Country Report: Portugal
Acknowledgements & Methodology

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

The information in this report draws on the experience of CPR staff, gathered *inter alia* through research, advocacy, legal assistance and reception services, as well as data and information shared by national authorities, civil society organisations and other stakeholders consisting of ANQEP, CSTAF, DGE, IOM, ISS, JRS, SCML, SEF, UNICEF, and UNHCR. CPR appreciates their contributions.

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

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

The Asylum Information Database (AIDA)

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

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<th>Description</th>
</tr>
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<tbody>
<tr>
<td>ACM</td>
<td>High Commission for Migration</td>
</tr>
<tr>
<td>ACSS</td>
<td>Central Administration of the Health System</td>
</tr>
<tr>
<td>ANMP</td>
<td>National Association of Portuguese Municipalities</td>
</tr>
<tr>
<td>ANQEP</td>
<td>National Agency for Qualification and Vocational Education and Training</td>
</tr>
<tr>
<td>APD</td>
<td>Asylum Procedures Directive</td>
</tr>
<tr>
<td>APF</td>
<td>Family Planning Association</td>
</tr>
<tr>
<td>CACR</td>
<td>Refugee Children Reception Centre</td>
</tr>
<tr>
<td>CAP</td>
<td>Anti-Trafficking Reception and Protection Centre</td>
</tr>
<tr>
<td>CAR</td>
<td>Refugee Reception Centre</td>
</tr>
<tr>
<td>CATR</td>
<td>Temporary Reception Centre for Refugees</td>
</tr>
<tr>
<td>CAVITOP</td>
<td>Centre for the Support of Torture Victims</td>
</tr>
<tr>
<td>CHPL</td>
<td>Psychiatric Hospital Centre</td>
</tr>
<tr>
<td>CIT</td>
<td>Temporary Installation Centre</td>
</tr>
<tr>
<td>CJEU</td>
<td>Court of Justice of the European Union</td>
</tr>
<tr>
<td>CNAIM/CLAIM</td>
<td>National and Local Support Centres for Migrant Integration</td>
</tr>
<tr>
<td>CPR</td>
<td>Portuguese Refugee Council</td>
</tr>
<tr>
<td>CRegC</td>
<td>Central Registrations Service</td>
</tr>
<tr>
<td>CSTAF</td>
<td>High Council of Administrative and Fiscal Courts</td>
</tr>
<tr>
<td>CVP</td>
<td>Portuguese Red Cross</td>
</tr>
<tr>
<td>DGAL</td>
<td>Directorate General of Local Municipalities</td>
</tr>
<tr>
<td>DGE</td>
<td>Directorate General for Education</td>
</tr>
<tr>
<td>DGES</td>
<td>Directorate General for Higher Education</td>
</tr>
<tr>
<td>Acronym</td>
<td>Full Name</td>
</tr>
<tr>
<td>---------</td>
<td>-----------</td>
</tr>
<tr>
<td>DGES</td>
<td>Directorate General for Schools and School Clusters</td>
</tr>
<tr>
<td>DG</td>
<td>Directorate General for Health</td>
</tr>
<tr>
<td>EASO</td>
<td>European Asylum Support Office</td>
</tr>
<tr>
<td>ECHR</td>
<td>European Convention on Human Rights</td>
</tr>
<tr>
<td>ECRI</td>
<td>European Commission Against Racism and Intolerance</td>
</tr>
<tr>
<td>ECtHR</td>
<td>European Court of Human Rights</td>
</tr>
<tr>
<td>EDAL</td>
<td>European Database of Asylum Law</td>
</tr>
<tr>
<td>EECIT</td>
<td>Detention facilities qualified as Temporary Installation Centres</td>
</tr>
<tr>
<td>EPVA</td>
<td>Teams for the Prevention of Violence between Adults</td>
</tr>
<tr>
<td>EUAA</td>
<td>European Union Agency for Asylum</td>
</tr>
<tr>
<td>GAR</td>
<td>Asylum and Refugees Department</td>
</tr>
<tr>
<td>GIP</td>
<td>Professional Insertion Office</td>
</tr>
<tr>
<td>GRETA</td>
<td>Group of Experts on Action Against Trafficking in Human Beings</td>
</tr>
<tr>
<td>GTO</td>
<td>Technical Operative Group</td>
</tr>
<tr>
<td>ICRC</td>
<td>International Committee of the Red Cross</td>
</tr>
<tr>
<td>IEFP</td>
<td>Employment and Vocational Training Institute</td>
</tr>
<tr>
<td>IGAI</td>
<td>General Inspectorate of Internal Administration</td>
</tr>
<tr>
<td>IHHRU</td>
<td>Institute for Housing and Urban Rehabilitation</td>
</tr>
<tr>
<td>INE</td>
<td>National Institute for Statistics</td>
</tr>
<tr>
<td>INMLCF</td>
<td>National Institute of Legal Medicine and Forensic Science</td>
</tr>
<tr>
<td>IOM</td>
<td>International Organisation for Migration</td>
</tr>
<tr>
<td>IPDJ</td>
<td>Portuguese Institute of Sports and Youth</td>
</tr>
<tr>
<td>IRN</td>
<td>Institute of Registries and Notary</td>
</tr>
<tr>
<td>ISS</td>
<td>Institute of Social Security</td>
</tr>
<tr>
<td>Acronym</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
</tr>
<tr>
<td>JRS</td>
<td>Jesuit Refugee Service</td>
</tr>
<tr>
<td>MAI</td>
<td>Ministry of Home Affairs</td>
</tr>
<tr>
<td>MdM</td>
<td>Doctors of the World</td>
</tr>
<tr>
<td>MoU</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>NISS</td>
<td>Social Security Identification Number</td>
</tr>
<tr>
<td>OA</td>
<td>Bar Association</td>
</tr>
<tr>
<td>OM</td>
<td>Observatory for Migration</td>
</tr>
<tr>
<td>OTSH</td>
<td>Observatory on Trafficking in Human Beings</td>
</tr>
<tr>
<td>RSI</td>
<td>Social Insertion Revenue</td>
</tr>
<tr>
<td>SCML</td>
<td>Santa Casa da Misericórdia de Lisboa</td>
</tr>
<tr>
<td>SEF</td>
<td>Immigration and Borders Service</td>
</tr>
<tr>
<td>SGMAI</td>
<td>General Secretariat of the Ministry of Home Affairs</td>
</tr>
<tr>
<td>SEIM</td>
<td>Secretary of State for Integration and Migration</td>
</tr>
<tr>
<td>SOG</td>
<td>Single Operative Group</td>
</tr>
<tr>
<td>STA</td>
<td>Supreme Administrative Court</td>
</tr>
<tr>
<td>SNS</td>
<td>National Health Service</td>
</tr>
<tr>
<td>TAC</td>
<td>Administrative Circle Court</td>
</tr>
<tr>
<td>TAF</td>
<td>Administrative and Fiscal Court</td>
</tr>
<tr>
<td>TCA</td>
<td>Central Administrative Court</td>
</tr>
<tr>
<td>UHSA</td>
<td>Unidade Habitacional de Santo António</td>
</tr>
<tr>
<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
</tr>
<tr>
<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
</tr>
</tbody>
</table>
Statistics

Overview of statistical practice

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

Applications and granting of protection status at first instance: 2022

<table>
<thead>
<tr>
<th></th>
<th>Applicants in 2022</th>
<th>Pending at end of 2022</th>
<th>Refugee status</th>
<th>Subsidiary protection</th>
<th>Rejection</th>
<th>Refugee rate</th>
<th>Sub. Prot. Rate</th>
<th>Rejection rate</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td>1,992</td>
<td>N.A.</td>
<td>632</td>
<td>62</td>
<td>256</td>
<td>66.5%</td>
<td>6.5%</td>
<td>26.9%</td>
</tr>
</tbody>
</table>

Breakdown by countries of origin of the total numbers

<table>
<thead>
<tr>
<th>Country</th>
<th>Applicants in 2022</th>
<th>Pending at end of 2022</th>
<th>Refugee status</th>
<th>Subsidiary protection</th>
<th>Rejection</th>
<th>Refugee rate</th>
<th>Sub. Prot. Rate</th>
<th>Rejection rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan</td>
<td>287</td>
<td>N.A.</td>
<td>539</td>
<td>8</td>
<td>0</td>
<td>98.5%</td>
<td>1.5%</td>
<td>0</td>
</tr>
<tr>
<td>India</td>
<td>229</td>
<td>N.A.</td>
<td>0</td>
<td>0</td>
<td>21</td>
<td>0</td>
<td>0</td>
<td>100%</td>
</tr>
<tr>
<td>Gambia</td>
<td>167</td>
<td>N.A.</td>
<td>-</td>
<td>0</td>
<td>-</td>
<td>17.6%</td>
<td>0</td>
<td>82.4%</td>
</tr>
<tr>
<td>Pakistan</td>
<td>122</td>
<td>N.A.</td>
<td>-</td>
<td>0</td>
<td>-</td>
<td>25%</td>
<td>0</td>
<td>75%</td>
</tr>
<tr>
<td>Morocco</td>
<td>108</td>
<td>N.A.</td>
<td>0</td>
<td>0</td>
<td>-</td>
<td>3%</td>
<td>0</td>
<td>97%</td>
</tr>
<tr>
<td>Dominican Republic</td>
<td>92</td>
<td>N.A.</td>
<td>0</td>
<td>0</td>
<td>-</td>
<td>0</td>
<td>0</td>
<td>100%</td>
</tr>
<tr>
<td>Senegal</td>
<td>88</td>
<td>N.A.</td>
<td>-</td>
<td>0</td>
<td>-</td>
<td>5.9%</td>
<td>0</td>
<td>94.1%</td>
</tr>
<tr>
<td>Colombia</td>
<td>85</td>
<td>N.A.</td>
<td>-</td>
<td>0</td>
<td>-</td>
<td>7.1%</td>
<td>0</td>
<td>92.9%</td>
</tr>
<tr>
<td>Democratic Republic of Congo</td>
<td>60</td>
<td>N.A.</td>
<td>0</td>
<td>-</td>
<td>-</td>
<td>0</td>
<td>33.3%</td>
<td>66.7%</td>
</tr>
<tr>
<td>Russia</td>
<td>54</td>
<td>N.A.</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>12.5%</td>
<td>37.5%</td>
<td>50%</td>
</tr>
<tr>
<td>Angola</td>
<td>54</td>
<td>N.A.</td>
<td>6</td>
<td>0</td>
<td>30</td>
<td>26.7%</td>
<td>0</td>
<td>83.3%</td>
</tr>
</tbody>
</table>

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

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

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

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

<table>
<thead>
<tr>
<th>Total number of applicants</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Men</td>
<td>1,492</td>
<td>74.9%</td>
</tr>
<tr>
<td>Women</td>
<td>500</td>
<td>25.1%</td>
</tr>
<tr>
<td>Children</td>
<td>354</td>
<td>17.8%</td>
</tr>
<tr>
<td>Unaccompanied children</td>
<td>83</td>
<td>4.2%</td>
</tr>
</tbody>
</table>

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

### Information on appeals: 2022

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

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3 Until 2021, only TAC Lisbon had such a registration string.
A total of 242 appeals against negative decisions were filed in national first instance courts. This represents a decrease of approximately 18% compared to 2021, when 294 appeals were registered in total.

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

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

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

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

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

As such, the overall success rate of appeals\(^5\) at TAC Lisbon (all countries of origin and procedures included) stood at roughly 15%. The overall success rate of appeals in courts outside Lisbon stood roughly at 11%. The overall success rate of appeals at national level stood at 15%. In the case of Gambia, the most represented nationality at appeal stage, the overall success rate of appeals was around 11%. With a few exceptions, success rates for other nationalities were equally low. For the other most represented countries of origin at appeals stage, the success rates were as follows: Morocco (8%); Guinea Bissau (10%); Senegal (0%); Pakistan (33%).

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

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

\(^{4}\) According to CPR’s observation of national jurisprudence, instances where national courts decide to grant protection directly are traditionally extremely rare.

