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Asylum Information Database

Country Report: Portugal

CPR

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Acknowledgements & Methodology

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The information in this report is up-to-date as of 31 December 2016, 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 21 countries. This includes 18 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, SE, UK) and 3 non-EU countries (Serbia, Switzerland, Turkey) which is easily accessible to the media, researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. Furthermore the project 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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Epim European Programme for Integration and Migration

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ACM ALTO COMISSARIADO PARA AS MIGRAÇÕES

Table of Contents

Glossary & List of Abbreviations

ACM	High Commission for Migration | Alto Comissariado para as migrações
ACSS	Central Administration of the Health System I Administração Central do Sistema de Saúde
ANMP	National Association of Portuguese Municipalities I Associação Nacional de Municípios Portugueses
APF	Family Protection Association | Associação para o Planeamento da Família
APIC	Portuguese Association of Conference Interpreters | Associação Portuguesa de Intérpretes de Conferência
CA	Steering Commission I Comissão de Acompanhamento
CACR	Refugee Children Reception Centre | Centro 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 I 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 I Centro de Apoio às Vítimas de Tortura em Portugal
CHPL	Psychiatric Hospital Centre of Lisbon I Centro Hospitalar Psiquiátrico de Lisboa
CIT	Temporary Installation Centre | Centro de Instalação Temporária
CJEU	Court of Justice of the European Union
CLAIM	Local Support Centres for Migrant Integration | Centro Local de Apoio à Integração de Migrantes
CNIS	National Confederation of Solidarity Institutions | Confederação Nacional das Instituições de Solidariedade
CPR	Portuguese Refugee Council | Conselho Português para os Refugiados
CRC	Central Registrations Service I Conservatória dos Registos Centrais
CVP	Portuguese Red Cross | Cruz Vermelha Portuguesa
DGAL	Directorate General of Local Municipalities I Direcção-Geral das Autarquias Locais
DGE	Directorate General of Education I Direcção-Geral da Educação
DGEE	Directorate General of Education Institutions I Direcção-Geral dos Estabelecimentos Escolares
DGS	Directorate General for Health I Direcção-Geral da Saúde
DRC	Democratic Republic of Congo
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EDAL	European Database of Asylum Law
EPVA	Teams for the Prevention of Violence between Adults I Equipas para a Prevenção da Violência entre Adultos
GAR	Asylum and Refugee Cabinet | Gabinete de Asilo e Refugiados

GIP	Professional Insertion Office | Gabinete de Inserção Profissional
GTO	Technical Operative Group I Grupo Técnico Operativo
ICRC	International Committee of the Red Cross
IEFP	Employment and Professional Training Institute I Instituto do Emprego e Formação Profissional
IHRU	Institute for Housing and Urban Rehabilitation I Instituto da Habitação e da Reabilitação Urbana
INMLCF	National Institute of Legal Medicine and Forensic Science
IOM	International Organisation for Migration
ISS	Institute of Social Security I Instituto da Segurança Social
JRS	Jesuit Refugee Service
MdM	Doctors of the World | Médicos do Mundo
MoU	Memorandum of Understanding
NISS	Social Security Identification Number | Número de Identificação da Segurança Social
PAR	Refugee reception platform | Plataforma de Apoio aos Refugiados
RSI	Social Insertion Revenue I Rendimento Social de Inserção
SCML	Santa Casa da Misericórdia de Lisboa
SEF	Aliens and Borders Service | Serviço de Estrangeiros e Fronteiras
SGAI	General Secretariat of Internal Administration I Secretaria Geral da Administração Interna
STA	Supreme Administrative Court | Supremo Tribunal Administrativo
SNS	National Health Service I Serviço Nacional de Saúde
TCA	Central Administrative Tribunal | Tribunal Central Administrativo
UCAT	Antiterrorism Coordination Unit | Unidade de Coordenação Antiterrorismo
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 Aliens 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]

Applications and granting of protection status at first instance: 2016

	Applicants in 2016	Pending applications in 2016	Refugee status	Subsidiary protection	Rejection	Refugee rate	Sub. Prot. rate	Rejection rate
Total	1,469	858	104	267	:	:	:	:

Breakdown by countries of origin of the total numbers

Syria	433	300	30	29	0	50.8%	49.2%	0%
Eritrea	248	104	29	0	0	100%	0%	0%
Ukraine	142	99	4	172	7	2.2%	94%	3.8%
Iraq	107	75	0	12	0	0%	100%	0%
Guinea	52	0	3	1	5	33.3%	11.1%	55.6%
Congo	50	31	1	0	4	20%	0%	80%
DRC	43	27	0	0	1	0%	0%	100%
Senegal	26	1	0	0	2	0%	0%	100%
Pakistan	25	15	9	10	25	20.5%	22.7%	56.8%
Mali	24	3	0	0	2	0%	0%	100%

Source: SEF.

1 SEF, *Yearly Statistical Reports*, available at: http://sefstat.sef.pt/relatorios.aspx.

Gender/age breakdown of the total number of applicants: 2016

	Number	Percentage
Total number of applicants	1,469	
Men	984	67%
Women	485	33%
Children	384	26%
Unaccompanied children	Not available	Not available

Source: SEF.

Comparison between first instance and appeal decision rates: 2016
Statistics on appeals are not available.

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, transposing Directives 2004/83/EC and 2005/85/EC	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, transpondo para a ordem jurídica interna as Directivas n.os 2004/83/CE, do Conselho, de 29 de Abril, e 2005/85/CE, do Conselho, de 1 de Dezembro	Asylum Act	http://bit.ly/2npMl5T (PT)
Amended by: Act n. 26/2014 of 5 May 2014 amending Act n. 27/2008, transposing Directives 2011/95, 2013/32/EU and 2013/33/EU	Lei n.º 26/2014 de 5 de maio que procede à primeira alteração à Lei n.º 27/2008, de 30 de junho, que estabelece as condições e procedimentos de concessão de asilo ou proteção subsidiária e os estatutos de requerente de asilo, de refugiado e de proteção subsidiária, transpondo as Diretivas n.os 2011/95/UE, do Parlamento Europeu e do Conselho, de 13 de dezembro, 2013/32/UE, do Parlamento Europeu e do Conselho, de 26 de junho, e 2013/33/UE, do Parlamento Europeu e do Conselho, de 26 de junho		http://bit.ly/1jd3hcG (PT) http://bit.ly/2AfJ7sS (EN)
Act n. 23/2007 of 4 July 2007 on the legal status of entry, residence, departure and removal of foreigners on national territory	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	Aliens Act	https://goo.gl/9KBsS1 (PT)
Act n. 15/2002 of 22 February 2002 approving the Code of Procedure before the Administrative Tribunals	Lei n.º 15/2002 de 22 de fevereiro que aprova o Código de Processo nos Tribunais Administrativos	Administrative Court Procedure Code	http://bit.ly/2yekj3x (PT)
Act n. 13/2003 of 21 May 2003 establishing the Social Insertion Revenue	Lei n.º 13/2003, de 21 de maio que cria o rendimento social de inserção	RSI Act	http://bit.ly/2zyQuOc (PT)
Act n. 35/2014 of 20 June 2014 governing employment in public functions	Lei n.º 35/2014 de 20 de junho que a prova a Lei Geral do Trabalho em Funções Públicas		http://bit.ly/2B27JEC (PT)

Act n. 7/2009 of 12 February 2009 approving the Labour Code	Lei n.º 7/2009 de 12 de fevereiro que aprova a revisão do Código do Trabalho	Labour Code	http://goo.gl/8gcMW6 (PT)
Act n. 37/81 of 3 October 1981 approving the Act on Nationality	Lei n.º 37/81 de 3 de outubro de 1981 que aprova a Lei da Nacionalidade	Nationality Act	http://bit.ly/2jukiBm (PT)
Act n. 81/2014 of 19 December 2014 *Amended by:* 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 Lei n.º 32/2016 de 24 de agosto	Public Leasing Act	http://bit.ly/2ndGox8 (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
Law-Decree n. 252/2000 of 16 October 2000 Organisational structure of the Aliens and Borders Service	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	SEF Structure Law-Decree	http://goo.gl/F7KoBY (PT)
Law-Decree n. 4/2015 of 7 January 2015 Code of Administrative Procedure	Decreto-Lei n.º 4/2015 de 7 de janeiro que aprova o novo Código do Procedimento Administrativo	Administrative Procedure Code	http://bit.ly/2mmF8Hw (PT)
Law-Decree n. 464/80 of 13 October 1980 establishing new conditions of access and entitlement to social pension	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		http://bit.ly/2yqCxlG (PT)
Law-Decree 1/2016 of 6 January 2016 amending the level of equivalence for the determination of the Social Insertion Revenue (RSI)	Decreto-Lei n.º 1/2016, de 6 de janeiro que altera a escala de equivalência aplicável à determinação do montante do Rendimento Social de Inserção (RSI)		http://bit.ly/2zBpv46 (PT)
Law Decree n. 113/2011 of 29 November 2011 regulating access to National Health Service in respect to co-payments and special benefits	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		http://bit.ly/2iaqtL7 (PT)
Law-Decree n. 227/2005 of 28 December 2005 defining the framework of concession of	Decreto-Lei n.º 227/2005 de 28 de dezembro que define o novo regime de concessão de equivalência de habilitações		http://bit.ly/2zd71Ea (PT)

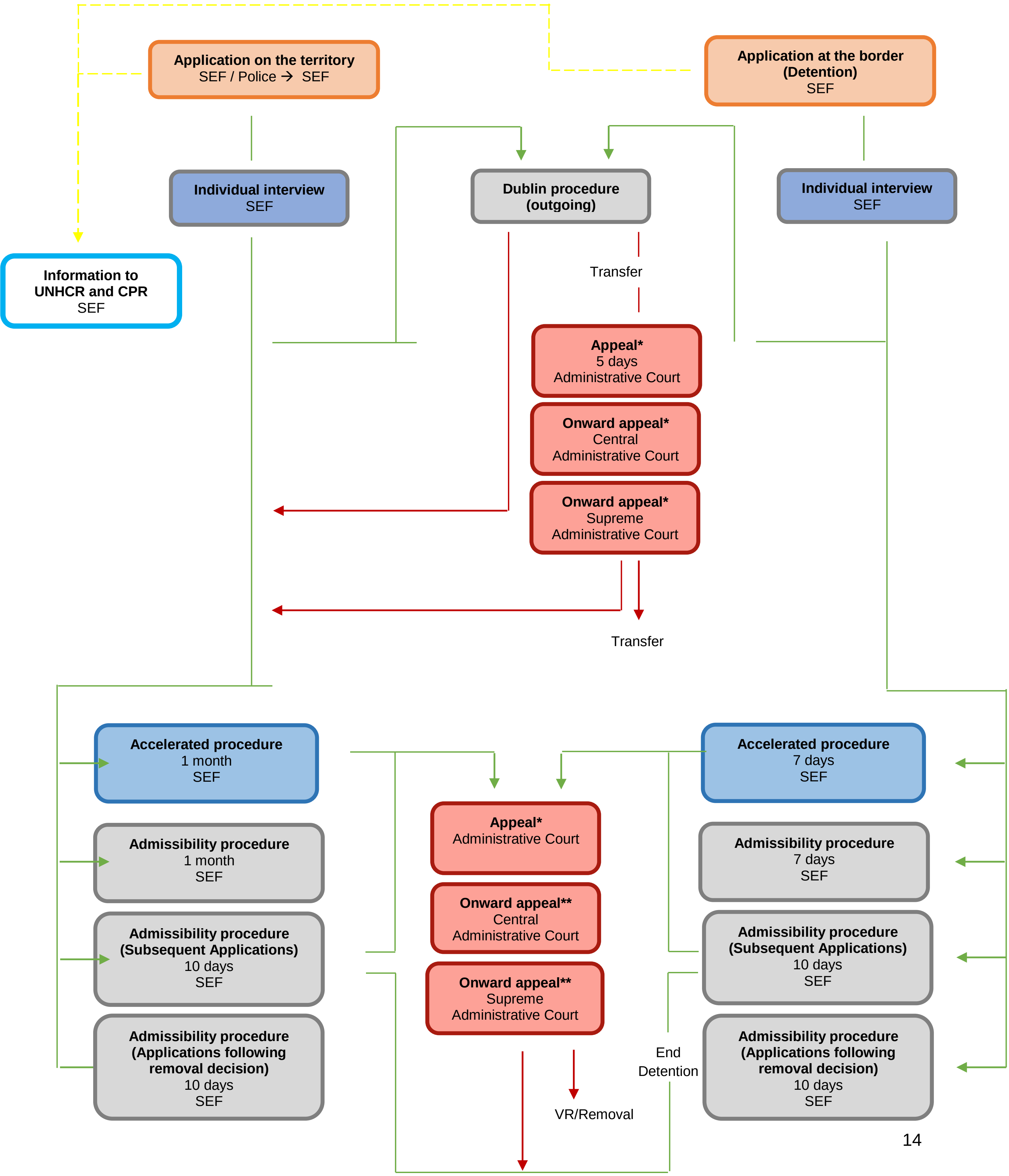
equivalence of foreign qualifications	estrangeiras dos ensinos básico e secundário		
Law-Decree n. 83/2000 of 11 May 2000 on the new regime for the issuance of passports	Decreto-Lei n.º 83/2000 de 11 de maio que aprova o novo regime legal da concessão e emissão dos passaportes	Travel Documents Order	http://bit.ly/2AjwA7G (PT)
Decision n. 10041-A/2015 of 3 September 2015 establishing the Working Group on the European Agenda on Migration	Despacho n.º 10041-A/2015 que cria um Grupo de Trabalho para a Agenda Europeia para as Migrações	European Agenda on Migration Working Group Order	http://bit.ly/1KtbCGk (PT)
Executive 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		http://bit.ly/2yylMRL (PT)
Executive 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 familia ao Serviço Nacional de Saúde		http://bit.ly/2zywnzF (PT)
Executive 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		http://bit.ly/2jfEMOc (PT)
Executive 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 respeitantes a vários países		http://bit.ly/2zZclyv (PT)
Regulatory Decree n. 237-A/2006 of 14 December 2006 approving the regulation of the Portuguese nationality	Decreto Regulamentar n.º 237-A/2006 de 14 de dezembro que aprova o regulamento da Nacionalidade Portuguesa	Portuguese Nationality Regulation	http://bit.ly/2nelr5o (PT)
Executive Order n. 176/2014 of 11 Septembe 2014	Portaria n.º 176/2014 de 11 de setembro	Nationality Language Assessment Test	http://bit.ly/2k5N2Ey (PT)

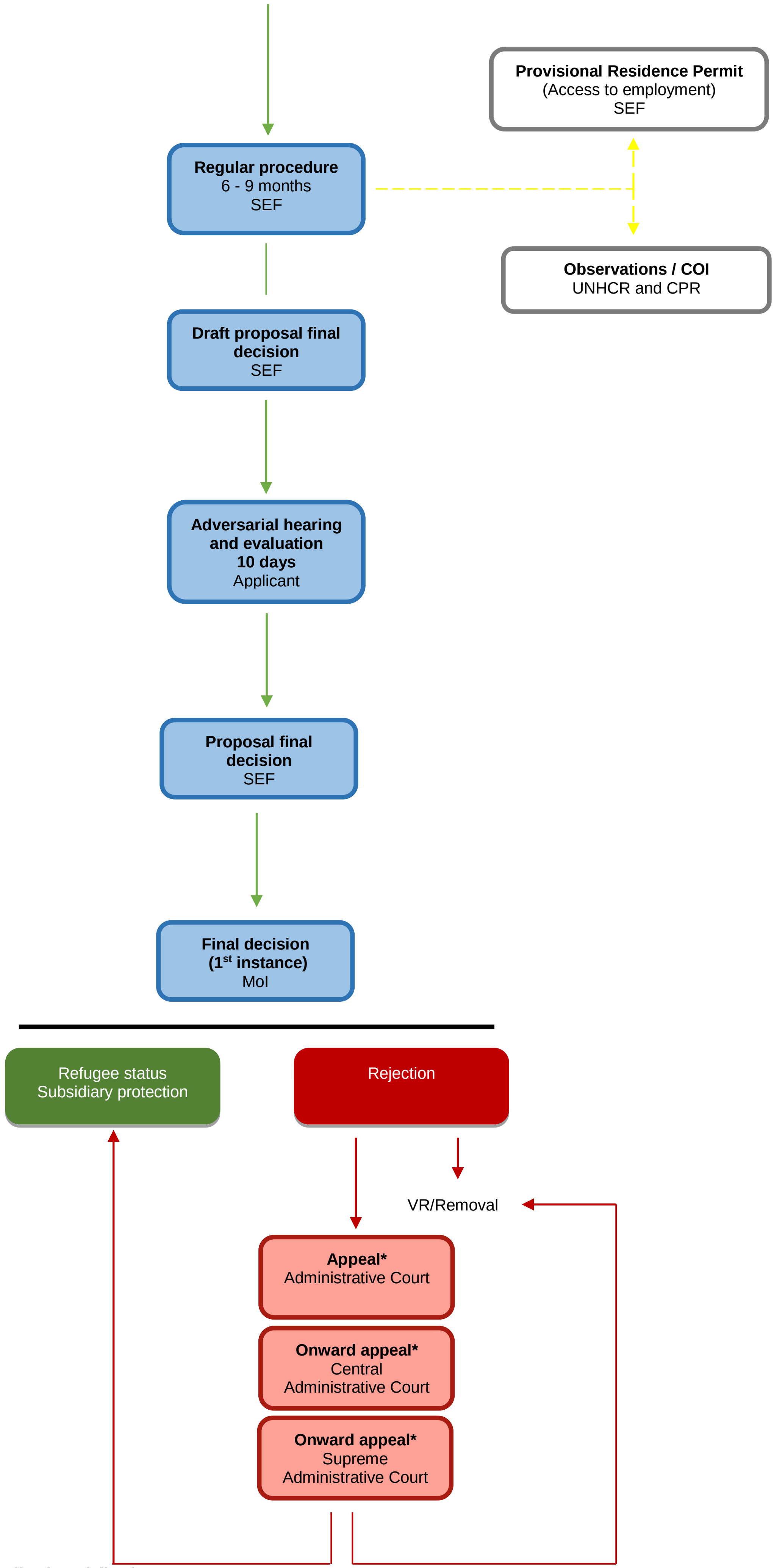
		Order	
Executive Order n. 302/2015 of 22 September 2015 Template refugee travel document *Amended by:* Executive Order n. 412/2015 of 27 November 2015	Portaria n.º 302/2015 de 22 de setembro, Modelo do título de viagem para os cidadãos estrangeiros residentes em Portugal na qualidade de refugiados Portaria n.º 412/2015 de 27 de novembro	Refugee Travel Document Order	http://bit.ly/1JmsAOR (PT) http://bit.ly/2ih7QIN (PT)
Executive Order n. 1262/2009 of 15 October 2009 approving the creation of Portuguse language courses for non native speakers and the rules pertaining to teaching methodologies and certitification. *Amended by*: Executive Order n.º 216-B/2012 of 18 July 2012	Portaria n.º 1262/2009 de 15 de outubro alterada pela Portaria 216-B/2012 de 18 de julho que cria os cursos de Português para Falantes de Outras Línguas, assim como as regras a que obedece a sua lecionação e certificação		https://goo.gl/16V8io (PT) https://goo.gl/NjrrTe (PT)

Asylum Procedure

A. General

1. Flow chart





***Suspensive**
**** Suspensive except applications following removal decision**

2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

- ❖ Regular procedure: ☒ Yes ☐ No
  - ▪ Prioritised examination:[2] ☒ Yes ☐ No
  - ▪ Fast-track processing:[3] ☒ Yes ☐ No
- ❖ Dublin procedure: ☒ Yes ☐ No
- ❖ Admissibility procedure: ☒ Yes ☐ No
- ❖ Border procedure: ☒ Yes ☐ No
- ❖ Accelerated procedure:[4] ☒ Yes ☐ No
- ❖ Other:

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)
Application ❖ At the border ❖ On the territory	Aliens and Borders Service	Serviço de Estrangeiros e Fronteiras (SEF)
Dublin	Aliens and Borders Service	Serviço de Estrangeiros e Fronteiras (SEF)
Refugee status determination	Aliens and Borders Service Secretary of State for Internal Affairs	Serviço de Estrangeiros e Fronteiras (SEF) Secretaria de Estado da Administração Interna
First appeal	Administrative Court of Lisbon Administrative and Fiscal Courts	Tribunal Administrativo de Círculo de Lisboa Tribunais Administrativos e Fiscais
Onward appeal	Central Administrative Courts Administrative Supreme Court	Tribunais Centrais Administrativos Supremo Tribunal Administrativo
Subsequent application	Aliens and Borders Service Secretary of State for Internal Administration	Serviço de Estrangeiros e Fronteiras (SEF) Secretaria de Estado da Administração Interna

4. Number of staff and nature of the first instance 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?
Aliens and Borders Service (SEF), Asylum and Refugee Cabinet (GAR)	11	Secretary of State for Internal Administration, Ministry of Internal Administration	☐ Yes ☒ No

Source: SEF.

[2] For applications likely to be well-founded or made by vulnerable applicants.
[3] Accelerating the processing of specific caseloads as part of the regular procedure.
[4] Labelled as "accelerated procedure" in national law.

The Asylum and Refugee Cabinet (GAR) of the Aliens and Borders Service (SEF) is composed of eight case officers who are responsible for the examination of asylum applications. Two additional officials are responsible for revising the files and/or proposals drafted by the case officers and one additional official is responsible for the final decisions.

5. Short overview of the asylum procedure

The Portuguese asylum procedure is a single procedure for both refugee status and subsidiary protection.[5] There are different procedures 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; or is presented at a national border.

Anyone who irregularly enters or remains on Portuguese national territory must present his or her request to the SEF or to any other police authority as soon as possible, orally or in writing. In the latter case, the police authority has 48 hours to inform the SEF of the application.[6] The SEF is required to 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.[7] The SEF is required to register the asylum application within 3 days of presentation and to issue the applicant a certificate of the asylum application within 3 days after registration.[8]

Except for special cases e.g. applicants lacking legal capacity,[9] all asylum applicants 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[10] and at the border.[11] Following the interview, the SEF produces a document narrating the essential facts of the application and in the case of applications on the territory (with the exception of subsequent applications and applications following a removal decision) the applicant has 5 days to seek revision of the narrative.[12]

Admissibility

With the exception of Dublin decisions, the National Director of the SEF has 30 days to make a decision on the admissibility of applications on the territory,[13] (10 days for subsequent applications and applications following a removal order)[14] as opposed to 7 days for applications at the border. If the Director denies admissibility on the territory, the asylum seeker has 8 days to appeal the decision before the Administrative Court with suspensive effect,[15] with the exception of 4 days for inadmissible subsequent applications and applications following a removal order,[16] or, failing an appeal, 20 days to leave the country.[17] In the case of border procedures, the time limit to appeal is reduced to 4 days.[18] In the particular case of a Dublin decision, the deadlines for the admissibility decision is suspended pending a reply from the requested Member State.[19] Upon notification of a “take charge” / “take back” decision from the SEF, the applicant has 5 days to appeal before the Administrative Court with suspensive effect.[20]

5 Article 10(2) Asylum Act.
6 Articles 13(1) and (2) and 19(1)(d) Asylum Act.
7 Article 13(3) Asylum Act.
8 Articles 13(7) and 14(1) Asylum Act.
9 Articles 16(5) Asylum Act.
10 Article 16 Asylum Act.
11 Article 24(2) and (3) Asylum Act.
12 Article 17 Asylum Act.
13 Article 20(1) Asylum Act.
14 Articles 33(4) and 33-A(5) Asylum Act.
15 Articles 22(1) Asylum Act.
16 Articles 33(6) and 33-A(6) Asylum Act.
17 Articles 21(2) and (3) and 33(9) Asylum Act.
18 Article 25(1) Asylum Act.
19 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.
20 Article 37(4) Asylum Act.

