

Country Report: Portugal



2020
Update



CPR
CONSELHO PORTUGUÊS
PARA OS REFUGIADOS

Acknowledgements & Methodology

This report was written by Inês Carreirinho at the Portuguese Refugee Council (CPR) and was edited by ECRE.

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

The information in this report is up to date as of 31 December 2020, unless otherwise stated.

The Asylum Information Database (AIDA)

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



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Glossary & List of Abbreviations

ACM	High Commission for Migration Alto Comissariado para as Migrações
AGD	Age, Gender and Diversity Idade, Género e Diversidade
ACSS	Central Administration of the Health System Administração Central do Sistema de Saúde
ANMP	National Association of Portuguese Municipalities Associação Nacional de Municípios Portugueses
ANQEP	National Agency for Qualification and Vocational Education Agência Nacional para a Qualificação e o Ensino Profissional
APD	Asylum Procedures Directive
APF	Family Planning Association Associação para o Planeamento da Família
APIC	Portuguese Association of Conference Interpreters Associação Portuguesa de Intérpretes de Conferência
CA	Steering Commission 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 Centro de Acolhimento para Refugiados
CATR	Temporary Reception Centre for Refugees Centro de Acolhimento Temporário para Refugiados
CAVITOP	Centre for the Support of Torture Victims in Portugal Centro de Apoio às Vítimas de Tortura em Portugal
CHPL	Psychiatric Hospital Centre of Lisbon Centro Hospitalar Psiquiátrico de Lisboa
CIT	Temporary Installation Centre Centro de Instalação Temporária
CJEU	Court of Justice of the European Union
CNAIM/CLAIM	National and Local Support Centres for Migrant Integration Centros Nacionais e Locais de Apoio à Integração de Migrantes
CNIS	National Confederation of Solidarity Institutions Confederação Nacional das Instituições de Solidariedade
CPR	Portuguese Refugee Council Conselho Português para os Refugiados
CRegC	Central Registrations Service Conservatória dos Registos Centrais
CSTAF	High Council of Administrative and Fiscal Courts Conselho Superior dos Tribunais Administrativos e Fiscais
CVP	Portuguese Red Cross Cruz Vermelha Portuguesa
DGAL	Directorate General of Local Municipalities Direcção-Geral das Autarquias Locais
DGE	Directorate General for Education Direcção-Geral da Educação
DGES	Directorate General for Higher Education Direcção-Geral do Ensino Superior
DGEstE	Directorate General for Schools and School Clusters Direcção-Geral dos Estabelecimentos Escolares
DGS	Directorate General for Health Direcção-Geral da Saúde
DRC	Democratic Republic of Congo
EASO	European Asylum Support Office

ECHR	European Convention on Human Rights
ECRI	European Commission Against Racism and Intolerance
ECtHR	European Court of Human Rights
EDAL	European Database of Asylum Law
EPVA	Teams for the Prevention of Violence between Adults Equipas para a Prevenção da Violência entre Adultos
GAR	Asylum and Refugees Department Gabinete de Asilo e Refugiados
GIP	Professional Insertion Office Gabinete de Inserção Profissional
GRETA	Group of Experts on Action Against Trafficking in Human Beings
GTO	Technical Operative Group Grupo Técnico Operativo
ICRC	International Committee of the Red Cross
IEFP	Employment and Vocational Training Institute Instituto do Emprego e Formação Profissional
IGAI	General Inspectorate of Internal Administration Inspecção Geral da Administração Interna
IHRU	Institute for Housing and Urban Rehabilitation Instituto da Habitação e da Reabilitação Urbana
INE	National Institute for Statistics Instituto Nacional de Estatística
INMLCF	National Institute of Legal Medicine and Forensic Science Instituto Nacional de Medicina Legal e Ciências Forenses
IOM	International Organisation for Migration
IPDJ	Portuguese Institute of Sports and Youth Instituto Português do Desporto e da Juventude
ISS	Institute of Social Security Instituto da Segurança Social
JRS	Jesuit Refugee Service
MAI	Ministry of Home Affairs Ministério da Administração Interna
MdM	Doctors of the World Médicos do Mundo
MoU	Memorandum of Understanding
NISS	Social Security Identification Number Número de Identificação da Segurança Social
OM	Observatory for Migration Observatório das Migrações
OTSH	Observatory on Trafficking in Human Beings Observatório do Tráfico de Seres Humanos
PAR	Refugee reception platform Plataforma de Apoio aos Refugiados
RSI	Social Insertion Revenue Rendimento Social de Inserção
SCML	Santa Casa da Misericórdia de Lisboa
SEF	Immigration and Borders Service Serviço de Estrangeiros e Fronteiras
SGMAI	General Secretariat of the Ministry of Home Affairs Secretaria Geral do Ministério da Administração Interna
SEIM	Secretary of State for Integration and Migration
SOG	Single Operative Group Grupo Operativo Único
STA	Supreme Administrative Court Supremo Tribunal Administrativo
SNS	National Health Service Serviço Nacional de Saúde
TAC	Administrative Circle Court Tribunal Administrativo de Círculo

TAF Sintra	Administrative and Fiscal Court of Sintra Tribunal Administrativo e Fiscal de Sintra,
TCA	Central Administrative Court 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 Immigration and Borders Service (SEF) publishes a yearly statistical report providing information on asylum applications: number, nationalities, place of application, gender, unaccompanied children, positive first instance decisions, relocation.¹ Parliament resolution no. 292/2018 recommended the publication of a yearly report on the national asylum policy. In May 2020, in response to this recommendation, the Observatory for Migration (OM) published its first Statistical Report of Asylum (2020).²

Applications and granting of protection status at first instance: 2020

	Applicants in 2020	Pending at end of 2020	Refugee status	Subsidiary protection	Rejection	Refugee rate	Sub. Prot. rate	Rejection rate
Total	1,002	N.A.	77	17	753	9.1%	2%	88.9%

Breakdown by countries of origin of the total numbers

Gambia	157	N.A.	0	0	8	-	-	100%
Angola	117	N.A.	0	0	105	-	-	100%
Guinea Bissau	92	N.A.	0	0	11	-	-	100%
Morocco	85	N.A.	0	0	57	-	-	100%
Guinea	79	N.A.	0	0	11	-	-	100%
Senegal	79	N.A.	0	0	17	-	-	100%
Nigeria	42	N.A.	0	0	13	-	-	100%
Afghanistan	30	N.A.	0	1	2	-	33.3%	66.7%
DRC	28	N.A.	0	0	18	-	-	100%
Mali	25	N.A.	0	0	3	-	-	100%

Source: SEF (data). Rates are calculated by AIDA on the basis of such data.

The above figures and rates only include in-merit decisions at first instance (both in the regular and in accelerated procedures). As such, inadmissibility decisions (410), including Dublin, are not included in the rejection figures. As further explained in the corresponding section of the report, in the national system, an application is examined on the merits if it is deemed admissible (and not processed under an accelerated procedure) or if the determining authority does not comply with the corresponding time limit. Admissibility decisions are not included in the table above as they do not grant protection to the applicant concerned. According to information provided by SEF, in

¹ SEF, *Yearly Statistical Reports*, available at: <http://sefstat.sef.pt/relatorios.aspx>. These reports are usually published in June (with information on the previous year).

² Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, available in Portuguese at: <https://bit.ly/2MGYtB9>.

2020, 486 admissibility decisions were issued (for the top ten countries of origin: Gambia (49), Angola (58), Guinea Bissau (30), Morocco (4), Guinea (30), Senegal (28), Nigeria (21), Afghanistan (20), DRC (15), Mali (20)).

According to the Statistical Report of Asylum, “the increase of refusals [of applications for international protection] in recent years in Portugal, does not reflect an eventual increased restriction to international protection in the country, instead mirrors the increase of the number of applications for international protection [by applicants] of nationalities whose recognition rate [...] has been minimal in the general context of EU 28 as well”.³ This assessment seems to be exclusively linked to an analysis of the most representative nationalities and to the position of SEF, falling short from an analysis of the quality of the procedures.

Gender/age breakdown of the total number of applicants: 2020

	Number	Percentage
Total number of applicants	1002	100%
Men	804	80.2%
Women	198	19.8%
Children	193	19.3%
Unaccompanied children	96	9.6%

Source: SEF (data). Rates are calculated by AIDA on the basis of such data.

Information on appeals: 2020

According to information provided by the High Council of Administrative and Fiscal Courts (*Conselho Superior dos Tribunais Administrativos e Fiscais*, CSTAF), in 2020, the Administrative Circle Court (*Tribunal Administrativo de Círculo*, TAC) of Lisbon continued to be the only Court with a specific registration string pertaining to asylum-related appeals. While the other first instance administrative courts do not have such a registration string, CSTAF was able to provide data on appeals based on the information available on the corresponding IT system. Higher Courts do not collect autonomous data on asylum-related processes.

A total of 525 appeals against negative decisions were filled in national first instance courts. This represents a slight decrease of around 5% compared to 2019, where 552 appeals had been registered in total. TAC **Lisbon** continued to be (by far) the first instance court with the most abundant asylum-related case law in Portugal. Out of the 525 appeals against negative asylum decisions, 502 were registered in this Court (i.e. 96% of all appeals). In 2020, appeals were further lodged in TAF **Porto**, TAF **Almada**, TAF **Beja**, TAF **Sintra** and TAF **Loulé**.

The most represented nationalities among appellants included Gambia (125), Angola (65), Guinea Bissau (56), Senegal (45), and Guinea (27). According to CSTAF, out of the total of 525 appeals, 452 concerned male applicants and 73 concerned female applicants.

³ Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, available in Portuguese at: <https://bit.ly/2MGYtB9>.

In 2020, first instance courts issued a total of 463 asylum-related appeal decisions, of which 217 concerned Dublin cases. The data available does not include a breakdown of the remaining procedures concerned. Out of the total of 463 decisions, 446 were issued by TAC Lisbon. Out of the total of 463 asylum-related appeal decisions, 90 were in favour of the applicant (data is not available on whether these were decisions granting international protection or annulling a first instance decision and ordering the authorities to reassess the application but, according to CPR's observation of national jurisprudence, the former is relatively rare). Additionally, there were 373 decisions ruling against the appellants. By the end of the year, 62 cases were pending.

Out of the total of 502 appeals filled in TAC **Lisbon**, 85 were decided in favour of the appellants, 361 against the appellants, and 56 were pending by the end of the year.

As such, the overall success rate of appeals at the TAC **Lisbon** (all countries of origin and procedures included) stood roughly at 19%. In the case of Guinea-Bissau, the most representative nationality at appeal stage, the success rate of appeals was around 11.3%. With few exceptions, the success rate for other nationalities was equally low. For the remaining most representative countries of origin at appeals stage, the success rates were as follows: Angola (32.7%); Guinea-Bissau (11.5%); Senegal (15%); Guinea (14.3%). The overall success rate of appeals in courts outside Lisbon stood roughly at 29.4%. The overall success rate of appeals at national level stood at 19.4%.

The available information does not allow for clear-cut statistics on decision rates per type of procedure. Nevertheless, according to information available to CPR, the main type of asylum procedures used in 2020 per country of origin to reject asylum applications at first instance consisted of (for the most representative countries of origin at appeal stage) accelerated procedures in the case of Angola (70 out of a total of 70 rejections); and Dublin procedures in the case of Guinea-Bissau (46 out of 64), Gambia (107 out of 130), Senegal (36 out of 61) and Guinea (46 out of 63).

According to the information provided by CSTAF, a total of 164 appeals were filled in second instance courts (TCA South and TCA North). Out of these, 14 were filled by the asylum authority (7 were decided favourably, and 7 were rejected). The remaining 150 were filled by the applicants (18 were decided favourably). Second instance courts issued 146 decisions on such appeals in the course of 2020.

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
<p>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</p> <p><i>Amended by:</i> Act n. 26/2014 of 5 May 2014 amending Act n. 27/2008, transposing Directives 2011/95, 2013/32/EU and 2013/33/EU</p>	<p>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</p> <p>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 protecção subsidiária e os estatutos de requerente de asilo, de refugiado e de protecção subsidiária, transpondo as Directivas 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</p>	Asylum Act	<p>http://bit.ly/2npMI5T (PT)</p> <p>http://bit.ly/1jd3hcG (PT)</p> <p>https://bit.ly/3pHbedv (EN)</p>
<p>Act n. 23/2007 of 4 July 2007 on the legal status of entry, residence, departure and removal of foreigners from the national territory</p> <p><i>Amended by:</i> Act n. 28/2019 of 29 March 2019</p>	<p>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</p> <p><i>Última alteração:</i> Lei n.º 28/2019, de 29 de março</p>	Immigration Act	https://bit.ly/3iXOKIO (PT)
<p>Decree-Law n. 4/2015 of 7 January 2015 - Code of Administrative Procedure</p> <p><i>Amended by:</i> Act n. 72/2020 of 16 November 2020</p>	<p>Decreto-Lei n.º 4/2015, de 7 de janeiro, que aprova o novo Código do Procedimento Administrativo (alterado pela Lei n.º 72/2020, de 16 de Novembro)</p>	Administrative Procedure Code	http://bit.ly/2mmF8Hw (PT)
<p>Act n. 15/2002 of 22 February 2002 approving the Code of Procedure before the Administrative Tribunals</p> <p><i>Amended by:</i> Act n. 118/2019 of 17 September 2019</p>	<p>Lei n.º 15/2002, de 22 de Fevereiro, que aprova o Código de Processo nos Tribunais Administrativos</p> <p><i>Última alteração:</i> Lei n.º 118/2019, de 17 de setembro</p>	Administrative Courts Procedure Code	http://bit.ly/2yekj3x (PT)

Act n. 13/2003 of 21 May 2003 establishing the Social Insertion Revenue <i>Amended by:</i> Act n. 100/2019 of 6 September 2019	Lei n.º 13/2003, de 21 de Maio, que cria o rendimento social de inserção <i>Última alteração:</i> Lei n.º 100/2019, de 6 de Setembro de 2019	RSI Act	http://bit.ly/2zyQuOc (PT)
Act n. 220/2006 of 3 November 2006 establishing the legal framework for the social protection in case of unemployment of persons working for an employer <i>Amended by:</i> Decree-Law n. 153/2019 of 17 October 2019	Lei n.º 220/2006, de 3 de Novembro - Regime jurídico de protecção social da eventualidade de desemprego dos trabalhadores por conta de outrem <i>Última alteração:</i> Decreto-Lei n.º 153/2019, de 18 de Outubro		https://bit.ly/2sppYFA (PT)
Decree-Law 176/2003 of 2 August 2003 establishing the family allowance to children and youth and defining protection in case of family expenses in the context of the family protection subsystem <i>Amended by:</i> Act n. 114/2017 of 29 December 2017	Decreto-Lei n.º 176/2003, de 2 de Agosto, que Institui o abono de família para crianças e jovens e define a protecção na eventualidade de encargos familiares no âmbito do subsistema de protecção familiar <i>Última alteração:</i> Lei n.º 114/2017, de 29 de Dezembro		https://bit.ly/2IDrmGX (PT)
Act n. 35/2014 of 20 June 2014 governing employment in public functions	Lei n.º 35/2014, de 20 de junho, que aprova a Lei Geral do Trabalho em Funções Públicas		https://bit.ly/3iXOKIO (PT)
Act n. 7/2009 of 12 February 2009 approving the Labour Code <i>Amended by:</i> Act n. 93/2019 of 4 September 2019	Lei n.º 7/2009, de 12 de Fevereiro, que aprova a revisão do Código do Trabalho <i>Última alteração:</i> Lei n.º 93/2019, de 4 de setembro	Labour Code	https://bit.ly/2rJtbzm (PT)
Act n. 37/81 of 3 October 1981 approving the Act on Nationality <i>Amended by:</i> Organic Law n. 2/2020 of 10 November 2020	Lei n.º 37/81, de 3 de Outubro, que aprova a Lei da Nacionalidade <i>Última alteração:</i> Lei Orgânica n.º 2/2020, de 10 de Novembro	Nationality Act	http://bit.ly/2jukiBm (PT) https://bit.ly/2u63cD5 (EN – this version does not include the 2020 amendment)
Act n. 81/2014 of 19 December 2014 <i>Amended by:</i> Act n. 32/2016 of 24 August 2016	Lei n.º 81/2014, de 19 de dezembro, alterada pela Lei n.º 32/2016, de 24 de agosto, que estabelece o novo regime do arrendamento apoiado para habitação	Public Leasing Act	https://bit.ly/3iXQThm (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
Decree-Law n. 252/2000 of 16 October 2000 Organisational structure of the Immigration and Borders Service <i>Amended by:</i> Decree-Law n. 169-B/2019 of 3 December 2019	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 <i>Última alteração:</i> Decreto-Lei n.º 169-B/2019, de 3 de Dezembro	SEF Structure Decree-Law	https://bit.ly/3agkrmq (PT)
Act n. 147/99 of 1 September 1999 - Children and Youths at Risk Protection Act <i>Amended by:</i> Act n. 26/2018 of 5 July 2018	Lei n.º 147/99, de 01 de Setembro – Lei de Protecção de Crianças e Jovens em Perigo <i>Última alteração:</i> Lei n.º 26/2018, de 5 de julho		https://goo.gl/7G71tX (PT)
Act n. 141/2015 of 8 September 2015 - General Regime of Civil Guardianship Process <i>Amended by:</i> Act n. 24/2017 of 24 May 2017	Lei n.º 141/2015, de 08 de Setembro – Regime Geral do Processo Tutelar Cível <i>Alteração:</i> Lei n.º 24/2017, de 24 de maio		https://goo.gl/agJ1yJ (PT)
Resolution of the Council of Ministers no. 103/2020 of 23 November 2020, establishing a single system of reception and integration of applicants for and beneficiaries of international protection	Resolução do Conselho de Ministros n.º 103/2020, de 23 de novembro, que estabelece um sistema único de acolhimento e integração de requerentes e beneficiários de protecção internacional	Single Reception and Integration System Resolution	https://bit.ly/3oBLXQm (PT)
Decree-Law n. 464/80 of 13 October 1980 establishing new conditions of access and entitlement to social pension <i>Amended by:</i> Decree-Law n.136/2019 of 6 September 2019	Decreto-Lei n.º 464/80, de 13 de Outubro, que estabelece em novos moldes as condições de acesso e de atribuição da pensão social <i>Última alteração:</i> Decreto-Lei n.º 136/2019, de 6 de setembro		https://bit.ly/2MVXE4L (PT)
Ministerial Order n. 18/2020 of 31 January 2020 approving the annual revaluation of pensions and other social allowances for 2020	Portaria n.º 28/2020, de 31 de janeiro, que procede à atualização anual das pensões e de outras prestações sociais, para o ano de 2020		https://bit.ly/3t4xj7L (PT)
Ministerial Order n. 27/2020 of 31 January 2020 approving the annual revaluation of the social assistance index value	Portaria n.º 27/2020, de 31 de janeiro, que procede à atualização anual do valor do indexante dos apoios sociais (IAS)		https://bit.ly/2KZB1OZ (PT)

Ministerial Order n. 257/2012 of 27 August 2012 implementing Law 13/2013 on the Social Insertion Revenue (RSI) and determining the value of the RSI <i>Amended by:</i> Ministerial Order n. 22/2019 of 17 January 2019	Portaria n.º 257/2012, de 27 de agosto, que estabelece as normas de execução da Lei n.º 13/2003, de 21 de Maio, que institui o rendimento social de inserção, e procede à fixação do valor do rendimento social de inserção. <i>Última alteração:</i> Portaria n.º 22/2019, de 17 de janeiro		https://bit.ly/2u6W6hL (PT)
Ministerial Order n. 22/2019 of 17 January 2019 amending the value of the Social Insertion Revenue	Portaria n.º 22/2019, de 17 de janeiro, que atualiza o valor do Rendimento Social de Inserção		https://bit.ly/366echM (PT)
Decree Law n. 113/2011 of 29 November 2011 regulating access to National Health Service in respect to co-payments and special benefits <i>Amended by:</i> Decree-Law n.96/2020 of 4 November	Decreto-Lei n.º 113/2011, de 29 de novembro, que regula o acesso às prestações do Serviço Nacional de Saúde por parte dos utentes no que respeita ao regime das taxas moderadoras e à aplicação de regimes especiais de benefícios <i>Última alteração:</i> Decreto-Lei n.º 96/2020, de 4 de novembro		http://bit.ly/2iaqtL7 (PT)
Ministerial Order n. 30/2001 of 17 January 2001 establishing the specific modalities of health care in different stages of the asylum procedure	Portaria n.º 30/2001, de 17 de Janeiro, que estabelece as modalidades específicas de assistência médica e medicamentosa a prestar nas diferentes fases do procedimento de concessão do direito de asilo, desde a apresentação do respectivo pedido à decisão final que recair sobre o mesmo		https://bit.ly/2F8gRMe (PT)
Ministerial Order n. 1042/2008 of 15 September 2008 establishing the terms of access of asylum seekers and their family members to the National Health Service	Portaria n.º 1042/2008, de 15 de Setembro, que estabelece os termos e as garantias do acesso dos requerentes de asilo e respectivos membros da família ao Serviço Nacional de Saúde		https://bit.ly/2u6dyTt (PT)
Decree-Law n. 227/2005 of 28 December 2005 defining the framework of of granting the recognition of foreign qualifications	Decreto-Lei n.º 227/2005, de 28 de Dezembro, que define o novo regime de concessão de equivalência de habilitações de sistemas educativos estrangeiros a habilitações do sistema educativo português ao nível dos ensinos básico e secundário		https://bit.ly/39ssv26 (PT)
Ministerial Order n. 224/2006 of 8 March 2006 approving comparative tables between the Portuguese education system and other education systems	Portaria n.º 224/2006, de 8 de Março, que aprova as tabelas comparativas entre o sistema de ensino português e outros sistemas de ensino, bem como as tabelas de conversão dos sistemas de classificação correspondentes		https://bit.ly/2FUHTYE (PT)
Ministerial Order n. 699/2006 of 12 July 2006 approving comparative tables between the	Portaria n.º 699/2006, de 12 de Julho 2006, que aprova as tabelas comparativas entre o sistema de ensino português e		https://bit.ly/2HUjgxx (PT)

Portuguese education system and other education systems	outros sistemas de ensino, bem como as tabelas de conversão dos sistemas de classificação correspondentes		
Decree-Law n. 83/2000 of 11 May 2000 on the new regime for the issuance of passports <i>Amended by:</i> Act n. 49/2018 of 14 August 2018	Decreto-Lei n.º 83/2000, de 11 de Maio, que aprova o novo regime legal da concessão e emissão dos passaportes <i>Última alteração:</i> Lei n.º 49/2018, de 14 de agosto	Travel Documents Order	http://bit.ly/2AjwA7G (PT)
Governmental Decree n. 84/2007 of 5 November 2007 regulating Act n. 23/2007 of 4 July 2007 on the legal status of entry, residence, departure and removal of foreigners from the national territory <i>Amended by:</i> Act n. 71/2018 of 31 December 2018	Decreto Regulamentar n.º 84/2007, de 5 de Novembro, que regulamenta a Lei n.º 23/2007, de 4 de Julho, que aprova o regime jurídico de entrada, permanência, saída e afastamento de cidadãos estrangeiros de território nacional <i>Última alteração:</i> Lei n.º 71/2018, de 31 de Dezembro		https://bit.ly/2Pj0N2U . (PT)
Ministerial Order n. 1334-E/2010 of 31 December <i>Amended by:</i> Ministerial Order n. 204/2020 of 24 August 2020	Portaria n.º 1334 -E/2010, de 31 de Dezembro, que fixa as taxas e demais encargos a cobrar pelos procedimentos administrativos previstos na Lei n.º 23/2007, de 4 de Julho, com as alterações introduzidas pela Lei n.º 29/2012, de 9 de agosto <i>Última alteração:</i> Portaria n.º 204/2020, de 24 de agosto		https://bit.ly/3iXuSzb (PT)
Decree-Law n. 131/95 of 6 June 1995 approving the Civil Registration Code <i>Amended by:</i> Act n. 49/2018 of 14 August 2018	Decreto-Lei n.º 131/95, de 6 de Junho, que aprova o Código do Registo Civil <i>Última alteração:</i> Lei n.º 49/2018, de 14 de Agosto	Civil Registration Code	https://bit.ly/3gxLDIA . (PT)
Decree-Law n. 237-A/2006 of 14 December 2006 approving the regulation of the Portuguese nationality <i>Amended by:</i> Decree-Law n. 71/2017 of 21 June 2017	Decreto-Lei n.º 237-A/2006, de 14 de Dezembro, que aprova o Regulamento da Nacionalidade Portuguesa <i>Última alteração:</i> Decreto-Lei n.º 71/2017, de 21 de Junho	Nationality Regulation	http://bit.ly/2nelr5o (PT)
Ministerial Order n. 176/2014 of 11 September 2014	Portaria n.º 176/2014, de 11 de setembro, que regulamenta a realização da prova do conhecimento da língua portuguesa, prevista na alínea b) do n.º 2 do artigo 25.º do Regulamento da Nacionalidade Portuguesa, aprovado pelo Decreto-Lei n.º 237-A/2006, de 14 de Dezembro, na sua actual redação.	Nationality Language Assessment Test Order	https://bit.ly/2MHt3aS (PT)

Decree-Law n. 322-A/2001 of 14 December 2001 approving the Regulation of Administrative Fees of Registries and Notary <i>Amended by:</i> Act no.2/2020 of 31 March 2020	Decreto-Lei n.º 322-A/2001, de 14 de Dezembro de 2001, que aprova o Regulamento Emolumentar dos Registos e Notariado <i>Última alteração:</i> Lei n.º 2/2020, de 31 de março		https://bit.ly/3592YrB (PT)
Ministerial Order n. 302/2015 of 22 September 2015, Template refugee travel document <i>Amended by:</i> Ministerial 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 <i>Alteração:</i> Portaria n.º 412/2015 de 27 de novembro	Refugee Travel Document Order	https://bit.ly/36cs22b (PT)
Ministerial Order n. 183/2020 of 5 August 2020, approving the creation of Portuguese host language courses and the rules pertaining to its organisation, functioning and certification.	Portaria n.º 183/2020, de 5 de agosto que cria os cursos de Português Língua de Acolhimento, assim como as regras a que obedecem a sua organização, funcionamento e certificação		https://bit.ly/3r6zPZB (PT)
Regulation n. 84/2018 of 2 February 2018 governing the public leasing of housing from IHRU, IP	Regulamento n.º 84/2018, de 2 de fevereiro, de Acesso e Atribuição de Habitações do IHRU, I.P., em Regime de Arrendamento Apoiado		https://bit.ly/2SD3PhF (PT)

Overview of the main changes since the previous report update

The report was previously updated in **May 2020**.

Background information

In the course of 2020, the Government announced its intention to conduct a structural reform of the Immigration and Borders Service (SEF). According to publicly available information, one of the core elements of the reform will be the strict separation between administrative competencies relating to foreigners and criminal investigation competencies that are currently held by SEF.

For that purpose, it has been announced that a new authority – Serviço de Estrangeiros e Asilo/Foreigners and Asylum Service - will be created. This entity will be in charge of matters relating to the regularisation and documentation of migrants as well as asylum.⁴ SEF Inspectors will, according to the Ministry of Home Affairs, be integrated in the remaining police forces. The reform, that will also impact border control, is to be implemented in the course of 2021.⁵

Throughout the year, and for the first time, the exterior walls of the Refugee Reception Centre (CAR), CPR's reception centre for applicants for international protection, have been vandalised three times with racist and xenophobic messages targeting refugees.

In 2020, Portugal committed to receive 500 unaccompanied children from Greece.⁶ According to the Minister of the Presidency, 72 unaccompanied children from 14 countries of origin were transferred from Greece to Portugal throughout the year.⁷ In September 2020, following the tragic events in Moria, Portugal announced that it communicated to the European Commission its availability to participate in the common effort for the reception of persons that were at the camp, within the framework of its two bilateral agreements with Greece.⁸

In April 2020, the UN Human Rights Committee published its Concluding Observations following the periodic report of Portugal. The Committee flagged concerns and issued recommendations directly linked to the asylum system, notably regarding the identification of vulnerable persons, procedural delays, excessive use of accelerated procedures, duration and conditions of detention, and detention of children.⁹

In May 2020, the Observatory for Migration (OM) published its first Statistical Report of Asylum (2020).¹⁰ The report identifies challenges and issues recommendations with regard to adequate monitoring of the asylum system, as well as challenges inherent to the asylum policy.

In October 2020, the European Commission announced having “*decided to send a reasoned opinion to Portugal for failing to fully transpose the recast Asylum Procedures Directive*”.¹¹ No further information on this procedure was available at the time of writing.

⁴ Comunicado do Conselho de Ministros de 8 de abril de 2021, 8 April 2021, available at: <https://bit.ly/3mGgY6o>.

⁵ Sic Notícias, *Inspetores do SEF vão integrar PSP, GNR ou PJ após reestruturação*, 19 March 2021, available at: <https://bit.ly/3mIXxtF>. In April 2021, a Resolution determining the main political guidance for the reform was adopted by the Council of Ministers – Resolution of the Council of Ministers no. 43/2021 of 14 April 2021, available at: <https://bit.ly/338kOMC>.

⁶ Reuters, ‘Portugal to take in 500 unaccompanied migrant children from Greek camps’, 12 May 2020, available at: <https://reut.rs/3r5Hirl>.

⁷ Video recording available at: <https://bit.ly/3ouCeeM>.

⁸ Nota à Comunicação Social, 11 September 2020, available at: <https://bit.ly/2YsQD0B>.

⁹ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5. 28 April 2020, par 32-37, available at: <https://bit.ly/2Q1ftn8>.

¹⁰ Following Parliament resolution no. 292/2018 recommending the publication of a yearly report on the national asylum policy. Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, available in Portuguese at: <https://bit.ly/2MGYtB9>.

¹¹ European Commission, *October infringements package: key decisions*, 30 October 2020, available at: <https://bit.ly/3tiin7ls>.

According to the information provided by the Minister of the Presidency to the Parliament on 21 December 2020, 219 refugees were resettled in Portugal in the course of 2020.¹² In 2020, CPR hosted 71 new resettled refugees, nationals of Syria and of Iraq, all resettled from Turkey. A total of 178 resettled refugees benefited from CPR support during the year. Among the main challenges identified by CPR are the end of programme transition and the additional hurdles faced due to COVID-19 (that, overall, delayed integration).

In September 2020, SEF and IOM formalised a new agreement concerning the resettlement of refugees (2020-2022). According to the available information, Portugal committed to resettle 1,729 refugees from Turkey, Egypt, and Jordan.¹³

Asylum procedure

- ❖ **Applicants for international protection:** A total of 1,002 applications for international protection were registered in Portugal in 2020. This sharp decrease from 2019 (1,849 applications) is likely due to the restrictions to movement imposed within the context of the coronavirus pandemic (i.e. the closure of land borders from 16 March to 1 July 2020; prohibition/restrictions to air traffic from non-EU countries).
- ❖ **Impact of COVID-19 on the asylum procedure:** While SEF's Asylum and Refugees Department remained open for the purposes of receiving and registering new applications for international protection, deadlines within the asylum procedure were suspended in March 2020. As such, personal interviews were not conducted between March and May 2020. Due to the coronavirus outbreak, all applicants for international protection detained at the Lisbon airport were released into national territory in March 2020. COVID-19 related measures adopted after May 2020 and throughout the rest of the year had less impact on the asylum procedure. A detailed overview of coronavirus-related measures impacting the asylum system is provided in [Annex II](#).
- ❖ **Low recognition rates:** According to the data provided by SEF, a total of 847 first instance in-merit decisions have been adopted in 2020, of which 77 granting refugee status, 17 granting subsidiary protection and 753 rejecting the application (either in regular or accelerated procedures). Accordingly, the in-merit rejection rate rose to 88.9%, a significant increase compared to 2019 (67.3%). The information provided by SEF further indicates that 410 inadmissibility decisions have been adopted in 2020, and that 486 cases have been admitted to the regular procedure.
- ❖ **Dublin procedure:** Following a first judgement in early 2020 focusing on the obligations of applicants and national authorities regarding the allegation/substantiation of systemic flaws and, particularly, the situation in Italy, the Supreme Administrative Court (STA) issued several similar decisions throughout the year. Overall, the Court's case law in this regard reaffirmed that (i) SEF is not bound to a general duty to inquire the situation in the responsible Member State; (ii) that the applicant bears a burden of allegation and demonstration of the risk in case of return; and (iii) that the flaws in the asylum system of the responsible Member State must be extremely severe. The Court has also affirmed that the situation in Italy does not amount to one of generalised risk of torture, inhuman or degrading treatment.
- ❖ **Border procedure:** The border procedure has been suspended since March 2020. In mid-March 2020, the detention centre at Lisbon airport was closed (both due to the coronavirus pandemic and for renovation work). While applications for international protection at the border have been made since the international air traffic resumed and the facility re-opened, at the time of writing, such applicants were given entry into national territory, referred to accommodation if needed, and their cases were not subject to the rules applicable to the border procedure. At the time of writing, it was not clear whether this is temporary or will become permanent practice.

¹² Video recording available at: <https://bit.ly/3ouCeeM>.

¹³ EMN, *EMN Bulletin*, November 2020, available at: <https://bit.ly/3tfN6Au>.

Reception conditions

- ❖ **Responsibility for reception:** In November 2020, a resolution of the Council of Ministers establishing a single system of reception and integration of applicants for and beneficiaries of international protection was published.¹⁴ It foresees *inter alia* the creation of Single Operative Group (SOG) composed of a variety of authorities, institutions and relevant organisations responsible for coordination and managing the reception system.
- ❖ **Housing:** As a result of measures adopted within the context of the coronavirus pandemic, the occupancy of accommodation facilities, and the average accommodation period with the assistance of CPR were significantly reduced after April 2020 (from 7 months to 2 and a half months).

Detention of asylum seekers

- ❖ **Use of detention:** In March 2020, applicants for international protection that were detained at the border were released from administrative detention. The detention centre at Lisbon airport (the facility where the majority of asylum seekers were usually detained) re-opened on 1 August 2020 with vastly different conditions and a new internal regulation was approved. Persons applying for international protection at the Lisbon airport have not been detained in the facility since then and are being granted access to the territory for the purpose of the asylum procedure. However, asylum seekers who apply for international protection while in detention due to a removal procedure continued to be subject to detention throughout the year, including in airport detention facilities.

Content of international protection

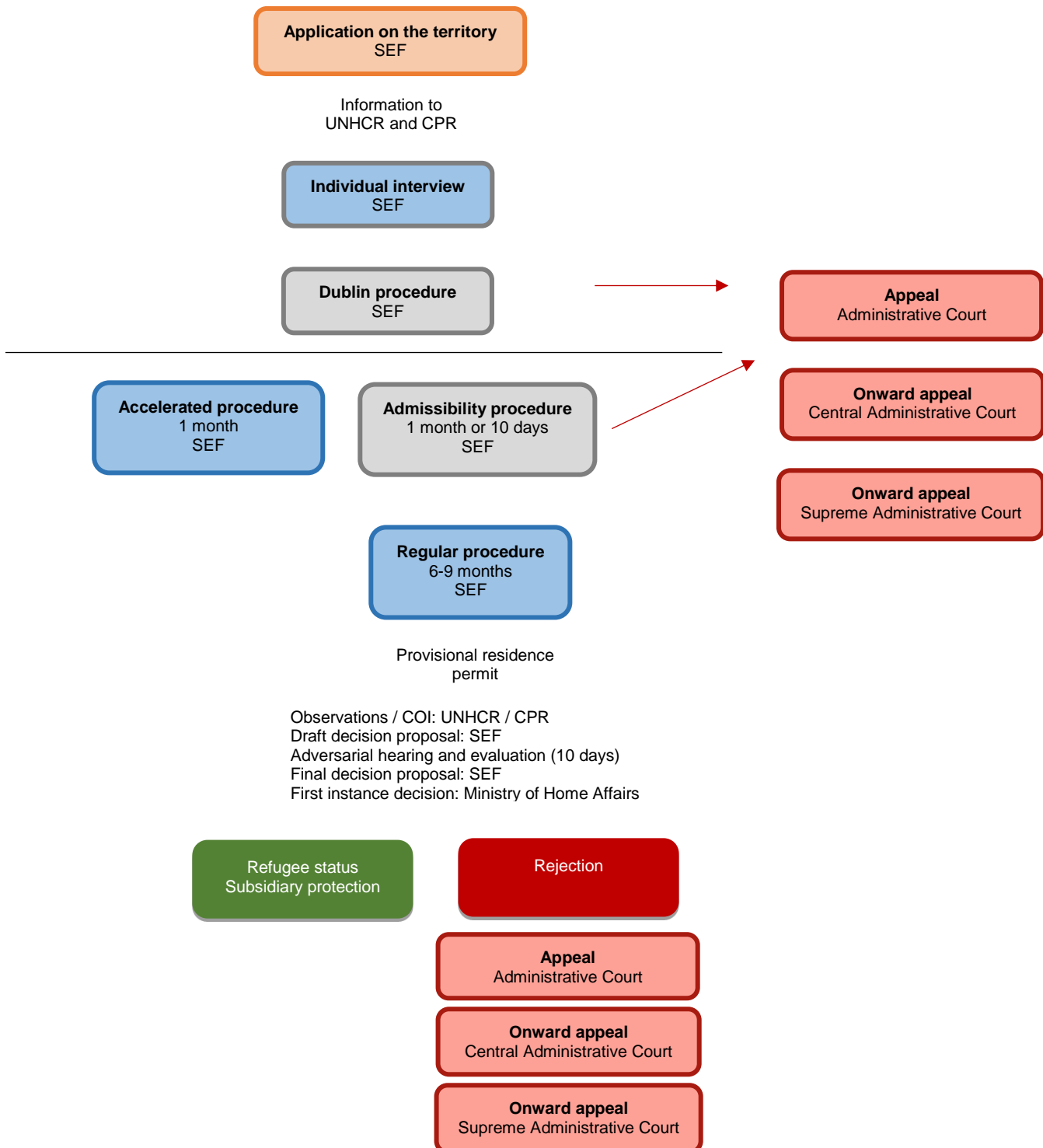
- ❖ **Cessation of subsidiary protection:** In 2020, 262 decisions to cease subsidiary protection were adopted by the national authorities, mainly concerning Ukrainians (176) followed by Guineans (25) and Pakistanis (20). This confirms the previously reported trend of an increase of cessation procedures of subsidiary protection. CPR continued to observe significant shortcomings in cessation procedures. No refugee status has been ceased however.
- ❖ **Nationality:** The Nationality Act was recast in 2020. Among others, the amendment expanded the scope of acquisition of nationality at birth by children born to foreign parents in Portugal and introduced changes to special naturalisation regimes. The corresponding Nationality Regulation has not been adopted at the time of writing. The 2018 recast of the Nationality Act, which introduced provisions that may have a positive impact for applicants and beneficiaries of international protection (particularly, unaccompanied children), has not yet been regulated as well.

¹⁴ Resolution of the Council of Ministers no. 103/2020 of 23 November 2020, available at: <https://bit.ly/3oBLXQm>.

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

- | | | |
|--|---|-----------------------------|
| ❖ Regular procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: ¹⁵ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Fast-track processing: ¹⁶ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Dublin procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Admissibility procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Border procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Accelerated procedure: ¹⁷ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> 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)
Registration of applications	Immigration and Borders Service	Serviço de Estrangeiros e Fronteiras (SEF)
Dublin	Immigration and Borders Service	Serviço de Estrangeiros e Fronteiras (SEF)
Refugee status determination	Immigration and Borders Service Ministry of Home Affairs	Serviço de Estrangeiros e Fronteiras (SEF) Ministério da Administração Interna
First appeal	Administrative Court of Lisbon Administrative and Fiscal Courts	Tribunal Administrativo de Círculo de Lisboa Tribunais Administrativos e Fiscais
Onward appeal	Central Administrative Courts Supreme Administrative Court	Tribunais Centrais Administrativos Supremo Tribunal Administrativo
Subsequent application	Immigration and Borders Service Ministry of Home Affairs	Serviço de Estrangeiros e Fronteiras (SEF) Ministério da Administração Interna

4. Determining authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
Immigration and Borders Service (SEF), Asylum and Refugees Department (GAR)	27	Ministry of Home Affairs	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Source: SEF.

In accordance with the Asylum Act and the internal regulation of the Immigration and Borders Service (SEF), the responsibility for examining applications for international protection and drafting first instance decisions lies with the Asylum and Refugees Department of SEF (SEF-GAR), while decisions granting, refusing (except in accelerated and admissibility procedures), ceasing, and withdrawing international protection are formally adopted by the Ministry of Home Affairs.¹⁸ In practice, the latter adopts such

¹⁵ For applications likely to be well-founded or made by vulnerable applicants.

¹⁶ Accelerating the processing of specific caseloads as part of the regular procedure.

¹⁷ Labelled as “accelerated procedure” in national law.

¹⁸ Article 29(1) Asylum Act; Article 17 Decree-Law 252/2000.

decisions based on the assessment and recommendations of the determining authority, which thus remains the main entity responsible for the examination of asylum claims.

SEF-GAR is the specialised determining authority in the field of asylum whose competences are restricted to the following asylum-related tasks:¹⁹ (i) to organise and process asylum applications; (ii) to organise and process subsidiary protection applications; (iii) to organise and process Dublin procedures and, where necessary, to issue *laissez passer*; (iv) to issue reasoned opinions on submissions for refugee resettlement; (v) to issue reasoned opinions on applications for the renewal of refugee travel documents presented before the Portuguese Consulates; (vi) to issue refugee identity cards and travel documents as well as residence permits provided for in the Asylum Act, and to renew and extend the validity of such documents; (vii) to act as contact point of the European Asylum Support Office (EASO); and (viii) to provide for the strategic planning of EASO-related activities.

SEF-GAR is composed of 27 officials, of which (i) 14 caseworkers are responsible for the examination of applications for international protection under all the applicable procedures (except the Dublin procedure), including 2 officials responsible for revising files and proposals and one official responsible for the final decision, (ii) 2 caseworkers for Dublin procedures; and (iii) 11 administrative support officers. According to SEF, caseworkers conduct interviews, COI research, case analysis, and draft decision proposals. Such decisions are revised by supervisors who also investigate suspicions of fraud (cancellation procedures) and draft and supervise the implementation of procedural and eligibility guidelines. Administrative officers ensure the registration of applications and the screening/referral of cases.

Quality assurance

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

5. Short overview of the asylum procedure

The Portuguese asylum procedure is a single procedure for both refugee status and subsidiary protection.²⁰ There are different procedures applicable depending on whether the asylum application: (i) is submitted to the regular procedure; (ii) is deemed unfounded (including in the case of applications following a removal procedure) and therefore submitted to an accelerated procedure; or (iii) is presented at a national border and processed under the border procedure.

Anyone who irregularly enters or remains on Portuguese territory must present his or her application for international protection to SEF or to any other police authority as soon as possible, orally, or in writing.²¹ In the latter case, the police authority has 48 hours to inform SEF of the application.²² SEF is required to register the asylum application within 3 working days of presentation and to issue the applicant a certificate of the asylum application within 3 days after registration.²³ The applicant must be informed of his/her rights and duties in a language he/she understands or is expected to understand.²⁴ Moreover, SEF must immediately inform the United Nations High Commissioner for Refugees (UNHCR) and the Portuguese Refugee Council (CPR), as an organisation working on its behalf, of all asylum applications.²⁵ UNHCR and CPR are further entitled to be informed of the most relevant procedural acts (e.g. interview transcripts and decisions) upon consent of the applicant,²⁶ and to provide their observations to SEF at any time during the procedure.²⁷ The Asylum Act also determines that UNHCR and CPR are to be

¹⁹ Article 17(1) Decree-Law 252/2000.

²⁰ Article 10(2) Asylum Act.

²¹ Articles 13(1) and 19(1)(d) Asylum Act.

²² Article 13(2) Asylum Act.

²³ Articles 13(7) and 14(1) Asylum Act.

²⁴ Article 14(2) Asylum Act.

²⁵ Articles 13(3), 24(1), 33(3), 33-A(3) Asylum Act.

²⁶ E.g. Articles 17(3), 20, 24(5), 29(6) Asylum Act.

²⁷ Article 28(5) Asylum Act.

informed of decisions determining the loss of international protection, regardless of the consent of the applicant.²⁸

Except for special cases, such as applicants lacking legal capacity,²⁹ all asylum applicants must undergo either a Dublin interview or an interview that addresses the remaining inadmissibility grounds and the merits of the application. This is provided both on the territory³⁰ and at the border.³¹ According to the law, following the interview, 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.³² National jurisprudence provides that the applicant must be granted an opportunity not only to seek revision of the narrative, but to reply to the prospective outcome of the application (admission to the regular procedure, accelerated refusal on the merits or inadmissibility) leading to changes in the practice in this regard.

Admissibility

With the exception of Dublin decisions, the National Director of SEF has 30 days to make a decision on the admissibility of applications on the territory³³ (10 days for subsequent applications and applications following a removal order),³⁴ as opposed to 7 days for applications processed under a border procedure.³⁵ If an application on the territory is rejected as inadmissible, the asylum seeker has 8 days to appeal the decision before the Administrative Court, with automatic suspensive effect,³⁶ with the exception of inadmissible subsequent applications and applications following a removal order (4 days to appeal, with automatic suspensive effect).³⁷ Failing an appeal, the applicant has 20 days to leave the country.³⁸ In the case of border procedures, the time limit to appeal is reduced to 4 days.³⁹

In the case of Dublin procedures, the deadline for the admissibility decision is suspended pending a reply from the requested Member State.⁴⁰ Upon notification of a “take charge”/“take back” decision, the applicant has 5 days to appeal before the Administrative Court with suspensive effect.⁴¹

Regular procedure

As soon as an asylum application is deemed admissible,⁴² it proceeds to an eligibility evaluation.⁴³ In accordance with the law, this stage lasts up to 6 months but can be extended to 9 months in cases of particular complexity.⁴⁴ The asylum seeker receives a provisional residence permit valid for 6 months (renewable) that grants access to education and employment.⁴⁵ During this stage, SEF – acting with due diligence - evaluates all relevant facts to prepare a reasoned decision.⁴⁶ This is generally done on the basis of the personal interview conducted during the admissibility stage of the procedure, given that it also encompasses the merits of the application. As mentioned above, UNHCR and CPR are entitled to present their observations to SEF at any time during the procedure in accordance with Article 35 of the 1951

²⁸ Article 43(3) Asylum Act.

²⁹ Article 16(5) Asylum Act.

³⁰ Articles 16 Asylum Act and 33-A(4) (for applications following a removal decision).

³¹ Article 24(2) and (3) Asylum Act.

³² Article 17 Asylum Act.

³³ Article 20(1) Asylum Act.

³⁴ Articles 33(4) and 33-A(5) Asylum Act.

³⁵ Article 24(4) Asylum Act.

³⁶ Articles 22(1) Asylum Act.

³⁷ Articles 33(6) and 33-A(6) Asylum Act.

³⁸ Articles 21(2) and (3) and 33(9) Asylum Act.

³⁹ Article 25(1) Asylum Act.

⁴⁰ 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.

⁴¹ Article 37(4) Asylum Act.

⁴² Article 20(4) Asylum Act. In the absence of a decision within 30 days the application is automatically admitted to the procedure.

⁴³ Article 21(1) Asylum Act.

⁴⁴ Article 28(2) Asylum Act.

⁴⁵ Article 27(1) Asylum Act. Ministerial Order 597/2015 provides for the model and technical features of the provisional residence permit.

⁴⁶ Article 28(1) Asylum Act.

Refugee Convention.⁴⁷ Upon notification of the proposal for a final decision, the applicant has 10 days to evaluate SEF's reasoning and to respond to the proposal.⁴⁸ SEF then sends the recommendation to its Director, who has 10 days to present it to the Ministry of Home Affairs. In turn, the Ministry of Home Affairs has 8 days to adopt a final decision.⁴⁹ In the event of a negative decision, the applicant may lodge an appeal with automatic suspensive effect before the Administrative Court within 15 days,⁵⁰ or voluntarily depart from national territory within 30 days, (after this period, the applicant will be subject to the removal regime).⁵¹

Accelerated procedure

The law contains a list of grounds that, upon verification, determine that an application is subjected to an accelerated procedure and deemed unfounded. These grounds include, among others, subsequent applications that are not deemed inadmissible and applications following a removal procedure.⁵² While the rules governing accelerated procedures provide for the basic principles and guarantees of the regular procedure,⁵³ they lay down time limits for the adoption of a first instance decision on the merits of the application that are significantly shorter than those of the regular procedure.⁵⁴ In addition, these rules entail reduced procedural guarantees, such as exclusion from the right of the applicant to seek a revision of the narrative of his or her personal interview,⁵⁵ or to be notified of and respond to SEF's reasoning of the proposal for a final decision,⁵⁶ as well as shorter appeal deadlines.⁵⁷

Similarly to the regular procedure, the appeal has an automatic suspensive effect.⁵⁸ However, the onward appeal in the case of an application following a removal order does not.⁵⁹

Border procedure

The law provides for a special procedure regarding applications made at a national border.⁶⁰ While this procedure provides for the basic principles and guarantees of the regular procedure,⁶¹ it lays down a significantly shorter time limit for the adoption of a decision regarding admissibility or merits (if the application is furthermore subject to an accelerated procedure).⁶² Additionally, the border procedure is characterised by reduced procedural guarantees such as exclusion from the right of the applicant to seek revision of the narrative of his or her personal interview,⁶³ and a shorter appeal deadline before the

⁴⁷ Article 28(5) Asylum Act.

⁴⁸ Article 29(2) Asylum Act.

⁴⁹ Article 29(4) and (5) Asylum Act.

⁵⁰ Article 30(1) Asylum Act.

⁵¹ Article 31 Asylum Act.

⁵² Article 19 Asylum Act.

⁵³ 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.

⁵⁴ 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).

⁵⁵ This is limited to accelerated procedures at the border and in the case of applications following a removal procedure.

⁵⁶ See *infra* the section on Accelerated Procedures for details on the current practice in this regard.

⁵⁷ 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).

⁵⁸ Articles 22(1) and 33-A(6) Asylum Act.

⁵⁹ Article 33-A(8) Asylum Act.

⁶⁰ Article 23(1) Asylum Act.

⁶¹ 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.

⁶² 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.

⁶³ Article 24 Asylum Act.

Administrative Court (4 days).⁶⁴ Furthermore, asylum seekers are detained during the border procedure.⁶⁵ The border procedure was applied in practice to applications made at border points (in particular airports) until March 2020. Since then, and after the reinstatement of air traffic, asylum seekers that apply for international protection at the border have been granted entry into national territory, not subject to detention, and their applications have been processed according to the rules applicable to applications made in the territory.

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

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

The Portuguese authorities are bound by the duty to protect asylum seekers and beneficiaries of international protection from *refoulement*.⁶⁶ National case law reaffirmed the protection against *refoulement* both on national territory and at the border, regardless of the migrant's status⁶⁷ and in cases of either direct or indirect exposure to *refoulement*.⁶⁸ 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, within the context of border procedures, once SEF has conducted the individual interview, which constitutes an additional risk factor. However, it receives at times third party contacts reporting the presence of individuals in need of international protection at the border. With rare exceptions, and even where CPR does not immediately intervene, the registration of the corresponding applications in these cases is normally communicated by SEF to CPR in the following days (see [Registration of the asylum application](#)).

In 2014 CPR carried out research on access to protection and the principle of *non-refoulement* at the borders and in particular at **Lisbon Airport**.⁶⁹ 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

⁶⁴ Article 25(1) Asylum Act.

⁶⁵ Articles 26(1) and 35-A(3)(a) Asylum Act.

⁶⁶ Articles 2(aa), 47 and 65 Asylum Act; Articles 31(6), 40(4) and 143 Immigration Act.

⁶⁷ Nevertheless, the recent replies of Portugal to the list of issues of the Committee on the Elimination of Discrimination against Women (CEDAW) seem to indicate an understanding of the principle of non-refoulement as being almost exclusively linked to refugee status determination: “[t]he principle of “non-refoulement” is established in Law 27/2008 and guarantees the applicant's right to not be returned to a country (of origin, residence or otherwise), where his/her life or freedom would be threatened if specific conditions are met and referred in the Geneva Convention and in the Portuguese Asylum Law - provided that this risk occurs “(…) because of their race, religion , nationality , membership of a particular social group, or opinions policies (…)” and should be a clear and intrinsic relation of cause and effect between the return of the applicant and the specific threat that can be targeted. The observance of the principle of non-refoulement is intrinsically linked to the determination of refugee status, thus when it is established that an asylum application is unfounded, for not meeting any of the criteria defined by the Geneva Convention and New York Protocol in recognition of refugee status, the principle mentioned above is fully observed to that extent.” (available at: <https://bit.ly/3cnDTjy>.)

⁶⁸ See e.g., TAC Lisbon, Decisions 1480/12.7BELSB and no. 2141/10.7BELSB (unpublished). More recently, TCA South noted that Portugal is also bound to protect applicants against indirect refoulement within the context of Dublin procedures (TCA South, Decision 775/19.3BELSB, 10 September 2020, available at: <https://bit.ly/3mzaaYx>).

⁶⁹ CPR, *Access to Protection: A Human Right, country report, Portugal*, 2014, available at: <https://bit.ly/3sWjYNx>.

SEF in Guinea Bissau. To the extent of CPR's knowledge, no further research has been conducted on this issue since then.

Regarding persons refused entry at border points, shortcomings with the potential to increase the risk of *refoulement* identified in 2014 included: (a) challenges in accessing free legal assistance and an effective remedy, compounded by the absence of a clear legal/policy framework for the systematic assessment of the risk of *refoulement*; and (b) poor information provision to persons and lack of training to immigration staff on *non-refoulement* obligations. These risk factors are aggravated by the absence of border monitoring by independent organisations.

With regard to access to free legal assistance, in November 2020, the Ministry of Home Affairs, the Ministry of Justice and the Bar Association signed a protocol to ensure the provision of legal counselling and assistance to foreigners to whom entry into national territory was refused (Lisbon, Porto, Faro, Funchal and Ponta Delgada airports).⁷⁰ According to information available at the time of writing, this protocol was made within the framework of Article 40(2) of the Immigration Act and is not intended to cover asylum procedures.

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

The UN Committee Against Torture noted in 2019 that Portugal should "[e]nsure that, in practice, no one may be expelled, returned or extradited to another State where there are substantial grounds for believing that he or she would run a personal and foreseeable risk of being subjected to torture and ill-treatment" and that procedural safeguards and effective remedies regarding the prohibition of *refoulement* are available.⁷¹

Since 2018, Portugal has systematically participated in *ad hoc* relocation mechanisms following rescue operations in the Mediterranean and disembarkation in Malta and Italy. According to information from SEF, in 2019, 100 applicants for international protection were transferred to Portugal within this context (52 from Malta and 48 from Italy).⁷²

In 2020, Portugal committed to receive 500 unaccompanied children from Greece.⁷³ According to the information provided by the Minister of the Presidency to the Parliament on 21 December 2020,⁷⁴ 72 unaccompanied children from 14 countries of origin were transferred from Greece to Portugal throughout the year. According to the Minister, at the time of the statement, the arrival of a group of 6 unaccompanied children was being prepared. This followed a 2019 agreement with the Greek authorities to implement a pilot relocation process for 100 applicants/beneficiaries of international protection (See [Dublin: Procedure](#)). In September 2020, following the tragic events in Moria, Portugal announced that it communicated to the European Commission its availability to participate in the common effort for the reception of persons that were at the camp, within the framework of its two bilateral agreements with Greece.⁷⁵

While sea arrivals are not common in Portugal, since December 2019, multiple groups of people from Morocco arrived by sea in small boats in the region of **Algarve**. According to the information provided by SEF, 66 applications for international protection were made throughout 2020 within this context.

⁷⁰ Ministry of Home Affairs, *Estrangeiros impedidos de entrar em Portugal vão ter direito a advogado*, 4 November 2020, available in Portuguese at: <https://bit.ly/3oCd8L3>.

⁷¹ Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, available at <https://bit.ly/2G1F07z>, par.38(a) and (b).

⁷² SEF, *Relatório de Imigração, Fronteiras e Asilo 2019*, June 2020, available at <https://bit.ly/3cstNyf>.

⁷³ Reuters, 'Portugal to take in 500 unaccompanied migrant children from Greek camps', 12 May 2020, available at: <https://reut.rs/3r5Hirl>.

⁷⁴ Video recording available at: <https://bit.ly/3ouCeeM>.

⁷⁵ *Nota à Comunicação Social*, 11 September 2020, available at: <https://bit.ly/2YsQD0B>.