\(^{5}\) Success rates are based on the number of relevant decisions issued during the year.
## Overview of the legal framework

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

<table>
<thead>
<tr>
<th>Title (EN)</th>
<th>Original Title (PT)</th>
<th>Abbreviation</th>
<th>Web Link</th>
</tr>
</thead>
</table>
| Act n. 27/2008 of 30 June 2008 establishing the conditions for granting asylum or subsidiary protection, last amended by Act n. 18/2022, of 25 August 2022 | Lei n.º 27/2008, de 30 de Junho, que estabelece as condições e procedimentos de concessão de asilo ou protecção subsidiária e os estatutos de requerente de asilo, de refugiado e de protecção subsidiária, Alterada pela última vez pela Lei n.º 18/2022, de 25 de Agosto | Asylum Act | https://bit.ly/3j3r6c6 (PT)  
https://bit.ly/3pHbedv (EN – does not include the 2022 amendment) |
| Act n. 23/2007 of 4 July 2007 on the legal status of entry, residence, departure and removal of foreigners from the national territory | Lei n.º 23/2007, de 4 de Julho, que aprova o regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional  
Alterada pela última vez pela Lei n.º 18/2022, de 25 de Agosto | Immigration Act | https://bit.ly/3iXOKlO (PT) |
| Decree-Law n. 4/2015 of 7 January 2015 - Code of Administrative Procedure  
| Act n. 15/2002 of 22 February 2002 approving the Code of Procedure in Administrative Courts  
Amended by: Act n. 56/2021 of 16 August 2021 | Lei n.º 15/2002, de 22 de Fevereiro, que aprova o Código de Processo nos Tribunais Administrativos  
<p>| Act n. 73/2021 of 12 November 2021 approving the restructuring of the Portuguese system of border control, reshaping the regime of the forces and services responsible for internal security and establishing other rules for the redistribution of competences and resources of the Immigration and Borders Service | Lei n.º 73/2021, de 12 de novembro, que aprova a reestruturação do sistema português de controlo de fronteiras, procedendo à reformulação do regime das forças e serviços que exercem a atividade de segurança interna e fixando outras regras de reafetação de competências e recursos do Serviço de Estrangeiros e Fronteiras, alterando as Leis n.os 53/2008, de 29 de agosto, 53/2007, de 31 de agosto, 63/2007, de 6 de novembro, e 49/2008, de 27 de agosto, e revogando o Decreto-Lei n.º 252/2000, de 16 de outubro | <a href="https://bit.ly/3OitRkJ">https://bit.ly/3OitRkJ</a> (PT) |
| Act n. 11/2022, of 6 May 2022 | | |
| Act n. 100/2019 of 6 September 2019 | | | |
| Decree-Law n. 119/2021 of 16 December 2021 | | | |
| Decree-Law n. 56/2022, of 19 August 2022 | | | |</p>
<table>
<thead>
<tr>
<th>Last amended by: Decree-Law n.56/2022, of 19 August 2022</th>
<th></th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Act n. 37/81 of 3 October 1981 approving the Act on Nationality</td>
<td>Lei n.º 37/81, de 3 de Outubro, que aprova a Lei da Nacionalidade</td>
<td>Amended by: Organic Law n. 2/2020 of 10 November 2020</td>
<td>Nationality Act</td>
</tr>
<tr>
<td>Act n. 81/2014 of 19 December 2014</td>
<td>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</td>
<td>Amended by: Act n. 32/2016 of 24 August 2016</td>
<td>Public Leasing Act</td>
</tr>
</tbody>
</table>
### Main implementing decrees, guidelines and regulations on asylum procedures, reception conditions, detention, and content of international protection

<table>
<thead>
<tr>
<th>Title (EN)</th>
<th>Original Title (PT)</th>
<th>Abbreviation</th>
<th>Web Link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amended by: Act n.73/2021 of 12 November 2021 (restructures the Portuguese border control system)</td>
<td>Última alteração: Lei n.º 73/2021, de 12 de novembro (aprova a reestruturação do sistema português de controlo de fronteiras)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Act n. 147/99 of 1 September 1999 - Children and Youths at Risk Protection Act</td>
<td>Lei n.º 147/99, de 01 de Setembro – Lei de Protecção de Crianças e Jovens em Perigo</td>
<td></td>
<td><a href="https://bit.ly/3XdCVvi">https://bit.ly/3XdCVvi</a> (PT)</td>
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<tr>
<td>Amended by: Act n. 26/2018 of 5 July 2018</td>
<td>Última alteração: Lei n.º 26/2018, de 5 de julho</td>
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<tr>
<td>Amended by: Act n. 24/2017 of 24 May 2017</td>
<td>Alteração: Lei n.º 24/2017, de 24 de maio</td>
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<tr>
<td>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</td>
<td>Resolução do Conselho de Ministros n.º103/2020, de 23 de novembro, que estabelece um sistema único de acolhimento e integração de requerentes e beneficiários de protecção internacional</td>
<td>Single Reception and Integration System Resolution</td>
<td><a href="https://bit.ly/3oBLXQm">https://bit.ly/3oBLXQm</a> (PT)</td>
</tr>
<tr>
<td>Decree-Law n. 464/80 of 13 October 1980 establishing new conditions of access and entitlement to social pension</td>
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<tr>
<td>Amended by: Decree-Law n.136/2019 of 6 September 2019</td>
<td></td>
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</tr>
<tr>
<td>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</td>
<td></td>
<td></td>
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<tr>
<td>Última alteração: Decreto-Lei n.º 136/2019, de 6 de setembro</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Ministerial Order n. 301/2021, of 15 December 2021, updating the pensions for 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>Portaria n.º 301/2021, de 15 de dezembro, que procede à atualização das pensões para 2022</td>
</tr>
<tr>
<td><a href="https://bit.ly/3XxUhCD">https://bit.ly/3XxUhCD</a> (PT)</td>
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</table>

<table>
<thead>
<tr>
<th>Ministerial Order n. 294/2021, of 13 December 2021 approving the annual revaluation of the social assistance index value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Portaria n.º 294/2021, de 13 de dezembro, que procede à atualização anual do valor do indexante dos apoios sociais (IAS)</td>
</tr>
<tr>
<td><a href="https://bit.ly/3QiHqEG">https://bit.ly/3QiHqEG</a> (PT)</td>
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</table>

<table>
<thead>
<tr>
<th>Ministerial Order n. 120/2021 of 8 June 2021 establishing the functioning and management of the National Pool of Urgent and Temporary Accommodation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Portaria n.º 120/2021, de 8 de junho que define o modelo de funcionamento e gestão da Bolsa Nacional de Alojamento Urgente e Temporário</td>
</tr>
<tr>
<td><a href="https://bit.ly/3jTh0qX">https://bit.ly/3jTh0qX</a> (PT)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>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 Amended by: Ministerial Order n. 65/2021 of 17 March 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>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. Última alteração: Portaria n.º 65/2021, de 17 de março</td>
</tr>
<tr>
<td><a href="https://bit.ly/2u6W6hL">https://bit.ly/2u6W6hL</a> (PT)</td>
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</table>

<table>
<thead>
<tr>
<th>Ministerial Order n. 22/2019 of 17 January 2019 amending the value of the Social Insertion Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Portaria n.º 22/2019, de 17 de janeiro, que atualiza o valor do Rendimento Social de Inserção</td>
</tr>
</tbody>
</table>
Decree Law n. 113/2011 of 29 November 2011 regulating access to National Health Service in respect to co-payments and special benefits

*Last amended by:* Decree-Law n.96/2020 of 4 November

Ministerial Order n. 30/2001 of 17 January 2001 establishing the specific modalities of health care in different stages of the asylum procedure

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

Decree-Law n. 227/2005 of 28 December 2005 defining the framework of granting the recognition of foreign qualifications

Ministerial Order n. 224/2006 of 8 March 2006 approving comparative tables between the Portuguese education system and other education systems

Decree-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

Última alteração: Decreto-Lei n.º 37/2022, de 27 de maio

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

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

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

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/2F8gRMe (PT)

https://bit.ly/2u6dyTt (PT)


https://bit.ly/2FUHTYE (PT)
<table>
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<tr>
<th>Document</th>
<th>Text</th>
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<tr>
<td>Amended by: Act n. 49/2018 of 14 August 2018</td>
<td>Última alteração: Lei n.º 49/2018, de 14 de agosto</td>
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<tr>
<td>Last amended by: Implementing Decree n.4/2022, of 30 September 2022</td>
<td>Última alteração: Decreto Regulamentar n.º 4/2022, de 30 de setembro</td>
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<tr>
<td>Amended by: Ministerial Order n. 204/2020 of 24 August 2020</td>
<td>Última alteração: Portaria n.º 204/2020, de 24 de agosto</td>
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<tr>
<td>Document</td>
<td>Description</td>
<td>Last Amended By</td>
</tr>
<tr>
<td>----------</td>
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</tr>
<tr>
<td>Ministerial Order n. 302/2015 of 22 September 2015, Template refugee travel document</td>
<td></td>
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</tr>
<tr>
<td><em>Amended by:</em> Ministerial Order n. 412/2015 of 27 November 2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>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</td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Alteração:</em> Portaria n.º 412/2015 de 27 de novembro</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>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.</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Amended by:</em> Ministerial Order n. 184/2022, of 21 July 2022</td>
</tr>
<tr>
<td>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</td>
</tr>
<tr>
<td><em>Alteração:</em> Portaria n.º 184/2022, de 21 de julho</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Regulation n. 84/2018 of 2 February 2018 governing the public leasing of housing from IHRU, IP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulamento n.º 84/2018, de 2 de fevereiro, de Acesso e Atribuição de Habitações do IHRU, I.P., em Regime de Arrendamento Apoiado</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Refugee Travel Document Order</th>
</tr>
</thead>
</table>
Overview of the main changes since the previous report update

The report was previously updated in May 2022.

Background information

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

As previously reported, in 2020, the Government announced its intention to conduct a structural reform of SEF (asylum authority). The main piece of legislation governing this reform was approved in November 2021. Its entry into force has been repeatedly postponed. In May 2022, it was postponed sine die, until the entry into force of the legal framework creating and governing the new Migrations and Asylum Agency. In December 2022, the government publicly announced that the change would be in place until March 2023. However, the creation of the new Agency was only approved by the Government in April 2023. According to the information publicly available, minorities were also added to the mandate of the entity, and, as such, it will be called Agency for Minorities, Migration and Asylum (APMMA). It is expected to start its operations within six months.

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

The UN Working Group on People of African Descent published the report on its visit to Portugal in August 2022. Notably, it:

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

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7 Act n. 73/2021 of 12 November 2021 approving the restructure of the Portuguese system of border control, reshaping the regime of the forces and services responsible for internal security and establishing other rules for the redistribution of competences and resources of the Immigration and Borders Service, amended by Act n. 89/2021 of 16 December 2021, available at: https://bit.ly/3OfRkJ.
9 See, for instance: Visão, MAI anuncia que reestruturação do SEF se vai concretizar até março de 2023, 20 December 2022, available at: https://bit.ly/3CWSeAI.
12 Par. 74.
13 Par. 26.
14 For instance, par.37, 38, 41, 53, 54, 60, 88, and 96.
15 Par.42.
16 Par.62.
For 2022, Portugal pledged to **resettle** 300 persons from Turkey, Egypt and Jordan. However, according to the information available to CPR, no one was resettled during the year.

**International protection**

**Asylum procedure**

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

- **Border procedure:** The border procedure was not systematically applied in 2022. According to the information provided by SEF, while a total of 694 were made at the border in 2022, only a residual number was analysed under the border procedure (due to the existence of relevant precautionary measures).

- **Legal assistance:** Following prior jurisprudence of TCA South, STA ruled on a case concerning the right of the applicant for international protection to request legal aid in order to have a lawyer present during the interview. Overall, the Court ruled that SEF is not bound by a duty to inform applicants of international protection that they may request legal aid for the purposes of legal representation within the administrative stage of the procedure. Furthermore, it considered that, in *extremis*, CPR legal officers will explain the differences between the different types of assistance to applicants and facilitate access to legal aid if the applicant so wishes.

