending or refusal to renew international protection per Article 41(5)(a) of the Asylum Act.

Directive 2013/32/EU Recast Asylum Procedures Directive	Article 37 recast APD	Article 2(1)(q) Asylum Act (safe country of origin)	The Asylum Act provides for a definition of ‘safe country of origin’ that is in line with Article 36 of the recast Asylum Procedures Directive. However, the law does not further regulate its application. Notably, the Asylum Act does not refer to the need to adopt complementary legislation for the designation of safe countries of origin and the substantive and procedural criteria for such designation as provided in Article 37 and Annex I of the recast Asylum Procedures Directive. The safe country of origin concept is not applied in practice.
	Article 38 recast APD	Article 2(1)(r) Asylum Act (definition of safe third country)	<p>The Asylum Act provides for a definition of ‘safe third country’ that presents some inconsistencies with Article 38 of the recast Asylum Procedures Directive. Most notably:</p> <ul style="list-style-type: none"> - The provision applies <i>ratione personae</i> to asylum seekers alone, as opposed to applicants for international protection; - The provision does not include the absence of a risk of serious harm as a condition for the application of the concept; - The provision does not include the possibility for the applicant to challenge the existence of a connection between him or her and the third country; - A standard of possibility rather than reasonableness is set in the provision concerning the return on the basis of a connection between the applicant and the third country concerned. <p>In this regard, it is worth noting that there is a difference between the English and Portuguese versions of the Directive. While Article 38(2)(a) of the English version refers to the reasonableness of the person returning to the third country, the Portuguese version does not include such reference, simply indicating that the connection between the applicant and the country allows return ‘in principle’.</p>

	Article 14(2)(b) and (4) recast APD	Article 16 Asylum Act (personal interview)	The circumstances in which the determining authority may omit the personal interview are exhaustively listed in Article 16(5) of the Asylum Act and mirror the corresponding provision of the recast Asylum Procedures Directive (Article 14(2)). However, with regard to cases where the applicant is deemed unfit/unable due to enduring circumstances beyond their control, the final part of Article 14(2)(b) of the Directive was not transposed ('When in doubt, the determining authority shall consult a medical professional to establish whether the condition that makes the applicant unfit or unable to be interviewed is of a temporary or enduring nature.'). The safeguard contained in Article 14(4) of the recast Asylum Procedures Directive that determines that the absence of personal interview in such situations 'shall not adversely affect the decision of the determining authority', was also not explicitly transposed to the Asylum Act.
	Article 15 recast APD (also article 4(3) in fine recast APD)	Article 16 Asylum Act (personal interview)	With regard to the conditions of the personal interview, the Asylum Act does not fully transpose the requirements set out in the recast Asylum Procedures Directive (Article 15), particularly those regarding to the characteristics of the interviewer and on the use of interpreters (Article 15(3) recast Asylum Procedures Directive). Furthermore, and without prejudice to Article 84 of the Asylum Act that refers to the adequate training of all staff working with applicants and beneficiaries of international protection, the specific training requirement for interviews provided for in Article 4(3) <i>in fine</i> of the recast Asylum Procedures Directive was not transposed to the domestic order ('Persons interviewing applicants pursuant to this Directive shall also have acquired general knowledge of problems which could adversely affect the applicants' ability to be interviewed, such as indications that the applicant may have been tortured in the past.').
	Article 16 recast APD	Article 16 Asylum Act (personal interview)	With regard to the content of the personal interview, the national legislator did not transpose the final part of Article 16 of the recast Asylum Procedures Directive, establishing that the personal interview 'shall include the opportunity to give an explanation regarding elements which may be missing and/or any inconsistencies or contradictions in the applicant's statements.'