Regular procedure

As soon as an asylum application is deemed admissible,[21] it proceeds to the eligibility evaluation.[22] In accordance with the law, this stage lasts up to 6 months but can be extended to 9 months in cases of particular complexity.[23] The asylum seeker receives a provisional residence permit valid for 6 months renewable that grants access to education and employment.[24] During this phase, the SEF conducts due diligence, evaluating all relevant facts to prepare a reasoned decision. This is generally done on the basis of the personal interview conducted during the admissibility stage of the procedure given that this interview also encompasses the merits of the application.[25] UNHCR and CPR as its representative are entitled to present their observations to the SEF at any time during the procedure in accordance with Article 35 of the 1951 Refugee Convention.[26] Upon notification of the proposal for a final decision, the applicant has 10 days to evaluate the SEF's reasoning and may produce documentation to that effect.[27] The SEF then sends its recommendation to the Director, who has 10 days to present it to the Ministry of Internal Administration that in turn has 8 days to make a final decision.[28] In the event of a negative decision, the applicant may appeal with suspensive effect to the Administrative Court within 15 days,[29] voluntarily depart from national territory within 30 days or face a removal procedure.[30]

Accelerated procedure

The law provides for an accelerated procedure regarding applications deemed unfounded on certain grounds. These grounds include, among others, subsequent applications that are not deemed inadmissible and applications following a removal procedure.[31] While these procedures provide for the basic principles and guarantees of the regular procedure,[32] they lay down time limits for the adoption of a decision at first instance regarding the merits of the application that are significantly shorter than those of the regular procedure.[33] In addition, it entails reduced guarantees such as exclusion from the right of the applicant to seek revision of the narrative of his or her personal interview,[34] or to be notified and evaluate the SEF's reasoning of the proposal for a final decision, as well as shorter appeal deadlines.[35]

Border procedure

The law provides for a special procedure regarding applications made at a national border.[36] While this procedure provides for the basic principles and guarantees of the regular procedure,[37] it lays down a

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

22 Article 21(1) Asylum Act.

23 Article 28(2) Asylum Act.

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

25 Article 28(1) Asylum Act.

26 Article 28(5) Asylum Act.

27 Article 29(2) Asylum Act.

28 Article 29(4) and (5) Asylum Act.

29 Article 30(1) Asylum Act.

30 Article 31 Asylum Act.

31 Article 19 Asylum Act.

32 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.

33 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).

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

35 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).

36 Article 23(1) Asylum Act.

37 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.

significantly shorter time limit for the adoption of a decision regarding admissibility or the grounds for the accelerated procedure.[38] Additionally, the border procedure is characterised by a shorter appeal deadline of 4 days before the Administrative Court,[39] as well as reduced guarantees such as exclusion from the right of the applicant to seek revision of the narrative of his or her personal interview.[40] Asylum seekers are detained during the border procedure.[41]

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

The Portuguese authorities are bound by the duty to protect asylum seekers and beneficiaries of international protection from *refoulement*.[42] National case law has reaffirmed on different occasions the protection against *refoulement* both on national territory and at the border, regardless of the migrant's status and in cases of either direct or indirect exposure to *refoulement*.[43] 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 and only has access to applicants after the registration of their asylum claim and once the SEF has conducted the individual interview, which constitutes an additional risk factor. However, it receives at times third party contacts informing it of 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 the SEF to CPR in the following days.

Notwithstanding this, in 2014 CPR carried out research on access to protection and the principle of *non-refoulement* at the borders and in particular at **Lisbon Airport**.[44] While no cases of actual push backs at the border were identified, 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 the SEF in Guinea Bissau.

Regarding migrants refused entry at border points, shortcomings with the potential to increase the risk of *refoulement* 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 migrants and lack of training to immigration staff on *non-refoulement* obligations.

While the information available does not substantiate ongoing instances of extraterritorial *refoulement*, there have not been significant changes regarding shortcomings for migrants refused entry at the border since then, notably regarding access to free legal assistance and an effective remedy. These risk factors are aggravated by the absence of border monitoring by CPR and/or other independent organisations and delays in accessing asylum seekers. (see Border Procedure).

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[38] 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.
[39] Article 25(1) Asylum Act.
[40] Article 24 Asylum Act.
[41] Articles 26(1) and 35-A(3)(a) Asylum Act.
[42] Articles 2(aa), 47 and 65 Asylum Act; Articles 31(6), 40(4) and 143 Aliens Act.
[43] See e.g. Administrative Court of Lisbon, Decisions No 1480/12.7BELSB and No 2141/10.7BELSB.
[44] CPR, *Access to Protection: a Human Right, country report, Portugal*, 2014, available at: http://bit.ly/2xA2aiV.

2. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for asylum seekers to lodge their application?
☐ Yes ☒ No
2. If so, what is the time limit for lodging an application?

While the asylum application can be presented either to the SEF or to any other police authority that must then refer the claim to the SEF, responsibility to register asylum claims lies solely with the SEF.[45] In accordance with the SEF's internal organisation,[46] the responsibility for organising asylum files (including registration) lies with its Refugee and Asylum Cabinet (GAR). While the SEF/GAR is required to inform CPR as an organisation working on UNHCR's behalf of the registration of individual asylum applications, only 1,394 out of 1,469 individual applications registered in 2016 were communicated to CPR.

In accordance with the law, anyone who irregularly enters Portuguese national territory or is refused entry at the border must present his or her request to the SEF or to any other police authority as soon as possible. Despite not laying down 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.[47] However, this provision has rarely, if ever, been applied in practice. It should also be noted that failure to apply for asylum at the earliest possible time, unless the applicant can demonstrate good reason for not having done so, constitutes a ground for not granting the benefit of the doubt.[48] This provision has been applied by the SEF in practice. Additionally, it should be noted that persons refused entry at the border are liable to immediate removal to the point of their departure,[49] meaning that they are required to present their asylum application immediately in practice.

Upon presentation of the application, the asylum seeker is required to fill out a preliminary form that among others includes information on identification, itinerary, grounds of the asylum application, supporting evidence and witnesses. The preliminary form is available in Portuguese, English and French, however according to CPR's experience asylum seekers are not systematically provided quality interpretation services at this stage of the procedure, resulting in the collection of insufficient and poor quality information.

The SEF is required to register the asylum application within 3 days of presentation and to issue the applicant a certificate of the asylum application within 3 days of registration.[50] Despite isolated delays in obtaining appointments at SEF/GAR for registration, or delays related to the registration of asylum applications presented in the SEF's regional representations, CPR has not encountered systemic or serious problems regarding the registration of applications as opposed to some instances of delayed issuance and extension of the certificates of the asylum application.

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45 Article 13(7) Asylum Act.
46 Article 17 Law-Decree 252/2000.
47 Article 19(1)(d) Asylum Act.
48 Article 18(4)(d) Asylum Act.
49 Article 41(1) Aliens Act.
50 Articles 13(7) and 14(1) Asylum Act.

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? ☒ Yes ☐ No

3. Backlog of pending cases at first instance as of 31 December 2016: 858

In accordance with the Asylum Act and the SEF's internal organisation,[51] the responsibility for examining applications and drafting first instance decisions lies with SEF/GAR, while the decision is formally adopted by the Secretary of State for Internal Administration within the Ministry of Internal Administration. This service is a specialised authority in the field of asylum whose competences are restricted to the following asylum-related tasks: (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 as well as renew and extend the validity of such documents; (vii) to act as contact point of the European Asylum Support Office (EASO); and (viii) to provide for the strategic planning of EASO-related activities.

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 cases of particular complexity.[52] The Asylum Act does not provide for specific consequences in case of failure to meet the time limit and in practice 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.[53]

The significant increase in the number of spontaneously arriving and relocated asylum seekers, leading to an increase in asylum applications from 447 in 2014 to 896 in 2015 and 1,469 in 2016, has led SEF/GAR to recruit additional staff. While the SEF indicates that the average duration of the asylum procedure was 6 months, the information collected by CPR on the basis of the data provided by the SEF indicates that there are cases where the decision can take between 12 and 18 months.

1.2. Prioritised examination and fast-track processing

According to the SEF, while there are no precise statistics available, vulnerable applicants such as pregnant women, women accompanied by young children, elderly or those in need of medical care and unaccompanied children are processed in a prioritised manner. The statistical information collected by CPR for 2016 on the basis of the information received from the SEF does not indicate a clear trend in this regard, as the average duration of the first instance procedure for vulnerable asylum seekers such as unaccompanied children does not seem to clearly differ from that of other caseloads.

[51] Article 29(1) Asylum Act; Article 17 Law-Decree 252/2000.
[52] Article 28(2) Asylum Act.
[53] Article 129 Law-Decree 4/2015; Article 66(1) Administrative Court Procedure Code.

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

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,[54] except for cases where:

1. The evidence already available allows for a positive decision; or
2. The applicant lacks legal capacity due to long-lasting reasons beyond his or her control.[55] In this case, the SEF is required to offer the applicant or his or her dependant(s) the opportunity to communicate relevant information by other means.[56]

The asylum seeker is entitled to give his or her statement in his or her preferred language or in any other language that he or she understands and in which he or she is able to communicate clearly.[57] To that end, he or she is entitled to the assistance of an interpreter when applying for asylum and throughout the asylum procedure, if needed.[58] The asylum seeker can also be assisted by a lawyer but the absence thereof does not preclude the SEF from conducting the interview.[59]

In practice, all asylum seekers undergo either a Dublin: Personal Interview or an interview that addresses the remaining inadmissibility grounds and the merits of the application. The interview is generally conducted by SEF/GAR, although interviews are at times conducted by the SEF's regional representations in cases of asylum applications made in more remote locations. Such interviews are conducted on the basis of a questionnaire prepared by SEF/GAR. According to CPR's observations, the interviews conducted by the SEF's regional representations tend to be less technically accurate and sometimes fail to adequately clarify material facts of the claim.

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. While the interpreters are bound by a legal duty of confidentiality, there is no agreed code of conduct used by the SEF. In 2015, CPR conducted training for interpreters in partnership with the Portuguese Association of Conference Interpreters (APIC) focusing on technical aspects of interpretation and on asylum law, but there is a need for ongoing training. In the case of rarer languages – e.g. Tigrinya, Pashto, Bambara, Kurdish and to a lesser extent Arabic – securing interpreters with an adequate command of the target language remains very challenging, including in the framework of Relocation.

The Asylum Act does not provide for the audio and/or video recording of the interview or for conducting interviews and/or interpretation through video-conferencing, and the CPR is not aware of its use in practice during first or second instance procedures.

The SEF produces a written report narrating the most important elements raised during the interview. The report is immediately provided to the applicant who has 5 days to seek revision of the narrative.[60]

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54 Article 16(1), (2) and (3) Asylum Act.
55 Article 16(5) Asylum Act.
56 Article 16(6) Asylum Act.
57 Article 16(1) Asylum Act.
58 Article 49(1)(d) Asylum Act.
59 Article 49(7) Asylum Act.
60 Article 17 Asylum Act.

CPR provides systematic legal assistance to asylum seekers at this stage, with the assistance of interpreters, for the purpose of reviewing and submitting comments / corrections to the report of SEF/GAR. Given that the written report is drafted during the interview, the case officer is under significant time pressure to complete both the interview and the report and this generally results in the need for many comments and corrections by the asylum seeker.

1.4. Appeal

Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?
   ☒ Yes ☐ No
   - ❖ If yes, is it ☒ Judicial ☐ Administrative
   - ❖ If yes, is it automatically suspensive ☒ Yes ☐ No

2. Average processing time for the appeal body to make a decision: 4 months

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.[61] The asylum seeker has 15 days to lodge the appeal, which is automatically suspensive.[62]

Administrative Courts have a review competence which allows them to either: (1) confirm the negative decision of the first instance decision body; (2) annul the decision and refer the case back to the first instance decision body with guidance on applicable standards;[63] or (3) overturn it by granting refugee or subsidiary protection status.[64]

The Asylum Act qualifies the judicial review as urgent,[65] and provides for a simplified judicial process with reduced formalities and time limits with the objective of shortening the duration of the judicial review.[66]

According to the SEF, the average processing time for the reviewing body to make a decision in 2016 was 4 months, although this information does not seem to make a clear distinction between appeals pertaining to the regular procedure and the remaining procedures. The information collected by CPR for 2016 and 2017 regarding the duration of judicial reviews of first instance decisions in the regular procedure, albeit very limited, concurs with this general assessment with a total of 8 reviews all being decided under 2 and half 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 procedure that provides for the hearing of the parties,[67] although this is rarely used in practice by lawyers as procedures before the Administrative Court tend to be formalistic and essentially written. As a general rule, the hearing of the appeal body is public but the judge may rule for the need of a private audience based on the need to protect the dignity of the individual or the smooth operation of the procedure.[68] Only the rulings of second instance Administrative Courts (*Tribunal Central Administrativo*, TCA) and the Supreme Administrative Court (*Supremo Tribunal Administrativo*, STA) are systematically published.[69]

In practice, and without prejudice to issues such as the poor quality of Legal Assistance and language barriers that have an impact on the quality and effectiveness of appeals, CPR is not aware of systemic

61 Article 30(1) Asylum Act; Article 95(3) Administrative Court Procedure Code.
62 Article 30(1) Asylum Act.
63 Article 71(2) Administrative Court Procedure Code. 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.
64 Article 71(1) Administrative Court Procedure Code.
65 Article 84 Asylum Act.
66 Article 30(2) Asylum Act; Article 110 Administrative Court Procedure Code.
67 Article 90(2) Administrative Court Procedure Code; Article 466 Act 41/2013.
68 Article 91(2) Administrative Court Procedure Code; Article 606 Act 41/2013.
69 Decisions are available at: http://www.dgsi.pt/.

or relevant obstacles faced by asylum seekers to appealing a first instance decision in the regular procedure.

According to the SEF, in 2016 there were a total 259 appeals lodged against negative decisions on asylum applications and 201 court rulings on those appeals, but no statistics were made available regarding the outcome of the appeals. It should be noted that this information does not seem to make a clear distinction between appeals pertaining to the regular procedure and the remaining procedures. The information collected by CPR for 2016 and 2017 regarding the outcome of judicial reviews of first instance decisions in the regular procedure, albeit very limited, indicates a very poor success rate. In this regard, it must be acknowledged that the quality of many appeals submitted is often poor, given that very few lawyers have any relevant expertise in the field.

Onward appeal

In case of rejection of the appeal, onward appeals are possible before the TCA, consisting of a full judicial review of relevant facts and points of law,[70] with suspensive effect.[71] Furthermore, the law provides for an additional appeal with suspensive effect before the 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.[72] The STA make its own assessment and decision on the facts of the case.[73] In both cases the asylum seeker has 15 days to lodge the appeal.[74]

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.[75]

Legal assistance at first instance

The Asylum Act in particular 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.[76] Such legal assistance is to be provided without restrictions by a public or private non-governmental organisation in line with a Memorandum of Understanding (MoU).[77]

Furthermore, under the Asylum Act, UNHCR and CPR as an organisation working on its behalf must be informed of all asylum applications in Portugal and are entitled to personally contact all asylum seekers irrespective of the place of application to provide information regarding the asylum procedure and the

70 Article 149(1) Administrative Court Procedure Code; Article 31(3) Act 13/2002.
71 Article 143(1) Administrative Court Procedure Code.
72 Articles 143(1) and 150(1) Administrative Court Procedure Code.
73 Article 150(3) Administrative Court Procedure Code.
74 Article 147 Administrative Court Procedure Code.
75 Article 20(1) Constitution.
76 Article 49(1)(e) Asylum Act.
77 *Ibid*.

intervention of UNHCR in the procedure that is dependent on the consent of the applicant.[78] These organisations are also entitled to be informed of key developments in the asylum procedure upon consent of the applicant,[79] and to present their observations at any time during the procedure pursuant to Article 35 of the 1951 Refugee Convention.[80]

In practice, CPR provides free legal assistance to spontaneously arriving asylum seekers during the first instance regular procedure on the basis of MoUs with the Ministry of Internal Administration and UNHCR. The legal assistance provided by CPR at this stage includes:

- 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 with the determining authority;
- Providing the 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 for specific legal assistance to unaccompanied asylum-seeking children who benefit from the presence of one of its legal officers during the personal interview with the SEF, as well as legal information and assistance in the framework of legal representation and protection procedures before the Family and Juvenile Court.[81]

In the case of relocated asylum seekers, even though CPR establishes contact with applicants regardless of their location to provide legal information and assistance as necessary, support in practice has been focused on assisting Syrian nationals who qualify to obtain refugee status rather than subsidiary protection and with information and assistance on Family Reunification.

CPR provided support to 553 spontaneously arriving asylum seekers in 2016 (about 80% of the total number of spontaneous applicants), including:

- Conducting refugee status determination interviews for 289 asylum seekers;
- Submitting comments / corrections to the report narrating the most important elements of their interview with the SEF in 229 cases;
- Accompanying 14 unaccompanied children in their interview with the SEF;
- Providing the SEF with observation on applicable legal standards and COI for 70 asylum seekers;
- Providing assistance in accessing free legal aid for appealing a first instance negative decision in the regular procedure in 39 applications;
- Assisting 138 lawyers in preparing appeals with relevant standards and COI.

However, the significant increase in asylum applications, compounded by the arrivals of asylum seekers through Relocation, has put a severe strain on CPR's capacities and resulted in corresponding gaps in the provision of legal information and assistance during at first instance, particularly regarding asylum seekers placed in detention or private accommodation in more remote locations.

It should be noted that there are other organisations that also provide legal information and assistance to asylum seekers during the first instance of the regular procedure such as the Jesuit Refugee Service (JRS) Portugal, the National Confederation of Solidarity Institutions (CNIS) for unaccompanied asylum-seeking children and to a lesser extent the High Commission for Migration (ACM) through their Local

[78] Article 13(3) Asylum Act. See also Article 33(3) Asylum Act concerning subsequent applications.

[79] Article 17(3): 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.

[80] Article 28(5) Asylum Act.

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

Support Centres for Migrants Integration (*Centro Local de Apoio à Integração de Migrantes*, CLAIM) albeit in a limited number of cases and mostly focused on integration.

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.[82] The legal framework of free legal aid provides for a "means assessment" on the basis of the household income,[83] as only applicants who do not hold sufficient income are entitled to free or more favourable conditions to access legal aid.[84] The application is submitted to the Institute of Social Security (*Instituto da Segurança Social*, ISS) that conducts the means assessment[85] and refers successful applications to the Portuguese Bar Association (*Ordem dos Advogados*) that appoints a lawyer,[86] on the basis of a random / automatic selection procedure.[87] The sole responsibility for organising the selection lies with the Portuguese Bar Association but such procedure should however ensure the quality of the legal aid provided.[88]

It should be noted that national legislation provides for a "merits test" to be conducted by the appointed lawyer according to which free legal assistance can be refused on the basis that the appeal is likely to be unsuccessful. In that case the free legal aid lawyer can excuse him or herself from the case and ultimately the Portuguese Bar Association can choose not to appoint a replacement.[89] While the average duration of this procedure is around 1-2 months, the law provides for the suspension of the time limit for the appeal upon presentation of the free legal aid application and until the free legal aid appointed lawyer submits the judicial appeal.[90]

According to the SEF, the total number of requests for legal assistance by asylum applicants during the first instance procedure in 2016 was 259 but these statistics are related to legal assistance at appeal stage and do not offer a breakdown of the total number of requests by type of procedure concerned.

In general asylum seekers in the regular procedure enjoy unhindered access to free legal aid at appeal stage as the practical implementation of potential bottlenecks such as the "means test" conducted by ISS or the "merits test" conducted by free legal aid appointed lawyers have not resulted in a significant number of refusals. In the case of the "means test" conducted by the ISS, the fact that asylum seekers admitted to the regular procedure are issued a provisional residence permit and are therefore entitled to access the labour market (see Access to the Labour Market) has at times resulted in asylum applicants having a level of income that excludes them from free legal aid. In this case, given the limited levels of income, they are still offered more favourable conditions to access legal aid such as instalments that can however discourage them from applying.

A more significant 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 on the basis of preferred areas of legal assistance chosen beforehand by the appointed lawyers.[91] In general, however, appointed lawyers are not trained in asylum law and have limited experience in this particular field of law. Additional challenges include the absence of an easily accessible interpretation service, which hinders the communication between the lawyer and the client during the preparation stage of the appeal; the ACM's translation hotline can constitute a useful tool in

82 Article 49(1)(f) Asylum Act.
83 Act 34/2004; Executive Order 10/2008.
84 Article 8-A and Annex Act 34/2004.
85 Article 22 Act 34/2004.
86 Article 30 Act 34/2004.
87 Article 2(1) Executive Order 10/2008.
88 Article 10(2) and (3) Executive Order 10/2008.
89 Article 34(5) Act 34/2004.
90 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.
91 Article 3(3)(c) Regulation of the Bar Association 330-A/2008 of 24 June 2008.

this regard but is insufficiently used by lawyers according to CPR's experience.[92] 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.[93] This is an additional obstacle to effective legal representation at this stage.

2. Dublin

2.1. General

Dublin statistics: 2016

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	138	5	**Total**	579	81
Germany	37	3	France	322	24
Italy	14	1	Germany	80	15
Belgium	13	1	Belgium	70	8

Source: SEF.

According to information provided by the SEF, the breakdown of outgoing Dublin requests in 2016 per criterion was as follows:

Outgoing and incoming Dublin requests by criterion: 2016		
Dublin III Regulation criterion	Outgoing requests	Incoming requests
Family provisions: Articles 8-11	3	3
Documentation: Article 12	42	414
Irregular entry: Article 13	2	0
Visa-waived entry:	0	1
Dependent persons clause: Article 16	0	0
Humanitarian clause: Articles 17(2)	1	2
"Take back": Article 18(1)(b)	66	122
"Take back": Article 18(1)(c)	1	1
"Take back": Article 18(1)(d)	23	36
Total outgoing requests	**138**	**579**

Source: SEF.

Furthermore, the SEF's statistics show that there were a total of 28 outgoing and 47 incoming information requests in accordance with Article 34 of the Dublin Regulation.

Application of the Dublin criteria

The Asylum Act makes a formal reference to the criteria enshrined in the Dublin III Regulation for determining the responsible Member State.[94] However, CPR is unaware of any additional formal guidelines from the SEF regarding the practical implementation of those criteria.

92 ACM's interpretation hotline relies on a database of 58 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 17:00. Additional information, including the list of languages covered, is available at http://bit.ly/2A4Ekga.

93 Article 8(3) Executive Order 10/2008.

94 Article 37(1) Asylum Act.

Empirical evidence of the implementation of the Dublin criteria pertaining to family unity is also scarce given the very limited number of incoming or outgoing requests pursuant to responsibility criteria provided in Articles 8-11 of the Regulation. In 2016 there were only 3 outgoing and 3 incoming "take charge" requests under Article 8 and, according to CPR, which provides legal and social assistance to unaccompanied children in Dublin procedures, there were no actual incoming or outgoing transfers during this period.

In the very few instances where CPR has contacted the SEF regarding the potential application of family unity criteria, in particular Article 8 regarding unaccompanied children under its care, evidence and information required from the SEF for applying those provisions have included identification documents, address and contacts of relatives residing in other EU Member States. It should be noted that in general such contacts did not result in the outgoing transfer of the unaccompanied children that will generally have absconded prior to any relevant development in the procedure.

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 are unclear and no specific statistics are available on their use, except for the number of outgoing and incoming take charge requests under the "humanitarian clause".[95]

Regarding the "sovereignty clause", there have been no transfer decisions to Greece since the *M.S.S. v. Belgium and Greece* judgment of the European Court of Human Rights (ECtHR) with the sovereignty clause being applied in potential transfer cases to Greece assisted by CPR during this period. However, in 2016 the SEF issued transfer decisions to countries such as Bulgaria (1 decision in 2016, but no transfer decisions in 2017) and Hungary (6 transfer decisions in 2016, only one in the first eight months of 2017) without any relevant reasoning pertaining to possible risks of *refoulement*, indicating that detention and reception conditions, guarantees in the asylum procedure and access to an effective remedy in the responsible State are not consistently taken into consideration when deciding whether or not to apply the "sovereignty clause".