- **Vulnerable groups:** In June 2022, the Group of Experts on Action on Trafficking in Human Beings (GRETA), published its third report on Portugal, focusing on access to justice and effective remedies for victims, and following-up on issues specific to the national context, including the link between asylum and trafficking in human beings. Asylum-related recommendations mostly focused on identification and referral. In its Concluding Observations published in July 2022, the Committee on the Elimination of Discrimination Against Women (CEDAW) also highlighted the need for effective identification and referral of victims of trafficking in Portugal.

**Reception conditions**

- **Housing:** Access to adequate housing is identified as a major issue within the national context by asylum seekers, refugees and NGOs. Factors such as high prices, and contractual demands including high deposits, need of guarantors and proof of income hinder the capacity of asylum seekers and refugees to access the market directly, and that of frontline service providers to increase reception capacity. Consequently, asylum seekers and refugees often have to resort to overcrowded or sub-standard housing options when accessing the private housing market.

- **Access to the labour market:** An amendment to the Asylum Act enacted in August 2022, determines that asylum seekers are entitled to the right to work from the moment of the application for international protection.

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**Content of international protection**

- **Status and residence:** In June 2022, the Government amended Decree-Law 10-A/2020,\(^{20}\) determining, inter alia, that documents (including visas and residence permits) expired since its entry into force (or within the previous 15 days) were to be accepted as valid until 31 December 2022. It further determined that, after 31 December 2022, such documents would continue to be accepted providing the holder has an appointment for its renewal. Said Decree-Law was further amended in December 2022,\(^{21}\) inter alia extending the validity of such documents until 31 December 2023. It further clarified that this special regime is not applicable to documents concerning temporary protection.

- **Cessation of international protection:** In 2022, a total of 33 decisions of cessation of subsidiary protection were issued by the Portuguese authorities, mostly concerning nationals of Ukraine (19) and DRC (7). As in 2021, according to the information provided by SEF, in 2022, cessation of refugee status also occurred (while extremely rare).

**Temporary protection**

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

**Temporary protection procedure**

- **Scope of temporary protection:** On 1 March 2022, the Council of Ministers adopted a Resolution establishing the criteria for granting of temporary protection for displaced people from Ukraine.\(^{22}\) The Resolution was subsequently amended on 11 March to widen its personal scope of application (and to bring it in line with the Council decision on the same issue). In December 2022, the personal scope of temporary protection in Portugal was once again redefined, this time restricting eligibility.\(^{23}\) As such, at the time of writing, third country nationals and stateless persons who were not beneficiaries of international protection in Ukraine are only eligible if they are family members of a Ukrainian national/beneficiary of international protection in Ukraine, or if they were permanent residents in the country and cannot return to their country of origin in a safe and lasting manner.

- **Registration for temporary protection:** According to the information provided by SEF, in the course of 2022, 56,599 persons requested registration for temporary protection to the Portuguese authorities. Out of these, 44,524 were Ukrainian nationals, and 12,075 third country nationals that lived in Ukraine. By the end of the year, there were 45,613 beneficiaries of temporary protection registered in the country. SEF has also reported that 1,535 statuses were cancelled during the year. Persons whose registration for temporary protection is refused are not issued a written decision, nor informed of the right to appeal on a systematic basis. Data on such refusals is not available.

**Content of temporary protection**

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

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\(^{21}\) Decree-Law 90/2022, of 30 December 2022.


Asylum Procedure

A. General

1. Flow chart

Application on the territory
SEF

Information to UNHCR
and CPR

Individual interview
SEF

Dublin procedure
SEF

Accelerated procedure
1 month
SEF

Admissibility procedure
1 month or 10 days
SEF

Regular procedure
6-9 months
SEF

Provisional residence
permit

Observations / COI: UNHCR / CPR
Draft decision proposal: SEF
Adversarial hearing and evaluation (10 days)
Final decision proposal: SEF
First instance decision: Ministry of Home Affairs

Refugee status
Subsidiary protection

Rejection

Appeal
Administrative Court

Onward appeal
Central Administrative Court

Onward appeal
Supreme Administrative Court
2. Types of procedures

**Indicators: Types of Procedures**

Which types of procedures exist in your country?

- Regular procedure: [ ] Yes [ ] No
- Prioritised examination: [ ] Yes [ ] No
- Fast-track processing: [ ] Yes [ ] No
- Dublin procedure: [ ] Yes [ ] No
- Admissibility procedure: [ ] Yes [ ] No
- Border procedure: [ ] Yes [ ] No
- Accelerated procedure: [ ] Yes [ ] No
- Other: [ ] Yes [ ] No

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

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

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

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

4. Determining authority

<table>
<thead>
<tr>
<th>Name in English</th>
<th>Number of staff</th>
<th>Ministry responsible</th>
<th>Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immigration and Borders Service (SEF), Asylum and Refugees Department (GAR)</td>
<td>24</td>
<td>Ministry of Home Affairs</td>
<td>[ ] Yes [ ] No</td>
</tr>
</tbody>
</table>

Source: Information provided by SEF (April 2023).

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

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

26 Entailing lower procedural safeguards, whether labelled as “accelerated procedure” in national law or not.
In accordance with the Asylum Act and the internal regulation of the Immigration and Borders Service (SEF), the responsibility for examining applications for international protection and drafting first instance decisions lies with the Asylum and Refugees Department of SEF (SEF-GAR). Decisions granting, refusing (except in accelerated and admissibility procedures), ceasing, and withdrawing international protection are formally adopted by the Ministry of Home Affairs. In practice, the latter adopts such decisions based on the assessment and recommendations of the determining authority, which thus remains the main entity responsible for the examination of asylum claims.

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

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

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

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

Quality assurance

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

As previously reported, in 2020, the Government announced its intention to conduct a structural reform of SEF. The main piece of legislation governing this reform was approved in November 2021. It provides for the reallocation of SEF’s competencies to existing/new entities:

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

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29 Act n. 73/2021 of 12 November 2021 approving the restructure of the Portuguese system of border control, reshaping the regime of the forces and services responsible for internal security and establishing other rules for the redistribution of competences and resources of the Immigration and Borders Service, amended by Act n. 89/2021 of 16 December 2021, available at: https://bit.ly/3OtRkJ.
30 Article 2 Act n. 73/2021 of 12 November 2021.
The Public Security Police (Polícia de Segurança Pública, PSP) will be in charge of surveillance and control of air borders, and will be responsible for executing expulsion decisions within its jurisdiction.\(^{31}\)

The Criminal Police (Polícia Judiciária, PJ) will investigate crimes related to illegal migration and trafficking in human beings.\(^ {32}\)

The administrative competencies of SEF will be allocated to the Institute of Registries and Notary (Instituto dos Registos e Notariado, IRN) and to an entity to be created, the Portuguese Agency for Migration and Asylum (Agência Portuguesa para as Migrações e Asilo, APMA). The IRN will be responsible for foreigners with a residence permit and for the issuance of travel documents. APMA will be the entity in charge of the implementation of public policies related to migration and asylum and to issue opinions on requests for visas, applications for asylum and resettlement.\(^ {33}\)

Regular training on human rights, migration law and asylum law is to be provided to the officers of PSP, GNR, PJ and IRN.\(^ {34}\)

The entry into force of this law has been repeatedly postponed. In May 2022, it was postponed *sine die*, until the entry into force of the legal framework creating and governing the new Migrations and Asylum Agency.\(^ {35}\) In December 2022, the government publicly announced that the change would be in place until March 2023.\(^ {36}\) However, the creation of the new Agency was only approved by the Government in April 2023.\(^ {37}\) According to the information publicly available, minorities were also added to the mandate of the entity, and, as such, it will be called Agency for Minorities, Migration and Asylum (APMMA). It is expected to start its operations within six months.

5. Short overview of the asylum procedure

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

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

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

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

\(^{31}\) Article 2 Act n. 73/2021 of 12 November 2021.

\(^{32}\) Article 2 Act n. 73/2021 of 12 November 2021.

\(^{33}\) Article 3 Act n. 73/2021 of 12 November 2021.

\(^{34}\) Article 12 Act n. 73/2021 of 12 November 2021.


\(^{36}\) See, for instance: Visão, MAI anuncia que reestruturação do SEF se vai concretizar até março de 2023, 20 December 2022, available at: https://bit.ly/3CWSeAI.


\(^{38}\) Article 10(2) Asylum Act.

\(^{39}\) Articles 13(1) and 19(1)(d) Asylum Act.

\(^{40}\) Article 13(2) Asylum Act.

\(^{41}\) Articles 13(7) and 14(1) Asylum Act.

\(^{42}\) Article 14(2) Asylum Act.

\(^{43}\) Articles 13(3), 24(1), 33(3), 33-A(3) Asylum Act.
UNHCR and CPR are further entitled to be informed of the most relevant procedural acts (e.g. interview transcripts and decisions) upon consent of the applicant, and to provide their observations to SEF at any time during the procedure. The Asylum Act also determines that UNHCR and CPR are to be informed of decisions determining loss of international protection, regardless of the consent of the applicant.

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

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

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

**Admissibility procedure**

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

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, with the exception of inadmissible subsequent applications and applications following a removal order (4 days to appeal, with automatic suspensive effect). Failing an appeal, the applicant has 20 days to leave the country. In the case of border procedures, the time limit to appeal is reduced to 4 days.

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

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45 Article 28(5) Asylum Act.
46 Article 43(3) Asylum Act.
47 Article 16(5) Asylum Act.
48 Articles 16 Asylum Act and 33-A(4) (for applications following a removal decision).
49 Article 24(2) and (3) Asylum Act.
50 Article 17 Asylum Act.
51 Article 33 Asylum Act.
52 Article 33-A Asylum Act.
53 Article 20(1) Asylum Act.
54 Articles 33(4) and 33-A(5) Asylum Act.
55 Article 24(4) Asylum Act.
56 Articles 22(1) Asylum Act.
57 Articles 33(6) and 33-A(6) Asylum Act.
58 Articles 21(2) and (3) and 33(9) Asylum Act.
59 Article 25(1) Asylum Act.
60 Article 39 Asylum Act. This article refers to applications on the territory and border applications with the exception of subsequent applications and applications following a removal decision.
61 Article 37(4) Asylum Act.
Regular procedure

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

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

Upon notification of the proposal for a final decision, the applicant has 10 days to respond. 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.

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

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.

While the rules governing accelerated procedures provide for the basic principles and guarantees of the regular procedure, 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. In addition, these rules entail reduced procedural guarantees, such as exclusion from the right of the applicant to seek a revision of the narrative of their personal interview, or to be notified of and respond to SEF’s reasoning of the proposal for a final decision, as well as shorter appeal deadlines.

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62 Article 20(4) Asylum Act. In the absence of a decision within 30 days the application is automatically admitted to the procedure.
63 Article 21(1) Asylum Act.
64 Article 28(2) Asylum Act.
65 Article 27(1) Asylum Act. Ministerial Order 597/2015 provides for the model and technical features of the provisional residence permit.
66 Article 28(1) Asylum Act.
67 Article 28(5) Asylum Act.
68 Article 29(2) Asylum Act.
69 Article 29(4) and (5) Asylum Act.
70 Article 30(1) Asylum Act.
71 Article 31 Asylum Act.
72 Article 19 Asylum Act.
73 This includes access to the procedure, the right to remain in national territory pending examination, the right to information, personal interviews, the right to legal information and assistance throughout the procedure, the right to free legal aid, special procedural guarantees, among others.
74 These consist of 30 days (Article 20(1) Asylum Act) except for applications following a removal procedure which are subject to a time limit of 10 days (Article 33-A(5) Asylum Act). The time limit is reduced to 7 days in the case of accelerated procedures at the border (Article 24(4) Asylum Act).
75 This is limited to accelerated procedures at the border and in the case of applications following a removal procedure.
76 See infra the section on Accelerated Procedures for details on the current practice in this regard.
77 These consist of 8 days for accelerated procedures on the territory (Article 22(1) Asylum Act) except for the case of subsequent applications and applications following a removal procedure, where the deadline is 4 days (Articles 33(6) and 33-A(6) Asylum Act). The time limit is reduced to 4 days in the case of accelerated procedures at the border (Article 25(1) Asylum Act).
As in the regular procedure, the appeal has an automatic suspensive effect. However, the onward appeal in the case of an application following a removal order does not.