2. Registration of the asylum application

Indicators: Registration

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

While the asylum application can be presented (“made”) either to SEF or to any other police authority, the responsibility to register asylum claims lies solely with SEF.⁷⁶ If an asylum application is presented to a different police authority, it must be referred to SEF within 48 hours.⁷⁷ In accordance with SEF’s internal organisation,⁷⁸ the responsibility for organising asylum files (including registration) lies with its Asylum and Refugees Department (SEF-GAR). SEF-GAR is required to inform CPR, as an organisation working on UNHCR’s behalf, of the registration of individual asylum applications.

In 2020, out of a total of 1,002 applications registered by SEF, 893 were communicated to CPR.⁷⁹ This sharp decrease from 2019 (1,849 applications registered/1,714 applications communicated to CPR) is likely due to the restrictions to movement imposed within the context of the coronavirus pandemic (i.e., the closure of land borders from 16 March to 1 July 2020; prohibition/restrictions to air traffic from non-EU countries). While the asylum procedure was suspended during the first lockdown due to the coronavirus pandemic, SEF-GAR remained open for the purposes of receiving and registering new applications for international protection.⁸⁰ According to the available information, the suspension was in force between 27 March and 2 May 2020 (the end of the state of emergency).⁸¹ While the state of emergency re-entered into force on 9 November 2020,⁸² the asylum procedure was not suspended at that point.

In accordance with the law, anyone who irregularly enters Portuguese national territory or is refused entry at the border must present their request to SEF or to any other police authority as soon as possible.⁸³

While there are no specific time limits for asylum seekers to lodge their application, the law provides for use of the **Accelerated Procedure** in case the asylum applicant enters or remains irregularly on national territory and fails to apply for asylum as soon as possible without a valid reason.⁸⁴ This provision has rarely been applied in practice and, according to the experience of CPR, when applied, it is usually combined with other grounds for the application of accelerated procedures.

⁷⁶ Article 13 (1) and (7) Asylum Act.

⁷⁷ Article 13(2) Asylum Act.

⁷⁸ Article 17 Decree-Law 252/2000.

⁷⁹ While slight discrepancies between the number of registered applications and applications communicated to CPR were common, since 2019, a significant difference between the two figures has been observed. Please note that statistics included in this report from CPR only refer to applications communicated to the organisation in accordance with the communication duties established in the Asylum Act.

⁸⁰ Order no.3863-B/2020 of 27 March 2020, available at: <https://bit.ly/36r7x3O>.

⁸¹ See EMN, *Special Annex to the 31st EMN Bulletin – EU Member States and Norway: responses to COVID-19 in the migration and asylum area – April-June 2020*, available at: <https://bit.ly/2MITV31>.

⁸² Decree of the President of the Republic no.51-U/2020, 6 November 2020, available at: <https://bit.ly/3sX2EJJ>. The state of emergency was declared for the period between 9 November 2020 and 23 November 2020 and has been subsequently renewed since then. All the relevant Decrees of the President of the Republic and legislative regulation of the state of emergency are available at: <https://bit.ly/3ctkxtx>.

⁸³ Article 13(1) Asylum Act.

⁸⁴ Article 19(1)(d) Asylum Act.

Failure to apply for asylum at the earliest possible time, unless the applicant can demonstrate good reason for not having done so, also constitutes a ground for not granting the benefit of the doubt.⁸⁵ According to CPR's observation, this provision has been applied by SEF in practice.

Additionally, it should be noted that persons refused entry at the border are liable to immediate removal to the point of departure,⁸⁶ meaning that, in practice, they are required to present their asylum application immediately.

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

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

SEF is required to register the asylum application within 3 working days of presentation and to issue the applicant a certificate of the asylum application within 3 days of registration.⁸⁷ Despite isolated delays (e.g. related to the registration of asylum applications presented in SEF's regional representations), CPR has not encountered systemic or serious problems regarding the registration of applications as opposed to occasional instances of delayed issuance and renewal of the certificates of the asylum application.

The most recent report of the National Preventive Mechanism available at the time of writing (covering 2019) provides information obtained during its visits to detention facilities. It notes that, during a visit to the detention centre at **Lisbon** airport, the Mechanism spoke to two women who alleged that they have previously asked SEF to register their applications for international protection, but to no avail. The report further details that SEF denied that such requests have been made before and promptly registered the applications afterwards.⁸⁸

In 2020, the UN Human Rights Committee highlighted that Portugal should "[e]nsure that all applications for international protection at the border and in reception and detention facilities are promptly received, registered and referred to the asylum authorities" and "[c]ontinue its efforts to maintain and strengthen the quality of its refugee status determination procedures, in order to fairly and efficiently identify and recognize those in need of international protection and to afford sufficient guarantees of respect for the principle of non-refoulement under the Covenant".⁸⁹ The Committee further recommended that Portugal strengthens "[...] training for the staff of migration institutions and border personnel on the rights of asylum seekers and refugees under the Covenant and other international standards".⁹⁰

⁸⁵ Article 18(4)(d) Asylum Act.

⁸⁶ Article 41(1) Immigration Act.

⁸⁷ Articles 13(7) and 14(1) Asylum Act.

⁸⁸ Ombudsman, *Mecanismo Nacional de Prevenção, Relatório à Assembleia da República 2019*, June 2020, p.65, available at: <https://bit.ly/3aeTWxO>.

⁸⁹ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5. 28 April 2020, par.35(a) and (b), available at: <https://bit.ly/2Q1ftn8>.

⁹⁰ Ibid, par.35(f).

C. Procedures

On 13 March 2020, the government enacted Decree-Law no. 10-A/2020, establishing temporary and exceptional measures in response to the coronavirus.⁹¹ It was determined, *inter alia*, that documents expired after the entry into force of the Decree-Law or within the 15 days prior, were valid until 30 June 2020. This extension of validity applied to visas and documents related to the residency of foreign nationals, and thus to the documents held by applicants for international protection. Said Decree-Law was subsequently amended, further extending the validity of such documents. In 2020, it was last amended by Decree-Law no. 87-A/2020⁹², determining *inter alia* that:

- Documents expired since the entry into force of the Decree-Law, or within the 15 days prior to its entry into force, are accepted as valid until 31 March 2021.
- After 31 March 2021, such documents continue to be accepted providing the holder has an appointment for its renewal.⁹³

Within the context of the Covid-19 pandemic, the state of emergency due to public calamity was declared by Presidential Decree on 18 March 2020 for the period between 19 March and 2 April 2020.⁹⁴ On 2 April 2020, the state of emergency was extended until 17 April 2020,⁹⁵ and was then renewed again until 2 May 2020.⁹⁶

On 27 March 2020, the Minister of the Presidency, the Minister of Interior, the Minister of Labour and Social Security, and the Minister of Health issued the Order no.3863-B/2020 on the situation of foreign citizens with pending procedures with the Immigration and Borders Service (SEF).⁹⁷ The Order covered a variety of topics such as the scheduling and/or rescheduling of appointments as well as the suspension of deadlines within the asylum procedure (see [Annex II](#)). With regards to the asylum procedure, the Order notably determined that:

- SEF's Asylum and Refugees Department would remain open for the purposes of receiving and registering new applications for international protection.⁹⁸
- Deadlines within the asylum procedure were suspended.⁹⁹

As such, personal interviews were not conducted between March and May 2020.¹⁰⁰ According to the available information, remote interview techniques were not adopted by the authorities within this context. As per the available information, while Dublin procedures were not interrupted, restrictions to freedom of movement led to a halt of Dublin transfers.¹⁰¹ Furthermore, SEF reported that the reduced number of flights and testing requirements by the responsible Member States, allied to instances of abscondment further restricted the execution of Dublin transfers in 2020.

⁹¹ Decree-Law 10-A/2020 of 13 March 2020, available in Portuguese at: <https://bit.ly/3fLex13>. An English translation of the amended Decree-Law is available at: <https://bit.ly/3kUSqG0>. [last updated on 15 January 2021].

⁹² Available at <https://bit.ly/2ND3F9H>.

⁹³ The Decree-Law was subsequently amended in March 2021, extending the validity of documents until 31 December 2021.

⁹⁴ Decree of the President of the Republic No.14-A/2020 of 18 March 2020, available in Portuguese at: <https://bit.ly/2RAHCiS>. During this period, the state of emergency was regulated by Decree No.2-A/2020 of 20 March 2020, available in Portuguese at: <https://bit.ly/2V4qRie>.

⁹⁵ Decree of the President of the Republic No.17-A/2020 of 2 April 2020, available in Portuguese at: <https://bit.ly/2Xz3vml>. During this period, the state of emergency was regulated by Decree no.2-B/2020 of 2 April 2020, available in Portuguese at: <https://bit.ly/34E3grY>.

⁹⁶ Decree of the President of the Republic no.20-A/2020 of 17 April, available in Portuguese at: <https://bit.ly/2KrNKGi>. During this period, the state of emergency was regulated by Decree No.2-C/2020 of 17 April, available in Portuguese at: <https://bit.ly/3bA7ROr>.

⁹⁷ Order No. 3863-B/2020 of 27 March 2020, available in Portuguese at: <https://bit.ly/3cfilwZ>.

⁹⁸ Order No. 3863-B/2020 of 27 March 2020, para 7.

⁹⁹ Ibidem.

¹⁰⁰ See EMN, *Special Annex to the 31st EMN Bulletin – EU Member States and Norway: responses to COVID-19 in the migration and asylum area – April-June 2020*, available at: <https://bit.ly/2MITV31>.

¹⁰¹ Ibid.

According to CPR's observation, despite the suspension of deadlines, some applicants for international protection continued to be notified of decisions on their applications by post at least in the first weeks following the issuance of Order no.3863-B/2020.

Overall, Covid-related legal measures adopted during the second semester of 2020 had less impact on the asylum procedure.

The state of emergency due to public calamity was again declared by Presidential Decree on 6 November 2020 for the period between 9 and 23 November 2020.¹⁰² On 20 November 2020, the state of emergency was extended (24 November to 8 December).¹⁰³ On 4 December, the state of emergency was renewed for the period between 9 December and 23 December 2020.¹⁰⁴ On 17 December, the state of emergency was once again renewed (24 December 2020 to 7 January 2021).¹⁰⁵

Overall, and while different concrete measures were adopted since November, the decrees determining the state of emergency enabled the adoption of limited restrictions to, *inter alia*, the right to liberty and freedom of movement; private and social initiative; workers' rights; data protection rights; and the application of health checks related to Covid-19 within certain contexts. None of the restrictions allowed within the context of the state of emergency was specific to applicants for/beneficiaries of international protection.

On 8 November 2020, the Minister of the Presidency, the Minister of Interior, the Minister of Labour and Social Security, and the Minister of Health issued the Order no.10944/2020, establishing *inter alia* that the rights provided by previous Orders (notably the above-mentioned Order no.3863-B/2020) remained in force. Nevertheless, according to CPR's observation, confirmed by SEF, the deadlines of the asylum procedure were not suspended in practice, and procedural acts such as interviews and decisions continued to be conducted/issued during the whole second semester of 2020.

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

- | | |
|--|---|
| 1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance: | 6 months |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases at first instance as of 31 December 2020: | Not available |

The first instance determining authority is required to take a decision on the asylum application within 6 months. This time limit is additional to the duration of the admissibility procedure and can be extended to 9 months in cases of particular complexity.¹⁰⁶ 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

¹⁰² Decree of the President of the Republic no.51-U/2020, 6 November 2020, available at: <https://bit.ly/3sX2EJJ>. During this period, the state of emergency was regulated by Decree no.8/2020, 8 November 2020, available at: <https://bit.ly/36e5dxg>.

¹⁰³ Decree of the President of the Republic no.59-A/2020, 20 November 2020, available at: <https://bit.ly/39hXksC>. During this period, the state of emergency was regulated by Decree no.9/2020, 21 November 2020, available at: <https://bit.ly/3sWSc4I>; rectified by Declaration of Rectification no.47/2020, 22 November 2020 and no.47-B/2020, 24 November 2020, available at <https://bit.ly/3qPAa2r>. and <https://bit.ly/3pjdk2P>.

¹⁰⁴ Decree of the President of the Republic no.61-A/2020, of 4 December 2020, available at <https://bit.ly/3c98iLL>. During this period, the state of emergency was regulated by Decree no.11/2020, 6 December 2020, available at: <https://bit.ly/3pfQskQ>.

¹⁰⁵ Decree of the President of the Republic no.66-A/2020, of 17 December 2020, available at <https://bit.ly/3pjdiYK>. During this period, the state of emergency was regulated by Decree no.11-A/2020, of 21 December 2020, available at <https://bit.ly/36cHcGF>. The state of emergency has been subsequently renewed in the beginning of 2021 as well.

¹⁰⁶ Article 28(2) Asylum Act.

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.¹⁰⁷

The significant increase in the number of spontaneously arriving asylum seekers and relocated asylum seekers has led SEF-GAR to recruit additional staff in the recent years. In 2019, there were 1,849 spontaneous asylum applicants in Portugal, up from 1,270 in 2018.¹⁰⁸ In 2020, there were 1,002 asylum applications in Portugal,¹⁰⁹ a decrease likely linked to the travel restrictions enacted in response to the coronavirus pandemic.

SEF was not able to share an estimation of the average duration of the procedure at first instance for 2020. While the 2020 Statistical Report of Asylum seems to indicate that there has been an increase of the duration of the procedure over the years, it does not indicate the average duration.¹¹⁰

The UN Human Rights Committee, in its Concluding Observations published in 2020, expressed concern with “[r]eported delays in the processing of regular asylum applications and in the issuance and renewal of residence permits.” The Committee recommended Portugal to “continue its efforts to maintain and strengthen the quality of its refugee status determination procedures, in order to fairly and efficiently identify and recognize those in need of international protection and to afford sufficient guarantees of respect for the principle of non-refoulement under the Covenant.”¹¹¹

CPR was able to gather information on 52 regular procedure decisions issued in the course of 2020, including decisions communicated by SEF in accordance with the law, and decisions that reached CPR’s knowledge by other avenues, i.e., through direct contacts with applicants. In these 52 cases,¹¹² the overall duration of the procedure¹¹³ ranged from 204 to 1,966 days, with an average duration of 833 days.¹¹⁴ CPR is uncertain whether the low number of notifications of asylum decisions is related to gaps in communication or indicates further delays in the decision-making process (or a combination of both).

In the context of the provision of legal assistance to asylum seekers, CPR has also at times observed significant delays in the execution of judicial decisions by SEF. According to CPR’s observation, this mostly concerned the execution of judicial decisions that annulled first instance decisions rejecting applications in accelerated procedures and consequently condemned the Administration to channelling them into the regular procedure, or Dublin cases that should be reprocessed.

1.2. Prioritised examination and fast-track processing

While no statistics are available,¹¹⁵ according to SEF, cases of pregnant women, of applicants accompanied by young children, of elderly persons, and of applicants in need of medical care are fast-tracked. SEF did not share information on the impact of fast-tracking in the average duration of the procedure.

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

¹⁰⁷ Article 129 Administrative Procedure Code; Article 66(1) Administrative Courts Procedure Code.

¹⁰⁸ As a comparison, there were 1,750 in 2017 (both spontaneous and relocated asylum seekers); 1,469 in 2016 (spontaneous and relocated); 896 (spontaneous and relocated) in 2015 and 447 (spontaneous) in 2014.

¹⁰⁹ This figure probably includes applicants relocated from Greece under the relevant bilateral agreements.

¹¹⁰ Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, pp.103-104, available in Portuguese at: <https://bit.ly/2MGYtB9>.

¹¹¹ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5. 28 April 2020, par.35(a) and (b), available at: <https://bit.ly/2Q1ftn8>.

¹¹² 25 refusals, 27 decisions granting a form of international protection (18 refugee status and 9 subsidiary protection).

¹¹³ Time comprised between the date of the application and the date of issuance of the first instance decision on the (regular) asylum procedure.

¹¹⁴ Crescer, also reiterated the occurrence of significant delays regarding relocated asylum seekers assisted by the organisation.

¹¹⁵ Neither regarding the number of cases to which prioritised analysis was applied, nor the impact of the adoption of fast-track procedures in the duration of the analysis.

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure?
☒ Yes ☐ No
❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never
4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender?¹¹⁶
☐ Yes ☒ No
❖ If so, is this applied in practice, for interviews? ☐ Yes ☐ No

The Asylum Act provides for the systematic personal interview of all asylum seekers in the regular procedure prior to the issuance of a first instance decision.¹¹⁷ The personal interview can only be waived 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.¹¹⁸

If the interview is waived, SEF is required to offer the applicant or his/her dependant(s) the opportunity to communicate relevant information by other means.¹¹⁹

The asylum seeker is entitled to give his/her statement in his/her preferred language or in any other language that he/she understands and in which he/she is able to communicate clearly.¹²⁰ To that end, the asylum seeker is entitled to the assistance of an interpreter when applying for asylum and throughout the asylum procedure, if needed.¹²¹ The asylum seeker can also be assisted by a lawyer but the absence thereof does not preclude SEF from conducting the interview.¹²²

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

- **Cases of applicants deemed unfit/unable due to enduring circumstances beyond their control** - the final part of Article 14(2)(b) of the recast APD was not transposed (“[w]hen in doubt, the determining authority shall consult a medical professional to establish whether the condition that makes the applicant unfit or unable to be interviewed is of a temporary or enduring nature”). The safeguard contained in Article 14(4) of the recast APD, determining that the absence of a personal interview in such situations “shall not adversely affect the decision of the determining authority”, was also not explicitly transposed to the Asylum Act.
- **Conditions of the personal interview** - the requirements set out in Article 15 of the recast APD, particularly those regarding to the characteristics of the interviewer and the use of interpreters (Article 15(3) recast APD), are not fully transposed. Furthermore, and without prejudice to Article 84 of the Asylum Act which refers to the adequate training of all staff working with applicants and beneficiaries of international protection, the specific training requirement for interviewers provided for in Article 4(3) of the recast Asylum Procedures Directive was not transposed to the domestic

¹¹⁶ As detailed further below in the text, the law does not specifically provide this possibility. However, according to the information provided by SEF, asylum seekers can make such a request in practice. Further information on the practical implementation of such possibility is not available.

¹¹⁷ Article 16(1), (2) and (3) Asylum Act.

¹¹⁸ Article 16(5) Asylum Act.

¹¹⁹ Article 16(6) Asylum Act.

¹²⁰ Article 16(1) Asylum Act.

¹²¹ Article 49(1)(d) Asylum Act.

¹²² Article 49(7) Asylum Act. A recent judgement from TAF Porto on the case of the accelerated refusal of an application following a removal decision, determined that the applicant must be informed that he/she can be accompanied by a lawyer during the interview and explicitly renounce that right in order for an interview to proceed without a lawyer present. TAF Porto, Decision 1502/20.8BEPRT, 22 September 2020, unpublished.

order (“[p]ersons interviewing applicants pursuant to this Directive shall also have acquired general knowledge of problems which could adversely affect the applicants’ ability to be interviewed, such as indications that the applicant may have been tortured in the past.”).

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

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

While SEF did not share the number of cases where a decision was adopted in the absence of a personal interview, it affirmed that applicants are guaranteed the right to an interview before any decision regarding their application is adopted, emphasising that interviews can only be waived in the cases listed in the Asylum Act. SEF also noted that interviews are conducted in all types of procedure, including Dublin. According to CPR’s observation in 2020, personal interviews were generally conducted in practice. According to SEF, interviews were not conducted by remote communication means.

The interview is generally conducted by SEF-GAR, although some interviews may be conducted by SEF’s regional delegations in cases of asylum applications made 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 delegations tend to be less technically accurate and sometimes fail to adequately clarify material facts of the claim.

In the course of 2020, CPR was informed by SEF of the adoption of decisions not to proceed with the analysis of the application due to the impossibility to perform the personal interview (e.g., because the applicant absconded) on the basis of general administrative procedure rules.¹²³ Procedures were also suspended in cases where age assessment procedures were triggered by the Family Courts and while results were pending.¹²⁴ Within the context of the coronavirus pandemic, decisions suspending the procedure were also adopted when it was not possible to conduct an interview due to quarantine/isolation of the applicant.¹²⁵

Throughout the year, CPR was also informed of decisions extinguishing the asylum procedure according to Article 32 of the Asylum Act, either due to explicit or implicit withdrawal of the application. According to the law, an application is deemed as implicitly withdrawn if the procedure is inactive for more than 90 days, namely if the applicant: (i) does not provide essential information for his/her application when requested to do so; (ii) does not attend the personal interview; (iii) absconds without contacting SEF; (iv) does not comply with the obligation to appear or to communicate with the authorities.¹²⁶ The competence to determine the extinction of an application belongs to the National Director of SEF.¹²⁷ Notwithstanding this, the applicant is entitled to reopen his/her asylum case by presenting him/herself to SEF at a later stage. In this case, the file is to be resumed at the exact stage where it was discontinued.¹²⁸ According to CPR’s observation, these decisions usually follow the above-mentioned decisions not to proceed with the analysis of an application.

With regard to Covid-related measures, due to the suspension of deadlines within the asylum procedure determined on 27 March 2020 (Order no.3863-B), personal interviews were not conducted by SEF

¹²³ Article 119(3) Administrative Procedure Code.

¹²⁴ Article 38(1) Administrative Procedure Code.

¹²⁵ Based on the principle of good faith and the principle of collaboration – articles 10 and 11 Administrative Procedure Code.

¹²⁶ Article 32(1) Asylum Act.

¹²⁷ Article 31(2) Asylum Act.

¹²⁸ Article 31(3) Asylum Act.

between March and May 2020.¹²⁹ According to CPR's observation and information provided by SEF, remote interview techniques were not adopted by the authorities within this context. On 8 November 2020, the Minister of the Presidency, the Minister of Interior, the Minister of Labour and Social Security, and the Minister of Health issued the Order no.10944/2020, establishing, *inter alia*, that the rights provided by previous Orders (notably the above-mentioned Order no.3863-B/2020) remained in force. Nevertheless, according to CPR's observation, confirmed by SEF, the deadlines of the asylum procedure were not suspended. As such, procedural acts such as interviews and decisions continued to be conducted/issued during the whole second semester of 2020.

1.3.1. Interpretation

The quality of interpretation services used for interviews remains a serious challenge, as in many cases service providers are not trained interpreters but rather individuals with sufficient command of source languages. Interpreters are bound by a legal duty of confidentiality. According to the information provided by SEF, there is a code of conduct/guidance applicable to interpreters. CPR is not aware of the content of such guidance.

According to CPR's experience, securing interpreters with an adequate command of certain target languages remains challenging (e.g., Tigrinya, Pashto, Bambara, Lingala, Tamil, Kurdish, Mandinka, Nepalese, Sinhalese, Bengali, and to a lesser extent, Arabic and Farsi).

1.3.2. Recording and report

The Asylum Act does not provide for the audio and/or video recording of the interview or for conducting interviews and/or interpretation through videoconferencing, and CPR is not aware of its use. For 2020, SEF confirmed that such means were not used.

SEF produces a written report summarising the most important elements raised during the interview. Until 2020, the interview report was immediately provided to the applicant who had 5 days to submit comments.¹³⁰ Since the second half of 2020, CPR observed a shift in the practice of SEF in this regard. Currently, while the interview report is provided to the applicant upon completion of the personal interview, he/she is not given the 5-day deadline to comment/correct/add information to the document. Instead, SEF notifies the asylum seeker of another document, that summarises the key information that will underlie the decision to deem the application admissible/not unfounded and, as such, submit it to the regular procedure, or to reject it as inadmissible/unfounded (accelerated procedure). The applicant then has 5 days to submit comments to the summary report. This summary report broadly contains information on: (i) identification of the applicant; (ii) family members; (iii) time and place of the application for international protection; (iv) prior information; (v) itinerary; (vi) summary of the facts that will underlie the decision;¹³¹ (vii) the prospective decision to be taken (brief reference to the relevant legal basis). According to CPR's observations, in many instances, the summary report is notified to the applicant immediately after the personal interview, which raises concerns about the proper consideration of the relevant facts adduced during the interview as well as other relevant available information and elements.

This change in practice was likely linked to the jurisprudential understanding that applicants have a right to be heard about the prospective decision to be taken on their files in any decision within the procedure.¹³²

According to the law, upon consent of the applicant, the report must also be communicated to UNHCR and to CPR, and the organisations may submit observations within the same deadline.¹³³ In the past, interview reports were usually communicated to CPR accordingly. Within the context of the above-

¹²⁹ See EMN, *Special Annex to the 31st EMN Bulletin – EU Member States and Norway: responses to COVID-19 in the migration and asylum area – April-June 2020*, available at: <https://bit.ly/2MITV31>.

¹³⁰ Article 17 (1) and (2) Asylum Act.

¹³¹ Presentation of the application, motives, relevant elements.

¹³² E.g., TCA South, Decision 1560/19.8BELSB, 16 January 2020, available at <https://bit.ly/39i4xZ0>. See also the jurisprudence on the right to be heard described *infra* in the Dublin section.

¹³³ Article 17(3) Asylum Act.

mentioned shift in practice, SEF-GAR ceased the systematic communication of interview reports and currently communicates the summary reports (although it does not communicate reports for [Dublin](#) cases). As such, access to interview transcripts by CPR depends on the applicants. The systematic non-communication of interview transcripts can be considered as an obstacle to the full monitoring of the national asylum procedure.

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 summary report and to the interview transcript. According to CPR's observation, the summary reports often oversimplify the statements provided by the applicant to the authorities. Furthermore, applicants usually find it difficult to understand the meaning of the document and to provide meaningful comments to its content. Given its content and context, this new practice did not seem to improve the quality of the asylum procedure.

CPR has also been made aware that when the interview is conducted following admission to the regular procedure, the applicants are not, at least in some instances, given the corresponding written report. Moreover, such reports are also not communicated to CPR on a systematic basis.¹³⁴ This practice is problematic as it curtails the applicant's right to submit comments and corrections to the report and may also impact the applicant's ability to fully exercise other procedural rights at later stages of the procedure (e.g., replying to a proposal of decision on the grant of international protection). Moreover, it seems to be in contradiction both with the domestic legal framework and the recast Asylum Procedures Directive as the relevant requirements apply to the personal interview, regardless of the moment in which it is conducted.¹³⁵

1.4. Appeal

Indicators: Regular Procedure: Appeal

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

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

1.4.1. First appeal before the Administrative Court

The Asylum Act provides for an appeal against the first instance decision in the regular procedure consisting of judicial review of relevant facts and points of law by the Administrative Court.¹³⁶ The asylum seeker has 15 days to lodge the appeal, which has automatic suspensive effect.¹³⁷

A ruling of the Supreme Administrative Court has clarified that appeals against decisions regarding the grant of asylum are free of charge.¹³⁸ This is also established by the Asylum Act that provides for the free and urgent nature of procedures regarding the grant or loss of international protection both in the administrative and judicial stages.¹³⁹

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

- (1) confirm the negative decision of the first instance decision body;

¹³⁴ According to article 17(3) Asylum Act, upon consent of the applicant, the report is to be communicated to UNHCR and to CPR as organisation working on its behalf. Such entities may submit observations.

¹³⁵ Article 17(3) Asylum Procedures Directive. Articles 16 and 17 of the Asylum Act do not make a distinction between interviews conducted prior to admission and interviews conducted following admission to the regular procedure.

¹³⁶ Article 30(1) Asylum Act; Article 95(3) Administrative Court Procedure Code.

¹³⁷ Article 30(1) Asylum Act.

¹³⁸ Supreme Administrative Court, Decision 408/16, 17 November 2016, available in Portuguese at: <https://bit.ly/2W9NY9L>.

¹³⁹ Article 84 Asylum Act.

(2) annul the decision and refer the case back to the first instance decision body with guidance on applicable standards;¹⁴⁰ or

(3) overturn it by granting refugee or subsidiary protection status.¹⁴¹

The Asylum Act qualifies the judicial review as urgent,¹⁴² and provides for a simplified judicial process with reduced formalities and time limits with the objective of shortening the duration of the judicial review.¹⁴³

The information provided by the High Council of Administrative and Fiscal Courts (*Conselho Superior dos Tribunais Administrativos e Fiscais* – CSTAF) for 2020 regarding the duration of judicial reviews of first instance decisions does not make a distinction between the type of asylum procedure. According to these statistics, the average duration of appeals at first instance courts in 2020 was of 2 to 3 months.

While the Asylum Act does not specifically provide for a hearing of the asylum seeker during the appeal procedure, such a guarantee is enshrined in the general procedure that provides for the hearing of the parties.¹⁴⁴ This is rarely used in practice by lawyers and accepted by the Court when requested, as procedures before the Administrative Court tend to be formalistic and essentially written.¹⁴⁵ As a general rule, the hearing of the appeal body is public but the judge may rule for a private audience based on the need to protect the dignity of the individual or the smooth operation of the procedure.¹⁴⁶ Data on the number of cases in which hearings of the asylum seeker were held in 2020 was not available.

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

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

According to the CSTAF, a total of 525 appeals were lodged against negative asylum decisions in 2020, marking a decrease of around 5% compared to 2019. Out of these, 502 were filled in TAC **Lisbon**. TAC Lisbon rendered decisions on 446 of the appeals filled in 2020 while 56 were pending at the end of the year.

The information provided by the CSTAF for 2020 regarding the outcome of judicial reviews of first instance decisions indicates a poor success rate at appeal stage (19% at TAC **Lisbon** and 19.4% at national level). However, as mentioned in [Statistics](#), these figures do not make a distinction between the type of asylum procedure. In this regard, it must be acknowledged that the quality of many appeals submitted is often poor, given that very few lawyers have relevant expertise in the field.

¹⁴⁰ 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.

¹⁴¹ Article 71(1) Administrative Court Procedure Code.

¹⁴² Article 84 Asylum Act.

¹⁴³ Article 30(2) Asylum Act; Article 110 Administrative Court Procedure Code.

¹⁴⁴ Article 90(2) Administrative Court Procedure Code; Article 466 Act 41/2013.

¹⁴⁵ Quite strangely, despite having the possibility of hearing the applicant directly, TAC South determined in a 2019 decision that the opinion of the officer that conducted the applicant's interview on his/her credibility is relevant as only direct contact with the applicant will allow to ascertain the credibility of his/her statement, as well as his/her general credibility "as a person". Therefore, in the absence of a gross error of the determining authority, the court cannot inquire its assessment of the credibility of the statements. TCA South, Decision 713/18.0BELSB, 10 January 2019, unpublished.

¹⁴⁶ Article 91(2) Administrative Court Procedure Code; Article 606 Act 41/2013.

1.4.2. Onward appeal

In case of rejection of the appeal, onward appeals are possible before the Central Administrative Court (*Tribunal Central Administrativo* – TCA), consisting of a full judicial review of relevant facts and points of law,¹⁴⁷ with automatic suspensive effect.¹⁴⁸ Furthermore, the law provides for an additional appeal with automatic suspensive effect before the Supreme Administrative Court (*Supremo Tribunal Administrativo*, STA) on points of law but only in exceptional cases of fundamental importance of the appeal for legal and social reasons or to improve the quality of legal reasoning in decision-making more broadly.¹⁴⁹ The STA makes its own assessment and decision on the facts of the case.¹⁵⁰ In both cases the asylum seeker has 15 days to lodge the appeal.¹⁵¹

The rulings of second instance Administrative Courts (TCA) and the STA are systematically published.¹⁵² According to information provided by CSTAF, Higher Courts do not collect autonomous data on asylum-related processes. Nevertheless, CSTAF reported that, in 2020, a total of 164 appeals were filed in second instance courts (TCA South and TCA North). Out of these, 14 were filed by the asylum authority (7 were decided favourably, and 7 were rejected). The remaining 150 were filed by the applicants (of which 18 were decided favourably). Second instance courts issued 146 decisions on such appeals in the course of 2020.

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.¹⁵³

1.5.1. 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.¹⁵⁴ Such legal assistance is to be provided without restrictions by a public entity or by a non-governmental organisation in line with a Memorandum of Understanding (MoU).¹⁵⁵

Furthermore, under the Asylum Act, UNHCR and CPR as an organisation working on its behalf must be informed of all asylum applications and are entitled to personally contact all asylum seekers irrespective of the place of application to provide information regarding the asylum procedure, as well as regarding their intervention in the procedure (dependent on the consent of the applicant).¹⁵⁶ These organisations

147 Article 149(1) Administrative Court Procedure Code; Article 31(3) Act 13/2002.

148 Article 143(1) Administrative Court Procedure Code.

149 Articles 143(1) and 150(1) Administrative Court Procedure Code.

150 Article 150(3) Administrative Court Procedure Code.

151 Article 147 Administrative Court Procedure Code.

152 Decisions are available at: <http://www.dgsj.pt/>.

153 Article 20(1) Constitution.

154 Article 49(1)(e) Asylum Act.

155 Ibid.

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

are also entitled to be informed of key developments in the asylum procedure upon consent of the applicant,¹⁵⁷ and to present their observations at any time during the procedure pursuant to Article 35 of the 1951 Refugee Convention.¹⁵⁸

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

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

Regarding particularly vulnerable asylum seekers, CPR provides specific legal assistance to unaccompanied asylum-seeking children. This includes the presence of a legal officer during the personal interview with SEF (see [Legal Representation of Unaccompanied Children](#)) as well as the provision of information and assistance in the framework of procedures before the Family and Juvenile Court.¹⁵⁹

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

In 2020, CPR provided legal support to 841 spontaneously arriving asylum seekers in all types of asylum procedures lodged throughout the year, which represents around 94% of the total number of spontaneous applications communicated to CPR according to the law (89) and 84% of the total number of applicants (1,002).

The continued increase of spontaneous asylum applications since 2017 worsened the pressure on CPR's capacity and resulted in gaps in the provision of legal assistance at first instance, particularly for asylum seekers placed in detention or private accommodation in more remote locations. Efforts to reduce such gaps focused, for instance, on the remote provision of assistance (e.g., by telephone and/or e-mail communication). While the number of spontaneous asylum applications significantly decreased in 2020, the pressure on services did not follow this trend as, for instance, there was an increase in the number of persons undergoing the regular procedure (before the final decision) and cessation procedures requiring legal assistance. Furthermore, the coronavirus pandemic posed significant challenges to the provision of assistance due to, *inter alia*, the lockdowns and nation-wide restrictions to movement, the need to adapt spaces, and work methods (which led, for instance, to a significant reinforcement of remote assistance).

While the coronavirus pandemic required considerable adjustments to the provision of services by CPR, legal assistance was continuously ensured throughout the year. The following measures were adopted to mitigate risks while ensuring continuity of the assistance:

- Legal information and assistance have been preferably provided by remote means (telephone, email) whenever possible. Urgent situations that could not be dealt with remotely were handled in-person,

¹⁵⁷ Article 17(3) Asylum Act: document narrating the essential facts of the request; Article 20(1): decision on admissibility and accelerated procedures in national territory; Article 24(5): decision on admissibility and accelerated procedures at the border; Article 29(6) first instance decision in the regular procedure; Article 37(5): Dublin take charge decision.

¹⁵⁸ Article 28(5) Asylum Act.

¹⁵⁹ These procedures are provided in the General Regime of Civil Guardianship Process, 141/2015, and the Children and Youths at Risk Protection Act, 147/99.

with scheduled appointments. The urgency and necessity were assessed on a case-by-case basis by the legal team (e.g., decisions from the authorities to which peremptory deadlines are applicable). The assistance of interpreters continued to be ensured whenever necessary.

- Group information sessions were suspended;
- The use of protective equipment (e.g., masks and face shields) was implemented according to the recommendations of health authorities;
- Contact details for the provision of legal assistance (telephone, email address) were widely disseminated;
- Information about the overall situation (including on the need to stay indoors and to follow the information provided by the competent authorities, and on the closure of many public services) was constantly disseminated and updated in communications.

There are other organisations that provide legal information and assistance to asylum seekers during the first instance of the regular procedure such as the Jesuit Refugee Service ([JRS Portugal](#)), and the High Commissioner for Migration ([ACM](#)) through its National Centres for Migrants' Integration (CNAIM) and Local Support Centres for Migrants Integration (*Centro Local de Apoio à Integração de Migrantes*, CLAIM) spread throughout the country and Crescer. According to the available information, these services remain residual and mostly focused on integration.

1.5.2. Legal assistance in appeals

Regarding legal assistance at appeal stage, the Asylum Act provides for the right of asylum seekers to free legal aid in accordance with the law.¹⁶⁰

The legal framework of free legal aid provides for a “means assessment” on the basis of the household income,¹⁶¹ as only applicants who do not hold sufficient income are entitled to free or more favourable conditions to access legal aid.¹⁶² The application is submitted to the Institute of Social Security (*Instituto da Segurança Social*, ISS) that conducts the means assessment and refers successful applications to the Portuguese Bar Association (*Ordem dos Advogados*).¹⁶³ The Bar appoints a lawyer,¹⁶⁴ on the basis of a random/automatic selection procedure.¹⁶⁵ The sole responsibility for organising the selection lies with the Portuguese Bar Association but such procedure should ensure the quality of the legal aid provided.¹⁶⁶ While the average duration of this procedure in 2020 was around 1 week, 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 appointed lawyer submits the judicial appeal.¹⁶⁷

It should be noted that the 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/herself from the case and the Portuguese Bar Association can choose not to appoint a replacement.¹⁶⁸

CPR supported the submission of 577 applications for legal aid in the course of 2020. While a breakdown by type of procedure is not available, the overwhelming majority of such requests followed refusals in the Accelerated and the Dublin procedures.

¹⁶⁰ Article 49(1)(f) Asylum Act.

¹⁶¹ Act 34/2004; Ministerial Order 10/2008.

¹⁶² Article 8-A and Annex Act 34/2004.

¹⁶³ Article 22 Act 34/2004.

¹⁶⁴ Article 30 Act 34/2004.

¹⁶⁵ Article 2(1) Ministerial Order 10/2008.

¹⁶⁶ Article 10(2) and (3) Ministerial Order 10/2008.

¹⁶⁷ 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>.

¹⁶⁸ Article 34(5) Act 34/2004.

In general, asylum seekers enjoy unhindered access to free legal aid at appeal stage. Nevertheless, the practical implementation of the “means test” conducted by ISS and the “merits test” conducted by appointed lawyers have been recently raising some concerns:

- 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 the free legal aid regime. In this case, given the usually limited levels of income, applicants can still be offered more favourable conditions to access legal aid such as instalments. While this is not problematic, by the end of 2020, CPR was informed of some cases, mainly outside of the **Lisbon** area, where legal aid requests by applicants within the regular procedure have been refused due to the residency documents presented and to the lack of proof of income (notably in cases where such applicants were benefiting from social support provided by the ISS due to the lack of income).
- In the case of the “merits test”, as reported in previous years, the practice of the Portuguese Bar Association remained inconsistent. Since 2019, CPR witnessed an increasing number of cases where, following a refusal by the appointed lawyer to provide free legal aid on the grounds that the chances of success were limited, the Bar Association chose not to appoint a replacement. In some instances, this happened following the assessment of only one lawyer. The objective criteria for such decisions remained unclear. While some of the decisions adopted in 2019 were later reversed following revision requests submitted with the support of CPR, throughout 2020, CPR observed that reversals were less frequent. Up until now, this practice has mostly impacted applicants within Dublin/Admissibility/Accelerated procedures. This remains a concerning practice that may have an impact on the effective access to legal aid by asylum seekers.

Another concern relates to the overall quality of free legal aid at appeal stage, as the current selection system is based on a random/automatic selection procedure managed by the Portuguese Bar Association. This is done on the basis of preferred areas of legal assistance chosen beforehand by the appointed lawyers.¹⁶⁹ Such areas are general in nature and not specifically related to Asylum Law. In general, appointed lawyers are not trained in Asylum Law and have limited experience in this specific field. Throughout 2020, CPR continued to deliver trainings on asylum-related matters to diverse audiences, including legal professionals.

Additional persisting challenges in this regard include the absence of an easily accessible interpretation service, which hinders the communication between the lawyer and the client during the preparation of the appeal. Although ACM's translation hotline can constitute a useful tool in this regard, it is insufficiently used by lawyers according to CPR's experience.¹⁷⁰ Moreover, the expenses for the preparation of the appeal, including for interpretation and translation of documents, need to be paid in advance by the appointed lawyer who can then ask the court for reimbursement.¹⁷¹

¹⁶⁹ Article 3(3)(c) Regulation of the Bar Association 330-A/2008 of 24 June 2008.

¹⁷⁰ ACM's interpretation hotline relies on a database of 60 interpreters/translators to enable communication with non-Portuguese speaking citizens. Access is free of charge (cost of a local call) and can be used on working days, between 9:00 and 19:00. It is possible to request the interpretation immediately (upon availability of interpreter) or to schedule a call. Additional information, including the list of languages covered, is available at <http://bit.ly/2A4Ekga>.

¹⁷¹ Article 8(3) Ministerial Order 10/2008.

2. Dublin

2.1. General

Dublin statistics: 2020

Outgoing procedure					Incoming procedure				
	Requests			Transfers		Requests			Transfers
	Take charge	Take back	Total			Take charge	Take back	Total	
Total	38	448	486	23	Total	721	216	937	171
Italy	6	242	248	6	France	519	104	623	82
Germany	2	100	102	10	Germany	90	48	138	50
France	3	38	41	2	Belgium	45	10	55	2
Spain	21	12	33	4	Switzerland	24	7	31	13
Switzerland	-	16	16	-	UK	3	22	25	-
Netherlands	1	8	9	-	Netherlands	8	11	19	4
Belgium	3	5	8	-	Sweden	5	5	10	4
Austria	-	7	7	1	Greece	7	-	7	-
Sweden	1	6	7	-	Finland	3	3	6	5
Hungary	-	5	5	-	Austria	5	1	6	4
Denmark	-	3	3	-	Norway	6	-	6	2
Norway	-	3	3	-	Spain	2	2	4	-
Czechia	1	-	1	-	Iceland	1	1	2	3
Finland	-	1	1	-	Denmark	2	-	2	-
Malta	-	1	1	-	Lithuania	1	-	1	1
Slovenia	-	1	1	-	Luxembourg	-	1	1	1
					Slovakia	-	1	1	-

Source: SEF

Outgoing Dublin requests by criterion: 2020	
Dublin III Regulation criterion	Requests sent
"Take charge": Articles 8-15:	38
Article 8 (minors)	-
Article 9 (family members granted protection)	-
Article 10 (family members pending determination)	1
Article 11 (family procedure)	-
Article 12 (visas and residence permits)	16
Article 13 (entry and/or remain)	21
Article 14 (visa free entry)	-
"Take charge": Article 16	-
"Take charge" humanitarian clause: Article 17(2)	-
"Take back": Article 18	448
Article 18 (1) (b)	168
Article 18 (1) (c)	2
Article 18 (1) (d)	278
Article 20(5)	-
Rejected outgoing requests: 2020	
Total	216

Incoming Dublin requests by criterion: 2020	
Dublin III Regulation criterion	Requests received
“Take charge”: Articles 8-15	721
Article 8 (minors)	6
Article 9 (family members granted protection)	-
Article 10 (family members pending determination)	-
Article 11 (family procedure)	3
Article 12 (visas and residence permits)	701
Article 13 (entry and/or remain)	9
Article 14 (visa free entry)	-
“Take charge”: Article 16	-
“Take charge” humanitarian clause: Article 17(2)	2
“Take back”: Articles 18 and 20(5)	216
Article 18 (1) (b)	124
Article 18 (1) (c)	1
Article 18 (1) (d)	88
Article 20(5)	3

Source: SEF

2.1.1. 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.¹⁷² According to the information available, no additional formal guidelines regarding the practical implementation of those criteria are in place.

Empirical evidence of the implementation of the Dublin criteria pertaining to **family unity** is scarce given the usually highly limited number of incoming or outgoing requests pursuant to responsibility criteria provided in Articles 8-11 of the Regulation. According to the information provided by SEF, in 2020, there was 1 outgoing request and 9 incoming “take charge” requests under Articles 8-11.

In the very few instances where CPR has contacted SEF regarding the potential application of family unity criteria, in particular regarding Article 8 on minors, evidence, and information required from SEF for applying those provisions included identification documents, address and contacts of relatives residing in other EU Member States. In general, such contacts did not result in the outgoing transfer of the unaccompanied children as they generally absconded prior to any relevant development in the procedure. According to the information provided by SEF, the best interests of the child and the conditions of the family to receive the child are considered when applying Article 8 of the Dublin Regulation.

In 2018, SEF issued multiple transfer decisions regarding unaccompanied asylum seekers claiming to be under 18-years-old who have been previously registered as adults in other Member States. These decisions made no reference to the applicant's claim of minority in Portugal. In 2018, there was one case where the applicant eventually disclosed that he was in fact over 18-years-old, but this did not happen in all cases. Moreover, in one case in 2018, SEF overturned a transfer decision *motu proprio* following an appeal on the basis that the applicant was indeed an unaccompanied child. CPR is aware of similar cases in 2019 where a transfer request was issued based on the previous registration in other Member States and no reference was made to the age assessment conducted by the Portuguese authorities as the applicant claimed to be under 18 years old (see below). CPR is not aware of similar decisions in 2020. Instead, in some cases, SEF suspended the deadlines applicable to the asylum procedure on the grounds that such a decision required the adjudication of the age assessment requested by the competent Family

¹⁷² Article 37(1) Asylum Act.

Court). In at least some instances, however, SEF eventually admitted the cases to the regular procedure before the age assessment was finalised (which could be linked to significant delays in the age assessment).

In 2017, the TAC **Lisbon** offered clear guidance regarding the interpretation of Article 6 of the Dublin Regulation in a judgment that overturned a transfer decision to Germany of an unaccompanied child under the care of CPR, for failing to give due consideration to the best interests of the child in its reasoning, notably regarding the child's well-being, social development, and views.¹⁷³

Two similar situations were analysed by the TAC **Lisbon** in 2019. In both cases, an unaccompanied child applied for asylum in Portugal and it was determined that there were Eurodac hits in Italy. Following information requests by SEF, the Italian authorities informed that the applicants were registered as (young) adults. SEF decided to issue transfer decisions for both applicants despite the fact that they were claiming to be under 18 years old and that no age assessment had been conducted. The transfer decisions made no reference to the alleged minority.

In one case, the TAC Lisbon upheld the transfer decision as it relied on the information provided by the Italian authorities, according to which the applicant was not a child.¹⁷⁴ The decision was later confirmed by the TCA South which considered that there was no evidence that the applicant was not an adult and it was clear that the information provided to the Portuguese and Italian authorities was inconsistent. The Court also considered that it was not justified to request expert examinations for age assessment.¹⁷⁵ Notably, an age assessment conducted in the meantime within the Family Court procedures confirmed that the applicant was indeed under 18 years old at the time of the application in Portugal and SEF subsequently reversed the transfer decision and admitted the case to the regular procedure.

In the other 2019 case, however, the TAC Lisbon considered that, in the absence of evidence regarding the age of the applicant, he/she must be treated as a child and, as such, Article 8(4) of the Dublin Regulation is applicable. The transfer decision was annulled by the Court on the grounds that the best interests of the child had not been taken into account by the national asylum authority.¹⁷⁶

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

2.1.2. The discretionary clauses

The “sovereignty clause” enshrined in Article 17(1) of the Dublin Regulation and the “humanitarian clause” enshrined in its Article 17(2) are at times applied in practice, but the criteria for their application remain unclear and no specific statistics are usually available on their use, except for the number of outgoing and incoming take charge requests under these clauses.¹⁷⁷

While according to the data provided by SEF to AIDA, there were 3 incoming requests based on the “humanitarian clause” in 2019, SEF’s 2019 statistical report¹⁷⁸ indicates that the provision was applied to 100 persons relocated to Portugal following rescue operations in the Mediterranean Sea.¹⁷⁹

According to the data shared by SEF for 2020, there were 2 incoming requests based on the “humanitarian clause” in 2020.

¹⁷³ TAC Lisbon, Decision 2334/17.5BELSB, 24 November 2017, unpublished.

¹⁷⁴ TAC Lisbon, Decision 1216/19.1BELSB, 22 October 2019, unpublished. It is interesting to note that the same course of action was followed by the Family Court responsible for the application of the protective measure.

¹⁷⁵ TCA South, Decision 1216/19.1BELSB, 13 February 2020, available at <https://bit.ly/3rj1gPf>.

¹⁷⁶ TAC Lisbon, Decision 1516/19.0BELSB, 16 October 2019, unpublished.

¹⁷⁷ According to the SEF, there were 4 outgoing and 3 incoming take charge requests pursuant to Article 17(2) of the Regulation in 2019, and 0 outgoing and 2 incoming such requests in 2020.

¹⁷⁸ The latest available at the time of writing.

¹⁷⁹ SEF, Relatório de Imigração, *Fronteiras e Asilo 2019*, June 2020, available at <https://bit.ly/3rUSIUJ>.

According to SEF, the “sovereignty clause” was not applied in 2018, 2019 and in 2020. In CPR’s experience, the underlying criteria in the application of the clause remain unclear.

No transfer decisions to Greece have been adopted since the *M.S.S. v. Belgium and Greece* judgment of the European Court of Human Rights (ECtHR) with the sovereignty clause being applied in potential transfer cases to Greece assisted by CPR during this period. Since 2018, no transfer decisions to Bulgaria or Hungary were communicated to CPR, unlike those communicated in 2016 and 2017.¹⁸⁰ According to the data provided by SEF, in 2020, 5 take back requests were submitted to the Hungarian authorities but no transfer was carried out.

In October 2018, the authorities announced a bilateral agreement with Greece to implement a pilot relocation process for 100 asylum seekers from Greece to Portugal.¹⁸¹ The agreement was signed in early 2019 and covers asylum seekers and beneficiaries of international protection who are in refugee camps in Greece. According to the Ministry of Home Affairs, the process may lead to the transfer of up to 1,000 asylum seekers and beneficiaries of international protection. The Ministry also reported that the project has received green light from the European Commission and will be supported by IOM.¹⁸²

The 2020 Statistical Report of Asylum, states it is foreseen that 80% of the transferred persons will be beneficiaries of international protection, and that the remaining 20% will be applicants for international protection (to be transferred according to Article 17(2) of the Dublin Regulation).¹⁸³ The report further mentions that selection missions will be conducted by SEF with the support of ACM, and pre-departure orientation to be provided by IOM.¹⁸⁴

On 21 December 2020, the Minister of the Presidency informed the Parliament that a family arrived in Portugal in December 2020 under this agreement.¹⁸⁵ The Minister further informed that 30 people were to be transferred upon completion of relevant bureaucracies.¹⁸⁶

In 2020, Portugal committed to receive 500 unaccompanied children from Greece.¹⁸⁷ According to the information provided by the Minister of the Presidency to the Parliament on 21 December 2020,¹⁸⁸ 72 unaccompanied children from 14 countries of origin, were transferred from Greece to Portugal during the year. According to the Minister, at the time of the statement, the arrival of a group of 6 unaccompanied children was being prepared.

In September 2020, following the tragic events in Moria, Portugal announced that it communicated to the European Commission its availability to participate in the common effort for the reception of persons that were at the camp, within the framework of its two bilateral agreements with Greece.¹⁸⁹

¹⁸⁰ Transfer decisions to such countries adopted in 2016 and 2017 did mention possible risks of *refoulement*, indicating that detention and reception conditions, guarantees in the asylum procedure and access to an effective remedy in the responsible Member State are not consistently taken into consideration when deciding whether or not to apply the “sovereignty clause”.

¹⁸¹ See further ECRE/AIDA, ‘Portugal/Greece: Bilateral agreement for relocation of asylum seekers’, 26 October 2018, available at: <https://bit.ly/3bf9Vxv>.

¹⁸² Ministry of Home Affairs, ‘Portugal e Grécia formalizam Acordo Bilateral para transferência de refugiados’, 8 March 2019, available in Portuguese at: <https://bit.ly/2ImWSMI>.

¹⁸³ The report highlights that these applicants will have to explicitly accept the transfer to Portugal. Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, p.132, available in Portuguese at: <https://bit.ly/2MGYtB9>.

¹⁸⁴ Ibid.

¹⁸⁵ According to the information provided by IOM, the provision of material reception conditions to applicants for/beneficiaries of international protection transferred within this protocol will be ensured by a host entity for a period of 18 months (a model similar to those adopted within the context of the EU relocation mechanism and resettlement, for instance).

¹⁸⁶ Video recording available at: <https://bit.ly/3ouCeeM>.

¹⁸⁷ Reuters, ‘Portugal to take in 500 unaccompanied migrant children from Greek camps’, 12 May 2020, available at: <https://reut.rs/3r5Hirl>.

¹⁸⁸ Video recording available at: <https://bit.ly/3ouCeeM>.

¹⁸⁹ *Nota à Comunicação Social*, 11 September 2020, available at: <https://bit.ly/2YsQD0B>.

2.2. Procedure

Indicators: Dublin: Procedure

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

According to the Asylum Act a procedure for determining the Member State responsible for examining an application for international protection under the Dublin Regulation shall be conducted whenever there are reasons to believe that such responsibility lies with another Member State. In such cases, SEF shall make a “take charge” or “take back” request to the competent authorities of the relevant Member State.¹⁹⁰ The Dublin procedure is preliminary to the assessment of the application and, once initiated, suspends the applicable time limits for the issuance of a decision on the (other) inadmissibility grounds or the merits of the application.¹⁹¹

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,¹⁹² the consequences of an asylum seeker's refusal to comply with the obligation to be fingerprinted¹⁹³ are limited to the application of an [Accelerated Procedure](#).¹⁹⁴ There are no legal provisions on the use of force to take fingerprints and CPR is not aware of any operational guidelines to that end. According to the information available to CPR, asylum seekers are systematically fingerprinted and checked in Eurodac in practice. According to CPR's observation, accelerated procedures triggered by a refusal to be fingerprinted are a very rare occurrence.

In practice, SEF systematically determines which country is responsible for examining the asylum application in accordance with the criteria set out in the Dublin Regulation. This is done, among others, on the basis of the information collected through a preliminary form that must be filled by the asylum seeker upon registration and/or the individual interview. The preliminary form includes information on identification, itinerary, grounds for the asylum application, prior stays in Europe and supporting evidence.

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

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

The full extent and implications of the right to be heard in Dublin procedures continued to be discussed in the national courts in 2020 (see [Dublin: Personal interview](#)).

The Asylum Act provides for the right of the asylum seeker to be informed of the purpose of fingerprinting as well as of other rights provided in the Eurodac Regulation.¹⁹⁵ CPR has no indication on whether this obligation is systematically implemented in practice as, to the extent of its knowledge, the leaflets distributed contain limited information on fingerprinting and on the Eurodac Regulation. Moreover, CPR has no indication on whether the common information leaflet set out in Article 4(3) of the Dublin III Regulation is systematically distributed. According to observations of CPR, the information contained in

¹⁹⁰ Articles 36 and 37(1) Asylum Act.

¹⁹¹ Article 39 Asylum Act. A recent decision from TCA South clarified that the suspension of the 30-day deadline provided for in article 20 is operated by the internal order determining that a case will be processed under the Dublin procedure following the identification of a Eurodac hit. TCA South, Decision 1167/20.7BELSB, 17 December 2020, available at: <https://bit.ly/3tMrfAn>.

¹⁹² Article 35-A(3)(c) Asylum Act.

¹⁹³ Article 15(1)(e) Asylum Act.

¹⁹⁴ Article 19(1)(j) Asylum Act.

¹⁹⁵ Article 49(1)(b) Asylum Act.

the documents that are systematically distributed to asylum seekers by SEF¹⁹⁶ do not include all the relevant information included on the Annex X (Parts A and B) of the corresponding Implementing Regulation.¹⁹⁷ Notwithstanding this, SEF reported that such information is provided to the applicants.

As per the available information, while Dublin procedures were not formally interrupted due to the coronavirus pandemic, restrictions to freedom of movement led to a halt of Dublin transfers.¹⁹⁸ Furthermore, SEF reported that the reduced number of flights and testing requirements by the responsible Member States, along with instances of absconding, further restricted the execution of Dublin transfers in 2020.

2.2.1. Individualised guarantees

According to information available to CPR, SEF does not seek individualised guarantees ensuring that the asylum seeker will have adequate reception conditions upon transfer in practice, either systematically or for specific categories of applicants or specific Member States.¹⁹⁹

In the case of transfer decisions to Italy issued in 2018 and 2019, the reasoning bore no reference to possible risks of ill-treatment in the responsible Member State, with most of the decisions being issued on the basis of the absence of a timely response from the Italian authorities. This has also been the practice in 2017, namely regarding transfer decisions to Italy and Hungary. CPR is aware that, at least in some instances in 2020, transfer decisions to Italy included information on the situation in the Member State, and references to relevant national jurisprudence (see [Suspension of Transfers](#)), concluding that there was no risk of “extreme material poverty” constituting a risk of inhuman or degrading treatment in case of transfer.²⁰⁰ According to CPR’s observations, this was not a systematic practice.

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

While certain Dublin-related judicial decisions refer to the individual circumstances of the applicant as a relevant element to assess the legality of a transfer decision (for instance in order to determine if there is a risk of inhuman or degrading treatment),²⁰¹ CPR is not aware of judicial decisions focusing specifically on individualised guarantees.