Furthermore, on the interpretation "sovereignty clause", it should also be noted that in 2015 the SEF refused to take responsibility for certain asylum seekers of Ukrainian nationality who had relevant family ties in Portugal and/or prior periods of legal residence in Portugal under the Aliens Act. Despite requests from CPR in individual cases for the application of the sovereignty clause,[96] most requests were not taken into consideration, probably given the risks of creating a perceived pull factor in light of the significant Ukrainian community residing in Portugal.

2.2. Procedure

Indicators: Dublin: Procedure

1. On average, how long does a transfer take after the responsible Member State has accepted responsibility? 1-6 months

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 the SEF shall make a "take charge" or "take back" request to the competent authorities of the relevant Member State.[97]

[95] According to the SEF, in 2016 there was one outgoing take charge request and one incoming take charge request pursuant to Article 17(2) of the Regulation.

[96] In 2015 CPR made 8 formal requests in individual asylum files and additionally informed the SEF of a significant number of other asylum applicants who were in similar circumstances for the purposes of considering the application of the sovereignty clause.

[97] Articles 36 and 37(1) Asylum Act.

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,[98] the consequences of an asylum seeker's refusal to comply with the obligation to be fingerprinted[99] are limited to the application of an Accelerated Procedure.[100] 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. Among those who benefit from CPR's legal assistance, instances of accelerated procedures due to a refusal to be fingerprinted are a very rare (to non-existent) event.

In practice, the 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 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 individual interview with the SEF the asylum seeker is also asked to clarify relevant Dublin-related issues such as his or her identity and nationality, travel documents, visas and travel arrangements, itinerary and transportation to Portugal, and prior asylum applications. This information can eventually lead to a Dublin procedure that is preliminary to the assessment of the application and, once initiated, suspends the applicable time limits for the issuance of a decision on the (other) inadmissibility grounds or the merits of the application.[101]

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.[102] CPR has no indication that this obligation is systematically implemented in practice or that the common information leaflet set out in Article 4(3) of the Dublin III Regulation is systematically distributed. The information offered by the SEF regarding the implementation of the Dublin Regulation is contained in a leaflet that mentions the possibility of a “take charge” request and applicable time limits.[103] The possibility of a “take charge” request as well as a waiver for sharing information under Article 34 of the Regulation is also included in the document narrating the individual interview that is signed and handed out to the asylum applicant. In cases where at the time of the individual interview there are relevant indicators that warrant a Dublin procedure, the SEF may give the applicant the opportunity at that point to raise any relevant objections to the transfer that should be considered in the procedure.

Asylum seekers are systematically informed in writing of the request made to another Member State, the corresponding supporting evidence and the reply of that Member State but only at the time of written notification of the actual transfer decision.[104]

Individualised guarantees

The SEF does not seek individualised guarantees 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.[105] In the case of transfer decisions issued in 2016 to countries such as Bulgaria,[106] Hungary,[107] or Italy,[108] the reasoning bore no reference to possible risks of ill-treatment in the responsible State, with some decisions being issued on the basis of the absence of a timely response from the requested Member State. CPR has no indication that such guarantees are sought

98 Article 35-A(3)(c) Asylum Act.
99 Article 15(1)(e) Asylum Act.
100 Article 19(1)(j) Asylum Act.
101 Article 39 Asylum Act.
102 Article 49(1)(b) Asylum Act.
103 SEF, *Guia do requerente asilo*, available in Portuguese at: http://bit.ly/2hpa3xZ.
104 Article 37(2) Asylum Act.
105 ECtHR, *Tarakhel v. Switzerland*, Application No 29217/12, Judgment of 4 November 2014.
106 According to the information available to CPR, in 2016 the SEF issued 1 transfer decision to Bulgaria.
107 According to the information available to CPR, in 2016 the SEF issued 6 transfer decisions to Hungary.
108 According to the information available to CPR, in 2016 the SEF issued 4 transfer decisions to Italy.

following the notification of the transfer decision / prior to the transfer of the asylum applicant to the responsible Member State.

It should be noted that this practice is supported by the case law of Administrative Courts, according to which (in the absence of incorrect application of the Dublin criteria) systemic deficiencies in the asylum system of the requested Member State remain the only situation where the authorities' compliance with the Dublin Regulation may be challenged, as opposed to capacity shortages of asylum systems in particular areas and in light of the particular needs of the applicant.[109]

Transfers

While the law provides for the detention of asylum seekers subject to the Dublin procedure,[110] this provision is not implemented in practice and CPR is unaware of detentions on this ground.

In accordance with the law, asylum seekers are entitled to a standard *laissez-passer* upon notification in writing of the transfer decision.[111] However, given the high rate of appeals, such a document is usually not issued at this point in time. According to the information available to CPR all transfers are voluntary and the applicant is informed of the exact date, time and place he or she should present him or herself to the SEF for travel purposes.

According to the SEF, the average duration of the Dublin procedure from the moment another Member State accepts responsibility until the effective transfer to the Member State responsible varies between 1 and 6 months for "take back" requests and 3 and 6 months for "take charge" requests depending on whether the applicant challenges the transfer decision in court. Practical experience in this regard is very limited as only a very small percentage of outgoing Dublin requests resulted in actual transfers in 2016.

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 of those in a Dublin procedure,[112] 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 his or her control.[113]

In practice, all asylum seekers in a Dublin procedure undergo a personal interview. The modalities of the interview are the same as those of the Regular Procedure: Personal Interview and the interview is generally conducted by SEF/GAR, although interviews are at times conducted by the SEF's regional representations in cases of asylum applications made in more remote locations.

Practice regarding the content of the interview seems to vary depending on the existence and type of Dublin indicators available at that time. The individual interview can either focus on Dublin-related questions only or cover both admissibility and the merits of the claim, as well as specific questions to

[109] TCA South, Decision 13607/16, 22 September 2016.
[110] Article 35-A(3)(c) Asylum Act.
[111] Article 37(3) Asylum Act.
[112] Article 16(1)-(3) Asylum Act.
[113] Article 16(5) Asylum Act.

clarify relevant Dublin-related issues such as prior asylum applications, visas, resident permits and relatives residing in other EU Member States as well as the itinerary to Portugal. In cases where at the time of the individual interview there are relevant indicators that warrant a Dublin procedure, the SEF may give the applicant the opportunity to raise any relevant objections to the transfer that should be considered in the procedure.

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?

	☒ Yes	☐ No
❖ If yes, is it	☒ Judicial	☐ Administrative
❖ If yes, is it suspensive	☒ Yes	☐ No

The Asylum Act provides for an appeal against the decision in the Dublin procedure consisting of a judicial review of relevant facts and points of law by the Administrative Court.[114] The asylum seeker has 5 days to lodge the appeal.[115] As in the regular procedure, the initial appeal and onward appeals are automatically suspensive,[116] 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.[117]

The scarce case law available indicates that the asylum seeker is allowed to challenge the correct application of the Dublin criteria,[118] as per the ruling of the Court of Justice of the European Union (CJEU) in *Ghezelbash*.[119] The court also verifies if all formalities have been respected by the SEF, including applicable deadlines set forth in the Dublin Regulation.[120]

As mentioned above, the case law of Administrative Courts indicates that (failing an incorrect application of the Dublin criteria) systemic deficiencies in the asylum system of the requested Member State remain the only situation where the authorities compliance with the Dublin Regulation may be challenged.[121] However, according to the information available to CPR in certain cases where deficiencies have been raised by the applicant, the court has failed to conduct an *ex officio* inquiry on the nature of those deficiencies on the basis of objective criteria such as reception conditions, recognition rates or procedural guarantees.[122]

The information collected by CPR for 2016 regarding the duration and outcome of judicial review against first instance decisions in Dublin procedures, albeit very limited, indicates a very poor success rate, with none among 4 appeals being successful, and an average duration of 2.5 months per appeal.

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114 Article 37(4) Asylum Act; Article 95(3) Administrative Court Procedure Code.
115 *Ibid*.
116 Article 37(4) and (6) Asylum Act.
117 Article 37(5) Asylum Act.
118 TCA 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.
119 CJEU, Case C-63/15 *Ghezelbash*, Judgment of 7 June 2016.
120 TCA Lisbon, Decision 1235/16.0BESLB, 14 September 2016, unpublished.
121 TCA South, Decision 13607/16, 22 September 2016, unpublished.
122 TCA Lisbon, Decision 350/17.7BESLB, 3 May 2017, unpublished; TCA South, Decision 13607/16, 22 September 2016.

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?
   ☒ 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 Dublin 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 for asylum seekers during the Dublin procedure and at appeal stage, the general rules and practice of the regular procedure apply (see section on Regular Procedure: Legal Assistance).

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? ☒ Yes ☐ No
   - ❖ If yes, to which country or countries? Greece

According to the information available to CPR there have been no transfer decisions to **Greece** since the *M.S.S. v. Belgium and Greece* judgment of the European Court of Human Rights (ECtHR). During this period the SEF has applied *ex officio* the sovereignty clause in potential transfer cases to Greece assisted by CPR and the asylum seekers were granted access to the asylum procedure.

However, in 2016 the SEF issued transfer decisions to countries such as **Bulgaria**[123] and **Hungary**[124] without any relevant reasoning pertaining to possible risks of *refoulement*. In the case of Hungary, Administrative Courts failed to conduct an *ex officio* inquiry on the nature of potential deficiencies of the asylum system in the destination country despite the appeal court stating that systemic deficiencies in the asylum system of the requested Member State could be a valid ground for challenging the authorities compliance with the Dublin Regulation.[125]

2.7. The situation of Dublin returnees

The National Director of the SEF is the competent authority to accept the responsibility of the Portuguese State for "assessing an application for international protection" presented in other Member States of the European Union.[126] In practice asylum seekers do not face relevant or systematic obstacles in accessing the asylum procedure following a "take charge" decision and their transfer to Portugal.

In the case of particularly vulnerable asylum seekers, notably for serious health reasons, the SEF tends to inform CPR beforehand of the date of arrival and of relevant health conditions for purposes of immediate referral to its reception centre and preparing the initial reception of the asylum seeker. In the

[123] According to the information available to CPR, in 2016 the SEF issued 1 transfer decision to Bulgaria. It should be noted that CPR is unaware of transfer decisions to Bulgaria in 2017.

[124] According to the information available to CPR, in 2016 the SEF issued 6 transfer decisions to Hungary. It should be noted that as of August 2017 the number of transfer decisions to Hungary known to CPR dropped to 1.

[125] TCA Lisbon, Decision 1062/16.4BELSB, 12 June 2016, unpublished; TCA South, Decision 13607/16, 22 September 2016.

[126] Article 40(1) Asylum Act.

remaining cases, asylum seekers are simply notified at the airport that they should present themselves at SEF/GAR for registration of the asylum application (where they are then referred to CPR's reception centre for accommodation). Such referrals are done by the SEF's inspectors at the airport and do not entail any additional assistance e.g. for transportation or locating the address, which at times can give rise to short delays in the reception referral process.

In accordance with the Asylum Act, where the asylum seeker withdraws his or her application implicitly by disappearing or absconding for at least 90 days without informing the SEF, the file can be deemed closed by the National Director of the SEF.[127] Notwithstanding this, the asylum applicant is entitled to reopen his or her asylum case by presenting him or herself to the 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 the SEF.[128]

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. Indeed, none of the 2 subsequent asylum applications communicated to CPR by the SEF in 2016 concerned individuals transferred back to Portugal after having abandoned their application, despite 81 incoming transfers throughout the year.[129]

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

The law provides for an admissibility procedure that is characterised by: specific grounds for considering an asylum application inadmissible;[130] specific time limits for the first instance decision on admissibility;[131] legal implications in case the deciding authority does not comply with those time limits;[132] the right to an appeal against the inadmissibility decision;[133] and specific rights attached to the admission to the procedure which represent a distinctive feature of the Portuguese asylum procedure.[134]

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:

1. Falls under the Dublin procedure;
2. Has been granted international protection in another EU Member State;
3. Comes from a First Country of Asylum i.e. has obtained refugee status or otherwise sufficient protection in a third country and t will be readmitted to that country;
4. 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 he or she will be admitted or readmitted to that country;
5. Has made a subsequent application without new elements or findings pertaining to the conditions for qualifying for international protection; and
6. Is a dependant who had lodged an application after consenting to have his or her case be part of an application lodged on his or her behalf, in the absence of valid grounds for presenting a separate application.

127 Article 32(1)(c) and (2) Asylum Act.
128 Article 32(3) of the Asylum Act.
129 According to the statistics collected by the SEF, a total of 4 subsequent applications were lodged in 2016 (see Subsequent Applications).
130 Article 19-A Asylum Act.
131 Articles 20(1) and 24(4) Asylum Act.
132 Articles 20(2) and 26(4) Asylum Act.
133 Articles 22(1) and 25(1) Asylum Act.
134 Article 27(1)-(3) Asylum Act pertaining to the issuance of a provisional residence permit and Article 54(1) pertaining to the right to access the labour market.

The National Director of the SEF has 30 days to take a decision on the admissibility of the application,[135] which is reduced to 7 days in the case of the Border Procedure.[136] In case the SEF does not comply with those time limits, the claim is deemed automatically admitted to the procedure.[137]

In practice, all asylum applicants undergo either a Dublin interview or an interview that assesses the remaining inadmissibility clauses along with the merits of the application,[138] including those at the border. However, except for Dublin-related decisions, the number of asylum applications deemed inadmissible in 2016 was minimal. Although the SEF does not collect statistics on the number and grounds of inadmissibility decisions, according to the information available to CPR, the only (non-Dublin) inadmissibility decision issued in 2016 was based on the "first country of asylum" concept.

While the SEF generally admits asylum seekers to the asylum procedure in case of non-compliance with applicable time limits, the automatic admission has at times required a proactive intervention of the asylum seeker or of his or her legal counsel. In 2016 the number of such admissions remained low.[139]

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 for assessing admissibility,[140] 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 his or her control.[141]

In practice, all asylum applicants undergo either a Dublin interview or an interview that assesses the remaining inadmissibility clauses along with the merits of the application. The individual interview can either focus on Dublin related questions only or cover both admissibility and the merit 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 in more remote locations.

3.3. Appeal

Indicators: Admissibility Procedure: Appeal

☐ Same as regular procedure

1. Does the law provide for an appeal against an inadmissibility decision? ☒ Yes ☐ No
   - ❖ If yes, is it ☒ Judicial ☐ Administrative
   - ❖ If yes, is it automatically suspensive ☒ Yes ☐ No

[135] Article 20(1) Asylum Act.
[136] Article 24(4) Asylum Act.
[137] Articles 20(2) and 26(4) Asylum Act.
[138] Article 16 Asylum Act.
[139] In 2016, CPR was informed of 6 automatic admissions to the procedure for reasons of non-compliance with applicable time limits.
[140] Article 16(1)-(3) Asylum Act.
[141] Article 16(5) Asylum Act.

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.[142] The time limit for lodging the appeal varies according to the inadmissibility ground and depending on whether border procedures apply. Time limits vary as follows:

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
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 appeal and onward appeals are automatically suspensive,[143] with the exception of onward appeals concerning inadmissible subsequent applications.[144] 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.[145]

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

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

With regard to 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).

142 Articles 22(1), 25(1), 33(6) and 37(4) Asylum Act and Article 95(3) Administrative Court Procedure Code.
143 Articles 22(1), 25(3) and 37(6) Asylum Act.
144 Article 33(6) Asylum Act.
145 Articles 22(2), 25(2), 33(7) and 37(5) Asylum Act.

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. Can an application made at the border be examined in substance during a border procedure? ☒ Yes ☐ No

3. Is there a maximum time limit for border procedures laid down in the law? ☒ Yes ☐ No
   - ❖ If yes, what is the maximum time limit? 7 days

The law provides for a specific procedure regarding applications made at a national border,[146] 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).[147]

Portugal has 36 external border posts, of which 8 air border posts and 28 maritime border posts.[148] The SEF is responsible for border controls, including for refusing entry and exit from the territory.[149] The overwhelming majority of border procedures in 2016 were conducted at **Lisbon Airport**. While the statistics provided by the SEF regarding border procedures do not include a breakdown per border post, information collected by CPR suggests that 201 procedures were conducted at Lisbon Airport in 2016.

In practice a person who: does not meet the entry requirements set in the law; is subject to a national or an EU entry ban; or represents a risk or a serious threat to public order, national security or public health, is refused entrance in national territory,[150] and is notified in writing by the SEF of a decision of refusal of entry to the territory.[151] The notification bears a reference to the right of individuals refused entry at the border to seek asylum as enshrined in the law.[152] The SEF also informs the carrier company (i.e. the air company for 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.[153] This is done in accordance to the Convention on International Civil Aviation,[154] as according to the 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.[155] When the individual refused entry into national territory applies for asylum, the air company is immediately informed by the SEF of the suspension of return.

While the border procedure provides for the basic principles and guarantees of the regular procedure,[156] 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 in national territory. Additionally, border procedures are characterised by shorter appeal deadlines, as well as reduced guarantees such as the exclusion from the right of the

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146 Article 23(1) Asylum Act.
147 Articles 26(1) and 35-A(3)(a) Asylum Act.
148 Annex II Law-Decree 252/2000.
149 Article 2 Law-Decree 252/2000.
150 Article 32 Aliens Act.
151 Article 38(2) Aliens Act.
152 Article 40(4) Aliens Act.
153 Articles 38(3) and 41(1) Aliens Act.
154 Chicago Convention on International Civil Aviation, 7 December 1944, Annex IX, Chapter V, points 5.9 - 5.11.1.
155 CPR, *Access to Protection: a Human Right, country report, Portugal*, 2014, available in Portuguese at: http://bit.ly/2xA2aiV, para 2.1.
156 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.

applicant to seek revision of the narrative of his or her personal interview,[157] or the possibility to consult with CPR prior to the individual interview conducted by the SEF.

The National Director of the SEF has 7 days to issue a decision either on admissibility or on the merits of the application in an accelerated procedure.[158] In the absence of inadmissibility grounds or grounds for deeming the application unfounded in an accelerated procedure, the SEF admits the asylum seeker to the regular procedure and authorises entry into national territory / release from border detention.[159] Non-compliance with those time limits results in the automatic admission of the applicant to the regular procedure and release from the border.[160]

The asylum seeker remains in detention in the international area of the airport or port until the National Director of the SEF issues a decision on the admissibility / merits of the claim,[161] or for up to 60 days in the case of appeal (see Duration of Detention). While in the overwhelming majority of cases the National Director of the SEF issues a decision within the 7-day time limit, the automatic admission of the asylum application is generally upheld in the rare cases where that does not happen.

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 and who may be exempted from the border procedure under certain conditions (see Special Procedural Guarantees).[162] Furthermore, the placement of unaccompanied and separated children in temporary installations (detention) at the border – and hence application of border procedures – must abide by applicable international recommendations such as those of UNHCR, UNICEF and ICRC.[163]

The border procedure is applied systematically, except for certain categories of vulnerable asylum seekers such as unaccompanied children, pregnant women and seriously ill who are released from the border and submitted to an admissibility procedure and/or regular or accelerated procedure in national territory. However, a change in practice has been witnessed by CPR in 2016, notably regarding the detention of unaccompanied children and families with children (see Detention of Vulnerable Applicants). The lack of 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 has meant that in general, and despite the lack of provision of special procedural guarantees at the border, asylum seekers who claimed to be survivors of torture, rape or other serious forms of psychological, physical or sexual violence were not exempted from border procedures.[164]

Statistics provided by the SEF for 2016 refer to a total of 260 asylum seekers subject to the border procedure (approximately 39% of spontaneously arriving asylum seekers), of which 166 claims were rejected and 92 were admitted to the regular procedure in the national territory. These figures do not include a breakdown of decisions by outcome or the number of by persons in need of special procedural guarantees (for unaccompanied children, see Detention of Vulnerable Applicants). According to the information collected by CPR in 2016, the negative decisions taken in the border procedure included at least: 145 applications deemed unfounded in an accelerated procedure; 1 application rejected as inadmissible on Dublin grounds; and 1 application rejected as inadmissible on a ground other than Dublin.

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157 Article 25 Asylum Act.

158 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.

159 Article 26(4) Asylum Act.

160 Ibid.

161 Article 26(1) Aliens Act.

162 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."

163 Article 26(2) Asylum Act.

164 Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: http://bit.ly/2xZqCGh.

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? ☒ 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 rules and modalities of the interview are the same as those of the regular procedure and the interview is generally conducted by SEF/GAR. However, given the short time limits of the border procedure, the interview is conducted in detention at the Temporary Installation Centre (CIT) a few days after arrival, with little time to prepare and substantiate the asylum application and with reduced guarantees such as the exclusion from the right of the applicant to seek revision of the narrative of the interview.[165] An additional problem regarding interviews conducted at the **Lisbon Airport** are the space constraints of the interview offices which leave very limited space and privacy, notably due to inadequate sound isolation (see Conditions in Detention Facilities).

Many asylum seekers arrive at the border without valid identification documents or supporting evidence to substantiate their asylum application and contacts with the outside world from within the CIT are 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.

Regarding certain categories of vulnerable asylum seekers such as survivors of torture, rape or other serious forms of psychological, physical or sexual violence, 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 attendance of supporting personnel in the interview in 2016.[166]

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? ☒ Yes ☐ No
   - ❖ If yes, is it ☒ Judicial ☐ Administrative
   - ❖ If yes, is it automatically suspensive ☒ Yes ☐ 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.[167] The time limit for lodging the appeal is 4 days for all grounds.[168]

As in the regular procedure, the first and onward appeals are automatically suspensive.[169] The law also provides for a simplified judicial process with reduced formalities and time limits with the objective of

[165] Article 25 Asylum Act.
[166] Article 17-A(3) Asylum Act.
[167] Article 25(1) Asylum Act; Article 95(3) Administrative Court Procedure Code.
[168] Article 25(1) Asylum Act.
[169] Article 25 Asylum Act.

shortening the duration of the judicial review.[170] However, the Administrative Courts rarely reach a decision on the appeal within the maximum detention time limit of 60 days, meaning that the asylum applicant is granted access to the territory, albeit liable to a removal procedure in case his or her application is rejected by final decision.[171]

In practice the average duration of the judicial review of a first instance rejection decision at the border is similar to the regular procedure. Limited information collected by CPR for 2016 regarding the duration and outcome of judicial reviews of first instance decisions in border procedures suggests an average duration of 2.5 months. This information also indicates a very poor success rate, with only 3 in 15 appeals being successful. In this regard, it must be acknowledged that the quality of many appeals submitted is often poor as in the other procedures, given that very few lawyers have any relevant expertise in the field. It should be noted that 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.

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 systemic or relevant obstacles faced by asylum seekers to appealing a first instance decision in the border procedure.

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).

Regarding free legal assistance at first instance, the law expressly provides the possibility for UNHCR and CPR as an organisation working on its behalf to interview the asylum seeker at the border[172] and to provide assistance.[173] However, following the registration of the asylum claim CPR only has access to applicants once the SEF has 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.[174] However, such a procedure remains to be implemented to date, meaning that securing access to free legal aid at appeal stage is currently an integral part of the legal assistance provided by CPR at the border. To that end, CPR is obliged to resort to the same (bureaucratic and lengthy) procedure used in the territory albeit faced with specific constraints (e.g. shorter deadlines for application, communication problems, timely access to interpreters, etc.)

170 Article 25(2) Asylum Act.
171 Article 21(2) and (3) Aliens Act.
172 Article 24(1) Asylum Act.
173 Article 49(6) Asylum Act.
174 Article 25(4) Asylum Act.

While CPR provided support to 553 asylum seekers in 2016, the significant increase in asylum applications has put a severe strain on its capacity to provide legal information and assistance in the case of asylum seekers placed in detention at the border, similar to the regular procedure. This problem is aggravated by shorter deadlines, communication problems and bureaucratic clearance procedures for accessing the restricted area of the airport where the CIT is located regarding interpreters and limitations in the timely provision of information by the SEF regarding dates of interviews and language skills of the asylum seekers.

In practice, free legal assistance provided by CPR in first instance procedures at the border includes: accessing free legal aid for appeals; assisting lawyers appointed under the free legal aid system in preparing appeals with relevant legal standards and COI; and advocating with the SEF and Criminal Courts for the release of particularly vulnerable asylum seekers such as unaccompanied children, families with children, pregnant women and the severely ill.