**Border procedure**

The law provides for a special procedure regarding applications made at a national border. While this procedure provides for the basic principles and guarantees of the regular procedure, 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).

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

The border procedure has not been applied in practice since March 2020. Asylum seekers that apply for international protection at the border have generally been granted entry into national territory, not subject to detention, and their applications have been processed according to the rules applicable to applications made in the territory.

**B. Access to the procedure and registration**

**1. Access to the territory and push backs**

<table>
<thead>
<tr>
<th>Indicators: Access to the Territory</th>
</tr>
</thead>
<tbody>
<tr>
<td>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?</td>
</tr>
<tr>
<td>2. Is there a border monitoring system in place?</td>
</tr>
<tr>
<td>3. Who is responsible for border monitoring?</td>
</tr>
<tr>
<td>4. How often is border monitoring carried out?</td>
</tr>
</tbody>
</table>

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

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78 Articles 22(1) and 33-A(6) Asylum Act.
79 Article 33-A(8) Asylum Act.
80 Article 23(1) Asylum Act.
81 This includes access to the procedure, the right to remain in national territory pending examination, the right to information, personal interviews, the right to legal information and assistance throughout the procedure, the right to free legal aid, special procedural guarantees, among others.
82 These consist of 7 days for both admissibility decisions and accelerated procedures at the border (Article 24(4) Asylum Act) as opposed to 30 days for admissibility decisions on the territory and between 10 and 30 days for accelerated procedures on the territory.
83 Article 24 Asylum Act.
84 Article 25(1) Asylum Act.
85 Articles 26(1) and 35-A(3)(a) Asylum Act.
86 Persons applying for international protection at the border have generally been granted entry into national territory, and their applications have been processed according to the rules applicable to applications made in the territory.
87 Articles 2(aa), 47 and 65 Asylum Act; Articles 31(6), 40(4) and 143 Immigration Act.
88 Nevertheless, the recent replies of Portugal to the list of issues of the Committee on the Elimination of Discrimination against Women (CEDAW) seem to indicate an understanding of the principle of non-refoulement as being almost exclusively linked to refugee status determination: "[the principle of "non-
of either direct or indirect exposure to *refoulement*. CPR is unaware of national case law that addresses the extraterritorial dimension of *non-refoulement*.

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

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

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

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

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

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.

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89 *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).

90 See e.g., TAG 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).


93 The information publicly available regarding the implementation of this Protocol was still limited at the time of writing. See Ombudsman, ‘Mecanismo Nacional de Prevenção, Relatório à Assembleia da República’, 24 June 2021, pp.96 et seq, available at: https://bit.ly/3ICcedI.
The UN Committee Against Torture noted in 2019 that Portugal should ‘[e]nsure that, in practice, no one may be expelled, returned or extradited to another State where there are substantial grounds for believing that he or she would run a personal and foreseeable risk of being subjected to torture and ill-treatment’ and that procedural safeguards and effective remedies regarding the prohibition of *refoulement* are available.\[^{94}\]

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

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

**Legal access to the territory** *(beyond family reunification)*

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

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

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

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

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

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

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

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

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

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


\[^{95}\] According to the information provided by IOM, 8 persons were transferred from Malta and 26 from Italy in the course of 2022.

\[^{96}\] Reuters, *‘Portugal to take in 500 unaccompanied migrant children from Greek camps’,* 12 May 2020, available at: https://reut.rs/3ICCBoc.

\[^{97}\] Article 35(1) Asylum Act.

\[^{98}\] Article 35(2) Asylum Act.

\[^{99}\] Article 35(3) Asylum Act.

\[^{100}\] Article 35(4) Asylum Act.
the country.\footnote{See, for instance: Expreso, Afeganistão: Portugal participa na mobilização internacional de apoio a refugiados, 15 August 2021, available at \url{https://bit.ly/36EvmbY}.} Specific references to vulnerable cases (e.g., women and girls) were also made by Government officials.

While official information on the selection criteria and procedures has not been shared by the authorities, according to the information available to CPR, those evacuated mostly fell in one of the following categories: persons who worked with the Portuguese Military Forces in Afghanistan, in the EU mission or with links to the UN; journalists; persons identified by the Directorate General for Consular Affairs and Communities (Direcção-Geral dos Assuntos Consulares e das Comunidades), or relatives of national citizens. A group of the Afghanistan Women’s Soccer Team,\footnote{Diário de Notícias, Portugal recebeu grupo de 80 afgãos, a maioria jogadoras de futebol, 20 September 2021, available at: \url{https://bit.ly/3LbtYfS}.} and another of the Afghanistan National Institute of Music,\footnote{Euronews, Jovens músicos afgãos encontram esperança em Portugal, 14 December 2021, available at: \url{https://bit.ly/3xMZKvQ}.} and respective family members have also been hosted in the country.\footnote{See also Observatório das Migrações (OM), Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2022, June 2022, pp.78-79, available in Portuguese at: \url{https://bit.ly/3XySygz}.}

A specific scheme was adopted to ensure the reception of those evacuated to Portugal (see \textit{Differential treatment in reception}).\footnote{The corresponding financial framework was adopted by Decision of the Council of Ministers no.166/2021, of 10 December, available at: \url{https://bit.ly/3MBvuvv}.} The asylum applications followed the regular procedure. According to the information available to CPR, admission to the regular procedure and issuance of the corresponding temporary residence permits were overall quick, and, according to the information available to CPR the vast majority of first instance decisions issued to these applicants granted them refugee status.

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

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

Such requests must be submitted to ACM, and fulfill the following requirements: (1) existence of travel documents; (2) logistical ability to travel from a third country, as the persons concerned must be outside Afghanistan to request the relevant visa;\footnote{According to the information available at the time of writing, Portuguese Embassies in Pakistan and Iran are only able to issue visas if the persons concerned left Afghanistan legally.} (3) financial ability to travel – as costs must be fully covered by the persons concerned; (4) prior identification of a hosting entity in Portugal to ensure the provision of support.\footnote{According to the information available at the time of writing, no public funding stream will be available for such provision of such support by civil society organisations.} ACM assesses the request, and accepted applications are referred to the relevant Portuguese Embassy for the purposes of visa issuance.

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

<table>
<thead>
<tr>
<th>Indicators: Registration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Are specific time limits laid down in law for making an application?</td>
</tr>
<tr>
<td>- If so, what is the time limit for making an application?</td>
</tr>
<tr>
<td>- ☐ Yes ✓ No</td>
</tr>
<tr>
<td>2. Are specific time limits laid down in law for lodging an application?</td>
</tr>
<tr>
<td>- If so, what is the time limit for lodging an application?</td>
</tr>
<tr>
<td>- ☐ Yes ✓ No</td>
</tr>
<tr>
<td>3. Are making and lodging an application distinct stages in the law or in practice?</td>
</tr>
<tr>
<td>- ☐ Yes ✓ No</td>
</tr>
<tr>
<td>4. Is the authority with which the application is lodged also the authority responsible for its examination?</td>
</tr>
<tr>
<td>- ☐ Yes ✓ No</td>
</tr>
<tr>
<td>5. Can an application for international protection for international protection be lodged at embassies, consulates or other external representations?</td>
</tr>
<tr>
<td>- ☐ Yes ✓ No</td>
</tr>
</tbody>
</table>

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. If an asylum application is presented to a different police authority, it must be referred to SEF by the relevant authority within 48 hours.

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

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

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. This provision has rarely been applied in practice and, according to the experience of CPR, when applied, it is usually combined with other grounds for the application of accelerated procedures.

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

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108 Article 13(1) and (7) Asylum Act.
109 Article 13(2) Asylum Act.
111 As of 31/01/2023. Please note that statistics included in this report from CPR refer to the total number of applications communicated to the organisation in accordance with the communication duties established in the Asylum Act.
112 CPR considers that all the applications for international protection registered during the year should be accounted for (even if the applicant subsequently withdraws it, for instance). There is no specific legal basis for this so called “transposition” of applications for international protection to the temporary protection regime, and it is unclear whether this amounts to formal withdrawal of the applications for international protection.
113 Article 13(1) Asylum Act.
114 Article 19(1)(d) Asylum Act.
115 Article 18(4)(d) Asylum Act.
Persons refused entry at the border are liable to immediate removal to the point of departure, meaning that, in practice, they are required to present their asylum application immediately.

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

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

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

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

In 2020, the UN Human Rights Committee highlighted that Portugal should ‘[e]nsure that all applications for international protection at the border and in reception and detention facilities are promptly received, registered and referred to the asylum authorities’ and ‘[c]ontinue its efforts to maintain and strengthen the quality of its refugee status determination procedures, in order to fairly and efficiently identify and recognize those in need of international protection and to afford sufficient guarantees of respect for the principle of non-refoulement under the Covenant’. 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’.

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

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116 Article 41(1) Immigration Act.
117 Articles 13(7) and 14(1) Asylum Act.
118 Ibid, par.35(f).
120 Human Rights Committee, Concluding Observations on the fifth periodic report of Portugal, CCPR/C/PRT/CO/5, 28 April 2020, par.35(a) and (b), available at: https://bit.ly/2Q1ftn8.
C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

<table>
<thead>
<tr>
<th>Indicators: Regular Procedure: General</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance:</td>
</tr>
<tr>
<td>2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing?</td>
</tr>
<tr>
<td>3. Backlog of pending cases at first instance as of 31 December 2022:</td>
</tr>
<tr>
<td>4. Average length of the first instance procedure in 2022:</td>
</tr>
</tbody>
</table>

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

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

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

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

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

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

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123 Article 28(2) Asylum Act.
125 Human Rights Committee, Concluding Observations on the fifth periodic report of Portugal, CCPR/C/PRT/CO/5. 28 April 2020, par.35(a) and (b), available at: https://bit.ly/2Q1ftn8.
126 Time comprised between the date of the application and the date of issuance of the first instance decision on the (regular) asylum procedure.
In the context of the provision of legal assistance to asylum seekers, CPR has also at times observed significant delays in the execution of judicial decisions by SEF (up to one year or more in some cases). According to CPR’s observation, this mostly concerned the execution of judicial decisions ruling that an application should not be processed under an accelerated procedure and consequently ordering the Administration to reanalyse the case under the regular procedure, or Dublin cases that should be reprocessed. It has also been observed that the authorities do not consider the 30 days’ mandatory deadline for decisions deeming an application inadmissible/unfounded to apply in these circumstances. As such, SEF does not deem the applications admitted to the regular procedure when the deadline is elapsed.

1.2. Prioritised examination and fast-track processing

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

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

1.3. Personal interview

<table>
<thead>
<tr>
<th>Indicators: Regular Procedure: Personal Interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No</td>
</tr>
<tr>
<td>☐ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No</td>
</tr>
<tr>
<td>2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No</td>
</tr>
<tr>
<td>3. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never</td>
</tr>
<tr>
<td>4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender? ☐ Yes ☒ No</td>
</tr>
<tr>
<td>☒ If so, is this applied in practice, for interviews? ☐ Yes ☒ No</td>
</tr>
</tbody>
</table>

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.\(^\text{129}\) The personal interview can only be waived where:

- The evidence already available allows for a positive decision; or
- The applicant lacks legal capacity due to long-lasting reasons beyond their control.\(^\text{130}\)

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

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

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

\(^{129}\) Article 16(1) (2) and (3) Asylum Act.

\(^{130}\) Article 16(5) Asylum Act.

\(^{131}\) Article 16(6) Asylum Act.

\(^{132}\) Article 16(1) Asylum Act.
procedure, if needed. The asylum seeker can also be assisted by a lawyer but the absence thereof does not preclude SEF from conducting the interview.

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

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

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

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

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

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

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

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

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

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133 Article 49(1)(d) Asylum Act.
134 Article 49(7) Asylum Act.
interviews conducted by the SEF’s regional delegations tend to have further accuracy issues and sometimes fail to adequately clarify the material facts of the claim.