¹⁹⁶ While the version distributed to applicants, according to CPR’s knowledge, is an handout in Portuguese, English and French, another version of the document (containing similar information) is available online in Portuguese at: <https://bit.ly/2Hq5aEy>.

¹⁹⁷ Commission Implementing Regulation (EU) no.118/2014 of 30 January 2014, available at: <https://bit.ly/3emtXFT>.

¹⁹⁸ Ibid.

¹⁹⁹ ECtHR, *Tarakhel v. Switzerland*, Application No 29217/12, 4 November 2014.

²⁰⁰ CJEU, *Jawo*, Case C-163/17, 19 March 2019.

²⁰¹ For example: TCA South, Decision 1982/18.1BELSB, 22 August 2019, available in Portuguese at: <https://bit.ly/36vzJAV>, confirming a judgement of TAF Sintra (unpublished) that annulled the decision to transfer an applicant with hepatitis B to Italy; TAC Lisbon, Decision 2364/18.0BELSB, 22 March 2019 (unpublished), annulling a transfer decision to Italy, *inter alia*, because the adjudicating authority did not properly assess the nature and severity of health issues referred by the applicant in the personal interview; TAC Lisbon, Decision 2048/19.2BELSB, 13 December 2019 (unpublished), confirming a transfer decision to Italy as it was not proved that there are systemic flaws in the receiving Member State and, even so, the applicant would have to demonstrate that, given his/her specific circumstances, the situation would amount to a risk of inhuman or degrading treatment.

2.2.2. Transfers

While the law provides for the detention of asylum seekers subject to the Dublin procedure,²⁰² this provision is not implemented in practice and CPR is unaware of detention cases 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.²⁰³ However, given the high rate of appeals, such a document is usually not issued at this point. According to the information available to CPR, all transfers are voluntary, and the applicant is informed of the exact date, time, and place he/ she should present him/ herself to SEF for travel purposes.

According to SEF, it is not possible to estimate the average duration of the Dublin procedure (neither from the moment an outgoing request is issued until the transfer takes place, nor from the moment another Member State accepts responsibility until the transfer takes place) due to the frequency of appeals and the risk of absconding.²⁰⁴

Practical experience in this regard remained limited as, only 23 transfers were implemented out of the total of 486 outgoing requests. The transfer rate was thus as low as 4.7% in 2020.

As per the available information, while Dublin procedures were not formally interrupted due to the coronavirus pandemic, restrictions to freedom of movement led to a halt of Dublin transfers.²⁰⁵ Furthermore, SEF reported that the reduced number of flights and testing requirements by the responsible Member States, along with cases of absconding, further restricted the execution of Dublin transfers in 2020.

CPR is aware of decisions from TAC **Lisbon** determining that the coronavirus pandemic did not impact the legality of Dublin transfers (to Italy and Spain) but only the moment of its execution. At least in two cases, while confirming transfer decisions to Italy, TCA **South** referred that the transfer should be executed upon cessation of the measures implemented to respond to the coronavirus pandemic and provided that mobility and living conditions in Italy are ensured.²⁰⁶

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.²⁰⁷ The personal interview can only be waived where: (i) the evidence already available allows for a positive decision; or (ii) the applicant lacks legal capacity due to long lasting reasons that are not under his or her control.²⁰⁸

²⁰² Article 35-A(3)(c) Asylum Act.

²⁰³ Article 37(3) Asylum Act.

²⁰⁴ In 2019, SEF indicated that, in the absence of a judicial appeal or abscondment, the average duration of the Dublin procedure from the moment an outgoing request is issued until the effective transfer takes place was of 35 days ("take back") or of 80 days ("take charge"). The average duration from the moment another Member State accepts responsibility until the effective transfer takes place, if the applicant does not abscond or appeal, was of 15 to 20 days.

²⁰⁵ Ibid.

²⁰⁶ TCA South, Decision 61/20.6BELSB, 2 July 2020, available at <https://bit.ly/3f9Od0a>; TCA South, 357/20.7BELSB, 29 October 2020, available at: <https://bit.ly/3setb4t>.

²⁰⁷ Article 16(1)-(3) Asylum Act.

²⁰⁸ Article 16(5) Asylum Act.

As mentioned above (see: [Regular Procedure: Personal interview](#)), while SEF did not share the number of cases where a decision was adopted in the absence of a personal interview in 2020,²⁰⁹ it did confirm that applicants are guaranteed the right to an interview before any decision regarding their application is adopted, emphasizing that interviews can only be waived in the specific cases listed in the Asylum Act. SEF also noted that interviews are conducted in all types of procedure, including Dublin.

While in recent years it was not clear to CPR whether asylum seekers in a Dublin procedure were systematically offered a personal interview, according to CPR's observation in 2020, applicants in a Dublin procedure seem to be systematically interviewed. 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 regional representations in cases of asylum applications made in more remote locations.

Previous practice regarding the content of the interview seemed to vary depending on the existence and type of Dublin indicators available at that time. The individual interview could either focus on Dublin-related questions only or cover both the admissibility and the merits of the claim, as well as specific questions to clarify relevant Dublin-related issues.

In 2018, the TAC **Lisbon** annulled transfer decisions on the basis that, according to its interpretation of either Article 17 of the Asylum Act or Article 5 of the Dublin Regulation, SEF has to inform the applicant and give him/her the opportunity to reply not only to the statements provided during the Dublin interview, but also to a report containing the information that underlies the transfer decision.²¹⁰ This jurisprudence followed a decision from the Supreme Administrative Court from 2017 which considered that failing to give the applicant the possibility to be heard regarding the "essential information" of the application in similar circumstances amounted to an omission of an essential procedural requirement.²¹¹

These decisions revealed a trend on the part of the Portuguese courts to go beyond the threshold imposed by Article 5(6) of the Dublin Regulation, that establishes that the "written summary [...] shall contain at least the main information supplied by the applicant at the interview".

In the course of 2018, SEF altered the format of Dublin interviews and corresponding transcripts. The transcripts/interviews therefore include an explanation of the aims and criteria of the Dublin Regulation and questions focusing on identification and contacts of family members, travel documents/visas, Eurodac registrations, information on entry/stay, and previous applications for international protection. The form also contains a section on vulnerability but apparently follows a limited understanding of the concept, as it only includes questions on the health condition of the applicant and family members. Furthermore, it includes a section where the relevant Dublin Regulation criteria for the case are signalled and a question allowing the applicant to reply to such information.

In late 2019, CPR observed that applicants interviewed within the context of Dublin Procedures started to be notified of the above-mentioned form as well as of a document stating that the application will likely be subject to an inadmissibility decision and corresponding transfer to a concrete Member State according to the Dublin Regulation. This document also notifies the applicant of the possibility to provide written comments pursuant to the general administrative rules.²¹² However, despite the general rule determining that the deadline for response cannot be of less than 10 days,²¹³ the deadline prescribed by the above-mentioned notifications is of only 5 days. It is also worth noting that such documents are not communicated to CPR by the authorities on a systematic basis.²¹⁴

²⁰⁹ According to information shared by SEF for 2018, there were no cases where a decision was taken without a personal interview.

²¹⁰ TAC Lisbon, Decision 275/18.9BELSB, 12 April 2018.

²¹¹ Supreme Administrative Court, Decision 0306/17, 18 April 2017, available in Portuguese at: <https://bit.ly/2RYEoXW>.

²¹² Article 121 Administrative Procedure Code.

²¹³ Article 122 Administrative Procedure Code.

²¹⁴ A practice observed at least since the third trimester of 2019.

This change in practice is likely connected to the judicial developments regarding the right to be heard in Dublin procedures in 2019. While it is undisputed that applicants are entitled to the right to be heard in such procedures, three major interpretations were adopted by TCA South and the Supreme Administrative Court (STA) in 2019:

- Article 17 of the Asylum Act is applicable to Dublin procedures. As such, it is required that, following the personal interview, the applicant is notified of the statements provided and of a report containing all information underlying the decision and the likely outcome of the procedure. Following the general regime established in Article 17 of the Asylum Act, the applicant has 5 days to submit comments to the report.²¹⁵
- The right to be heard may be fully exercised during the interview referred to by Article 5 of the Dublin Regulation as long as the applicant is informed of the decision that will likely be adopted by the adjudicating entity (i.e., the transfer to a specific Member State) and is furthermore given the opportunity to specifically respond to that possibility.²¹⁶
- While Article 17 of the Asylum Act is not applicable to Dublin procedures, Article 5 of the Dublin Regulation must be combined with the general administrative rules on the right to be heard about the possible decision before its adoption.²¹⁷ As such, the adjudicating entity has to inform the applicant of the probable decision and of all the elements underlying such a decision and provide a reasonable timeframe for the applicant to respond to all elements relevant to the decision, to request complementary action, and/or to present documentation.²¹⁸

Different interpretations of the right to be heard continued to be registered in the national upper courts throughout 2020, along the main lines described above. In a number of decisions, STA and TCA South considered that the applicant must be informed of the likely outcome of the procedure (inadmissibility and Member State likely responsible for the application) and provided a report with all the relevant elements of the case and a five-day deadline to respond as provided in Article 17 Asylum Act.²¹⁹ Currently, this seems to be the predominant understanding within the STA.

²¹⁵ This interpretation, which was already adopted in previous jurisprudence, was reaffirmed by the Supreme Administrative Court in at least two rulings in 2019: Supreme Administrative Court, Decision 2095/18.1BELSB, 3 October 2019, available in Portuguese at: <https://bit.ly/39Felpp>; Supreme Administrative Court, Decision 1770/18.5BELSB, 17 December 2019, available in Portuguese at: <https://bit.ly/2wcyLws>.

²¹⁶ Supreme Administrative Court, Decision 970/18.2BELSB, 30 May 2019, available in Portuguese at: <https://bit.ly/2ZKaCHV>. The judgement argues for a combined reading of the relevant provisions (e.g., Article 16 of Asylum Act, Article 5 of the Dublin Regulation, and Article 121 of the Administrative Procedure Code), emphasising that the applicant must be given the opportunity to provide his/her comments on the possible transfer during the personal interview or in a subsequent moment, allowing the competent authority to duly consider all elements in its decision. TCA South, Decision 557/19.2BELSB, 26 September 2019, available in Portuguese at: <https://bit.ly/2ZMhIkM>; TCA South, Decision 751/19.6BELSB, 26 September 2019, available in Portuguese at: <https://bit.ly/2Ql0GS8>; TCA South, Decision 780/19.0BELSB, 26 September 2019, available in Portuguese at: <https://bit.ly/39Ca5fG>; TCA South, Decision 689/19.7BELSB, 24 October 2019, available in Portuguese at: <https://bit.ly/35gByQx>. Following this interpretation, a decision from TAC Lisbon (Decision 1680/19.9BELSB, 12 November 2019, unpublished), interestingly underlined that the authority must inform the applicant of the relevant responsibility criteria as well as of the safeguard clause, creating the conditions for the applicant to respond to the possible transfer/application of the clause. It also noted that, if the right to be heard is to be implemented exclusively through an interview, the authorities must adjust the questions to the concrete situation at stake.

²¹⁷ Articles 121 *et seq* Administrative Procedure Code.

²¹⁸ TCA South, Decision 90/19.2BELSB, 6 June 2019, available in Portuguese at: <https://bit.ly/2FikOcg>; TCA South, Decision 2379/18.9BELSB, 4 July 2019, available in Portuguese at: <https://bit.ly/36IfzEM>; TCA South, Decision 1026/19.6BELSB, 10 December 2019, available in Portuguese at: <https://bit.ly/37B1aZR>.

²¹⁹ STA, Decision 0688/19.9BESNT, 2 April 2020, available at: <https://bit.ly/3rmUg3Z>; STA, Decision 0780/19.0BELSB, 20 February 2020, available at: DGSi: <https://bit.ly/31gSNSr>; TCA South, Decision 2221/19.3BELSB, 18 June 2020, available at: <https://bit.ly/3fbGONR>. The latter summarises a number of decisions from the Supreme Court. The judges explain that, while they formerly followed the understanding that Article 5 of the Dublin Regulation was the relevant legal framework, their position changed given that STA predominantly considers that Articles 16 and 17 of the Asylum Act apply to Dublin procedures and that provides additional guarantees to the applicant.

Nevertheless, the interpretation that Article 5 of the Dublin Regulation is the relevant framework within this context continued to be applied as well. In one decision, STA noted that the right of the applicant to participate in the procedure is respected if the report identifies the responsible Member State and the interviewer asks the applicant if he/she has statements to make regarding that information.²²⁰

This understanding has also been followed by TCA South.²²¹ In some cases, the Court further detailed that the right to be heard can be fully exercised within the context of the interview as long as the applicant receives the information mentioned in Article 4 of the Dublin Regulation and is provided with the opportunity to fully present the arguments and facts regarding the possible transfer. Interestingly, in such cases, TCA South also emphasised that the lower formal requirements for the exercise of the right to be heard, entail a need for reinforced control of its substance. As such, the interviewer must give the applicant a meaningful opportunity to provide the relevant information and cannot remain passive in light of the statements provided by him/her.²²²

Furthermore, in at least one case, TCA South confirmed the practice followed by SEF according to which the applicant is provided a report containing the likely outcome of the Dublin procedure and given a 5-day deadline to respond in writing according to Article 121 of the Administrative Procedure Code.²²³

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?

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes

☒ Judicial

☒ Yes

☐ No

☐ Administrative

☐ 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.²²⁴ The asylum seeker has 5 days to lodge the appeal.²²⁵ As in the regular procedure, the initial and onward appeals are automatically suspensive,²²⁶ 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.²²⁷

The available case law indicates that the asylum seeker can challenge the correct application of the Dublin criteria,²²⁸ as per the ruling of the Court of Justice of the European Union (CJEU) in *Ghezelbash*.²²⁹ The

²²⁰ The Court links the right to participation of article 5 Dublin Regulation to article 267 of the Constitution and article 121 of the Administrative Procedure Code. STA, Decision 0645/19.5BELSB, 21 May 2020, available at: <https://bit.ly/3vToAqB>.

²²¹ TCA South, Decision 1932/19.8BELSB, 16 April 2020, available at: <https://bit.ly/2PtUy7h>; TCA South, Decision 670/19.6BELSB, 14 May 2020, available at: <https://bit.ly/3IKifc5>; TCA South, Decision 2364/18.0BELSB, 14 May 2020, available at: <https://bit.ly/3d3LrqC>; TCA South, Decision 1301/19.0BELSB, 14 May 2020, available at: <https://bit.ly/3177qYm>; TCA South, Decision 2317/19.1BELSB, 14 May 2020, available at: <https://bit.ly/3cdcctC>.

²²² TCA South, Decision 670/19.6BELSB, 14 May 2020, available at: <https://bit.ly/3IKifc5>; TCA South, Decision 2364/18.0BELSB, 14 May 2020, available at: <https://bit.ly/3d3LrqC>; TCA South, Decision 1301/19.0BELSB, 14 May 2020, available at: <https://bit.ly/3177qYm>; TCA South, Decision 2317/19.1BELSB, 14 May 2020, available at: <https://bit.ly/3cdcctC>.

²²³ TCA South, Decision 613/20.4BELSB, 15 October 2020, unpublished.

²²⁴ Article 37(4) Asylum Act; Article 95(3) Administrative Court Procedure Code.

²²⁵ *Ibid.*

²²⁶ Article 37(4) and (6) Asylum Act.

²²⁷ Article 37(5) Asylum Act.

²²⁸ TAC Lisbon, Decision 2183/15.6BELSB, 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.

²²⁹ CJEU, Case C-63/15 *Ghezelbash*, Judgment of 7 June 2016.

court also verifies if all formalities have been respected by the SEF, including applicable deadlines set forth in the Dublin Regulation.²³⁰

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.

The information provided by the CSTAF for 2020 regarding the number, nationalities of appellants, average duration and results of judicial reviews does not make a distinction between the type of asylum procedures (see [Statistics](#)). However, according to the information available to CPR, Dublin procedures were the main type of asylum procedure used in 2020 to reject asylum applications at first instance in the case of nationals of Guinea-Bissau, Senegal, Gambia, and Guinea (four of the five most represented nationalities at appeals stage). Moreover, according to CSTAF, out of the 446 appeals decided by the TAC **Lisbon** in 2020, 217 concerned Dublin cases.

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 [Regular Procedure: Legal Assistance](#)).

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

2.6. Suspension of transfers

Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries?
☒ Yes ☐ No
❖ If yes, to which country or countries? Greece

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 ECtHR. During this period, 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.

Hungary: In February 2018, the Tribunal Administrativo e Fiscal de Sintra (TAF Sintra) annulled a transfer decision to Hungary on the basis that the available information regarding the functioning of the Hungarian asylum system revealed the existence of valid reasons to believe that there were systemic flaws in the

²³⁰ TAC Lisbon, Decision 1235/16.0BESLB, 14 September 2016, unpublished.

asylum procedure and reception conditions amounting to the threshold of inhuman or degrading treatment (namely due to the systematic detention and acts of violence towards asylum seekers in the country).²³¹

While CPR is not aware of any transfer decision to Hungary adopted in 2020, according to the information shared by SEF, there were 5 outgoing requests thereto during the year, but no transfer was carried out.²³²

France, Spain, and Germany: In 2018, TAC Lisbon upheld transfer decisions to **France** and **Spain**, ruling that it was not demonstrated that there were valid reasons to believe that asylum procedures and reception systems of the Member States do not comply with the applicable standards.²³³

TCA South underlined in a 2019 judgement that the mere allegation by an asylum seeker that he/she would receive better conditions in Portugal than in the receiving Member State, is not enough to waive the rules on responsibility established by the Dublin Regulation.²³⁴ In another case, TCA South considered that the fact that the applicant affirmed, during the personal interview, that he would like to stay in Portugal because the population was friendly and not racist, without referring to racist acts suffered in Spain was not enough to trigger an obligation for SEF to analyse the existence of systemic flaws in the Spanish asylum system given that it is not publicly known that such system has clear systemic deficiencies.²³⁵

In a 2020 judgement, concerning a transfer decision to Spain, TCA South considered, *inter alia*, that the strong migratory pressure and poor reception conditions,²³⁶ were not sufficient to consider that there would be a serious risk of inhuman or degrading treatment.²³⁷

Within the context of the appeal of a judgement of TAC Lisbon that confirmed a transfer decision to Germany, TCA South stated that the applicant did not provide elements showing a risk of inhuman or degrading treatment in the relevant Member State, nor health-related information requiring his/her presence in Portugal. Moreover, the Court noted that there is no indication of systematic flaws in the asylum procedure and reception conditions in Germany.²³⁸

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

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

Given that the information available on the individual case did not allow for an assessment of such risks, TCA South determined that the administrative authority must complete the analysis of the case namely

²³¹ TAF Sintra, Decision 555/17.0BESNT, 15 February 2018, unpublished.

²³² In 2018, CPR was not aware of transfer decisions to Hungary, but the data from SEF indicated 3 outgoing requests.

²³³ TAC Lisbon, Decision 461/18.1BELSB, 10 April 2018, unpublished; TAC Lisbon, Decision 741/18.6BELSB, 8 August 2018, unpublished.

²³⁴ TCA South, Decision 235/19.2BELSB, 26 September 2019, available in Portuguese at: <https://bit.ly/2QI4SdC>.

²³⁵ TCA South, Decision 409/19.6BELSB, 7 November 2019, available in Portuguese at: <https://bit.ly/2tu6U8Y>.

²³⁶ The applicant described having been accommodated in containers shared with other people (increasing the risk of coronavirus infection) and unable to find a job in Spain.

²³⁷ The Court further noted that SEF is only exceptionally required to analyse the existence of systemic flaws per the jurisprudence of the STA regarding Italy (see *infra*). TCA South, Decision 938/20.9BELSB, 15 October 2020, available at: <https://bit.ly/3vUViYC>.

²³⁸ TCA South, Decision 1383/19.4BELSB, 10 December 2019, available in Portuguese at: <https://bit.ly/36IL06E>.

by obtaining all the relevant information on the applicant's profile and individual situation and on the current situation in Iraq.²³⁹

Italy: The 2019 jurisprudence regarding transfers to **Italy** revealed divergence as to the extent of the applicant's burden of allegation/substantiation of systemic flaws, and the extent of SEF's duty to assess the situation in the receiving Member State.

Two main trends were observed in the interpretation of TCA South:

- The determining authority must assess whether there are systemic flaws in the asylum procedure and reception conditions of the Member State deemed responsible before issuing a transfer decision. This duty is particularly relevant in situations where, such as in Italy, it is widely known that the asylum system faces disfunctions which may amount to systemic flaws. As such, SEF must include reliable and up to date information in the process in order to verify if the safeguard clause should be applied. According to this interpretation, the duty to investigate does not depend on the allegation by the applicant of the existence of systemic flaws/risk of inhuman or degrading treatment as the relevant facts are not necessarily personal issues and the determining authority must act in accordance with the inquisitorial principle.²⁴⁰
- The burden of allegation regarding the conditions in the responsible Member State lies with the applicant. As such, the determining authority only has to assess the existence of systemic flaws/risk of inhuman or degrading treatment when such question is raised by the asylum seeker in the procedure (namely in the personal interview). There are apparently different interpretations on the exact terms in which this burden of allegation must be discharged.²⁴¹

In one case, TCA South upheld a judgement from TAF Sintra which annulled a transfer of an applicant with hepatitis B to **Italy** and determined that, in the absence of other legal obstacles, the national authorities must examine the application for international protection. The Court decided that, in light of available information on the situation in Italy and the applicant's health condition, the transfer would amount to a serious risk of inhuman or degrading treatment.²⁴²

²³⁹ TCA South, Decision 775/19.3BELSB, 10 September 2020, available at: <https://bit.ly/34FHYM0>. One of the three judges dissented on the grounds that a transfer to Denmark would not violate the principle of non-refoulement as the country is also bound to the relevant rules of EU and International Law and is therefore obliged to take them into account in any return procedure. The dissent also notes that the applicant may appeal of any such decision.

²⁴⁰ Article 58 Administrative Procedure Code; TCA South, Decision 557/19.2BELSB, 26 September 2019, available in Portuguese at: <https://bit.ly/2ZMhIkM>; TCA South, Decision 751/19.6BELSB, 26 September 2019, available in Portuguese at: <https://bit.ly/2Ql0GS8>; TCA South, Decision 1059/19.2BELSB, 21 November 2019, available in Portuguese at: <https://bit.ly/2MS8Z5z>; TCA South, Decision 1157/19.2BELSB, 21 November 2019, available in Portuguese at: <https://bit.ly/2sl56tc>.

²⁴¹ In one case, the Court decided that in the absence of any reference from the applicant to the treatment and conditions in Italy, SEF did not have to assess the risk of inhuman or degrading treatment despite recognising that the reception conditions in Italy were deficient and worsening (TCA South, Decision 559/19.9BELSB, 26 September 2019, available in Portuguese at: <https://bit.ly/35kGVOK>). Ruling that invoking a lack of security and a lack of care in the place of accommodation is sufficient to discharge the (mitigated) burden of allegation and proof, see: TCA South 2240/18.7BELSB, 6 June 2019, available in Portuguese at: <https://bit.ly/2Fhewyp>. Deciding that referring to a lack of living conditions is not enough to trigger SEF's duty to assess the existence of systemic flaws, see: TCA South 1013/19.4BELSB, 7 November 2019, available in Portuguese at: <https://bit.ly/2QhJfBI>. See also: TCA South, Decision 817/19.2BELSB, 26 September 2019, available in Portuguese at: <https://bit.ly/2QkakEr>; TCA South, Decision 743/19.5BELSB, 26 September 2019, available in Portuguese at: <https://bit.ly/36nqna7>; TCA South, 1258/19.7BELSB, 21 November 2019, available in Portuguese at: <https://bit.ly/35kaccn>.

²⁴² The decisions also emphasised the duty of the authorities to duly consider information about the asylum procedure and reception conditions in the receiving Member State. Information revealing the existence of gaps in medical treatment provided to persons in similar situations was also taken into account. TAF Sintra, Decision 1982/18.1BELSB, 3 April 2019, unpublished; TCA South, Decision 1982/18.1BELSB, 22 August 2019, available in Portuguese at: <https://bit.ly/36vzJAV>.

In September 2019, STA decided that it would examine an appeal concerning the issue of systemic flaws in Italy and the duties of national authorities within this context.²⁴³ According to the judgment on the merits from January 2020, the Court considered that the statements provided by the applicant within the administrative procedure and the information collected by lower instance courts on the situation in Italy were not detailed/severe enough to create a duty on the requesting Member State to further investigate the situation in the requested Member State. The STA affirmed that the requesting Member State is only obliged to collect up-to-date information on the risk of inhuman or degrading treatment in the receiving Member State where there are valid reasons to consider that there are systemic flaws in the asylum procedure/reception conditions of such Member State and where such flaws amount to a risk of inhuman or degrading treatment. The Court further noted that the information collected/considered by lower instance courts regarding Italy revealed an anomalous situation but that such situation is one of an abnormal influx of “*illegal migration*”. According to the Court, such situation (that includes “potential refugees” but also other persons) does not create a risk of torture, inhuman or degrading treatment in Italy.²⁴⁴

The STA broadly reaffirmed this understanding in a number of judgements issued throughout the year.²⁴⁵ Overall, an analysis of the 2020 jurisprudence of STA in this regard, seems to indicate that the Court considers that:

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

With regard to the burden imposed on the applicant, in particular, the following main features can be inferred from the decisions of STA:²⁴⁶

- It is insufficient for the applicant to invoke “generic and abstract deficiencies”;²⁴⁷
- The allegation of systemic flaws by itself is not sufficient neither to invalidate a transfer decision, nor to require SEF to examine the conditions in Italy;²⁴⁸
- The applicant must invoke “concrete facts allowing to conclude that there is an effective risk that he/she could be subject to inhuman treatment in Italy”;²⁴⁹
- The applicant must invoke and demonstrate “exceptional personal circumstances and not only a common and generalised knowledge of the reception difficulties in Italy”;²⁵⁰

²⁴³ Supreme Administrative Court, Decision 2240/18.7BELSB, 27 September 2019, available in Portuguese at: <https://bit.ly/2FftdSu>.

²⁴⁴ Supreme Administrative Court, Decision 2240/18.7BELSB, 16 January 2020, available in Portuguese at: <https://bit.ly/3cq4BFd>.

²⁴⁵ STA, Decision 01108/19.4BELSB, 11 May 2020, available at: <https://bit.ly/3IXMxZ9>; STA, Decision 01322/19.2BELSB, 4 June 2020, available at: <https://bit.ly/3feFnOY>; STA, Decision 01088/19.6BELSB, 2 July 2020, available at: <https://bit.ly/3riiCN1>; STA, Decision 01786/19.4BELSB, 2 July 2020, available at: <https://bit.ly/3rlpk4h>; STA, Decision 01419/19BELSB, 9 July 2020, available at: <https://bit.ly/3fdz51X>; STA, Decision 03421/19.1BEPRT, 10 September 2020, available at: <https://bit.ly/3d3nmjT>; STA, Decision 01705/19.8BELSB, 10 September 2020, available at: <https://bit.ly/39dVSXH>; STA, Decision 02364/18.0BELSB, 5 November 2020, available at: <https://bit.ly/3tUOI2i>; STA, Decision 01932/19.8BELSB, 5 November 2020, available at: <https://bit.ly/3w1B67x>; STA, Decision 01301/19.0BELSB, 19 November 2020, available at: <https://bit.ly/39fas0S>; STA, Decision 02212/19.4BELSB, 10 December 2020, available at: <https://bit.ly/3d5ncbB>.

²⁴⁶ Unofficial translations.

²⁴⁷ STA, Decision 01322/19.2BELSB, 4 June 2020, available at: <https://bit.ly/3feFnOY>.

²⁴⁸ STA, Decision 01108/19.4BELSB, 11 May 2020, available at: <https://bit.ly/3IXMxZ9>.

²⁴⁹ STA, Decision 01322/19.2BELSB, 4 June 2020, available at: <https://bit.ly/3feFnOY>.

²⁵⁰ STA, Decision 01322/19.2BELSB, 4 June 2020, available at: <https://bit.ly/3feFnOY>; STA, Decision 01786/19.4BELSB, 2 July 2020, available at: <https://bit.ly/3rlpk4h>.

- The personal circumstances of the applicant must not be described “in an overly generic manner and with lack of detail”;²⁵¹
- The absence of references in the applicant’s statements/allegations to prior inhuman or degrading treatment in Italy is detrimental to his/her claim (especially if he/she was present in the relevant Member State for a long period of time);²⁵²
- The applicant’s statements must allow the conclusion that “there is a concrete situation in which the applicant was affected in a manner beyond acceptable by the deficient reception conditions”;²⁵³
- Among the allegations deemed to be insufficient are claims regarding the excessive length of procedures, lack of access to employment, security concerns and challenges in accessing medical assistance.

These features seem to indicate that there is a significant focus on the applicant’s statements as well as in past treatment and events directly experienced in the responsible Member State.²⁵⁴ Furthermore, apparently, the applicant is required to do so *proprio motu*, as the authorities are not specifically required to ask follow-up questions regarding potential risks in the responsible Member State.

While according to CPR’s analysis, the jurisprudence of TCA South predominantly adopted similar positions,²⁵⁵ it is worth mentioning that some diverging decisions were identified.

In three cases,²⁵⁶ the TCA South considered, *inter alia*, that there were “clear, obvious and proven indications of the existence of systemic flaws” in the Italian system and that its malfunctioning was “endemic and deliberate” and reached the severity threshold required by the relevant European jurisprudence. Such conclusions were based on information from specialised NGOs and international organisations. The Court further considered that the applicant is not bound to a duty of allegation of systemic flaws. According to this understanding, the applicant is only required to provide information on his/her personal circumstances that can be relevant for the application of the safeguard clause. At least two of these judgements were later overturned by the STA.

In another case, the Court stated that Article 3(2) of the Dublin Regulation contains “a legal duty for the Member States to consider the possible existence of systemic flaws in the asylum procedure and reception conditions”.²⁵⁷ While the applicant was not vulnerable, the existence of such deficiencies has been reported and was raised by the applicant during the interview (the applicant stated that he lived on the street for nine months before coming to Portugal and that he would have to do so again in case of return). The Court concluded that SEF should have added reliable and up-to-date information on the situation in Italy to the process.

²⁵¹ Decision 01786/19.4BELSB, 2 July 2020, available at: <https://bit.ly/3rlpk4h>.

²⁵² STA, Decision 03421/19.1BEPRT, 10 September 2020, available at: <https://bit.ly/3d3nmjT>.

²⁵³ STA, Decision 02364/18.0BELSB, 5 November 2020, available at: <https://bit.ly/3tUOI2i>.

²⁵⁴ It is thus unclear how the assessment would be conducted in cases of take charge procedure where the applicant was not physically present in the relevant Member State before but claims that there are systemic deficiencies or that he/she would be subject to a risk of torture, inhuman or degrading treatment in such Member State.

²⁵⁵ E.g. TCA South, Decision 2329/19.5BELSB, 30 April 2020, available at: <https://bit.ly/3rfQ0TO> (referring to the relevance of mutual trust); TCA South, Decision 2323/19.6BELSB, 02 July 2020, available at: <https://bit.ly/3vQVo3m> (referring to the relevance of mutual trust and the need to prevent asylum shopping); TCA South, Decision 695/20.9BELSB, 24 September 2020, available at: <https://bit.ly/3vUzs7q> (highlighting the inexistence a general *ex officio* duty of analysis of the situation in the relevant Member State that the applicant’s statements did not point towards the applicability of article 3(2) Dublin Regulation and the notorious facts do not require an *ex officio* evaluation); TCA South, Decision 1052/20.2BELSB, 15 October 2020, available at: <https://bit.ly/3sfK6Uc>; TCA South, Decision 357/20.7BELSB, 29 October 2020, available at: <https://bit.ly/3setb4t>; TCA South, Decision 1117/20.0BELSB, 12 November 2020, available at: <https://bit.ly/318BJxV>; TCA South, Decision 1122/20.7BELSB, 26 November 2020, available at: <https://bit.ly/3tMPXAO>.

²⁵⁶ TCA South, Decision 2364/18.0BELSB, 14 May 2020, available at: <https://bit.ly/3d3LrqC> (an English EDAL case summary is available at <https://bit.ly/3t1EJZ5>). This decision was later reversed by the STA. TCA South, Decision 1301/19.0BELSB, 14 May 2020, available at: <https://bit.ly/3177qYm>). This decision was later reversed by the STA. TCA South, Decision 2317/19.1BELSB, 14 May 2020, available at: <https://bit.ly/3cdctcC>.

²⁵⁷ TCA South, Decision 2221/19.3BELSB, 18 June 2020, available at: <https://bit.ly/3fbGONR>.

CPR is aware that, at least in some instances in 2020, transfer decisions to Italy included information on the situation in the Member State, and references to relevant national jurisprudence, concluding that there was no risk of “extreme material poverty”²⁵⁸ constituting a risk of inhuman or degrading in case of transfer. According to CPR’s observation, this was not a systematic practice.

The 2019 report of the Ombudsman notes that the institution received complaints due to the lack of examination of the existence of systemic flaws in the asylum procedure and reception conditions of another Member State. The follow-up to the case involved contacts with a counterpart in the relevant Member State. While conclusions in this regard had not yet been issued by the end of the year, the Portuguese Ombudsman requested the cooperation of the European Ombudsman so that the European Commission is heard regarding this matter.²⁵⁹ No further information is available.

There were also multiple judgements from TCA South determining that the safeguard clause of Article 3(2) of the Dublin Regulation is not applicable to take back procedures under Article 18(1)(d) of the Dublin Regulation. The Court considered that, in such cases, compliance with the principle of non-refoulement should be verified.²⁶⁰ This did not seem to be the predominant interpretation of the scope of application of Article 3(2) of the Dublin Regulation in national courts.

2.7. The situation of Dublin returnees

The National Director of SEF is the competent authority to accept the responsibility of the Portuguese State for “assessing an application for international protection” presented in other Member States of the European Union.²⁶¹ In practice, asylum seekers do not face relevant or systematic obstacles in accessing the asylum procedure and reception conditions following a transfer to Portugal.

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

In accordance with the Asylum Act, where the asylum seeker withdraws his/her application implicitly by disappearing or absconding for at least 90 days without informing SEF, the file can be deemed closed by the National Director of SEF.²⁶² Notwithstanding, the applicant is entitled to reopen his/her asylum case by presenting him/herself to SEF at a later stage. In this case, the file is to be resumed at the exact stage where it was discontinued by the National Director of SEF.²⁶³

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.

On 10 September 2018, Portugal and **Germany** signed an administrative arrangement pursuant to Article 36 of the Dublin Regulation. The agreement aims to facilitate returns by introducing non-binding shorter

²⁵⁸ CJEU, *Jawo*, Case C-163/17, 19 March 2019.

²⁵⁹ Ombudsman, *Relatório à Assembleia da República 2019*, June 2020, available at: <https://bit.ly/3wxFrzn>.

²⁶⁰ TCA South, Decision 1889/19.5BELSB, 14 May 2020, available at: <https://bit.ly/3rfSscW>; (referring both to the risk of direct and indirect refoulement); TCA South, Decision 61/20.6BELSB, 2 July 2020, available at: <https://bit.ly/3f9Od0a> (referring only to the absence of risks in the relevant Member State, one of the judges dissented on the grounds that the transfer to Italy would amount to a violation of the principle of non-refoulement and that risk of refoulement in case of return to the country of origin should have also been assessed; an English EDAL case summary is available at <https://bit.ly/3cVM0E8>); TCA South, Decision 65/20.9BELSB, 24 September 2020, available at: <https://bit.ly/3cV2IIK> (referring only to the absence of risks in the relevant Member State); TCA South, Decision 988/20.5BELSB, 1 October 2020, available at: <https://bit.ly/3tMexSj>; TCA South, Decision 1050/20.6BELSB, 29 October 2020, available at: <https://bit.ly/3sb5dXE>.

²⁶¹ Article 40(1) Asylum Act.

²⁶² Article 32(1)(c) and (2) Asylum Act.

²⁶³ Article 32(3) of the Asylum Act.

timeframes – one month instead of three months for a “take charge” request – and providing for group instead of individual transfers. The European Commission has notified the two countries that the arrangement is generally in line with the Dublin Regulation.²⁶⁴

According to the observation of CPR, applicants have been returned similarly to other Dublin cases.

According to the available information, in the case of relocation, asylum seekers who have absconded and were transferred back to Portugal in accordance with the Dublin Regulation were systematically provided reception conditions upon arrival either by the initial reception service provider, or by a different service provider.

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

The law provides for an admissibility procedure that is characterised by: (i) specific grounds for considering an asylum application inadmissible;²⁶⁵ (ii) specific time limits for the first instance decision on admissibility;²⁶⁶ (iii) legal implications in case the deciding authority does not comply with those time limits;²⁶⁷ (iv) the right to an appeal against the inadmissibility decision;²⁶⁸ and (v) specific rights attached to the admission to the procedure which represent a distinctive feature of the Portuguese asylum procedure.²⁶⁹

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;²⁷⁰
2. Has been granted international protection in another EU Member State;²⁷¹
3. Comes from a **First Country of Asylum**, i.e., has obtained refugee status or otherwise sufficient protection in a third country and will be readmitted to that country;²⁷²
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;²⁷³
5. Has made a subsequent application without new elements or findings pertaining to the conditions for qualifying for international protection;²⁷⁴ and
6. Is a dependant who had lodged an application after consenting to have his/her case be part of an application lodged on his/ her behalf, in the absence of valid grounds for presenting a separate application.²⁷⁵

The National Director of SEF has 30 days to take a decision on the admissibility of the application,²⁷⁶ which is reduced to 10 days in the case of subsequent applications,²⁷⁷ and applications following a

²⁶⁴ European Commission, Ares (2018) 4489201, 31 August 2018.

²⁶⁵ Article 19-A Asylum Act.

²⁶⁶ Articles 20(1), 24(4), 33(4) and 33-A(5) Asylum Act.

²⁶⁷ Articles 20(2) and 26(4) Asylum Act.

²⁶⁸ Articles 22(1) and 25(1) Asylum Act.

²⁶⁹ 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.

²⁷⁰ Article 19-A(1)(a) Asylum Act.

²⁷¹ Article 19-A(1)(b) Asylum Act.

²⁷² Article 19-A(1)(c) and Article 2(1)(z) Asylum Act.

²⁷³ Article 19-A(1)(d) and Article 2(1)(r) Asylum Act.

²⁷⁴ Article 19-A(1)(e) Asylum Act.

²⁷⁵ Article 19-A(1)(f) Asylum Act.

²⁷⁶ Article 20(1) Asylum Act.

²⁷⁷ Article 33(4) Asylum Act.

removal decision,²⁷⁸ and to 7 days in the case of the [Border Procedure](#).²⁷⁹ In case SEF does not comply with these time limits, the claim is automatically admitted to the procedure.²⁸⁰

In practice, all asylum applicants undergo an interview that assesses the above-mentioned inadmissibility clauses along with the merits of the application,²⁸¹ including those at the border.

According to the information available to CPR, except for Dublin-related decisions, the number of asylum applications deemed inadmissible in 2020 was very low.

Statistics shared by SEF for 2020 indicate that among 410 inadmissibility decisions, there were only 6 non-Dublin inadmissibility decisions, all on the grounds of protection in another Member State.²⁸² The information gathered by CPR on the basis of communications from SEF, points to 11 (non-Dublin) inadmissibility decisions issued in 2020 among which 9 decisions concerning applicants granted protection in another EU Member State.

While SEF generally admits asylum seekers to the regular procedure in case of non-compliance with applicable time limits, the automatic admission and issuance of a provisional residence permit has at times required a proactive intervention of the asylum seeker or of his or her legal counsel. While quantitative data is not available, in particular due to gaps in the communication of decisions, according to CPR's observation, the growth of automatic admissions observed throughout 2018 reversed in the second semester of 2019.²⁸³

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?

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If so, are questions limited to nationality, identity, travel route?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
❖ If so, are interpreters available in practice, for interviews?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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,²⁸⁴ 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.²⁸⁵

As mentioned above, while SEF did not share the number of cases where a decision was adopted in the absence of a personal interview in 2020,²⁸⁶ it confirmed that applicants are guaranteed the right to an interview before any decision regarding their application is adopted, emphasising that interviews can only be waived in the cases listed in the Asylum Act. SEF also noted that interviews are conducted in all types of procedure, including Dublin (see [Regular procedure: Personal interview](#) and [Dublin procedure: Personal interview](#)).

²⁷⁸ Article 33-A(5) Asylum Act.

²⁷⁹ Article 24(4) Asylum Act.

²⁸⁰ Articles 20(2) and 26(4) Asylum Act.

²⁸¹ Article 16 Asylum Act.

²⁸² Article 19-A(1)(b) Asylum Act.

²⁸³ According to the information provided by SEF, a total of 486 decisions deeming an application admissible to the regular procedure (therefore excluding the application of inadmissibility or accelerated procedures) were issued in 2020.

²⁸⁴ Article 16(1)-(3) Asylum Act.

²⁸⁵ Article 16(5) Asylum Act.

²⁸⁶ According to information shared by SEF for 2018, there were no cases where a decision was taken without a personal interview.

In practice, the individual interview can either focus on Dublin related questions only or cover both the 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 (see [Regular procedure: Personal interview](#)).

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

3.3. Appeal

Indicators: Admissibility Procedure: Appeal

☐ Same as regular procedure

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

- ❖ If yes, is it ☒ Yes ☐ No
- ❖ If yes, is it automatically suspensive ☒ Judicial ☐ Administrative
- ☒ Yes ☐ Some grounds ☐ No

The Asylum Act provides for an appeal against an inadmissibility decision consisting of a judicial review of relevant facts and points of law by the Administrative Court.²⁸⁷ 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
Application following a removal decision	Article 33-A(6)	4
Dublin decision	Article 37(4)	5
Protection in another EU Member State	Article 22(1)	8
First country of asylum	Article 22(1)	8
Safe third country	Article 22(1)	8
Application by dependant	Article 22(1)	8

As in the regular procedure, the first and onward appeals are automatically suspensive,²⁸⁸ with the exception of onward appeals concerning inadmissible subsequent applications.²⁸⁹

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.²⁹⁰

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.

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.

²⁸⁷ Articles 22(1), 25(1), 33(6) and 37(4) Asylum Act and Article 95(3) Administrative Court Procedure Code.

²⁸⁸ Articles 22(1), 25(3) and 37(6) Asylum Act.

²⁸⁹ Article 33(8) Asylum Act.

²⁹⁰ Articles 22(2), 25(2), 33(7) and 37(5) Asylum Act.

The information provided by the CSTAF for 2020 regarding the number, nationalities of appellants, and average duration and results of judicial reviews of first instance decisions does not make a distinction between the type of asylum procedures (see [Statistics](#)).

3.4. Legal assistance

Indicators: Admissibility Procedure: Legal Assistance

☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance during admissibility procedures in practice?

☒ Yes
☐ With difficulty
☐ No

❖ Does free legal assistance cover:

☐ Representation in interview
☒ Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against an inadmissibility decision in practice?

☒ Yes
☐ With difficulty
☐ No

❖ Does free legal assistance cover

☒ Representation in courts
☒ Legal advice

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

4. Border procedure (border and transit zones)

4.1. General (scope, time limits)

Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities?

☒ Yes
☐ No
2. Where is the border procedure mostly carried out?

☒ Air border
☐ Land border
☐ Sea border
3. Can an application made at the border be examined in substance during a border procedure?

☒ Yes
☐ No
4. Is there a maximum time limit for a first instance decision laid down in the law?

☒ Yes
☐ No

❖ If yes, what is the maximum time limit? 7 days
5. Is the asylum seeker considered to have entered the national territory during the border procedure?

☐ Yes
☒ No

In mid-March 2020, the detention centre at **Lisbon airport** was closed (both due to the coronavirus pandemic and for renovation work). This was traditionally the border post where most asylum border procedures were conducted. The facility re-opened on 1 August 2020, and a new internal regulation has also been approved. While it was not possible to have access to the text of the new regulation, according to official statements of the Government and media reports, it determines that applicants for international protection cannot be held in the detention centre.

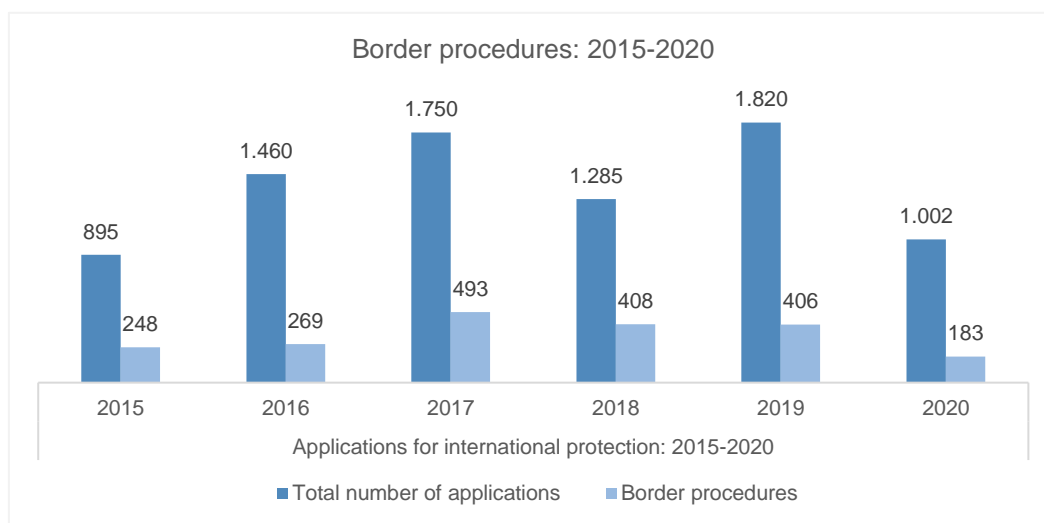
While applications for international protection at the border have been lodged later in 2020 since the international air traffic resumed, it seems that applicants were granted entry into national territory, referred to accommodation if needed and their cases were not subject to the rules applicable to the border procedure. At the time of writing of this report, it was not clear whether this new practice is temporary or will become permanent practice. It was also unclear whether this practice applies to all border posts. Nevertheless, the border procedure is provided in national law and has been systematically applied until

March 2020. Therefore, references throughout this section of the report refer to the application of the border procedure up until March 2020 and must be read in light of this context.

The law provides for a specific procedure regarding applications made at a national border.²⁹¹ 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](#)).²⁹²

Location and number of border procedures

Portugal has 36 external border posts, of which 8 are air border posts and 28 are maritime border posts.²⁹³ SEF is responsible for border controls, including for refusing entry and exit from the territory.²⁹⁴ The overwhelming majority of border procedures has been systematically conducted at **Lisbon Airport**.



Source: SEF.

In Portugal, the number of applications for international protection has varied year by year, while the number of border procedures has remained relatively stable at around 400-500 cases per year. In 2020, a sharp decrease can be observed, likely related to the restrictions to air traffic related to the coronavirus pandemic and with the above-mentioned change in practice.

Figures on the number of persons in need of special procedural guarantees that were subject to border procedures were not available, except for unaccompanied children (see also [Detention of Vulnerable Applicants](#)). According to SEF, 8 unaccompanied children were subjected to the border procedure in 2020.

Grounds for activating the border procedure and main characteristics

In practice, a person who: (i) does not meet the entry requirements set in the law; (ii) is subject to a national or an EU entry ban; or (iii) represents a risk or a serious threat to public order, national security or public health is refused entry in national territory²⁹⁵ and is notified in writing by SEF of the corresponding decision.²⁹⁶ The notification bears a reference to the right of individuals refused entry at the border to seek asylum as enshrined in the law.²⁹⁷

²⁹¹ Article 23(1) Asylum Act.

²⁹² Articles 26(1) and 35-A(3)(a) Asylum Act.

²⁹³ Annex II Decree-Law 252/2000.

²⁹⁴ Article 2 Decree-Law 252/2000.

²⁹⁵ Article 32 Immigration Act.

²⁹⁶ Article 38(2) Immigration Act.

²⁹⁷ Article 40(4) Immigration Act.

SEF 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.²⁹⁸ This is done in accordance to the Convention on International Civil Aviation,²⁹⁹ as, according to SEF, the individual remains in the international area of the airport and is therefore not subject to the rules applicable to removal procedures from national territory.³⁰⁰ When the individual refused entry into national territory applies for asylum, the air company is immediately informed by SEF of the suspension of return.

While the border procedure provides for the basic principles and guarantees of the regular procedure,³⁰¹ 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 procedural guarantees such as the exclusion from the right of the applicant to seek revision of the narrative of his/her personal interview,³⁰² or the possibility to consult with CPR prior to the individual interview conducted by SEF. This is in addition to the provision for the detention of asylum seekers for the duration of the admissibility stage/accelerated procedure (see [Detention of Asylum Seekers](#)).³⁰³

The National Director of SEF has 7 days to issue a decision either on admissibility or on the merits of the application in an accelerated procedure.³⁰⁴ In the absence of inadmissibility grounds or grounds for deeming the application unfounded in an accelerated procedure, SEF admits the asylum seeker to the regular procedure and authorises entry into national territory/release from border detention.³⁰⁵ Non-compliance with the time limit results in the automatic admission of the applicant to the regular procedure and release from the border.³⁰⁶

The asylum seeker remains in detention in the international area of the airport or port until the National Director of SEF issues a decision on the admissibility/merits of the claim,³⁰⁷ 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 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](#)).³⁰⁸ Furthermore, the "temporary installation" of unaccompanied and separated children in temporary installations at the border (detention) – and hence application of border procedures – must comply with applicable international standards such as those recommended by UNHCR, UNICEF, and ICRC.³⁰⁹

²⁹⁸ Articles 38(3) and 41(1) Immigration Act.

²⁹⁹ Chicago Convention on International Civil Aviation, 7 December 1944, Annex IX, Chapter V, points 5.9 -5.11.1.

³⁰⁰ CPR, 'Access to Protection: a Human Right, country report, Portugal', 2014, para 2.1, available in Portuguese at: <https://bit.ly/3sWjYNx>.

³⁰¹ This includes access to the procedure, the right to remain in national territory pending examination, the right to information, to a personal interview, the right to legal information and assistance throughout the procedure, the right to free legal aid, special procedural guarantees, among others.

³⁰² Article 25 Asylum Act.

³⁰³ Articles 26(1) and 35-A(3)(a) Asylum Act.

³⁰⁴ 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.

³⁰⁵ Article 26(4) Asylum Act.

³⁰⁶ Ibid.

³⁰⁷ Article 26(1) Asylum Act.

³⁰⁸ 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."

³⁰⁹ Article 26(2) Asylum Act.

Since 2016, a significant percentage of vulnerable applicants – including unaccompanied children, families with children and pregnant women – have been detained and subject to the border procedure (see [Detention of Vulnerable Applicants](#)). Following media coverage and stark criticism by the Ombudsman and NGOs, the Ministry of Home Affairs issued an instruction in July 2018 focusing *inter alia* on the detention of children at the border (see [Detention of vulnerable applicants](#)). CPR subsequently noted shorter detention periods of families with children and of unaccompanied children. However, with the exception of unaccompanied children, this had not resulted in significant changes with regard to the exemption from border procedures as these continued to be routinely applied to vulnerable applicants.

According to the available information, no standard operational procedures and tools allowing for the early and effective identification of survivors of torture and/or serious violence and their special procedural needs are in place. As such, asylum seekers who claim to be survivors of torture, rape, or other serious forms of psychological, physical, or sexual violence are not exempted from border procedures in practice on such grounds, despite the lack of provision of special procedural guarantees at the border.³¹⁰

The identification of survivors of torture was addressed by the UN Committee Against Torture in its Concluding Observations on the seventh periodic report of Portugal. The Committee observed that “[...] the State party has not provided complete information on the procedures in place for the timely identification of victims of torture among asylum seekers [...]”,³¹¹ and recommended “[...] the establishment of effective mechanisms to promptly identify victims of torture among asylum seekers”.³¹²

The UN Human Rights Committee expressed a similar concern in 2020 and recommended the establishment of “an effective mechanism for the identification of vulnerable applicants, in particular stateless persons”.³¹³

Until March 2020, the border procedure continued to be applied systematically in practice. Since then, the border procedure has not been applied to the extent of CPR’s knowledge. It is not clear whether this is a permanent or a temporary change due to the coronavirus pandemic, and to the revised rules governing the functioning of the detention facility at **Lisbon airport**. It is also unclear whether this change in practice applies to all border posts.

Decisions on applications in the border procedure

Practice indicates that only a minority of applicants subject to the border procedure in recent years were usually admitted to the regular procedure.³¹⁴ Nevertheless, according to the data provided by SEF, out of the 183 applications subject to the border procedure in 2020, 76 were rejected on the merits (accelerated procedure) and 107 were admitted to the regular procedure.

³¹⁰ Italian Council for Refugees *et al.*, ‘Time for Needs: Listening, Healing, Protecting’, October 2017, available at: <https://bit.ly/3gEoe1T>.

³¹¹ Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, available at <https://bit.ly/2G1F07z>, para 37.

³¹² Ibid. para 38(d).

³¹³ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5, 28 April 2020, para 34(c) and 35(c), available at: <https://bit.ly/2Q1ftn8>.

³¹⁴ According to the data provided by SEF to AIDA regarding 2019, for instance, out of 406 applicants subjected to the border procedure, only 45 were admitted to the regular procedure.

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 applicable to the border procedure, the interview is conducted a few days after arrival, while the applicant is detained at the Temporary Installation Centre (CIT). This means there is little time to prepare and substantiate the asylum application and reduced guarantees such as the exclusion from the right of the applicant to seek revision of the narrative of the interview.³¹⁵ An additional concern regarding interviews conducted at the **Lisbon Airport** were the space and privacy constraints of the interview offices, notably due to inadequate sound isolation (see [Conditions in Detention Facilities](#)).³¹⁶

Many asylum seekers arrive at the border without valid identification documents or supporting evidence to substantiate their asylum application and contacts with the outside world from within the EECIT 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 presence of supporting personnel in the interview while the border procedure was applied in 2020.³¹⁷

4.3. Appeal

Indicators: Border Procedure: Appeal

☐ Same as regular procedure

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

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

³¹⁵ Article 25 Asylum Act. TCA South, Decision 1539/19.0BELSB, 11 September 2020, available at: <https://bit.ly/31gEInN>.

³¹⁶ While the facility was recently subject to renovation work, CPR has not visited it since the border procedure is not applied since March 2020.

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

³¹⁸ Article 25(1) Asylum Act; Article 95(3) Administrative Court Procedure Code.

³¹⁹ Article 25(1) Asylum Act.

Similarly to the regular procedure, the first and onward appeals have an automatic suspensive effect.³²⁰ The law provides for a simplified judicial process with reduced formalities and time limits with the objective of shortening the duration of the judicial review.³²¹ However, the Administrative Courts rarely reach a decision on the appeal within the maximum detention time limit of 60 days, meaning that 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.³²²

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

The information shared by CSTAF does not include a breakdown by type or outcome of procedures but indicates an overall poor success rate at appeals stage. 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 relevant expertise and training 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 in 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?

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

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

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

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

 - ❖ Does free legal assistance cover

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

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

As regards free legal assistance at first instance, the law expressly provides the possibility for UNHCR and CPR to interview the asylum seeker at the border³²³ and to provide assistance.³²⁴ However, in practice, following the registration of the asylum claim, CPR only has access to applicants once 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.³²⁵ However, such a procedure remains to be implemented to date, meaning that securing access to free legal aid at appeal stage remained an integral part of the legal assistance provided by CPR at the border.

³²⁰ Article 25 Asylum Act.

³²¹ Article 25(2) Asylum Act.

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

³²³ Article 24(1) Asylum Act.

³²⁴ Article 49(6) Asylum Act.

³²⁵ Article 25(4) Asylum Act.

To that end, CPR has 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.). The relevance of broader legal support within the context of detention and the possibility of adopting a specific MoU with the Bar Association for that purpose continued to be underlined by the Ombudsman (National Preventive Mechanism).³²⁶

In November 2020, the Ministry of Home Affairs, the Ministry of Justice and the Bar Association signed a protocol to ensure the provision of legal counselling and assistance to foreigners to whom entry into national territory was refused (Lisbon, Porto, Faro, Funchal and Ponta Delgada airports).³²⁷ According to the information available at the time of writing, this protocol was made within the framework of Article 40(2) of the Immigration Act and is not intended to cover asylum procedures.

The provision of information and assistance to asylum seekers placed in detention at the border by CPR during the first quarter of 2020 continued to be challenging and was aggravated by the shorter deadlines, communication challenges, bureaucratic clearance procedures for accessing the restricted area of the airport where the CIT is located (in particular regarding interpreters), and the lack of timely provision of information by SEF on the 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 included: (a) providing legal information on the asylum procedure and the legal aid system; (b) enabling access to free legal aid for the purpose of appeals; (c) assisting lawyers appointed under the free legal aid system in preparing appeals with relevant legal standards and COI; and (d) advocating with SEF for the release of particularly vulnerable asylum seekers such as unaccompanied children, families with children, pregnant women and the severely ill.