As with the regular procedure, the overall quality of free legal aid at appeal stage remains a concern due to the current selection system of lawyers based on a random / automatic procedure. A different problem is raised by the unscrupulous activity of a limited number of private lawyers at the **Lisbon Airport**'s CIT, providing poor quality services in exchange for excessively elevated fees. This concern has been raised by CPR with the SEF and the Bar Association but is still ongoing despite past criminal investigations conducted by the SEF that have resulted in criminal charges related to smuggling and trafficking in human beings.

5. Accelerated procedure

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

The law provides for an accelerated procedure, whereby the time limits for the adoption of a decision on the merits at first instance is significantly shorter than those of the regular procedure.

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

a. 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;
b. In bad faith, destroying or disposing of an identity or travel document that would have helped establish identity or nationality;
c. Making clearly inconsistent and contradictory, clearly false or obviously improbable representations which contradict sufficiently verified COI, thus making the claim clearly unconvincing in relation to whether the applicant qualifies for international protection;
d. 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;
e. 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;
f. Coming from a Safe Country of Origin;
g. Introducing an admissible subsequent application;[175]
h. Making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in removal;
i. Representing a danger to the national security or public order; and
j. Refusing to comply with an obligation to have fingerprints taken.

[175] 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.

A first instance decision on the territory must be taken within 30 days for all grounds, except for cases concerning an application following a removal order which must be decided within 10 days.[176] In contrast to the regular procedure,[177] the National Director of SEF is the responsible authority for issuing a first instance decision on the merits of the application in the accelerated procedure,[178] while non-compliance with the applicable time limits grants the applicant automatic access to the regular procedure.[179]

In practice all applications are channelled through the accelerated procedure where the specific grounds provided in the law apply.[180] In 2016 the statistics collected from the SEF indicated a total of 1,252 asylum applications processed under an accelerated procedure, of which 24 by unaccompanied children. These statistics are nonetheless to be understood in light of the SEF's interpretation of accelerated procedures which does not seem to strictly coincide with the framework enshrined in the recast Asylum Procedures Directive but rather also includes asylum applicants admitted to the regular procedure and subject to fast-tracking; notably in the case of relocated asylum seekers,.

The SEF was unable to share statistics on the total number of decisions taken under the accelerated procedure or the breakdown of the total number of decisions taken under the accelerated procedure by outcome. According to partial information available to CPR in 2016 there were at least 122 applications rejected under the accelerated procedure on the territory and 145 at the border. In CPR's experience, the majority of rejections in accelerated procedures are either based on grounds of inconsistency or irrelevance.

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

The law foresees reduced guarantees in the accelerated procedure, namely by excluding asylum seekers from the right to seek revision of the narrative of their personal interview in cases concerning applications following a removal order,[181] or the right to be notified and evaluate the SEF's reasoning of the proposal for a final decision.[182]

With regard to the personal interview for asylum seekers during first instance accelerated procedures, the general rules and practice of the regular procedure apply (see section on Regular Procedure: Personal Interview).

176 Articles 20(1) and 33-A(5) Asylum Act.
177 Article 29(5) Asylum Act.
178 Articles 20(1) and 24(4) Asylum Act.
179 Articles 20(2) and 26(4) Asylum Act.
180 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 bordure procedure and be released from detention, he or she will remain liable to an accelerated procedure in national territory.
181 Article 33-A(4) and (5) Asylum Act.
182 Article 29(2) Asylum Act.

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 ☐ 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.[183]

The time limit for lodging the appeal on the territory varies according specific ground of the accelerated procedure: from 4 days for applications following a removal order,[184] to 8 days for the remaining grounds.[185] As in the regular procedure, the initial appeal is automatically suspensive.[186] However, the onward appeal in the case of a removal order is not.[187] 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.[188]

In practice, the average duration of the judicial review of a first instance rejection decision in the accelerated procedure is similar to the regular procedure and was 2.5 months in 2016. The information collected by CPR for 2016 regarding the duration and result of judicial reviews of first instance decisions in accelerated procedures, albeit very limited, indicates a very poor success rate, with only 6 in 26 appeals being successful in an initial appeal; all 8 onward appeals being unsuccessful. In this regard, it must be acknowledged that the quality of many appeals submitted is often poor as in the remaining procedures, given that very few lawyers have any relevant expertise in the field.

Without prejudice to issues discussed for the regular procedure 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 systemic or relevant obstacles faced by asylum seekers to 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).

183 Articles 22(1), 33-A(6) and 25(1) Asylum Act and Article 95(3) Administrative Court Procedure Code.
184 Article 33-A(6) Asylum Act.
185 Articles 22(1) Asylum Act.
186 Articles 22(1) and 33-A(6) Asylum Act.
187 Article 33-A(8) Asylum Act.
188 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 children, 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.[189] 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.[190] 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.[191] The nature of special procedural needs should be assessed before a decision on the admissibility of the application is taken.[192]

1.1. Screening of vulnerability

Despite these legal obligations, there are no (specific) mechanisms, standard operating procedures or unit in place to systematically identify asylum seekers who need special procedural guarantees. Publicly available statistics regarding vulnerable asylum seekers are scarce and relate mostly to unaccompanied children and families with children. CPR collects statistical information on asylum seekers who self-identify or are identified as vulnerable on the basis of information received from the SEF in accordance with the law, collected directly from clients or provided by other service providers. In 2016, of the 694 asylum applications communicated by the SEF, 19 were identified as survivors of torture and 37 as survivors of serious violence.

In the case of survivors of torture and/or serious violence, recent research concluded that identification is conducted *ad hoc* and mostly on the basis of self-identification during refugee status determination, social interviews or initial medical screenings.[193] The staff working with asylum seekers lack specific training on the identification of survivors of torture and/or serious violence and their special needs. In the specific case of victims of trafficking, while the SEF claimed to have staff with specific training in trafficking indicators operating at the **Lisbon Airport**, CPR is unaware of the identification of trafficking victims in border procedures, particularly regarding unaccompanied children. Furthermore, CPR is unaware of instances where asylum applicants were granted access to the asylum procedure or granted international protection on the basis of a well-founded fear of persecution for reasons of trafficking in human beings.

Despite the absence of identification procedures for unaccompanied children victims of trafficking either at the border or on the territory, CPR systematically flags potential unaccompanied children victims of trafficking under its care at the Refugee Children Reception Centre (CACR) to the National Anti-Trafficking Observatory (on the basis of an anonymous form with indicators), as well as to the SEF's asylum and criminal investigation departments for the purposes of criminal investigation and protection. In the very limited number of instances where CPR caseworkers are able to obtain the unaccompanied

189 Article 17-A(1) Asylum Act.
190 *Ibid*.
191 Article 77(2) Asylum Act.
192 Article 17-A(1) Asylum Act.
193 Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: http://bit.ly/2xZqCGh.

child's consent for adequate protection, the cases are further referred to the multidisciplinary team of the Family Protection Association (APF) that conducts an initial assessment that can lead to the placement of the potential victim in an Anti-Trafficking Reception and Protection Centre (CAP). In 2016, a total of 7 out of 47 unaccompanied children absconded from the CACR and during this period CPR made 5 referrals to the to the National Anti-Trafficking Observatory with one child being granted a victim status by the authorities and placed in a specialised reception centre for victims of trafficking. There, CPR conducted some information initiatives at the CACR with the support of APF to inform unaccompanied children about trafficking and associated risks.

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,[194] 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.

The 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 his or her age after the examination.[195] The unaccompanied child must be informed that his or her age will be determined by means of such expertise and his or her representative must give prior consent.[196] Refusal to allow an expert examination shall not result in the rejection of the application for international protection, but does not prevent a decision from being issued in this regard.[197] The age assessment procedure may also be triggered by the Family and Juvenile Court in the framework of court procedures aimed at ensuring legal representation for the child (see Legal Representation of Unaccompanied Children) or by the unaccompanied child's legal representative.

In practice, while the SEF was unable to provide statistics for 2016, age assessment procedures remain limited and are generally triggered by the SEF after the personal interview when there are significant doubts regarding the age of the applicant on the basis of physical appearance and/or demeanour. Family Courts also trigger age assessment procedures but to a lesser extent and for the purposes of legal representation only. The absence of objective criteria to establish who must undergo an age assessment is particularly problematic in the framework of border procedures where the SEF has at times 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.

The methods used include carpal X-rays and dental X-rays and are conducted by the National Institute of Legal Medicine and Forensic Science (INMLCF). Despite the established technical limitations of such methods, their results have been used by the SEF 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.[198]

With regard to legal remedies, the age assessment determination is made by the SEF 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 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. While the law does not provide for a specific appeal regarding the age assessment determination for purposes other than refugee status determination, despite their interim nature, these remain administrative decisions

194 Article 79(2) Asylum Act.
195 Article 79(6) Asylum Act.
196 Article 79(7) Asylum Act.
197 Article 79(8) Asylum Act.
198 See e.g. TAC Leiria, Decision 784/14.9 BELRA, 19 July 2014, unpublished.

that can be challenged before the Administrative Courts in accordance with the law.[199] Additionally, the Family and Juvenile Courts also conduct their own independent age assessment for purposes of legal representation (following the SEF's referral) that can be appealed pursuant to general rules. In practice, however this is rarely the case given the very limited number of age assessments conducted and the lack of available legal expertise.

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, Families with children

Applicants identified as being in need of special procedural guarantees can benefit from the postponement of refugee status determination interviews and extended deadlines for presenting evidence or carrying out interviews with the assistance of experts,[200] as well as exemption from border procedures held in detention.[201] While the implementation of certain special procedural guarantees will necessarily require a decision from the SEF, the responsibility for implementing these measures lies with the Institute of Social Security (ISS).[202]

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 adequate support during personal interviews. With the exception of asylum seekers whose reduced ability to benefit from the rights and comply with the obligations stemming from the Asylum Act are self-evident due e.g. serious illness, pregnancy etc., postponement of refugee status determination interviews and extended deadlines for presenting evidence are not implemented in practice.

In the particular case of survivors of torture and/or serious violence, recent research 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.[203] Even where a medical report concerning the vulnerability of the applicant for mental health reasons is presented, the SEF might refuse to postpone the interview unless the medical report clearly states 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.

Additionally, there are no standard operating procedures or exemption in practice from border procedures and/or accelerated procedures for survivors of torture and/or serious violence.

Pregnant women, families with children and the severely ill are generally exempted from border procedures and such guarantee was also generally extended to unaccompanied asylum-seeking children. However, in 2016 there was a change to the SEF's practice of immediate release of unaccompanied children and families with children from border points and exemption from border procedures (see Detention of Vulnerable Applicants).[204]

199 Article 51(1) and (2) Administrative Court Procedure Code.
200 Article 17-A(3) Asylum Act.
201 Article 17-A(4) Asylum Act.
202 Article 17-A(5) Asylum Act.
203 Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: http://bit.ly/2xZqCGh.
204 According to the information available to CPR, in 2016 a total of 35 unaccompanied children applied for asylum at the border and 7 were submited to border procedures, with 4 being rejected in an accelerated procedure at the border.

In accordance with the law,[205] the CPR provides for specific legal assistance to unaccompanied asylum-seeking children that includes the presence of a legal officer during the personal interview with the SEF.[206]

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,[207] as well as a provision giving the SEF the possibility to request experts to issue reports on specific issues (e.g. cultural or medical) in the regular procedure.[208] Nevertheless, there are no specific standards in law or administrative guidance pertaining to medical reports for those claiming to have been subjected to torture or other serious acts of physical, psychological and sexual violence.

In the particular case of survivors of torture and/or serious violence, recent research showed the lack of standard operational procedures regarding the issuance, content and relevance of supporting medical reports pertaining to survivors of torture and/or serious violence in the asylum procedure has been highlighted by recent research.[209] Medical reports are currently not issued based on the methodology laid down in the Istanbul Protocol. Even where mental health service providers issue medical reports concerning the vulnerability of the applicant for the purposes of postponing the individual interview, the SEF tends to refuse due to factors pertaining to the content of the report (see Special Procedural Guarantees).

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

Under the Asylum Act, all unaccompanied child asylum seekers and beneficiaries of international protection are entitled to legal representation.[210] Legal representation can either be provided by an organisation or consist of any of the legal representation modalities in the law,[211] such as those provided by the General Legal Regime of Civil Guardianship Act.[212] In this regard, the SEF is required to immediately flag the need of the unaccompanied asylum-seeking child for legal representation to the Family and Juvenile Court while informing the child of the procedure.[213]

Regarding the (specificities of the) scope of legal representation in the case of unaccompanied asylum-seeking children, the legal representative must be informed in advance by the SEF of the refugee status determination interview and is entitled to attend the interview and make oral representations.[214] The absence of the legal representative does not however exempt unaccompanied children from the

[205] Article 79(3) Asylum Act.
[206] In 2016, CPR accompanied 14 unaccompanied asylum-seeking children in their interviews with the SEF.
[207] Article 15(2) Asylum Act.
[208] Article 28(3) Asylum Act.
[209] Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: http://bit.ly/2xZqCGh.
[210] Article 79(1) Asylum Act.
[211] *Ibid*. See also Article 2(1)(ad) Asylum Act.
[212] Act 141/2015 of 8 September 2015.
[213] Article 79(1) and (2) Asylum Act.
[214] Article 79(3) Asylum Act.

personal interview.[215] Additionally, the SEF must ensure that the legal representative is given the opportunity to inform the child of the significance and implications of the personal interview and on how to prepare for it.[216] The legal representative must give prior consent to the SEF for the purpose of age assessment procedures.[217]

In practice, the legal representation of unaccompanied asylum-seeking children has taken varying legal modalities in accordance with General Legal Regime of Civil Guardianship Act and the Children and Youths at Risk Protection Act,[218] and its scope usually covers the representation of the child for all legal purposes, including for the asylum procedure. The Family and Juvenile Court usually appoints the CPR Director to act as legal representative,[219] while the material protection of the child is provided in accordance with the protective measures set out in the Children and Youths at Risk Protection Act, by referring him or her to CPR's Refugee Children Reception Centre (CACR). CPR's Legal Department provides legal information and assistance to unaccompanied children throughout the asylum procedure, attends personal interviews and ensures that children have access to legal aid for the purpose of appeals.

With the exception of cases where there is a doubt regarding the age of the applicant, the SEF usually flags the need of the unaccompanied asylum-seeking child for legal representation to the Family and Juvenile Court within a few days following the registration of the asylum application, including in the case of border procedures. The Family and Juvenile Court usually appoints CPR as a legal representative / guardian of unaccompanied children within a few weeks following the SEF's communication, including for the purpose of representation in the asylum procedure, given its knowledge and experience in the field of international protection. It should be noted that while the SEF does not conduct individual interviews prior to the appointment of a legal representative, there is no prior best interests assessment or intervention of a legal representative prior to the registration of the asylum claim.

While the law does not provide for specific requirements for being eligible as a representative of an unaccompanied asylum-seeking child, the Children and Youths at Risk Protection Act contains rules governing the composition of the technical staff of reception centres for children. The teams must be multidisciplinary and include personnel with, at least, a BA in the field of Psychology and Social Work. The technical director of the centre must be appointed among staff members with that background.[220]

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 regarding subsequent applications that include: a time limit of 10 days for the adoption of an admissibility decision at first instance i.e.

215 Article 79(5) Asylum Act.
216 Article 79(3) Asylum Act.
217 Article 79(7) Asylum Act.
218 Act 147/99 of 1 September 1999.
219 In 2016, the CPR was appointed legal representative of 33 unaccompanied asylum-seeking children out of the 44 who claimed to be unaccompanied children.
220 Article 54 Children and Youth at Risk Protection Act.

preliminary assessment;[221] 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 his or her personal interview;[222] specific criteria for assessing the admissibility of the claim;[223] and partially different time limits and effects of (onward) appeals.

The Asylum Act does not provide, however, for specific rules regarding the right to remain in national territory pending the examination of the application,[224] or the suspension of a removal order,[225] nor does it provide specific time limits or limitations on the number of subsequent applications a person can lodge a subsequent application.[226] However, an "unjustified" subsequent application can lead to the Reduction or Withdrawal of Reception Conditions.[227]

The SEF remains the competent authority to take a decision on the admissibility of subsequent applications.[228]

The criteria for assessing the admissibility of the subsequent claim are enshrined in the Asylum Act and consist in whether new elements of proof that entitle the applicant to international protection have been submitted or if the reasons that led to the rejection of the application have ceased to exist.[229] The law does not provide further clarifications on what is to be considered a new element of proof or the cessation of the rejection motives but clarifies that the preliminary admissibility assessment also encompasses cases where the applicant has explicitly withdrawn his or her application and cases where the SEF has rejected an application following its implicit withdrawal.[230] A first instance decision on the admissibility of a subsequent application from 2016 makes reference to a "substantial and fundamental" difference as criteria for assessing the admissibility of the subsequent application.

The limited number of subsequent applications received by the SEF – only 4 lodged in 2016 – does not allow for a general assessment of existing obstacles in lodging a subsequent application related to the interpretation of the applicable admissibility criteria pertaining to new facts, evidence or a change in the rejection motives. CPR is unaware of any case law pertaining to the interpretation of the criteria for assessing the admissibility of subsequent claims.

In 2016 only one out of the two subsequent applicants assisted by CPR underwent a preliminary interview to assess whether new elements were submitted as defined in national legislation. The second applicant was only allowed to submit written representations in accordance with the law.[231] The preliminary interview to assess the admissibility of the application differed from a personal interview conducted in the admissibility / regular procedure insofar as it only sought to ascertain new facts, evidence or changes in circumstances related to persecution since the presentation of the initial asylum application. The reasoning of the corresponding inadmissibility decisions included an assessment of new facts and changes in circumstances since the presentation of the initial asylum application but, less prominently, also a review of the credibility and evidentiary assessments conducted in the first application.

221 Article 33(4) Asylum Act.
222 Article 33(2), (4) and (6) Asylum Act.
223 Article 33(1) Asylum Act.
224 Articles 13(1) and 33(9) Asylum Act.
225 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.
226 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.
227 Article 60(3)(f) Asylum Act.
228 Article 33(6) Asylum Act.
229 Article 33(1) Asylum Act.
230 Article 2(1)(t) Asylum Act.
231 Article 33 Asylum Act states that subsequent applications are submitted to the SEF with all available supporting evidence and that the SEF may, following the application, provide the applicant with a reasonable time limit to present new facts, information or evidence.

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 isf 4 days.[232] The initial appeal before the Administrative Court is automatically suspensive,[233] as opposed to onward appeals that have no automatic suspensive effect.[234]

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

Only 4 applications were lodged in 2016, of which 2 from Sri Lankan nationals, 1 from a Nigerian national and 1 from a Russian national.

F. The safe country concepts

Indicators: Safe Country Concepts	
1. Does national legislation allow for the use of "safe country of origin" concept?	☒ Yes ☐ No
❖ Is there a national list of safe countries of origin?	☐ Yes ☒ No
❖ Is the safe country of origin concept used in practice?	☐ Yes ☒ No
2. Does national legislation allow for the use of "safe third country" concept?	☒ Yes ☐ No
❖ Is the safe third country concept used in practice?	☒ Yes ☐ No
3. Does national legislation allow for the use of "first country of asylum" concept?	☒ Yes ☐ 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.[235] However, with the exception of its inclusion among the possible grounds for applying an Accelerated Procedure,[236] the law does not provide for further rules and modalities for its application.

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, the 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. The SEF was unable to provide statistics on breakdown of rejection decisions based on the concept of "safe country of origin" by nationality.

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.[237] These inconsistencies were raised in 2014 by

232 Article 33(6) Asylum Act.
233 *Ibid*.
234 Article 33(8) Asylum Act.
235 Article 2(1)(q) Asylum Act.
236 Article 19(1)(f) Asylum Act.
237 Article 2(1)(r) Asylum Act.

CPR during the legislative process that transposed the second-generation *acquis* into national law,[238] and include the following:

i. The provision applies *ratione personae* to asylum seekers alone, as opposed to applicants for international protection;[239]
ii. The provision does not include the absence of a risk of serious harm as a condition for the application of the concept;
iii. 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;
iv. 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.[240]

It should also be noted that the Asylum Act, while excluding EU Member States from the concept of safe third country,[241] does not provide for specific rules regarding EU and non-EU European safe third countries.

Although the concept is a ground for inadmissibility (see Admissibility Procedure),[242] according to the information available to CPR, to date the authorities have not introduced further rules in national legislation such as relevant connection indicators or rules regarding the methodology by which the SEF satisfies itself that the safe third country concept may be applied to a particular country or to a particular applicant.

While the number of inadmissibility decisions on safe third country grounds is generally very limited, countries designated as such in the past have included **Morocco** and **Turkey**. The SEF was unable to provide statistics on breakdown of rejection decisions based on the concept of "safe third country" by nationality.

According to the information available to CPR, the SEF does not have a list of countries designated to be generally safe as a matter of administrative guidance. Despite the gaps mentioned above, the safe third concept has been used in a very limited number of individual cases as a ground for rejecting asylum claims as inadmissible in practice; according to the information available to CPR it was not used in 2016 (see Admissibility Procedure). In those cases, the identification of a connection rendering the applicant's transfer to a safe third country reasonable was based on indicators such as transit, the registration of an asylum application or residence rights, and the remaining legal requirements of the applicant were not (adequately) analysed. 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,[243] and that attempts a merger with the criteria listed in Article 38(1) of the Directive.[244] 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 (i) life and liberty are not threatened (ii) the principle of *non-refoulement* in accordance with the Refugee Convention is respected and that (iii) the prohibition of the right to freedom from torture and cruel,

238 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.
239 Article 2(1)(r) Asylum Act.
240 Article 2(1)(r)(i) Asylum Act.
241 Article 19-A(1)(d) Asylum Act that excludes EU Member States from the concept of third safe country.
242 Article 19-A(1)(d) Asylum Act.
243 Article 2(1)(z) Asylum Act.
244 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.

inhuman or degrading treatment is respected. The "first country of asylum" concept is included among the inadmissibility grounds enshrined in the Asylum Act.[245]

The SEF was unable to provide statistics on breakdown of inadmissibility decisions based on the concept of "first country of asylum" by country designated as first country of asylum. In practice and according to the information available to CPR the first country of asylum concept has been used in a very limited number of individual cases as a ground for rejecting asylum claims as inadmissible (regarding 2016 see Admissibility Procedure). In those limited cases the analysis conducted by the SEF into the conditions 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.

According to the information available to CPR, case law regarding the interpretation of the concept is very limited but includes a ruling from a second-instance Administrative Court focusing on the definition of "sufficient protection". According to the court's generous 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.[246]

G. Relocation

Indicators: Relocation

1. Number of persons effectively relocated since the start of the scheme: 1,507

According to the latest statistics released by the European Commission at the end of November 2017, the number of places pledged by Portugal stands at 3,218 and the number of relocated persons at 1,507 – 315 persons relocated from Italy and 1,192 from Greece.[247] The main nationalities are Syrians, Eritreans and Iraqis. Earlier statistics shared by the SEF contain a nationality breakdown:

Relocation statistics: 22 September 2015 – 22 August 2017

Relocation from Italy			Relocation from Greece		
	Requests	Relocations		Requests	Relocations
Total	:	**303**	**Total**	:	**1,116**
Eritrea	:	275	Syria	:	818
Stateless	:	9	Iraq	:	272
Iraq	:	7	Stateless	:	15
Central African Republic	:	5	Eritrea	:	8
Ethiopia	:	3	Yemen	:	3
Syria	:	2		:	
Sudan	:	1		:	
Tunisia	:	1			

Source: SEF.

245 Article 19-A(1)(c) Asylum Act.

246 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.

247 European Commission, *Member States' Support to Emergency Relocation Mechanism*, 29 November 2017, available at: http://bit.ly/2ifnGlx.

The SEF has deployed an officer to both Italy and Greece with the objective of liaising with local authorities for the purposes of identification and selection of individual cases for relocation. The relocation process starts with the liaison officer's selection of individual cases and the preparation of a table with relevant identification data that is shared with the High Commission for Migration (ACM) and reception service providers with a view to matching available reception capacity with the basic profile of the candidate.