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

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

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

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

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

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

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

The appeal of one such case was decided by the Supreme Administrative Court (STA) in 2022.\[^{143}\] Overall, the Court considered that:\[^{144}\]

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

\[^{135}\] Article 119(3) Administrative Procedure Code.
\[^{136}\] Article 38(1) Administrative Procedure Code.
\[^{137}\] Article 32(1) Asylum Act.
\[^{138}\] Article 31(2) Asylum Act.
\[^{139}\] Article 31(3) Asylum Act.
\[^{141}\] Ibid.
\[^{144}\] Following the same reasoning, see also TCA North, Decision 02331/21.7BELSB, 2 March 2022, available at: https://bit.ly/3YmUcS.
The Asylum Act determines that legal assistance in the administrative stage of the procedure is primarily provided by CPR, which is due to the non-governmental character of the organisation, its independence, impartiality and the gratuity of the support provided;

While the role of CPR’s legal officers is not equivalent to that of certified lawyers, they are particularly suited to provide assistance in first instance procedures due to their specialisation in the field of asylum;

The law provides CPR and UNHCR broad intervention powers in the asylum procedure;

The legal framework as a whole does not lack avenues to access adequate legal assistance and information.

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

1.3.1. Interpretation

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

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

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

1.3.2. Recording and report

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

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

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

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

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

\textsuperscript{146} Article 17 (1) and (2) Asylum Act.

\textsuperscript{147} Presentation of the application, motives, relevant elements.
This change in practice was likely linked to the jurisprudential understanding that applicants have a right to be heard about the prospective decision to be taken on their files in any decision within the procedure.\textsuperscript{148}

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

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

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

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

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

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

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

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


\textsuperscript{149} Article 17(3) Asylum Act.

\textsuperscript{150} According to article 17(3) Asylum Act, upon consent of the applicant, the report is to be communicated to UNHCR and to CPR as organisation working on its behalf. Such entities may submit observations.
Procedures Directive as the relevant requirements apply to the personal interview, regardless of the moment in which it is conducted.\textsuperscript{151}

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

1.4. Appeal

<table>
<thead>
<tr>
<th>Indicators: Regular Procedure: Appeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the law provide for an appeal against the first instance decision in the regular procedure?</td>
</tr>
<tr>
<td>☑ If yes, is it</td>
</tr>
<tr>
<td>☑ If yes, is it automatically suspensive</td>
</tr>
<tr>
<td>2. Average processing time for the appeal body to make a decision: 2 to 3 months (first instance courts)</td>
</tr>
</tbody>
</table>

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.\textsuperscript{154} The asylum seeker has 15 days to lodge the appeal, which has automatic suspensive effect.\textsuperscript{155}

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

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

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

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

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

\textsuperscript{152} Article 33-A Asylum Act.

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

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

\textsuperscript{155} Article 30(1) Asylum Act.

\textsuperscript{156} Supreme Administrative Court, Decision 408/16, 17 November 2016, available in Portuguese at: https://bit.ly/2W9NY9L.

\textsuperscript{157} Article 84 Asylum Act.

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

\textsuperscript{159} Article 71(1) Code of Procedure in Administrative Courts.

\textsuperscript{160} Article 84 Asylum Act.

\textsuperscript{161} Article 30(2) Asylum Act; Article 110 Code of Procedure in Administrative Courts.
A decision issued by TCA South in 2021 confirmed that, when legal aid is requested by the appellant, the appeal is deemed as having been filed on the date of submission of the request for legal aid.\textsuperscript{162}

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

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

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

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

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

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

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

\textsuperscript{162} TCA South, Decision 1441/20.2BELSB, 18 March 2021, available at: https://bit.ly/3Lo2bbP.
\textsuperscript{163} Article 90(2) Code of Procedure in Administrative Courts.; Article 466 Act 41/2013.
\textsuperscript{164} Quite strangely, despite having the possibility of hearing the applicant directly, TAC South determined in a 2019 decision that the opinion of the officer that conducted the applicant’s interview on his/her credibility is relevant as only direct contact with the applicant will allow to ascertain the credibility of his/her statement, as well as his/her general credibility “as a person”. Therefore, in the absence of a gross error of the determining authority, the court cannot query its assessment of the credibility of the statements. TCA South, Decision 713/18.0BELSB, 10 January 2019, unpublished.
\textsuperscript{165} Article 91(2) Code of Procedure in Administrative Courts; Article 606 Act 41/2013.
1.4.2. Onward appeal

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

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

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

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

1.5. Legal assistance

\begin{center}
\textbf{Indicators: Regular Procedure: Legal Assistance}
\end{center}

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.\textsuperscript{172}

1.5.1. Legal assistance at first instance

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

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

\textsuperscript{166} Article 149(1) Code of Procedure in Administrative Courts; Article 31(3) Act 13/2002.
\textsuperscript{167} Article 143(1) Code of Procedure in Administrative Courts.
\textsuperscript{168} Articles 143(1) and 150(1) Code of Procedure in Administrative Courts.
\textsuperscript{169} Article 150(3) Code of Procedure in Administrative Courts.
\textsuperscript{170} Article 147 Code of Procedure in Administrative Courts.
\textsuperscript{171} Decisions are available at: https://bit.ly/3abzUaZ.
\textsuperscript{172} Article 20(1) Constitution.
\textsuperscript{173} Article 49(1)(e) Asylum Act.
\textsuperscript{174} Ibid.
\textsuperscript{175} Article 13(3) Asylum Act. See also Article 24(1) concerning applications at the border; Article 33(3) concerning subsequent applications; Article 33-A(3) concerning applications following a removal procedure.
applicant,\textsuperscript{176} and to present their observations at any time during the procedure pursuant to Article 35 of the 1951 Refugee Convention.\textsuperscript{177}

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

\begin{itemize}
  \item Providing information regarding the asylum procedure, rights and duties of the applicant;
  \item 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;
  \item Providing SEF with observations on applicable legal standards and country of origin information (COI);
  \item Providing assistance in accessing free legal aid for appeals; and
  \item Assisting lawyers appointed under the free legal aid system in preparing appeals with relevant legal standards and COI.
\end{itemize}

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 \textit{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.\textsuperscript{178}

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

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

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

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

\textsuperscript{176} Article 17(3) Asylum Act: document narrating the essential facts of the request; Article 20(1): 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.

\textsuperscript{177} Article 28(5) Asylum Act.

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

\textsuperscript{179} As happened in the past within the context of EU relocation, it is expected that a number of such citizens may contact CPR later in order to obtain support in integration-related procedures such as family reunification and naturalisation, or if their applications are rejected.
Commissioner for Migration (ACM) through its National Centres for Migrants’ Integration (CNAIM) and Local Support Centres for Migrants Integration (Centro Local de Apoio à Integração de Migrantes, CLAIM) spread throughout the country, and Crescer. According to the available information, these services remain residual and mostly focused on integration.

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

(i) Applicants for international protection may request legal aid in order to have a lawyer present in the asylum interview;\(^\text{180}\)

(ii) The performance of the asylum interview without a lawyer present \textit{per se} does not violate the Portuguese Constitution;\(^\text{181}\)

(iii) To effectively guarantee the applicant’s rights, the authority (SEF) must fully and correctly inform the applicant of the possibility to be accompanied by a lawyer in the interview and of the possibility to apply to legal aid to that purpose. If that does not happen, the decision on the asylum application may be annulled.\(^\text{182}\)

The appeal of one such case was decided by the Supreme Administrative Court (STA) in 2022.\(^\text{183}\) Overall, the Court considered that:\(^\text{184}\)

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

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

\subsection{1.5.2. Legal assistance in appeals}

Regarding legal assistance at the appeal stage, the Asylum Act provides for the right of asylum seekers to free legal aid in accordance with the law.\(^\text{185}\)

The legal framework of free legal aid provides for a ‘means assessment’ on the basis of the household’s income,\(^\text{186}\) as only applicants who do not hold sufficient income are entitled to free or more favourable

\begin{itemize}
\item \(^\text{180}\) TCA South, Decision 2285/20.7BELSB, 21 April 2021, available at: https://bit.ly/3tQAjHc.
\item \(^\text{181}\) Ibid.
\item \(^\text{183}\) STA, Decision 02144/20.3BELSB, 25 January 2022, available at: https://bit.ly/3EMaIEI.
\item \(^\text{184}\) Following the same reasoning, see also TCA North, Decision 02331/21.7BELSB, 2 March 2022, available at: https://bit.ly/3YmUcSA.
\item \(^\text{185}\) Article 49(1)(f) Asylum Act.
\item \(^\text{186}\) Act 34/2004; Ministerial Order 10/2008.
\end{itemize}
conditions to access legal aid. 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).

The Bar appoints a lawyer, on the basis of a random/automatic selection procedure. 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. While the average duration of this procedure in 2022 was around 1 to 2 weeks, the law provides for the suspension of the time limit for the appeal upon presentation of the free legal aid application and until the appointed lawyer submits the judicial appeal.

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

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

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

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

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188 Article 22 Act 34/2004.  
191 Article 10(2) and (3) Ministerial Order 10/2008.  
194 In such cases, the solution suggested by the Bar Association is to file a new application for legal aid, which raises questions with regard to respect for the applicable deadlines and the efficiency of the solution.
appointed lawyers.\textsuperscript{195} Such areas are general in nature and not specifically related to Asylum Law. In
general, appointed lawyers are not trained in Asylum Law and have limited experience in this specific
field. Throughout 2022, CPR continued to deliver trainings on asylum-related matters to diverse
audiences, including legal professionals.

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

2. Dublin

2.1. General

Dublin statistics: 2022

<table>
<thead>
<tr>
<th></th>
<th>Outgoing procedure</th>
<th></th>
<th>Incoming procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Take charge</td>
<td>Take back</td>
<td>Total</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>91</td>
<td>524</td>
<td>615</td>
</tr>
<tr>
<td><strong>Italy</strong></td>
<td>8</td>
<td>162</td>
<td>170</td>
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<tr>
<td><strong>Germany</strong></td>
<td>7</td>
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<td><strong>France</strong></td>
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<td><strong>Spain</strong></td>
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<td>70</td>
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<td><strong>Austria</strong></td>
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<td>28</td>
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<tr>
<td><strong>Switzerland</strong></td>
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</tr>
<tr>
<td><strong>Belgium</strong></td>
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<tr>
<td><strong>Slovakia</strong></td>
<td>-</td>
<td>12</td>
<td>12</td>
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<tr>
<td><strong>Poland</strong></td>
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<td>1</td>
<td>7</td>
</tr>
<tr>
<td><strong>Romania</strong></td>
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<td>3</td>
<td>7</td>
</tr>
<tr>
<td><strong>Sweden</strong></td>
<td>1</td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td><strong>Hungary</strong></td>
<td>4</td>
<td>2</td>
<td>6</td>
</tr>
<tr>
<td><strong>Finland</strong></td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td><strong>Croatia</strong></td>
<td>2</td>
<td>2</td>
<td>4</td>
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<tr>
<td><strong>Ireland</strong></td>
<td>3</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td><strong>Malta</strong></td>
<td>-</td>
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<td>4</td>
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<tr>
<td><strong>Bulgaria</strong></td>
<td>-</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td><strong>Norway</strong></td>
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<td>2</td>
<td>3</td>
</tr>
<tr>
<td><strong>Czechia</strong></td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td><strong>Denmark</strong></td>
<td>-</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td><strong>Latvia</strong></td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
</tbody>
</table>

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

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

\textsuperscript{197} Article 8(3) Ministerial Order 10/2008.
<table>
<thead>
<tr>
<th>Country</th>
<th>Dublin III</th>
<th>Dublin IV</th>
<th>Dublin V</th>
<th>Dublin VI</th>
<th>Dublin VII</th>
</tr>
</thead>
<tbody>
<tr>
<td>Luxembourg</td>
<td>-</td>
<td>2</td>
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<td>-</td>
<td></td>
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<tr>
<td>Cyprus</td>
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<td>1</td>
<td>-</td>
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<td>Iceland</td>
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<td>-</td>
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<td>Lithuania</td>
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<td>1</td>
<td>-</td>
<td></td>
</tr>
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</table>

Source: Information provided by SEF (April 2023).