Similarly, to the regular procedure, the overall quality of free legal aid at appeal stage remained a concern due to the current selection system of lawyers.

The unscrupulous activity of a limited number of private lawyers at the **Lisbon Airport's** EECIT, providing poor quality services in exchange for excessively high fees, remained a problem in 2020. This concern has been raised by CPR with SEF and the Portuguese Bar Association but is still ongoing despite past criminal investigations conducted by SEF that have resulted in criminal charges related to smuggling and trafficking in human beings. In September 2018, SEF reported that an investigation involving a lawyer in the Lisbon area was ongoing. According to the press note,³²⁸ the authorities conducted house and office searches and the lawyer was formally put under investigation ("*constituída arguida*"). The topic was covered by multiple media outlets that emphasised that the lawyer incited "abusive asylum applications".³²⁹ No updated information on this case was publicly available at the time of writing.

5. Accelerated procedure

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

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

³²⁶ Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', June 2020, p.64, available at: <https://bit.ly/2Pz1ZiN>.

³²⁷ Ministry of Home Affairs, '*Estrangeiros impedidos de entrar em Portugal vão ter direito a advogado*', 4 November 2020, available at: <https://bit.ly/3oCd8L3>.

³²⁸ SEF, '*SEF faz buscas em casa de advogada suspeita de envolvimento numa célula em Dakar*', 28 September 2018, available in Portuguese at: <https://bit.ly/2uQ4D5L>.

³²⁹ See e.g. Sic Notícias, '*SEF constitui arguida advogada suspeita de pedidos de asilo abusivos*', 28 September 2018, available in Portuguese at: <https://bit.ly/2IlvyOv>; Expresso, '*SEF. Advogada suspeita de se dedicar à apresentação abusiva de pedidos de asilo*', 28 September 2018, available in Portuguese at: <https://bit.ly/2Kl8LVQ>.

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;³³⁰
- b. In bad faith, destroying or disposing of an identity or travel document that would have helped establish identity or nationality;³³¹
- c. Making clearly inconsistent and contradictory, clearly false or obviously improbable statements which contradict sufficiently verified COI, thus making the claim clearly unconvincing in relation to qualification for international protection;³³²
- 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;³³³
- 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;³³⁴
- f. Coming from a [Safe Country of Origin](#);³³⁵
- g. Introducing an admissible subsequent application;³³⁶
- h. Making an application merely to delay or frustrate the enforcement of an earlier or imminent decision which would result in removal;³³⁷
- i. Representing a danger to the national security or public order;³³⁸ and
- j. Refusing to comply with an obligation to have fingerprints taken.³³⁹

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

A first instance decision on the territory must be taken within 30 days for all grounds, except for cases concerning an application following a removal order which must be decided within 10 days.³⁴⁰ In contrast to the regular procedure,³⁴¹ 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,³⁴² while non-compliance with the applicable time limits grants automatic access to the regular procedure.³⁴³

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

³³⁰ Article 19(1)(a) Asylum Act.

³³¹ Article 19(1)(b) Asylum Act.

³³² Article 19(1)(c) Asylum Act.

³³³ Article 19(1)(d) Asylum Act.

³³⁴ Article 19(1)(e) Asylum Act.

³³⁵ Article 19(1)(f) Asylum Act.

³³⁶ Article 19(1)(g) Asylum Act. In the case of subsequent applications admitted to the procedure under Article 19(1)(g) Asylum Act, there seems to be incoherence in the law as Article 33(5) provides for the application of the regular procedure where, following a preliminary assessment within 10 days, the application is deemed admissible because it includes new elements or findings pertaining to the conditions for qualifying as a beneficiary of international protection.

³³⁷ Article 19(1)(h) Asylum Act.

³³⁸ Article 19(1)(i) Asylum Act.

³³⁹ Article 19(1)(j) Asylum Act.

³⁴⁰ Articles 20(1) and 33-A(5) Asylum Act.

³⁴¹ Article 29(5) Asylum Act.

³⁴² Articles 20(1) and 24(4) Asylum Act.

³⁴³ Articles 20(2) and 26(4) Asylum Act.

While quantitative data is not available, due to gaps in the communication of decisions, according to CPR's observation, the growth of automatic admissions observed throughout 2018 reversed in the second semester of 2019.³⁴⁴

In the context of the provision of legal assistance to asylum seekers, CPR continued to observe significant delays in the execution of judicial decisions by SEF in 2020. According to CPR's observation, this mostly concerned the execution of judicial decisions that annulled first instance decisions rejecting applications in accelerated procedures and consequently condemned the Administration to channelling them into the regular procedure, or Dublin cases that should be reprocessed.

In practice all applications are channelled through the accelerated procedure where the specific grounds provided in the law apply.³⁴⁵ Data shared by SEF regarding 2020 indicates that 340 asylum applications were processed under an accelerated procedure. The statistics provided by SEF indicate that the same number of decisions was taken under the accelerated procedure but a breakdown by grounds applied was not provided. Out of the total, 76 were furthermore adopted within the context of border procedures.

According to the experience of CPR, most of rejections in accelerated procedures continued to be based on inconsistency or irrelevance.

A concerning practice observed in 2019 relates to the adoption of some decisions excluding an applicant from international protection within accelerated procedures, including at the border.³⁴⁶ The short time limits for analysis and reduced procedural guarantees applicable in accelerated procedures are likely to exacerbate the risks inherent to the application of exclusion clauses. CPR is not aware of similar decisions in 2020.

In its recent Concluding Observations on Portugal, the UN Human Rights Committee expressed concern with the "[e]xcessive use of accelerated procedures, which might compromise the quality of the assessment of applications and increase the risk of refoulement." Notably, the Committee recommended Portugal to "[c]ontinue its efforts to maintain and strengthen the quality of its refugee status determination procedures, in order to fairly and efficiently identify and recognize those in need of international protection and to afford sufficient guarantees of respect for the principle of non-refoulement under the Covenant".³⁴⁷

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

☐ Yes ☒ No

 - ❖ If so, are questions limited to nationality, identity, travel route? ☐ Yes ☒ No
 - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

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

³⁴⁴ According to the information provided by SEF, a total of 486 decisions deeming an application admissible to the regular procedure (therefore excluding the application of inadmissibility or accelerated procedures) were issued in 2020.

³⁴⁵ There is a distinction to be made between border procedures from which certain categories of vulnerable asylum seekers may be exempted and accelerated procedures. While the vulnerable asylum seeker may be exempted from the border procedure and be released from detention, he or she will remain liable to an accelerated procedure in national territory.

³⁴⁶ Exclusion from international protection is regulated in article 9 of the Asylum Act.

³⁴⁷ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5. 28 April 2020, par 34(b) and 35(b), available at: <https://bit.ly/2Q1ftn8>.

However, the law foresees reduced guarantees in the accelerated procedure, namely by excluding asylum seekers' right to seek revision of the statements made during the personal interview in cases concerning applications following a removal decision,³⁴⁸ or the right to be notified of and to respond to SEF's reasoning of the proposal for a final decision.³⁴⁹ Nevertheless, the right of the applicant to submit comments to the written report the interview within 5 days is fully applicable in accelerated procedures.³⁵⁰

SEF produces a written report summarising the most important elements raised during the interview. Until 2020, the interview report was immediately provided to the applicant who had 5 days to submit comments.³⁵¹ Since the second half of 2020, CPR observed a shift in the practice of SEF in this regard with particular impact in accelerated procedures.

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

The summary report broadly contains information on: (i) identification of the applicant; (ii) family members; (iii) time and place of the application for international protection; (iv) prior information; (v) itinerary; (vi) summary of the facts that will underlie the decision;³⁵² (vii) prospective decision to be taken (reference to the relevant legal basis). According to CPR's observation, in many instances, the summary report is notified to the applicant right after the personal interview, which raises concerns about the proper consideration of the relevant facts adduced during the interview as well as other relevant available information and elements.

This change in practice was likely due to the jurisprudential understanding that applicants have a right to be heard about the prospective decision to be taken on their files in any decision within the procedure.³⁵³

According to the law, upon consent of the applicant, the report must also be communicated to UNHCR and to CPR, and the organisations may submit observations within the same deadline.³⁵⁴ Interview reports were usually communicated to CPR accordingly. Within the context of the above-mentioned shift in practice, SEF-GAR ceased the systematic communication of interview reports and currently communicates the summary reports (although it does not communicate reports for Dublin). As such, access to interview transcripts by CPR depends on the applicants. The systematic non-communication of interview transcripts can be considered as an obstacle to the full monitoring of the national asylum procedure.

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 summary report and to the interview transcript. According to CPR's observation, the summary reports often oversimplify the statements provided by the applicant to the authorities. Furthermore, applicants usually find it difficult to understand the meaning of the document and to provide meaningful comments to its content. Given its content and context, this new practice did not seem to improve the quality of the asylum procedure.

³⁴⁸ Article 33-A(4) and (5) Asylum Act.

³⁴⁹ Article 29(2) Asylum Act. See *infra* the current practice in this regard as well as its link to the national jurisprudence.

³⁵⁰ Article 17(1) and (2) Asylum Act.

³⁵¹ Article 17 (1) and (2) Asylum Act.

³⁵² Presentation of the application, motives, relevant elements.

³⁵³ E.g., TCA South, Decision 1560/19.8BELSB, 16 January 2020, available at <https://bit.ly/39i4xZ>. See also the jurisprudence on the right to be heard described *infra* in the Dublin section.

³⁵⁴ Article 17(3) 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?

❖ If yes, is it

❖ If yes, is it suspensive

☒ Yes

☐ No

☒ Judicial

☐ Administrative

☒ Yes

☐ Some grounds ☐ No

The Asylum Act provides for judicial review of facts and points of law by the Administrative Court against a rejection decision in an accelerated procedure.³⁵⁵

The time limit for lodging the appeal on the territory varies according to the specific ground of the accelerated procedure: it ranges from 4 days for applications following a removal decision,³⁵⁶ to 8 days for the remaining grounds.³⁵⁷ Similarly to the regular procedure, the appeal has an automatic suspensive effect.³⁵⁸ However, the onward appeal in the case of an application following a removal decision does not.³⁵⁹ 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.³⁶⁰

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.

The information provided by CSTAF in 2020 regarding the number and nationalities of appellants, as well as the average duration and results of judicial reviews does not make a distinction between the type of asylum procedures (see [Statistics](#)). However, according to the information available to CPR the main type of asylum procedures used in 2020 to reject asylum applications consisted of accelerated procedures in the case of Angola (70 out of 70 rejections), one of the five most representative nationalities at appeal stage.

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

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

³⁵⁵ Articles 22(1), 33-A(6) and 25(1) Asylum Act and Article 95(3) Administrative Court Procedure Code.

³⁵⁶ Article 33-A(6) Asylum Act.

³⁵⁷ Articles 22(1) Asylum Act.

³⁵⁸ Articles 22(1) and 33-A(6) Asylum Act.

³⁵⁹ Article 33-A(8) Asylum Act.

³⁶⁰ Article 22(2) and 33-A(7) Asylum Act.

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](#)).

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.³⁶¹ 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.³⁶²

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.³⁶³ The nature of special procedural needs should be assessed before a decision on the admissibility of the application is taken.³⁶⁴

1.1. Screening of vulnerability

Despite these legal obligations, there are no (specific) mechanisms, standard operating procedures, or units in place to systematically identify asylum seekers who need special procedural guarantees. In 2018, SEF-GAR has introduced two general questions in the questionnaire used in first instance asylum interviews that address the applicant’s self-assessed health condition and capacity to undergo the

³⁶¹ Article 17-A(1) Asylum Act.

³⁶² *Ibid.*

³⁶³ Article 77(2) Asylum Act.

³⁶⁴ Article 17-A(1) Asylum Act.

interview,³⁶⁵ as well as a couple of questions in Dublin interviews on health-related vulnerabilities.³⁶⁶ According to CPR's observation, there is no clear link between the answer provided by the applicant and the adoption of special procedural guarantees in practice.

In 2020, the UN Human Rights Committee expressed concern with the lack of such a mechanism and recommended the establishment of "an effective mechanism for the identification of vulnerable applicants, in particular stateless persons".³⁶⁷

Publicly available statistics regarding vulnerable asylum seekers are scarce and relate mostly to unaccompanied children and families with children.³⁶⁸ According to the information provided by SEF, a total of 193 children applied for international protection in Portugal, of which 96 were unaccompanied.³⁶⁹

CPR collects statistical information on asylum seekers who self-identify or are identified as vulnerable on the basis of information received from SEF in accordance with the law, collected directly from the applicants or shared by other service providers. In 2020, of the 893 spontaneous asylum applicants whose cases were communicated by SEF, 204 were identified as vulnerable:

Asylum seekers communicated to CPR and identified as vulnerable: 2017-2020³⁷⁰				
Category of vulnerable group	2017	2018	2019	2020
Unaccompanied children	41	67	77	38
Accompanied children	194	219	236	88
Single-parent families	67	53	61	23
Pregnant women	17	9	13	6
Elderly persons	-	-	5	-
Disabled persons	-	-	-	-
Survivors of torture	12	14	19	6
Survivors of physical, psychological or sexual violence	74	91	49	18
Persons with chronic or serious illnesses	13	12	40	21
Persons with addictions	-	-	-	-
Total	422	468	503	204
% of applicants identified as vulnerable (out of the total spontaneous applications communicated to CPR)	42%	39%	29%	23%

Source: CPR.

According to the information available to CPR, a significant number of age assessment procedures were pending at the time of writing. In previous years, some applicants were later determined to be adults

³⁶⁵ The questions read (1) "Do you feel alright, are you comfortable? Do you have any health problems?", and (2) "Do you feel capable of talking to me at the moment?".

³⁶⁶ The questions read (1) "Are you in good health – Y/N? Do you have health problems - Y/N? Which problems?" and (2) "Are you accompanied by a relative with health problems?".

³⁶⁷ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5. 28 April 2020, para 34(c) and 35(c) available at: <https://bit.ly/2Q1ftn8>.

³⁶⁸ While according to information provided by SEF all caseworkers have specific training in issues such as identification and interview of vulnerable persons under the EASO training curriculum and special needs of applicants are taken into account at all stages, no official data is available regarding the number of applicants identified as vulnerable.

³⁶⁹ These figures likely include children relocated to Portugal whose applications had not been communicated to CPR at the time of writing. Discrepancies between the number of unaccompanied children registered by SEF and by CPR (the former usually lower than the later) have been common and may be explained by factors such as the use of different identification criteria and age assessment procedures and registration practices.

³⁷⁰ Figures below five are not included.

including on the basis of their own statements, second-stage age assessment procedures requested by the Family and Juvenile Court, assessments made by SEF, or based on information received from other EU Member States. The number of such cases regarding unaccompanied children who applied for asylum in 2020 remained minimal at the time of writing.

The Asylum Act provides that the staff handling asylum applications of **unaccompanied children** must be specifically trained to that end.³⁷¹

In 2019, the Committee on the Rights of the Child expressed concern with “[...] weaknesses in policy and practice relating to unaccompanied and separated children, particularly in respect of legal representation and guardianship during refugee determination processes”.³⁷² The Committee recommended Portugal to “strengthen policies and practices to improve the identification and registration of unaccompanied and separated children, including through ensuring that they are provided with effective legal representation and an independent guardian immediately after they have been identified”.³⁷³ The necessity and consistency of the assessment of the best interests of the child in asylum procedures were also highlighted by the Committee.³⁷⁴

Victims of torture and serious violence

In the case of survivors of torture and/or serious violence, research has demonstrated that identification is conducted on an *ad hoc* basis and mostly on the basis of self-identification during refugee status determination, social interviews, or initial medical screenings.³⁷⁵ Staff working with asylum seekers lacks specific training on the identification of survivors of torture and/or serious violence and their special needs.

According to the information provided by the Portuguese authorities to the UN Committee Against Torture in June 2018,³⁷⁶ “[...] the number of asylum applicants that claimed to have been victims of torture or identified as victims of torture is residual.” The report also states that “[i]n general, the applicant is assessed as credible when the claims are reliable or visible signs of the act exist. This leads to a positive decision and to the granting of international protection status without the need for medical examinations. Applicants are then subject to evaluation as well as to medical and psychological monitoring in the reception centres in order to address potential traumas. There are no statistical data on these cases”.³⁷⁷

Following this report, the identification of survivors of torture was one of the issues addressed by the UN Committee Against Torture in its Concluding Observations on Portugal. The Committee observed that “[...] the State party has not provided complete information on the procedures in place for the timely identification of victims of torture among asylum seekers [...]” and recommended “[...] the establishment of effective mechanisms to promptly identify victims of torture among asylum seekers”.³⁷⁸

³⁷¹ Article 79(12) Asylum Act. The provision of mandatory training on the rights of the child to all relevant professionals, including immigration and asylum officers was also recently recommended by the Committee on the Rights of the Child. See Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Portugal*, CRC/C/PRT/CO/5-6, 9 December 2019, par.13 (c), available at: <https://bit.ly/2G1F07z>.

³⁷² Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Portugal*, CRC/C/PRT/CO/5-6, 9 December 2019, par.41(c), available at: <https://bit.ly/2G1F07z>.

³⁷³ Ibid., para. 42(c).

³⁷⁴ Ibid., paras 41(b) and 42(b).

³⁷⁵ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <https://bit.ly/3gEoe1T>.

³⁷⁶ Committee Against Torture, *Seventh periodic report submitted by Portugal under article 19 of the Convention pursuant to the optional reporting procedure, due in 2017*, CAT/C/PRT/7, 18 December 2018, available at: <https://bit.ly/3cwgaec>.

³⁷⁷ Committee Against Torture, *Seventh periodic report submitted by Portugal under article 19 of the Convention pursuant to the optional reporting procedure, due in 2017*, CAT/C/PRT/7, 18 December 2018, available at: <https://bit.ly/3cwgaec>, paras.133-134.

³⁷⁸ Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, par.38(d), available at <https://bit.ly/2G1F07z>.

Victims of human trafficking

According to SEF, staff with specific training in trafficking indicators operate in cases involving victims of trafficking at the **Lisbon Airport**.³⁷⁹ The Observatory on Trafficking in Human Beings (*Observatório do Tráfico de Seres Humanos*, OTSH) previously reported that in addition to the internal training provided by SEF, the Anti-Trafficking Unit of the entity developed a flowchart on procedures to address situations involving unaccompanied children at border points. According to the information provided by SEF-GAR with regard to 2020, specific attention is given to possible instances of trafficking in human beings within the asylum context.

In 2018, at the request of OTSH, CPR offered recommendations regarding the flowchart of the National Referral Mechanism which does not provide for clear procedures regarding referrals of unaccompanied asylum-seeking children in the asylum procedure or age assessment procedures.³⁸⁰

OTSH reported that, in 2019, an Intersectoral Working Group³⁸¹ started to develop specific procedures for the prevention, detection and protection of children victims of trafficking in human beings. According to OTSH, a final version of this referral mechanism was submitted to the relevant counterparts in the course of 2020 for validation. The referral mechanism, comprising nine practical tools, aims to establish specific procedures, to reinforce cooperation and communication among professionals and to ensure full respect for the best interests of the child.³⁸²

In 2018, AKTO, a Portuguese NGO, inaugurated the first CAP in Portugal exclusively dedicated to child victims of trafficking,³⁸³ and conducted bilateral meetings with relevant stakeholders, including with CPR, to provide information on service provision and referral procedures.

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

³⁷⁹ See Expresso, 'SEF cria equipas especializadas para proteção das vítimas de tráfico de seres humanos', 18 October 2018, available in Portuguese at: <https://bit.ly/2TIN8OU>; Público, 'SEF vai ter três equipas especializadas em tráfico de seres humanos', 29 May 2018, available in Portuguese at: <https://bit.ly/2ANfFfj>. According to these sources, in 2018 the SEF expanded its capacity for the identification and protection of victims of trafficking at the border and on national territory following the concerns raised by the Council of Europe Group of Experts on Action Against Trafficking in Human Beings (GRETA) report published in 2017, available at: <https://bit.ly/2RLfYRy>, which also raised specific concerns regarding the disappearance of unaccompanied asylum-seeking children.

³⁸⁰ The National Referral Mechanism consists of guidance for the identification, referral and integration of trafficking victims in Portugal and aims to set out the procedures to be adopted by relevant professionals. The National Referral Mechanism was developed by the Network for the Support and Protection of the Victims of Trafficking (*Rede de Apoio e Protecção às Vítimas de Tráfico*, RAPVT) and is based on a Manual available in Portuguese at: <https://bit.ly/2uCIYPz>, and a flowchart containing referral procedures developed in 2014, available in Portuguese at: <https://bit.ly/2TzCNV6>.

³⁸¹ Composed by the Ministry of Home Affairs, National Republican Guard (GNR), Public Security Police (PSP), SEF, OTSH, Commission for Citizenship and Gender Equality (CIG), Criminal Policy (PJ), National Commission for the Promotion of Rights and the Protection of Children and Young People; Prosecutor General's Office – Family, Children and Youth Office (PGR), AKTO, Directorate General for Health.

³⁸² The tools focus on: 1. Guiding principles of children's protective intervention; 2. Overall indicators and types of exploitation by indicators. 3. Detection in National Territory. 4. Detection at External Borders. 5. Procedures for assessing the child's age. 6. Appointment of Tutor or Legal Representative. 7. Assistance, Sheltering, (Re) Integration and Return. 8. Rights of children victims of Trafficking in Human Beings. 9. Training Module.

³⁸³ AKTO, 'Centro de Acolhimento e Protecção para Crianças Vítimas de Tráfico de Seres Humanos', available in Portuguese at: <https://bit.ly/2wYsrck>.

In addition to the coordination of the above mentioned activities on a National Referral Mechanism for Children Victims of Trafficking, OTSH reported that a series of webinars on the potential impact of Covid-19 on Trafficking in Human Beings was organised jointly with the multidisciplinary teams of the Family Planning Association (APF),³⁸⁴ as well as a number of other trainings targeting different professionals (namely ACM staff, associations of immigrants, police officers, healthcare professionals, CPR staff, and child protection entities).

Trafficking in persons was addressed by the UN Committee Against Torture in its Concluding Observations published in 2019. The Committee expressed concern with reports of lack of training of law enforcement officers and with delays in the process of issuance of residence permits to victims.³⁸⁵ As such, the Committee recommended Portugal to: “(a) Intensify its efforts to prevent and combat trafficking in persons, including by putting in place effective procedures for the identification and referral of victims among vulnerable groups, such as asylum seekers and irregular migrants; (b) Improve the training of law enforcement officers and other first responders by including statutory training on the identification of potential victims of trafficking in persons; (c) Ensure access to adequate protection and support, including temporary residence permits, irrespective of their ability to cooperate in legal proceedings against traffickers”.³⁸⁶

According to the information provided by the national authorities to the UN Human Rights Committee on the occasion of the consideration of the relevant report, “[s]pecial emphasis had been placed on identifying trafficking victims among the children who arrived at the border accompanied by adults who might not be their parents or legal guardians. Strict procedural rules governed how those cases were handled; the minors in question were placed into care while investigations were conducted to clarify the circumstances surrounding their journey and the nature of their relationship with the adult or adults accompanying them”.³⁸⁷

In its assessment, with regard to trafficking in human beings and asylum, the UN Human Rights Committee flagged, inter alia, the absence “of an adequate identification mechanism for victims of trafficking in persons in the asylum procedures, including with respect to children”. Importantly, the Committee recommended Portugal to “[p]rovide adequate training to judges, prosecutors, law enforcement officials, immigration officers and staff working in all reception facilities, including on procedures for identifying victims of trafficking in persons” and to “[e]nsure that victims of trafficking in persons have access to asylum procedures in which their potential needs can be determined”.³⁸⁸

According to OTSH, the competent authorities did not confirm cases of victims of trafficking among applicants for or beneficiaries of international protection. CPR is unaware of instances where asylum applicants were granted international protection on the basis of a well-founded fear of persecution for reasons of trafficking in human beings.

1.2. Age assessment of unaccompanied children

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

³⁸⁴ An e-book is available at <https://bit.ly/3cV8Vzo>.

³⁸⁵ Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, para 43, available at <https://bit.ly/2G1F07z>.

³⁸⁶ Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, para 44, available at <https://bit.ly/2G1F07z>.

³⁸⁷ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant (continued)*, CCPR/C/SR.3697, 13 March 2020, para 33, available at: <https://bit.ly/2R7z2e0>.

³⁸⁸ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5, 28 April 2020, par 32 and 33(b) and (c), available at: <https://bit.ly/2Q1ftn8>.

³⁸⁹ Article 79(2) Asylum Act.

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

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

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

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

In practice, age assessment procedures can be triggered either by 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, or by Family and Juvenile Courts in the framework of legal representation and child protection procedures (see [Legal Representation of Unaccompanied Children](#)). While SEF did not provide statistics in this regard, in 2020, CPR observed that age assessment procedures were triggered by Family and Juvenile Courts to almost all unaccompanied children.

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

- a) in the framework of border procedures, where SEF has in the past refused to trigger age assessment procedures and/or give the benefit of the doubt to asylum seekers claiming to be children, with significant implications regarding detention and access to procedural rights in the absence of a legal representative;
- b) in cases of asylum applicants who were referred by SEF to the CACR as children despite legitimate doubts regarding the age of the applicant on the basis of his or her physical appearance and/or demeanour thus putting at risk the integrity and security of the facility;
- c) in a few cases where asylum applicants claim to be adults but there are legitimate doubts regarding the possibility of them being children on the basis of statements that were later withdrawn, physical appearance and/or demeanour; and
- d) due to the increased use of second stage age assessment by Family and Juvenile Courts without adequate justification of their necessity and proportionality.

An initial age assessment is conducted by SEF and does not involve child protection staff. Second stage assessments fail to meet the holistic and multidisciplinary standards recommended by UNHCR.³⁹⁵ The assessment is conducted by the National Institute of Legal Medicine and Forensic Science (INMLCF) and relevant methods used include wrist and dental X-rays. While an examination of genitals was not used in age assessment in the past, the INMLCF published a procedural note in 2019 on the estimation of age in living and undocumented persons that includes the evaluation of sexual development as part of the age

³⁹⁰ Article 79(6) Asylum Act.

³⁹¹ Article 79(7) Asylum Act.

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

³⁹³ Article 79(8) Asylum Act.

³⁹⁴ In this case, it is mandatory.

³⁹⁵ UNHCR, *The Way Forward to Strengthened Policies and Practices for Unaccompanied and Separated Children in Europe*, July 2017, available at: <http://bit.ly/2ngwmYT>.

assessment procedure.³⁹⁶ The grounds for this (regrettable) change of practice are not known but, according to the information gathered by CPR, these methods were indeed applied in 2019, and continued in 2020.³⁹⁷

Despite the established technical limitations of such methods, their results have been used by SEF and Family and Juvenile Courts as evidence of the adulthood of the applicant, and as grounds for refusing the benefit of the doubt despite their inability to establish an exact age. This practice has been overturned by Administrative Courts in at least one instance regarding the asylum procedure,³⁹⁸ and was criticised by the Council of Europe.³⁹⁹

The referral by SEF to the CACR of applicants whose appearance and demeanour raised serious doubts regarding their age has led CPR to refer those applicants to the CAR managed by CPR so as to achieve a balance between their protection and the preservation of the security and integrity of the CACR, informing the Public Prosecutor's Office accordingly.

In various instances in 2020, SEF suspended the asylum procedure on the basis of general administrative rules in order to wait for the results of age assessment procedures ordered by the Family and Juvenile Courts.⁴⁰⁰ According to the information available to CPR, if upon registration of the asylum application SEF identifies Eurodac hits with different personal information, it informs the Family and Juvenile Court accordingly within the context of the necessary referral of the case.

In 2018, age assessments from other EU Member States have been used by SEF as negative credibility indicators, notably for those coming from Malta.⁴⁰¹ This concerned asylum seekers who were transferred to Portugal in the framework of *ad hoc* relocation schemes and who claimed to be children upon arrival in Portugal.

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

The law does not provide for a specific legal remedy against the initial age assessment procedure conducted by SEF for purposes other than the refugee status determination. However, these procedures remain administrative decisions that can be challenged before the Administrative Courts in accordance with the law.⁴⁰² Additionally, the Family and Juvenile Courts also conduct their own second stage age assessment for purposes of legal representation and application of protective measures (following SEF's referral) that can be appealed pursuant to general rules. In practice, however this is rarely – if ever – the case given the individual circumstances, and the lack of available legal expertise.

According to information available to CPR, in some cases, upon reception of the results of the medical report and before the issuance of a decision on the age assessment procedure, the competent Family and Juvenile Court gave the applicant and the appointed guardian the opportunity to reply to the analysis. Nevertheless, this is not a standard or systematic practice within the context of age assessment

³⁹⁶ INMLCF, *Norma procedimental – Estimativa da idade em indivíduos vivos indocumentados*, NP-INMLCF-018, 14 October 2019, available in Portuguese at: <https://bit.ly/3jqFiaV>.

³⁹⁷ In some instances, the individuals subjected to the age assessment refused to be subjected to this method. Refusal was referred in the relevant report together with an estimation of sexual development.

³⁹⁸ See e.g., TAC Leiria, Decision 784/14.9 BELRA, 19 July 2014, unpublished.

³⁹⁹ GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Portugal*, GRETA (2017)4, 17 March 2017, available at: <https://bit.ly/2RLfYRy>. Article 38(1) Administrative Procedure Code.

⁴⁰⁰ According to the information provided by SEF, these assessments were conducted on the basis of physical appearance, demeanour, demography and other types of relevant country of origin information, and X-Rays (FAV Test).

⁴⁰² Article 51(1) and (2) Administrative Court Procedure Code.

procedures. At least in some instances, cases were immediately referred by the Family and Juvenile Court for criminal investigation for the provision of false statements to the authorities.

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

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?

☐ Yes ☒ For certain categories ☐ No

❖ If for certain categories, specify which: Unaccompanied children, pregnant women, Families with children

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

2.1. Adequate support during the interview

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

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

Case law regarding the provision of special procedural guarantees in the asylum procedure has consolidated the approach of not implementing such guarantees.⁴⁰⁶ In one isolated case in 2018, SEF invited CPR to attend a first instance interview in order to provide support to a particularly vulnerable applicant suffering from a mental condition.⁴⁰⁷ In one instance in 2019, SEF suspended the asylum procedure of an applicant suffering from a serious mental health condition before issuing a decision on admissibility/accelerated procedure. However, the decision to suspend the procedure was adopted only after the personal interview was conducted and was not framed as a special guarantee for the applicant. Instances of the application of special guarantees to the applicant, for instance due to the inability to be

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

⁴⁰⁴ Article 17-A(5) Asylum Act.

⁴⁰⁵ Article 17-A(3) Asylum Act.

⁴⁰⁶ TAC Lisbon, Decision 1502/18.8BELSB, 24 October 2018, unpublished. The case relates to an asylum seeker suffering from documented epilepsies and depression who was not identified as a vulnerable before the interview and was therefore not provided special procedural guarantees during the first instance procedure. The applicant was unable to review the report of his interview due to his condition and later (but before the issuance of a first instance decision) managed to submit SEF medical reports to SEF. According to TAC Lisbon, such issues were not material to the asylum application and were not relevant to assess the need for special procedural guarantees in accordance to the law “as the serious condition of the appellant was not due to him being a victim of torture, rape or other form of psychological, physical or sexual violence in his country of origin [...]”.

⁴⁰⁷ Notwithstanding, following a suggestion from CPR on the need to equate a structured approach to the provision of special procedural guarantees in general, and the provision of adequate special procedural guarantees in the particular case, such as a medical evaluation/report and the presence of support staff from the institution that was providing medical and social support to the applicant at the time, SEF decided to conduct the interview in the absence of any support.

interviewed due to health (including mental health) conditions, remain rare to non-existent, according to CPR's experience. A similar case occurred in 2020.

In 2020, according to CPR's observation, when applicants were unable to be interviewed because they were quarantining/subject to prophylactic isolation due to the coronavirus, SEF usually suspended the asylum procedure. In some cases supported by CPR, where applicants were not able to exercise procedural rights (e.g., provide comments to the interview report/summary report or to decision proposals), due to such constraints, extensions of the relevant deadlines were granted upon request.

Inversely, requests for the extensions of deadlines due to the impossibility to secure interpreters to carry out the relevant diligences in due time were usually not accepted by SEF.

In the particular case of survivors of torture and/or serious violence, research conducted in the framework of the project "[Time for Needs: Listening, Healing, Protecting](#)" 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.⁴⁰⁸ Even where a medical report concerning the vulnerability of the applicant for mental health reasons is presented, SEF may refuse to postpone the interview unless the medical report clearly states the reduced capacity of the applicant, the need for medical assistance, as well as a prediction of when the applicant is expected to be able attend the interview, if need be accompanied by a mental health professional, in order to avoid excessive delays in the procedure. CPR is not aware of additional research on this topic.

In accordance with the law,⁴⁰⁹ CPR provides specific legal assistance to unaccompanied asylum-seeking children under its care, *inter alia*, through the presence of a legal officer during the personal interview with SEF (see [Legal Representation of Unaccompanied Children](#)).

2.2. Exemption from special procedures

Exemption from the border procedure

According to the Asylum Act, applicants victims of torture and/or serious violence in need of special procedural guarantees shall be exempted from the border procedure and from detention in the context of border procedures when the necessary support and conditions cannot be ensured within that context.⁴¹⁰ However, no standard operational procedures and tools allowing for the early and effective identification of survivors of torture and/or serious violence and their special procedural needs are in place. As such, asylum seekers who claim to be survivors of torture, rape, or other serious forms of psychological, physical or sexual violence have not been exempted from border procedures in practice, despite the lack of provision of special procedural guarantees at the border.⁴¹¹

Until 2016, certain categories of vulnerable asylum applicants such as unaccompanied children, pregnant women and seriously ill persons were systematically released from detention at the border and channelled to an admissibility procedure and/or regular or accelerated procedure in national territory. However, since then, including in the beginning of 2020, pregnant women, families with children, severely ill persons and victims of torture and/or serious violence were not always exempted from border procedures in practice. Although new guidance from the Ministry of Interior was issued in July 2018 regarding the duration of detention of certain categories of vulnerable asylum seekers, with the exception of unaccompanied children, this had not resulted in significant changes with regard to exemption from border procedures as

⁴⁰⁸ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <https://bit.ly/3gEoe1T>.

⁴⁰⁹ Article 79(3) Asylum Act.

⁴¹⁰ Article 17-A(4) Asylum Act.

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

the latter continued to be regularly applied to vulnerable applicants (see [Detention of Vulnerable Applicants](#)).⁴¹²

As mentioned in [Border Procedure](#), since March 2020, the border procedure is not being applied in Portugal to any applicants for international protection.

Exemption from the accelerated procedure

According to the Asylum Act, unaccompanied children are exempt from accelerated procedures, with the exception of subsequent applications that have not been deemed inadmissible, as well as from the application of certain grounds for inadmissibility, such as Dublin, first country of asylum, and third safe country grounds.⁴¹³

According to information available to CPR, SEF resorted to accelerated procedures once regarding an unaccompanied asylum-seeking child in 2018 and that decision was later overturned at appeal stage for being in breach of the Asylum Act and the recast Asylum Procedures Directive.⁴¹⁴

Statistical data from SEF for 2019 and 2020 indicated that accelerated procedures were not used in such cases. However, according to the information available to CPR, accelerated procedures were indeed applied to unaccompanied children in four cases in 2019 and in one case in 2020.

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

This understanding is clearly at odds with the applicable legal provisions as well as with the national jurisprudence. In the beginning of 2020, TAC **Lisbon** confirmed this assessment by overturning another decision and reaffirming the reasoning adopted in 2018.⁴¹⁵

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.⁴¹⁶ It further foresees the possibility for SEF to request reports on specific issues from experts (e.g. cultural or medical) during the regular procedure.⁴¹⁷ Nevertheless, there are no specific standards in law or administrative guidance relating to medical reports for those claiming to have been subjected to torture or other serious acts of physical, psychological and sexual violence.

The lack of standard operational procedures regarding the issuance, content and relevance of medical reports in the asylum procedure has been highlighted in the particular case of survivors of torture and/or serious violence.⁴¹⁸ According to the available information, medical reports are currently not issued based on the methodology laid down in the Istanbul Protocol.

⁴¹² Nevertheless, according to SEF, a total of 14 asylum applications lodged by unaccompanied minors were processed under a border procedure, in 2019.

⁴¹³ Article 79(9) Asylum Act.

⁴¹⁴ TAC Lisbon, Decision 869/18.2BELSB, 24 June 2018, unpublished.

⁴¹⁵ TAC Lisbon, Decision 2154/19.3BELSB, 17 January 2020, unpublished.

⁴¹⁶ Article 15(2) Asylum Act.

⁴¹⁷ Article 28(3) Asylum Act.

⁴¹⁸ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <https://bit.ly/3gEoe1T>.

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.⁴¹⁹ Legal representation can be provided by an organisation and can take the form and modalities laid down in law,⁴²⁰ such as those provided by the General Legal Regime of Civil Guardianship Act.⁴²¹ In this regard, SEF is required to immediately flag the need for legal representation to the Family and Juvenile Court while informing the child of the procedure.⁴²²

As regards the scope of legal representation of unaccompanied children, the legal representative must be informed in advance and in a timely manner by SEF of the interview and is entitled to attend it as well as to make oral representations.⁴²³ The presence of the legal representative does not exempt the unaccompanied child from the personal interview.⁴²⁴ Additionally, SEF must ensure that the legal representative is given the opportunity to inform the child of the meaning and implications of the personal interview as well as to explain how to prepare for it.⁴²⁵ The legal representative must also give his/her consent to SEF for the purpose of age assessment procedures.⁴²⁶

In practice, the legal representation of unaccompanied children has taken varying legal modalities in accordance with the General Legal Regime of Civil Guardianship Act and the Children and Youths at Risk Protection Act.⁴²⁷ Its scope usually covers the representation of the child for all legal purposes, including the asylum procedure and reception conditions.⁴²⁸ The Family and Juvenile Court usually appoints CPR's Director to act as legal representative. 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, which includes referring him/her to the CACR managed by the CPR.

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

Due to instances of overcrowding, in multiple occasions in 2020, the provision of protective measures (namely reception) had to be ensured by other entities according to relevant judicial decisions. Where representation and/or accommodation of unaccompanied children were ensured by other organisations, CPR provided legal assistance to their staff and to the children concerned on a need's basis, and with due consideration for the relevant legal framework.

SEF usually flags the need to provide the child with legal representation and refers him or her to the Family and Juvenile Court within a few days following the registration of the asylum application, including in the case of border procedures. Upon admission to one of its reception centres, CPR immediately informs the competent entities.

⁴¹⁹ Article 79(1) and (2) Asylum Act.

⁴²⁰ *Ibid.* See also Article 2(1)(ad) Asylum Act.

⁴²¹ Act 141/2015 of 8 September 2015.

⁴²² Article 79(1) and (2) Asylum Act.

⁴²³ Article 79(3) Asylum Act.

⁴²⁴ Article 79(5) Asylum Act.

⁴²⁵ Article 79(4) Asylum Act.

⁴²⁶ Article 79(7) Asylum Act.

⁴²⁷ Act 147/99 of 1 September 1999.

⁴²⁸ Article 25(1)(a) recast Asylum Procedures Directive; Article 24(1) recast Reception Conditions Directive.

An additional challenge in this regard concerns children travelling with adult siblings in possession of valid travel documents and entry visas for Portugal or having been transferred to Portugal with adult siblings in the framework of the Dublin Regulation. According to the information provided to CPR by SEF in 2018, in these cases the understanding is that there is a presumption of legal representation by the adult sibling, thus exempting SEF from the obligation to refer the child to the Family and Juvenile Court.⁴²⁹

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

It should be noted that even if SEF does not conduct individual interviews prior to the appointment of a legal representative, there is no best interests' assessment or intervention of a legal representative prior to the registration of the asylum claim.⁴³⁰ The law provides for the possibility of a child lodging his/her own asylum application.⁴³¹

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

While the law does not provide for specific requirements for acting as legal representative of an unaccompanied child, the Children and Youths at Risk Protection Act contains rules governing the composition of the technical staff of reception centres for children. Accordingly, the teams must be multidisciplinary and include personnel which holds at least a BA in the field of Psychology and Social Work. The technical director of the centre must further be appointed among staff members with such a background.⁴³²

In 2019, the UN Committee on the Rights of the Child expressed concern with "[...] weaknesses in policy and practice relating to unaccompanied and separated children, particularly in respect of legal representation and guardianship during refugee determination processes".⁴³³ The Committee recommended Portugal to "strengthen policies and practices to improve the identification and registration of unaccompanied and separated children, including through ensuring that they are provided with effective legal representation and an independent guardian immediately after they have been identified".⁴³⁴

⁴²⁹ The current definition of unaccompanied children in the Asylum Act contributes to this problematic understanding from SEF which, in CPR's view, is not in line with the protective duties entrusted to all public authorities regarding children at risk in accordance to relevant provisions in the General Legal Regime of Civil Guardianship Act and the Children and Youths at Risk Protection Act. Indeed, the current Asylum Act has failed to transpose into national law the definition of "unaccompanied minor" enshrined in Article 2(l) recast Qualification Directive and still refers to "third-country nationals (...) unaccompanied by an adult responsible for them *whether by law or custom*" as per the definition contained in Article 2(i) Directive 2004/83/EC.

⁴³⁰ A prior assessment of the best interest of the child would bring the procedure more in line with UNHCR's recommendations in this regard. See UNHCR, *The Way Forward to Strengthened Policies and Practices for Unaccompanied and Separated Children in Europe*, July 2017.

⁴³¹ Article 13(6) Asylum Act.

⁴³² Article 54 Children and Youth at Risk Protection Act.

⁴³³ Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Portugal*, CRC/C/PRT/CO/5-6, 9 December 2019, available at: <https://bit.ly/2G1F07z>, par.41 (c).

⁴³⁴ Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Portugal*, CRC/C/PRT/CO/5-6, 9 December 2019, available at: <https://bit.ly/2G1F07z>, par. 42(c).

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, including:

- (i) a time limit of 10 days for the adoption of an admissibility decision at first instance i.e., preliminary assessment;⁴³⁵
- (ii) the absence of automatic consequences in case of non-compliance with the time limit for deciding on admissibility;
- (iii) reduced guarantees regarding the right to a personal interview and to seek revision of the narrative of the personal interview;⁴³⁶
- (iv) specific criteria for assessing the admissibility of the claim;⁴³⁷ and
- (v) partially different time limits and effects of (onward) appeals.⁴³⁸

The Asylum Act does not provide, however, for specific rules regarding the right to remain on the territory pending the examination of the application,⁴³⁹ or the suspension of a removal decision,⁴⁴⁰ nor does it provide specific time limits or limitations on the number of subsequent applications a person can lodge.⁴⁴¹ Nevertheless, an “unjustified” subsequent application can lead to the [Reduction or Withdrawal of Reception Conditions](#).⁴⁴²

The National Director of SEF remains the competent authority to take a decision on the admissibility of subsequent applications.⁴⁴³

The criteria for assessing the admissibility of the subsequent claim are enshrined in the Asylum Act and consist in whether new elements of proof have been submitted or if the reasons that led to the rejection of the application have ceased to exist.⁴⁴⁴ The law does not provide further clarifications on what is to be considered as 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 SEF has rejected an application following its implicit withdrawal.⁴⁴⁵

Given the usually low number of subsequent applications, it is challenging to ascertain relevant practical guidance. A first instance decision on the admissibility of a subsequent application from 2016 refers to a “substantial and fundamental” difference as criteria for assessing the admissibility of the subsequent application, whereas several first instance decisions from 2018 refer to “any event occurred since prior decisions at first instance and appeal stages [were adopted]”, “new elements of proof regarding the

⁴³⁵ Article 33(4) Asylum Act.

⁴³⁶ Article 33(2), (4) and (6) Asylum Act.

⁴³⁷ Article 33(1) and (6) Asylum Act.

⁴³⁸ Article 33(6) Asylum Act.

⁴³⁹ Articles 13(1) and 33(9) Asylum Act.

⁴⁴⁰ 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.

⁴⁴¹ 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.

⁴⁴² Article 60(3)(f) Asylum Act.

⁴⁴³ Article 33(6) Asylum Act.

⁴⁴⁴ Article 33(1) Asylum Act.

⁴⁴⁵ Article 2(1)(t) Asylum Act.

alleged facts” and that the “absence of new facts is also enhanced by the fact that according to his statement the applicant did not return to his country of origin or left European soil since his last application”. According to the available information, more recent decisions do not offer further guidance with regard to the interpretation of the relevant concepts.

Recent case law has failed to provide guidance in this regard.⁴⁴⁶ However, it has ruled that facts that were not presented during the initial application without reason cannot be considered as new facts. At the same time, the Court also conducted an assessment – echoing SEF’s first instance assessment – of whether the new facts stated by the applicant constitute relevant grounds for a well-founded risk of persecution, which seems to be at odds with the admissibility assessment at hand.⁴⁴⁷

The limited number of subsequent applications registered – less than 5 lodged in 2020, compared to 8 in 2019, 13 in 2018, and 9 in 2017 – does not allow for a general assessment of existing obstacles in lodging a subsequent application.

According to information collected by CPR, in recent years, subsequent applicants are generally provided a personal interview to assess whether new elements were submitted.⁴⁴⁸ The preliminary interview to assess the admissibility of the application tends to differ from a personal interview conducted in the admissibility/accelerated/regular procedure insofar as it mainly seeks to ascertain new facts, evidence or changes in circumstances related to persecution since the presentation of the initial asylum application. The reasoning of inadmissibility decisions generally includes an assessment of the existence, credibility and relevance of new facts and changes in circumstances since the presentation of the initial asylum application. The evidentiary value of documents and other elements of proof submitted, as well as the inconsistencies between the information provided and the facts described in the context of the original application, are usually analysed.

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

The Asylum Act provides for an appeal against the decision to reject a subsequent application (see [Admissibility Procedure: Appeal](#)). The time limit for lodging the appeal is 4 days.⁴⁴⁹ The initial appeal before the Administrative Court has automatic suspensive effect,⁴⁵⁰ as opposed to onward appeals that have no automatic suspensive effect.⁴⁵¹

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 possible 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.

⁴⁴⁶ TAC Lisbon, Decision 1748/18.9BELSB, 26 November 2018, unpublished.

⁴⁴⁷ A similar approach was followed in a 2019 judgement of TAF Porto that noted that a subsequent application should only go beyond the preliminary evaluation if there are new facts, circumstances or evidence that by themselves show that it is likely that the applicant is eligible for international protection. TAF Porto, Decision 649/18.5BELSB, 17 January 2019, unpublished.

⁴⁴⁸ 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.

⁴⁴⁹ Article 33(6) Asylum Act.

⁴⁵⁰ Ibid.

⁴⁵¹ Article 33(8) Asylum Act.

F. The safe country concepts

Indicators: Safe Country Concepts

- | | |
|--|---|
| 1. Does national legislation allow for the use of “safe country of origin” concept? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ Is there a national list of safe countries of origin? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| ❖ Is the safe country of origin concept used in practice? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 2. Does national legislation allow for the use of “safe third country” concept? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ Is the safe third country concept used in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Does national legislation allow for the use of “first country of asylum” concept? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

1. Safe country of origin

The Asylum Act provides for a definition of “safe country of origin” that is in line with Article 36 of the recast Asylum Procedures Directive.⁴⁵² However, the law does not further regulate its application. The only exception is that the “safe country of origin” concept is listed as one of the grounds for the application of the *Accelerated Procedure*.⁴⁵³

To date, the authorities have not introduced legislation that allows for the national designation of safe countries of origin for the purposes of examining applications for international protection in line with Annex I of the Directive.

According to the information available to CPR, SEF does not have a list of safe countries of origin as a matter of administrative guidance and the concept is not used in practice as a ground for channelling asylum applications into an accelerated procedure.

2. Safe third country

The Asylum Act provides for a definition of “safe third country” that presents some inconsistencies with Article 38 of the recast Asylum Procedures Directive.⁴⁵⁴ These inconsistencies were raised in 2014 by CPR during the legislative process that transposed the second-generation *acquis* into national law,⁴⁵⁵ and include the following:

- The provision applies *ratione personae* to asylum seekers alone, as opposed to applicants for international protection;⁴⁵⁶
- The provision does not include the absence of a risk of serious harm as a condition for the application of the concept;
- The provision does not include the possibility for the applicant to challenge the existence of a connection between him or her and the third country;
- A standard of possibility rather than reasonableness is set in the provision concerning the return on the basis of a connection between the applicant and the third country concerned.⁴⁵⁷

While excluding EU Member States from the concept of safe third country,⁴⁵⁸ the Asylum Act does not provide for specific rules regarding EU and non-EU European safe third countries.

⁴⁵² Article 2(1)(q) Asylum Act.

⁴⁵³ Article 19(1)(f) Asylum Act.

⁴⁵⁴ Article 2(1)(r) Asylum Act.

⁴⁵⁵ 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>.

⁴⁵⁶ Article 2(1)(r) Asylum Act.

⁴⁵⁷ Article 2(1)(r)(i) Asylum Act.

⁴⁵⁸ Article 19-A(1)(d) Asylum Act that excludes EU Member States from the concept of third safe country.

Although the concept is a ground for inadmissibility (see [Admissibility Procedure](#)),⁴⁵⁹ the authorities have not introduced further rules in national legislation to date (e.g., relevant connection indicators or rules regarding the application of the concept to a particular country or to a particular applicant).

According to the information available to CPR, SEF does not have a list of countries designated to be generally safe as a matter of administrative guidance. While the number of inadmissibility decisions on safe third country grounds is generally low, countries designated as such in the past included **Brazil, Ecuador, Morocco, Mozambique, South Africa, and Turkey.**

According to SEF, in 2020 there were no negative decisions based on the concept of “safe third country” (see [Admissibility Procedure](#)).

Connection criteria

To date, the establishment of a connection rendering the applicant’s transfer to a safe third country reasonable by SEF has been based on indicators such as transit (sometimes as short as a few weeks), the registration of an asylum application or residence rights, and the remaining legal requirements of the clause have usually not been (adequately) analysed.

A 2018 judgment of TCA South, determined that mere transit (for 28 days) and the submission of an asylum application were not sufficient to establish a meaningful connection for purposes of rendering the applicant’s transfer to the safe third country reasonable.⁴⁶⁰

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,⁴⁶¹ and that attempts to merge the criteria listed in Article 38(1) of the Directive.⁴⁶² 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, inhuman or degrading treatment is respected. The “first country of asylum” concept is included among the inadmissibility grounds enshrined in the Asylum Act.⁴⁶³

The number of inadmissibility decisions on first country of asylum grounds is generally limited. According to SEF, there were no such decisions in 2020.

In those limited cases, the analysis conducted by SEF into the requirements of the concept generally focused on the legal status of the applicant, failing to adequately assess security risks in the first country of asylum alleged by the applicant. CPR is aware of one noticeable exception where SEF conducted a

⁴⁵⁹ Article 19-A(1)(d) Asylum Act.

⁴⁶⁰ TCA South, Decision 2163/17.7BESLB, 15 March 2018, available in Portuguese at: <https://bit.ly/2DpS327>. A previous decision from TAC Lisbon had already excluded the mere transit and the presentation of an asylum application as sufficient to establish a meaningful connection: TAC Lisbon, Decision 1792/17.3BESLB, 30 September 2017, unpublished.

⁴⁶¹ Article 2(1)(z) Asylum Act.

⁴⁶² 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.

⁴⁶³ Article 19-A(1)(c) Asylum Act.

thorough assessment of protection conditions in the first country of asylum (Cameroon) following a decision from TAC Lisbon that quashed the initial first instance inadmissibility decision.

According to the information available to CPR, case law regarding the interpretation of the concept is highly limited but includes a ruling from a second-instance Administrative Court focusing on the definition of “sufficient protection”. According to the court’s interpretation of the provision enshrined in the Asylum Act, such protection should be interpreted to encompass the principle of *non-refoulement* in accordance with the Refugee Convention but also *refoulement* where a civilian’s life or person is at risk by reason of indiscriminate violence in situations of armed conflict.⁴⁶⁴

However, as stressed by TAC Lisbon in a ruling from November 2017, the formal recognition of refugee status is not *per se* sufficient to qualify a third country as a first country of asylum in the absence of a meaningful assessment of possible risks to the security of the applicant in that country.⁴⁶⁵

G. Information for asylum seekers and access to NGOs and UNHCR

1. Provision of information on the procedure

Indicators: Information on the Procedure

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No

❖ Is tailored information provided to unaccompanied children? ☒ Yes ☐ No

The Asylum Act provides for the right to:

- A broad set of information on the asylum procedure and reception conditions in general;⁴⁶⁶
- Information on key developments and decisions relating to the individual asylum file;⁴⁶⁷

⁴⁶⁴ 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.

⁴⁶⁵ TAC Lisbon, Decision 2163/17.7BESLB, 30 November 2017, unpublished. Another judgement from 2019, considered that episodes of robbery in the country of asylum were “*personal circumstances*” that did not amount to “*a situation of indiscriminate violence*”. TAC Lisbon, Decision 271/19.9BELSB, 13 September 2019, unpublished.

⁴⁶⁶ 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 EUODAC 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).

⁴⁶⁷ This includes the individual notification of first instance decisions in admissibility and accelerated procedures on national territory (Article 20(3)); the individual notification of first instance decisions in admissibility and accelerated procedures and the right to appeal at the border (Article 24(5)); individual notification of 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 appeal regarding applications following a removal procedure (Article 33-A(6)); individual notification of outgoing Dublin take charge or take back decisions (Article 37(2)); individual notification of 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)).

- Information on detention;⁴⁶⁸ and
- Specific information rights of unaccompanied children.⁴⁶⁹

Furthermore, the law provides for a general right to interpretation “whenever necessary” during registration of the application and throughout the asylum procedure.⁴⁷⁰ This refers to the right to interpretation into a language that the asylum seeker understands or is reasonably expected to understand.⁴⁷¹

In practice, while SEF generally complies with the obligation to inform asylum seekers of key developments, decisions and associated rights during asylum procedures, interpretation for that purpose is not systematically available and rarely includes an explanation of the grounds of the decision. The absence of translation has also been problematic in cases where SEF informs asylum seekers of developments in their applications by postal mail and e-mail in Portuguese⁴⁷². This problem mainly concerns asylum seekers residing in private accommodation.

Information at the registration stage

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. SEF has also produced information leaflets that briefly cover some of its information obligations such as the asylum procedure and the rights and duties of applicants of international protection,⁴⁷³ reception conditions,⁴⁷⁴ the Dublin III and Eurodac Regulations,⁴⁷⁵ and a specific information leaflet for unaccompanied children regarding the asylum procedure, reception conditions, rights and duties including legal representation and age assessment.⁴⁷⁶ The information contained in the leaflets is brief and not considered user-friendly, particularly in the case of unaccompanied children. According to CPR’s experience, the leaflets are available in a limited number of foreign languages (e.g., French, English, Arabic) and are not distributed systematically except for information on the Dublin Regulation.

CPR’s liaison officers present at SEF-GAR develop efforts to explain the content of the documents handed to applicants, especially when they are not able to read.

Information on the Dublin procedure

CPR has no indication that the common information leaflet provided for in Article 4(3) of the Dublin III Regulation is being systematically distributed. The only information provided on the functioning of the Dublin system seems to be contained in the general information leaflet on the Dublin III and Eurodac Regulations, which is very limited. Asylum seekers are systematically informed in writing of the likely responsibility of another Member State, and the corresponding supporting evidence during the personal interview. In case the take back/take charge request is refused by the Member State and another Member State is deemed responsible by the Portuguese authorities, the asylum seekers is usually notified of the

⁴⁶⁸ 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)).

⁴⁶⁹ 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)).

⁴⁷⁰ Article 49(1)(d) Asylum Act.

⁴⁷¹ 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.

⁴⁷² Attaching documents such as accelerated procedures decisions, Dublin transfer decisions or proposals for a final decision in the regular procedure, also in Portuguese.

⁴⁷³ SEF, *Informação para Requerentes de Proteção Internacional em Portugal*, available in Portuguese at: <https://bit.ly/2MoTRez>.

⁴⁷⁴ SEF, *Acolhimento em Portugal*, available in Portuguese at: <https://bit.ly/2MkBnvC>.

⁴⁷⁵ SEF, *Regulamento Dublin III*, available in Portuguese at: <https://bit.ly/2Hq5aEy>.

⁴⁷⁶ SEF, *Informação para Menores Não-Acompanhados Requerentes de Proteção Internacional em Portugal*, available in Portuguese at: <https://bit.ly/2FFVjc3>.

likelihood of being transferred to that Member State. In such cases, according to CPR's experience, the asylum seeker is not informed of details regarding the refusal (see [Dublin: Procedure](#)).