	Article 10 recast APD	Article 18 Asylum Act (analysis of the application – country of origin information)	While Article 18(2)(a) orders the national authorities to duly consider country of origin information in the analysis of applications, the domestic law does not fully transpose the requirements set out in Article 10(3)(b) of the recast Asylum Procedures Directive. Namely, it fails to state that the information must be precise and up-to-date. Even though the norm refers to different sources for such information (EASO, UNHCR and relevant human rights organisations) it does not clearly state that different sources must be consulted in each analysis. Furthermore, Article 18(2)(a) of the Asylum Act refers exclusively to the country of origin, as opposed to Article 10(3)(b) of the recast Directive that also refers to the use of information regarding transit countries whenever necessary.
	Articles 31(8) and 32 recast APD	Article 19 Asylum Act (accelerated procedures)	The wording of the Asylum Act does not seem to be fully in line with the recast Asylum Procedures Directive and with the applicable international standards as its literal application may lead not only to the accelerated processing but also to the automatic rejection of applications based on the listed grounds (e.g., a delay in making the application).
	Article 35 recast APD	Articles 2(1)(z) and 19-A(1)(c) Asylum Act (first country of asylum)	Neither Article 2(1)(z) of the Asylum Act, that defines the ‘first country of asylum’ concept, nor Article 19-A(1)(c) of the Asylum Act that provides for the corresponding inadmissibility clause, explicitly contain the safeguard of Article 35 of the recast Asylum Procedures Directive, entitling the applicant to challenge the application of the concept to their particular circumstances.
	Article 46(4) recast APD	Article 25(1) Asylum Act (time limits for appeal – border procedure)	Article 25(1) of the Asylum Act establishes a 4-day time limit for the appeal of a refusal (inadmissibility or merits) adopted within the context of a border procedure. While current practical implementation mitigates some of the negative consequences of such a reduced timeframe, this time limit is hardly compatible with the requirement for ‘reasonable time limits’ that do ‘not render such exercise impossible or excessively difficult’ provided for in Article 46(4) of the recast Asylum Procedures Directive.

	Article 24 recast APD (also article 22 recast RCD)	Articles 17-A and 77 Asylum Act (mechanisms for assessing vulnerability and special needs – procedural and reception)	The Asylum Act provides for the need to identify persons with special needs and the nature of such needs but no procedure or mechanism for such identification and assessment has been established so far at domestic level.
	Article 25(5) recast APD	Article 79 (6) and (7) Asylum Act (age assessment)	The Asylum Act does not contain the limitation on the use of medical examination for age assessment enshrined in the first part of Article 25(5) recast Asylum Procedures Directive: 'Member States may use medical examinations to determine the age of unaccompanied minors within the framework of the examination of an application for international protection where, following general statements or other relevant indications, Member States have doubts concerning the applicant's age'. Furthermore, the right to information of the unaccompanied children regarding the age assessment procedure established in Article 79(7) of the Asylum Act does not fully transpose all the requirements of Article 25(5)(a), in particular with regard to the methods used and to the consequences of results.
Directive 2013/33/EU Recast Reception Conditions Directive	Articles 8 and 9 recast RCD (also article 26 recast APD)	Article 26(1) Asylum Act (detention at the border)	Article 26(1) of the Asylum Act determines that asylum seekers that applied for asylum at the border remain in the international area of the (air)port while waiting for the decision without establishing further requirements (e.g., necessity and proportionality, individual assessment, alternatives to detention), in contravention with Articles 8 and 9 of the recast Reception Conditions Directive and with Article 26 of the recast Asylum Procedures Directive. It should be noted that further requirements to detention of asylum seekers are established in Article 35-A of the Asylum Act. It is our understanding that a correct application of Article 26(1) of the Asylum Act requires due regard for such requirements. Notwithstanding, in practice, asylum seekers that file their applications at the border are indeed systematically detained.

	Article 9(5) recast RCD	Article 35-B(1) Asylum Act (revision of detention)	Article 35-B(1) of the Asylum Act establishes that detention may be reviewed <i>ex officio</i> or upon request of the applicant if relevant circumstances or new information which may affect its lawfulness arise. This seems to fall short from the guarantees provided for in Article 9(5) of the recast Asylum Procedures Directive that establishes that revision should be conducted by a judicial authority and does not limit such revision to situations where new circumstances or information becomes available ('Detention shall be reviewed by a judicial authority at reasonable intervals of time, <i>ex officio</i> and/or at the request of the applicant concerned, in particular whenever it is of a prolonged duration, relevant circumstances arise or new information becomes available which may affect the lawfulness of detention').
	Article 14(2) recast APD	Article 53 Asylum Act (access to education)	The Asylum Act does not contain any reference to a maximum time limit with regard of access to education by children.
	Article 22 recast RCD (also article 24 recast APD)	Articles 17-A and 77 Asylum Act (mechanisms for assessing vulnerability and special needs – procedural and reception)	The Asylum Act provides for the need to identify persons with special needs and the nature of such needs but no procedure or mechanism for such identification and assessment has been established so far at domestic level.