### Outgoing Dublin requests by criterion: 2022

<table>
<thead>
<tr>
<th>Dublin III Regulation criterion</th>
<th>Requests sent</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Take charge</strong>:</td>
<td></td>
</tr>
<tr>
<td>Article 8 (minors)</td>
<td>1</td>
</tr>
<tr>
<td>Article 9 (family members granted protection)</td>
<td>2</td>
</tr>
<tr>
<td>Article 10 (family members pending determination)</td>
<td>-</td>
</tr>
<tr>
<td>Article 11 (family procedure)</td>
<td>3</td>
</tr>
<tr>
<td>Article 12 (visas and residence permits)</td>
<td>54</td>
</tr>
<tr>
<td>Article 13 (entry and/or remain)</td>
<td>30</td>
</tr>
<tr>
<td>Article 14 (visa free entry)</td>
<td>-</td>
</tr>
<tr>
<td>Take charge: Article 16</td>
<td>1</td>
</tr>
<tr>
<td>'Take charge' humanitarian clause: Article 17(2)</td>
<td>-</td>
</tr>
<tr>
<td><strong>Take back</strong>: Article 18</td>
<td></td>
</tr>
<tr>
<td>Article 18 (1) (b)</td>
<td>229</td>
</tr>
<tr>
<td>Article 18 (1) (c)</td>
<td>1</td>
</tr>
<tr>
<td>Article 18 (1) (d)</td>
<td>280</td>
</tr>
<tr>
<td>Article 20(5)</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>277</td>
</tr>
</tbody>
</table>

Source: Information provided by SEF (April 2023).

### Incoming Dublin requests by criterion: 2022

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

Source: Information provided by SEF (April 2023).
2.1.1. Application of the Dublin criteria

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

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

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

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

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

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

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

2.1.2. The discretionary clauses

The 'sovereignty clause' enshrined in article 17(1) of the Dublin Regulation and the 'humanitarian clause' enshrined in its article 17(2) are at times applied in practice, but the criteria for their application remain unclear and no specific statistics are usually available on their use, except for the overall number of outgoing and incoming take charge requests under such clauses.\(^{202}\)
According to information provided by SEF, both article 17(1) and (2) may be applied by the national authorities for the purposes of family reunion, humanitarian reasons, other family or cultural reasons depending on the interest of the parties involved. In CPR’s experience, the underlying criteria in the application of the clause remain unclear.

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

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

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

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

### 2.2. Procedure

#### Indicators: Dublin: Procedure

1. Is the Dublin procedure applied by the authority responsible for examining asylum applications?  
   - Yes  
   - No

2. On average, how long does a transfer take after the responsible Member State has accepted responsibility?  
   - 15 to 20 days

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

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

While the law allows for the detention of asylum seekers submitted to a procedure for determining the responsible Member State pursuant to Article 28 of the Dublin III Regulation,\(^ {206}\) the consequences of an asylum seeker’s refusal to comply with the obligation to be fingerprinted\(^ {207}\) are limited to the application of an Accelerated Procedure.\(^ {208}\) There are no legal provisions on the use of force to take fingerprints and CPR is not aware of any operational guidelines to that end. According to the information available to CPR, asylum seekers are systematically fingerprinted and checked in Eurodac in practice. According to CPR’s observation, accelerated procedures triggered by a refusal to be fingerprinted are a very rare occurrence.

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

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\(^{204}\) Articles 36 and 37(1) Asylum Act.

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

\(^{206}\) Article 35-A(3)(c) Asylum Act.

\(^{207}\) Article 15(1)(e) Asylum Act.

\(^{208}\) Article 19(1)(j) Asylum Act.
on the basis of the information collected through a preliminary form that must be filled by the asylum seeker upon registration and/or the individual interview. The preliminary form includes information on identification, itinerary, grounds for the asylum application, prior stays in Europe and supporting evidence.

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

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

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

The Asylum Act provides for the right of the asylum seeker to be informed of the purpose of fingerprinting as well as of other rights provided in the Eurodac Regulation.\(^{209}\) CPR has no indication on whether this obligation is systematically implemented in practice as, to the extent of its knowledge, the leaflets distributed contain limited information on fingerprinting and on the Eurodac Regulation. Moreover, CPR has no indication on whether the common information leaflet set out in Article 4(3) of the Dublin III Regulation is systematically distributed. According to the observation of CPR, the information contained in the documents that are systematically distributed to asylum seekers by SEF\(^{210}\) does not include all the information included on the Annex X (Parts A and B) of the corresponding Implementing Regulation.\(^{211}\) Notwithstanding, SEF reported that such information is provided to the applicants.

### 2.2.1. Individualised guarantees

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

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

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

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\(^{209}\) Article 49(1)(b) Asylum Act.

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


\(^{212}\) ECHR, Tarakhel v. Switzerland, Application No 29217/12, 4 November 2014.

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

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

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

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

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

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

### 2.3. Personal interview

**Indicators: Dublin: Personal Interview**

<table>
<thead>
<tr>
<th>✗</th>
<th>Same as regular procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Is a personal interview of the asylum seeker in most cases conducted in practice in the Dublin procedure?</td>
</tr>
<tr>
<td>✗</td>
<td>Yes ☐ No</td>
</tr>
<tr>
<td>✗</td>
<td>If so, are interpreters available in practice, for interviews?</td>
</tr>
<tr>
<td>☐</td>
<td>Yes ☐ No</td>
</tr>
<tr>
<td>2.</td>
<td>Are interviews conducted through video conferencing?</td>
</tr>
<tr>
<td>☐</td>
<td>Frequently ☐ Rarely ✗ Never</td>
</tr>
</tbody>
</table>

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

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

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

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\(^{214}\) Article 35-A(3)(c) Asylum Act.

\(^{215}\) Article 37(3) Asylum Act.

\(^{216}\) Article 16(1)-(3) Asylum Act.

\(^{217}\) Article 16(5) Asylum Act.

\(^{218}\) Pursuant to article 5(2)(a) of the Dublin Regulation.
Overall, the modalities of the interview are the same as those of the Regular Procedure and the interview is generally conducted by SEF-GAR, although interviews can be at times conducted by regional representations in cases of asylum applications made outside the Lisbon area.

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

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

### 2.4. Appeal

Indicators: Dublin: Appeal

[ ] Same as regular procedure

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

   - [ ] Yes
   - [X] Judicial
   - [ ] Administrative
   - [ ] No

   If yes, is it:

   - [X] Yes
   - [ ] No

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

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

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

\(^{220}\) Article 121 Administrative Procedure Code.

\(^{221}\) Article 122 Administrative Procedure Code.

\(^{222}\) A practice observed at least since the third trimester of 2019.

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

\(^{224}\) Ibid.

\(^{225}\) Article 37(4) and (6) Asylum Act.

\(^{226}\) Article 37(5) Asylum Act.

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

\(^{228}\) CJEU, Case C-63/15 *Ghezelbash*, Judgment of 7 June 2016.

\(^{229}\) TAC Lisbon, Decision 1235/16.0BESLB, 14 September 2016, unpublished.
It should be noted that, while CPR may be requested to intervene in the judicial procedure, namely by providing country of origin information, Dublin country information or guidance on legal standards, it is not a party thereto and is therefore not systematically notified of judicial decisions by the courts.

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

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

### 2.5. Legal assistance

<table>
<thead>
<tr>
<th>Indicators: Dublin: Legal Assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>☑ Same as regular procedure</strong></td>
</tr>
<tr>
<td>1. Do asylum seekers have access to free legal assistance at first instance in practice?</td>
</tr>
<tr>
<td>☑ Yes</td>
</tr>
<tr>
<td>❑ No</td>
</tr>
<tr>
<td>❑ With difficulty</td>
</tr>
<tr>
<td>❑ Does free legal assistance cover:</td>
</tr>
<tr>
<td>❑ Representation in interview</td>
</tr>
<tr>
<td>☑ Legal advice</td>
</tr>
</tbody>
</table>

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

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

### 2.6. Suspension of transfers

<table>
<thead>
<tr>
<th>Indicators: Dublin: Suspension of Transfers</th>
</tr>
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<tbody>
<tr>
<td><strong>☑ Yes</strong></td>
</tr>
<tr>
<td>1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries?</td>
</tr>
<tr>
<td>☑ Yes</td>
</tr>
<tr>
<td>❑ No</td>
</tr>
</tbody>
</table>

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

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

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230 For Morocco, accelerated procedures were equally relevant.
TCA South underlined in a 2019 judgement that the mere allegation by an asylum seeker that they would enjoy better conditions in Portugal than in the receiving Member State, is not enough to waive the rules on responsibility established by the Dublin Regulation.\(^{231}\)

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

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

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

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

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

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

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

\(^{231}\) TCA South, Decision 235/19.2BELSB, 26 September 2019, available in Portuguese at: https://bit.ly/2Oi4SdC.

\(^{232}\) TCA South, Decision 409/19.6BELSB, 7 November 2019, available in Portuguese at: https://bit.ly/2tu6U8Y.

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

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

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

\(^{236}\) TCA South, Decision 1323/19.0BELSB, 4 March 2021, available at: https://bit.ly/3IP8y1G.

\(^{237}\) For a detailed overview of the evolution of jurisprudence on this topic, please revert to the 2019, 2020 and 2021 AIDA reports, all available at: https://bit.ly/3GubAhN.
Notably, in January 2020, STA ruled on a case concerning the issue of systemic flaws in Italy and the duties of national authorities within this context.²³⁸

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

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

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

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

²⁴¹ With regard to the situation in Italy in particular, in a number of cases adjudicated in 2021, TCA South valued the fact that a number of the restrictive measures implemented by Matteo Salvini as Ministry of Home Affairs has been reverted in the meantime. See TCA South, Decision 998/20.2BELSB, 18 February 2021, available at: https://bit.ly/3Nywsoq; TCA South, Decision 1113/20.8BELSB, 4 February 2021, available at: https://bit.ly/3T2ryf; TCA South, Decision 88/21BELSB, 17 June 2021, available at: https://bit.ly/36E5SLK. Furthermore, it has also been considered that the “overall situation in the country” does not lead to the conclusion that all Dublin transfers to Italy would violate article 3 ECHR and article 4 CFREU. See: TCA South, Decision 998/20.2BELSB, 18 February 2021, available at: https://bit.ly/3Nywsqo; TCA South, Decision 88/21BELSB, 17 June 2021, available at: https://bit.ly/36E5SLK. In one case, TCA South used as an indicator of the absence of systemic flaws in the Italian reception system the fact that there are also foreigners sleeping on the streets and without food in Portugal. TCA South, Decision 1696/20.2BELSB, 18 February 2021, available at: https://bit.ly/3K90lpl.
²⁴² Unofficial translations.
It is insufficient for the applicant to invoke ‘generic and abstract deficiencies’,

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.

The applicant must invoke ‘concrete facts allowing to conclude that there is an effective risk that they could be subject to inhuman treatment in Italy’.

The applicant must invoke and demonstrate ‘exceptional personal circumstances and not only a common and generalised knowledge of the reception difficulties in Italy’.

The personal circumstances of the applicant must not be described ‘in an overly generic manner and with lack of detail’.

The absence of references in the applicant’s statements/allegations to prior inhuman or degrading treatment in Italy is detrimental to their claim (especially if they were in the relevant Member State for a long period of time).

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’.

Among the allegations deemed to be insufficient are claims regarding the excessive length of procedures, lack of access to employment, security concerns and challenges in accessing medical assistance.

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

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

In three cases, the TCA South considered, inter alia, that there were “clear, obvious and proven indications of the existence of systemic flaws” in the Italian system and that its malfunctioning was “endemic and deliberate” and reached the severity threshold required by the relevant European jurisprudence. Such conclusions were based on information from specialised NGOs and international organisations. The Court further considered that the applicant was not bound to a duty of allegation of systemic flaws. According to this understanding, the applicant is only required to provide information on their personal circumstances that can be relevant for the application of the safeguard clause. At least two of these judgements were later overturned by the STA. See: TCA South, Decision 2364/18.0BELSB, 14 May 2020, available at: https://bit.ly/3d3LrqC (an English EDAL case summary is available at https://bit.ly/31EUZ5). This decision was later reversed by the STA. TCA South, Decision 1301/19.0BELSB, 14 May 2020, available at: https://bit.ly/377qYfm). This decision was later reversed by the STA. TCA South, Decision 2317/19.1BELSB, 14 May 2020, available at: https://bit.ly/3ccctC.