Information on the border procedure

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.⁴⁷⁷ According to a recent report of the National Preventive Mechanism⁴⁷⁸, multiple gaps in the provision of information were detected, both with regard to the applicable legal frameworks and the individual situation of the applicants.

Child-friendly information

Despite having been designated as legal representative for the vast majority of unaccompanied children who applied for asylum in 2019, CPR is unaware of the provision of child-friendly information by SEF, including the specific information leaflet for unaccompanied children and the information leaflet provided for by Article 4(3) of the Dublin Regulation.

Information on procedural developments

Furthermore, and despite written requests to that end, asylum seekers are very rarely informed of the extension of the time limit for the examination of their application, the grounds for the extension and the expected time limit for the decision in the regular procedure as required by law.⁴⁷⁹

Information by NGOs

CPR provides free legal information to asylum seekers throughout the asylum procedure that broadly covers the information requirements provided in the law, including tailored information to unaccompanied children and to relocated asylum seekers, on the basis of individual interviews and legal counselling. Challenges in capacity have at times restricted the provision of legal information during the first instance asylum procedure, particularly regarding asylum seekers placed in detention or private accommodation in more remote locations (see [Regular Procedure: Legal Assistance](#)).

There are other organisations that provide legal information and assistance to asylum seekers during the first instance of the regular procedure such as the Jesuit Refugee Service ([JRS Portugal](#)), and the High Commissioner for Migration ([ACM](#)) through its National Centres for Migrants' Integration (CNAIM) and Local Support Centres for Migrants Integration (*Centro Local de Apoio à Integração de Migrantes*, CLAIM) spread throughout the country and Crescer. According to the available information, these services remain residual and mostly focused on integration.

⁴⁷⁷ 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.

⁴⁷⁸ Portuguese Ombudsman, *Mecanismo Nacional de Prevenção – Relatório à Assembleia da República 2018*, 30 May 2019, available in Portuguese at: <https://bit.ly/2XTmicn>.

⁴⁷⁹ Article 28(2) Asylum Act.

2. Access to NGOs and UNHCR

Indicators: Access to NGOs and UNHCR

1. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☒ Yes ☐ With difficulty ☐ No
3. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No

Regarding access to UNHCR, CPR and other NGOs at the border and in detention, see the sections on [Border Procedure](#) and [Access to Detention Facilities](#).

H. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☒ Yes ☐ No
❖ If yes, specify which: Syria, Eritrea (within the context of relocation)
2. Are applications from specific nationalities considered manifestly unfounded?⁴⁸⁰ ☐ Yes ☒ No
❖ If yes, specify which:

Within the context of the EU emergency relocation programme (2015-2018), it was observed that SEF generally granted subsidiary protection to **Syrians** and refugee status to **Eritreans**.

In the course of 2019, CPR observed that, SEF deemed a significant number of applications lodged by **Venezuelans** as unfounded within accelerated procedures (notably on grounds of irrelevance),⁴⁸¹ and referred the cases to regularisation procedures through the humanitarian clause of the exceptional regularisation regime of the Immigration Act.⁴⁸²

According to the decisions, such a referral was done due to the political, social, and humanitarian crisis in the country and its impacts in the regular functioning of institutions and public services. While further information on the conduct of such procedures was not available to CPR at the time of writing, this is an uncommon practice from the authorities that was only systematically applied to Venezuelans.⁴⁸³ The practice was confirmed in the Statistical Report of Asylum (2020).⁴⁸⁴ While official data in this regard is not available, according to CPR's observation, this practice persisted in 2020.

TCA South analysed one such decision in 2020. In the case concerned, the applicant referred to the overall conditions in Venezuela (insecurity, lack of living conditions, lack of access to essential goods) and, particularly, to the lack of access to necessary medication. The Court considered that the first instance decision was contradictory. It was also concluded, *inter alia*, that given the publicly available information regarding the situation in Venezuela, it is notorious that the socio-economic situation is harsh, with shortages of food and medicines, and growing violence. The Court concluded that, given the applicant's statements and the available information, the allegations were *pertinent* and *relevant*, and the application should be analysed within the regular procedure.⁴⁸⁵

⁴⁸⁰ Whether under the "safe country of origin" concept or otherwise.

⁴⁸¹ Article 19(1)(e) Asylum Act.

⁴⁸² Article 123 Immigration Act.

⁴⁸³ The decisions analysed do not clarify whether such procedures are triggered automatically by SEF and if residence permits on humanitarian grounds are effectively granted.

⁴⁸⁴ Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, p.62, available in Portuguese at: <https://bit.ly/2MGYtB9>.

⁴⁸⁵ TCA South, Decision 1574/19.8BELSB, 17 March 2020, unpublished.

Furthermore, the practice seems to contradict the position assumed by Portugal externally regarding persons fleeing Venezuela, notably the pledges made in the 2019 Global Refugee Forum where Portugal committed “to ensure financial contributions for [...] joint operations of the UNHCR/IOM operation in Colombia (to address the urgent needs of Venezuelan refugees) [...]” and also referred to supporting the higher education of Venezuelan refugees.⁴⁸⁶

⁴⁸⁶ *Statement from Portugal at the Global Refugee Forum*, 17 December 2019, available at: <https://bit.ly/38OHMdM>.

Short overview of the reception system

The primary responsibility for the provision of material reception conditions lies with the Ministry of Home Affairs.⁴⁸⁷ However, the responsibility for reception lies with the Ministry of Employment, Solidarity, and Social Security for asylum seekers who pass the admissibility procedure and are in the regular procedure.⁴⁸⁸ The competent authorities can cooperate with other public entities and/or private non-profit organisations in the framework of a MoU to ensure the provision of such services.⁴⁸⁹ In practice, different entities provide reception conditions depending on the type and stage of the procedure and/or the profile of the applicant:

- The **Institute for Social Security (ISS)** offers material reception conditions to asylum seekers in the regular procedure;
- **Santa Casa da Misericórdia de Lisboa (SCML)** assists asylum seekers who have submitted an appeal against a Dublin decision or a first instance decision (with the exception of a first instance decision in the regular procedure) as well as certain categories of asylum seekers in the regular procedure;
- The **Portuguese Refugee Council (CPR)** provides reception services to asylum seekers in the admissibility (including Dublin) and accelerated procedures on the national territory. As regards unaccompanied children, CPR also provides for material reception conditions in the regular procedure and at appeal stage in accordance with the relevant protective measures.
- The **Immigration and Borders Service (SEF)** retains responsibility for material reception conditions in border procedures and procedures in detention following a removal order.⁴⁹⁰

Asylum seekers who lack resources⁴⁹¹ are entitled to support from the moment they apply for asylum,⁴⁹² and until a final decision is reached on their asylum application,⁴⁹³ without prejudice to the suspensive effect of appeals⁴⁹⁴ 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.⁴⁹⁵

In practice, the majority of spontaneous asylum applicants are systematically referred by SEF and benefit from the provision of material reception conditions by CPR in the framework of admissibility and accelerated procedures on the territory.

In the current reception system, adults, and families with children are accommodated at CPR's Refugee Reception Centre (CAR) or in private accommodation provided by CPR (apartments and rooms in the private market or hostels) during admissibility (including Dublin) and accelerated procedures on the territory. In the case of unaccompanied children, CPR's Refugee Children Reception Centre (CACR) offers appropriate housing and reception conditions during the regular procedure and at appeal stage.

Asylum seekers supported by ISS are mostly provided with private housing (rented flats/houses and rooms) without prejudice to accommodation provided by relatives in Portugal and collective accommodation such as hotels or non-dedicated reception centres e.g., emergency shelters, nursing homes, etc. In previous years, the provision of housing by SCML consisted mostly of accommodation in private rooms in the Lisbon area. Within the context of the coronavirus pandemic, and considering the

⁴⁸⁷ This includes admissibility procedures (including Dublin procedures); accelerated procedures, border procedures, subsequent applications and applications following a removal decision: Article 61(1) Asylum Act.

⁴⁸⁸ Article 61(2) Asylum Act.

⁴⁸⁹ Article 61(1) and (2) *in fine* Asylum Act.

⁴⁹⁰ Article 61(1) Asylum Act.

⁴⁹¹ Articles 51(1) and 56(1) Asylum Act.

⁴⁹² Articles 51(1), 56(1) and 2(1)(a) Asylum Act.

⁴⁹³ Article 60(1) Asylum Act.

⁴⁹⁴ Articles 60(1) *in fine* and 30(1) Asylum Act.

⁴⁹⁵ Article 60(2) Asylum Act.

accommodation needs, SCML adopted a new strategy according to which hostels are also used to accommodate asylum seekers.⁴⁹⁶

CPR ensures accommodation until ISS or SCML take over and asylum seekers only leave its facilities when alternative accommodation is secured.

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions available to asylum seekers in the following stages of the asylum procedure?

❖ Regular procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Dublin procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Admissibility procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Border procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Accelerated procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ First appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Onward appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Subsequent application	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> Reduced material conditions	<input checked="" type="checkbox"/> No

2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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1.1. Responsibility for reception

The primary responsibility for the provision of material reception conditions lies with the Ministry of Home Affairs.⁴⁹⁷ However, the responsibility for reception lies with the Ministry of Employment, Solidarity and Social Security for asylum seekers who pass the admissibility procedure and are in the regular procedure.⁴⁹⁸ Moreover, the authorities can cooperate with other public entities and/or private non-profit organisations in the framework of a MoU to ensure the provision of such services.⁴⁹⁹

The practical framework for the reception of asylum seekers in Portugal currently stems from both bilateral MoUs,⁵⁰⁰ and a multilateral MoU between relevant stakeholders.⁵⁰¹ The latter is coordinated by a Steering Commission (*Comissão de Acompanhamento*, CA) presided by the Institute of Social Security (*Instituto da Segurança Social*, ISS).⁵⁰² 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 and/or the profile of the applicant:

⁴⁹⁶ This change of practice was accompanied by the creation of a team dedicated to the provision of support to asylum seekers.

⁴⁹⁷ This includes admissibility procedures (including Dublin procedures); accelerated procedures, border procedures, subsequent applications and applications following a removal decision: Article 61(1) Asylum Act.

⁴⁹⁸ Article 61(2) Asylum Act.

⁴⁹⁹ Article 61(1) and (2) *in fine* Asylum Act.

⁵⁰⁰ Notably MoUs between the Ministry of Home Affairs / SEF and CPR, between ISS and CPR, and between the ISS and Santa Casa da Misericórdia de Lisboa (SCML).

⁵⁰¹ The initial signatories in 2012 included the SEF, ISS, SCML, CPR, ACM and the Employment and Vocational Training Institute (*Instituto do Emprego e Formação Profissional*, IEFP). In 2014, the partnership was extended to include the Directorate General for Health (*Direção-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. In 2018, the National Agency for Qualification and Vocational Education (*Agência Nacional para a Qualificação e o Ensino Profissional*, ANQEP) also joined the partnership. ANQEP is a public entity responsible for the coordination of formative policies for young people and adults.

⁵⁰² The Steering Commission was 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.

1. The **Institute for Social Security (ISS)** offers material reception conditions to asylum seekers in the regular procedure;
2. **Santa Casa da Misericórdia de Lisboa (SCML)** assists asylum seekers who have submitted an appeal against a Dublin decision or a first instance decision (with the exception of a first instance decision in the regular procedure) as well as certain categories of asylum seekers in the regular procedure (e.g., vulnerable cases such as unaccompanied children initially accommodated at CACR that move into assisted apartments and former unaccompanied children initially accommodated at CACR; or individuals and families with strong social networks in the Lisbon area);
3. The **Portuguese Refugee Council (CPR)** provides reception services to asylum seekers in the admissibility (including Dublin) and accelerated procedures on the national territory. As regards unaccompanied children, CPR also provides for material reception conditions in the regular procedure and at appeal stage in accordance with 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 **Immigration 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](#)).⁵⁰³

While this mechanism was still in place at the end of the year, in November 2020, a much-anticipated resolution of the Council of Ministers establishing a **single system of reception and integration** of applicants for and beneficiaries of international protection was published.⁵⁰⁴ According to the Resolution, the main features of this single system are as follows:

- The single system covers all applicants and beneficiaries of international protection, including unaccompanied children, resettled refugees, and relocated asylum seekers;
- A Single Operative Group (SOG) is established. The SOG has a restricted and an extended line-up;
- The restricted line-up ensures the coordination and is composed by ACM, SEF and ISS;
- The extended line up develops technical and operational tasks and, in addition to ACM, SEF and ISS also includes: the Directorate General for Higher Education (DGES), DGEstE, Portuguese Institute of Sports and Youth (IPDJ), IEFP, ANQEP, SCML, ACSS, DGS, and IHRU. The resolution further establishes that other entities with competences in the fields of reception and integration, namely CPR, are also part of this line up.
- ACM is responsible for organising periodic meetings (at least one every month), providing logistical and administrative support, and preparing the regulation of the Single Operative Group;
- The resolution further details the responsibilities of ACM, SEF and ISS within the context of the SOG;
- The SOG is established for 5 years with possibility of extension. Instruments concerning reception and integration of applicants for and beneficiaries of international protection in force must be adjusted to the provisions of the resolution.

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,⁵⁰⁵ with the exception of a possible withdrawal or reduction of those conditions in the case of “unjustified” subsequent applications.⁵⁰⁶ Asylum seekers are entitled to support from the

⁵⁰³ Article 61(1) Asylum Act.

⁵⁰⁴ Resolution of the Council of Ministers no. 103/2020 of 23 November 2020, available at: <https://bit.ly/3oBLXQm>.

⁵⁰⁵ Articles 51(1) and 56(1)-(2) Asylum Act.

⁵⁰⁶ 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

moment they apply for asylum,⁵⁰⁷ and until a final decision is reached on their asylum application,⁵⁰⁸ without prejudice to the suspensive effect of appeals⁵⁰⁹ 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.⁵¹⁰

Furthermore, there is a requirement in the law according to which only asylum seekers who lack resources are entitled to material reception conditions.⁵¹¹ The law provides for criteria to assess the sufficiency of resources that consist in either the lack thereof or a level of financial resources which is inferior to the "social support allowance" provided in the law.⁵¹² To date, ISS has interpreted this provision as referring to the social pension (*pensão social*) that in 2020 stood at € 211.79 per month.⁵¹³ According to the information provided by ISS, internal procedures determine that cases are reassessed every three months and the provision of material reception conditions is maintained where the indicators of a lack of resources remain.

Asylum seekers can be called to contribute,⁵¹⁴ or reimburse,⁵¹⁵ partly or in full, the cost of material reception conditions and health care depending on the level and the point in time when the authorities become aware of their financial resources. However, neither the law nor administrative guidelines specify at what point the asylum seeker is required to declare any financial resources he or she might have.

In practice, the majority of spontaneous asylum applicants are systematically referred by SEF and have benefited from the provision of material reception conditions by CPR in the framework of admissibility and accelerated procedures on the territory. This was done without a strict assessment of resources by SEF as many asylum seekers had recently arrived in the country and were considered as being manifestly in need of assistance. In cases where they had financial resources or relatives in Portugal, certain asylum seekers chose not to benefit from the accommodation provided by CPR. 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 is dependent on written referral from SEF-GAR. The transition from border facilities to reception centres within the territory is carried out smoothly in general. As for unaccompanied children, referral by SEF to CPR's CACR is made by the most expedient means available such as telephone or email, and children released from the border, are escorted by SEF to the premises. 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,⁵¹⁶ the asylum seeker is generally referred by frontline service providers such as CPR to the Technical Operative Group (*Grupo Técnico Operativo – GTO*) using a standard individual monitoring report. The GTO decides on the provision of material reception conditions in the regular

⁵⁰⁷ assessment as per Article 33(4). According to the information available to CPR, such possibility was not enforced in 2018 and 2019, as SEF referred subsequent applicants in need of housing to the relevant entities. 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.

⁵⁰⁸ Article 60(1) Asylum Act.

⁵⁰⁹ Articles 60(1) *in fine* and 30(1) Asylum Act.

⁵¹⁰ Article 60(2) Asylum Act.

⁵¹¹ Articles 51(1) and 56(1) Asylum Act.

⁵¹² Article 56(3) Asylum Act.

⁵¹³ Decree-Law 464/80 and Ministerial Order 28/2020.

⁵¹⁴ Article 56(4) Asylum Act.

⁵¹⁵ Article 56(5) Asylum Act.

⁵¹⁶ This includes rejected asylum seekers released from the border after the expiry of the 60-day time limit (see [Duration of Detention](#)).

procedure (by ISS), or at appeal stage (by SCML), based on the report that includes information on the socio-economic circumstances of the individual. According to the information available to CPR, in 2020, some asylum seekers were not provided material reception conditions at this stage on the grounds that they were working. This has not been common as, at this stage, asylum seekers admitted to the regular procedure are often unemployed, despite being provided access to the labour market.

While spontaneous asylum applicants do not face systematic obstacles in gaining access to available material reception conditions (e.g., due to delays in the issuance of the individual certificate of the asylum application or a strict assessment of resources), some concerns remain regarding access to support. These include the provision of support by CPR to asylum seekers accommodated in private accommodation in remote locations (e.g., due to the lack of information from SEF's regional representations regarding available assistance and costs associated with travel and communications for initial and follow-up interviews with social workers at CPR). Another concern stems from the potential exclusion of asylum seekers from material reception conditions in the regular procedure in case of refusal to accept the dispersal policy in place managed by the GTO (see [Freedom of Movement](#)).

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to adult asylum seekers as of 31 December 2020 (in original currency and in €): € 211.79 - € 273.42

The Asylum Act provides for a general definition of material reception conditions,⁵¹⁷ as well as a closed list of forms of provision of material reception conditions in Article 57(1) that includes:

- a. Housing;⁵¹⁸
- 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.⁵¹⁹

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,⁵²⁰ 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.

⁵¹⁷ Article 2(1)(e) Asylum Act: housing, food, clothing and transportation offered in kind, through financial allowances, vouchers or daily allowances.

⁵¹⁸ 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.

⁵¹⁹ Article 57(4) Asylum Act.

⁵²⁰ Article 56(1) Asylum Act.

The specific criteria for establishing the value of the financial allowances consists of a percentage of the “social support allowance”,⁵²¹ which to date has been interpreted by the ISS as referring to the social pension (*pensão social*).⁵²² These percentages represent the upper limit of the allowances.

While ISS confirmed that the amounts of the financial allowances granted by the entity was updated in 2020 (following the update of the social pension, as per the usual practice), according to SCML, the amounts of the financial allowances granted by the organisation to persons under its care remained the same as in 2019.⁵²³ As such, in 2020, the following applied:

Level of financial allowances per expense: 2020			
Type of monthly allowance	Percentage	Amount	
		ISS	SCML
Social support allowance for food, clothing, transport and hygiene items	70%	€ 148.25	€ 147.22
Complementary allowance for housing	30%	€ 63.54	€ 63.10
Complementary allowance for personal expenses and transport	30%	€ 63.54	€ 63.10

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

CPR’s Social Department provides asylum seekers with second-hand clothes as well as food items as needed and/or weekly with the support of the 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, 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) or non-funded medication; (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 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 age: € 10 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. Unaccompanied young people in pre-autonomy stage are responsible for managing their own monthly allowance of €150.

In the regular procedure or pending an appeal against a rejection decision during the admissibility stage or in an accelerated procedure, the financial allowance provided by ISS and by SCML is expected to cover all expenses. SCML provides an additional monthly support in cases of severe economic vulnerability (which are often linked to the extremely high costs of accommodation). In 2020, 62 applicants were covered by this measure.⁵²⁴ ISS has also confirmed that in 2020 it has provided further support for housing expenses (first two months of rent upon presentation of a lease proposal) and that, when deemed justified following assessment, additional support for housing and other expenses can be granted.

⁵²¹ Article 58 Asylum Act.

⁵²² In 2020, the value of the social pension stood at € 211.79/ month – Decree-Law 464/80 and Ministerial Order 28/2020.

⁵²³ In 2019, the value of the social pension stood at €210.32/month – Decree-Law 464/80 and Ministerial Order 25/2019.

⁵²⁴ Moreover, according to information provided by SCML, the organisation also allows asylum seekers under its care to access its healthcare units in accordance with medical needs.

The monthly allowance for all expenses is calculated in accordance with the percentages of the social pension set out in the Asylum Act,⁵²⁵ as mentioned above, albeit with a regressive percentage per additional member of the household.

While in previous years, the amount of the allowances granted by ISS and SCML was the same, according to the information provided by the organisations, this was not the case in 2020. According to ISS, an audit carried out in 2020 concluded that the “social support allowance for food, clothing, transport and hygiene items” could not, according to Article 57(3) of the Asylum Act, be combined with the “complementary allowance for personal expenses and transport”. According to the information provided by SCML, the amounts of the financial allowances were the same that applied in 2019. Consequently, the amounts applied were as follows:

Level of ISS / SCML financial allowance for all expenses: 2020		
Category of applicant	Amount	
	ISS	SCML
Head of household	€ 211.79	€ 273.42
Other adult(s) in household	€ 148.25	€ 191.39
Child	€ 105.90	€ 136.71

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 ISS since has been to bring them strictly in line to those provided in the law to destitute nationals. According to the law, the social pension constitutes a measure of solidarity to offer social protection to the most vulnerable populations.⁵²⁶

Even though no qualitative research has been conducted to date on destitution of asylum seekers in the asylum procedure, 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 outright destitution. Such difficulties might constitute a contributing factor to the level of absconding and cessation of support (see [Reduction or Withdrawal of Reception Conditions](#)).

Following a resolution passed by the Parliament in June 2017 recommending the publication of an evaluation report of the Portuguese reception policy for refugees,⁵²⁷ the Government opted for a more limited assessment of the national relocation programme leaving out the reception system for spontaneous asylum seekers. The report, coordinated and drafted by ACM, collected inputs from 39 hosting entities and 1 refugee community organisation and was completed in December 2017.⁵²⁸ The evaluation conducted by ACM is based on a set of general indicators drawn from the priority areas of the Working Group's national plan for the reception and integration of relocated persons. Despite the general acknowledgement of some challenges, the overall evaluation of the programme is positive. However, the results presented regarding reception and integration conditions are based on very general quantitative indicators and provide limited qualitative information.⁵²⁹ The qualitative information presented in the report

⁵²⁵ Article 58 Asylum Act.

⁵²⁶ Preamble to Decree-Law 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).

⁵²⁷ Resolução da Assembleia da República n.º 167/2017 Recomenda ao Governo a publicação de um relatório de avaliação da política portuguesa de acolhimento de refugiados, available in Portuguese at: <https://bit.ly/2GdX39b>.

⁵²⁸ ACM, *Relatório de Avaliação da Política Portuguesa de Acolhimento de Pessoas Refugiadas, Programa de Recolocação*, December 2017, unpublished.

⁵²⁹ The indicators used included a 100% rate regarding registration with the SNS and access to medical care; 98% access to Portuguese language classes; around 80% access of children to education; around 80% first instance decisions on the asylum application; 29 births on the territory; 50% of persons in working age that

is mostly based on the consultation conducted with hosting and refugee community organisations and points to challenges such as insufficient financial support and the need for longer reception programmes; gaps in pre and post departure information; lack of translators; and insufficient and ill adapted language training as well as insufficient vocational training opportunities.

Parliament resolution no. 292/2018 recommended the publication of a yearly report on the national asylum policy. In May 2020, in response to this recommendation, the Observatory for Migration (OM)⁵³⁰ published its first Statistical Report of Asylum (2020).⁵³¹ The report identifies challenges and issues recommendations with regard to adequate monitoring of the asylum system, as well as challenges inherent to the asylum policy. The report covers spontaneous asylum seekers, relocated asylum seekers (within the different programmes), and resettled refugees. With regards to reception within the context of relocation/resettlement, the report observes that 34.4% of the applicants/beneficiaries that concluded their reception programmes between 2017 and 2019 were deemed autonomous, thus not requiring further referral to support by ISS/SCML.

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.⁵³² These consist of **unjustifiably**:

- a. Abandoning the place of residence determined by the authority without informing SEF or without adequate permission;
- b. Abandoning the place of residence without informing the reception organisation;
- c. Failing to comply with reporting duties;
- d. Failing to provide information that was requested or to appear for personal interviews when summoned;
- e. Concealing financial resources and hence unduly benefiting from material reception conditions; and
- f. Lodging a subsequent application.

For the reduction or withdrawal to be enacted, the behaviour of the applicant needs to be unjustified,⁵³³ implying the need for an individualised assessment of the legality of the decision, which is however not clearly stated in the law. Such decisions must be individual, objective, impartial, and reasoned.⁵³⁴ The asylum seeker is entitled to appeal the decision under these grounds before an Administrative Court,⁵³⁵ with suspensive effect,⁵³⁶ and may benefit from free legal aid to that end.⁵³⁷ Reception conditions reduced or withdrawn pursuant to grounds (a) to (c) above can be reinstated if the asylum seeker is found or presents him/herself to the authorities.⁵³⁸

CPR is not aware of the adoption of any decision to reduce or withdraw material reception conditions of asylum seekers in the regular procedure under these grounds in 2020.

remained in Portugal in training or employment; around 90% and 80% of persons granted fiscal identification numbers and social security numbers.

⁵³⁰ The OM is a team of ACM focusing on the study of migrations. For more, see <https://bit.ly/3j8E97W>.

⁵³¹ Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, available in Portuguese at: <https://bit.ly/2MGYtB9>.

⁵³² Article 60(1) Asylum Act.

⁵³³ Article 60(3) Asylum Act.

⁵³⁴ Article 60(5) Asylum Act.

⁵³⁵ Article 60(8) Asylum Act.

⁵³⁶ Articles 63(1) and 30(1) Asylum Act.

⁵³⁷ Article 63(2) Asylum Act.

⁵³⁸ Article 60(4) Asylum Act.

According to the data provided by ISS, out of the 1,323 persons supported by the entity in 2020, abandoned *proprio motu* the support provided. SCML reported that, from a total of 741 persons referred in 2020, 545 were being supported at the end of the year. Among the remaining, 125 abandoned/did not initiate the support *proprio motu*. It cannot be excluded that, in certain instances, such abandonments may be linked to poor living standards offered by material reception conditions.⁵³⁹ According to the available information, other instances of cessation of support were connected to situations where the applicant no longer lacked financial resources according to the relevant criteria (see above).⁵⁴⁰

According to the information available to CPR the absconding of spontaneous and relocated asylum seekers was not followed by formal decisions of reduction or withdrawal of material reception conditions, thus rendering irrelevant the issue of reinstatement of reception conditions provided in the law.

Nevertheless, according to information shared by SEF, there were 215 cases of reduction/withdrawal of the provision of reception conditions in 2020. Information on the grounds for such cessations was not provided. CPR is not aware of the issuance of formal decisions in such cases and the criteria and procedures in this regard remain unclear. According to the experience of the organisation, where support was suspended because an applicant repeatedly failed to present him/herself as required by SEF, it was reinstated upon appearance.

The law does not provide for specific sanctions for seriously violent behaviour or serious breaches of the rules of accommodation centres and other housing provided in the framework of material reception conditions. Nevertheless, service providers are required to adopt adequate measures to prevent violence, and notably sexual and gender-based violence.⁵⁴¹ In the case of **CAR**, both the Regulation of the centre and the individual contract signed between CPR and the asylum seeker include specific prohibitions of abusive and violent behaviour that can ultimately result in withdrawal of support following an assessment of the individual circumstances and taking into consideration the vulnerability of the applicant.⁵⁴² In the case of **CACR**, while the Regulation contains similar prohibitions and age appropriate sanctions,⁵⁴³ the accommodation of unaccompanied children stems from and can only be reviewed by the competent Family and Juvenile Court in the framework of the Children and Youths at Risk Protection Act (see [Legal Representation of Unaccompanied Children](#)).

In practice, without prejudice to criminal proceedings where relevant, instances of withdrawal of support from CPR following abusive and/or violent behaviour in breach of internal rules remain a rare event. For most cases, the consequences consist of transfer into alternative accommodation to ensure the security and well-being of the remaining residents. In the case of unaccompanied children, Family and Juvenile Courts generally prioritise the stability of the living environment,⁵⁴⁴ and are extremely reluctant to uproot the child by transfer into another institution.

⁵³⁹ The rate of absconding in the relocation programme from 2015 to 2017 was also quite significant. See, for instance: Público, 'Quase metade dos 1500 refugiados que chegaram já deixou Portugal', 16 October 2017, 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>. According to the evaluation report of the relocation programme, on 28 November 2017 the overall rate of absconding stood at 45%: ACM, *Relatório de Avaliação da Política Portuguesa de Acolhimento de Pessoas Refugiadas, Programa de Recolocação*, December 2017.

⁵⁴⁰ Articles 51(1) and 56(1) Asylum Act.

⁵⁴¹ Article 59(1)(e) Asylum Act.

⁵⁴² The contract is currently available *inter alia* in Portuguese, English, French and is otherwise interpreted to the client if not available in a language that he understands.

⁵⁴³ These include, by order of increasing severity, an oral warning; a reprimand; to execute a repairing task; reduction of pocket money; limitation of authorisations to leave the CACR; restriction of ludic and pedagogical activities, notably with fellow children; and transfer to another institution.

⁵⁴⁴ Article 78(2)(e) Asylum Act provides for stability of housing as a contributing factor to upholding the best interests of the child.

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 SEF informed of their place of residence.⁵⁴⁵ 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.⁵⁴⁶

Since 2012, the operational framework for the reception of asylum seekers in Portugal provides for a dispersal mechanism (see [Criteria and Restrictions to Access Reception Conditions](#)). Following the admissibility procedure and admission to the regular procedure, or if the application is deemed inadmissible or rejected in an accelerated procedure, the asylum seeker is generally referred by frontline service providers such as CPR to the GTO, using a standard individual monitoring report. The GTO meets at least once a month⁵⁴⁷ to discuss individual cases and decides on the provision of material reception conditions in the regular procedure (generally by ISS) or at appeal stage (by SCML) on the basis of the report and in accordance with existing reception capacity nationwide. This can either result in a dispersal decision implemented by local Social Security services for those admitted to 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.

When an asylum seeker needs to move to a different part of the country within this context, the trip (public transportation) is organised, and the cost covered, by ISS. CPR usually provides logistical support to the applicant. Applicants are informed about the travel arrangements in a language they understand, and it is standard practice for a member of ISS staff to be present on arrival.

In practice, according to the statistics shared by the ISS, as of December 2020 there were a total of 1323 spontaneous applicants and beneficiaries of international protection – including relocated persons – who benefited from ISS material support, residing in the following areas:

Dispersal of applicants and beneficiaries of international protection receiving ISS support: 2020	
Area	Number
Lisbon	604
Porto	159
Setúbal	110
Coimbra	72
Braga	64
Santarém	59
Viseu	43
Guarda	35
Portalegre	29
Aveiro	22
Leiria	21
Évora	20

⁵⁴⁵ Article 15(1)(f) Asylum Act.

⁵⁴⁶ Article 59(2) Asylum Act.

⁵⁴⁷ At the time of writing the GTO met in average twice a month.

Viana do Castelo	20
Beja	18
Castelo Branco	15
Vila Real	15
Faro	10
Bragança	7
Total	1,323

Source: ISS.

Most asylum seekers and beneficiaries of international protection receiving material reception conditions from ISS in 2020 resided in **Lisbon**. Additionally, SCML supported a total of 1,276 individuals (of which 1,160 spontaneous asylum seekers, including cases from previous years), all of whom resided in Lisbon or in nearby districts due to difficulties in accessing the housing market in Lisbon (see [Types of Accommodation](#)).

There is some flexibility in the implementation of the dispersal policy. According to ISS, asylum seekers admitted to the regular procedure may request a review of their dispersal decision and their accommodation in a particular area where accommodation, education, employment and/or health related grounds justify an exception (e.g., regarding unaccompanied children enrolled in schools, asylum seekers who are employed at the time of the decision or particularly vulnerable asylum seekers who benefit from specialised medical care in Lisbon, see [Responsibility for Reception](#)). Otherwise, 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 generally 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.⁵⁴⁸ Nevertheless, CPR is aware of some cases where there is a subsequent move deemed adequate for the integration process.

Even though no research has been conducted to date to assess the impact of the dispersal policy, according to the information collected by CPR, the main concerns raised by asylum seekers include isolation, lack of interpreters and specialised mental health care, difficulties in accessing specialised legal assistance, including that provided by CPR due to the geographical distance, and lack of tailor-made integration services such as language training and vocational training. In this regard, ISS reported that its caseworkers continue to work with asylum seekers to overcome such obstacles.

According to the Statistical Report of Asylum 2020, the dispersal mechanism is considered good practice despite the implementation challenges. Among the challenges identified by the Report are: (i) the reluctance of applicants in moving from the **Lisbon** area to other parts of the country; (ii) the need to finetune the distribution criteria; and (iii) discrepancies in the response capacity of local Social Security services.⁵⁴⁹

Throughout the coronavirus pandemic, temporary restrictions to freedom of movement were applied in Portugal (notably prohibitions to leave the municipality of residence without imperious reasons – as established in the law - for certain periods). None of the restrictions enacted during this period was specific to applicants for or beneficiaries of international protection.

⁵⁴⁸ It should be noted that in accordance with Article 59(2) Asylum Act, decisions ordering the transfer of asylum seekers from housing facilities can only occur when needed for an adequate decision-making process regarding the asylum application or to improve housing conditions.

⁵⁴⁹ Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, p 141-142, available in Portuguese at: <https://bit.ly/2MGYtB9>.

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: 65
3. Total number of places in private accommodation: 120 (only places managed by CPR)
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 ☒ Detention

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 the case of appeals against negative decisions. At this point the provision of housing is relayed by either local Social Security services for the duration of the regular procedure or by SCML in the Lisbon area at appeal stage.

According to information provided by ISS, asylum seekers are mostly provided with private housing (rented flats/houses and rooms) without prejudice to accommodation provided by relatives in Portugal and collective accommodation such as hotels or non-dedicated reception centres, e.g., emergency shelters, nursing homes, etc. In previous years, the provision of housing by SCML consisted mostly of accommodation in private rooms in the Lisbon area. Within the context of the coronavirus pandemic, and considering the accommodation needs, SCML adopted a new strategy according to which hostels are also used to accommodate asylum seekers.⁵⁵⁰ A very limited number of asylum seekers are sometimes referred to homeless shelters managed by the organisation on a temporary basis to address specific vulnerabilities.

In the current reception system, adults and families with children are accommodated at CPR's Refugee Reception Centre (**CAR**) or in private accommodation provided by CPR (apartments and rooms in the private market or hostels) during admissibility (including Dublin) and accelerated procedures on the territory. In the case of unaccompanied children, CPR's Refugee Children Reception Centre (**CACR**) offers appropriate housing and reception conditions during the regular procedure and at appeal stage.

Capacity and occupancy of the asylum reception system in 2020		
Centre	Capacity	Occupancy at 31 December 2020
CAR	50 (pandemic context)	46
CACR	13 ⁵⁵¹	21
Total	63	65

Source: CPR.

CAR is an open reception centre located in **Bobadela**, Municipality of Loures, and operates in the framework of MoUs with the Ministry of Home Affairs and the Ministry of Labour, Solidarity and Social Security. Renovation works in the premises were concluded in March 2019. The official capacity of the CAR stands at 52 places but, in practice, the centre can accommodate up to 80 persons due to the recent renovation work. Within the context of the coronavirus pandemic, the capacity of CAR stood at 50 places.

⁵⁵⁰ This change of practice was accompanied by the creation of a team dedicated to the provision of support to asylum seekers.

⁵⁵¹ Ten additional places for unaccompanied children are available in CAR II, see *infra* for more information on the reception model.

In 2020, CPR provided reception assistance to a total of 1,695 asylum seekers,⁵⁵² of which 13% were accommodated at CAR, 73% in alternative private accommodation (including rooms in private apartments and hostels), 4% with friends/family, and the remaining 9% in other places of accommodation (e.g., Covid-19 isolation accommodation).

CPR ensures accommodation until ISS or SCML take over and asylum seekers only leave its facilities when alternative accommodation is secured (see [Responsibility for Reception](#)).

Factors such as the high number of referrals for accommodation registered in previous years, delays in the transition into accommodation provided by SCML/ISS, lack of available properties in the private market and increased market prices, particularly in the Lisbon area, determined the need to resort to external accommodation solutions such as hostels and led to persistent overcrowding of available facilities.

The Statistical Report of Asylum 2020 acknowledged the capacity challenges faced by frontline reception entities and noted that a number of entities consulted recommended the expansion of protocols to increase reception capacity for spontaneous asylum seekers.⁵⁵³

As a result of an array of measures adopted within the context of the coronavirus pandemic (see Conditions in Reception Facilities), the average accommodation period with the assistance of CPR was reduced from 7 months to 2 and a half months (from April 2020 onwards) and overcrowding has been largely addressed.

CACR is an open reception house for unaccompanied asylum-seeking children located in **Lisbon** that has operated since 2012 in the framework of MoUs with the Ministry of Home Affairs, the Municipality of Lisbon and the Ministry of Labour, Solidarity and Social Security. Its official capacity stands at 13 places. In order to address overcrowding in the facility, CPR revisited its accommodation policy for unaccompanied children during the year. While some were provisionally accommodated at CAR due to shortage of places at CACR, young applicants at more advanced stages of the integration process were transferred from CACR to CAR II in a process of progressive autonomy. Furthermore, changing arrangements in rooms allowed to expand the capacity of CACR while preserving adequate accommodation standards. In 2020, CPR accommodated a total of 84 unaccompanied children.

Throughout 2020, CPR continued its operations in the recent Reception Centre for Refugees (CAR II), located in S. João da Talha, Municipality of **Loures**, specifically devoted to the reception of resettled refugees. CAR II has a maximum capacity of 90 places. However, within the context of the coronavirus pandemic, such capacity was reduced to 66 places (two thirds of the original). In 2020, CAR II accommodated a total of 243 resettled refugees. As mentioned above, it was also part of CPR's response to the accommodation of unaccompanied children (spontaneous applicants).

In February 2016, the Lisbon Municipality inaugurated a Temporary Reception Centre for Refugees (*Centro de Acolhimento Temporário para Refugiados*, **CATR**) that provided 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. According to the available information, this facility is currently used to accommodate resettled refugees.

According to the available information, the reception model of unaccompanied children transferred from Greece, includes an initial period of 3 to 6 months during which the psychological, educational, and social support are ensured. Support is then guaranteed through the general network of the ISS, 'independent living',⁵⁵⁴ or foster families. According to the information provided by the Secretary of State for Integration

⁵⁵² Including applicants for international protection whose applications were lodged before 2020.

⁵⁵³ Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, p 226, available in Portuguese at: <https://bit.ly/2MGYtB9>.

⁵⁵⁴ Unofficial translation ("autonomia de vida").

and Migration (SEIM) to the Parliament in December 2020, foster families⁵⁵⁵ are a solution meant to younger children and it has been applied in practice. The SEIM also noted that reception entities involved in the programme receive training, and that a manual is being prepared. Furthermore, weekly visits are performed by ISS (and, in Lisbon, the SCML).⁵⁵⁶

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	75 days (from April 2020 onwards)
❖ Unaccompanied children	305 days
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 on the national territory are CPR's (funded) private accommodation and reception centres. As regards the regular procedure and in the case of relocation, private accommodation is usually used (see [Types of Accommodation](#)). There is currently no regular monitoring of the reception system in place.

ISS is among the competent authorities for the licensing, the monitoring and the provision of technical support to the operation of reception centres for asylum seekers.⁵⁵⁷ The applicable rules to collective accommodation facilities have been laid down by ISS regarding temporary reception centres for children at risk (such as CACR).⁵⁵⁸ Furthermore, the law provides for specific standards regarding housing in kind for asylum seekers,⁵⁵⁹ and children at risk such as unaccompanied children.⁵⁶⁰ The specific material reception standards relevant to CAR and CACR are foreseen in the underlying bilateral MOUs (see [Types of Accommodation](#)) and their internal regulations.

CAR is composed of shared rooms with dedicated bathrooms/toilets and is equipped to accommodate asylum seekers with mobility constraints, e.g., it includes a lift and adapted bathrooms/toilets. The residents are expected to cook their own meals in a communal kitchen and have access to common fridges and cupboards. The centre also has a laundry service, a playground, a day-care/kindergarten for resident and local community children, as well as a library connected to the municipal library system and a theatre/event space that can be rented out. 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](#)). Logistical support staff is present 24 hours a day and the overall cleaning of the centre is carried out by a private company, though the residents are expected to contribute to the cleaning of their room and the common kitchen. According to the current reception strategy, in general, spontaneous asylum seekers are initially accommodated at CAR (after testing negative for Covid-19) for an initial period of 2 to 3 weeks during which social and health needs are identified and information on the host country is provided. Afterwards, the applicant moves to another accommodation with the support of CPR (either a

⁵⁵⁵ The legal framework for foster families is established by Decree-Law 164/2019 of 25 October 2019, available at: <https://bit.ly/3ejB02M>.

⁵⁵⁶ Video recording of the parliamentary hearing of the Ministry of the Presidency and the Secretary of State for Integration and Migration (21 December 2020) available at: <https://bit.ly/3ouCeeM>.

⁵⁵⁷ Decree-Law No 64/2007.

⁵⁵⁸ These rules are contained among others in technical guidelines that provide for quality standards on issues such as capacity, duration of stay, composition and technical skills of staff, hygiene and security standards, location and connectivity, access to the building, construction materials, composition and size of the building, internal regulation, personal integration plans, activities planning, reporting and evaluation etc. An earlier version from 1996 is available at: <http://bit.ly/2meygMC>. According to the information available at: <http://bit.ly/2mljDHo>, the ISS has also adopted quality standards for other temporary reception centres (such as the CAR and the CATR) contained in technical guidelines dated 29 November 1996 (unpublished).

⁵⁵⁹ 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.

⁵⁶⁰ Articles 52-54 Children and Youth at Risk Protection Act.

hostel, apartment, or room in the private market). Vulnerable applicants remain in CAR if deemed appropriate. Support continues to be ensured by a specific team within CPR.

Until April 2020, despite the continuous efforts to accommodate specific needs, both at CAR and in external accommodation, systematic overcrowding put severe strains on the living conditions and the access to adequate services while available staff remained insufficient to address existing needs. This resulted, *inter alia*, in gaps in access to services such as social and legal assistance or socio-cultural activities, and aggravated occasional instances of conflict in the use of the common kitchen and storing spaces, tensions with other residents, and theft.⁵⁶¹

As a result of an array of measures adopted within the context of the coronavirus pandemic (see *infra*), the average accommodation period with the assistance of CPR was reduced from 7 months to 2 and a half months (from April 2020 onwards) and overcrowding has been largely addressed.

CACR is equally composed of shared rooms with dedicated bathrooms/toilets and is equipped to accommodate asylum seekers with mobility constraints. Two resident cooks are responsible for the provision of meals in line with the nutritional needs of children, although children are sometimes allowed to cook their own meals under supervision. The centre also has a laundry service, a playground and a small library, and provides psychosocial and legal assistance, Portuguese language training and socio-cultural activities. Children accommodated at CACR are systematically enrolled in local schools or in vocational training programmes. In 2020, the staff of CACR included three social workers and support staff (present 24 hours a day to ensure the overall functioning of the centre), who were further assisted by legal officers and a language trainer.

CACR offers unaccompanied children appropriate housing and reception conditions regardless of the stage of the asylum procedure. Given the specific needs and contexts involved, the average stay in 2020 stood at 305 days. 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 and CAR II**, supervised by the Family and Juvenile Court; and, depending on the individual circumstances, promoting the placement of children above the age of 16 in supervised private housing by decision of the Family and Juvenile Court in line with the protective measures enshrined in the Youths at Risk Protection Act.⁵⁶²

Although living conditions remain adequate, overcrowding puts a strain on the timing and the quality of support provided. To address overcrowding in the facility, CPR revisited its accommodation policy for unaccompanied children in 2019. While some were provisionally accommodated at CAR due to shortage of places at CACR, young applicants at more advanced stages of the integration process were transferred from CACR to CAR II in a process of progressive autonomy. This strategy continued to be applied in 2020.

Absconding and the subsequent risk of human trafficking remain relevant concerns. A total of 9 out of 84 (11%) unaccompanied children accommodated by CPR in 2020,⁵⁶³ (see [Special Reception Needs](#)). In 2020, CACR's team continued to report cases where unaccompanied children were suspected to be victims of human trafficking to the competent authorities (see [Guarantees for Vulnerable Groups: Identification](#)).

The coronavirus pandemic exacerbated the shortcomings in the reception system previously reported by CPR.

⁵⁶¹ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <https://bit.ly/3gEoe1T>.

⁵⁶² Act 147/99.

⁵⁶³ These figures include unaccompanied children who applied for asylum before 2020.

The provision of material reception conditions, in particular, housing to asylum seekers, was quickly flagged by CPR as a concern, both due to the communitarian setting of most accommodations available (shared kitchens, rooms, sanitary facilities and living spaces), and to systematic instances of overcrowding observed at the time.

Coronavirus contingency plans for all CPR facilities (particularly reception centres) were designed in early March and continuously adjusted considering relevant developments and recommendations from the competent authorities.⁵⁶⁴ Such plans included, inter alia, the reactivation of rooms for isolation for health purposes in CAR and CAR2, the acquisition of personal protection equipment for staff and residents, and increased distribution of hygiene products such as hand sanitisers.

In the beginning of March, before the suspension of in-person activities, information sessions on the virus, and prevention of contagion were held in the reception centres. The sessions were organised in partnership with the Directorate General for Health (DGS) and with local health centres and conducted by healthcare professionals.

The continuity of social and integration-related support was ensured through the whole period, despite the necessary adjustments to service provision (e.g., whenever possible, information and assistance were provided by remote means).

On 17 April 2020, an asylum seeker accommodated in a hostel in Lisbon tested positive to Covid-19. The case was immediately communicated to the competent authorities. On 19 April 2020, a joint operation ensured that all applicants accommodated in the facility were tested and the building was disinfected.⁵⁶⁵ Around 170 tests were performed, out of which 138 were positive, with only one person showing symptoms.⁵⁶⁶ All persons tested were later transferred to a military base in Ota for the purpose of quarantine. CPR, ISS, ACM and SCML continued to accompany the cases during this period.⁵⁶⁷

Following these events, and in line with previous decisions to conduct testing operations in communitarian accommodation facilities (e.g., nursing homes), the health authorities decided to test all asylum seekers accommodated in other facilities in Lisbon. These were public health operations that included an information-sharing component and involved various governmental and non-governmental actors,⁵⁶⁸ including CPR. Testing and necessary follow-up (including quarantining/prophylactic isolation) continued to be organised whenever deemed necessary and according to the specific features of the situations at stake.

Despite the dissemination of information on Covid-19 by CPR and other entities, asylum seekers reported feeling anxious and found it difficult to understand why they had to remain isolated since they were not feeling sick.

In the meantime, an integrated plan to address the impact of Covid-19 as well as the provision of accommodation to applicants for international protection was discussed under a Crisis Working Group, created by the end of April 2020, gathering an array of relevant stakeholders, including CPR.⁵⁶⁹ This was a positive step to address the chronic reception problems. The measure, which was accompanied by a memorandum of understanding between CPR and SCML and an increase in the number of meetings of

⁵⁶⁴ See, for instance, DGS, *Informação 010/2020*, 8 May 2020, available at <https://bit.ly/3dJ6mzQ>.

⁵⁶⁵ The following entities were involved in the operation: Civil Protection Authority, Municipality of Lisbon, SEF, National Medical Emergency (INEM), ACM, Public Security Police (PSP), Santa Casa da Misericórdia de Lisboa (SCML), Lisbon Firefighters and the Mosque.

⁵⁶⁶ See also Reuters, 'Coronavirus sweeps through Portuguese hostel housing asylum seekers', 20 April 2020, available at: <https://reut.rs/2zvcATq>.

⁵⁶⁷ The full press release issued by CPR on 22 April 2020 is available in Portuguese at: <https://bit.ly/350aeaV>.

⁵⁶⁸ Secretary of State for Integration and Migration (SEIM), SEF, Municipality of Lisbon, Civil Protection Authority, Public Health Directorate, National Medical Emergency, High Commissioner for Migration (ACM), Institute of Social Security, Lisbon Firefighters, Santa Casa da Misericórdia de Lisboa (SCML), the Public Security Police (PSP), the Mosque and CPR.

⁵⁶⁹ SEIM, SEF, PSP, Municipality of Lisbon, Civil Protection Authority, Public Health Directorate, National Medical Emergency, ACM, Lisbon Firefighters, SCML, Institute of Social Security and CPR.

the GTO, allowed for a quick decrease in the number of asylum seekers benefiting from CPR's support and, consequently, to address the quality of reception conditions.

Additionally, CPR worked towards a redistribution of accommodation places and the identification of alternative facilities. The maximum capacity of reception facilities was adjusted according to relevant recommendations.

Admission to reception facilities was also restructured in order to mitigate the risk of contagion among residents. As such, it comprises an initial period of prophylactic isolation until a negative Covid-19 test result is obtained.⁵⁷⁰ During the isolation period, adults and accompanied children are accommodated in external accommodation, while unaccompanied children and other particularly vulnerable persons are accommodated in isolation rooms in one of CPR's reception centres. During this period, CPR ensures the provision of meals and all other necessary goods.

The use of masks is mandatory to the staff of reception centres. In CAR, the residents must wear a mask in common spaces, counselling sessions and group activities. The body temperature of those entering the building is checked. In CACR, children are not required to wear masks inside. Body temperature checks are also performed.

Crescer, an association that provides support to vulnerable persons, reported having been approached by a growing number of applicants for and beneficiaries of international protection due to the lack of (adequate) accommodation in 2020. The organisation also reported observing an increase of applicants for/beneficiaries of international protection requesting assistance due to a significant increase of unemployment.

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 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. More recently, the lack of affordable housing in other areas of the country has been also reported by the entities involved in the provision of reception conditions to applicants for international protection.

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?
❖ If yes, when do asylum seekers have access the labour market? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7-30 days |
| 2. Does the law allow access to employment only following a labour market test? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 3. Does the law only allow asylum seekers to work in specific sectors?
❖ If yes, specify which sectors: | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 4. Does the law limit asylum seekers' employment to a maximum working time?
❖ If yes, specify the number of days per year | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 5. Are there restrictions to accessing employment in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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.⁵⁷¹ In case of admission to the regular procedure, access to the labour market can therefore be granted after 7 days in the context

⁵⁷⁰ Applicable if a negative test made in the 72 hours prior to arrival is not available.

⁵⁷¹ Articles 54(1) and 27(1) Asylum Act.

of the border procedure or after 10 to 30 days in procedures on the territory.⁵⁷² 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.⁵⁷³

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 SEF, which clearly state the right to employment,⁵⁷⁴ are free of charge.⁵⁷⁵ The only restriction on employment enshrined in the law consists in limiting access to certain categories of the public sector for all third-country nationals.⁵⁷⁶

Asylum seekers benefit from the same conditions of employment as nationals, including regarding salaries and working hours.⁵⁷⁷ 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).⁵⁷⁸

With the exception of the submission of beneficiaries of international protection to the same conditions applicable to Portuguese nationals,⁵⁷⁹ there are no specific rules regarding the recognition of diplomas and academic qualifications in the Asylum Act. The general rules for the recognition of foreign qualifications at primary, lower, and upper secondary levels include conditions that are particularly challenging for asylum seekers and beneficiaries of international protection,⁵⁸⁰ such as:

- The presentation of diplomas,⁵⁸¹ and, eventually, of additional supporting documents;⁵⁸²
- The presentation of duly translated and legalised documents;⁵⁸³
- In the absence of such documents, a sworn statement issued by the applicant or his/her parents or legal guardian accompanied by a statement from an Embassy or a reception organisation related to the country of origin confirming exceptional individual circumstances;⁵⁸⁴ and
- The completion of a competency examination.⁵⁸⁵

In line with similar measures adopted in 2016,⁵⁸⁶ in 2020, the Directorate-General for Education (DGE) and the National Agency for Qualification and Vocational Education (ANQEP) issued a joint circular letter⁵⁸⁷ regarding extraordinary educational measures applicable to children and young people applicants for/beneficiaries of international protection. Such measures focus on the recognition of academic qualifications/school placement, the progressive integration in the Portuguese education system, the reinforcement of Portuguese language training, and school social support.

⁵⁷² 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 in the territory: Articles 33(4)-(5), 33-A (5) and 20(1) Asylum Act.

⁵⁷³ Article 55 Asylum Act.

⁵⁷⁴ Ministerial Order 597/2015.

⁵⁷⁵ Article 84 Asylum Act.

⁵⁷⁶ Article 15(2) Constitution and Article 17(1)(a) and (2) Act 35/2014.

⁵⁷⁷ Article 4 Labour Code.

⁵⁷⁸ Article 5 Labour Code.

⁵⁷⁹ Article 70(3) Asylum Act.

⁵⁸⁰ Decree-Law 227/2005.

⁵⁸¹ Article 7(2) Decree-Law 227/2005.

⁵⁸² Article 7(4) Decree-Law 227/2005.

⁵⁸³ Article 7(2) Decree-Law 227/2005.

⁵⁸⁴ Article 10(1) and (2) Decree-Law 227/2005.

⁵⁸⁵ The content of the examination varies according to the level of education and the curriculum, but always includes a Portuguese as a Second Language. See Article 10(5) and (6) Decree-Law 227/2005.

⁵⁸⁶ 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>.

⁵⁸⁷ Circular letter - DGE and ANQEP, *Medidas educativas de integração de crianças e jovens no sistema educativo*, August 2020, available at: <https://bit.ly/3mwfSKq>.

Accordingly, if an applicant for/beneficiary of international protection has documents proving the academic/professional qualifications, in order to obtain an equivalence, the relevant norms⁵⁸⁸ apply but he/she is exempt from translating⁵⁸⁹ and legalising the certificates/diplomas. Processes are analysed by DGE (primary, lower, and upper secondary levels) or by ANQEP (other qualifications, excluding higher education). Specific measures are foreseen to cases where the applicant has no relevant documents, however, in such cases, no equivalence is granted (see [Access to Education](#)).

While the circular letter bears no reference to an exemption of competency examinations, according to the information provided by DGE, school placement of children does not require the performance of such tests.

These guidelines are only applicable to children within the compulsory school age (6 to 18 years old).

There are no statistics available on the number of asylum seekers in employment at the end of 2020. The Employment and Vocational Training Institute (Instituto do Emprego e Formação Profissional, IEFP),⁵⁹⁰ was not able to provide data on applicants and beneficiaries of international protection registered in their services for 2020.

According to CPR's experience, asylum seekers and beneficiaries of international protection face many challenges in securing employment that are both general and specific in nature.

Even though the economic situation of the country has improved from pre-crisis levels, in December 2020 the unemployment rate still stood at around 6.5% for the general working population.⁵⁹¹ This adverse context is compounded by specific fragilities that include poor language skills and professional skills that are misaligned with the needs of employers.

Challenges of a more bureaucratic nature include: difficulties in obtaining recognition of diplomas as described above (particularly relevant for regulated professions); lack of a social security identification number (*Número de Identificação da Segurança Social*, NISS) or fiscal identification number at the time of application and bureaucratic difficulties in the issuance of a NISS on the basis of the provisional residence permit; or the provisional residence permit stating not to be an identification document.⁵⁹² As a result, employers are sometimes reluctant to hire asylum seekers. Additional challenges include the lack of support network, limited knowledge about the labour market and cultural norms, difficulties in accessing certified training due to lack of proof of prior qualifications, and the competition in the labour market. In the particular case of victims of torture and/or serious violence, these include specific vulnerabilities related to health, mental health and high levels of anxiety related to the uncertainty of the asylum procedure, separation from relatives, and financial instability that hinder the ability to focus on a medium-long term individual integration process (see [Special Reception Needs](#)).

Within the context of the coronavirus pandemic and following the implementation of the state of emergency in March 2020, CPR registered obstacles in the scheduling of appointments for the issuance of fiscal identification numbers to applicants for international protection. Language and technological barriers precluded scheduling by phone/online.⁵⁹³ The fiscal number is required for several procedures and daily activities, such as registration with IEFP.

CPR also registered difficulties in the issuance of ISS numbers, necessary to access relevant benefits.

These obstacles were eventually overcome following reiterated contacts with the competent services.

⁵⁸⁸ Decree-Law 227/2005 of 28 December (primary, lower and upper secondary levels) and Order 13584/2014 of 10 November.

⁵⁸⁹ Only if the documents are written in German, Spanish, French or English.

⁵⁹⁰ The Employment and Vocational Training Institute (IEFP) is the public service responsible for employment at national level. For more information, see the official website available in Portuguese at: www.iefp.pt.