The security clearance procedures within the relocation programme do not involve individual interviews with candidates but include queries to the representative of the Antiterrorism Coordination Unit (*Unidade de Coordenação Antiterrorismo*, UCAT) in the Working Group of the European Agenda for Migration that liaises with its members of the security community for background checks. According to the SEF, as of 22 August 2017, 14 requests for relocation of Iraqis from Greece had been rejected on the basis of exclusion clauses set out in Articles 12 and 17 of the recast Qualification Directive.

According to the authorities, no specific caseloads were prioritised for relocation from Italy and Greece. The statistics shared by the SEF indicate that as of 22 August 2017 the relocation of vulnerable caseloads was limited to 5 persons with very specific medical needs from Italy and 1 person with very specific medical needs from Greece.

According to the information provided by the SEF, the evaluation and communication of the decision concerning relocation requests from Italy and Greece is conducted within the time limits provided in the Relocation Decisions. Nevertheless, the transfer to Portugal may exceed the applicable time limits provided in EU law.

Upon arrival in Portugal, applications of relocated asylum seekers of Syrian and Eritrean nationality have benefited from an initial fast-tracking of admissibility and regular procedures. Even though there is no statistical information available on this point, according to CPR this trend seems to have subsided due to the increasing caseload before the SEF/GAR. It should also be noted that there is a tendency to grant subsidiary protection to Syrians as opposed to Eritreans who are generally granted refugee status. CPR is unaware of cases of persons receiving a negative decision on their asylum application after being relocated to Portugal.

H. 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;[248]
- Information on key developments and decisions relating to the individual asylum file;[249]

[248] 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 dependant 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 the 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).

- Information on detention;[250] and
- Specific information rights of unaccompanied children.[251]

Furthermore, the law provides for a general right to interpretation "whenever necessary" during registration of the application and throughout the asylum procedure,[252] along with specific references to the right to interpretation into a language that the asylum seeker understands or is reasonably expected to understand to ensure the effectiveness of the right to information in some of the aforementioned instances.[253]

In practice, while the SEF generally complies with the obligation to inform asylum seekers of developments, decisions and associated rights in their individual asylum files throughout the asylum procedure and regardless of the type of procedure, 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 the SEF informs asylum seekers of developments in their asylum applications by postal mail, using letters written in Portuguese to which are attached documents such as Dublin transfer decisions or proposals for a final decision in the regular procedure in Portuguese, a problem that is mostly related to asylum seekers in private accommodation. CPR has also received a few complaints from asylum seekers according to whom the SEF did not provide for the interpretation of the document narrating the essential facts at the end of their personal interview and prior to its signature. This is despite the document stating that its content was translated in full and that the applicant ratified its content accordingly.

Upon registration, the asylum seeker receives written information (available in a limited number of languages e.g. French, English) regarding the rights and duties attached to the certificate of the asylum application. The SEF has also produced an information leaflet that briefly covers some of its information obligations.[254] The information contained in the leaflet is brief, not considered user-friendly by many asylum seekers and does not adequately address relevant issues such as fingerprinting, the rights of individuals vis-à-vis Eurodac and the rights and duties of beneficiaries of international protection. According to CPR's experience, the leaflet is only available in a limited number of foreign languages (e.g. French, English, Arabic) and is not distributed systematically. Furthermore, the leaflet was produced prior to the changes introduced in 2014 to the Asylum Act and CPR is not aware of the distribution of an updated version. According to CPR's experience, and despite written requests to that end, asylum seekers are rarely if ever informed of the extension of the time limit for the examination, its grounds and expected time limit for the decision in the regular procedure.

CPR has no indication that the common information leaflet provided for in Article 4(3) of the Dublin III Regulation is systematically distributed and the only information given on the functioning of the Dublin

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249 This includes the individual notification of first instance decisions in admissibility and accelerated procedures in 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 the 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 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 the 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)).

250 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)).

251 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)).

252 Article 49(1)(d) Asylum Act.

253 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.

254 SEF, *Guia do requerente asilo*, available in Portuguese at: http://bit.ly/2hpa3xZ.

system is contained in the general information leaflet, which simply mentions the possibility of a "take charge" request and applicable time limits. This information is deemed manifestly insufficient. Information on a possible "take charge" request as well as a waiver for sharing information under Article 34 of the Dublin Regulation is also included in either the document narrating the individual interview that is signed and handed out to the asylum applicant or a separate letter provided to the applicant prior to the decision. Asylum seekers are systematically informed in writing of the request made to another Member State, the corresponding supporting evidence and the reply of that Member State but only at the time of written notification of the actual transfer decision.[255]

In the case of asylum seekers detained at the border, the certificate of the asylum application contains 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 are 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.[256]

Despite having been designated as legal representative for the majority of unaccompanied children who applied for asylum in 2016, CPR is unaware of the provision of child-friendly information by the SEF, including the specific information leaflet for unaccompanied children provided for by Article 4(3) of the Dublin Regulation.

Information by NGOs

CPR provides free legal information to asylum seekers throughout the asylum procedure that broadly cover the information requirements provided in the law, including tailored information to unaccompanied children and to relocated asylum seekers on the basis of individual interviews and legal attendance. CPR has also developed the HELP information portal which offers among others cultural orientation information, information on the asylum procedure, reception services and relevant institutional contacts. The portal is available in Portuguese, English, French and Spanish. However, challenges in capacity have restricted the provision of legal information during the first stage of the asylum procedure, particularly regarding asylum seekers placed in detention or private accommodation in more remote locations (see Regular Procedure: Legal Assistance).

Other organisations also provide legal information and assistance to asylum seekers during the first instance of the regular procedure such as JRS Portugal, CNIS for unaccompanied asylum-seeking children and to a lesser extent the ACM through their Local Support Centres for Migrants Integration (CLAIM), albeit in a limited number of cases and mostly focused on integration.

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 as well as to CPR as an organisation working on its behalf and other NGOs at the border and in detention, see the sections on Border Procedure and Access to Detention Facilities.

[255] Article 37(2) Asylum Act.
[256] 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.

I. 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: Syria, Eritrea

2. Are applications from specific nationalities considered manifestly unfounded?[257] ☐ Yes ☒ No
   - ❖ If yes, specify which:

While the Asylum Act does not provide for the formal prioritisation of specific caseloads, applications of relocated asylum seekers of Syrian and Eritrean nationality have benefited from an initial fast-tracking of admissibility and regular procedures in practice, although this trend seems to have subsided due to the increasing caseload before the SEF/GAR. The SEF has a tendency to grant subsidiary protection to Syrians, as opposed to Eritreans who are generally granted refugee status.

[257] Whether under the "safe country of origin" concept or otherwise.

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?

	Yes	Reduced material conditions	No
❖ Regular procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Dublin procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Admissibility procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Border procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Accelerated procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ First appeal	☒ Yes	☐ Reduced material conditions	☐ No
❖ Onward appeal	☒ Yes	☐ Reduced material conditions	☐ No
❖ Subsequent application	☐ Yes	☒ Reduced material conditions	☒ No

2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? ☒ Yes ☐ No

1.1. Responsibility for reception

The primary responsibility for the provision of material reception conditions lies with the Ministry of Internal Administration,[258] except for asylum seekers who pass the admissibility procedure and are in the regular procedure, who fall under the responsibility of the Ministry of Employment, Solidarity and Social Security.[259] Nevertheless, the authorities can cooperate with public and/or private non-profit organisations in the framework of a MoU to ensure the provision of such services.[260]

The practical framework for the reception of asylum seekers in Portugal currently stems from both bilateral MoUs,[261] and a multilateral MoU between relevant stakeholders.[262] The latter is coordinated by a Steering Commission (*Comissão de Acompanhamento*, CA) presided by the Institute of Social Security (*Instituto da Segurança Social*, ISS).[263] The Memoranda provide for an overall responsibility-sharing mechanism among stakeholders according to which different entities provide reception conditions depending on the type and stage of the procedure or the profile of the applicant:

1. The **Institute for Social Security (ISS)** offers material receptions conditions to asylum seekers in the regular procedure;

2. **Santa Casa da Misericórdia de Lisboa (SCML)** is tasked with assisting asylum seekers who have submitted an appeal against a Dublin decision or a first instance decision (with the

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258 This includes admissibility procedures (including Dublin procedures); accelerated procedures, border procedures, subsequent applications and applications following a removal decision: Article 61(1) Asylum Act.

259 Article 61(2) Asylum Act.

260 Article 61(1) and (2) *in fine* Asylum Act.

261 Notably MoUs between the Ministry of Internal Administration / SEF and CPR, between ISS and CPR, and between the ISS and Santa Casa da Misericórdia de Lisboa (SCML).

262 The initial signatories in 2012 included the SEF, ISS, SCML, CPR, ACM and the Employment and Professional Training Institute (*Instituto do Emprego e Formação Profissional*, IEFP). In 2014, the partnership was extended to include the Directorate General for Health (*Direcção-Geral da Saúde*, DGS), the Central Administration of the Health System (Administração Central do Sistema de Saúde, ACSS), the Directorate General of Education (Direcção-Geral da Educação, DGE), the Directorate General of Education Institutions (*Direcção-Geral dos Estabelecimentos Escolares*, DGEE), the National Association of Portuguese Municipalities (*Associação Nacional de Municípios Portugueses*, ANMP) and JRS.

263 The Steering Commission is assisted by a Technical Operative Group (*Grupo Técnico Operativo*, GTO) tasked, among others, with ensuring operational guidance and coordination of reception and integration services provided to spontaneous asylum seekers and resettled refugees at central and local levels.

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);

3. The **Portuguese Refugee Council (CPR)** offers reception services to asylum seekers in the admissibility (including Dublin) and accelerated procedures in the national territory. In the particular case of unaccompanied children, CPR also provides for material reception conditions in 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).

4. The **Aliens and Borders Service (SEF)** retains responsibility for material reception conditions in border procedures and procedures in detention following a removal order (see Conditions in Detention Facilities).[264]

In the particular case of Relocation, a special coordination framework was launched in 2015 consisting of the Working Group for the Agenda for Migration to assess existing capacities, plan and prepare an action plan for relocation.[265] The Working Group is composed of various public and private stakeholders and reception service providers.[266] ACM maintains a database of potential hosting entities that apply to receive relocated asylum seekers using this database. Relocated asylum seekers benefit from an 18-month support programme and the main providers of reception services include the Platform for Reception of Refugees (PAR), followed by CPR (in partnership with municipalities), the Municipality of Lisbon, União de Misericórdias, the Portuguese Red Cross (CVP), and other stand-alone municipalities. In the case of PAR, the initial support programme lasts 24 months.

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,[267] with the exception of a possible withdrawal or reduction of those conditions in the case of "unjustified" subsequent applications.[268] Asylum seekers are entitled to support from the moment they apply for asylum,[269] until a final decision is reached on their asylum application,[270] without prejudice to the suspensive effect of appeals[271] and 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.[272]

Furthermore, there is a requirement in the law according to which only asylum seekers who lack resources are entitled to material reception conditions.[273] 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

264 Article 61(1) Asylum Act.
265 Executive Order 10041-A/2015.
266 These include: SEF, ACM, General Secretariat of Internal Administration (*Secretaria Geral da Administração Interna,* SGAI), Ministry of Foreign Affairs (*Ministério dos Negócios Estrangeiros*, MNE), DGE, ANMP, Directorate General of Local Municipalities (*Direcção-Geral das Autarquias Locais*, DGAL), ISS, DGS, Municipality of Lisbon, Institute for Housing and Urban Rehabilitation (*Instituto da Habitação e da Reabilitação Urbana*, IHRU), IEFP, CPR, União das Misericórdias, União das Mutualidades, PAR, JRS, CVP and CNIS.
267 Articles 51(1) and 56(1)-(2) Asylum Act.
268 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), however in 2016 the SEF has not referred subsequent applicants to CPR for the purpose of providing reception conditions.
269 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.
270 Article 60(1) Asylum Act.
271 Articles 60(1) *in fine* and 30(1) Asylum Act.
272 Article 60(2) Asylum Act.
273 Articles 51(1) and 56(1) Asylum Act.

inferior to the "social support allowance" provided in the law.[274] To date the ISS has interpreted this provision as referring to the social pension (*pensão social*) that in 2016 stood at 201.53 € per month.[275] Asylum seekers can be called to contribute,[276] or reimburse,[277] 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.

In practice, the majority of spontaneous asylum seekers are systematically referred by the SEF and have benefited from the provision of material reception conditions by CPR in the framework of admissibility, including Dublin, and accelerated procedures on the territory. This was done without a strict assessment of resources by the SEF as many asylum seekers had recently arrived in the country and were considered 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. Along with the fact that asylum seekers are not entitled to access paid employment at this stage (see Access to the Labour Market), that encouraged a system based on trust.

In the case of referrals to CPR's Refugee Reception Centre (*Centro de Acolhimento para Refugiados*, CAR) that accommodates isolated adults and families, access was dependent on the applicant presenting an individual certificate of the asylum application or a written request (e.g. email) from SEF/GAR where the timely issuance of the certificate was not possible, for instance in the case of late arrivals of incoming Dublin transfers. As for unaccompanied children, referral by the SEF to CPR's CACR is made by the most expedient means available such as telephone or email and in many instances, those of children released from the border, involved escort by the SEF to the premises. Finally, for those asylum seekers who have opted for private housing with relatives, the provision of material 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 asylum seekers are not entitled to access paid employment at this stage of the procedure.

Following admission to the regular procedure, or if the application is deemed inadmissible or is rejected in an accelerated procedure, the asylum seeker is generally referred by frontline service providers such as CPR to the GTO using a standard individual monitoring report. The GTO makes a decision on the provision of material reception conditions in the regular procedure (by ISS) or at appeal stage (by SCML) on the basis of the report that includes information on the socio-economic circumstances of the individual. CPR is unaware of asylum seekers refused material reception conditions at this stage due to a strict application of criteria pertaining to sufficient resources. This can be explained by the fact that at this stage asylum seekers have just been given access to paid employment and are often unemployed. According to the statistics provided by the ISS, in 2016 there was no cessation of material reception conditions in the regular procedure due to the resources of the applicant. According to the information available to CPR the contribution or reimbursement of material reception conditions is not implemented in practice.

While spontaneous asylum seekers 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 support provided by CPR to asylum seekers accommodated in private accommodation in remote locations due to the lack of information from the SEF's regional representations regarding available assistance and the 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 case of refusal to accept the dispersal policy in place managed by the GTO (see Freedom of Movement).

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274 Article 56(3) Asylum Act.
275 Law-Decree 464/80. In 2016 the value of the social pension stood at 201.53 € per month: Executive Order 286-A/2014.
276 Article 56(4) Asylum Act.
277 Article 56(5) Asylum Act.

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 asylum seekers as of 31 December 2016 (in original currency and in €):

Category of applicant	*First year (all expenses)*	*Second year (all expenses)*
Head of household	261.99 €	180.99 €
Other adult in household	183.39 €	126.70 €
Child	130.99 €	90.50 €

The Asylum Act provides for a general definition of material reception conditions,[278] as well as a closed list of forms of material reception conditions in Article 57(1) that includes:

a. Housing;[279]
b. Food;
c. Monthly social support allowance for food, clothing, transport and hygiene items;
d. Monthly complementary allowance for housing; and
e. 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:

a. Housing and food in kind with a [monthly] complementary allowance for personal expenses and transportation; and
b. Housing in kind or complementary allowance for housing with a social support allowance [for food, clothing, transportation and hygiene items].

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: (i) there is a need for an initial assessment of the special needs of the applicant; (ii) the housing in kind as per the law is not available in the area where the asylum seeker is located; and/or (iii) available reception capacity is temporarily exhausted and/or the international protection applicants are detained at a border that is not equipped housing declared as equivalent to reception centres.[280]

The criteria for establishing the value of the financial allowances consists of a percentage of the "social support allowance",[281] which to date has been interpreted by the ISS as referring to the social pension (*pensão social*).[282] These percentages represent the upper limit of the allowances and in 2016 consisted of the following:

Level of financial allowances per expense: 2016		
Type of monthly allowance	Percentage	Amount
Social support allowance for food, clothing, transport and hygiene items	70%	141.07 €
Complementary allowance for housing	30%	60.46 €
Complementary allowance for personal expenses and transport	30%	60.46 €

278 Article 2(1)(e) Asylum Act: housing, food, clothing and transportation offered in kind, through financial allowances, vouchers or daily allowances.

279 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.

280 Article 57(4) Asylum Act.

281 Article 58 Asylum Act.

282 Law-Decree 464/80. In 2016 the value of the social pension stood at 201.53 € / month: Executive Order 286-A/2014.

In practice, asylum seekers referred by the SEF to CPR in the framework of admissibility procedures (including Dublin) and accelerated procedures on the territory benefit from housing at CAR or in private accommodation provided by CPR, along with a monthly allowance of 150 € per adult, 50 € per child below the age of four and to 75 € per child over the age of four to cover food and transport expenses.

During the first week, asylum seekers receive food items instead of the (*pro rata* of the) financial allowance for reasons related to the practical organisation of payments in cash at the CAR. Furthermore, CPR's Social Department provides asylum seekers with second hand clothes as well as food items on a needs basis and/or weekly with the support of the Food Bank (*Banco Alimentar*), a charity organisation that supports social institutions by providing food items to be distributed to final beneficiaries. Depending on the individual circumstances the 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); (ii) school supplies for children; (iii) differentiated health care e.g. dentists; and (iv) taxi transportation e.g. in case of a medical emergency or for particularly vulnerable individuals. In the particular case of unaccompanied children in the regular procedure and at appeal stage, CPR provides for material reception conditions in kind such as housing, food, clothing, transportation, school supplies, sports activities, haircuts, as well as a monthly allowance for personal needs that varies according to the age: 8 € for children up to the age of 10; 12 € for children between the age of 11 and 14; and 16 € for children aged 15 and over.

In the regular procedure and in case of an appeal, the financial allowance provided by the ISS and by the SCML is expected to cover all expenses.

During the first year of stay in the country, the monthly allowance for all expenses is calculated in accordance to the percentages of the social pension set out in the Asylum Act,[283] as mentioned above, albeit with a regressive percentage per additional member of the household:

Level of ISS / SCML financial allowance for all expenses: 2016		
Category of applicant	Year 1	Year 2
Head of household	261.99 €	180.99 €
Other adult in household	183.39 €	126.70 €
Child	130.99 €	90.50 €

From the second year onwards the ISS departs from the criteria set out in the Asylum Act and generally provides asylum seekers with the Social Insertion Revenue (*Rendimento Social de Inserção*, RSI).[284]

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,[285] 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. Financial allowances for asylum seekers and beneficiaries of international protection in the regular procedure and in appeal saw a sharp decrease in 2012 during the financial crisis and the reasoning of the ISS since has been to bring them strictly in line to those provided in the law to destitute nationals, thus resorting to the standards provided in the social pension and the RSI. According to the law, both the social pension and the RSI constitute measures of solidarity to offer social protection to the most vulnerable populations.[286]

283 Article 58 Asylum Act.
284 Act 13/2003. In 2016, the value of the social insertion revenue stood at 180.99 €: Law-Decree 1/2016 and Executive Order 1514/2008.
285 Article 56(1) Asylum Act.
286 Preamble to Law Decree 464/80 regarding the social pension that refers to "improving social protection for the most destitute". The social pension 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). According to Article 1 Law 13/2003, the RSI is a solidarity measure independent of contributions to the Social Security aimed at insuring essential needs and progressively promote social, community and employment insertion on the basis of an insertion contract (Article 1).

While no qualitative research has been conducted to date on destitution of asylum seekers in the asylum procedure,[287] the current level of financial allowances is manifestly low and 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, although short of claims of outright destitution. Such difficulties might constitute a contributing factor to the high level of absconding and cessation of support in the regular procedure and in the relocation programme (see Reduction or Withdrawal of Reception Conditions).

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 a closed list of grounds that may warrant the reduction or withdrawal of material reception conditions.[288] These consist of:

a. Abandoning the place of residence determined by the authority without informing the 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,[289] implying the need for an individualised assessment of the legality of the decision, which is however not clearly stated in the law.[290] The asylum seeker is entitled to appeal the decision under these grounds before an Administrative Court,[291] with suspensive effect,[292] and may benefit from free legal aid to that end.[293] Reception conditions reduced or withdrawn pursuant to grounds (a) to (c) above can be reinstated if the asylum seeker is found or presents him or herself to the authorities.[294]

According to the statistical information collected, the ISS did not adopt decisions to reduce or withdraw material reception conditions of asylum seekers in the regular procedure under these grounds in 2016. It is worth noting, however, that during the same period a total of 112 spontaneous asylum seekers in the regular procedure abandoned *proprio motu* the support provided by the ISS for reasons that could in certain instances be linked to poor living standards offered by material reception conditions. The rate of absconding in the Relocation programme since 2015 has also been quite important.[295] However, according to the information available to CPR the absconding of spontaneous and relocated asylum

287 In this regard, it should be noted that the Parliament has recently passed a resolution that recomends the Government to conduct an assessment among others of the national policy since 2015 for the reception and social inclusion of asylum seekers and beneficiaries of international protection in Portugal: http://bit.ly/2AmU4IQ. The assessment report is due at the end of 2017.
288 Article 60(3) Asylum Act.
289 *Ibid*.
290 Article 60 (5) and (6) Asylum Act. Indeed, in these cases the Asylum Act does not expressly provide for individual, objective, impartial and reasoned decisions under these grounds that take into account the individual circumstances of the applicant and the principle of proportionality, even though similar standards apply through general principles and rules of administrative law.
291 Article 60(8) Asylum Act.
292 Articles 63(1) and 30(1) Asylum Act.
293 Article 63(2) Asylum Act.
294 Article 60(4) Asylum Act.
295 Público, 'Quase metade dos 1500 refugiados que chegaram já deixou Portugal', available in Portuguese at: http://bit.ly/2j8gF7J; News Deeply, 'Portugal Offers Refugees a Warm Welcome, but Can't Get Them to Stay', 1 September 2017, available at: http://bit.ly/2gMuHdW.

seekers was not followed by formal decisions of reduction or withdrawal of material reception conditions, rendering irrelevant the issue of reinstatement of reception conditions provided in the law.

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.[296] In the case of the **CAR**, both the Regulation and the individual contract signed between CPR and the asylum seeker include specific prohibitions of abusive and violent behaviour that can ultimately result in withdrawal of support following an assessment of the individual circumstances of the case and taking into consideration the vulnerability of the applicant.[297] In the case of **CACR**, while the Regulation contains similar prohibitions and age appropriate sanctions,[298] the accommodation of unaccompanied children stems from and can only be reviewed by the Family and Juvenile Courts 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 relevant, instances of withdrawal of support from CPR following abusive and/or violent behaviour in breach of internal rules remain an extremely rare event. For most cases the consequences consist of transfer into private accommodation to ensure the security and well-being of the remaining clients, along with written information to the SEF on the transfer and reasons thereof. In the particular case of unaccompanied children, the Family and Juvenile Courts generally prioritise the stability of the living environment,[299] and are extremely reluctant to uproot the child by transfer into 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

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 the SEF informed of their address and immediately flag any changes thereto.[300] 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.[301]

Since 2012, the operational framework for the reception of asylum seekers in Portugal provides for a dispersal mechanism of asylum seekers (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 GTO, using a standard individual monitoring report. The GTO meets at least once a month to discuss individual cases and makes a decision on the provision of material reception conditions in the regular procedure (by ISS) or at appeal stage (by SCML) on the basis of the report and in accordance to existing reception capacity nationwide. This can either result in a dispersal decision implemented by local Social Security services for those admitted to

296 Article 59(1)(e) Asylum Act.
297 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.
298 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.
299 Article 78(2)(e) Asylum Act provides for stability of housing as a contributing factor to upholding the best interests of the child.
300 Article 15(1)(f) Asylum Act.
301 Article 59(2) Asylum Act.

the regular procedure or their placement in private housing in the **Lisbon** area under the responsibility of SCML for those who have appealed the rejection of their application.