In another case, the Court stated that Article 3(2) of the Dublin Regulation contains “a legal duty for the Member States to consider the possible existence of systemic flaws in the asylum procedure and reception conditions” (TCA South, Decision 2221/19.3BELSB, 18 June 2020, available at: https://bit.ly/3tGONR). 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.

E.g., TCA South, Decision 2329/19.5BELSB, 30 April 2020, available at: https://bit.ly/3fQOTO (referring to the relevance of mutual trust); TCA South, Decision 2323/19.6BELSB, 02 July 2020, available at: https://bit.ly/3vQVo3n (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/3vUZe7q (highlighting the inexistence a general ex officio duty of analysis of the situation in the relevant Member State that
This understanding of the applicant’s burden of allegation/substantiation has also been applied by the Court in cases concerning transfers to other Member States.

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

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

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

In two cases adjudicated in 2021, TCA South also concluded that the applicant’s health condition is a vulnerability factor that may lead to the existence of special needs. According to these decisions, in such cases the lack of analysis of the reception conditions and its impact on the health of the applicant is a violation of the duties of the Administration.\(^{256}\) A similar reasoning has been followed by the same court in at least two cases adjudicated in 2022.\(^{257}\)

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

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The Court also refers to some of the requirements that the sources used should comply with. TCA South, Decision 1323/19.0BELSB (Sweden), 4 March 2021, available at: https://bit.ly/3fP8y1G.

Concerning the transfer to France of an applicant with cardiac-related issues that had not yet been evaluated in Portugal - TCA South, Decision 1960/20.0BELSB, 24 August 2021, available at: https://bit.ly/3uxtSrQ. Concerning the transfer to Spain of an applicant with gastric complaints that had not yet been evaluated in Portugal - TCA South, Decision 1673/20.3BELSB, 24 August 2021, available at: https://bit.ly/3Nu1aS. Nevertheless, in another case, the TCA South considered that an allegation of chest pain was not enough to require further inquiries or to preclude a transfer to France. TCA South, Decision 793/21.7BELSB, 15 September 2021, unpublished.

TCA South, Decision 917/21.9BELSB, 9 March 2022, available at: https://bit.ly/3KP0ZzN; TCA South, Decision 1988/20.0BELSB, 20 October 2022, unpublished. On the contrary, it has been decided that young, healthy and autonomous persons (even if with minor health issues) are not part of an at-risk group, and, as such, there is no duty on the authorities to assess potential risks of the reception conditions in the receiving Member State. TCA South, Decision 545/21.9BELSB, 3 February 2022, available at: https://bit.ly/3ZCIoSt.

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


TCA South, Decision 2040/22.0BELSB, 17 November 2022, not publicly available. It is worth mentioning that this decision had a dissent from one of the judges, underlining the information publicly available on the situation in Poland, as well as the need to consider the applicant’s individual circumstances and characteristics in the
While this does not seem to be the predominant interpretation, there are also multiple judgements from TCA South determining that the safeguard clause of Article 3(2) of the Dublin Regulation is not applicable to take back procedures under Article 18(1)(d) of the Dublin Regulation. The Court considered that, in such cases, compliance with the principle of non-refoulement should be verified.\footnote{261}

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

### 2.7. The situation of Dublin returnees

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

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

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

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

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

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\footnote{261}{261} assessment of the risk of inhuman or degrading treatment in the receiving State. TCA South, Decision 879/22.5BELSB, 6 October 2022, available at: https://bit.ly/3kHRQzC. While the decision was appealed to STA, the court refused to analyse the case deeming the decision in line with STA’s jurisprudence on Dublin transfers. STA, Decision 879/22.5BELSB, 7 December 2022, available at: https://bit.ly/3y3kG0H.

\footnote{262}{262} TCA South, Decision 1889/19.5BELSB, 14 May 2020, available at: https://bit.ly/3fSScW; (referring both to the risk of direct and indirect refusal); 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/3cV2lIk (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/3tMejSj; TCA South, Decision 1050/20.6BELSB, 29 October 2020, available at: https://bit.ly/3sb5dXE; TCA South, Decision 1065/20.4BELSB, 21 January 2021, available at: https://bit.ly/3DnVjIA; TCA South, Decision 1120/22.6BELRS, 6 October 2022, available at: https://bit.ly/3kNYHBM. This interpretation has also been explicitly rejected by the same court in the course of 2022: TCA South, Decision 545/21.9BELSB, 3 February 2022, available at: https://bit.ly/3ZCtSot; TCA South, Decision 177/22.4BELSB, 26 June 2022, unpublished.

\footnote{263}{263} CJEU, Jawo, Case C-163/17, 19 March 2019.

\footnote{264}{264} Article 40(1) Asylum Act.

\footnote{265}{265} Article 32(1)(c) and (2) Asylum Act.
introducing non-binding shorter timeframes – one month instead of three months for a ‘take charge’ request – and providing for group instead of individual transfers.266

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

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

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

(i) specific grounds for considering an asylum application inadmissible;267
(ii) specific time limits for the first instance decision on admissibility;268
(iii) legal implications in case the competent authority does not comply with those time limits;269
(iv) the right to an appeal against the inadmissibility decision;270 and
(v) specific rights related to admission to the regular procedure.271

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

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

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

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266 The agreement has been deemed as generally in line with the Dublin Regulation by European Commission, Ares (2018) 4489201, 31 August 2018.
267 Article 19-A Asylum Act.
268 Articles 20(1), 24(4), 33(4) and 33-A(5) Asylum Act.
269 Articles 20(2) and 26(4) Asylum Act.
270 Articles 22(1) and 25(1) Asylum Act.
271 Article 27(1)-(3) Asylum Act pertaining to the issuance of a provisional residence permit. Furthermore, until the amendment to the Asylum Act enacted in 2022, only applicants admitted to the regular procedure had the right to work according to article 54(1) Asylum Act.
272 Article 19-A(1(a) Asylum Act.
273 Article 19-A(1(b) Asylum Act.
274 Article 19-A(1(c) and Article 2(1)(2) Asylum Act.
275 Article 19-A(1(d) and Article 2(1)(r) Asylum Act.
276 Article 19-A(1(e) Asylum Act.
277 Article 19-A(1(f) Asylum Act.
278 Article 20(1) Asylum Act.
279 Article 33(4) Asylum Act.
281 Article 24(4) Asylum Act.
282 Articles 20(2) and 28(4) Asylum Act. However, according to information gathered by CPR in the course of 2021, SEF seems to consider that the deadline prescribed in article 33-A(5) Asylum Act is not mandatory and
In practice, all asylum applicants undergo an interview that assesses the above-mentioned inadmissibility clauses along with the merits of the application.\footnote{283}

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

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

### 3.2. Personal interview

#### Indicators: Admissibility Procedure: Personal Interview

- **Same as regular procedure**

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the admissibility procedure?
   - Yes
   - No
   - If so, are questions limited to nationality, identity, travel route?
   - Yes
   - No
   - If so, are interpreters available in practice, for interviews?
   - Yes
   - No

2. Are interviews conducted through video conferencing?
   - Frequently
   - Rarely
   - Never

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

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

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

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

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

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\footnote{283}{Article 16 Asylum Act.}
\footnote{284}{Article 19-A(1)(b) Asylum Act.}
\footnote{285}{Article 19-A(1)(4).}
\footnote{286}{Article 16(1)-(3) Asylum Act.}
\footnote{287}{Article 16(5) Asylum Act.}
A decision from TCA South issued in 2021 considered that, despite the absence of an explicit reference in the relevant norm, the authorities are bound to articles 16 and 17 of the Asylum Act (personal interview and report) within the examination of applications made following a removal order.

### 3.3. Appeal

#### Indicators: Admissibility Procedure: Appeal

<table>
<thead>
<tr>
<th>Same as regular procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
</tr>
</tbody>
</table>

#### Does the law provide for an appeal against an inadmissibility decision?

- If yes, is it judicial: Yes
- 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. The time limit for lodging the appeal varies according to the inadmissibility ground. It is further impacted by the application of the border procedure.

#### Time limits for appealing inadmissibility decisions in calendar days

<table>
<thead>
<tr>
<th>Inadmissibility ground</th>
<th>Asylum Act provision</th>
<th>Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inadmissibility at the border</td>
<td>Article 25(1)</td>
<td>4</td>
</tr>
<tr>
<td>Inadmissibility on the territory:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subsequent application with no new elements</td>
<td>Article 33(6)</td>
<td>4</td>
</tr>
<tr>
<td>Application following a removal decision</td>
<td>Article 33-A(6)</td>
<td>4</td>
</tr>
<tr>
<td>Dublin decision</td>
<td>Article 37(4)</td>
<td>5</td>
</tr>
<tr>
<td>Protection in another EU Member State</td>
<td>Article 22(1)</td>
<td>8</td>
</tr>
<tr>
<td>First country of asylum</td>
<td>Article 22(1)</td>
<td>8</td>
</tr>
<tr>
<td>Safe third country</td>
<td>Article 22(1)</td>
<td>8</td>
</tr>
<tr>
<td>Application by dependant</td>
<td>Article 22(1)</td>
<td>8</td>
</tr>
</tbody>
</table>

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

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.

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

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288 Article 33-A Asylum Act.
289 TCA South, Decision 139/21.9 BELSB, 23 September 2021, available at: https://bit.ly/3N7cHov. Note that, while the decision systematically refers to subsequent applications, it is indeed analysing the rules applicable to asylum applications made following a removal order (article 33-A Asylum Act).
290 Articles 22(1), 25(1), 33(6) and 37(4) Asylum Act and Article 95(3) Code of Procedure in Administrative Courts.
291 Articles 22(1), 25(3) and 37(6) Asylum Act.
292 Articles 33(8) and 33-A(8) Asylum Act, respectively.
293 Articles 22(2), 25(2), 33(7) and 37(5) Asylum Act.
appeals, CPR is not aware of systemic or relevant obstacles faced by asylum seekers when appealing a first instance decision on admissibility in practice.

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

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

3.4. Legal assistance

### Indicators: Admissibility Procedure: Legal Assistance
- ☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance during admissibility procedures in practice?
   - ☒ Yes  ☐ With difficulty  ☐ No
   - ☐ Does free legal assistance cover:
     - ☐ Representation in interview
     - ☒ Legal advice

2. Do asylum seekers have access to free legal assistance on appeal against an inadmissibility decision in practice?
   - ☒ Yes  ☐ With difficulty  ☐ No
   - ☐ Does free legal assistance cover:
     - ☒ Representation in courts
     - ☐ Legal advice

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

4. Border procedure (border and transit zones)

4.1. General (scope, time limits)

### Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities?
   - ☒ Yes  ☐ No

2. Where is the border procedure mostly carried out?
   - ☐ Air border  ☒ Land border  ☐ Sea border

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

4. Is there a maximum time limit for a first instance decision laid down in the law?
   - ☒ Yes  ☐ No
   - ☐ If yes, what is the maximum time limit?
     - 7 days

5. Is the asylum seeker considered to have entered the national territory during the border procedure?
   - ☐ Yes  ☒ No

The law provides for a specific procedure regarding applications made at a national border. 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).

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

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294 Article 23(1) Asylum Act.
295 Articles 26(1) and 35-A(3)(a) Asylum Act.
Persons applying for international protection at the border have, according to CPR’s experience, been granted entry into national territory, referred to the provision of reception conditions if needed, and had their cases under the rules governing applications made in the national territory. According to the information provided by SEF, while a total of 694 were made at the border in 2022, only a residual number were analysed under the border procedure (due to the existence of relevant precautionary measures).

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

Location and number of border procedures

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

Grounds for activating the border procedure and main characteristics

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

SEF must inform the carrier company (i.e., the air company in most cases) for the purposes of return of the individual in the shortest possible time either to: the point where the individual initiated travel with the company; the country that issued the travel document; or any country where entrance is guaranteed. This is done in accordance to the Convention on International Civil Aviation, 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. If the individual refused entry into national territory applies for asylum, the air company must be immediately informed by SEF of the suspension of return.