⁵⁹¹ Eurostat, 'Euro area unemployment at 8.3%', 1 February 2021, available at: <https://bit.ly/30gfNQS>.

⁵⁹² Ministerial Order 597/2015.

⁵⁹³ Difficulties in obtaining the fiscal number were also reported by Crescer.

CPR provides literacy and Portuguese language training free of charge to asylum seekers who are accommodated at **CAR**, **CACR**, in private housing provided by the institution, and to asylum seekers and beneficiaries of international protection assisted by other institutions that live nearby CPR's facilities or that can easily reach them. This training includes a sociocultural component, with activities inside and outside the classrooms, aiming to promote integration in the hosting society.

Asylum seekers are able to register with IEPF to access to Portuguese language training. Until 2020, such language training was provided within 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,⁵⁹⁴ managed by ACM and funded by the European Social Fund. In August 2020, the framework for Portuguese language training was revised by Ministerial Order 183/2020 of 5 August.⁵⁹⁵

Among the challenges encountered in this area was the lack of training tailored to asylum seekers and beneficiaries of international protection who may present low levels of education/illiteracy/poor knowledge of the Latin alphabet, compounded by limited availability of alphabetic training for foreigners, as well as limited availability of training at B1 and B2 levels due to group size requirements. This was particularly challenging in certain parts of the country with lower numbers of eligible learners.

The new legal framework for public Portuguese language training created the "Portuguese as a host language" courses, and aims to respond to the challenges identified, inter alia:

- Reducing the size of training groups and the minimum number of trainees required, while maintaining the possibility to exceptionally create groups that are smaller/larger than required;
- Extending the entities that may organise relevant courses;
- Introducing a learning unit aimed at trainees that are unfamiliar with the Latin alphabet.

ACM also funds informal language trainings, that are delivered by municipalities and civil society organisations, including CPR.⁵⁹⁶

The pandemic posed significant challenges to the development of Portuguese language courses by CPR throughout the year. These were due to the general obstacles to remote language teaching, but also to the difficulties experienced by applicants for international protection in accessing and using the necessary equipment and resources.

These challenges, as well as logistical challenges regarding classroom occupancy and social distancing rules, were also reported by IEPF.

The lack of dedicated funding presented an additional challenge to the provision of language training by CPR in 2020. An initial course was conducted in the beginning of the year. A course on communication for job searching was also held between August and September 2020. The approval of dedicated funding allowed the reinstatement of courses in September (7 courses were organised comprising 157 training hours and 32h30m of sociocultural activities).

A partnership between CPR and the Faculty of Social and Human Sciences of NOVA University enabled the referral of applicants for and beneficiaries of international protection to Portuguese language classes throughout the year.

In March 2016, ACM launched an [Online Platform for Portuguese](#) to promote informal learning of Portuguese. The modules are currently available in Arabic in order to tackle the needs of the asylum seekers.

⁵⁹⁴ Ministerial Order 1262/2009 and Ministerial Order 216-B/2012.

⁵⁹⁵ Available at: <https://bit.ly/39Z9WF0>. A guide by IEPF on the organisation of trainings under the new framework is available at: <https://bit.ly/2Qd2Jdc>.

⁵⁹⁶ For more information on these programmes see ACM, *Learning of the Portuguese Language*, available at: <http://bit.ly/2iqmXQg>.

CPR's Professional Insertion Cabinet (GIP), which operates at CAR since 2001 in the framework of a MoU with IEFP, offers individual assistance and training sessions on job search techniques, recognition procedures, search and referrals to vocational training and volunteering opportunities.

Despite the adjustments imposed to service provision within the context of the coronavirus pandemic (e.g., whenever possible, information and assistance were provided by remote means), the continuity of integration-related support provided by CPR was ensured throughout the whole year.

Other organisations that provide similar employment assistance to spontaneous asylum applicants, and, more recently, to relocated asylum seekers, include 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 food retail, domestic services, geriatric care, food and beverage, hostels or childcare.⁵⁹⁷

Upon admission to the regular procedure, asylum seekers can also register as "job applicants" with the IEFP, being able to search for jobs, and benefit from vocational training and assistance.

While there are no specific programmes targeting applicants for and beneficiaries for international protection, IEFP has included asylum seekers admitted to the regular procedure and beneficiaries of international protection among the target population of some of its employability support measures.

Governmental programmes Estágios ATIVAR.PT (which provides for 9 month paid internships) and Incentivo ATIVAR.PT (which provides financial incentives to employers who recruit employees for 12 months or longer under the obligation to provide them with vocational training)⁵⁹⁸ include refugees in its priority groups.⁵⁹⁹ As such, applicants are exempt of the need to be registered with IEFP for a certain period to be eligible and the financial support provided to the employer is increased by 10%.

Regarding vocational training, the low level of language skills associated with the lack of diplomas and/or potentially challenging recognition procedures described above, render access to vocational training offered by IEFP and its partners within the public system challenging to most asylum seekers and beneficiaries of international protection while vocational training in the private sector is generally unaffordable. In this regard, as of 2018 asylum seekers admitted to the regular procedure and beneficiaries of international protection whose diplomas and academic qualifications have not been recognised in the Portuguese educational system are registered by IEFP as "literate users" in the SIGO platform.⁶⁰⁰ Other than Portuguese language training courses, such registration only provides access to: (a) modular training⁶⁰¹ at basic education level; (b) training in basic skills (reading, writing, calculation and information and communication technologies) in preparation for EFA Courses; and (c) Education and Training Courses for Adults (*Cursos de Educação e Formação para Adultos*, EFA) with equivalence to the 4th or 6th year of basic education or a professional certificate.⁶⁰² Neither modular training nor training in basic skills entail an academic certification.

⁵⁹⁷ For 2018, see JRS, *Projecto Integra +*, available in Portuguese at: <https://bit.ly/2MXK6EE>, which provided support to 22 trainees, of whom 19 were able to secure employment by the end of the 5-month programme.

⁵⁹⁸ Additional information is available at: <https://bit.ly/3uFUhIC>.

⁵⁹⁹ It was not possible to confirm whether applicants for international protection admitted to the regular procedure are also included as was the case with previous similar programmes.

⁶⁰⁰ Integrated Information and Management System for Education and Training Courses (*Sistema Integrado de Informação e Gestão da Oferta Educativa e Formativa*, SIGO) which contains a national catalogue of education and training courses offered by training institutions at national level and the certification of individual trainees: DGEEC, 'Sobre o Sistema Integrado de Informação e Gestão da Oferta Educativa e Formativa', 3 July 2017, available in Portuguese at: <https://bit.ly/2uok84C>.

⁶⁰¹ Modular training aims to refresh and improve the practical and theoretical knowledge of adults and improve their educational and vocational training levels. For more information see IEFP, *Formação Modular*, available in Portuguese at: <https://goo.gl/aCPTXi>.

⁶⁰² IEFP, *Cursos de Educação e Formação para Adultos (Cursos EFA)*, available in Portuguese at: <https://bit.ly/2HCey7a>.

In the context of relocation, ACM has created a Refugee Support Unit as well as tailored services within the National and Local Support Centres for the Support of Migrants (*Centros Nacionais e Locais de Apoio à Integração de Migrantes*, CNAIM/CLAIM) to support asylum seekers (e.g., hiring a permanent Arabic-speaking intercultural mediator, promoting entrepreneurship training for refugees). A number of services, such as free legal support and information on employment, training and recognition of qualifications, provided by multiple institutions, are available at CNAIM, a space also known as one-stop-shop. ACM has also launched the [Refujobs](#) online platform, that aims to match potential employers and asylum seekers and beneficiaries of international protection looking for employment as well as to build their capacity for self-employment. Since 2018, ACM and the Institute of Tourism (*Instituto do Turismo*) have a partnership for the provision of certified vocational training for applicants for and beneficiaries of international protection.⁶⁰³

2. Access to education

Indicators: Access to Education

- | | |
|--|---|
| 1. Does the law provide for access to education for asylum-seeking children? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Are children able to access education in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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.⁶⁰⁴ This right cannot be curtailed if the asylum seeker reaches adulthood while already attending school to complete secondary education.⁶⁰⁵ The Ministry in charge of education retains sole responsibility to ensure the right of children to education.⁶⁰⁶

Enrolment in schools at primary, lower and upper secondary education levels requires a procedure for the recognition of foreign academic qualifications, but children must be granted immediate access to schools and classes while that procedure is pending.⁶⁰⁷ Given that asylum seekers are rarely in possession of duly legalised diplomas and other supporting documents, the procedure generally entailed a placement test conducted by the school that takes into consideration the age and school year of the applicant.⁶⁰⁸ 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.⁶⁰⁹

In line with similar measures adopted in 2016,⁶¹⁰ in 2020, the Directorate-General for Education (DGE) and the National Agency for Qualification and Vocational Education (ANQEP) issued a circular letter⁶¹¹ regarding extraordinary educational measures applicable to children and young person applicants for/beneficiaries of international protection. Such measures focus on the recognition of academic qualifications/school placement, the progressive integration in the Portuguese education system, the reinforcement of Portuguese language training, and school social support.

Accordingly, with regard to the recognition of qualifications/school placement:

⁶⁰³ Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, p 211, available in Portuguese at: <https://bit.ly/2MGYtB9>.

⁶⁰⁴ Article 53(1) Asylum Act.

⁶⁰⁵ Article 53(2) Asylum Act.

⁶⁰⁶ Article 61(4) Asylum Act.

⁶⁰⁷ Article 8(5) Decree-Law 227/2005.

⁶⁰⁸ Article 10(3) Decree-Law 227/2005.

⁶⁰⁹ Article 11(2), (3) and (4) Decree-Law 227/2005.

⁶¹⁰ 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>.

⁶¹¹ Circular letter - DGE and ANQEP, *Medidas educativas de integração de crianças e jovens no sistema educativo*, August 2020, available at: <https://bit.ly/3mwfSKq>.

- **In the absence of documents proving the academic/professional qualifications** (certificates, diplomas), applicants must present the following elements: (i) a sworn statement issued by the applicant, his/her parents or legal guardian, specifying the number of school years completed; a statement by a competent authority (such as SEF, CPR or ACM) confirming exceptional individual circumstances.⁶¹² If any document concerning previous qualifications is available to the applicant, it should be added to the process. In this case, no equivalence/recognition is granted, the applicant is integrated in the education system.⁶¹³ School attendance must be ensured during the first month following enrolment and may be progressive. While the analysis is pending, the applicant must be conditionally enrolled in school enabling him/her to attend the corresponding activities.
- **If documents proving the academic/professional qualifications are available**, in order to obtain an equivalence, the relevant norms⁶¹⁴ apply but applicants are exempt from translating⁶¹⁵ and legalising the certificates/diplomas. Processes are analysed by DGE (primary, lower, and upper secondary levels) or by ANQEP (other qualifications, excluding higher education). School attendance must be ensured during the first month following enrolment and may be progressive. While the analysis is pending, the applicant must be conditionally enrolled in school enabling him/her to attend the corresponding activities.

While the circular letter bears no reference to an exemption of competency examinations, according to the information provided by DGE, school placement of children does not require the performance of such tests.

The 2020 circular letter further reaffirmed the increased autonomy of schools in adjusting pedagogical activities to the specific needs of asylum seekers and beneficiaries of international protection. Such adaptations include a progressive convergence with the regular curriculum by temporarily exempting students from certain subjects and providing additional Portuguese language classes. The guidelines also clarify the entitlement of asylum seekers and beneficiaries of international protection to the various modalities of social assistance available to students enrolled in the public education sector for the purposes of food, accommodation, financial assistance and school supplies.⁶¹⁶ Furthermore, the circular letter recommends the creation of multidisciplinary teams in hosting schools to support response to specific needs. Such teams must be created with existing resources.

In the course of 2020, several reference documents were created to support schools and teachers. The relevant instruments are available online.⁶¹⁷

DGEstE supports coordination between reception entities and public schools to ensure integration in the education system.

Regarding higher education, the Government introduced the “student in an emergency situation for humanitarian reasons” status in 2018,⁶¹⁸ following a review of the Portuguese educational system by the Organisation for Economic Co-operation and Development (OECD).⁶¹⁹ The status can be claimed by any non-Portuguese or EU student who originates from a region affected by armed conflict, natural disaster, generalised violence or human rights violations requiring a humanitarian response.⁶²⁰ According to the law, beneficiaries of international protection as well as asylum seekers admitted to the regular procedure

⁶¹² Applicants previously identified by governmental entities are exempt of presenting this statement.

⁶¹³ In the absence of any relevant information, placement must consider the age of the applicant and the corresponding school level.

⁶¹⁴ Decree-Law 227/2005 of 28 December (primary, lower and upper secondary levels) and Order 13584/2014 of 10 November.

⁶¹⁵ Only if the documents are written in German, Spanish, French or English.

⁶¹⁶ Ministry of Education Legislative Order 8452-A/2015 of 31 July 2015, as amended by Legislative Order 7255/2018 of 31 July 2018.

⁶¹⁷ Available at <https://bit.ly/32dkFY9>.

⁶¹⁸ Article 8A Decree-Law 36/2014, inserted by Decree-Law 62/2018.

⁶¹⁹ OECD, *OECD Reviews of School Resources: Portugal 2018*, December 2018, available at: <https://bit.ly/2BlpEbS>.

⁶²⁰ Article 8A(1) Decree-Law 36/2014.

under the Asylum Act are entitled to the status by operation of law.⁶²¹ Students with “emergency situation for humanitarian reasons” status are entitled to alternative procedures for assessing entry conditions in the absence of documentation such as diplomas,⁶²² equal treatment to Portuguese students regarding university fees and other levies,⁶²³ and full access to social assistance available to higher education students.⁶²⁴ It should be noted that the new rules do not address the issue of access to entry visas for eligible students living abroad.⁶²⁵

With regard to the recognition of higher education degrees and diplomas, the law provides for the possibility of the exemption of documentary evidence in processes concerning applicants in an emergency situation for humanitarian reasons where the qualifications cannot be proved due to that situation.⁶²⁶ Such exemptions are analysed on a case-by-case basis. In 2020, this possibility was extended to situations where the applicant cannot prove his/her qualifications due to circumstances affecting the regular functioning of the institutions of the State concerned.⁶²⁷

In practice, accompanied and unaccompanied children are systematically referred to public schools upon accommodation at **CAR** and **CACR** or contact with CPR’s social workers. According to the experience of the organisation, enrolment in local public schools is generally guaranteed within a reasonable period (on average, two weeks). Unaccompanied children enrolling in upper secondary education are usually enrolled in an area of their interest with subsequent adjustments introduced afterwards considering the individual progress. According to the experience of CPR, this has been positive, allowing a smoother integration in the education system and faster language learning.

Nevertheless, CPR has highlighted the need to consider other frequent challenges, such as the lack of adequate solutions to children over 15 years old with little or very low education. In the absence of dedicated solutions, these children are included in existing pathways (such as adult training) that are not necessarily adjusted to their needs.

According to DGEsTE, in the course of 2020, efforts were made to increase response to older children and young adults with low qualifications (namely by increasing flexibility in the creation of training groups of adult learning programmes).

The review of the Portuguese educational system conducted in 2018 by the OECD does not specifically address the situation of asylum seekers and beneficiaries of international protection. While acknowledging the impressive accomplishments of Portugal in recent years, it nonetheless raises concerns regarding persisting differences in the outcomes of students from under-privileged backgrounds, including immigrant students,⁶²⁸ with immigrant, language and ethnic backgrounds remaining highly predictive of their performance in school.⁶²⁹

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.⁶³⁰

⁶²¹ Article 8A(2) (a) and (b) and 3(a) Decree-Law 36/2014.

⁶²² Article 14(1)(c) Decree-Law 36/2014.

⁶²³ Article 8A(5) Decree-Law 36/2014.

⁶²⁴ Article 10(1) Decree-Law 36/2014.

⁶²⁵ For a critical assessment of Decree-Law 36/2014, see JRS, *Estudante em Situação de Emergência por Razões Humanitárias: Mais um direito sem visto?*, November 2018, available in Portuguese at: <https://bit.ly/2qlpGF3>.

⁶²⁶ Article 13 Ministerial Order 33/2019 of 25 January, available at: <https://bit.ly/2Q7GjtT>.

⁶²⁷ Article 14 Ministerial Order 33/2019 of 25 January, available at: <https://bit.ly/2Q7GjtT>.

⁶²⁸ OECD, *OECD Reviews of School Resources: Portugal 2018, December 2018*, 13, 19 and 64. It should be noted that according to the report “differences in results are mostly driven by first-generation immigrants... There are no significant performance differences between second-generation immigrants and the native-born population after students’ socio-economic status and home language have been taken into account. In fact, most of these differences in performance are associated with the language spoken at home...”

⁶²⁹ Ibid, 22.

⁶³⁰ Article 55(1) Asylum Act.

Access to vocational training by adults remains particularly limited as opportunities generally require a good command of the Portuguese language and diplomas that asylum seekers and beneficiaries of international protection rarely have or are unable to legalise due to the legal requirements of recognition procedures (see [Access to the Labour Market](#)).

Within the context of the **coronavirus pandemic**, Decree-Law 10-A/2020 of 13 March suspended in-person school activities.⁶³¹ The suspension entered into force on 16 March 2020. Detailed legislative provisions concerning education were introduced by Decree-Law 14-G/2020 of 13 April 2020.⁶³² While certain in-person classes in the upper secondary education level were resumed in May, primary and lower secondary levels only resumed in-person classes in September.⁶³³ Remote learning during the third school term was ensured through specific activities organised by schools and complemented by the television broadcast of classes for all years of primary and lower secondary education levels.

According to CPR's experience, remote learning posed several challenges to child applicants for and beneficiaries of international protection that were both general and specific in nature (e.g., lack of familiarity with technology and challenges regarding the language of children and their parents).

The staff at CAR provided support to all resident children, ensuring the continuity of study and communication with schools. The library of the centre was used to carry on the school-related activities and additional pedagogical support was also provided. The staff at CAR II also provided support to resident children, registering improvements in liaising with schools in the course of 2020 and in the beginning of 2021.

In CACR, the support provided by the team was also critical, particularly in light of the lack of technological resources and competences. A number of computers were donated by private actors and local authorities for the purposes of home schooling.

D. Health care

Indicators: Health Care			
1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
2. Do asylum seekers have adequate access to health care in practice?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input type="checkbox"/> No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Limited	<input type="checkbox"/> No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input type="checkbox"/> No

The Asylum Act enshrines the right of asylum seekers and their family members to health care provided by the National Health System (*Serviço Nacional de Saúde*, SNS),⁶³⁴ and includes a specific provision on the right to adequate health care at the border.⁶³⁵ The primary responsibility for the provision of health care lies with the Ministry of Health,⁶³⁶ except for asylum seekers detained at the border that fall under the responsibility of the Ministry of Home Affairs.⁶³⁷ The latter can however cooperate with public entities and/or private non-profit organisations in the framework of a MoU to ensure the provision of such services.⁶³⁸

⁶³¹ Available at: <https://bit.ly/2Q6AHA2>.

⁶³² Available at: <https://bit.ly/3wF5W6c>.

⁶³³ A summary of the most relevant features of the third school term is available at: <https://bit.ly/31Yg3oC>.

⁶³⁴ Articles 52(1) and 56(1) Asylum Act.

⁶³⁵ Article 56(2) Asylum Act. This provision should be read in conjunction with Article 146-A(3) Immigration Act that provides for the right of pre-removal detainees in CIT to emergency and basic health care.

⁶³⁶ Article 61(3) Asylum Act.

⁶³⁷ Article 61(1) Asylum Act. While not included in this provision, SEF should also be considered responsible for providing access to health care to asylum seekers in pre-removal detention given its managing responsibilities of CIT: Article 146-A(3)-(4) Immigration Act.

⁶³⁸ *Ibid.*

In accordance with the Asylum Act,⁶³⁹ the specific rules governing access of asylum seekers and their family members to health care⁶⁴⁰ are provided by Ministerial Order No 30/2001 and Ministerial Order No. 1042/2008,⁶⁴¹ 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;⁶⁴²
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;⁶⁴³
3. Asylum seekers have access to the SNS free of charge⁶⁴⁴ for emergency health care, including diagnosis and treatment, and for primary health care,⁶⁴⁵ as well as assistance with medicines, to be provided by the health services of their residence area.⁶⁴⁶

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.⁶⁴⁷ 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.⁶⁴⁸ This provision remains to be tested in practice due to the extremely limited number of such decisions to date (see [Reduction or Withdrawal of Reception Conditions](#)).

The special needs of particularly vulnerable persons must be taken into consideration in the provision of health care,⁶⁴⁹ through adequate medical care,⁶⁵⁰ and specialised mental health care including for survivors of torture and serious violence,⁶⁵¹ and in detention.⁶⁵² The responsibility for special treatment required by survivors of torture and serious violence lies with ISS.⁶⁵³

In practice, asylum seekers have effective access to free health care in the SNS in line with applicable legal provisions. However, persisting challenges have an impact on the quality of health care. According to previous research,⁶⁵⁴ and information available to CPR, these include language and cultural barriers (e.g., the lack of interpreters for certain languages and the reluctance of health care services to use interpretation services such as ACM's translation hotline); difficult access to diagnosis procedures and medication paid by the SNS due to bureaucratic constraints; or very limited access to mental health care and other categories of specialised medical care (e.g. dentists)⁶⁵⁵ in the SNS. The difficulties in accessing

⁶³⁹ Article 52(1) *in fine* Asylum Act.

⁶⁴⁰ The legal and operational background pertaining to the access of asylum seekers to health care was revisited by the ACSS and the DGS in an internal guidance note issued on 12 May 2016 in the framework of the European Agenda for Migration, available at: <http://bit.ly/2jdBIFW>.

⁶⁴¹ Ministerial Order No 1042/2008 extends Ministerial Order No 30/2001 *ratione personae* to applicants for subsidiary protection and their family members.

⁶⁴² Ministerial Order No 30/2001, para 2. Under Article 52(2) Asylum Act, the asylum seeker is required to present the certificate of the asylum application to be granted access to health care under these provisions. The internal guidance note issued on 12 May 2016 by the ACSS and the DGS provides for possible documents entitling the asylum seeker to access health care and includes a complete list of documents issued to the asylum seeker by the SEF during the asylum procedure (e.g., renewal receipts of the certificate of the asylum application, provisional residence permit, etc.)

⁶⁴³ *Ibid.*

⁶⁴⁴ Article 4(1)(n) Decree-Law 113/2011.

⁶⁴⁵ For the purposes of free access to the SNS, primary health care is to be understood as including among others: (i) Health prevention activities such as out-patient medical care, including general care, maternal care, family planning, medical care in schools and geriatric care (ii) specialist care, including mental care (iii) in-patient care that does not require specialised medical care, (iv) complementary diagnostic tests and therapies, including rehabilitation and (v) nursing assistance, including home care: Ministerial Order No 30/2001, par.6.

⁶⁴⁶ Ministerial Order No 30/2001, par.5.

⁶⁴⁷ Ministerial Order No 30/2001, par.8.

⁶⁴⁸ Article 60(7) Asylum Act.

⁶⁴⁹ Article 77(1) Asylum Act.

⁶⁵⁰ Articles 52(5) and 56(2) Asylum Act.

⁶⁵¹ Articles 78(3)-(4) and 80 Asylum Act.

⁶⁵² Article 35-B(8) Asylum Act.

⁶⁵³ Article 80 Asylum Act.

⁶⁵⁴ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017.

⁶⁵⁵ In this regard, DGS noted in the past that such difficulties are similar to those faced by Portuguese citizens.

specialised care in the SNS, including dentists, also came out as the main concerns in consultations conducted by CPR in October 2017 in the framework of the relocation programme.

In August 2020, the National Association of Pharmacies informed its associates of new procedures regarding prescriptions of applicants for international protection.⁶⁵⁶ According to the experience of CPR, since then, access to medication paid by the SNS has been adequately ensured. In practice, applicants only have to pay for medication that is not (fully or partially) co-paid by the SNS.

CPR and the local health centres of Loures-Odivelas cooperate closely. The long-term care unit conducts medical appointments at CAR twice a week and ensures the implementation of the national vaccination plan among applicants. Additionally, the unit provides routine support to assisted medication, pregnant women, new-borns, as well as persons with other health-related vulnerabilities. Within the context of the coronavirus pandemic, the team also supported testing whenever necessary.

CPR provides financial support to unaccompanied asylum-seeking children and asylum seekers in admissibility and accelerated procedures to cover the costs of diagnosis procedures and medication depending on the individual circumstances and available resources. Unaccompanied children residing at CPR's CACR have also been able to access dental care in SOL, a clinic managed by SCML that provides specialised care in the field for children living or studying in Lisbon.⁶⁵⁷

Following the identification of **coronavirus** cases among applicants for international protection accommodated in one hostel (see [Housing: Conditions in reception facilities](#)), in line with previous decisions to conduct testing operations in communitarian accommodation facilities (e.g., nursing homes), the health authorities decided to test all asylum seekers accommodated in communal facilities in Lisbon. These were public health operations that included an information-sharing component and involved various governmental and non-governmental actors,⁶⁵⁸ including CPR. Testing and follow-ups (including quarantining/prophylactic isolation) continued to be organised whenever deemed necessary and according to the specific circumstances.

Information sessions with the support of healthcare staff were conducted in reception centres. Furthermore, staff made daily efforts to reiterate the preventive measures and their relevance.

Within the context of the pandemic, CACR faced significant challenges in liaising with the responsible healthcare unit, including for registration (a necessary requirement for subsequent medical follow-up, vaccination, Covid testing...). Access has been ensured with the support of other healthcare units. By the end of the year, some difficulties regarding vaccination continued to be observed.⁶⁵⁹

The National Vaccination Plan (Covid-19) was approved by Ministerial Decree no.298-B/2020, of 23 December 2020.⁶⁶⁰ The Ministerial Order determines that the national vaccination plan is grounded on the principles of universality, acceptability, and feasibility and is free of charge.

Priority groups for the Covid-19 vaccination are defined based on a combination of factors such as age and pre-existing conditions (in addition to essential workers).⁶⁶¹ Asylum seekers and refugees living in communal facilities are considered a group with an increased risk of infection and outbreaks (e.g., similarly to elderly homes) and, as such, are prioritised. Vaccination at CPR's Reception Centres occurred in the beginning of the 2021.

⁶⁵⁶ Following what was prescribed in the handbook governing the relationship between Pharmacies and the SNS, available at <https://bit.ly/3sapk7K>.

⁶⁵⁷ For more information see: <https://bit.ly/2x2l8Ak>.

⁶⁵⁸ Secretary of State for Integration and Migration (SEIM), SEF, Municipality of Lisbon, Civil Protection Authority, Public Health Directorate, National Medical Emergency, High Commissioner for Migration (ACM), Institute of Social Security, Lisbon Firefighters, Santa Casa da Misericórdia de Lisboa (SCML), the Public Security Police (PSP), the Mosque and CPR

⁶⁵⁹ Crescer reported similar difficulties.

⁶⁶⁰ Ministerial Decree 298-B/2020 of 23 December 2020, available at: <https://bit.ly/3fU70NC>.

⁶⁶¹ Plano de Vacinação COVID-19, 3 December 2020, available at: <https://bit.ly/2PPD5eF>.

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.⁶⁶²

While the Asylum Act also refers to guarantees available to particularly vulnerable persons,⁶⁶³ 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.⁶⁶⁴

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,⁶⁶⁵ but within reasonable time following registration.⁶⁶⁶ The provision of special reception conditions should take into consideration: (i) the material reception needs of particularly vulnerable persons;⁶⁶⁷ (ii) their special health needs, including those particular to survivors of torture and serious violence.⁶⁶⁸

The law further details the modalities of some of these categories of special reception conditions particularly regarding the special needs of children⁶⁶⁹ (including unaccompanied children)⁶⁷⁰ and housing conditions.

There are no specific mechanisms, standard operating procedures, or units in place to systematically identify asylum seekers in need of special reception conditions. The only exceptions consist of age assessment procedures to identify unaccompanied children and the identification and protection of potential unaccompanied children victims of trafficking that present practical and technical implementation challenges (see [Identification](#)).

In the framework of admissibility (including Dublin) and accelerated procedures on the territory, asylum seekers who present apparent vulnerabilities entailing special reception needs such as children, disabled people, elderly people, pregnant women, single parents with minor children, persons with serious illnesses or mental disorders would generally be identified by CPR within a reasonable period of time after registration. This is done based on information received from SEF prior to their referral to CPR’s reception centres or during legal assistance, social interviews, or initial medical screenings conducted during the provision of material reception conditions. Between 2018 and the first quarter of 2020, overcrowding has generated significant challenges in terms of service capacity (see [Conditions in Reception Facilities](#)). The changes in the reception described above have improved the situation since the second half of 2020.

According to SCML, asylum seekers referred by the GTO benefit from specific social counselling at the appeal stage and may be referred to homeless shelters managed by the organisation on a temporary

⁶⁶² Article 2(1)(ag) Asylum Act.

⁶⁶³ Article 2(1)(y) Asylum Act.

⁶⁶⁴ Article 77(1) and (3) Asylum Act.

⁶⁶⁵ Article 77(2) Asylum Act.

⁶⁶⁶ Article 77(3) Asylum Act.

⁶⁶⁷ Articles 56(2) and 77(1) of Asylum Act.

⁶⁶⁸ Articles 35-B(8), 52(5), 56(2), 78(3)-(4) and 80 Asylum Act.

⁶⁶⁹ Article 78 Asylum Act.

⁶⁷⁰ Article 79 Asylum Act.

basis to address specific vulnerabilities. Rooms with individual bathrooms can also be used to respond to certain special needs. Similarly, according to ISS special needs are assessed and vulnerable asylum seekers are provided differentiated support during the regular procedure, notably in the case of children, disabled and the elderly. However, no further quantitative or qualitative information is available and to date no research has been conducted to assess the impact of the dispersal policy implemented during the regular procedure (see [Conditions in Reception Facilities](#)).

Between September 2019 and December 2020, a community intervention specialist worked directly with families in CAR to ensure access to support activities.

1. Reception of families and children

The accommodation of unaccompanied children who are 16 and over in adult reception centres and the initiation of family tracing are dependent of a best interests assessment.⁶⁷¹ Under the Asylum Act, the best interest of the child also requires that children: (i) be placed with parents or, in their absence, with adult relatives, foster families, specialised reception centres or tailored accommodation; (ii) not be separated from siblings; (iii) are offered stability, notably by keeping changes in place of residence to a minimum; (iv) are ensured well-being and social development; (v) have security and protection challenges addressed, notably where there is a risk of human trafficking; and (vi) express their opinion, taking into consideration their age and maturity.⁶⁷²

The provision of special reception conditions during the asylum procedure includes a specialised reception centre for unaccompanied children, **CACR**, and the accommodation of unaccompanied children who are 16 or older in **CAR** and **CAR II** as a measure of last resort, in the absence of appropriate alternatives or in pre-autonomy stages (see [Types of Accommodation](#)). CPR promotes family tracing, in partnership with the Portuguese Red Cross (CVP), if considered to be in the best interest of the child and taking into consideration the child's opinion.

CPR's reception centres offer facilities to accommodate disabled people and playgrounds for children who are systematically enrolled in public education. Despite the chronic issue of overcrowding, families are generally given separate accommodation either at CAR or in external accommodation. Asylum seekers are generally referred to the SNS for health assessments and care, including differentiated care, even though referral capacity constraints from CPR due to overcrowding and other challenges, particularly for mental health care and certain categories of specialised medical care, were experienced throughout the year.

Between September 2019 and December 2020, a community intervention specialist worked directly with families in CAR to ensure access to support activities.

To the extent that it is possible, and upon consent of the applicants, family unity should be preserved in the provision of housing,⁶⁷³ while adult asylum seekers with special reception needs should be accommodated with adult relatives who are legally responsible for them and already present on the territory.⁶⁷⁴

According to the Asylum Act, adequate measures must be adopted to avoid sexual and gender-based violence and harassment in reception centres and other housing provided to asylum seekers.⁶⁷⁵ Among the measures adopted by CPR in this regard are the definition of separate room areas, awareness raising activities, and the monitoring by staff.

⁶⁷¹ Article 79(10) and (14) Asylum Act.

⁶⁷² Article 78(2)(a)-(h) Asylum Act.

⁶⁷³ Articles 51(2) and 59(1)(a) and (b) Asylum Act.

⁶⁷⁴ Article 59(1)(c) Asylum Act.

⁶⁷⁵ Article 59(1)(e) Asylum Act.

2. Reception of survivors of torture and violence

While ISS is specifically responsible for ensuring access to rehabilitation services for survivors of torture and serious violence,⁶⁷⁶ 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 in 2017 by CPR,⁶⁷⁷ including in the framework of the project “Time for Needs: Listening, Healing, Protecting”,⁶⁷⁸ showed 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 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, despite some challenges, it has been possible for unaccompanied children to access mental health care support within the SNS.⁶⁷⁹

In 2018, CPR disseminated a tool and information materials pertaining to the identification and provision of special procedural needs and special reception needs of survivors of torture and/or serious violence developed in the framework of the project.⁶⁸⁰

The provision of reception conditions by 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. According to ISS, caseworkers can make referrals to specialised services at local level, for instance, for asylum seekers placed in the area of **Coimbra**, ISS has the possibility to make referrals to the [Centre for the Prevention and Treatment of Psychogenic Trauma](#) that provides differentiated mental health care adapted to the needs of survivors of torture and/or serious violence.

According to the information provided by SCML, the team ensuring support to asylum seekers includes a psychologist. Applicants can also be referred to psychiatric care within the health care units managed by the organisation.

⁶⁷⁶ Article 80 Asylum Act.

⁶⁷⁷ The most recent specific research available at the time of writing.

⁶⁷⁸ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <https://bit.ly/3gEoe1T>.

⁶⁷⁹ Particularly through programme “Aparece” (information available at: <https://bit.ly/3mzqad1>).

⁶⁸⁰ The Questionnaire for the Assessment of the Special Needs of Survivors of Torture and/or Serious Violence Among Asylum Seekers and Beneficiaries of International Protection (QASN) and other information materials are available at: <https://bit.ly/3gEoe1T>.

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

The Asylum Act provides for the right of asylum seekers to be immediately informed about their rights and duties related to reception conditions.⁶⁸¹ It also foresees that they must be informed about the organisations that can provide assistance and information regarding available reception conditions, including medical assistance.⁶⁸² Furthermore, SEF is required to provide asylum seekers with an information leaflet, without prejudice to providing the information contained therein orally.⁶⁸³ In both cases the information must be provided 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, asylum seekers receive an information leaflet from SEF that briefly covers some of its information obligations including reception conditions.⁶⁸⁴ The information contained in the leaflets is brief and not considered user-friendly particularly in the case of unaccompanied children. According to CPR's experience, the leaflet is only available in a limited number of foreign languages (e.g., French, English, Arabic). While a specific information leaflet for unaccompanied children which, among others, includes information on reception conditions is available online,⁶⁸⁵ CPR is not aware of its systematic distribution despite having been appointed as legal representative on numerous occasions throughout the year.

In accordance with existing MoUs with the authorities (see [Responsibility for Reception](#)), CPR provides information to asylum seekers throughout the asylum procedure and particularly during admissibility (including Dublin) and accelerated procedures. This is done through individual interviews as well as through social and legal support. Before the pandemic, group sessions were also organised. The information provided by CPR broadly covers the information requirements provided in the law as regards the institutional framework of reception, including on the dispersal policy, as well as the types and levels of material reception conditions, access to health care, education, employment, etc. In 2020, information leaflets were also developed and distributed by CAR.

This further includes the provision of tailor-made information to unaccompanied children upon their admission to **CACR** orally and using multimedia and 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, English, Russian, Tigrinya and French).

The serious capacity challenges faced by CPR (see [Conditions in Reception Facilities](#) and [Regular Procedure: Legal Assistance](#)) have however impacted the provision of information during the first stage of the asylum procedure, particularly regarding asylum seekers placed in private accommodation in more remote locations. Furthermore, the pandemic context also posed additional challenges, requiring constant adjustments of human and material resources and procedures.

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 any serious challenges in accessing social services or in the provision of information regarding reception conditions during this stage of the asylum procedure despite some complaints regarding difficulties in securing an appointment or language barriers.

According to the Statistical Report of Asylum 2020, the dispersal mechanism is considered good practice despite the implementation challenges. Among the challenges identified by the Report are: (i) the reluctance of applicants in moving from the Lisbon area to other parts of the country; (ii) the need to

⁶⁸¹ Article 49(1)(a) Asylum Act.

⁶⁸² Article 49(1)(a)(iv) Asylum Act.

⁶⁸³ Article 49(2) Asylum Act.

⁶⁸⁴ SEF, *Acolhimento em Portugal*, available in Portuguese at: <https://bit.ly/2MkBnvC>.

⁶⁸⁵ SEF, *Informação para Menores Não-Acompanhados Requerentes de Proteção Internacional em Portugal*, available in Portuguese at: <https://bit.ly/2FFVjc3>.

finetune the distribution criteria; and (iii) discrepancies in the response capacity of local Social Security services.⁶⁸⁶

Other organisations also provide information and assistance to asylum seekers during the first instance of the regular procedure such as JRS, Crescer, and ACM through its Local Support Centres for Migrants Integration (CLAIM), albeit in a limited number of cases and mostly focused on integration.

Within the context of the coronavirus pandemic, cross-cutting efforts were made by CPR to provide asylum seekers with information on the overall situation in all contacts with its staff (e.g., the need to adopt preventive measures, to stay indoors and to follow the information provided by the competent authorities, and on the closure of many public services).

Dedicated information leaflets were prepared and updated by CPR throughout 2020 and translated into English, French and Arabic languages. Some leaflets were also translated into Russian and Italian. Preventive measures, the emergency state, food safety and hygiene, and rights and duties in Portugal were among the topics covered in such brochures. Posters were also used in reception facilities.

Information sessions with the support of healthcare professionals were conducted in reception centres. Furthermore, staff made daily efforts to reiterate the preventive measures as well as their relevance.

ACM prepared/compiled information resources in a number of languages.⁶⁸⁷

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.⁶⁸⁸ The internal regulation of **CACR** provides that unaccompanied children have the right to receive visits from family and friends which have been approved by the Family and Juvenile Court. The internal regulation of **CAR** provides for a general right to visits upon authorisation of the Director of the Centre.

In practice, asylum seekers accommodated at CAR and CACR benefit from legal assistance from CPR's staff (see [Regular Procedure: Legal Assistance](#)) as well as from information and facilitation of contacts and meetings with lawyers at appeal stage. Such meetings can either take place at the reception centres or at the lawyers' offices, in the presence of a representative of CPR in the case of unaccompanied children.

Within the context of the coronavirus pandemic, visits were only authorised in a specific designated area providing that the applicable preventive measures were respected.

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.

⁶⁸⁶ Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, available in Portuguese at: <https://bit.ly/2MGYtB9>, p 141-142.

⁶⁸⁷ Available at: <https://bit.ly/2PBZpbP>.

⁶⁸⁸ Article 59(4) Asylum Act.

Detention of Asylum Seekers

Background

In March 2020, applicants for international protection that were detained at the border were released from administrative detention. The detention centre at **Lisbon** airport was closed (both due to the coronavirus pandemic and for renovation work).

In the same month, the Criminal Police arrested three SEF inspectors on suspicion of having killed a man in the detention centre at Lisbon airport.⁶⁸⁹ According to media reports, a 40-year-old man from Ukraine who was refused entry into national territory was found dead in the detention centre with signs of having been violently assaulted. Media outlets also reported alleged efforts to conceal the facts. The Minister of Home Affairs expressed his outrage and vowed to do his best to ensure the situation was not repeated. The Minister further announced changes to be implemented in the detention centre, including that applicants for international protection would no longer be detained there.

The facility re-opened on 1 August 2020 with vastly different conditions, and a new internal regulation was approved. While it was not possible to have access to the text of the new regulation, according to official statements of the Government and media reports, it determines that applicants for international protection cannot be held in the detention centre.

While applications for international protection at the border have been made since international air traffic resumed, until the end of the year, such applicants were granted entry into national territory, referred to the provision of reception conditions if needed, and their cases were not subject to the rules applicable to the border procedure.

At the time of writing, it is not clear whether this is temporary or will become permanent practice and whether it will apply to all national border posts. Nevertheless, the border procedure is provided in national law and was systematically applied combined with detention at the border until March 2020.

It should be noted that asylum seekers who apply for international protection while in detention due to a removal procedure continued to be subject to detention throughout the year, including in airport detention facilities.

Considering that applicants for international protection have not been detained in the Lisbon airport detention centre following the renovation works, CPR did not visit the detention centre after the renovation works. Consequently, CPR does not have direct knowledge of the current conditions of the facility.

The following section must be read in light of this context.

⁶⁸⁹ Polícia Judiciária, *Detenção de três presumíveis autores de crime de homicídio*, 30 March 2020, available in Portuguese at: <https://bit.ly/2VKHkqM>.

A. General

Indicators: General Information on Detention

1. Total number of asylum seekers detained in 2020:	Not available
2. Number of asylum seekers in detention at the end of 2020:	Not available
3. Number of detention centres specifically for asylum seekers: ⁶⁹⁰	3
4. Total capacity of detention centres specifically for asylum seekers:	Not available

The legal framework of detention centres is enshrined in Act 34/94 which provides for the detention of migrants in Temporary Installation Centres (*Centros de Instalação Temporária*, CIT) that are managed by SEF either for security reasons (e.g., aimed at enforcing a removal from national territory) or for irregular entry at the border. Detention facilities at the border,⁶⁹¹ which are not CIT *per se*, have been classified as such by Decree-Law 85/2000 for the purposes of detention following a refusal of entry at the border. Thus, these are detention centres with a strict separation between asylum seekers and other migrants.⁶⁹²

In practice, detention of asylum seekers in Portugal has been limited to applicants at the border and of applicants for international protection that were previously detained due to a removal procedure.

The 3 main detention facilities at the border are located in the international areas of **Lisbon**, **Porto** and **Faro** airports.⁶⁹³ The facilities have an overall capacity of 43,⁶⁹⁴ 30, and 12 places respectively.

According to the information provided by SEF, the facility at Porto airport does not have a specific detention zone for asylum seekers that, consequently, are detained in the area where there are available places. SEF further informed that the facility at the Lisbon airport does not have dedicated places to asylum seekers since August 2020.⁶⁹⁵ Out of the three, the facility at the **Lisbon** airport has been the most relevant to the detention of asylum seekers.

Bearing in mind that the Asylum Act provides for detention of asylum seekers at the border,⁶⁹⁶ which was systematically applied in practice until March 2020, the 2020 statistics provided by SEF show that a total of 183 asylum seekers were submitted to border procedures and hence placed in detention for a period of up to 60 days (see [Border Procedure](#)). Nevertheless, according to the data shared by SEF regarding the overall number of asylum seekers detained in airport facilities in 2020,⁶⁹⁷ 125 asylum seekers have been detained in EECIT **Lisbon**, 13 in EECIT **Porto**,⁶⁹⁸ and 17 in EECIT **Faro**. SEF's data further indicates that a total of 1,355 persons have been placed in detention in EECIT Lisbon and 55 in EECIT Faro in the course of 2020.

The law allows for the detention of an asylum seeker who applies for asylum while in detention at a CIT due to a removal procedure,⁶⁹⁹ a possibility which continued to be systematically applied in practice by the authorities in 2020. According to the statistical information shared by SEF, 20 persons applied for

⁶⁹⁰ This includes only the detention facilities at international airports, where asylum seekers may be detained. CIT are excluded.

⁶⁹¹ Council of Ministers Resolution 76/97.

⁶⁹² Indeed, as recalled by the Ombudsman: "The confinement of foreign citizens, including where it takes place in the international area of an airport, indeed consists in a deprivation of freedom (...) that goes beyond a mere restriction of freedom. On this matter cf. the judgement of the European Court of Human Rights n.º 19776/92, 25 June 1992 (*Amuur v France*).". Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, available in Portuguese at: <https://goo.gl/HbFdvk>. fn. 14 [unofficial translation].

⁶⁹³ While pre-removal facilities also exist in the airports of Ponta Delgada and Madeira, CPR is unaware of its use for detention of applicants for international protection.

⁶⁹⁴ Since 1 August 2020. According to the information provided by SEF, between 1 January 2020 and 4 April 2020, the total capacity of the Lisbon airport detention facility was of 58 places.

⁶⁹⁵ According to SEF, between 1 January 2020 and 4 April 2020, there were 30 places for asylum seekers in the facility.

⁶⁹⁶ Articles 26(2) 35-A(3)(a) Asylum Act.

⁶⁹⁷ These figures likely include both applicants subject to the border procedures as well as applicants detained within the context of applications for international protection following a removal procedure, see *infra*.

⁶⁹⁸ Transferred from EECIT Faro and, as such, likely accounted for in the data of both facilities.

⁶⁹⁹ Article 35-A(3)(b) Asylum Act.

asylum while in detention in 2020. Nevertheless, the information available to CPR based on the communications prescribed in the Asylum Act indicates that 43 such applications have been filled in 2020, the majority of which were in **Porto – Unidade Habitacional de Santo António** (CIT – UHSA).⁷⁰⁰

While the Asylum Act also provides for the possibility of placing other categories of asylum seekers in detention,⁷⁰¹ including those subjected to Dublin procedures, in practice only the aforementioned possibilities have been applied in practice.

The competent authority to place and review the detention of an asylum seeker in a CIT,⁷⁰² or in detention facilities at the border,⁷⁰³ is the Criminal Court, with territorial jurisdiction over the place where detention is imposed. In the case of detention at the border, SEF initially imposes detention, but is required to inform the Criminal Court of said detention measure within 48 hours of arrival at the border for the purpose of maintaining the asylum seeker in detention beyond that period.⁷⁰⁴

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 only fair to assume that detention has a negative impact on the quality of procedures, namely for survivors of torture and/or serious violence and victims of trafficking.

In addition, shorter deadlines and reduced procedural guarantees are applicable in the context of procedures conducted in detention. For example, 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 comments regarding SEF's written report on their status determination interview. Moreover, asylum seekers who are detained may face practical restrictions contacting others outside of the facility (including by phone). These reduced guarantees may also give rise to risks of poorer quality decision-making, notably in light of the significant number of applications deemed manifestly unfounded under these procedures.⁷⁰⁵

While UNHCR, CPR, legal representatives, and other NGOs have effective access to asylum seekers in detention at the border in accordance with the law,⁷⁰⁶ access to legal information as well as assistance in detention has been hindered in practice by a combination of factors, including shorter deadlines, limited capacity of service providers, poor quality of legal assistance provided by lawyers, a lack of interpretation services, and lengthy bureaucratic procedures for accessing the airports' restricted areas.

⁷⁰⁰ Decree-Law 44/2006 provides for the creation and functioning of CIT – UHSA in Porto.

⁷⁰¹ Article 35-A(3) Asylum Act.

⁷⁰² Article 35-A(5) Asylum Act.

⁷⁰³ Article 35-A(6) Asylum Act.

⁷⁰⁴ Ibid.

⁷⁰⁵ According to the (partial) statistical information collected by CPR, in 2019, 247 out of 347 asylum applications adjudicated at the border and 6 out of 26 applications from detention due to removal procedures were deemed manifestly unfounded. According to the information provided by SEF for 2020, 76 out of 183 applications adjudicated at the border were deemed manifestly unfounded.

⁷⁰⁶ Article 49(6) Asylum Act.

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: ☒ Yes ☐ No(until March 2020)
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,⁷⁰⁷ and can only occur on grounds of:

- National security, public order, public health; or
- Risk of absconding;

And be based on an individual assessment and if the effective application of less severe alternative measures is not possible.⁷⁰⁸

The possible grounds for the detention of asylum seekers also include:⁷⁰⁹

- Applying for asylum at the border;
- Applying for asylum following a decision of removal from national territory; or
- The application of the Dublin procedure.

According to the law, detention may only be applied if it is not possible to effectively implement less severe alternative measures.

Moreover, Article 26(1) of the Asylum Act determines that asylum seekers who applied for asylum at the border remain in the international area of the (air)port while waiting for the decision.⁷¹⁰

As mentioned in [General](#), systematic detention of asylum seekers in Portugal has been applied within the context of border procedures in which asylum seekers are detained until their application is admitted to the procedure (7 days)⁷¹¹ or for a maximum of 60 days in case of an appeal against the rejection of the application.⁷¹² Since March 2020, the border procedure has not been applied. Persons applying for international protection at the border were given entry into national territory, referred to the provision of reception conditions if needed and their cases were processed accordingly. At the time of writing, it was not clear whether this is temporary or will become permanent practice. Nevertheless, the border procedure is provided in national law and was systematically applied along with detention at the border until March 2020.

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)⁷¹³ or for a maximum of 60 days in case of an appeal against the rejection of the asylum application.⁷¹⁴ While the Asylum Act provides for the suspension of all administrative and/or criminal procedures related to the irregular entry of the asylum applicant on the national territory - and thus requires

⁷⁰⁷ Article 35-A(1) Asylum Act.

⁷⁰⁸ Article 35-A(2) Asylum Act.

⁷⁰⁹ Article 35-A(3) Asylum Act.

⁷¹⁰ It is our understanding that while this article seems to provide for the general detention of asylum seekers within the context of border procedures, it must be applied with due regard for the rules established in Art.35-A of the Asylum Act.

⁷¹¹ Article 26(4) Asylum Act.

⁷¹² Article 35-B(1) Asylum Act.

⁷¹³ Article 33-A(5) Asylum Act.

⁷¹⁴ Article 35-B(1) Asylum Act.

that the competent authorities are informed of the asylum application within 5 days for that purpose - ⁷¹⁵ detention at a CIT due to a removal procedure will rarely, if ever, be suspended *ex officio* by the Criminal Courts on that basis. Detention within this context continued to be applied throughout 2020 (including in the detention centre at Faro airport).

CPR is unaware of case law relating to or judicial interpretations of detention grounds such as the application of a Dublin procedure, threat to national security, public order, public health, or risk of absconding.

2. Alternatives to detention

Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?
 - ☒ Reporting duties
 - ☐ Surrendering documents
 - ☐ Financial guarantee
 - ☒ Residence restrictions
 - ☐ Other
2. Are alternatives to detention used in practice?
 - ☐ Yes ☒ No

As mentioned in [Grounds for Detention](#), according to the Asylum Act, detention of asylum seekers requires an assessment of the individual circumstances of the applicant and of the possibility to effectively implement less severe alternative measures,⁷¹⁶ thus demanding proof that alternatives to detention cannot be effectively applied. The Asylum Act lays down alternatives to detention consisting either of reporting duties before SEF on a regular basis or residential detention with electronic surveillance (house arrest).⁷¹⁷

Despite the safeguards enshrined in the law to ensure that detention of asylum seekers, including at the border, is used as a last resort and only where necessary, in practice, criminal courts rarely conducted an individual assessment on whether it is possible to effectively implement alternatives to detention. Nevertheless, following repeated requests for the release of vulnerable asylum seekers at the border, namely unaccompanied children and families with children, CPR has witnessed a growing tendency on the part of the Criminal Court of Lisbon to invite SEF to give due consideration to the release of families with children and to their referral to CAR since 2017.⁷¹⁸ However, these decisions systematically fell short of conducting an individual assessment of necessity and proportionality and of issuing an order to SEF.

Concerns regarding the judicial review of decisions to detain were recently flagged by the Ombudsman in a hearing at the Parliament (see [Procedural Safeguards: Judicial review of the detention order](#)).⁷¹⁹

With the exception of the release of vulnerable asylum seekers without conditions from the border (see [Detention of Vulnerable Applicants](#)), CPR is unaware of the application of alternatives to detention in practice. This assessment has been corroborated by information provided by SEF in 2019, indicating that the competent courts never applied alternatives to detention within this context so far. While information was not provided in this regard for 2020, CPR's assessment remains the same.

⁷¹⁵ Article 12(1) and (3) Asylum Act.

⁷¹⁶ Article 35-A(2) and (3) Asylum Act. While the need for an assessment of the individual circumstances of the applicant is only mentioned in the case of detention on the grounds of national security, public order, public health or when there is a flight risk, it is difficult to conceive an assessment of less severe alternative measures for the remaining grounds for detention that is not based on the individual circumstances of the applicant.

⁷¹⁷ Article 35-A(4)(a) and (b) Asylum Act.

⁷¹⁸ Judicial Court of the Lisbon District, Local Misdemeanour Court of Lisbon – Judge 2, Applications Nos 3881/17.5T8LSB, 13 February 2017; 19736/17.0T8LSB, 11 September 2017; 22330/17.2T8LSB, 16 October 2017; 22779/17.0T8LSB, 20 October 2017; 23770/17.2T8LSB, 3 November 2017; 25058/17.0T8LSB, 20 November 2017; 25060/17.1T8LSB, 20 November 2017; 8909/19.1T8LSB, 29 April 2019.

⁷¹⁹ Video recording available at: <https://bit.ly/3fZgcAd>.

The report of the European Commission against Racism and Intolerance (ECRI), published in October 2018, referred to the excessive use of detention in the context of asylum.⁷²⁰

In 2019, the practice was also condemned by the UN Committee Against Torture. It expressed concerns on multiple issues, including the excessive use of detention, the absence of individualised assessments as well as little consideration for alternatives to detention, the lack of adequate detention conditions in the relevant facilities, and entry fees charged to external parties at Lisbon airport.⁷²¹ Among other detention-related observations, the Committee recommended that detention is used only “as a measure of last resort and for as short a period as possible, by ensuring individualised assessments, and promote the application of non-custodial measures”.⁷²²

In 2020, the UN Committee on Human Rights, echoed concerns regarding detention at the border (namely regarding its duration and conditions), and recommended Portugal to “[e]nsure that the detention of migrants and asylum seekers is reasonable, necessary and proportionate [...] and that alternatives to detention are found in practice.”⁷²³

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?
☒ Frequently (until March 2020) ☐ Rarely ☐ Never

❖ If frequently or rarely, are they only detained in border/transit zones?
☒ Yes (until March 2020) ☐ No
2. Are asylum seeking children in families detained in practice?
☒ Frequently (until March 2020) ☐ 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.⁷²⁴ 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.⁷²⁵

Within these applicants, the Asylum Act identifies a sub-category of individuals whose special procedural needs result from torture, rape, or other serious forms of psychological, physical or sexual violence that may be exempted from border procedures and hence detention.⁷²⁶ Furthermore, the placement of unaccompanied and separated children in detention facilities at the border must comply with applicable international recommendations such as those by UNHCR, UNICEF, and the International Committee of the Red Cross (ICRC).⁷²⁷

In practice, asylum seekers have been systematically detained at the border for periods up to 60 days (see [Duration of detention](#)). While up to 2016, certain categories of particularly vulnerable applicants such as unaccompanied children, families with children, pregnant women, and severely ill persons were generally released without conditions, SEF changed its practice in this regard.

⁷²⁰ ECRI, *ECRI Report on Portugal (fifth monitoring cycle)*, CRI (2018)35, 2 October 2018, par.84, available at: <https://bit.ly/2sIFsAQ>.

⁷²¹ Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, para 39, available at <https://bit.ly/2G1F07z>.

⁷²² Ibid. para 40(a).

⁷²³ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5, 28 April 2020, par 34(d) and (e), and 35 (d), available at: <https://bit.ly/2Q1ftn8>.

⁷²⁴ Article 17-A(1) Asylum Act.

⁷²⁵ Ibid.

⁷²⁶ Article 17-A(4) Asylum Act.

⁷²⁷ Article 26(2) Asylum Act.

In 2017, the detention of an asylum-seeking family with children at the **Lisbon Airport** detention facility drew criticism from the Ombudsman, particularly regarding the inadequate detention conditions offered to a child with special health needs (see [Conditions in Detention Facilities](#)).⁷²⁸

In July 2018, following media reports on detention of young children at **Lisbon Airport**,⁷²⁹ and remarks by the Ombudsman and UNICEF,⁷³⁰ the Ministry of Home Affairs issued an order determining:⁷³¹

- An internal review of the functioning of the CIT at Lisbon Airport;
- The urgent presentation by SEF of a report on the recommendations issued by the Ombudsman in 2017 regarding the above-mentioned centre;
- That children under 16 years old (whether accompanied or not) cannot be detained in the CIT for more than 7 days;
- That the construction of the Temporary Reception Centre of Almoçageme (CATA), located in the municipality of **Sintra**, is given maximum priority. So far there is no definite public information on whether it will be an open or closed centre.

At the time of writing, no information on the results of the internal reviews was publicly available.

The most recent report of the National Preventive Mechanism available at the time of writing once again highlighted the lack of procedures for the identification of vulnerable persons at the border. The report also underlined that, while the rules provided in the ministerial order have been respected, the detention of children continued to be problematic.⁷³²

The detention of children in Portugal was criticised in 2019 by the UN Committee on the Rights of the Child, emphasising that detention of children, whether accompanied or not, must be avoided and alternatives ensured.⁷³³ Focusing specifically on the situation of children in Portugal, both accompanied and unaccompanied/separated, the UN Committee Against Torture has also recently emphasised that they should not be detained solely because of their immigration status.⁷³⁴ SEF did not share data on the number of persons with special reception needs detained throughout 2020.