In practice, according to the statistics shared by the ISS, in 2016 there were a total of 791 spontaneous asylum seekers and beneficiaries of international protection – thereby excluding relocated persons – who benefited from ISS material support, residing in the following areas:

Dispersal of applicants and beneficiaries of international protection receiving ISS support	
Area	Number of persons receiving support in 2016
Lisbon	415
Coimbra	58
Porto	47
Castelo Branco	35
Évora	30
Portalegre	28
Viseu	27
Aveiro	22
Viana do Castelo	22
Guarda	21
Setúbal	21
Vila Real	20
Braga	16
Beja	7
Leiria	6
Santarém	6
Bragança	4
Faro	4
Total	**791**

Source: ISS

The majority of asylum seekers and beneficiaries receiving material reception conditions from ISS in 2016 resided in **Lisbon**. Additionally, a total of 290 individuals benefited from material support of the SCML mostly in the Lisbon area and its surroundings.

While there is some flexibility in the implementation of the dispersal policy (e.g. regarding asylum seekers who are employed at the time of the decision or particularly vulnerable asylum seekers who benefit from specialised medical care in Lisbon) the 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 result in the withdrawal of material reception conditions. According to the information available to CPR, once the dispersal decision is made by the GTO, asylum seekers are not subjected to onward dispersal decisions resulting in their move from the initial District of assignment.[302]

While 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, and lack of tailor-made integration services such as language training and vocational training.

302 It should be noted that in accordance to 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.

The law only provides for the possibility to appeal a decision to withdraw or reduce material reception conditions in case of abandonment of the place of residence assigned by the competent authority without informing the SEF, without proper authorisation or without informing the reception service provider.[303] However, refusing the dispersal decision can hardly be interpreted as an abandonment of the place of residence, meaning that the Asylum Act does not seem to expressly provide for an appeal although compatibility with their right to freedom of movement and limits to the transfer of asylum seekers from housing facilities[304] could eventually be challenged in the framework of general administrative law.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

1. Number of reception centres: 2
2. Total number of places in the reception system: 47
3. Total number of places in private accommodation (incl. beneficiaries): 1,081
4. Type of accommodation most frequently used in a regular procedure:
   ☐ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☒ Private housing ☐ Other
5. Type of accommodation most frequently used in an accelerated procedure:
   ☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☒ Other (Detention at the border)

As mentioned in Freedom of Movement, asylum seekers are generally referred by frontline service providers to the GTO following admission to the regular procedure or in case of appeal of the rejection of the application at first instance. 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 the ISS, asylum seekers are mostly provided with private housing without prejudice to occasional short-term transitional housing upon arrival at the dispersal location in collective accommodation such as hotels or non-dedicated reception centres e.g. emergency shelters, nursing homes, etc. In the case of SCML, the provision of housing consists mostly of accommodation in private inns in the Lisbon area. In 2016, the number of asylum seekers and beneficiaries of international protection assisted by the ISS and SCML for the provision of housing in private accommodation reached 1,081 people.

In the current reception system, adults and families with children are accommodated at CPR's Refugee Reception Centre (**CAR**) during admissibility (including Dublin) and accelerated procedures in the territory. In the case of unaccompanied children, CPR's Refugee Children Reception Centre (**CACR**) offers age-appropriate housing and reception conditions during the regular procedure and at appeal stage.

Capacity and occupancy of the asylum reception system		
Centre	Capacity	Occupancy at 31 December 2016
CAR	34	70
CACR	13	21
Total	**47**	**91**

Source: CPR

303 Articles 60(3)(a)-(b) and (8), and 63(1) Asylum Act.
304 Article 59(2) Asylum Act.

The CAR is an open reception centre located in **Bobadela**, Municipality of Loures, and operates in the framework of MoUs with the Ministry of Internal Administration and the Ministry of Labour, Solidarity and Social Security. The official capacity of the CAR stands at 34 places. In 2016, CPR provided housing to a total of 785 asylum seekers of which 463 were accommodated at CAR and the remaining 322 in alternative private accommodation.

The CACR, on the other hand, is an open reception house for unaccompanied asylum-seeking children located in **Lisbon** that operates since 2012 in the framework of MoUs with the Ministry of Internal Administration, the Municipality of Lisbon and the Ministry of Labour, Solidarity and Social Security. The official capacity stands at 13 places and in 2016 the CPR provided housing at CACR to a total of 54 unaccompanied children.

It should also be noted that, following consecutive yearly increases in the number of asylum applications, CPR has been developing a new reception centre since 2015 with the financial support of the Council of Europe Development Bank and in partnership with the Ministry of Internal Administration. The new reception centre will have a maximum capacity of 90 places, of which 30 for unaccompanied children, and aims to address the chronic reception gap for asylum seekers currently eligible for accommodation at CAR and CACR. The new reception centre will is expected to become operational in the course of 2018.

In the particular case of asylum seekers arriving through Relocation, the hosting organisations offer an initial 18-month support programme – 24-month in the case of PAR – that generally includes housing in kind either in private accommodation rented by the hosting organisation or in collective accommodation such as reception centres for vulnerable populations. In 2016, CPR established MoUs with 10 municipalities and institutions for the reception of 132 relocated asylum seekers that for the most part benefited from rented accommodation. In February 2016, the Lisbon Municipality inaugurated a Temporary Reception Centre for Refugees (*Centro de Acolhimento Temporário para Refugiados*, **CATR**) that provides transitory reception to relocated asylum seekers. The CATR has a capacity of 26 places and is complemented by temporary accommodation in private housing supervised by designated operational partners. Upon completion of the initial 18-month support programme the hosting organisations and ACM conduct individual interviews with final beneficiaries to assist in the transition into the general support system available to asylum seekers in the regular procedure.

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: 3 months
   - Unaccompanied children: 7 months

3. Are unaccompanied children ever accommodated with adults in practice? ☐ Yes ☒ No

The main form of accommodation used during admissibility, including Dublin, and accelerated procedures in national territory are CPR's reception centres while in the regular procedure and at appeal stage is private accommodation (see Types of Accommodation).

The ISS is the competent authority for the licensing and monitoring of reception centres, including for asylum seekers.[305] The quality standards applicable to collective accommodation facilities have been laid down by the ISS in detail regarding temporary reception centres for children at risk (such as the CACR).[306] Furthermore, the law provides for specific standards regarding housing in kind for asylum

305 Law-Decree No 64/2007.

306 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,

seekers,[307] and children at risk such as unaccompanied children in particular.[308] The specific material reception standards of the CAR and CACR are encapsulated in the underlying bilateral MOUs (see Types of Accommodation) and their internal regulations.

The **CAR** is composed of shared rooms with dedicated bathrooms / toilets and is equipped to accommodate asylum seekers with mobility constraints; 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. The centre provides psychosocial and legal assistance, Portuguese language training, socio-cultural activities as well as job search support (see Access to the Labour Market). There is logistical support staff 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 cooperate in the cleaning of their room and the common kitchen. The residents have converted part of the common area into a prayer space.

The average stay at the CAR is around 3 months. The official capacity stands at 34 places but the living areas can adequately accommodate approximately 52 persons. However, existing gaps in centralised reception capacity have resulted in chronic overcrowding that has been partially averted by resorting to the private housing market (hostels, rooms, apartments) for the most part in the Municipality of **Loures**. Despite the overcrowding, the living conditions remain adequate and families are generally given separate accommodation either at CAR or in external accommodation. Recent research has shown, however, that overcrowding has put a strain on living conditions and access to services. This includes conflicts in the use of the common kitchen and storing spaces, petty thefts and tensions with other residents, delayed access to services such as social and legal assistance and complaints regarding insufficient socio-cultural activities.[309]

The **CACR** is also composed of shared rooms with dedicated bathrooms / toilets and is equally equipped to accommodate asylum seekers with mobility constraints. A resident cook is responsible for the provision of meals in line with the nutritional needs of children, but children are on occasion 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. The children accommodated at the CACR are systematically enrolled in local schools or in professional training programmes. The staff of the CACR include a social worker and support workers and are complemented by the support of legal officers and a language trainer. There is logistical support staff present 24 hours a day that also ensures the overall cleaning of the centre, while the residents are expected to cooperate in the cleaning of their room and the common areas.

The CACR offers unaccompanied children age-appropriate housing and reception conditions for an average stay period of 7 months during the regular procedure and at appeal stage. The official capacity stands at 13 places but the existing gap in specialised reception capacity has also 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**, supervised by the Family and Juvenile Court; and depending on the individual circumstances promoting the placement of children above the age of

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, 5, 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).

307 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.

308 Articles 52-54 Children and Youth at Risk Protection Act.

309 Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: http://bit.ly/2xZqCGh.

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.[310] Despite the overcrowding, living conditions remain adequate but put a strain on the timing and quality of support provided. A relevant concern is absconding from the CACR, which stood at 27.8% (15 unaccompanied children) in 2016, compounded by instances of trafficking in human beings (see Special Reception Needs).

As mentioned in Freedom of Movement, no research has been conducted to date on the impact of the dispersal component of the reception policy implemented by the GTO. According to the information collected by CPR, there have not been systemic problems regarding the quality of private housing provided upon dispersal. However there are difficulties in securing private housing in the **Lisbon** area with conditions that are up to the standard.

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?	7-30 days
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

The Asylum Act provides for the right of asylum seekers to access the labour market following admission to the regular procedure and the issuance of a provisional residence permit.[311] In case of admission to the regular procedure, access to the labour market can therefore be granted after 7 days in the context of the border procedure or after 10 to 30 days in procedures on the territory.[312] Furthermore, asylum seekers entitled to access the labour market can also benefit from support measures and programmes in the area of employment and vocational training under specific conditions to be determined by the competent Ministries.[313]

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 provisional residence permits by the SEF, which clearly state the right to employment,[314] are free of charge.[315] 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.[316] Furthermore, asylum seekers benefit from the same conditions of employment of nationals, including those pertaining to salaries and working hours.[317] 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)

310 Act 147/99.
311 Articles 54(1) and 27(1) Asylum Act.
312 The 10 days correspond to the time limit of admissibility decisions in subsequent applications and applications following a removal order (on the territory) and the 30 days to the remaining admissibility procedures on the territory: Articles 33(4)-(5), 33-A (5) and 20(1) Asylum Act.
313 Article 55 Asylum Act.
314 Executive Order 597/2015.
315 Article 84 Asylum Act.
316 Article 15(2) Constitution and Article 17(1)(a) and (2) Act 35/2014.
317 Article 4 Labour Code.

registration with the Authority for Labour Conditions (*Autoridade para as Condições do Trabalho*, ACT).[318]

With the exception of the submission of beneficiaries of international protection to the conditions applicable to nationals of the same country,[319] there are no specific rules regarding the recognition of diplomas and academic qualifications in the Asylum Act. The general rules regarding recognition of foreign diplomas at basic and secondary level include conditions that are particularly challenging for asylum seekers and beneficiaries of international protection,[320] such as:

a. The presentation of original diplomas,[321] and eventually of additional supporting documents;[322]
b. Duly translated and legalised documents;[323]
c. In the absence of such documents, a statement from an Embassy or a reception organisation related to the country of origin confirming exceptional individual circumstances;[324] and
d. A competency evaluation test.[325]

In 2016 the Directorate-General of Education (DGE) issued a guidance note in the framework of the Relocation programme regarding the recognition of diplomas at basic and secondary level but its scope has since been extended to all asylum seekers and beneficiaries of international protection.[326] While the guidelines clarify who may issue statements confirming exceptional individual circumstances and exempt asylum seekers and beneficiaries of international protection from translating and legalising diplomas, the other conditions remain. The guidelines also applicable only to children and young adults, given that in accordance to the law the competences of the DGE are limited to the preschool years, basic and secondary education levels.

There are no statistics available on the number of asylum seekers in employment at the end of 2016. However, the experience of CPR shows that asylum seekers and beneficiaries of international protection face many challenges in securing employment that are both general and specific in nature. In the context of Relocation, however, the ISS has shared provisional information concerning asylum seekers who are now coming to the end of the 18-month integration programme according to which a third of those in working age who have remained in the country have secured employment since arriving in Portugal.[327]

The particularly difficult economic situation of the country following the financial crisis has only recently started to revert to pre-crisis levels. At the end of 2016 the unemployment rate still stood at 10.5% for the general working population and 28% for the age 15-24 population.[328] This adverse context is compounded by specific fragilities that include first and foremost poor language skills and professional skills that are misaligned with the needs of employers, thus requiring professional recycling which itself presents many challenges.

Challenges of a more bureaucratic nature include: difficulties in obtaining equivalence of diplomas as described above which are particularly relevant for regulated professions; not having a social security identification number (*Número de Identificação da Segurança Social*, NISS) at the time of application; or

318 Article 5 Labour Code.
319 Article 70(3) Asylum Act.
320 Law-Decree 227/2005; Executive Order 224/2006; Executive Order 699/2006.
321 Article 7(2) Law-Decree 227/2005.
322 Article 7(4) Law-Decree 227/2005.
323 *Ibid.*
324 Article 10(1) Law-Decree 227/2005.
325 The content of the tests varies according to the level of education but always includes a Portuguese language test. See Article 10(5) (basic education) and Article 10(6) (secondary education) Law-Decree 227/2005.
326 DGE, *Agenda Europeia para as Migrações - medidas a implementar no sistema educativo*, 1 March 2016, available in Portuguese at: http://bit.ly/2jqFkok and DGE, *Crianças e jovens refugiados - medidas a implementar no sistema educativo*, 21 October 2016, available in Portuguese at: http://bit.ly/2z0dgzf.
327 See Working Group on the European Agenda on Migration, 'Quase 30 por cento dos refugiados inseridos no mercado de trabalho', 26 September 2017, available in Portuguese at: http://bit.ly/2A1ypZM.
328 See TSF, 'Desemprego em 2016 baixa para 11,1%. Mais de 300 mil jovens sem trabalho', 8 February 2017, available in Portuguese at: http://bit.ly/2msGpgk.

the provisional residence permit stating not to be an identification document.[329] These issues may put off employers from hiring asylum seekers in a very competitive employment market. Additional challenges, particularly in the case of victims of torture and/or serious violence, include specific vulnerabilities related to health, mental health and high levels of anxiety related to the uncertainty of the asylum procedure, separation from relatives, financial instability, etc that hinder the ability to focus on a medium-long term individual integration process (see Special Reception Needs).

CPR provides Portuguese language training free of charge to asylum seekers who are accommodated at **CAR**, **CACR** or in private housing provided by the institution.

Portuguese language training is also available following admission to the regular procedure in the framework of the programme "Portuguese for All" (*Português para Todos*), an initiative of the Ministry of Employment, Solidarity and Social Security and the Ministry of Education,[330] that is managed by the ACM and funded by the European Social Fund. *Português para Todos* offers certified language training modules delivered by public schools and training centres of the IEFP corresponding to A2 (150 hours) and B2 (150 hours) levels as well as technical Portuguese language training (25 hours) in areas such as business, hotel and tourism, beauty care, civil construction and engineering. The ACM also funds informal language training, including some alphabetic training, that is delivered by cicil society organisations, including CPR, and Municipalities.[331]

In 2016, CPR provided certified language training free of charge at A1 and B1 levels to 400 asylum seekers and refugees, including alphabetic training and complementary language training for children enrolled in schools. Available language training following admission to the regular procedure consisted mostly of A1-A2 *Português para Todos* language training that is tailored for more advanced users who are familiar with the Latin alphabet and is therefore not necessarily tailored to asylum seekers and beneficiaries of international protection who often present low levels of education / illiteracy / poor knowledge of the Latin alphabet. Notwithstanding, opportunities for alphabetic training remained very limited. Such programmes were available at national level in public schools and training centres following registration with and referral from IEFP employment centres or registration with schools or ACM. It should be noted that these require putting together groups of a minimum size, which constitutes an additional challenge in certain locations given the current dispersal policy (see Freedom of Movement).

The IEFP has also at times organised modular training[332] of between 25-40 hours in technical Portuguese (e.g. business vocabulary) with flexible admission conditions pertaining to language skills and diplomas. Available *Português para Todos* language training at B1 and B2 levels remained limited according to the experience of CPR's Professional Insertion Cabinet (GIP) thus curtailing the employability of asylum seekers and refugees.

The CPR's GIP, which has operated at CAR since 2001 in the framework of a MoU with the IEFP, offers individual assistance and training sessions on job search techniques, equivalence procedures, search and referrals to vocational training and volunteering, among others. Other organisations that provide similar employment assistance to spontaneous asylum seekers include the JRS that also offers a robust employability programme in partnership with private sponsors as well as personal skills training and vocational training in areas such as domestic services, geriatric care, food and beverage, hostelries or child care.

However, the low level of language skills associated with the lack of diplomas and/or challenging equivalence procedures described above render access to vocational training offered by the IEFP and

329 Executive Order 597/2015.
330 Executive Order 1262/2009 and Executive Order 216-B/2012.
331 For more information on these programmes see ACM, *Learning of the Portuguese Language*, available at: http://bit.ly/2iqmXQg.
332 Modular training aims to refresh and improve the practical and theorical knowledge of adults and improve their educational and professional training levels. For more information see IEFP, *Fomação Modular*, available in Portuguese at: https://goo.gl/aCPTXi.

its partners within the public system inaccessible to most asylum seekers and beneficiaries of international protection while vocational training in the private sector is generally unaffordable.

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.[333] This right cannot be curtailed if the asylum seeker reaches adulthood while already attending school to complete secondary education.[334] The Ministry in charge of education and science retains sole responsibility to ensure the right of children to education.[335]

Enrolment in schools at basic and secondary levels requires an equivalence procedure but children must be granted immediate access to schools and classes while that procedure is pending.[336] Given that asylum seekers are rarely in possession of duly legalised diplomas and other supporting documents, the procedure generally entails a placement assessment / test conducted by the school.[337] 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.[338] In 2016 the DGE issued a guidance note which among others grants schools increased autonomy for adapting pedagogical activities to the specific needs of asylum seekers and beneficiaries of international protection with an increased focus on Portuguese language learning and additional resources for that purpose (see Access to the Labour Market).[339] The guidelines also clarify the entitlement of asylum seekers and beneficiaries of international protection under the most favourable regime 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.[340]

In practice accompanied children and unaccompanied children are systematically referred to public schools upon accommodation at **CAR** and **CACR**. According to the experience of CPR's Social Department, enrolment in local public schools is generally guaranteed within a reasonable period, although the placement of students in secondary education (i.e. over the age of 15) can prove problematic due to more demanding bureaucratic procedures and placement tests. Additionally, the resources available for the provision of complementary support to foreign students, notably regarding Portuguese language training, is at times limited. These findings regarding access to education by asylum-seeking children have also been confirmed by hosting organisations regarding relocated asylum seekers in the framework of informal consultations conducted by UNHCR and CPR in October 2017.

The Asylum Act limits vocational training to asylum seekers who are entitled to access the labour market i.e. admitted to the regular procedure and in possession of a provisional residence permit.[341]

In 2016 some unaccompanied asylum-seeking children were referred to Education and Professional Training Integrated Programmes (*Programas Integrados de Educação e Formação*, PIEF) regardless of their residence status. The PIEFs consist of alternative education / training programmes available to

333 Article 53(1) Asylum Act.
334 Article 53(2) Asylum Act.
335 Article 61(4) Asylum Act.
336 Article 8(5) Law-Decree 227/2005.
337 Article 10(3) Law-Decree 227/2005.
338 Article 11(2), (3) and (4) Law-Decree 227/2005.
339 DGE, *Agenda Europeia para as Migrações - medidas a implementar no sistema educativo*, 1 March 2016, available in Portuguese at: http://bit.ly/2jqFkok and DGE, *Crianças e jovens refugiados - medidas a implementar no sistema educativo*, 21 October 2016, available in Portuguese at: http://bit.ly/2z0dgzf.
340 Ministry of Education and Science Decision No 8452-A/14 of 31 July 2014.
341 Article 55(1) Asylum Act.

children e.g. who have not completed 4 years of education at the age of 15 or who are 3 years older than the appropriate age of students in any given level at basic or secondary education. Such programmes, first created to combat the exploitation of child labour, have proved useful in dealing with particularly complex cases of unaccompanied asylum-seeking children with very poor education levels at arrival.

Access to professional training by adults on the other hand remains particularly limited as training 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 equivalence procedures (see Access to the Labour Market).

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 (SNS)[342] and includes a specific provision on the right to adequate health care at the border.[343] The primary responsibility for the provision of health care lies with the Ministry of Health,[344] except for asylum seekers detained at the border that fall under the responsibility of the Ministry of Internal Administration.[345] The latter can however cooperate with public and/or private non-profit organisations in the framework of a MoU to insure the provision of such services.[346]

In accordance with the Asylum Act,[347] the specific rules governing access of asylum seekers and their family members to health care[348] are provided by Executive Order No 30/2001 and Executive Order No 1042/2008,[349] 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;[350]
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;[351]

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342 Articles 52(1) and 56(1) Asylum Act.

343 Article 56(2) Asylum Act. This provision should be read in conjunction with Article 146-A(3) Aliens Act that provides for the right of pre-removal detainees in CIT to emergency and basic health care.

344 Article 61(3) Asylum Act.

345 Article 61(1) Asylum Act. While not included in this provision, the 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) Aliens Act.

346 *Ibid*.

347 Article 52(1) *in fine* Asylum Act.

348 The legal and operational background pertaining to the access of asylum seekers to health care was recently 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.

349 Executive Order No 1042/2008 extends Executive Order No 30/2001 *ratione personae* to applicants for subsidiary protection and their family members.

350 Executive 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 that consist of a complete list of documents issued to the asylum seeker by the SEF during the asylum procedure (e.g. renewal receipts of the certificate of the asylum application, provisional residence permit, etc.)

351 *Ibid*.

3. Asylum seekers have access to the SNS free of charge[352] for emergency health care, including diagnosis and treatment, and for primary health care,[353] as well as assistance with medicines, to be provided by the health services of their residence area.[354]

Furthermore, the special needs of particularly vulnerable persons must be taken into consideration in the provision of health care,[355] through adequate medical care,[356] and specialised mental health care including for survivors of torture and serious violence,[357] including in detention.[358] The responsibility for special treatment required by survivors of torture and serious violence lies with the ISS.[359]

In practice, asylum seekers have effective access to free health care in the SNS in line with applicable legal provisions. However, persisting challenge have a significant impact on the quality of the care available. According to recent research,[360] 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. It should be noted in this regard that 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.

In the particular case of detention (see Conditions in Detention Facilities), there are varying levels of service provision depending on the location of detention. In the case of detention at the border, and in particularly at the **Lisbon Airport**, access to health care includes a basic medical screening conducted by nurses of the CVP. In case of need, asylum seekers are referred to emergency care, including emergency mental health care in hospitals. According to the Directorate-General for Health (DGS), unless and until the person is released from detention at the border, the individual is allowed to leave as often as necessary to receive emergency care or medication but will not benefit from a regular medical follow-up. In the case of asylum seekers at the **CIT – UHSA** of Porto in pre-removal detention, the medical department is constituted by doctors, nurses and psychiatrists that are in a position to identify the needs and make referrals to the SNS. Volunteers (e.g. MdM) also provide sporadic assistance with health screenings.

In accordance with the law, 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.[361] Additionally, the 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.[362] This provision remains to be tested in practice due to the absence of such decisions (see Reduction or Withdrawal of Reception Conditions).

352 Article 4(1)(n) Law-Decree 113/2011.
353 For the purposes of free access to the SNS, primary health care is to be understood as including among others as: (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: Executive Order No 30/2001, para 6.
354 Executive Order No 30/2001, para 5.
355 Article 77(1) Asylum Act.
356 Articles 52(5) and 56(2) Asylum Act.
357 Articles 78(3)-(4) and 80 Asylum Act.
358 Article 35-B(8) Asylum Act.
359 Article 80 Asylum Act.
360 Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: http://bit.ly/2xZqCGh.
361 Executive Order No 30/2001, para 8.
362 Article 60(7) Asylum Act.