The UN Human Rights Committee also addressed the administrative detention of children in its 2020 Concluding Observations:⁷³⁵ “While noting the information provided by the delegation that Portuguese law does not allow for the detention of minors under the age of 18 for immigration purposes, the Committee notes the dispatch by the Ministry of Internal Administration released in July 2018 limiting the detention of children below the age of 16 to a maximum period of seven days. The Committee is concerned about the lack of clear legislation in this respect, including with regard to children below the age of 16, and about reports of detention of children at airports (arts. 2, 7, 9, 13, and 24).

The State party should ensure that children and unaccompanied minors are not detained, except as a measure of last resort and for the shortest appropriate period of time, taking into account their best

⁷²⁸ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, p28, available in Portuguese at: <https://bit.ly/3eLMNX6>.

⁷²⁹ See e.g. Público, ‘SEF detém crianças requerentes de asilo contra recomendações da ONU’, 22 July 2018, available in Portuguese at: <https://bit.ly/2uILRNP>.

⁷³⁰ See e.g. Público, ‘Providora, “Centros de instalação são o no man’s land contemporâneo”’, 22 July 2018, available in Portuguese at: <https://bit.ly/2UI9URU>; Expresso, ‘UNICEF Portugal exige fim de detenção de crianças no aeroporto’, 24 July 2018, available in Portuguese at: <https://bit.ly/2G9xisZ>.

⁷³¹ AIDA, ‘Portugal: Persisting detention of children at the airport’, 4 September 2018, available at: <https://bit.ly/2LWn4LZ>.

⁷³² Ombudsman, ‘*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*’, June 2020, p 65-66, available at: <https://bit.ly/2Pz1ZiN>.

⁷³³ Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Portugal*, CRC/C/PRT/CO/5-6, 9 December 2019, par.42(a) and (d), available at: <https://bit.ly/2G1F07z>.

⁷³⁴ Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAT/C/PRT/CO/7, 18 December 2019, para.40(b), available at <https://bit.ly/2G1F07z>.

⁷³⁵ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5, 28 April 2020, par 36 and 37, available at: <https://bit.ly/2Q1ftn8>.

interests as a primary consideration with regard to the duration and conditions of detention and their special need for care. It should ensure that the physical conditions in all immigration detention and reception centres are in conformity with international standards. It should also ensure that guarantees are in place to protect child asylum seekers, in particular unaccompanied children, ensuring that they have access to adequate education, health, social and psychological services, and legal aid, and that they are provided with a legal representative and/or guardian without delay”.

While detention within the context of border procedures has not been applied since March 2020, detention continued to apply when the asylum application is made following a removal decision (including at times, in border detention facilities).

4. Duration of detention

Indicators: Duration of Detention

- | | |
|--|-------------------|
| 1. What is the maximum detention period set in the law (incl. extensions): | 60 days |
| 2. In practice, how long in average are asylum seekers detained? | Less than 60 days |

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 an admissibility procedure.⁷³⁶ If SEF takes a positive admissibility decision or if no decision has been taken within 7 working days, the applicant is released. If the claim is deemed inadmissible or unfounded in an accelerated procedure, the asylum seeker can challenge the rejection before the administrative courts with suspensive effect and remains detained for up to 60 days during the appeal proceedings. However, after 60 days, even if no decision has yet been taken on the appeal, SEF must release the individual from detention and provide access to the territory. The maximum detention period of 60 days is equally applicable in instances where the application is made from detention at a CIT due to a removal procedure.⁷³⁷

In the 2019 report of the National Preventive Mechanism, the Ombudsman reported that following consultations with other countries, it was concluded that Portugal was the only one detaining persons in airport detention facilities for more than 48 hours.⁷³⁸

Official information on the average duration of detention of asylum seekers is not available. Furthermore, due to the changes to the operational practice regarding detention within the context of border procedures, CPR cannot reliably estimate the duration of detention of children (accompanied and unaccompanied).⁷³⁹

Even though CPR is not aware of instances where the maximum detention duration was exceeded in the case of asylum seekers, in 2017 the Ombudsman raised concerns regarding isolated instances of detention of third-country nationals beyond the 60-day time limit with respect to **CIT – UHSA**; the legal status of such persons was not specified.⁷⁴⁰ More recent information on this aspect is not available.

⁷³⁶ Article 26 and 35-A(3)(a) Asylum Act.

⁷³⁷ Article 35-B(1) Asylum Act.

⁷³⁸ Ombudsman, ‘*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*’, June 2020, p 52, available at: <https://bit.ly/2Pz1ZiN>.

⁷³⁹ As mentioned in the 2019 update of the report: the information available to CPR, regarding 26 unaccompanied children, of which one was deemed adult by SEF, indicated that there were instances of detention at the border for periods ranging from 1 to 47 days (on average 7 days) in 2019. The information available to CPR regarding 52 children accompanied by adults reveals that they were detained at the border for periods ranging between 0 and 59 days (on average 12 days). In some instances, families were transferred from the EECIT to UHSA during detention. As such, while CPR has observed a tendency to decrease detention periods for children following the order issued in July 2018 by the Ministry of Home Affairs, the practice remained a concern in light of international standards that prohibit any immigration detention of children.

⁷⁴⁰ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, 23-24, available at: <https://bit.ly/3eLMNX6>.

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

As mentioned above, asylum seekers may be detained either in Temporary Installation Centres (CIT),⁷⁴¹ or in detention facilities at the border - which are not CIT *per se* but have been qualified as such by law for the purposes of detention following an entry refusal at the border⁷⁴² (see [Detention: General](#)).

The 3 detention facilities at the border⁷⁴³ are located in the international areas of Lisbon, Porto and Faro airports.

Detention capacity in border detention centres: 2020	
Detention centre	Total capacity
Detention facility – Lisbon airport	Up Until March 2020: 58 Since August 2020: 43
Detention facility – Porto airport	30
Detention facility – Faro airport	12
Total	Up until March 2020: 100 Since August 2020: 85

Source: SEF. This refers to the total capacity of the detention centres and is thus not limited to asylum seekers specifically.

According to the information provided by SEF, the facility at **Porto** airport does not have a specific detention zone for asylum seekers who are, consequently, detained in the area where there are available places. SEF further informed that the facility at the **Lisbon** airport does not have dedicated places to asylum seekers since August 2020.⁷⁴⁴

Additionally, according to information previously provided by SEF, **CIT-UHSA** has an overall capacity for 30 persons.

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 airport detention facilities in **Porto** and **Faro** airports or to **CIT – UHSA**, where they will be 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 for the purposes of the asylum procedure.

⁷⁴¹ Article 35-A(2) and (3) Asylum Act. The legal framework of detention centres is enshrined in Act 34/94 of 14 September 1994, available in Portuguese at: <https://bit.ly/359v9Zf>.

⁷⁴² Council of Ministers Resolution 76/97 and Decree-Law 85/2000 of 12 May 2000, available in Portuguese at: <https://bit.ly/2xUjt1T> and <https://bit.ly/3cS7Ky7>.

⁷⁴³ While pre-removal facilities also exist in the airports of Ponta Delgada and Madeira, CPR is unaware of its use for detention of applicants for international protection.

⁷⁴⁴ According to SEF, between 1 January 2020 and 4 April 2020, there were 30 places for asylum seekers in the facility.

According to the available information, the construction of a new CIT in Almoçageme was halted by judicial order⁷⁴⁵ and the construction of another CIT in Guarda is also planned.⁷⁴⁶

A project of €1,560,000 submitted by SEF to FAMI was approved in July 2020. The project aims to “reinforce the quality of temporary installation centres with adequate spaces, namely for families and vulnerable groups, and services of social, legal, linguistic, and health assistance”.⁷⁴⁷

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

- | | | |
|---|---|--|
| 1. Do detainees have access to health care in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it limited to emergency health care? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

2.1. Overall conditions

In the absence of legal standards for the operation of CIT, the detention facilities at the border and the **CIT – UHSA** in Porto are managed by the SEF pursuant to internal regulations.⁷⁴⁸

As mentioned, the detention facility at **Lisbon** Airport was closed in March 2020 both due to the coronavirus pandemic and to renovation works. Until then, this was the detention facility where the majority of asylum seekers were detained (overwhelmingly within the context of border procedures). At the time, due to the coronavirus outbreak, all applicants for international protection detained were granted entry to national territory.

While the facility reopened in August 2020, asylum border procedures have not resumed. As such, persons applying for international protection at the border have been systematically granted entry to national territory, referred to the provision of reception conditions if needed, and their cases were not subject to the rules applicable to the border procedure.

It has been reported, both by the competent authorities and by the Ombudsman, that the conditions of the EECIT have improved significantly. The Ombudsman further noted that most of the concerns raised in previous years in her role as National Preventive Mechanism have now been addressed. Furthermore, according to the information publicly available, the new regulation of EECIT Lisbon explicitly excludes detention of applicants for international protection in the facility.

Considering that CPR previously accessed EECIT Lisbon solely for the purpose of providing legal assistance to applicants for international protection, and that such applicants have not been detained, CPR’s staff did not visit the detention centre after the renovation works. Consequently, CPR does not have direct knowledge of the current conditions of the facility. Furthermore, the latest report of the National Preventive Mechanism available at the time of writing, published in June 2020, covers the events of 2019.

Considering that applicants for international protection have been detained at EECIT Lisbon until March 2020 (before the renovation), this section focus on the detention conditions observed until then (mostly based on CPR’s observation and on the information contained in the above-mentioned report). Information on current conditions is included to the extent possible while it should be noted that these are not currently relevant to applicants for international protection.

⁷⁴⁵ Ombudsman, ‘*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*’, June 2020, p 50, available at: <https://bit.ly/2Pz1ZiN>. The National Preventive Mechanism conducted a preventive visit to the facility in 2019. The conditions observed are described in the report (p 56-58).

⁷⁴⁶ Ibid, p 58.

⁷⁴⁷ Secretaria-Geral do Ministério da Administração Interna, *Autoridade Responsável do FAMI – SGMAI aprova candidatura no âmbito do OE3 -REGRESSO - OE3.ON1–Medidas de Acompanhamento*, 6 July 2020, available at: <https://bit.ly/2OAVGuo>. (Unofficial translation).

⁷⁴⁸ Ministerial Decision n. 5863/2015 of 2 June 2015 regulates in detail detention conditions by police forces, including SEF, but is only applicable to the initial 48-hour detention period.

It is also relevant to underline that, according to the available information, when an application for international protection is made following a removal decision, applicants continue to be detained. This has happened in 2020, including after the changes in the EECIT Lisbon. While such cases are predominantly registered in UHSA, detention in EECIT (although not in EECIT Lisbon after March) has also been registered.

Regarding **EECIT Lisbon**,⁷⁴⁹ the reception desk and operational assistance were managed by the staff of a private security company which included male and female employees.⁷⁵⁰ The staff was responsible, among other things, for: initial registration; collection and access to personal belongings; administration of medication; registration and referral of requests for medical assistance; and the distribution of meals. The detention facility was regularly cleaned by a cleaning company.

The reception area included an office for a member of SEF's staff who was present at the facility during office hours. Additionally, there were two offices in the reception area to conduct individual interviews, one of which was used by SEF, and the other by lawyers and NGOs such as CPR. Due to space and structural constraints, the offices were small and did not ensure adequate privacy, notably due to inadequate sound isolation.⁷⁵¹

The detention facility had separate wings for asylum seekers and other persons who were refused entry into the territory. Each wing had two collective dormitories with bunk beds and closets that were separate for men and women. Other than a few clothes, shoes, and hygiene items, detainees were not allowed to keep personal belongings.⁷⁵² As reported by the Ombudsman, available beds were often insufficient for the number of detainees.⁷⁵³ It has been observed by the Ombudsman that, due to overcrowding, people had to sleep on mattresses on the floor of the common room. The Ombudsman classified this as an inhuman treatment of detainees due to the lack of privacy and hygiene and to the lack of minimum conditions.⁷⁵⁴ Overcrowding also impacted bathroom and toilet facilities.⁷⁵⁵

The Ombudsman, has previously noted that, while in **EECIT Porto** there is a room specifically prepared to accommodate a family, this was not the case in **Lisbon**, where children stayed with one parent in the collective dormitories.⁷⁵⁶

Each wing had a small courtyard and a common room used for meals and leisure that includes tables, chairs, and a television.⁷⁵⁷

In previous years, the Ombudsman has recalled the risks of mixed detention facilities such as those of **EECIT Lisbon** – as opposed to **CIT – UHSA** where men and women are accommodated on different

⁷⁴⁹ For a description of the conditions in UHSA, see Ombudsman, *Mecanismo Nacional de Prevenção – Relatório à Assembleia da República*, June 2020, p.52, available in Portuguese at: <https://bit.ly/2Pz1ZiN>. According to the analysis conducted by the Ombudsman, detention conditions in UHSA are significantly better than the conditions observed in border detention facilities and, overall, do not raise significant concern.

⁷⁵⁰ According to a 2017 report from the Ombudsman, this was not the case in the **Porto** and **Faro** airport facilities: Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, 22-23, available in Portuguese at: <https://bit.ly/3eLMNX6>.

⁷⁵¹ This has been observed and experienced by CPR during visits to the facility.

⁷⁵² Ombudsman, *Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*, June 2020, p.60, available at: <https://bit.ly/2Pz1ZiN>.

⁷⁵³ Ibid, p 53.

⁷⁵⁴ Ibid, p 54.

⁷⁵⁵ Ibid. According to the 2018 report, each wing of the facility had a separate bathroom and toilet facilities that included showers with hot water, toilets, hand washing facilities, and urinals. Ombudsman, *National Preventive Mechanism, Report to the Parliament 2018*, 30 May 2019, p.39, available in Portuguese at: <https://bit.ly/2S7tdcW>.

⁷⁵⁶ Ombudsman, *National Mecanismo Nacional de Prevenção – Relatório à Assembleia da República 2018*, 30 May 2019, available at: <https://bit.ly/2S7tdcW>.

⁷⁵⁷ Ombudsman, *Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*, June 2020, p.53, available at: <https://bit.ly/2Pz1ZiN>.

floors – and the need to adopt adequate measures to tackle potential risks of sexual violence and exploitation against female detainees. Similar risks were identified in **EECIT Faro**.⁷⁵⁸

CPR has at times received complaints from detainees due to difficulties in accessing luggage which required prior authorisation. This information was also confirmed by the Ombudsman.⁷⁵⁹

Detainees at **EECIT Lisbon** were previously served meals provided by the airline companies, similar to those served on airplanes, and complaints regarding food were frequent. According to the Ombudsman, this has changed, and, during its 2019 visits, detainees reported being satisfied with the quality of the meals provided. The meals were deemed varied and complete.⁷⁶⁰

The Ombudsman considered that the detention facilities in Lisbon, Porto, and Faro were not adequate for long stays,⁷⁶¹ and reiterated concern with instances of excessive isolation of detainees in the facility in Porto.⁷⁶²

In 2019, the Ombudsman had issued a specific recommendation regarding excessive isolation suggesting the authorities to systematically transfer persons detained in such situations to UHSA following 7 days of detention at the border facility.⁷⁶³ The recommendation was not followed by SEF that deemed its implementation unfeasible and legally doubtful.⁷⁶⁴

In the past, the Ombudsman has raised concerns about the lack of specific training and language skills of supporting staff from security companies to perform their duties and the impact it could have on detainees in terms of isolation and access to services such as health care. It also reported a complaint of physical abuse from staff during its visit to **EECIT Lisbon**, corroborated by other detainees.⁷⁶⁵ In its report concerning 2018, the Ombudsman also referred to accounts of ill treatment by SEF officers during document controls at the border whose veracity was not confirmed.⁷⁶⁶

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, EECIT). In 2017, CPR has demanded a formal investigation into these allegations and SEF has conducted internal inquiries. According to the information provided by SEF to CPR, the procedures did not lead to any proof of wrongdoing and were therefore classified.

In March 2020, the Criminal Police arrested three SEF inspectors on suspicion of having killed a man in the detention centre at Lisbon airport in the same month.⁷⁶⁷ According to media reports, a 40-year-old man from Ukraine who was refused entry into national territory was found dead in the detention centre with signs of having been violently assaulted. Media outlets also reported alleged efforts to conceal the facts. The trial was ongoing at the time of writing.

⁷⁵⁸ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, 34-36

⁷⁵⁹ Ombudsman, 'Mecanismo Nacional de Prevenção, Relatório à Assembleia da República', June 2020, p.60, available at: <https://bit.ly/2Pz1ZiN>.

⁷⁶⁰ Ombudsman, 'Mecanismo Nacional de Prevenção, Relatório à Assembleia da República', June 2020, p.58, available at: <https://bit.ly/2Pz1ZiN>.

⁷⁶¹ Ombudsman, 'Mecanismo Nacional de Prevenção, Relatório à Assembleia da República', June 2020, p.53, available at: <https://bit.ly/2Pz1ZiN>.

⁷⁶² Ombudsman, 'Mecanismo Nacional de Prevenção, Relatório à Assembleia da República', June 2020, p.54, available at: <https://bit.ly/2Pz1ZiN>.

⁷⁶³ Ombudsman, *Recomendação n.º 2/2019/MNP*, 2 October 2019, available at: <https://bit.ly/3bwAP1L>.

⁷⁶⁴ Ombudsman, 'Mecanismo Nacional de Prevenção, Relatório à Assembleia da República', June 2020, p.55, available at: <https://bit.ly/2Pz1ZiN>.

⁷⁶⁵ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, p.21-22, available in Portuguese at: <https://bit.ly/3eLMNX6>.

⁷⁶⁶ Ombudsman, *National Preventive Mechanism, Report to the Parliament 2018*, 30 May 2019, p.46-47, available in Portuguese at: <https://bit.ly/2S7tdcW>.

⁷⁶⁷ Polícia Judiciária, *Detenção de três presumíveis autores de crime de homicídio*, 30 March 2020, available in Portuguese at: <https://bit.ly/2VKHkqM>.

The Minister of Home Affairs expressed his outrage and vowed to do his best to ensure the situation was not repeated. The Minister further announced changes to be implemented in the detention centre, including that applicants for international protection would no longer be detained there.

The facility re-opened on 1 August 2020 with vastly different conditions, and a new internal regulation was approved. While it was not possible to have access to the text of the new regulation, according to official statements of the Government and media reports, it determines that applicants for international protection cannot be held in the detention centre.

During a hearing at the Parliament in December, the Ombudsman noted that a number of issues that have been identified by the National Preventive Mechanism in the past, and deemed unchangeable by the authorities have been solved, namely:⁷⁶⁸

- Measures were adopted to avoid overcrowding. As asylum seekers were no longer detained, occupation was significantly reduced;
- Detainees have now access to their personal mobile phones and can connect to wi-fi internet;
- While previously people slept in common rooms and on the floor, now there are individual bedrooms;
- Third party access to the facility is no longer subject to an accreditation procedure (that required payment of an access fee).

The Ombudsman also highlighted that the other EECITs remained the same.

According to information provided by the Minister of Home Affairs to the Parliament, 164 persons had been detained in EECIT **Lisbon** between 1 August 2020 and 11 December 2020 following decisions refusing entry into national territory. As a rule, detention lasted less than 48 hours. Three persons were detained for more than 7 days. All of them had received removal decisions and, due to air traffic limitations, it was not possible to arrange earlier flights.⁷⁶⁹

In April 2020, the UN Human Rights Committee expressed concern over the detention conditions of migrants in Portugal, recommending that conditions and treatment in relevant facilities comply with international standards.⁷⁷⁰

According to IOM, within the context of the coronavirus pandemic, a contingency plan for UHSA was adopted by SEF. The organisation observed a stark reduction in the number of new detainees in the first months of the pandemic.

2.2. Activities

Each wing of the detention facility at **EECIT Lisbon** has a courtyard with tables and chairs. The courtyards in the border detention facilities have been criticised by the Ombudsman for being too small, surrounded by walls and lacking natural light.⁷⁷¹ As far as CPR could observe, the situation remained unchanged, at least in the first quarter of 2020.

The detention facility at **Lisbon airport** did not have a specific leisure area. There was a common room used for meals and leisure which included tables, chairs, and a television.⁷⁷² The lack of activities for detainees has been deemed by the Ombudsman as a mental health risk factor.⁷⁷³ Mobile phones and

⁷⁶⁸ Video recording available at: <https://bit.ly/3fZgcAd>.

⁷⁶⁹ Recording available at: <https://bit.ly/3a0Gtdy>.

⁷⁷⁰ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5. 28 April 2020, par 34(e) and 35(e), available at: <https://bit.ly/2Q1ftn8>.

⁷⁷¹ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, p.33, available in Portuguese at: <https://bit.ly/3eLMNX6>.

⁷⁷² Ombudsman, *'Mecanismo Nacional de Prevenção, Relatório à Assembleia da República'*, June 2020, p.53, available at: <https://bit.ly/2Pz1ZiN>.

⁷⁷³ Ibid, p 59. This was not the case in UHSA.

other personal belongings of the detainees were generally confiscated upon arrival at the detention facility.⁷⁷⁴

During its 2019 visits, the Ombudsman observed that a small space for children was added to the common room and that some toys were available.⁷⁷⁵

While the law provides for access to education of children asylum seekers under the same conditions as nationals,⁷⁷⁶ and the rules governing CIT provide for the access of detained accompanied children to education depending on the duration of their detention,⁷⁷⁷ children in detention did not have access to education in practice either at the detention facility or by accessing normal schools.

2.3. Health care and special needs in detention

The responsibility for providing health care to asylum seekers at the border lies with the Ministry of Home Affairs that can rely on public entities and/or private non-profit organisations in the framework of a MoU to ensure the provision of such services.⁷⁷⁸

The Asylum Act provides for the right of asylum seekers and their relatives to adequate health care at the border (i.e., in detention),⁷⁷⁹ and for the right of vulnerable asylum seekers in detention to regular health care that meets their particular needs.⁷⁸⁰ The Asylum Act does not, however, specify this particular standard⁷⁸¹ and/or whether it differs from the general standard of health care provision in the asylum procedure.⁷⁸²

In practice, there seems to be varying levels of service provision depending on the location of detention.⁷⁸³

Until 2018, detainees at **EECIT Lisbon** only had access to basic medical screenings conducted by nurses of the Portuguese Red Cross (*Cruz Vermelha Portuguesa*, CVP) following an initial triage conducted by the security staff without any specific training or protocol.⁷⁸⁴ Where needed, asylum seekers were referred to emergency care, including emergency mental health care in hospitals. The triage system generated complaints regarding effective and/or timely access to health care.⁷⁸⁵

⁷⁷⁴ Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', June 2020, p.60-62, available at: <https://bit.ly/2Pz1ZiN>. As mentioned above, following the changes in the facility, detainees have access to their personal phones and can use wi-fi internet.

⁷⁷⁵ Ibid, p 58.

⁷⁷⁶ Article 53 Asylum Act.

⁷⁷⁷ Article 146-A(7) Immigration Act.

⁷⁷⁸ Article 61(1) Asylum Act.

⁷⁷⁹ Article 56(2) Asylum Act.

⁷⁸⁰ Article 35(b)(8) Asylum Act.

⁷⁸¹ However, Article 146-A(3) Immigration Act states that a foreigner detained at a CIT or an equivalent detaining facility (i.e., at the border) is entitled to emergency and basic health care only and that special attention should be provided to vulnerable individuals, particularly to minors, unaccompanied minors, handicapped persons, elderly persons, pregnant women, families with children and survivors of torture, rape and other forms of serious psychological, physical or sexual violence.

⁷⁸² In accordance with Article 52(1) Asylum Act and Ministerial Orders ("Portaria") No 30/2001 and No 1042/2008, asylum seekers and their relatives are entitled to medical assistance and access to medicines for basic needs, and for emergency and primary care in the National Health Service (SNS) under the same conditions as nationals. Primary care is to be understood as including at least access to general practitioners, access to specialists, inpatient care, complementary diagnostic tests and therapies, and nursing assistance. Furthermore, Article 4(1)(n) Decree-Law No 113/2011 (recast) provides for free access to the SNS by asylum seekers.

⁷⁸³ See Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available in Italian at: <https://bit.ly/3gEoe1T>.

⁷⁸⁴ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, p.27, available in Portuguese at: <https://bit.ly/3eLMNX6>.

⁷⁸⁵ Ibid.

In order to address these problems, SEF signed an MoU with the NGO Doctors of the World (*Médicos do Mundo*, MdM) in June 2018 for the provision of enhanced medical care at EECIT Lisbon.⁷⁸⁶ According to MdM, the project aims to address the health condition of detainees; prevent the deterioration of chronic conditions; whenever possible, offer out-patient treatments; assist in dealing with infectious diseases within the detention area and in case of release from the detention area in cooperation with the Directorate General for Health (DGS); and train staff to deal with episodes of acute disease and treatment follow-up.⁷⁸⁷ For that purpose, MdM was expected to provide medical and nursing care, medication, medical tests, referrals to the SNS in case of emergency care or other not eligible for out-patient treatment and referrals to DGS.

According to the Ombudsman, doctors from MdM visited the facility 3 times a week. Support was also provided by the Portuguese Red Cross (CVP) and urgent situations are referred to the hospital. The Ombudsman has in the past considered that medical visits should be more frequent and expressed concerns regarding the non-provision of psychological assistance.⁷⁸⁸ According to the Ombudsman, the medical room improved in 2019.⁷⁸⁹

In 2019, CPR learned of an instance of scabies at **EECIT Lisbon** and was informally told that the situation was limited to the wing where persons refused entry into the territory were confined. It should be noted that the absence of arrangements for the washing of the detainees' clothes in all airport detention facilities was criticised in the past by the Ombudsman as posing a risk to the health of both detainees, SEF inspectors and supporting staff.⁷⁹⁰ In its 2018 report, the Ombudsman also referred to the difficulties in accessing personal belongings (including clothes) as a factor that hampers frequent change and wash of clothes.⁷⁹¹

The Ombudsman has also identified gaps in access to healthcare in the detention facilities at Porto and Faro airports.

In the case of asylum seekers detained in **CIT – UHSA** due to removal procedures, medical care is provided by health workers from MdM.⁷⁹² Referrals to the National Health Service (SNS) can be made, including to specialised care. The Public Health Unit performs monthly visits to the facility, ensuring vaccination and issuance of the corresponding official documents. Access to a psychologist is also possible. The situation at UHSA has been recurrently described as a good practice by the Ombudsman.⁷⁹³

According to previous research,⁷⁹⁴ and the information available to CPR, there are no specific mechanisms or standard operational procedures for the early identification of vulnerable asylum seekers and their special reception needs at the border or in pre-removal detention.

When detained (see [Detention of Vulnerable Applicants](#)), vulnerable applicants are granted access to services and medical treatment under the same standards that are applicable to all detainees and have been described above.

⁷⁸⁶ See Público, 'SEF e Médicos do Mundo juntos na prestação de cuidados de saúde a imigrantes', 4 June 2018, available in Portuguese at: <https://bit.ly/2JdtGcw>.

⁷⁸⁷ MdM, *Embarque na Saúde, Project Information Sheet*, s.d., available in Portuguese at: <https://bit.ly/2RFBnfl>.

⁷⁸⁸ Ombudsman, *Mecanismo Nacional de Prevenção – Relatório à Assembleia da República 2018*, 30 May 2019, p.47-48, available in Portuguese at: <https://bit.ly/2S7tdcW>.

⁷⁸⁹ Ombudsman, *Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*, June 2020, p.63, available at: <https://bit.ly/2Pz1ZiN>.

⁷⁹⁰ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, 28-29.

⁷⁹¹ Ombudsman, *Mecanismo Nacional de Prevenção – Relatório à Assembleia da República t 2018*, 30 May 2019, p.40-41, available in Portuguese at: <https://bit.ly/2S7tdcW>.

⁷⁹² MdM, *Unidade Habitacional de Santo António, Project Information Sheet*, s.d., available in Portuguese at: <https://bit.ly/2Uc068m>.

⁷⁹³ Ombudsman, *Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*, June 2020, p.63, available at: <https://bit.ly/2Pz1ZiN>.

⁷⁹⁴ See Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available in Italian at: <https://bit.ly/3gEoe1T>.

3. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to

❖ Lawyers:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input type="checkbox"/> No
❖ NGOs:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input type="checkbox"/> No
❖ UNHCR:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input type="checkbox"/> No
❖ Family members:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input type="checkbox"/> No

The Asylum Act and the internal regulation of the detention facility at **Lisbon Airport**⁷⁹⁵ provide for the right of detainees to receive visits from legal representatives, embassy representatives, relatives, and national and international human rights organisations.⁷⁹⁶ In the particular case of legal assistance, asylum seekers in detention are entitled to receive visits from lawyers, UNHCR, and CPR.⁷⁹⁷ Restrictions in the access to the detention facilities can only be based on grounds of security, public order or operational reasons and only to the extent that they do not restrict access in a significant or absolute manner.⁷⁹⁸

Recent information on visiting rules is not available.⁷⁹⁹

According to CPR's experience, access procedures for free legal aid and private lawyers used to be complex and bureaucratic, and involved obtaining (paid) access cards in advance. Accredited staff from CPR had unrestricted access to asylum seekers detained at the border or in pre-removal detention centres, but only following the status determination interview conducted by SEF, as opposed to lawyers who have unrestricted access to detainees prior to and during the status determination interview. Considering that CPR previously accessed EECIT Lisbon solely for the purpose of providing legal assistance to applicants for international protection, and that such applicants have not been detained, CPR's staff did not visit the detention centre after the renovation works.

According to the available information, the fee previously charged by ANA, S.A., the private company in charge of national airports, for accessing the restricted area of the airports where the detention facilities are located, is no longer applied in Lisbon as access to the detention centre is now made directly by the exterior. Throughout recent years, legal aid lawyers have raised concerns regarding this fee which could discourage them from visiting their clients.⁸⁰⁰ The fee, which was applied to all external visitors that are not accredited, was also repeatedly criticised by the Ombudsman that qualified it as a restriction to Article 35-B(4) of the Asylum Act.⁸⁰¹ The UN Committee Against Torture also expressed concern with the application of this access fee in its 2019 Concluding Observations on Portugal, thereby recommending the State to "guarantee that retained asylum seekers and irregular migrants have unhindered, prompt and adequate access to counsel, including legal services".⁸⁰²

Regarding other forms of contact with the exterior, detainees at EECIT Lisbon were not allowed to keep their mobile phones but were entitled to use public phones that were freely accessible in each wing of the detention facility using coins, prepaid cards or collect calls. Furthermore, each detainee was entitled to 5 minutes of national and international calls using the telephones of the facility.

⁷⁹⁵ Prior to the above-mentioned changes.

⁷⁹⁶ Article 35-B(3) Asylum Act.

⁷⁹⁷ Article 49(6) Asylum Act.

⁷⁹⁸ Article 35-B(4) Asylum Act.

⁷⁹⁹ A 2011 report of the Ombudsman seems to be the only publicly available resource describing such rules. The report is available at: <https://bit.ly/2S10lo1>.

⁸⁰⁰ See Público, 'Taxa cobrada a advogados para ver detidos no aeroporto é "nonsense", acusa bastonário', 3 September 2018, available in Portuguese at: <https://bit.ly/2NocWka>.

⁸⁰¹ According to the Ombudsman, in 2019, access costed 13€. Ombudsman, 'Mecanismo Nacional de Prevenção, Relatório à Assembleia da República', June 2020, p.61, available at: <https://bit.ly/2Pz1ZiN>.

⁸⁰² Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, par.40(d), available at <https://bit.ly/2G1F07z>.

These limits on communication have been criticised by the Ombudsman due to the inadequacy of the 5-minute plafond, lack of clarity of the procedures to request additional calls, and difficulties in accessing public phones due to the absence of necessary cards.⁸⁰³

At times, CPR received complaints from detainees regarding the limited time for calls and having to choose between contacting family or lawyers. According to information available to CPR, access to phone calls after exhausting the 5-minute plafond varied. In some cases, phone calls to lawyers and organisations such as CPR for the purposes of legal assistance were provided. However, similarly to 2018, CPR received sporadic complaints in 2019 from detainees who were refused a phone call to contact the organisation, and some calls between its legal officers and detainees were abruptly interrupted by staff of the private security company in charge of operational assistance. The situation regarding access to phone calls remained largely the same during the first quarter of 2020.

In accordance with the law, UNHCR and CPR have the right to be informed of all asylum claims presented in Portugal and to personally contact asylum seekers irrespective of the place of application in order to provide information on the asylum procedure, as well as regarding their intervention throughout the process.⁸⁰⁴ In this context, until the first quarter of 2020, CPR was regularly present (i.e., generally every week) at **EECIT Lisbon** to provide free legal information and assistance,⁸⁰⁵ in particular regarding the asylum procedure; access to free legal aid at appeal stage; and the promotion of the release without conditions of particularly vulnerable asylum seekers either by SEF *ex officio* or by means of review from the Criminal Courts. Since March 2020, asylum seekers have not been detained at the Lisbon airport. Legal support continued to be provided to persons detained at other locations by remote means.

Social assistance, leisure or other occupational activities were not provided by any organisation at **EECIT Lisbon**.⁸⁰⁶ In the case of **CIT– UHSA** in Porto, the law provides for an MoU with the International Organisation for Migration (IOM) and the Jesuit Refugee Service (JRS) Portugal,⁸⁰⁷ that are responsible for training staff and providing social, psychological, and legal assistance to detainees. According to CPR's experience regarding asylum seekers who have applied from detention at CIT – UHSA, JRS Portugal has a psychologist and a legal officer in the detention facility that provide in-house assistance. The provision of in-house medical and psychological assistance is performed by volunteer organisations such as MdM. Furthermore, IOM shares information materials at the facility (namely on the rights of detainees, regular migration and risks of irregular migration), organises information sessions and conducts interviews on the circumstances of detention. The Ombudsman has also highlighted that, following prior recommendations, in 2019, access to personal mobile phones by detained at UHSA was extended.⁸⁰⁸

⁸⁰³ Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', June 2020, p.61, available at: <https://bit.ly/2Pz1ZiN>.

⁸⁰⁴ Article 13(3) Asylum Act.

⁸⁰⁵ Article 49(1)(e) and (6) Asylum Act.

⁸⁰⁶ Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', June 2020, p.62-63, available at: <https://bit.ly/2Pz1ZiN>.

⁸⁰⁷ Article 3 Decree-Law 44/2006.

⁸⁰⁸ Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', June 2020, p. 58, available at: <https://bit.ly/2Pz1ZiN>.

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 receive information in writing regarding the grounds for their detention, access to free legal aid and legal challenges against detention in a language they either understand or are reasonably expected to understand.⁸⁰⁹

In practice, the declaration issued by SEF to asylum seekers at the border for the purposes of certifying the registration of the asylum application contained a brief reference to the norm of the Asylum Act that provides for the systematic detention of asylum seekers at the border.⁸¹⁰ CPR is unaware of the provision of information in writing regarding the grounds of detention, the right to access free legal aid and the right to judicial review of the detention order.⁸¹¹ That being said, asylum seekers benefit from legal information and assistance from CPR at the border, which also included free legal assistance for the purpose of judicial review of the detention order. However, this has been limited to vulnerable asylum seekers due to capacity constraints.

The competent authority to impose and review the detention of an asylum seeker in a CIT,⁸¹² or in detention facilities at the border,⁸¹³ is the Criminal Court which has territorial jurisdiction over the place where detention occurs. In the case of detention at the border, SEF is required to inform the Criminal Court of the detention within 48 hours upon arrival at the border for purposes of maintaining the asylum seeker in detention beyond that period.⁸¹⁴ 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.⁸¹⁵

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

To CPR's understanding, once SEF informs the Criminal Court that the asylum application at the border was rejected, there are no additional *ex officio* reviews prior to release even in cases where the court invited SEF to consider the release of vulnerable applicants (see [Alternatives to Detention](#)). Where the applicant appeals the rejection of the asylum application and is therefore not removed from the border, release usually takes place at the end of the maximum detention time limit of 60 days (see [Duration of Detention](#)).

While asylum seekers have not been subject to detention within the border procedure since March 2020, this continued to be the practice until that date.

⁸⁰⁹ Article 35-B(2) Asylum Act.

⁸¹⁰ Article 26 Asylum Act.

⁸¹¹ 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.

⁸¹² Article 35-A(5) Asylum Act.

⁸¹³ Article 35-A(6) Asylum Act.

⁸¹⁴ Ibid.

⁸¹⁵ Article 35-A(6) Asylum Act.

In a hearing at the Parliament in December 2020, the Ombudsman noted that there is a need for dialogue with judicial bodies to ensure that judicial actors are aware of the need for effective judicial control in these cases.⁸¹⁶

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,⁸¹⁷ which thus includes proceedings in front of the Criminal Court regarding detention at the border. Access to legal aid is processed under the same conditions as nationals, which include a “means test”.⁸¹⁸ In the context of legal aid for the purposes of appealing the rejection of the asylum application, this test is generally applied in a flexible manner. CPR has no experience with legal aid applications for the purposes of detention review, however.

Up to 2018 legal aid procedures tended to exceed 60 days, rendering assistance inefficient in the context of detention review, as the asylum seekers would usually be released from detention before the free legal aid lawyer was appointed by the Portuguese Bar Association (*Ordem dos Advogados*). While these procedures have been reduced to 1-2 weeks, since then, they were not used in practice for purposes of detention review to the extent of CPR’s knowledge. While the law provides for an accelerated free legal aid procedure at the border on the basis of a MoU between the Ministry of Home Affairs and the Bar Association,⁸¹⁹ such procedures are only for purposes of the application and remain to be implemented to date. The relevance of broader legal support within the context of detention and the possibility of implementing specific MoUs with the Bar Association for that purpose have also been repeatedly underlined by the Ombudsman.⁸²⁰

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 due to capacity constraints. Since March 2020, asylum seekers have not been detained within the context of border procedures.

In November 2020, the Ministry of Home Affairs, the Ministry of Justice, and the Bar Association signed a protocol to ensure the provision of legal counselling and assistance to foreigners to whom entry into national territory was refused (Lisbon, Porto, Faro, Funchal and Ponta Delgada airports).⁸²¹ According to the information available at the time of writing, this protocol was made within the framework of Article 40(2) of the Immigration Act and is not intended to cover applicants for international protection.

E. Differential treatment of specific nationalities in detention

CPR is unaware of any increased risk of detention and/or systematic detention and/or longer periods of detention of asylum seekers based on nationality.

⁸¹⁶ Video recording available at: <https://bit.ly/3fZgcAd>.

⁸¹⁷ Article 49(1)(f) Asylum Act.

⁸¹⁸ Act 34/2004.

⁸¹⁹ Article 25(4) Asylum Act.

⁸²⁰ Ombudsman, ‘*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*’, June 2020, p.64, available at: <https://bit.ly/2Pz1ZiN>.

⁸²¹ Ministry of Home Affairs, *Estrangeiros impedidos de entrar em Portugal vão ter direito a advogado*, 4 November 2020, available in Portuguese at: <https://bit.ly/3oCd8L3>.

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.⁸²² The duration of residence varies according to the type of international protection granted: the residence permit for **refugees** is valid for 5 years,⁸²³ while the residence permit for **subsidiary protection** beneficiaries is valid for 3 years.⁸²⁴ According to the statistics provided by SEF, in 2020 a total of 257 residence permits were issued to refugees and 60 residence permits were issued to beneficiaries of subsidiary protection.

According to CPR's experience in providing legal information and assistance to asylum seekers and beneficiaries of international protection at all stages of the asylum procedure (see [Regular Procedure: Legal Assistance](#)), the average length of the procedure for issuing a residence permit following a decision granting international protection in previous years was considered reasonable, ranging from a few weeks to a month and a half. Since 2019, CPR noticed significant waiting periods for the issuance of residence permits, in particular due to difficulties in booking appointments for renewals. During such periods, asylum seekers are issued a declaration from SEF certifying their application for the issuance/renewal of a residence permit. It should be noted that asylum seekers admitted to the regular procedure are in possession of a provisional residence permit, valid and renewable for 6 months, at the time they are granted international protection (see [Short Overview of the Asylum Procedure](#)).⁸²⁵

The delays in the issuance and renewal of residence permits have been recently flagged by the UN Human Rights Committee.⁸²⁶ Such delays, with impacts in access to services and assistance, have also been identified by the Statistical Report of Asylum 2020.⁸²⁷

In late 2014 and 2015, the launch of a cessation procedure by SEF regarding Guinean nationals, the first ever to target citizens of a specific nationality in a collective manner, 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. The same practice was observed in 2019 and 2020 as a significant number of cessation procedures was triggered by the authorities (see [Cessation](#)).

While noting the existence of difficulties in determining the number of beneficiaries of international protection in the country each year, the Statistical Report of Asylum 2020 indicates that by the end of 2019, 2,427 beneficiaries of international protection were in the country (837 refugees and 1,590 beneficiaries of subsidiary protection).⁸²⁸

⁸²² Article 67 Asylum Act. This provision is generally in line with Article 24 recast Qualification Directive.

⁸²³ Article 67(1) Asylum Act.

⁸²⁴ Article 67(2) Asylum Act.

⁸²⁵ Article 27(1) Asylum Act.

⁸²⁶ Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5, 28 April 2020, par 34(a), available at: <https://bit.ly/2Q1ftn8>.

⁸²⁷ Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, p.227, available in Portuguese at: <https://bit.ly/2MGYtB9>.

⁸²⁸ Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, p.17, available in Portuguese at: <https://bit.ly/2MGYtB9>.

On 13 March, the government enacted Decree-Law no. 10-A/2020, establishing temporary and exceptional measures in response to the new coronavirus.⁸²⁹ It was determined, *inter alia*, that documents expired after the entry into force of the Decree-Law, or within the 15 days prior, were valid until 30 June 2020. Said Decree-Law was subsequently amended, further extending the validity of such documents. At the time of writing, it was last amended by Decree-Law no. 87-A/2020⁸³⁰, determining *inter alia* that:

- Documents expired since the entry into force of the Decree-Law, or within the 15 days prior to its entry into force, are accepted as valid until 31 March 2021.
- After 31 March 2021, such documents continue to be accepted providing the holder has an appointment for its renewal.

This extension of validity is applicable to visas and documents related to the residency of foreign nationals.

2. Civil registration

2.1. Registration of childbirth

Civil registration acts of foreign authorities, such as childbirth certificates regarding foreigners, can only be transcribed into the Portuguese civil registry if the applicant demonstrates a legitimate interest in the transcription,⁸³¹ and if the act is: duly translated;⁸³² legal, and does not raise well-founded doubts as to its authenticity.⁸³³

In practice, the need of beneficiaries of international protection to transcribe foreign child birth certificates normally arises in the framework of naturalisation procedures that require the registration of their birth by the Central Registrations Service (*Conservatória dos Registos Centrais*, CRC) based on a duly legalised birth certificate prior to the registration of the acquisition of Portuguese nationality.⁸³⁴ Furthermore, it also arises in the case of marriage (transcription of foreign marriages and registration of marriages contracted in Portugal) and the regulation of parental authority as both are added to the birth registry of the parties involved.⁸³⁵ However, in the case of [Naturalisation](#) procedures and registration of marriages, the law provides for alternative avenues in case the applicant is unable to produce a duly legalised birth certificate.

According to the experience of CPR, there are no other recurring instances where the need for the registration of childbirth arises as SEF does not require such registration for identification and issuance of international protection residence permits. Furthermore, according to the law, residence permits issued by the authorities replace identification documents for all legal purposes.⁸³⁶

Registering the birth of a child on Portuguese territory is mandatory, regardless of nationality.⁸³⁷ It must be declared to the civil registry authorities of the Ministry of Justice either by: (1) the parents, another legal representative of the child, or a person assigned that responsibility in writing by the parents; (2) the next closest relative of the child, or; (3) an official of the institution where the birth took place or to which the birth was orally reported.⁸³⁸ The time limit and the place for reporting the birth varies depending on

⁸²⁹ Decree-Law 10-A/2020 of 13 March 2020, available in Portuguese at: <https://bit.ly/2K2dNnb>. An English translation of the amended Decree-Law is available at: <https://bit.ly/3kUSqG0> [last updated on 15 January 2021].

⁸³⁰ Available at <https://bit.ly/2ND3F9H>.

⁸³¹ Article 6(4) Civil Registration Code.

⁸³² Article 49(8) Civil Registration Code.

⁸³³ Article 49(1) Civil Registration Code. In case the civil registry officer is not satisfied with the credibility of the foreign registration act, it may suspend the procedure and contact *ex officio* the issuing authority for clarifications at the expense of the applicant, an option that is ill adapted to beneficiaries of international protection (Article 49(2) and (3) Civil Registration Code). The applicant may also lodge a judicial appeal against the decision of the civil registration officer to refuse partially or in total the authenticity of the document (Article 49(4)-(6) and 292(2) Civil Registration Code) in which case he or she will be allowed to present statements and alternative evidence (Article 49(7) Civil Registration Code).

⁸³⁴ Article 50(1) Portuguese Nationality Regulation.

⁸³⁵ Article 69(1)(a) and (e) Civil Registration Code.

⁸³⁶ Article 84 Immigration Act.

⁸³⁷ Article 1(1) and (2) Civil Registration Code.

⁸³⁸ Article 97(1) Civil Registration Code.

the place of birth.⁸³⁹ The law does not contain limitations to birth registration due to the legal status of parents.

The actual registration of birth that follows the declaration can either take place at the maternity ward, which is usually the case, or at a civil registry office.⁸⁴⁰

Following the registration of birth, the information is automatically transferred to the Ministry of Health, ISS and, upon request, to the Ministry of Finance for purposes of registration of the child with its services.⁸⁴¹

The registration of birth requires that identification documents of the parents are presented “whenever possible”.⁸⁴² According to the Immigration Act, the residence permit replaces the identification document for all legal purposes.⁸⁴³ An interpreter must be appointed in case the parents are unable to communicate with the civil registry officer in Portuguese and the civil registry officer is not familiar with the language spoken by the parents.⁸⁴⁴

If the child or his/her parent(s) are foreign citizens, were born abroad or have an additional nationality, the law allows for their registration under a foreign first name.⁸⁴⁵

According to CPR’s experience, applicants for and beneficiaries of international protection whose children are born in Portugal do not face significant or systematic challenges in registering their birth. However, some problems may arise with the registration of paternity where the father cannot personally declare his willingness to be registered as such before a Portuguese civil registry office and the marriage contracted abroad is not previously registered in Portugal, as is generally the case. In these cases, a paternity investigation is usually conducted by the Family Court with uncertain results given the potential difficulties of beneficiaries of international protection to meet evidentiary requirements.⁸⁴⁶

Within the context of the coronavirus pandemic, registration desks at maternity wards have been (temporarily) closed since 23 March 2020. Birth registrations continued to be performed in civil registry offices in urgent cases upon appointment. Since 13 April 2020, birth registration can be performed online.⁸⁴⁷ According to Article 7(9) of Law 1-A/2020, of 19 March, as amended by Law 4-A/2020, of 6 April, the deadline for birth registration was suspended due to the pandemic.

2.2. Registration of marriage

In practice, according to CPR’s experience, the need of beneficiaries of international protection to transcribe foreign marriage registries is not a recurring issue given that SEF does not require such registration for the purposes of derivative international protection (i.e. when protection is extended to someone else) or family reunification of procedures (see [Family Reunification](#)).

Marriage between foreigners in Portugal, on the other hand, requires the presentation of the spouses’ residence permits,⁸⁴⁸ birth certificates,⁸⁴⁹ and certificates of no impediment,⁸⁵⁰ that must be either dully

⁸³⁹ Articles 96 and 96-A Civil Registration Code. This can either be at the maternity ward up to the moment the mother leaves the premises; or at any civil registry office (*conservatória de registo civil*) within 20 days from the date of birth.

⁸⁴⁰ Articles 101, 101-A and 101-B Civil Registration Code.

⁸⁴¹ Article 102-A Civil Registration Code.

⁸⁴² Article 102 Civil Registration Code.

⁸⁴³ Article 84 Immigration Act.

⁸⁴⁴ Article 42 Civil Registration Code.

⁸⁴⁵ Article 103 Civil Registration Code.

⁸⁴⁶ Article 120 Civil Registration Code and Articles 1847, 1853(a), 1864 and 1865 Civil Code.

⁸⁴⁷ Ministry of Justice, *Nota à comunicação social - Registo de nascimento pela internet a partir de hoje*, 13 April 2020, available at: <https://bit.ly/3a42QyM>.

⁸⁴⁸ Article 137(1) Civil Registration Code.

⁸⁴⁹ Article 137(2) Civil Registration Code.

⁸⁵⁰ Article 166(1) Civil Registration Code.

legalised or not raise well-founded doubts regarding their authenticity.⁸⁵¹ Where the spouses are unable to produce a legal birth certificate or a certificate of no impediment for the purposes of marriage, the law provides for alternative legal avenues to either replace the birth certificate,⁸⁵² or justify the absence of the certificate of no impediment,⁸⁵³ where there are adequate reasons. To that end, the civil registry officer may choose to conduct the investigations deemed appropriate,⁸⁵⁴ and consider alternative evidence such as witness statements.⁸⁵⁵

According to CPR's experience, beneficiaries of international protection do not face significant or systematic challenges in contracting marriage in Portugal as civil registry offices generally accept alternative legal avenues to either replace the birth certificate or to justify the absence of the certificate of no impediment where relevant reasons pertaining the international protection needs of the applicants were ascertained.

3. Long-term residence

Indicators: Long-Term Residence

1. Number of long-term residence permits issued to beneficiaries in 2020: Not available

Competence for issuing a long-term residence permit lies with the National Director of SEF,⁸⁵⁶ that must issue a decision within 6 months of application.⁸⁵⁷ The residence permit is valid for 5 years and is automatically renewed at the request of the beneficiary of protection.⁸⁵⁸ The following criteria must be met to obtain a long-term resident status regardless of the type of international protection held by the beneficiary:⁸⁵⁹

- 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);
- Stable and regular resources to ensure his/her survival and that of his/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 accepted protection of the country of nationality or, has voluntarily re-acquired the nationality of his/her country of origin, can be refused long term residence status (see [Cessation](#)).⁸⁶⁰

According to SEF, information on the issuance of such permits to beneficiaries of international protection in 2020 is not available. As the main provider of legal information and assistance to asylum seekers and beneficiaries of international protection, CPR is not aware of the issuance of long-term residence status to beneficiaries of international protection in recent years and has provided legal assistance in a limited number of cases for that purpose. According to its experience, access to such status by beneficiaries of international protection is rare for reasons mostly related to a lack of information and awareness, adequate financial resources, insufficient language skills, and the priority given to applications for [Naturalisation](#).

⁸⁵¹ Article 49(1) Civil Registration Code.

⁸⁵² Articles 135(5), 137(5) and 266 to 269 Civil Registration Code.

⁸⁵³ Article 166(2) Civil Registration Code.

⁸⁵⁴ Article 268(1) Civil Registration Code.

⁸⁵⁵ Articles 143(1) and 166(3) Civil Registration Code.

⁸⁵⁶ Article 128 Immigration Act.

⁸⁵⁷ Article 129(4) Immigration Act. The time limit can be extended by 3 months in particularly complex cases but the applicant must be informed of the extension of the time limit (Article 129(5) Immigration Act) and the application is automatically accepted in the absence of a decision at the end of the 3-month time limit extension (Article 129(6) Immigration Act).

⁸⁵⁸ Article 130(2) Immigration Act.

⁸⁵⁹ Article 126 Immigration Act.

⁸⁶⁰ Article 127(3) Immigration Act.

4. Naturalisation

Indicators: Naturalisation

- | | |
|--|---------|
| 1. What is the minimum residence period for obtaining citizenship? | |
| ❖ Refugee status | 5 years |
| ❖ Subsidiary protection | 5 years |
| 2. Number of citizenship grants to beneficiaries in 2020: | 167 |

Competence for conferring Portuguese nationality lies either with the Minister of Justice regarding naturalisation,⁸⁶¹ or with the Central Registry Office (*Conservatória dos Registos Centrais*, CRegC) of the Ministry of Justice regarding other modalities for obtaining Portuguese nationality.⁸⁶² 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,⁸⁶³ and 3 months in the remaining cases.⁸⁶⁴

The Portuguese Nationality regime is relatively flexible, and the amendments introduced in recent years, including in 2020, have generally broadened the scope for nationality acquisition.

Some of the modalities of acquisition of Portuguese nationality are of particular relevance to beneficiaries of international protection.

Foreign citizens, including refugees and beneficiaries of subsidiary protection, are eligible for **naturalisation** under the following conditions:⁸⁶⁵

- 18 years of age or emancipation in accordance with Portuguese law;
- Minimum legal residence of 5 years in Portugal;⁸⁶⁶
- Proof of proficiency in Portuguese (A2);
- Absence of conviction to a prison sentence of at least 3 years for a crime punishable by Portuguese law;
- Not being a danger or a threat to national security or defence due to their involvement in activities related to the practice of terrorism, in accordance with the law that governs terrorism.

Furthermore, the Nationality Act contains a number of **special naturalisation regimes** exempting certain applicants of some of the above-mentioned requirements.⁸⁶⁷ Notably, children of foreign nationals born on national territory are eligible for naturalisation under the following conditions:⁸⁶⁸

- Absence of conviction to a prison sentence of at least 3 years for a crime punishable by Portuguese law;
- Not being a danger or a threat to national security or defence due to their involvement in activities related to the practice of terrorism, in accordance to the law that governs terrorism;
- At least one parent resided in the country (regularly or not) at least for the past 5 years prior to the application; or one of the parents regularly resides in the country; or the child completes at least one level of pre-school, basic education, or the secondary education (including vocational training) in Portugal.

Naturalisation under this provision is free of charge.⁸⁶⁹

⁸⁶¹ Article 27 Portuguese Nationality Regulation.

⁸⁶² Article 41 Portuguese Nationality Regulation.

⁸⁶³ Article 27 Portuguese Nationality Regulation.

⁸⁶⁴ Article 41(1) and (2) Portuguese Nationality Regulation.

⁸⁶⁵ Article 6(1) Nationality Act; Article 19 Portuguese Nationality Regulation.

⁸⁶⁶ The Nationality Act was recast in July 2018. The recast reduced the residence requirement established in the above-mentioned article from 6 to 5 years.

⁸⁶⁷ Article 6(2) – (9) Nationality Act.

⁸⁶⁸ Article 6(2) Nationality Act; Article 20 Portuguese Nationality Regulation. This provision was amended in 2020, increasing the flexibility of this route for naturalisation.

⁸⁶⁹ Article 6(12) Asylum Act. The provision, added in 2020, determines that naturalisation under some of the special regimes is free of charge. Naturalisation under other provisions (including the general regime) has a cost of €250.

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.⁸⁷⁰ The law also provides in detail for the specific modalities regarding supporting evidence of proficiency in Portuguese,⁸⁷¹ notably regarding assessment tests that are of particular relevance to beneficiaries of international protection.⁸⁷²

Children born in Portugal to foreigners who are not at the service of their State of nationality are Portuguese by **birth** if: (i) one of the parents legally resides in the country at the time of the birth; or (ii) one of the parents resides in Portugal for at least one year at the time of birth (regardless of status), and if they do not declare that they do not want to be Portuguese.⁸⁷³

According to official information obtained by CPR within the context of provision of legal assistance to applicants for and beneficiaries of international protection, this provision, that was amended in 2020, is applicable retroactively. Furthermore, for this purpose, applicants for international protection are reportedly deemed to be legally residing in Portugal from the moment the application for international protection is made.

Foreign citizens, including refugees and beneficiaries of subsidiary protection, can acquire Portuguese citizenship if they have been **married** or have been in a **civil union** with a Portuguese citizen for at least 3 years.⁸⁷⁴

The Nationality Act was recast in November 2020. The corresponding Nationality Regulation has not been adopted at the time of writing. The 2018 recast of the Nationality Act, which has also introduced provisions that may have a positive impact for applicants and beneficiaries of international protection (in particular unaccompanied children), has not yet been regulated as well, thus hindering the possibility of conducting an adequate analysis of its impact.

CPR's experience indicates that the main challenges in acquiring nationality through naturalisation are related to poor language skills and obtaining supporting evidence. Supporting evidence required in naturalisation applications generally consists of legalised and translated birth certificates as well as criminal records from the country of nationality and former countries of residence, including EU Member states in the case of Dublin returnees. In accordance with applicable provisions, the authorities are generally flexible regarding supporting evidence in naturalisation procedures involving refugees and beneficiaries of subsidiary protection who present reasoned justifications. CPR further provides support to that end, e.g., by clarifying the international legal standards that apply to administrative assistance.

Within the context of the coronavirus pandemic, due to delays in in-person appointments, it became common to submit applications for naturalisation by post.

According to information provided by CRegC, 50,202 applications for Portuguese citizenship were filled and 46,322 were concluded (of which 44,910 accepted) in 2019. According to SEF, 167 beneficiaries of international protection were granted Portuguese nationality in 2020.