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 his or her vulnerability. The Asylum Act provides for a non-exhaustive list of applicants with an increased vulnerability risk profile that could present a need for 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.[363] While the Asylum Act also refers to guarantees available to particularly vulnerable persons,[364] 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.[365]

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,[366] but within reasonable delay following registration.[367] The provision of special reception conditions should take into consideration: (i) the material reception needs of particularly vulnerable persons;[368] (ii) their special health needs; including those particular to survivors of torture and serious violence.[369]

The law details further the modalities of some of these categories of special reception conditions particularly regarding the special needs of children (including unaccompanied children) and housing conditions.

There are no specific mechanisms, standard operating procedures or unit in place to systematically identify asylum seekers in need of special reception conditions, with the exception of age assessment procedures to identify unaccompanied children and the identification and protection of potential unaccompanied children victims of trafficking (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 are generally identified by CPR within a reasonable period of time after registration. This is done on the basis of information received from the SEF prior to their referral to CPR's reception centres or during legal assistance, social interviews or initial medical screenings conducted during the provision of material reception conditions. While under the care of CPR, asylum seekers will benefit from social interviews to monitor their reception needs even though overcrowding has generated challenges in terms of service capacity. According to SCML, asylum seekers referred by the GTO benefit from specific social counselling at the appeal stage (see Conditions in Reception Facilities).

363 Article 2(1)(ag) Asylum Act.
364 Article 2(1)(y) Asylum Act.
365 Article 77(1) and (3) Asylum Act.
366 Article 77(2) Asylum Act.
367 Article 77(3) Asylum Act.
368 Articles 56(2) and 77(1) of Asylum Act.
369 Articles 35-B(8), 52(5), 56(2), 78(3)-(4) and 80 Asylum Act.

1. Reception of unaccompanied children

The accommodation of unaccompanied children who are 16 and over in adult reception centres and the initiation of family tracing are dependent of a best interests assessment.[370] The best interests of the child also require 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; promoting 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; have their right to express opinions depending on their age and maturity taken into consideration.[371]

The provision of special reception conditions at this stage of the asylum procedure includes a specialised reception centre for unaccompanied children, the **CACR**, and the accommodation of unaccompanied children who are 16 or older in separate accommodation at the **CAR** as a measure of last resort in the absence of appropriate alternatives. CPR promotes family tracing in partnership with the CVP if considered to be in the best interests of the child and taking into consideration his or her opinion.

Both CPR's reception centres offer facilities to accommodate disabled people and playgrounds for children who are systematically enrolled in public education. Despite the chronic overcrowding families are generally given separate accommodation either at CAR or in external accommodation. Asylum seekers are referred to the SNS for health assessments and care, including differentiated care, despite existing challenges in this regard particularly for mental health care and certain categories of specialised medical care.

To the extent possible and upon consent of the applicants the unit of the family should be preserved in the provision of housing,[372] while adult asylum seekers with special reception needs should be accommodated with adult relatives already present on the territory that are legally responsible for them.[373] Adequate measures must be adopted to avoid sexual and gender-based violence and harassment in reception centres and other housing provided to asylum seekers.[374]

2. Reception of survivors of torture and violence

While the ISS is specifically responsible for ensuring access to rehabilitation services for survivors of torture and serious violence,[375] the provision of material reception conditions and health care adapted to the special needs of vulnerable persons seems to be submitted to the responsibility-sharing rules applicable to asylum seekers in general.

In the specific case of survivors of torture and/or serious violence on the territory, the information collected by CPR, including in the framework of the project "Time for Needs: Listening, Healing, Protecting",[376] shows that identification and follow-up of their special reception needs also initiates with an individual psychosocial interview at CPR's reception centres conducted by a social worker upon arrival and at regular intervals during the admissibility stage of the asylum procedure. In the case of survivors of torture and/or serious violence, such assessment might result in referrals to the local health centre of the SNS for onward referral to differentiated care such as gynaecology and urology. According to DGS, local health centres are also the gateway to specialised mental health care and have multidisciplinary teams (Teams for the Prevention of Violence between Adults – *Equipas para a Prevenção da Violência entre Adultos*, EPVA) that are responsible for identifying and offering follow-up

370 Article 79(10) and (14) Asylum Act.
371 Article 78(2)(a)-(h) Asylum Act.
372 Articles 51(2) and 59(1)(a) and (b) Asylum Act.
373 Article 59(1)(c) Asylum Act.
374 Article 59(1)(e) Asylum Act.
375 Article 80 Asylum Act.
376 Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: http://bit.ly/2xZqCGh.

to vulnerable cases that are victims of violence. However, according to other stakeholders such as CPR and SCML, specialised out-patient mental health care is mainly available through voluntary organisations such as the Centre for the Support of Torture Victims in Portugal (*Centro de Apoio às Vítimas de Tortura em Portugal*, CAVITOP) / Psychiatric Hospital Centre of Lisbon (*Centro Hospitalar Psiquiátrico de Lisboa* – CHPL) whose multidisciplinary team offers free and specialised psychiatric and psychological care upon referral from frontline service providers such as the CPR, SCML and JRS. According to CPR's experience, mental health care for children constitutes an exception and is readily available in the SNS.

The provision of reception conditions by the ISS in the regular procedure following a dispersal decision by the GTO 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. In the case of asylum seekers placed in the area of **Coimbra** (only), the 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.

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,[377] and in particular pertaining to the organisations that can provide assistance and information regarding available reception conditions, including medical assistance.[378] Furthermore, the SEF is required to provide asylum seekers with an information leaflet without prejudice to providing the information contained therein orally.[379] In both cases the information must be provided either in a language that the asylum seeker understands or is reasonably expected to understand to ensure the effectiveness of the right to information.

In practice, upon registration, the asylum seeker receives an information leaflet that briefly states the right to material reception conditions and provides basic information on CPR and services available at **CAR**.[380] According to CPR's experience, the leaflet is only available in a limited number of foreign languages (e.g. French, English, Arabic) and is not distributed systematically. Furthermore, the leaflet was produced prior to the changes introduced in 2014 to the Asylum Act and CPR is not aware of any updated version.

Nevertheless, in accordance to existing MoUs with the authorities (see Responsibility for Reception), CPR provides information to asylum seekers throughout the asylum procedure on the territory and particularly during admissibility (including Dublin) and accelerated procedures on the basis of individual interviews and social and legal support. The information provided by CPR broadly covers the information requirements provided in the law pertaining to the institutional framework of reception, including the dispersal policy, types and levels of material reception conditions available, access to health care, education, employment, etc. This includes the provision of tailor-made information to unaccompanied children upon their admission to the **CACR** orally and using written 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, Russian and Tigrinya with ongoing translations into Arabic, English, French, Farsi and Lingala). CPR has also developed the HELP information portal which offers among others cultural orientation information, reception services and relevant institutional contacts. The portal is available in Portuguese, English, French and Spanish.

377 Article 49(1)(a) Asylum Act.
378 Article 49(1)(a)(iv) Asylum Act.
379 Article 49(2) Asylum Act.
380 SEF, *Guia do requerente asilo*, available in Portuguese at: http://bit.ly/2hpa3xZ.

The capacity challenges faced by the CPR (see Conditions in Reception Facilities and Regular Procedure: Legal Assistance) have however restricted the provision of information during the first stage of the asylum procedure, particularly regarding asylum seekers placed in private accommodation in more remote locations. During the regular procedure and at appeal stage asylum seekers should benefit from an 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 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 or language barriers. Other organisations also provide information and assistance to asylum seekers during the first instance of the regular procedure such as JRS, CNIS for unaccompanied asylum-seeking children and to a lesser extent the ACM through their Local Support Centres for Migrants Integration (CLAIM), albeit in a limited number of cases and mostly focused on integration.

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.[381] The internal regulation of the **CACR** provides for the right of unaccompanied children to visits from family and friends that must be approved by the Family and Juvenile Court, while 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 the CAR and CACR benefit from legal assistance from CPR 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 depending on the choice of the lawyer, in the presence of CPR's legal representative 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.

381 Article 59(4) Asylum Act.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1.	Total number of asylum seekers detained in 2016:	Not available
2.	Number of asylum seekers in detention at the end of 2016:	Not available
3.	Number of detention centres specifically for asylum seekers:[382]	3
4.	Total capacity of detention centres specifically for asylum seekers:	58

The SEF was not able to share statistics regarding the overall number of persons placed in detention during the year or that were in detention at the end of the year.

The legal framework of detention centres is enshrined in Act 34/94 that provides for the detention of migrants in Temporary Installation Centres (*Centros de Instalação Temporária*, CIT) that are managed by the SEF for either security reasons e.g. aimed at enforcing a removal from national territory or for attempted irregular entry at the border. The detention facilities at the border,[383] while not CIT *per se*, have been qualified as such by Law-Decree 85/2000 for the purposes of detention following a refusal at of entry the border. These are therefore detention centres with a strict separation between asylum seekers and other migrants.

According to the SEF, there are no dedicated detention centres for asylum seekers in Portugal and their detention is limited to applicants at the border. The 3 detention facilities at the border are located in the international area of **Lisbon**, **Porto** and **Faro** airports and have separated detention areas for asylum seekers with a capacity of 30, 14 and 14 places respectively. Out of the three, the **Lisbon** airport is the most relevant to the detention of asylum seekers. Bearing in mind that the Asylum Act provides for the systematic detention of asylum seekers at the border,[384] the 2016 statistics provided by the SEF show that a total of 270 asylum seekers were submitted to border procedures and hence placed in detention for a period of up to 60 days (see Border Procedure).

Additionally, it should be noted that an asylum seeker who applies for asylum while in detention at a CIT due to a removal procedure can and usually remain in detention during the asylum procedure.[385] According to the statistical information available to CPR, in 2016 there were 29 asylum seekers who applied for asylum while in detention in a CIT, the majority of whom at the CIT of **Porto – Unidade Habitacional de Santo António** (CIT – UHSA).[386]

While the Asylum Act also provides for the possibility of placing in detention other categories of asylum seekers,[387] including those subjected to Dublin procedures, in practice only the aforementioned asylum seekers are systematically detained.

The competent authority to place and review the detention of an asylum seeker in a CIT[388] or in detention facilities at the border[389] is the Criminal Court which has territorial jurisdiction over the place where detention is imposed. In the case of detention at the border, the SEF initially imposes detention but is required to inform the Criminal Court of the detention within 48 hours of arrival at the border for the purpose of maintaining the asylum seeker in detention beyond that period.[390]

382 This includes only the detention facilities at international airports, where asylum seekers may be detained. CIT are excluded.
383 Council of Ministers Resolution 76/97.
384 Article 35-A(3)(a) Asylum Act.
385 Article 35-A(3)(b) Asylum Act.
386 Law-Decree 44/2006 provides for the creation and functionning of CIT – UHSA in Porto.
387 Article 35-A(3) Asylum Act.
388 Article 35-A(5) Asylum Act.
389 Article 35-A(6) Asylum Act.
390 *Ibid*.

Taking into consideration the absence of special guarantees at the border such as social and psychological assistance, and the negative impact of detention on the mental well-being of certain categories of vulnerable asylum seekers, it is legitimate to assume that detention at the border is currently having a negative impact on the quality of procedures, namely for survivors of torture and/or serious violence and victims of trafficking.

Additionally, there are shorter deadlines and reduced procedural guarantees both in detention at the border and asylum applications from detention due to removal procedures: asylum seekers in detention at the border or who apply for asylum from detention are not entitled to a 5-day period to review and offer representations regarding SEF's written report on their refugee status determination interview. While in detention at the border, asylum seekers are only entitled to 5 minutes of free telephone communications (with the exception of contacts for legal assistance by lawyers of NGOs such as the CPR). These reduced guarantees also entail risks of poorer quality decision-making, notably in light of the significant number of applications deemed manifestly unfounded under these procedures.[391] While in accordance with the law, UNHCR and CPR, lawyers, legal representatives and other NGOs have effective access to asylum seekers in detention at the border,[392] access to legal information and assistance in detention is hindered in practice by a combination of factors that include short deadlines, limited capacity of service providers, poor quality of legal assistance provided by lawyers and of interpretation services and time consuming bureaucratic procedures for accessing the airports' restricted areas.

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
   - on the territory: ☐ Yes ☒ No
   - at the border:[393] ☒ Yes ☐ No

2. Are asylum seekers detained during a regular procedure in practice?
   ☐ Frequently ☐ Rarely ☒ Never

3. Are asylum seekers detained during a Dublin procedure in practice?
   ☐ Frequently ☐ Rarely ☒ Never

Under the Asylum Act, the placement of asylum seekers in detention cannot be based on the application for international protection alone,[394] and can only occur on the following grounds:

- National security, public order, public health;
- Flight risk;

based on an individual assessment and whether it is possible to effectively implement less prejudicial alternative measures.[395]

The possible grounds for detention of asylum seekers also include:

- Applying for asylum at the border;
- Following a decision of removal from national territory; or
- During Dublin procedures;

391 According to the (partial) statistical information collected by CPR, in 2016, 145 out of 203 asylum applications at the border and 18 out of 29 applications from detention due to removal procedures were deemed manifestly unfounded.
392 Article 49(6) Asylum Act.
393 Accommodation in airport transit zone with very restricted freedom of movement.
394 Article 35-A(1) Asylum Act.
395 Article 35-A(2) Asylum Act.

if it is not possible to effectively implement less coercive alternative measures.[396] These provisions are nonetheless to be interpreted against the (apparently contradictory) provision of unqualified detention of asylum seekers in border procedures.[397]

As mentioned in General, systematic detention of asylum seekers in Portugal is limited to border procedures in which asylum seekers are detained until their application is admitted to the procedure (7 days)[398] or for a maximum of 60 days in case of an appeal against the rejection of the application.[399] The asylum seekers who apply for asylum in detention at a CIT due to a removal procedure will also usually remain in detention during the asylum procedure until their application is admitted to the procedure (10 days)[400] or for a maximum of 60 days in case of an appeal against the rejection of the asylum application.[401] While the Asylum Act provides for the suspension of all administrative and/or criminal procedures related to the irregular entry of the asylum applicant in the national territory, and for that purpose requires that the competent authorities be informed of the asylum application within 5 days,[402] detention at a CIT due to a removal procedure will seldom, if ever, be suspended *ex officio* by the Criminal Courts on that basis.

CPR is unaware of instances of detention of asylum applicants in the framework of Dublin procedures, on grounds of national security, public order, public health, or when there is a flight risk, and hence of the interpretation of such grounds by criminal courts in practice.

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, the placement of asylum seekers in detention is dependent on an assessment of the individual circumstances of the applicant and of the possibility to effectively implement less coercive alternative measures,[403] thus requiring proof that alternatives to detention cannot be effectively applied before asylum seekers can be detained. The Asylum Act lays down alternatives to detention consisting of either reporting duties before the SEF on a regular basis or residential detention with electronic surveillance (house arrest).[404]

Despite the safeguards enshrined in the law to ensure that detention of asylum seekers, including in the case of detention at the border, is used as a last resort and only where necessary, in practice criminal courts seldom, if ever, conduct an individual assessment on whether it is possible to effectively implement alternatives to detention.[405]

396 Article 35-A(3) Asylum Act.
397 Article 26(1) Asylum Act.
398 Article 26(4) Asylum Act.
399 Article 35-B(1) Asylum Act.
400 Article 33-A(5) Asylum Act.
401 Article 35-B(1) Asylum Act.
402 Article 12(1) and (3) Asylum Act.
403 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 of national security, public order, public health or when there is a flight risk, it is difficult to conceive an assessment of less coercive alternative measures for the remaining grounds for detention that is not based on the individual circumstances of the applicant.
404 Article 35-A(4)(a) and (b) Asylum Act.
405 In a rare exemple of consideration of alternatives to detention at the border, the Criminal Court of Lisbon ordered the SEF upon request of the CPR to give due consideration to the release of a female applicant and her child and to refer them to CPR's Refugee Reception Centre in **Bobadela**, falling short however of

With the exception of release of vulnerable asylum seekers without conditions from the border (see Detention of Vulnerable Applicants), CPR is unaware of the application of alternative to detention in practice. The SEF has not provided statistics regarding the number of asylum seekers subjected to alternatives to detention or any information with regard to compliance rates for alternatives to detention.

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 his or her individual circumstances.[406] 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.[407]

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 and may therefore be exempted from border procedures and hence detention.[408] Furthermore, the placement of unaccompanied and separated children in detention facilities at the border must abide by applicable international recommendations such as those of UNHCR, UNICEF and the International Committee of the Red Cross (ICRC).[409]

In practice, asylum seekers are systematically detained at the border with the exception of certain categories of particularly vulnerable applicants such as pregnant women, families with children and the severely ill who are released without conditions.

In the case of unaccompanied children who apply for asylum at the border, the standard practice of the SEF consisted in the immediate release and referral to CACR. Previously, they would stay short periods of time at the border point to clarify issues pertaining to identification and family. In 2016, however there was a change to SEF's practice of immediate release of unaccompanied children from border points. CPR has observed that the waiting period between asylum applications filed by unaccompanied children at border points and their entry into the national territory and referral to CPR's CACR increased to between a couple of days and a couple of weeks. A similar trend was observed with regard to families with children. The SEF has informed CPR that there was no change in policy regarding the detention of vulnerable asylum seekers at the border, albeit failing to clarify the reasons for the extended detention periods.

conducting an individual assessment of necessity and proportionality: Judicial Court of the Lisbon District, Local Misdemeanour Court of Lisbon – Judge 2, Application No 3881/17.5T8LSB, 13 February 2017.

406 Article 17-A(1) Asylum Act.

407 *Ibid*.

408 Article 17-A(4) Asylum Act.

409 Article 26 (2) of the Asylum Act.

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?	60 days

In accordance with the Asylum Act, 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 the conduct of an admissibility procedure.[410] If SEF takes a positive admissibility decision or if no decision has been taken within 7 working days, the applicant is released for the remainder of the asylum procedure. 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. However, after 60 days, even if no decision has yet been taken on the appeal, SEF must release the individual onto 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.[411]

CPR is not aware of instances where the maximum detention duration was exceeded.

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)? ☐ Yes ☒ No

2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? ☐ Yes ☒ No

Asylum seekers may be detained in Temporary Installation Centres (CIT).[412] The legal framework of detention centres is enshrined in Law 34/94, which provides for the detention of migrants in CIT that are managed by the SEF either for security reasons e.g. aimed at enforcing a removal from national territory, or for attempted irregular entry at the border. The detention facilities at the border,[413] while not CIT *per se*, have been qualified as such by Law-Decree 85/2000 for the purposes of detention following an entry refusal at the border. These are therefore detention centres with a strict separation between asylum seekers and other migrants refused entry at the border.[414]

According to SEF, there are no detention centres for asylum seekers in Portugal and the detention of asylum seekers is limited to applicants at the border who are subjected to detention in transit areas. The 3 detention facilities at the border are located in the international area of Lisbon, Porto and Faro airports and have separated detention areas for asylum seekers:

Detention capacity for asylum seekers in border detention centres: 2016	
Detention centre	Capacity for asylum seekers
Detention facility – Lisbon airport	30
Detention facility – Porto airport	14
Detention facility – Faro airport	14

410 Article 26 and 35-A(3)(a) Asylum Act.
411 Article 35-B(1) Asylum Act.
412 Article 35-A(2) and (3) Asylum Act.
413 Council of Ministers Resolution 76/97.
414 Council of Ministers Resolution 76/97. See also Article 35-A(3)(a) Asylum Act, according to which asylum seekers can be detained in CIT in the case of border procedures.

Total	58

Source: SEF. Figures on occupancy of the centres for 2016 were not made available.

With the exception of instances of temporary overcrowding at the **Lisbon** airport's detention facility which at times entail the transfer of certain asylum seekers to the **Porto – Unidade Habitacional de Santo António** (CIT – UHSA) where they will be detained with other migrants in detention following a removal decision, CPR is unaware of the detention of asylum seekers with other migrants, in police stations or in regular prisons.

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities		
1. Do detainees have access to health care in practice?	☒ Yes	☐ No
❖ If yes, is it limited to emergency health care?	☒ Yes	☐ 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.

Regarding the **Lisbon** airport – the most relevant detention facility for asylum seekers – the reception desk and operational assistance are managed by the staff of a private security company. The staff is responsible among others for: the initial registration; collection and access to personal belongings; administration of medication; registration of visitors; registration and referrals of requests for medical assistance; and distribution of meals. The detention facility is regularly cleaned by staff of a cleaning company.

The reception area includes an office for a member of SEF's staff who is present at the detention facility during office hours. Additionally, there are two offices in the reception area to conduct individual interviews, one of which is used by SEF and the other by lawyers and NGOs such as CPR. Due to space constraints, the offices are small and do not ensure adequate privacy, notably due to inadequate sound isolation.

The detention facility has separate wings for male and female detainees. Each wing has two collective dormitories with bunk beds and closets that are separate for asylum seekers and migrants. Each wing also has separate bathroom and toilet facilities for asylum seekers that include showers with hot water, toilets, hand washing facilities and urinals. CPR sometimes receives complaints from detainees due to bathroom and toilet facilities that are temporarily out of order. Each wing has a common lounge used for meals and leisure that includes common tables with chairs, individual couches and a television.

The detainees are served meals provided by the air companies that are similar to those served on airplanes. In 2011, the Portuguese Ombudsman considered the meals frugal and at times CPR receives complains from detainees because of insufficient or poor quality food. If needed due to religion, age, health or other reasons, the air company is informed in advance to provide for special diet meals and the CPR has not received relevant complaints in this regard.

According to information collected by CPR, including in the framework of the project "Time for Needs: Listening, Healing, Protecting",[415] the staff from SEF at the border receives general in-house training on international protection. CPR is unaware of any training provided to other staff working at the airport detention facility regarding human rights and international protection.

415 Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: http://bit.ly/2xZqCGh.

CPR has received rare but recurrent allegations over the years from asylum seekers regarding physical abuse by SEF inspectors mainly at the border support unit (as opposed to the detention facility, CIT). In 2017, the CPR has demanded a formal investigation into these allegations and SEF has conducted internal inquiries. According to the information provided to CPR, the procedures did not lead to any proof of wrongdoing and were therefore classified.

2.2. Activities

In accordance with the law, detainees in each wing of the detention facility at the Lisbon airport have unrestricted access to a courtyard of $70m^2$ with table and chairs during a reasonable period of time in the mornings and afternoons.[416] Along with the television and some toys for children,[417] these are the only leisure proposed to detainees whose mobile phones along with other personal belongings are retrieved upon arrival at the detention facility.

While the law provides for access to education of children asylum seekers under the same conditions as nationals,[418] and the rules governing CIT provide for the access of detained accompanied children to education depending on the duration of their detention,[419] children in detention do not have access to education in practice either at the detention facility or by accessing normal schools. This situation needs to be considered in light of the traditionally short periods of detention of asylum-seeking children in detention facilities at the border.

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 Internal Administration that can however rely on public or private service providers for that purpose on the basis of Memoranda of Understanding (MoU).[420]

The Aliens Act provides for the right of asylum seekers and their relatives to adequate health care at the border (i.e. in detention),[421] and for the right of vulnerable asylum seekers in detention to regular health care that meets their particular needs.[422] The Asylum Act does not, however, specify this particular standard[423] and/or whether it differs from the general standard of health care provision in the asylum procedure.[424]

In practice there seems to be varying levels of service provision depending on the location of detention.[425] Detainees at the **Lisbon Airport**'s detention facility have access to basic medical screenings conducted by nurses of the Portuguese Red Cross (*Cruz Vermelha Portuguesa*, CVP). In

416 Article 35-B(9) Asylum Act.
417 Article 146-A(7) Aliens Act governing CIT states that accompanied children in detention must be offered leisure activities, including age appropriate games and recreational activities.
418 Article 53 Asylum Act.
419 Article 146-A(7) Aliens Act.
420 Article 61(1) Aliens Act.
421 Article 56(2) Aliens Act.
422 Article 35(b)(8) Aliens Act.
423 However, Article 146-A(3) Aliens Act states that an alien 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.
424 In accordance with Article 52(1) Asylum Act and Executive 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) Law-Decree No 113/2011 (recast) provides for free access to the SNS by asylum seekers.
425 The present information was collected by CPR in the framework of the project "Time for Needs: Listening, Healing, Protecting", A Joint Action for an Appropriate Assessment of Special Needs of Victims of Torture and Violence, co-funded by the European Union (HOME/2014/AMIF/AG/ASYL/7836).

case of need, asylum seekers are referred to emergency care, including emergency mental health care in hospitals, but there is no psychological counselling / mental health care available in the detention facility. Unless and until the person is released from detention at the border, the individual is allowed to leave as often as necessary the border detention facility to receive emergency care or medication but will not benefit from a regular medical follow-up. In the case of asylum seekers detained in the **CIT – UHSA** due to removal procedures, the medical department is constituted by doctors, nurses and psychiatrists that are in a position to identify the needs and make referrals to the National Health Service (SNS). Volunteers also provide sporadic assistance with health screenings.

The detention facilities have separate wings for male and female detainees. 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, including age assessment procedures for minors. Even though in practice certain categories of particularly vulnerable applicants are generally released without conditions (see Detention of Vulnerable Applicants), if kept in detention they are granted access to services and medical treatment under the same standards described above that are applicable to all detainees.

3. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to
   - Lawyers: ☒ Yes ☐ Limited ☐ No
   - NGOs: ☒ Yes ☐ Limited ☐ No
   - UNHCR: ☒ Yes ☐ Limited ☐ No
   - Family members: ☒ Yes ☐ Limited ☐ No

The Asylum Act and the internal regulation of the detention facility at **Lisbon Airport** provide for the right of detainees to receive visits from legal representatives, embassy representatives, relatives and national and international human rights organisations.[426] In the particular case of legal assistance, asylum seekers in detention are entitled to receive visits from lawyers, UNHCR and CPR.[427] Restrictions to access to the detention facilities can only be based on grounds of security, public order or operational reasons and only to the extent these do not restrict access in a significant or absolute manner.[428]

The visiting hours during the morning and afternoon are reasonable but visits need to be preapproved by SEF depending e.g. on the expected duration of detention. Detainees are entitled to a maximum of three visitors at the same time and the duration of the visit cannot exceed one hour. In accordance to CPR's experience, the access procedures are cumbersome, bureaucratic and involve obtaining access cards for interpreters in advance. CPR has unrestricted access to asylum seekers detained at the border or in pre-removal detention but only following the refugee status determination interview conducted by SEF, as opposed to lawyers who have unrestricted access to detainees prior to and during the refugee status determination interview. CPR has not received significant complaints from asylum-seeking detainees regarding refused visits from lawyers or relatives.

In accordance with the internal regulation of the detention facilities at the border, the detainees are not allowed to keep their mobile phones but are entitled to use public phones that are freely accessible in each wing of the detention facility using coins, prepaid cards or collect calls. Furthermore, each detainee is entitled upon arrival to 5-minutes of national and international calls using the telephones of the facility. In practice, SEF also provides for phone calls to lawyers and organisations such as CPR for purposes of legal assistance in case the detainee has exhausted the prepaid card. The contacts of relevant support organisations are posted next to the public phones. At times CPR receives complaints from detainees regarding the limited time available in prepaid cards and having to choose between contacting family or lawyers.

426 Article 35-B(3) Asylum Act.
427 Article 49(6) Asylum Act.
428 Article 35-B(4) Asylum Act.

In accordance with the law, UNHCR and CPR as the non-governmental organisation acting on its behalf, 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.[429] In this framework, CPR is regularly present (i.e. generally every week) at the **Lisbon Airport** detention facility to provide free legal information and assistance,[430] in particular regarding: the asylum procedure; promoting access to free legal aid at appeal stage; promoting the release without conditions of particularly vulnerable asylum seekers either by SEF *ex officio* or by means of review from the Criminal Courts; and at times and depending on its capacity the review of the refugee status determination interview report produced by SEF.

CPR is not aware of any organisations that provide social assistance, leisure or other occupational activities at the Lisbon airport detention facility. In the case of the **CIT– UHSA** in Porto, the law provides for an MoU with the International Organisation for Migration (IOM) and the Jesuit Refugee Service (JRS) Portugal,[431] that are responsible for training of staff at the CIT– UHSA and the provision of 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 a social worker in the detention facility that provides in-house psychosocial assistance while the provision of in-house medical and psychological assistance is provided by volunteer organisations such as the Doctors of the World (*Médicos do Mundo*, MdM).

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?	☒ Yes	☐ No
2. If yes, at what interval is the detention order reviewed?	7 days	

The law provides for the right of asylum seekers to 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.[432]

In practice, the declaration issued by SEF to asylum seekers at the border for the purposes of certifying the registration of the asylum application contains a brief reference to the norm of the Asylum Act that provides for the systematic detention of asylum seekers at the border.[433] CPR is unaware of the provision of information in writing pertaining to the grounds, the right to access free legal aid and legal challenges for the purposes of detention review.[434] That being said, asylum seekers benefit from legal information and assistance from CPR at the border, which also includes free legal assistance for purposes of detention review, albeit limited to vulnerable asylum seekers.

The competent authority to place and review the detention of an asylum seeker in a CIT,[435] or in detention facilities at the border,[436] is the Criminal Court which has territorial jurisdiction over the place where detention is practiced. In the case of detention at the border, the SEF is required to inform the

429 Article 13(3) Asylum Act.
430 Article 49(1)(e) and (6) Asylum Act.
431 Article 3 Law-Decree 44/2006.
432 Article 35-B(2) Asylum Act.
433 Article 26 Asylum Act.
434 Even though the declaration issued by the SEF to asylum seekers at the border for the purposes of certifying the registration of the asylum application contains a brief reference to their right to legal aid, it does not specify that such legal aid also encompasses Criminal Court procedures pertaining to their detention at the border.
435 Article 35-A(5) Asylum Act.
436 Article 35-A(6) Asylum Act.

Criminal Court of the detention within 48 hours of arrival at the border for purposes of maintaining the asylum seeker in detention beyond that period.[437] 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.[438]

In the case of asylum seekers at the border, the Criminal Court usually requires the SEF to inform on developments of the asylum application within 7 days after their initial request for confirmation of the detention. This procedure allows the Criminal Court to reassess the lawfulness of the detention on the basis of the decision from the SEF regarding the admissibility of the asylum application.

To CPR's understanding, once the SEF informs the Criminal Court that the asylum application at the border was rejected, there are no additional *ex officio* reviews prior to release. Where the applicant appeals the rejection of the asylum application and is therefore not removed form the border, release usually takes place within the maximum detention time limit of 60 days (see Duration of Detention).

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,[439] and such right must be understood to encompass Criminal Court procedures pertaining to their detention at the border. Access to legal aid is processed under the same conditions as nationals, which include a "means test".[440] While in the case 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 of legal aid applications for the purposes of detention review, however.

Given that legal aid procedures usually exceed 60 days, their duration renders assistance inefficient in the context of detention review, as more often than not asylum seekers would be released from detention before the free legal aid lawyer is appointed by the Portuguese Bar Association (*Ordem dos Advogados*). The law provides for an accelerated free legal aid procedure at the border, albeit for asylum-related decisions only, on the basis of an MoU between the Ministry of Internal Administration and the Bar Association,[441] but such procedures remain to be implemented to date.

In practice asylum seekers benefit from legal information and assistance from CPR at the border, which also includes free legal assistance for the purposes of detention review, albeit limited to vulnerable asylum seekers.

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.

[437] *Ibid*.
[438] Article 35-A(6) Asylum Act.
[439] Article 49(1)(f) Asylum Act.
[440] Act 34/2004.
[441] Article 25(4) Asylum Act.

Content of International Protection

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.[442] The duration of residence permits is dependent upon the type of international protection granted: the residence permit for **refugees** is valid for 5 years,[443] while the residence permit for **subsidiary protection** beneficiaries is valid for 3 years.[444] According to the statistics provided by the SEF, in 2016 there was a total of 93 residence permits issued to refugees and 297 residence permits issued to beneficiaries of subsidiary protection.

On the basis of CPR's experience of 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 can be considered reasonable, ranging from a few weeks to a month and a half. It should be noted that asylum seekers admitted to the regular procedure are already 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).[445]

In late 2014 and 2015, the launch of a cessation procedure by the SEF regarding Guinean nationals, the first ever to target citizens of a specific nationality in a collective manner, has been 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 (see Cessation).

2. Long-term residence

Indicators: Long-Term Residence

1. Number of long-term residence permits issued to beneficiaries in 2016: Not available

Competence for issuing a long-term residence lies with the National Director of the SEF[446] that must issue a decision within 6 months of application.[447] The residence permit is valid for 5 years and is automatically renewed at the request of the beneficiary.[448] The following criteria must be met to obtain a long-term resident status regardless of the type of international protection held by the beneficiary:[449]

- ❖ Legal and continuous residence in the national territory for 5 years following the date of the application for international protection (no difference being drawn between refugee status and subsidiary protection);

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442 Article 67 Asylum Act. This provision is generally in line with Article 24 recast Qualification Directive.
443 Article 67(1) Asylum Act.
444 Article 67(2) Asylum Act.
445 Article 27(1) Asylum Act.
446 Article 128 Aliens Act.
447 Article 129(4) Aliens 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) Aliens 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) Aliens Act).
448 Article 130(2) Aliens Act.
449 Article 126 Aliens Act.

- Stable and regular resources to ensure his or her survival and its of his or her family members, without having to resort to the social assistance system;
- Health insurance;
- Accommodation;
- Fluency in basic Portuguese.

A former beneficiary of international protection whose refugee status has ceased because he or she has voluntarily re-availed him or herself of the protection of the country of nationality or, having lost his or her nationality, has voluntarily re-acquired it, can be refused long term residence status (see Cessation).[450]

The SEF is not in possession of statistics regarding the number of long-term residence status attributed to beneficiaries of international protection. As the main provider of legal information and assistance to asylum seekers and beneficiaries of international protection, CPR is not aware of any issuance of long-term residence status to beneficiaries of international protection in 2016. According to its experience, access to such status by beneficiaries of international protection is very rare for reasons mostly related to lack of information and awareness, adequate financial resources and insufficient language skills.

3. Naturalisation

Indicators: Naturalisation	
1. What is the minimum residence period for obtaining citizenship?	
❖ Refugee status	6 years
❖ Subsidiary protection	6 years
2. Number of citizenship grants to beneficiaries in 2016:	55

Competence for obtaining Portuguese nationality lies either with the Minister of Justice regarding naturalisation[451] or the Central Registrations Service (*Conservatória dos Registos Centrais,* CRC) of the Ministry of Justice regarding other modalities for obtaining Portuguese nationality.[452] 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,[453] and 3 months in the remaining cases.[454]

Some of the modalities for obtaining Portuguese nationality are of particular relevance to beneficiaries of international protection. According to these, foreign citizens, including refugees and beneficiaries of subsidiary protection, are eligible for naturalisation under the following conditions:[455]
- 18 years of age or emancipation in accordance with Portuguese law;
- Minimum legal residence of 6 years in Portugal;
- Proof of proficiency in Portuguese (A2);
- No conviction of a crime punishable with a prison sentence of at least 3 years.
- Not being a danger or a threat to national security or defence due to their involvement in activities related to the practise of terrorism, in accordance to the law that governs terrorism.

Furthermore, children of foreign nationals born on national territory are eligible for naturalisation under the following conditions: [456]
- Proof of proficiency in Portuguese (A2);
- No conviction of a crime punishable with a prison sentence of at least 3 years;
- At least one parent legally residing in the country for the past 5 years at the time of application; or completion the first level of basic education in Portugal (4 years).

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450 Article 123(3) Aliens Act.
451 Article 27 Portuguese Nationality Regulation.
452 Article 41 Portuguese Nationality Regulation.
453 Article 27 Portuguese Nationality Regulation.
454 Article 41(1) and (2) Portuguese Nationality Regulation.
455 Article 6(1) Nationality Act; Article 19 Portuguese Nationality Regulation.
456 Article 6(2) Nationality Act; Article 20 Portuguese Nationality Regulation.

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.[457] The law also provides in detail for the specific modalities regarding supporting evidence of proficiency in Portuguese,[458] notably regarding assessment tests that are of particular relevance to beneficiaries of international protection.[459]

Finally, foreign citizens, including refugees and beneficiaries of subsidiary protection, can (i) acquire Portuguese citizenship if they have been married or have been in a civil union with a Portuguese citizen for at least 3 years;[460] or (ii) upon request be entitled to Portuguese nationality at birth regarding children born on national territory where least one foreign parent has been a legal resident in the country for the past 5 years at the time of birth.[461]

CPR's experience shows that the main challenges in obtaining naturalisation are related to poor language skills and obtaining supporting evidence. Supporting evidence required in naturalisation applications generally consists of duly legalised original birth certificates and criminal records from the country of nationality and former countries of residence, including EU Member states in the case of Dublin returnees. In accordance to applicable provisions the CRC is generally flexible regarding supporting evidence in naturalisation applications in the case of **refugees** who normally present reasoned justifications with the support of CPR that clarify international legal standards applicable to administrative assistance. However, due to the different standards applicable to beneficiaries of **subsidiary protection**, such justifications are issued following an analysis of individual circumstances and in practice the CRC generally demands additional evidence to grant exemptions such as sworn statements from witnesses pertaining to the identity and past behaviour of the applicant.

55 beneficiaries of international protection were granted Portuguese nationality in 2016.

4. 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 deciding the cessation of international protection lies with the Ministry of Internal Administration on the basis of a proposal put forward by the national director of the SEF.[462] The representative of UNHCR or the CPR, as the non-governmental organisation acting on the UNHCR's behalf, shall be informed of the declaration of the loss of the right to international protection.[463]

The Asylum Act establishes the grounds for cessation of international protection.[464] Regarding **refugee status**, the right to asylum ceases when the foreign national or stateless person:[465]

a. Decides voluntarily to re-avail him or herself of the protection of the country of his or her nationality;
b. Voluntarily reacquires his or her nationality after having lost it;

[457] Article 26 Portuguese Nationality Regulation.
[458] Article 26(2)-(9) Portuguese Nationality Regulation.
[459] Executive Order 176/2014.
[460] Article 3 Nationality Act; Article 14 Portuguese Nationality Regulation.
[461] Article 1(1)(f) Nationality Act; Article 10(1) Portuguese Nationality Regulation.
[462] Article 43(1) Asylum Act.
[463] Article 43(3) Asylum Act.
[464] Article 41 Asylum Act.
[465] Article 41(1) Asylum Act.

c. Acquires a new nationality and enjoys the protection of the country of the newly acquired nationality;
d. Returns voluntarily to the country he or she left or outside which he or she had remained for fear of persecution;
e. Cannot continue to refuse to avail of the protection of the country of nationality or habitual residence, since the circumstances due to which he or she was recognised as a refugee no longer exist; or
f. Expressly renounces the right to asylum.

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.[466]

The ground pertaining to a change in circumstances warranting cessation of refugee status or subsidiary protection can only applied if the SEF concludes that the change in circumstances in the country of origin or habitual residence is sufficiently significant and durable to exclude a well-founded fear of persecution or a risk of serious harm.[467] Furthermore, this cessation ground is without prejudice to the principle of *non-refoulement*,[468] 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.[469]

The SEF is required to notify the beneficiary of the intended cessation for purposes of allowing the beneficiary of international protection to exercise his or her right to an adversarial hearing in writing within 8 days.[470] A decision on cessation is subject to a judicial appeal with suspensive effect,[471] and 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).[472]

Finally, the cessation of international protection results in the applicability of the Aliens Act to former beneficiaries,[473] 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,[474] even though other requirements such as a travel document, accommodation, income, etc. still apply.

CPR is not aware of a systematic review of protection status in Portugal in practice. Nonetheless, according to the statistics provided by the SEF there were 14 cessation decisions of subsidiary protection regarding Guinean nationals in 2016. In the framework of the legal assistance provided to some of those concerned, CPR identified several shortcomings in these 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 assessment conducted did not take into consideration the specific / individual circumstances of each individual 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 concerned.

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[466] Article 41(2) Asylum Act.
[467] Article 41(3) Asylum Act.
[468] Article 47 Asylum Act.
[469] Article 41(4) Asylum Act.
[470] Article 41(6) Asylum Act.
[471] Article 44 Asylum Act.
[472] Article 72 asylum Act.
[473] Article 42(2) Asylum Act.
[474] Article 122(1)(f) Aliens Act.

5. 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 of, 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:[475]

(a) Should have been or can be excluded from the right to asylum or subsidiary protection, pursuant to the exclusion clauses;
(b) Has distorted or omitted facts, including through the use of false documents, that proved decisive for benefitting from the right to asylum or subsidiary protection;
(c) Represents a danger for national security;
(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.

According to the statistics shared by the SEF there were no decisions to revoke, end or refuse to renew international protection statuses in 2016.

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.[476]

Definition of family members

A person granted international protection in Portugal can reunite with the following family members:[477]

- Spouse or unmarried partner,[478] including same-sex partner, if the relationship is regarded as a sustainable relationship i.e. at least 2 years of living together in conditions analogous to marriage;[479]

475 Article 41(5) Asylum Act.
476 Article 68(1) Asylum Act.
477 Articles 68 and 2(1)(k) Asylum Act.
478 Both the sponsor and the spouse/unmarried partner must be at least 18 years old.

- Minor children if dependent on the sponsor and/or on his or her spouse / unmarried partner and regardless of their marital status. The right to family reunification also includes minor children and adopted minor children of the sponsor or of his or her spouse / unmarried partner. Adult children who lack legal capacity (e.g. for reasons of mental health) and are dependent on the sponsor and/or on his spouse / unmarried partner are also included;
- Parents, if the sponsor is under 18 years old.

Unaccompanied minor children can apply for family reunification with their parent(s). If there are no biological parents, they can apply for family reunification with an adult responsible for the child (e.g. grandparents, legal guardians or other family members).

It is not required that family formation predates entry into Portugal.

Family reunification procedure

The request for family reunification can be made immediately upon the sponsor being granted international protection and there is no time limit within which to apply for family reunification following arrival in Portugal.

The sponsor in Portugal must apply for family reunification at the SEF regional office in his or her 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:

a. Copy of the travel document of the family member;
b. 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;
c. Statement of parental authorisation from the other parent if not travelling with the child, where applicable;
d. Death certificate of other parent of the child 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:

1. Spouses: marriage certificate;
2. Children: birth certificate, decision of adoption duly recognised by a national authority (if applicable); proof of legal incapacity of adult child (if applicable);
3. 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 a Portuguese embassy prior to their submission to the SEF.

Regarding refugees, 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 denied on the sole basis of lack of documentary evidence. Other types of proof can consist of interviews of the sponsor and family members, copies of original documents, witness testimonies, or common children in the case of unmarried partnerships. Portuguese authorities do not conduct DNA testing 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.

[479] 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.

In practice, this more favourable regime is generally extended to beneficiaries of subsidiary protection, depending on the particular circumstances of their case.

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; where the potential beneficiary is barred from entrance into 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: lack of adequate travel documents; lack of criminal records of the potential beneficiary family member; when a parent other than the sponsor has not authorized the family reunification of his/her child with the sponsor; or non-eligible family member.

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 of the deadline, the applicant should be informed of the reason.

In the absence of a decision within 6 months, counting 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. According to CPR's experience, family reunification applications made with CPR support in 2015 were processed in 3.5 months on average, ranging from 1 month to 11 months.

According to the statistics shared by the SEF, there were a total of 48 family reunification applications by beneficiaries of international protection in 2016. While according to these statistics all applications were concluded in 2016, the SEF was unable to share statistical information on the breakdown of these applications per nationality of the applicant or outcome of the application.

2. Status and rights of family members

Family members receive the same legal status as the sponsor and have the same status and rights as the sponsor.[480]

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.[481] CPR is not aware of any limitations in this regard in practice, with the exception of those arising from the existing dispersal in policy implemented by the GTO 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.[482]

The refugee travel document consists of an electronic travel document,[483] following the Refugee Convention format,[484] which is valid for an initial one-year period and is renewable for identical

480 Article 68(2) Asylum Act.
481 Article 75 Asylum Act.
482 Article 69 Asylum Act; Article 19 Aliens Act.
483 Executive Order 302/2015 of 22 September 2015 and Executive Order 412/2015 of 27 November 2015.
484 Article 69(1) Asylum Act.

periods.[485] The authorities competent for granting refugee travel documents consist of the National Director of the SEF for applications made on the national territory, and consulates for applications made abroad.[486]

In the case of beneficiaries of **subsidiary protection**, however, the issuance of travel documents is left to the discretion of national authorities,[487] 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…"

As regards the Portuguese passport for foreigners, beneficiaries of subsidiary protection are 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.[488] The Portuguese passport for foreigners is valid for a period of up to two years.[489]

On the basis of CPR's experience, the length of the procedure for issuing a travel document can be considered reasonable overall, and does not exceed a couple of months.

D. Housing

Indicators: Housing	
1. For how long are beneficiaries entitled to stay in reception centres?	N/A
2. Number of beneficiaries staying in reception centres as of 31 December 2016	N/A

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.[490] Therefore this encompasses public housing.[491]

In practice, the financial assistance provided to asylum seekers admitted to the regular procedure in the framework of the dispersal policy managed by the GTO for renting private housing (see Forms and Levels of Material Reception Conditions) will usually be maintained beyond a final decision in the asylum procedure. This typically means that beneficiaries of international protection will generally retain the private housing they have rented throughout the regular procedure. 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 and lack of prioritisation of beneficiaries of international protection in public housing policy.

E. Employment and education

1. Access to the labour market

The law provides for the right of refugees and beneficiaries of subsidiary protection to access to the labour market pursuant to general rules.[492]

485 Article 19 Aliens Act.
486 Article 20 Aliens Act.
487 Article 69(2) Asylum Act.
488 Law-Decree 83/2000 of 11 May 2000, as amended by Law-Decree 138/2006 of 26 July 2006.
489 Article 38 Law-Decree 83/2000 of 11 May 2000.
490 Article 74 Asylum Act.
491 Article 5 Act Public Leasing Act.
492 Article 71(1) Asylum Act.

As in the case of 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 provisional residence permits by the SEF is free of charge.[493] 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.[494] Furthermore, beneficiaries of international protection benefit from the same conditions of employment of nationals, including those pertaining to salaries and working hours.[495] 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).[496]

Furthermore, beneficiaries of international protection are equally entitled to access work related training opportunities for adults, vocational training and workplace practical experience opportunities under the same conditions as nationals.[497]

With the exception of the submission of beneficiaries of international protection to the conditions applicable to nationals of the same country,[498] 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.

There are no statistics available on the number of beneficiaries of international protection in employment at the end of 2016. However, the experience of CPR shows that 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.[499] The right to education under the same conditions as nationals is extended to adult beneficiaries of international protection.[500] The access of children who are beneficiaries of international protection to public education and equivalence 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 professional training (see Reception Conditions: Access to Education).

F. 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.[501] 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.[502] The special needs of particularly vulnerable persons including beneficiaries of international protection must be taken into

493 Article 67(4) Asylum Act.
494 Article 15(2) Constitution; Article 17(1)(a) and (2) Act 35/2014.
495 Article 71(3) Asylum Act; Article 4 Labour Code.
496 Article 5 Labour Code.
497 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.
498 Article 70(3) Asylum Act.
499 Article 70(1) Asylum Act.
500 *Ibid*.
501 Article 73(1) Asylum Act.
502 Article 73(2) Asylum Act.

consideration in the provision of health care,[503] notably through rehabilitation and psychological support to children who have been subjected to various forms of violence,[504] and adequate treatment to survivors of torture and serious violence.[505] Responsibility for special treatment required by survivors of torture and serious violence lies with the ISS.[506]

Asylum seekers and refugees are exempt from any fees to access the National Health System.[507] Additionally, all minors i.e. persons under the age of 18 are also exempt from such fees.[508]

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 recent 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.[509]

503 Article 77(1) Asylum Act.
504 Article 78 (3)-(4) Asylum Act.
505 Article 80 Asylum Act.
506 *Ibid*.
507 Article 4(1)(n) Law-Decree 113/2011 of 29 November 2011.
508 Article 4(1)(b) Law-Decree 113/2011 of 29 November 2011.
509 Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: http://bit.ly/2xZqCGh.

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) to be transposed by 20 July 2018	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 2013/33/EU Recast Reception Conditions Directive	20 July 2015	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)
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 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)