⁸⁷⁰ Article 26 Portuguese Nationality Regulation.

⁸⁷¹ Article 25(2)-(9) Portuguese Nationality Regulation.

⁸⁷² Ministerial Order 176/2014.

⁸⁷³ Article 1(1)(f) Nationality Act. Until the 2020 recast, a minimum of 2 years of legal residence of one of the parents at the time of birth was required.

⁸⁷⁴ Article 3 Nationality Act; Article 14 Portuguese Nationality Regulation.

5. Cessation and review of protection status

Indicators: Cessation

1. Is a personal interview of the beneficiary in most cases conducted in practice in the cessation procedure? ☐ Yes ☒ No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☒ Yes ☐ With difficulty ☐ No

Competence for taking decisions on the cessation of international protection lies with the Ministry of Home Affairs on the basis of a proposal put forward by the national director of SEF.⁸⁷⁵ The representative of UNHCR or CPR shall be informed of the declaration of the loss of the right to international protection.⁸⁷⁶

The Asylum Act establishes the grounds for cessation of international protection.⁸⁷⁷

Regarding **refugee status**, the right to asylum ceases when the foreign national or stateless person:⁸⁷⁸

- a. Decides to voluntarily accept protection of the country of his/her nationality;⁸⁷⁹
- b. Voluntarily reacquires his/her nationality after having lost it;⁸⁸⁰
- c. Acquires a new nationality and enjoys the protection of the country of the newly acquired nationality;⁸⁸¹
- d. Returns voluntarily to the country he/she left or outside which he/she had remained for fear of persecution;⁸⁸²
- e. Cannot continue to refuse the protection of the country of nationality or habitual residence, since the circumstances due to which he/she was recognised as a refugee no longer exist;⁸⁸³ or
- f. Expressly renounces to the right to asylum.⁸⁸⁴

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.⁸⁸⁵

The grounds relating to a change in circumstances justifying the cessation of refugee status or subsidiary protection can only be applied if SEF concludes that the change in circumstances in the country of origin or habitual residence is significant and durable to exclude a well-founded fear of persecution or a risk of serious harm.⁸⁸⁶ Furthermore, this cessation ground is without prejudice to the principle of *non-refoulement*,⁸⁸⁷ 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.⁸⁸⁸ The latter safeguard is only explicitly provided in the Asylum Act for refugees, failing to transpose Article 16(3) of the Qualification Directive.

SEF is required to notify the beneficiary of protection of the intended cessation in order to allow him/her to exercise the right to an adversarial hearing in writing within 8 days.⁸⁸⁹ A decision on cessation is subject

⁸⁷⁵ Article 43(1) Asylum Act.

⁸⁷⁶ Article 43(3) Asylum Act.

⁸⁷⁷ Article 41 (1)-(4) Asylum Act.

⁸⁷⁸ Article 41(1) Asylum Act.

⁸⁷⁹ Article 41(1) (a) Asylum Act.

⁸⁸⁰ Article 41(1) (b) Asylum Act.

⁸⁸¹ Article 41(1) (c) Asylum Act.

⁸⁸² Article 41(1) (d) Asylum Act.

⁸⁸³ Article 41(1) (e) and (f) Asylum Act.

⁸⁸⁴ Article 41(1) (g) Asylum Act.

⁸⁸⁵ Article 41(2) Asylum Act.

⁸⁸⁶ Article 41(3) Asylum Act.

⁸⁸⁷ Article 47 Asylum Act.

⁸⁸⁸ Article 41(4) Asylum Act.

⁸⁸⁹ Article 41(6) Asylum Act.

to a judicial appeal with suspensive effect.⁸⁹⁰ 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](#)).⁸⁹¹

Finally, the cessation of international protection results in the applicability of the Immigration Act to former beneficiaries,⁸⁹² 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,⁸⁹³ even though other requirements such as a travel document, accommodation, and income still apply.

While CPR is not aware of any cessation decision concerning refugee status, cessation of subsidiary protection has become increasingly relevant.

According to statistics provided by SEF, in 2016 there were 14 cessations of the subsidiary protection status of beneficiaries from Guinea. No cessation decisions were adopted in 2017 and 2018. In 2019, a total of 98 decisions ceasing subsidiary protection were adopted, of which 75 concerned beneficiaries from Ukraine. In 2020, 262 decisions ceasing subsidiary protection were adopted (of which 176 concerned beneficiaries from **Ukraine**, 25 beneficiaries from **Guinea**, and 20 beneficiaries from **Pakistan**).

In the framework of the legal assistance provided to some of those concerned in 2016, CPR identified several shortcomings in the cessation proceedings including the lack of renewal of the residence permits while the cessation process was pending and the poor quality of the assessment conducted into the change in circumstances in the country of nationality. Indeed, the assessments conducted did not take into consideration the specific/individual circumstances of each person concerned as the same information was used for all persons meaning that it lacked an actual assessment of whether there was a significant and durable change in circumstances for each individual. Similar shortcomings were observed in 2019, in particular regarding Ukrainian subsidiary protection status holders, and overall, in 2020.

The Statistical Report of Asylum 2020 bears no reference to cessation procedures.⁸⁹⁴

While CPR is aware that some cessation decisions have been appealed, jurisprudence on cessation was not available at the time of writing.

6. Withdrawal of protection status

Indicators: Withdrawal

1. Is a personal interview of the beneficiary in most cases conducted in practice in the withdrawal procedure? ☐ Yes ☒ No
2. Does the law provide for an appeal against the withdrawal decision? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☒ Yes ☐ With difficulty ☐ No

The Asylum Act establishes specific grounds for revocation, ending or refusal to renew international protection that are assessed pursuant to the same procedural rules applicable to [Cessation](#).

⁸⁹⁰ Article 44 Asylum Act.

⁸⁹¹ Article 72 Asylum Act.

⁸⁹² Article 42(2) Asylum Act.

⁸⁹³ Article 122(1)(f) Immigration Act.

⁸⁹⁴ Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, available in Portuguese at: <https://bit.ly/2MGYtB9>.

These include the cases where the beneficiary of international protection:⁸⁹⁵

- (a) Should have been or can be excluded from the right to asylum or subsidiary protection, pursuant to the exclusion clauses;⁸⁹⁶
- (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;⁸⁹⁷
- (c) Represents a danger for national security;⁸⁹⁸
- (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.⁸⁹⁹

Practice in this regard remains limited. According to the information provided by SEF, no such decision was adopted in 2020.

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.⁹⁰⁰ While the right to family reunification encompasses the family members listed in the Asylum Act, its exercise is mostly governed by the provisions of the Immigration Act.⁹⁰¹

1.1. Eligible family members

A person granted international protection in Portugal can reunite with the following family members:⁹⁰²

- A spouse or unmarried partner,⁹⁰³ including same-sex partners, if the relationship is regarded as a sustainable relationship i.e., at least 2 years of living together in conditions analogous to marriage;⁹⁰⁴
- Children under 18 years old if they are dependent on the sponsor and/or on his/her spouse or unmarried partner and regardless of their marital status. The right to family reunification also includes adopted children under 18 years old of the sponsor or of his/her spouse or unmarried partner. Adult children who lack legal capacity (e.g., for reasons of mental health) and are dependent on the sponsor and/or on his/her spouse or unmarried partner are also included; and
- Parents, if the sponsor is under 18 years old.

⁸⁹⁵ Article 41(5) Asylum Act.

⁸⁹⁶ Article 41(5)(a) Asylum Act.

⁸⁹⁷ Article 41(5)(b) Asylum Act.

⁸⁹⁸ Article 41(5)(c) Asylum Act.

⁸⁹⁹ Article 41(5)(d) Asylum Act.

⁹⁰⁰ Article 68(1) Asylum Act.

⁹⁰¹ Ibid. Articles 98 *et seq* Immigration Act.

⁹⁰² Articles 68 and 2(1)(k) Asylum Act.

⁹⁰³ Both the sponsor and the spouse/unmarried partner must be at least 18 years old.

⁹⁰⁴ Unmarried partner unions may be attested by any means of proof provided in the law (testimony, documentary proof, affidavit, common children, etc.) In accordance with the law, when a refugee is unable to present official documents to prove his or her family relations, other means of proof will be taken into consideration.

Unaccompanied children can apply for family reunification with their parent(s). In the absence of biological parents, 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.

The list of eligible family members in the case of beneficiaries of international protection is more restrictive than that enshrined in the Immigration Act for migrants. The latter also includes: (i) dependent children over 18 years old who are unmarried and studying in Portugal; (ii) dependent first-degree ascendants in the direct line; (iii) siblings under 18 years old, as long as the resident is their guardian, according to a decision issued by the competent authority of the country of origin, duly recognised in Portugal.⁹⁰⁵

While in the past it was common for SEF to extend the more favourable regime to beneficiaries of international protection, information gathered by CPR indicates that this is no longer the case as the authorities now tend to restrict family reunification to the list of relatives included in the Asylum Act.

1.2. Family reunification procedure

The request for family reunification can be made immediately following the granting of international protection and there is no time limit for applying for family reunification upon arrival in Portugal.

The sponsor in Portugal must apply for family reunification at SEF's regional office in his/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:⁹⁰⁶

- 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. Where applicable, statement of parental authorisation from the other parent (if not travelling with the child);
- d. Death certificate of the child's other parent or evidence of sole legal guardianship if original death certificate is not obtainable, where applicable.

The following official documents are required to prove family relations:

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 the Portuguese embassy with territorial competence prior to their submission to the SEF.

Regarding refugees, the law explicitly lays down that in the absence of official documents to demonstrate family relations, other types of proof should be taken into consideration. The application for family reunification cannot be refused on the sole basis of lack of documentary evidence.⁹⁰⁷ 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 tests in the framework of family reunification applications. Even though not formally required, the law does not exclude DNA testing as means of proof of family relations.

⁹⁰⁵ Article 99 Immigration Act.

⁹⁰⁶ Article 103 Immigration Act; Article 67 Governmental Decree n. 84/2007 of 5 November 2007.

⁹⁰⁷ Article 106(4) Immigration Act.

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

Furthermore, refugees are exempted from the general obligation to present proof of accommodation and income in family reunification procedures.⁹⁰⁸ This legal provision has also been applied to beneficiaries of subsidiary protection.

The application may be refused on the following grounds:

- (i) misrepresentation or omission of facts;
- (ii) non-fulfilment of legal requirements;
- (iii) where the potential beneficiary family member would be excluded from refugee status or subsidiary protection;⁹⁰⁹
- (iv) where the potential beneficiary is barred from entrance into Portugal; and/or
- (v) where the potential beneficiary poses a risk to public order, public security or public health.

Non-fulfilment of legal requirements may involve: (a) lack of adequate travel documents; (b) lack of criminal records of the potential beneficiary family member; (c) situations where a parent other than the sponsor has not authorised the family reunification of his/her child with the sponsor; or (d) non-eligibility of the family member.⁹¹⁰

The application should be decided within 3 months, with a possible extension for an additional 3 months if the delay is duly justified by the complexity of the case. In case of extension, the applicant should be informed of the reasons thereof.⁹¹¹

In the absence of a decision within 6 months from the date of the application and unless the applicant bears responsibility for the delay (e.g., unanswered request for additional information and/or documents), the application is deemed automatically accepted.

In recent years, a significant waiting time for an appointment at SEF for the purposes of family reunification has been registered by CPR. In the particular case of SEF's Lisbon regional office, that deals with a significant number of applications, waiting times rose to 7 months in a couple of cases that were assisted by CPR in 2019.

Within the specific context of resettlement, CPR has observed that ACM has been making efforts to identifying family members of resettled refugees present in Turkey and Egypt in order to assess the possibility of including such persons in resettlement quota.

Official information on the impacts of the coronavirus pandemic in family reunification procedures is not available. According to the observation of CPR, the pandemic impacted family reunification procedures in several manners:

- Difficulties in filling applications due to the suspension of non-urgent in-person appointments at SEF;
- Difficulties with regard to authentication of documents and issuance of visas due to restrictions to the activity of Portuguese diplomatic premises;
- Restrictions to international air traffic.

Portuguese Embassies and Consulates resumed the issuance of urgent visas (including those for the purpose of family reunification) in June 2020.⁹¹²

⁹⁰⁸ Article 101(2) Immigration Act.

⁹⁰⁹ Article 68(3) Asylum Act.

⁹¹⁰ Article 106 Immigration Act.

⁹¹¹ Article 105 Immigration Act.

⁹¹² See, for instance, <https://bit.ly/3dZvJgL>.

In 2020, SEF received 53 applications for family reunification from beneficiaries of international protection. According to SEF, 40 decisions were adopted during the year.

2. Status and rights of family members

In accordance with the law, family members receive the same legal status and are entitled to the same rights as the sponsor.⁹¹³ This is generally the case in practice. Nevertheless, CPR is aware of sporadic cases of issuance of Immigration Act residence permits (with inherent costs and subject to a different legal regime for renovation) to family members regarding whom family reunification was accepted and carried out, but who are not included in the restricted list of eligible members of the Asylum Act.

According to CPR's observation, when cessation procedures are triggered with regard to the sponsor, family members are also subject to similar procedures.

C. Movement and mobility

1. Freedom of movement

Beneficiaries of international protection are guaranteed freedom of movement throughout the national territory under the same conditions provided for foreign nationals legally residing in Portugal.⁹¹⁴ CPR is not aware of any limitations in this regard in practice, with the exception of those possibly arising from the dispersal policy implemented by the GTO that may result in limitations for reasons of access to material support (see [Reception Conditions: Freedom of Movement](#)).

Throughout the coronavirus pandemic, temporary restrictions to freedom of movement were applied in Portugal (notably prohibitions to leave the municipality of residence without imperious reasons – as established in the law - for certain periods). None of the restrictions enacted during this period was specific to applicants for or beneficiaries of international protection.

2. Travel documents

The Portuguese authorities are bound by a duty to issue travel documents to refugees and beneficiaries of subsidiary protection.⁹¹⁵

The **refugee** travel document consists of an electronic travel document,⁹¹⁶ following the Refugee Convention format,⁹¹⁷ which is valid for an initial one-year period and is renewable for identical periods.⁹¹⁸ The document is to be issued unless imperative national security/public order require otherwise.⁹¹⁹ The authorities competent for granting refugee travel documents consist of the National Director of SEF for applications made on the national territory, and consulates for applications made abroad.⁹²⁰

A 2020 Ministerial Order determined that refugee travel documents were to be issued electronically and updated the corresponding cost. As such, since September 2020, according to the law, the issuance of refugee travel documents had a cost of €21.66.⁹²¹ Until then, it was free of charge. According to the information provided by SEF, refugee travel documents issued since September are electronic.

⁹¹³ Article 68(2) Asylum Act.

⁹¹⁴ Article 75 Asylum Act.

⁹¹⁵ Article 69 Asylum Act; Article 19 Immigration Act.

⁹¹⁶ Ministerial Order 302/2015 of 22 September 2015 and Ministerial Order 412/2015 of 27 November 2015.

⁹¹⁷ Article 69(1) Asylum Act.

⁹¹⁸ Article 19 Immigration Act.

⁹¹⁹ Article 69(1) Asylum Act.

⁹²⁰ Article 20 Immigration Act.

⁹²¹ Ministerial Order n. 1334-E/2010 of 31 December 2010 last amended by Ministerial Order 204/2020 of 28 August, available at <https://bit.ly/3mEANLq>.

While not amending the general provision on the validity of the refugee travel documents, according to the 2020 State Budget Act, such documents were valid for 5 years.⁹²² It is unclear how this provision has been implemented.

In the case of beneficiaries of **subsidiary protection**, the issuance of travel documents is left to the discretion of national authorities, at odds with Article 25(2) of the recast Qualification Directive. The Asylum Act states that a Portuguese passport for foreigners *may* be issued to beneficiaries of subsidiary protection who cannot demonstrably obtain a national passport unless imperative national security/public orders requires otherwise.⁹²³

Beneficiaries of subsidiary protection are thus required to present a valid residence permit and to demonstrate their inability to obtain a national passport, notably on the basis of relevant proof or credible statements showing a potential risk to their own safety or the refusal of their country's consular representation to issue such a passport.⁹²⁴ The standard for this analysis is not further specified by law and guidance in this regard is not publicly available. The Portuguese passport for foreigners is valid for a period of up to two years,⁹²⁵ and in 2020 it had a cost of €111.⁹²⁶

According to SEF, in 2020 a total of 135 travel documents were issued to beneficiaries of international protection, of which 113 to refugee status holders and 22 to beneficiaries of subsidiary protection.

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

In 2017, CPR recorded multiple instances of refusal of requests of a Portuguese passport for foreigners by beneficiaries of subsidiary protection from Ukraine. Despite the beneficiaries' claims, SEF considered that they could contact the Ukrainian authorities for the issuance of travel documents or use passports previously issued by them and that were still valid. CPR has not recently received similar reports. According to the statistics provided by SEF, no request was refused in 2020.

D. Housing

Indicators: Housing

- | | |
|--|---------------|
| 1. For how long are beneficiaries entitled to stay in reception centres? | Not available |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2020 | Not available |

The law provides for the right of refugees and beneficiaries of subsidiary protection to housing under the same conditions of foreign nationals legally residing in Portugal,⁹²⁷ therefore encompassing public housing.⁹²⁸

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.

According to the experience of CPR, high housing prices in the private market are a challenge frequently faced by beneficiaries of international protection (in particular in cities such as Lisbon).

⁹²² Article 184 Act 2/2020 of 31 March.

⁹²³ Article 69(2) Asylum Act.

⁹²⁴ Decree-Law 83/2000 of 11 May 2000, as amended by Decree-Law 138/2006 of 26 July 2006.

⁹²⁵ Article 38 Decree-Law 83/2000 of 11 May 2000.

⁹²⁶ Ministerial Order n. 1334-E/2010 of 31 December 2010 last amended by Ministerial Order 204/2020 of 28 August, available at <https://bit.ly/3mEANLq>.

⁹²⁷ Article 74 Asylum Act.

⁹²⁸ Article 5 Public Leasing Ac; Article 5 Regulation 84/2018.

Access of beneficiaries of international protection to public housing remains extremely limited for reasons that according to CPR's experience have traditionally been linked to legal constraints under previous rules, limited stock of available public housing, lack of prioritisation of beneficiaries of international protection in public housing policy and heavy bureaucratic requirements.

CPR is not aware of systematic instances of homelessness among beneficiaries of international protection. Nevertheless, Crescer, an association which provides support to vulnerable persons, reported having been approached by a growing number of applicants for and beneficiaries of international protection due to the lack of (adequate) accommodation in 2020.

Within the context of resettlement, hosting entities are responsible for the provision of accommodation. In the case of resettled refugees supported by CPR, the reception program includes an initial period of accommodation in a reception centre – CAR II (3 to 6 months). Before the coronavirus pandemic, the average duration of permanence in CAR II was of 4,5 months. In 2020, constraints linked to access to housing in the private market and restrictions to internal travel have led to a growth of the average period of accommodation in CAR II to 6 months.

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 the labour market pursuant to general rules.⁹²⁹

Similarly to asylum seekers (see [Reception Conditions: Access to the Labour Market](#)), there are no limitations attached to the right of beneficiaries of international protection to employment such as labour market tests or prioritisation of nationals and third-country nationals. The issuance and renewal of residence permits by SEF is free of charge.⁹³⁰ 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.⁹³¹ Furthermore, beneficiaries of international protection benefit from the same conditions of employment as nationals, i.e. in terms of salaries and working hours.⁹³² 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).⁹³³

Beneficiaries of international protection are equally entitled to access work-related training opportunities for adults, vocational training and practical experiences under the same conditions as nationals.⁹³⁴

With the exception of the submission of beneficiaries of international protection to the conditions applicable to nationals of the same country,⁹³⁵ there are no specific rules regarding the recognition of diplomas and academic qualifications in the Asylum Act and the general rules and practical challenges facing asylum seekers apply (see [Reception Conditions: Access to the Labour Market](#)).

There are no statistics available on the number of beneficiaries of international protection in employment at the end of 2020. According to CPR's experience, despite existing support mechanisms pertaining to language training and employment assistance, asylum seekers and beneficiaries of international

⁹²⁹ Article 71(1) Asylum Act.

⁹³⁰ Article 67(4) Asylum Act.

⁹³¹ Article 15(2) Constitution; Article 17(1)(a) and (2) Act 35/2014.

⁹³² Article 71(3) Asylum Act; Article 4 Labour Code.

⁹³³ Article 5 Labour Code.

⁹³⁴ 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.

⁹³⁵ Article 70(3) Asylum Act.

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.⁹³⁶ The right to education under the same conditions as nationals is extended to adult beneficiaries of international protection.⁹³⁷ The access of children who are beneficiaries of international protection to public education and recognition procedures bares no relevant distinction to asylum seeking children and has already been described in detail. The same holds true for access of adult beneficiaries of international protection to vocational training (see [Reception Conditions: Access to Education](#)).

F. Social welfare

According to the Asylum Act, the general rules governing the social welfare system are applicable to refugees and beneficiaries of subsidiary protection.⁹³⁸ Refugees and beneficiaries of subsidiary protection are entitled to the same rights and to access social welfare under the same conditions as nationals.

The Social Insertion Revenue (*Rendimento Social de Inserção*, RSI) is a social protection measure that aims to support individuals in serious economic need and who are at risk of social exclusion. This is thus the most relevant social allowance available to beneficiaries of international protection.⁹³⁹

In addition to the financial allowance, RSI comprises an inclusion programme, based on a contract established with the concerned household. Access by beneficiaries of international protection is subject to the fulfilment of the general conditions prescribed by law, namely:

- If the applicant lives alone – his/her monthly income cannot exceed the amount of the allowance;
- if the applicant lives with family members – the combined monthly income cannot exceed the total amount of the allowance;
- The applicant must be 18 years of age or older (although there are situations in which younger persons are also eligible);
- The applicant must be registered with IEFP.

The financial allowance of the RSI is as follows:⁹⁴⁰

Rendimento Social de Inserção: 2020	
Category of applicant	Amount
Head of household	€ 189.66
Other adult in household	€ 132.76
Child	€ 94.83

A legislative amendment introduced in 2017 removed the prerequisite of one year of regular residence in the country to access the RSI. Therefore, beneficiaries of international protection are immediately directed to this allowance upon recognition of the refugee status or conferral of subsidiary protection, while the assistance described in [Reception Conditions](#) ceases.

⁹³⁶ Article 70(1) Asylum Act.

⁹³⁷ Ibid.

⁹³⁸ Article 72 Asylum Act.

⁹³⁹ Act 13/2003.

⁹⁴⁰ Ministerial Order 257/12 of 27 August, available at: <https://bit.ly/3s5DczW>.

According to the law, refugees and beneficiaries of subsidiary protection are also entitled to other social allowances such as child benefits and family allowances,⁹⁴¹ unemployment benefits,⁹⁴² and other benefits, under the same conditions as nationals and as long as they meet the applicable requirements.

In practice, the follow up of social welfare matters is provided by ISS and SCML,⁹⁴³ following the assistance provided throughout the asylum procedure.

In general, refugees and beneficiaries of subsidiary protection are required to present their residence permit in order to have access to such support measures. While CPR is unaware of systemic problems in accessing support, refugees and beneficiaries of subsidiary protection often report difficulties in meeting their basic needs with the low income provided by the social welfare system.

According to CPR's observation, due to the coronavirus pandemic, access to relevant services was sometimes challenging, leading to delays in accessing support. The Statistical Report of Asylum 2020 estimates that 48.3% of the beneficiaries of international protection in Portugal were autonomous from social (financial) support.⁹⁴⁴

G. Health care

The Asylum Act enshrines the right of refugees and beneficiaries of subsidiary protection, as well as their family members, to health care provided by the SNS under the same conditions as nationals.⁹⁴⁵ 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.⁹⁴⁶ The special needs of particularly vulnerable persons including beneficiaries of international protection must be taken into consideration in the provision of health care,⁹⁴⁷ notably through rehabilitation and psychological support to children who have been subjected to various forms of violence,⁹⁴⁸ and adequate treatment to survivors of torture and serious violence.⁹⁴⁹ Responsibility for special treatment required by survivors of torture and serious violence lies with ISS.⁹⁵⁰

Asylum seekers and refugees are exempt from any fees to access the National Health System.⁹⁵¹ Additionally, all children are exempt from such fees.⁹⁵²

In practice, beneficiaries of international protection have effective access to free health care in the SNS in line with applicable legal provisions. However, as with asylum seekers (see [Reception Conditions: Health Care](#)) persisting challenges have a significant impact on the quality of the care available. According to research and information available to CPR, these include language and cultural barriers due to the reluctance of health care services to use available interpretation services such as ACM's translation hotline; restricted access to diagnosis procedures and medication paid by the SNS due to bureaucratic

⁹⁴¹ Decree-Law 176/2003.

⁹⁴² Act 220/2006.

⁹⁴³ SCML also supports refugees and beneficiaries of international protection in specific situations, e.g., vulnerable cases such as unaccompanied children that move into assisted apartments and former unaccompanied children previously accommodated at CACR; individuals and families with strong social networks in the Lisbon area.

⁹⁴⁴ Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, p.200, available in Portuguese at: <https://bit.ly/2MGYtB9>.

⁹⁴⁵ Article 73(1) Asylum Act.

⁹⁴⁶ Article 73(2) Asylum Act.

⁹⁴⁷ Article 77(1) Asylum Act.

⁹⁴⁸ Article 78 (3)-(4) Asylum Act.

⁹⁴⁹ Article 80 Asylum Act.

⁹⁵⁰ *Ibid.*

⁹⁵¹ Article 4(1)(n) Decree-Law 113/2011 of 29 November 2011.

⁹⁵² Article 4(1)(b) Decree-Law 113/2011 of 29 November 2011.

constraints; or very limited access to mental health care and other categories of specialised medical care (e.g., dentists) in the SNS.⁹⁵³

According to CPR's experience within the provision of support to resettled refugees, access to healthcare by beneficiaries of international protection worsened within the context of the pandemic given the overburdening of healthcare services. According to the publicly available information, such difficulties are common to the whole population and not particular to refugees.

The National Vaccination Plan (Covid-19) was approved by Ministerial Decree no.298-B/2020, of 23 December 2020.⁹⁵⁴ The Ministerial Order determines that the national vaccination plan is grounded on the principles of universality, acceptability, and feasibility and is free of charge.

Priority groups for Covid-19 vaccination are defined based on a combination of factors such as age and pre-existing conditions (in addition to essential workers).⁹⁵⁵ Asylum seekers and refugees living in living in communitarian facilities are considered a group with increased risk of infection and outbreaks (e.g., elderly homes) and, as such, prioritised. Vaccination at CPR's Reception Centres occurred in the beginning of the 2021.

⁹⁵³ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <https://bit.ly/3gEoe1T>.

⁹⁵⁴ Ministerial Decree 298-B/2020 of 23 December 2020, available at: <https://bit.ly/3fU70NC>.

⁹⁵⁵ *Plano de Vacinação COVID-19*, 3 December 2020, available at: <https://bit.ly/2PPD5eF>.

ANNEX I – Transposition of the CEAS in national legislation

Directives and other CEAS measures transposed into national legislation

Directive / Regulation	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	5 May 2014	Act n. 26/2014 of 5 May 2014 amending Act n. 27/2008, transposing Directives 2011/95, 2013/32/EU and 2013/33/EU	http://bit.ly/1jd3hcG (PT) http://bit.ly/2AfJ7sS (EN)
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015 [Article 31(3)-(5) - 20 July 2018]			
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015			
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013			

The following section contains an overview of some of the most significant incompatibilities in transposition of the CEAS in national legislation:

Directive	Provision	Domestic law provision	Non-transposition or incorrect transposition
Directive 2011/95/EU Recast Qualification Directive	Article 12 recast QD	Article 9 Asylum Act (exclusion clauses)	Article 9(1)(c)(ii) transposes Article 12(2)(b) of the recast Qualification Directive to the national legal order. While the directive refers to the commission of a serious non-political crime, the Asylum Act refers to the commission of an intentional non-political crime punishable with prison sentence of over three years. By operation of Article 9(2)(a) of the Asylum Act, this exclusion clause is also applicable to exclusion from subsidiary protection. While CPR is not aware of the practical application of this clause, defining the gravity threshold as a prison sentence of over three years may open the door to the exclusion of cases not envisaged by the relevant provision of the recast Qualification Directive.

			Furthermore, Article 9(1)(d) allows for the exclusion from refugee status where there are serious reasons for considering that the person constitutes a danger or substantiated threat to internal or external security or to the public order
	Article 8 recast Qualification Directive	Article 18 Asylum Act (analysis of the application – internal protection alternative)	Article 18(2)(e) of the Asylum Act establishes that an internal protection alternative may be considered in the adjudication of the application for international protection. There is some ambiguity in the transposition as a literal interpretation of the provision of the Asylum Act would determine that the criteria established in Article 8(1) <i>in fine</i> of the recast Qualification Directive (“and he or she can safely and legally travel to and gain admittance to that part of the country and can reasonably be expected to settle there.”) would only apply to situations where the applicant “has access to protection against persecution or serious harm”. Furthermore, while the definition mirrors Article 8(1) of the recast Qualification Directive, the procedural requirements established in Article 8(2) of the Directive were not transposed by the Asylum Act.
	Article 16(3) recast QD	Article 41 Asylum Act (cessation of protection)	The Asylum Act does not contain the safeguard clause determining that subsidiary protection should not cease in situations where the beneficiary can reasonably invoke reasons connected to past serious offense not to return to the country of origin.
	Article 25(2) recast QD	Article 69(1) Asylum Act (issuance of travel documents to beneficiaries of international protection)	According to the Asylum Act, issuance of travel documents to beneficiaries of subsidiary protection is left to the discretion of national authorities.
	Article 12 recast QD	Article 41 Asylum Act (revocation of, ending or refusal to renew international protection)	See <i>supra</i> the analysis of exclusion clauses, relevant to revocation of, ending or refusal to renew international protection per Article 41(5)(a) of the Asylum Act.
Directive 2013/32/EU Recast Asylum Procedures Directive	Article 37 recast APD	Article 2(1)(q) Asylum Act (safe country of origin)	The Asylum Act provides for a definition of “safe country of origin” that is in line with Article 36 of the recast Asylum Procedures Directive. However, the law does not further regulate its application. Notably, the Asylum Act does not refer to the need to adopt complementary legislation for the designation of safe countries of origin and the substantive and procedural criteria for such designation as provided in Article 37 and Annex I of the recast Asylum Procedures Directive. The safe country of origin concept is not applied in practice.

	Article 38 recast APD	Article 2(1)(r) Asylum Act (definition of safe third country)	<p>The Asylum Act provides for a definition of “safe third country” that presents some inconsistencies with Article 38 of the recast Asylum Procedures Directive. Most notably:</p> <ul style="list-style-type: none"> - The provision applies <i>ratione personae</i> to asylum seekers alone, as opposed to applicants for international protection; - The provision does not include the absence of a risk of serious harm as a condition for the application of the concept; - The provision does not include the possibility for the applicant to challenge the existence of a connection between him or her and the third country; - A standard of possibility rather than reasonableness is set in the provision concerning the return on the basis of a connection between the applicant and the third country concerned. <p>In this regard, it is worth noting that there is a difference between the English and Portuguese versions of the Directive. While Article 38(2)(a) of the English version refers to the reasonableness of the person returning to the third country, the Portuguese version does not include such reference, simply indicating that the connection between the applicant and the country allows return “in principle”.</p>
	Article 14(2)(b) and (4) recast APD	Article 16 Asylum Act (personal interview)	<p>The circumstances in which the determining authority may omit the personal interview are exhaustively listed in Article 16(5) of the Asylum Act and mirror the corresponding provision of the recast Asylum Procedures Directive (Article 14(2)). However, with regards to cases where the applicant is deemed unfit/unable due to enduring circumstances beyond his/her control, the final part of Article 14(2)(b) of the Directive was not transposed (“When in doubt, the determining authority shall consult a medical professional to establish whether the condition that makes the applicant unfit or unable to be interviewed is of a temporary or enduring nature.”). The safeguard contained in Article 14(4) of the recast Asylum Procedures Directive that determines that the absence of personal interview in such situations “shall not adversely affect the decision of the determining authority”, was also not explicitly transposed to the Asylum Act.</p>
	Article 15 recast APD (also article 4(3) in fine recast APD)	Article 16 Asylum Act (personal interview)	<p>With regards to the conditions of the personal interview, the Asylum Act does not fully transpose the requirements set out in the recast Asylum Procedures Directive (Article 15), particularly those regarding to the characteristics of the interviewer and on the use of interpreters (Article 15(3) recast Asylum Procedures Directive). Furthermore, and without prejudice to Article 84 of the Asylum Act that refers to the adequate training of all staff working with applicants and beneficiaries of international protection, the specific training requirement for interviews provided for in Article 4(3) <i>in fine</i> of the recast Asylum Procedures Directive was not transposed to the domestic order (“Persons interviewing applicants pursuant to this Directive shall also have acquired general knowledge of problems which could adversely affect the applicants’ ability to be interviewed, such as indications that the applicant may have been tortured in the past.”).</p>

	Article 16 recast APD	Article 16 Asylum Act (personal interview)	With regards to the content of the personal interview, the national legislator did not transpose the final part of Article 16 of the recast Asylum Procedures Directive, establishing that the personal interview “shall include the opportunity to give an explanation regarding elements which may be missing and/or any inconsistencies or contradictions in the applicant’s statements.”
	Article 10 recast APD	Article 18 Asylum Act (analysis of the application – country of origin information)	While Article 18(2)(a) orders the national authorities to duly consider country of origin information in the analysis of applications, the domestic law does not fully transpose the requirements set out in Article 10(3)(b) of the recast Asylum Procedures Directive. Namely, it fails to state that the information must be precise and up-to-date. Even though the norm refers to different sources for such information (EASO, UNHCR and relevant human rights organisations) it does not clearly state that different sources must be consulted in each analysis. Furthermore, Article 18(2)(a) of the Asylum Act refers exclusively to the country of origin, as opposed to Article 10(3)(b) of the recast Directive that also refers to the use of information regarding transit countries whenever necessary.
	Articles 31(8) and 32 recast APD	Article 19 Asylum Act (accelerated procedures)	The wording of the Asylum Act does not seem to be fully in line with the recast Asylum Procedures Directive and with the applicable international standards as its literal application may lead not only to the accelerated processing but also to the automatic rejection of applications based on the listed grounds (e.g., a delay in making the application).
	Article 35 recast APD	Articles 2(1)(z) and 19-A(1)(c) Asylum Act (first country of asylum)	Neither Article 2(1)(z) of the Asylum Act, that defines the “first country of asylum” concept, nor Article 19-A(1)(c) of the Asylum Act that provides for the corresponding inadmissibility clause, explicitly contain the safeguard of Article 35 of the recast Asylum Procedures Directive, entitling the applicant to challenge the application of the concept to his/her particular circumstances.
	Article 46(4) recast APD	Article 25(1) Asylum Act (time limits for appeal – border procedure)	Article 25(1) of the Asylum Act establishes a 4-day time limit for the appeal of a refusal (inadmissibility or merits) adopted within the context of a border procedure. While current practical implementation mitigates some of the negative consequences of such a reduced timeframe, this time limit is hardly compatible with the requirement for “reasonable time limits” that do “not render such exercise impossible or excessively difficult” provided for in Article 46(4) of the recast Asylum Procedures Directive.
	Article 24 recast APD (also article 22 recast RCD)	Articles 17-A and 77 Asylum Act (mechanisms for assessing vulnerability)	The Asylum Act provides for the need to identify persons with special needs and the nature of such needs but no procedure or mechanism for such identification and assessment has been established so far at domestic level.

		and special needs – procedural and reception)	
	Article 25(5) recast APD	Article 79 (6) and (7) Asylum Act (age assessment)	<p>The Asylum Act does not contain the limitation on the use of medical examination for age assessment enshrined in the first part of Article 25(5) recast Asylum Procedures Directive: “Member States may use medical examinations to determine the age of unaccompanied minors within the framework of the examination of an application for international protection where, following general statements or other relevant indications, Member States have doubts concerning the applicant’s age”.</p> <p>Furthermore, the right to information of the unaccompanied children regarding the age assessment procedure established in Article 79(7) of the Asylum Act does not fully transpose all the requirements of Article 25(5)(a), in particular with regards to the methods used and to the consequences of results.</p>
Directive 2013/33/EU Recast Reception Conditions Directive	Articles 8 and 9 recast RCD (also article 26 recast APD)	Article 26(1) Asylum Act (detention at the border)	Article 26(1) of the Asylum Act determines that asylum seekers that applied for asylum at the border remain in the international area of the (air)port while waiting for the decision without establishing further requirements (e.g., necessity and proportionality, individual assessment, alternatives to detention), in contravention with Articles 8 and 9 of the recast Reception Conditions Directive and with Article 26 of the recast Asylum Procedures Directive. It should be noted that further requirements to detention of asylum seekers are established in Article 35-A of the Asylum Act. It is our understanding that a correct application of Article 26(1) of the Asylum Act requires due regard for such requirements. Notwithstanding, in practice, asylum seekers that file their applications at the border are indeed systematically detained.
	Article 9(5) recast RCD	Article 35-B(1) Asylum Act (revision of detention)	Article 35-B(1) of the Asylum Act establishes that detention may be reviewed <i>ex officio</i> or upon request of the applicant if relevant circumstances or new information which may affect its lawfulness arise. This seems to fall short from the guarantees provided for in Article 9(5) of the recast Asylum Procedures Directive that establishes that revision should be conducted by a judicial authority and does not limit such revision to situations where new circumstances or information becomes available (“Detention shall be reviewed by a judicial authority at reasonable intervals of time, ex officio and/or at the request of the applicant concerned, in particular whenever it is of a prolonged duration,

			relevant circumstances arise or new information becomes available which may affect the lawfulness of detention”).
	Article 14(2) recast APD	Article 53 Asylum Act (access to education)	The Asylum Act does not contain any reference to a maximum time limit with regards of access to education by children.
	Article 22 recast RCD (also article 24 recast APD)	Articles 17-A and 77 Asylum Act (mechanisms for assessing vulnerability and special needs – procedural and reception)	The Asylum Act provides for the need to identify persons with special needs and the nature of such needs but no procedure or mechanism for such identification and assessment has been established so far at domestic level.

ANNEX II – Overview of Covid-19 related measures

This is a non-exhaustive overview of relevant measures adopted with regard to the coronavirus pandemic between March 2020 and December 2020, particularly relevant within the context of international protection:

On 13 March 2020, the government enacted Decree-Law no. 10-A/2020, establishing temporary and exceptional measures in response to the new coronavirus.⁹⁵⁶ It was determined, inter alia, that **documents expired** after the entry into force of the Decree-Law or within the 15 days prior, were valid until 30 June 2020. This extension of validity is applicable to visas and documents related to the residency of foreign nationals, and thus to the documents held by applicants for international protection.

Said Decree-Law was subsequently amended, further extending the validity of such documents. It was last amended by Decree-Law no. 87-A/2020 in 2020⁹⁵⁷, determining inter alia that:

- Documents expired since the entry into force of the Decree-Law, or within the 15 days prior to its entry into force, are accepted as valid until 31 March 2021.
- After 31 March 2021, such documents continue to be accepted providing the holder has an appointment for its renewal.⁹⁵⁸

Controls at internal borders were reinstated, on an exceptional and temporary basis on 16 March 2020. Most notably, the resolution prohibited road traffic of passengers between Portugal and Spain. A number of exceptions were established, including the right of entry for nationals and holders of national residence permits. These measures, agreed upon by the competent authorities of Portugal and Spain, were subsequently renewed, and finally lifted on 1 July 2020.⁹⁵⁹

Within the context of the Covid-19 pandemic, the **state of emergency** due to public calamity was declared by Presidential Decree on 18 March 2020 for the period between 19 March and 2 April 2020.⁹⁶⁰ On 2 April 2020, the state of emergency was extended until 17 April 2020,⁹⁶¹ and was then renewed again until 2 May 2020.⁹⁶²

In line with the Communication from the Commission to the European Parliament, the European Council and the Council of 16 March 2020, regarding the temporary restriction of non-essential travel to the EU,⁹⁶³ **air traffic** to and from non-EU countries was prohibited on 18 March 2020. Exceptions were introduced for Schengen Associated States, countries whose official language is Portuguese,⁹⁶⁴ the United Kingdom, the United States of America, Venezuela, Canada, and South Africa (due to the existence of significant Portuguese communities in such countries).⁹⁶⁵ Measures concerning air traffic were also adjusted/extended throughout the year.⁹⁶⁶

⁹⁵⁶ Decree-Law 10-A/2020 of 13 March 2020, available in Portuguese at: <https://bit.ly/3fLex13>. An English translation of the amended Decree-Law is available at: <https://bit.ly/3kUSqG0> [last updated on 15 January 2021].

⁹⁵⁷ Available at <https://bit.ly/2ND3F9H>.

⁹⁵⁸ The Decree-Law was subsequently amended in March 2021, extending the validity of documents until 31 December 2021.

⁹⁵⁹ Resolution of the Council of Ministers No.10-B/2020 of 16 March 2020. An amended version of the resolution is available at: <https://bit.ly/3uJa3w3>.

⁹⁶⁰ Decree of the President of the Republic No.14-A/2020 of 18 March 2020, available in Portuguese at: <https://bit.ly/2RAHCiS>. During this period, the state of emergency was regulated by Decree No.2-A/2020 of 20 March 2020, available in Portuguese at: <https://bit.ly/2V4qRie>.

⁹⁶¹ Decree of the President of the Republic No.17-A/2020 of 2 April 2020, available in Portuguese at: <https://bit.ly/2Xz3vml>. During this period, the state of emergency was regulated by Decree no.2-B/2020 of 2 April 2020, available in Portuguese at: <https://bit.ly/34E3grY>.

⁹⁶² Decree of the President of the Republic no.20-A/2020 of 17 April, available in Portuguese at: <https://bit.ly/2KrNKGi>. During this period, the state of emergency was regulated by Decree No.2-C/2020 of 17 April, available in Portuguese at: <https://bit.ly/3bA7ROR>.

⁹⁶³ Available at: <https://bit.ly/3b6bag8>.

⁹⁶⁴ Albeit with certain limits to flights to and from Brazil.

⁹⁶⁵ Order No. 3427-A/2020 of 18 March 2020, available in Portuguese at: <https://bit.ly/2z2pB6R>.

⁹⁶⁶ Order no.11231-A/2020, of 13 November 2020; Order no.11836-B/2020, of 30 November; Order no.12202-A/2020, of 15 December.

On 25 March 2020, it was determined that the National and Local Support Centres for Migrant Integration (CNAIM/CLAIM) would continue to provide in-person services upon scheduling.⁹⁶⁷

On 27 March 2020, the Minister of the Presidency, the Minister of Interior, the Minister of Labour and Social Security, and the Minister of Health issued the Order no.3863-B/2020 on the situation of foreign citizens with pending procedures with the Immigration and Borders Service (SEF).⁹⁶⁸ The Order covered a variety of topics such as the scheduling and/or rescheduling of appointments as well as the suspension of deadlines within the **asylum procedure**. With regard to the asylum procedure, the Order notably determined that:

- SEF's Asylum and Refugees Department would remain open for the purposes of receiving and registering new applications for international protection.⁹⁶⁹
- Deadlines within the asylum procedure were suspended.⁹⁷⁰

As such, personal interviews were not conducted between March and May 2020.⁹⁷¹ According to available information, remote interview techniques were not adopted by the authorities within this context. As per the available information, while Dublin procedures were not interrupted, restrictions to freedom of movement led to a halt of Dublin transfers.⁹⁷² Furthermore, SEF reported that the reduced number of flights and testing requirements by the responsible Member States, along with cases of absconding further restricted the execution of Dublin transfers in 2020.

According to CPR's observation, despite the suspension of deadlines, some applicants for international protection continued to be notified of decisions on their applications by post, at least in the first weeks following the issuance of Order no.3863-B/2020.

Apparently, the suspension formally ended on 2 May 2020.⁹⁷³

Due to the coronavirus outbreak, all applicants for international protection detained at EECIT Lisbon were released into national territory in March 2020.

The exceptional measures adopted within the coronavirus pandemic also covered judicial deadlines. While the initial provisions introduced by Article 7 of Law 1-A/2020 of 9 March raised some doubts, urgent judicial processes (such as those connected to the Asylum Act) were not suspended from 7 April 2020.⁹⁷⁴

Overall, Covid-related legal measures adopted during the second semester of 2020 had less impact on the asylum procedure.

The **state of emergency** due to public calamity was again declared by Presidential Decree on 6 November 2020 for the period between 9 and 23 November 2020.⁹⁷⁵ On 20 November 2020, the state of emergency was extended (24 November to 8 December).⁹⁷⁶ On 4 December, the state of emergency was

⁹⁶⁷ Order No. 3686-A/2020 of 25 March 2020, available in Portuguese at: <https://bit.ly/2ya1hzhk>.

⁹⁶⁸ Order No. 3863-B/2020 of 27 March 2020, available in Portuguese at: <https://bit.ly/3cfilwZ>.

⁹⁶⁹ Order No. 3863-B/2020 of 27 March 2020, para 7.

⁹⁷⁰ Ibidem.

⁹⁷¹ See EMN, *Special Annex to the 31st EMN Bulletin – EU Member States and Norway: responses to COVID-19 in the migration and asylum area – April-June 2020*, available at: <https://bit.ly/2MITV31>.

⁹⁷² Ibid.

⁹⁷³ *Special Annex to the 31st EMN Bulletin*, available at <https://bit.ly/2Mr51DS>.

⁹⁷⁴ As per the amendments introduced by Law 4-A/2020 of 6 April to article 7 of Law 1-A/2020 of 9 March, available at <https://bit.ly/3cUK1jB>.

⁹⁷⁵ Decree of the President of the Republic no.51-U/2020, 6 November 2020, available at: <https://bit.ly/3sX2EJJ>. During this period, the state of emergency was regulated by Decree no.8/2020, 8 November 2020, available at: <https://bit.ly/36e5dxg>.

⁹⁷⁶ Decree of the President of the Republic no.59-A/2020, 20 November 2020, available at: <https://bit.ly/39hXksC>. During this period, the state of emergency was regulated by Decree no.9/2020, 21 November 2020, available at: <https://bit.ly/3sWSc4i>; rectified by Declaration of Rectification no.47/2020, 22 November 2020 and no.47-B/2020, 24 November 2020, available at <https://bit.ly/3qPAa2r>, and <https://bit.ly/3pjdk2P>.

renewed for the period between 9 December and 23 December 2020.⁹⁷⁷ On 17 December, the state of emergency was once again renewed (24 December 2020 to 7 January 2021).⁹⁷⁸

Broadly, and while different concrete measures were adopted since November, the decrees determining the state of emergency enabled the adoption of limited restrictions to, *inter alia*, the right to liberty and freedom of movement; private and social initiative; workers' rights, data protection rights and the application of health checks related to Covid-19 within certain contexts. None of the restrictions (including prohibitions to leave the municipality of residence without imperative reasons – as established in the law - for certain periods) enacted within the context of the state of emergency was specific to applicants for/beneficiaries of international protection.

On 8 November 2020, the Minister of the Presidency, the Minister of Interior, the Minister of Labour and Social Security, and the Minister of Health issued the Order no.10944/2020, establishing *inter alia* that the rights provided by previous Orders (notably the above-mentioned Order no.3863-B/2020) remained in force. Nevertheless, according to CPR's observation, confirmed by SEF, the deadlines of the asylum procedure were not suspended in practice, and procedural acts such as interviews and decisions continued to be conducted/issued during the whole second semester of 2020.

While the coronavirus pandemic required significative adjustments to the provision of services by CPR, **legal, social and integration-related support** was continuously ensured throughout the year.

The coronavirus pandemic exacerbated the shortcomings in the **reception system** previously reported by CPR.

The provision of **material reception conditions**, in particular housing to asylum seekers, was quickly flagged by CPR as a concern, both due to the communitarian setting of most accommodations available (shared kitchens, rooms, sanitary facilities, and living spaces), and to systematic instances of overcrowding observed at the time.

Coronavirus contingency plans for all CPR facilities (particularly reception centres) were designed in early March and continuously adjusted in light of relevant developments and recommendations from the competent authorities.⁹⁷⁹ Such plans included, *inter alia*, the reactivation of rooms for isolation for health purposes in CAR and CAR2, the acquisition of personal protection equipment for staff and residents, and increased distribution of hygiene products such as hand sanitisers.

In the beginning of March, before the suspension of in-person activities, information sessions on the virus, and prevention of contagion were held in the reception centres. The sessions were organised in partnership with the Directorate General for Health (DGS) and with local health centres and conducted by healthcare professionals.

On 17 April 2020, an asylum seeker accommodated in a hostel in Lisbon tested positive to Covid-19. The case was immediately communicated to the competent authorities. On 19 April 2020, a joint operation ensured that all applicants accommodated in the facility were tested and the building was disinfected.⁹⁸⁰ Around 170 tests were performed, out of which 138 were positive, with only one person showing

⁹⁷⁷ Decree of the President of the Republic no.61-A/2020, of 4 December 2020, available at <https://bit.ly/3c98iIL>. During this period, the state of emergency was regulated by Decree no.11/2020, 6 December 2020, available at: <https://bit.ly/3pfQskQ>.

⁹⁷⁸ Decree of the President of the Republic no.66-A/2020, of 17 December 2020, available at <https://bit.ly/3pjdYK>. During this period, the state of emergency was regulated by Decree no.11-A/2020, of 21 December 2020, available at <https://bit.ly/36cHcGF>. The state of emergency has been subsequently renewed in the beginning of 2021 as well.

⁹⁷⁹ See, for instance, DGS, *Informação 010/2020*, 8 May 2020, available at <https://bit.ly/3dJ6mzQ>.

⁹⁸⁰ The following entities were involved in the operation: Civil Protection Authority, Municipality of Lisbon, SEF, National Medical Emergency (INEM), ACM, Public Security Police (PSP), Santa Casa da Misericórdia de Lisboa (SCML), Lisbon Firefighters and the Mosque.

symptoms.⁹⁸¹ All persons tested were later transferred to a military base in Ota for the purpose of quarantine. CPR, ACM, ISS and SCML continued to accompany the cases during this period.⁹⁸²

Following these events, and in line with previous decisions to conduct testing operations in communitarian accommodation facilities (e.g., nursing homes), the health authorities decided to test all asylum seekers accommodated in other facilities in Lisbon. These were public health operations that included an information-sharing component and involved various governmental and non-governmental actors,⁹⁸³ including CPR. **Testing and necessary follow-ups** (including quarantining/prophylactic isolation) continued to be organised whenever deemed necessary and according to the specific features of the situations at stake.

In the meantime, an integrated plan to address the impact of Covid-19 as well as the provision of accommodation to applicants for international protection was discussed under a Crisis Working Group, created by the end of April 2020, gathering an array of relevant stakeholders, including CPR.⁹⁸⁴ This was a positive step to address the chronic reception problems. The measure, that was accompanied by a memorandum of understanding between CPR and SCML and an increase in the number of meetings of the GTO, allowed for a quick decrease on the number of asylum seekers benefiting from CPR's support and, consequently, to address the quality of reception conditions.

Additionally, CPR worked towards a redistribution of accommodation places and the identification of alternative facilities. The maximum capacity of reception facilities was adjusted according to relevant recommendations.

Admission to reception facilities was also restructured in order to mitigate the risk of contagion among residents. As such, it comprises an initial period of prophylactic isolation until a negative Covid-19 test result is obtained.⁹⁸⁵ During the isolation period, adults and accompanied children are accommodated in external accommodation, while unaccompanied children and other particularly vulnerable persons are accommodated in isolation rooms in one of CPR's reception centres. During this period, CPR ensures the provision of meals and all other necessary goods.

The use of masks is mandatory to the staff of reception centres. In CAR, the residents must wear a mask in common spaces, during counselling sessions, and during group activities. The body temperature of those entering the building is checked. In CACR, children are not required to wear masks inside. Body temperature checks are also performed.

Within the context of the coronavirus pandemic and following the implementation of the state of emergency in March 2020, CPR registered obstacles in **accessing some public services**, namely scheduling of appointments for the issuance of fiscal identification numbers to applicants for international protection. Language and technological barriers precluded scheduling by phone/online.⁹⁸⁶ Similar difficulties were registered regarding ISS numbers. These obstacles were eventually overcome.

The pandemic posed significant challenges to the development of **Portuguese language courses** throughout the year. These were due to the general obstacles to remote language teaching, but also to the difficulties experienced by applicants of international protection in accessing and using the necessary equipment and resources.

⁹⁸¹ See also Reuters, 'Coronavirus sweeps through Portuguese hostel housing asylum seekers', 20 April 2020, available at: <https://reut.rs/3dT9quc>.

⁹⁸² The full press release issued by CPR on 22 April 2020 is available in Portuguese at: <https://bit.ly/350aeaV>.

⁹⁸³ Secretary of State for Integration and Migration (SEIM), SEF, Municipality of Lisbon, Civil Protection Authority, Public Health Directorate, National Medical Emergency, High Commissioner for Migration (ACM), Institute of Social Security, Lisbon Firefighters, Santa Casa da Misericórdia de Lisboa (SCML), the Public Security Police (PSP), the Mosque and CPR.

⁹⁸⁴ SEIM, SEF, PSP, Municipality of Lisbon, Civil Protection Authority, Public Health Directorate, National Medical Emergency, ACM, Lisbon Firefighters, SCML, Institute of Social Security and CPR.

⁹⁸⁵ This applies to all applicants that do not present a negative test made in the 72 hours prior to arrival.

⁹⁸⁶ Difficulties in obtaining the fiscal number were also reported by Crescer.

Decree-Law 10-A/2020 of 13 March suspended **in-person school activities**.⁹⁸⁷ The suspension entered into force on 16 March 2020. Detailed legislative provisions concerning education were introduced by Decree-Law 14-G/2020 of 13 April 2020.⁹⁸⁸ While certain in-person classes of the upper secondary education level were resumed in May, primary and lower secondary levels only resumed in-person classes in September.⁹⁸⁹ Remote learning during the third school term was ensured through specific activities organised by schools and complemented by the television broadcast of classes for all years of primary and lower secondary education levels.

According to CPR's experience, remote learning posed several challenges to child applicants for and beneficiaries of international protection that were both general and specific in nature (e.g., lack of familiarity with technology and the language of children and their parents). Staff at reception centres managed by CPR developed targeted efforts to support access to education during the suspension.

Throughout the year, CPR observed that, at least in some contexts, applicants for and beneficiaries of international protection faced additional challenges in accessing **healthcare** (compared to previous years), likely due to the overburdening of healthcare services. According to the publicly available information, such difficulties are common to the whole population and not particular to refugees.

The National Vaccination Plan (Covid-19) was approved by Ministerial Decree 298-B/2020, of 23 December 2020.⁹⁹⁰ The Ministerial Order determines that the national vaccination plan is grounded on the principles of universality, acceptability, and feasibility and is free of charge.

Priority groups for Covid-19 vaccination are defined based on a combination of factors such as age and pre-existent conditions (in addition to essential workers).⁹⁹¹ Asylum seekers and refugees living in communitarian facilities are considered a group with an increased risk of infection and outbreaks (e.g., elderly homes) and, as such, prioritised. Vaccination at CPR's Reception Centres occurred in the beginning of the 2021.

Within the context of the coronavirus pandemic, cross-cutting efforts were made by CPR to provide asylum seekers with **information** on the overall situation in all contacts with its staff (e.g., the need to adopt preventive measures, to stay indoors and to follow the information provided by the competent authorities, and on the closure of many public services).

Dedicated information leaflets were prepared and translated. Preventive measures, the emergency state, food safety and hygiene, and rights and duties in Portugal were among the topics covered in such brochures. Posters were also used to spread information in reception facilities. In addition to information sessions, staff made daily efforts to reiterate the preventive measures and their relevance.

A number of information resources in multiple languages were prepared/compiled by ACM.⁹⁹²

⁹⁸⁷ Decree-Law 10-A/2020 of 13 March 2020, available in Portuguese at: <https://bit.ly/3fLex13>. An English translation of the amended Decree-Law is available at: <https://bit.ly/3kUSqG0>. [last updated on 15 January 2021].

⁹⁸⁸ Decree-Law 14-G/2020 of 13 April 2020, available at: <https://bit.ly/3wF5W6c>.

⁹⁸⁹ A summary of the most relevant features of the third school term is available at: <https://bit.ly/31Yg3oC>.

⁹⁹⁰ Ministerial Decree 298-B/2020 of 23 December 2020, available at: <https://bit.ly/3fU70NC>.

⁹⁹¹ Plano de Vacinação COVID-19, 3 December 2020, available at: <https://bit.ly/2PPD5eF>.

⁹⁹² Available at: <https://bit.ly/2PBZpbP>.