While the border procedure provides for the basic principles and guarantees of the regular procedure, it lays down time limits for a decision on admissibility or for accelerated procedures regarding applications deemed unfounded on certain grounds (see Accelerated Procedure grounds) that are significantly shorter than those applicable in national territory. Additionally, border procedures are characterised by shorter appeal deadlines, as well as reduced procedural guarantees such as the exclusion from the right of the applicant to seek revision of the narrative of their personal interview, 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).

298 For a detailed overview of the use of border procedures before March 2020, please consult the corresponding AIDA reports, available at: https://bit.ly/3GuAhN.
299 Article 32 Immigration Act.
300 Article 38(2) Immigration Act.
301 Article 40(4) Immigration Act.
302 Articles 38(3) and 41(1) Immigration Act.
303 Chicago Convention on International Civil Aviation, 7 December 1944, Annex IX, Chapter V, points 5.9-5.11.1.
305 This includes access to the procedure, the right to remain in national territory pending examination, the right to information, to a personal interview, the right to legal information and assistance throughout the procedure, the right to free legal aid, special procedural guarantees, among others.
306 Article 25 Asylum Act.
307 Articles 26(1) and 35-A(3)(a) Asylum Act.
The National Director of SEF has 7 days to issue a decision either on admissibility or on the merits of the application in an accelerated procedure.\textsuperscript{308} In the absence of inadmissibility grounds or grounds for deeming the application unfounded in an accelerated procedure, SEF must admit the application to the regular procedure and authorise entry into national territory/release from border detention.\textsuperscript{309} Non-compliance with the time limit results in the automatic admission of the applicant to the regular procedure and release from the border.\textsuperscript{310}

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

**Exempted categories**

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

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

### 4.2. Personal interview

#### Indicators: Border Procedure: Personal Interview

- [ ] Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the border procedure?
   - [ ] 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 applicable to the border procedure are the same as those of the regular procedure and interviews were generally conducted by SEF-GAR.

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

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

\textsuperscript{309} Article 26(4) Asylum Act.

\textsuperscript{310} Ibid.

\textsuperscript{311} Article 26(1) Asylum Act.

\textsuperscript{312} Article 35-B(1) Asylum Act.

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

\textsuperscript{314} Article 26(2) Asylum Act.

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

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

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

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

4.3. Appeal

<table>
<thead>
<tr>
<th>Indicators: Border Procedure: Appeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ ] Same as regular procedure</td>
</tr>
</tbody>
</table>

1. Does the law provide for an appeal against the decision in the border procedure?
   - [ ] Yes
   - [ ] No
   - [ ] Judicial
   - [ ] Administrative
   - [ ] Some grounds

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.\textsuperscript{318} The time limit for lodging the appeal is of 4 days.\textsuperscript{319}

Similarly to the regular procedure, the first and onward appeals have an automatic suspensive effect.\textsuperscript{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.\textsuperscript{321} However, the Administrative Courts rarely reach a decision on the appeal within the maximum detention time limit of 60 days, meaning that asylum applicants subjected to the border procedure were granted access to the territory, albeit liable to a removal procedure in case their application is rejected by final decision.\textsuperscript{322}

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

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

\textsuperscript{318} Article 25(1) Asylum Act; Article 95(3) Code of Procedure in Administrative Courts.
\textsuperscript{319} Article 25(1) Asylum Act.
\textsuperscript{320} Article 25 Asylum Act.
\textsuperscript{321} Article 25(2) Asylum Act.
\textsuperscript{322} Article 21(2) and (3) Immigration Act.
4.4. Legal assistance

<table>
<thead>
<tr>
<th>Indicators: Border Procedure: Legal Assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑ Same as regular procedure</td>
</tr>
<tr>
<td>1. Do asylum seekers have access to free legal assistance at first instance in practice?</td>
</tr>
<tr>
<td>☑ Yes ☐ With difficulty ☐ No</td>
</tr>
<tr>
<td>❑ Does free legal assistance cover: ☐ Representation in interview ☑ Legal advice</td>
</tr>
<tr>
<td>2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?</td>
</tr>
<tr>
<td>☑ Yes ☐ With difficulty ☐ No</td>
</tr>
<tr>
<td>❑ Does free legal assistance cover ☑ Representation in courts ☑ Legal advice</td>
</tr>
</tbody>
</table>

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 border \(^{323}\) and to provide assistance. \(^{324}\) In practice, following the registration of the asylum claim, CPR only had access to applicants once SEF conducted its individual interview covering admissibility and eligibility.

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

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

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

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

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323 Article 24(1) Asylum Act.
324 Article 49(6) Asylum Act.
325 Article 25(4) Asylum Act.
326 The renovation work in the facility has solved the physical access constraints.
Similarly, to the regular procedure, the overall quality of free legal aid at appeal stage was a relevant concern.

5. **Accelerated procedure**

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

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

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

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

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

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

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\(^{327}\) Article 19(1)(a) Asylum Act.

\(^{328}\) Article 19(1)(b) Asylum Act.

\(^{329}\) Article 19(1)(c) Asylum Act.

\(^{330}\) Article 19(1)(d) Asylum Act.

\(^{331}\) Article 19(1)(e) Asylum Act.

\(^{332}\) Article 19(1)(f) Asylum Act.

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

\(^{334}\) Article 19(1)(h) Asylum Act.

\(^{335}\) Article 19(1)(i) Asylum Act.

\(^{336}\) Article 19(1)(j) Asylum Act.

\(^{337}\) Articles 20(1) and 33-A(5) Asylum Act.

\(^{338}\) Article 29(5) Asylum Act.
on the merits of the application in the accelerated procedure.\textsuperscript{339} Non-compliance with the applicable time limits grants automatic access to the regular procedure.\textsuperscript{340}

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

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

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

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

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

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

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

In its recent Concluding Observations on Portugal, the UN Human Rights Committee expressed concern with the ‘excessive 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 ‘continue its efforts to maintain and strengthen the quality of its refugee status determination

\textsuperscript{339} Articles 20(1) and 24(4) Asylum Act.

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

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

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

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.\textsuperscript{344}

**5.2. Personal interview**

<table>
<thead>
<tr>
<th>Indicators: Accelerated Procedure: Personal Interview</th>
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</thead>
<tbody>
<tr>
<td>☐ Same as regular procedure</td>
</tr>
</tbody>
</table>

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure?  ☒ Yes ☐ No
   - If so, are questions limited to nationality, identity, travel route?  ☒ Yes ☐ No
   - If so, are interpreters available in practice, for interviews?  ☒ Yes ☐ No

2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

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

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

The change of practice regarding interview reports fully described in Regular Procedure: Interview.

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

**5.3. Appeal**

<table>
<thead>
<tr>
<th>Indicators: Accelerated Procedure: Appeal</th>
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</thead>
<tbody>
<tr>
<td>☐ Same as regular procedure</td>
</tr>
</tbody>
</table>

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

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

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

\textsuperscript{344} Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/C/5. 28 April 2020, par 34(b) and 35(b), available at: https://bit.ly/2Q1fTn8.

\textsuperscript{345} Article 33-A(4) and (5) Asylum Act.

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

\textsuperscript{347} Article 17(1) and (2) Asylum Act.

\textsuperscript{348} Article 33-A Asylum Act.

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

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

\textsuperscript{351} Article 33-A(6) Asylum Act.
for the remaining grounds.\textsuperscript{352} Similarly to the regular procedure, the appeal has an automatic suspensive effect.\textsuperscript{353} The onward appeal in the case of an application following a removal decision does not.\textsuperscript{354} The law also provides for a simplified judicial process with reduced formalities and time limits with the objective of shortening the duration of the judicial review.\textsuperscript{355}

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

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

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

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

### 5.4. Legal assistance

<table>
<thead>
<tr>
<th>Indicators: Accelerated Procedure: Legal Assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑ Same as regular procedure</td>
</tr>
</tbody>
</table>

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).

\textsuperscript{352} Articles 22(1) Asylum Act.  
\textsuperscript{353} Articles 22(1) and 33-A(6) Asylum Act.  
\textsuperscript{354} Article 33-A(8) Asylum Act.  
\textsuperscript{355} Article 22(2) and 33-A(7) Asylum Act.
D. Guarantees for vulnerable groups

1. Identification

<table>
<thead>
<tr>
<th>Indicators: Special Procedural Guarantees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers?</td>
</tr>
<tr>
<td>❖ If for certain categories, specify which: Unaccompanied minors, victims of trafficking</td>
</tr>
<tr>
<td>Yes ☐  ☒ No</td>
</tr>
<tr>
<td>2. Does the law provide for an identification mechanism for unaccompanied children?</td>
</tr>
<tr>
<td>Yes ☐  ☒ No</td>
</tr>
</tbody>
</table>

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

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

1.1. Screening of vulnerability

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

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

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

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

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

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\(^{356}\) Article 17-A(1) Asylum Act.

\(^{357}\) Ibid.

\(^{358}\) Article 77(2) Asylum Act.

\(^{359}\) Article 17-A(1) Asylum Act.

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

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

\(^{362}\) The questions read (1) “Are you in good health – Y/N? Do you have health problems - Y/N? Which problems?” and (2) “Are you accompanied by a relative with health problems?”. 73
In 2022, a new SOG sub-group was created in order to address the area of vulnerabilities within the asylum system. The group is composed by ACM, CPR, ISS, SCML, SEF, and UNHCR. According to the information available at the time of writing, during the first semester of 2023, the sub-group will be led by UNHCR and will identify services and mechanisms to address specific vulnerabilities.

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

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

<table>
<thead>
<tr>
<th>Asylum seekers communicated to CPR and identified as vulnerable: 2019-2022\textsuperscript{365}</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Category of vulnerable group</strong></td>
</tr>
<tr>
<td><strong>2019</strong></td>
</tr>
<tr>
<td>Unaccompanied children</td>
</tr>
<tr>
<td>77</td>
</tr>
<tr>
<td>Accompanied children</td>
</tr>
<tr>
<td>236</td>
</tr>
<tr>
<td>Single-parent families</td>
</tr>
<tr>
<td>61</td>
</tr>
<tr>
<td>Pregnant women</td>
</tr>
<tr>
<td>13</td>
</tr>
<tr>
<td>Elderly persons</td>
</tr>
<tr>
<td>5</td>
</tr>
<tr>
<td>Disabled persons</td>
</tr>
<tr>
<td>-</td>
</tr>
<tr>
<td>Survivors of torture</td>
</tr>
<tr>
<td>19</td>
</tr>
<tr>
<td>Survivors of physical, psychological or sexual violence</td>
</tr>
<tr>
<td>49</td>
</tr>
<tr>
<td>Persons with chronic or serious illnesses</td>
</tr>
<tr>
<td>40</td>
</tr>
<tr>
<td>Persons with addictions</td>
</tr>
<tr>
<td>-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
<tr>
<td>503</td>
</tr>
<tr>
<td>% of applicants identified as vulnerable (out of the total spontaneous applications communicated to CPR)</td>
</tr>
<tr>
<td>29%</td>
</tr>
</tbody>
</table>

Source: CPR.

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

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

\textsuperscript{365} Figures below five are not included.
According to the information available to CPR, a number of age assessment procedures were pending at the time of writing. In previous years, some applicants were later determined to be adults including on the basis of their own statements, second-stage age assessment procedures requested by the Family and Juvenile Court, assessments made by SEF, or based on information received from other EU Member States. The number of such cases regarding unaccompanied children who applied for asylum in 2022 remained minimal at the time of writing.

Unaccompanied children

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

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

Victims of torture and serious violence

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

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

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

\textsuperscript{366} Article 79(12) Asylum Act. The provision of mandatory training on the rights of the child to all relevant professionals, including immigration and asylum officers was also recently recommended by the Committee on the Rights of the Child. See Committee on the Rights of the Child, \textit{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.

\textsuperscript{367} Committee on the Rights of the Child, \textit{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.

\textsuperscript{368} Ibid., para. 42(c).

\textsuperscript{369} Ibid., paras 41(b) and 42(b).


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

Victims of human trafficking

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

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

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

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

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375 OTSH (coord.), Protocolo para a definição de procedimentos de atuação destinado à prevenção, deteção e proteção de crianças (presumíveis) vítimas de tráfico de seres humanos - Sistema de Referenciação Nacional, May 2021, available at: https://bit.ly/3k3BXQh.
protection and support, including temporary residence permits, irrespective of their ability to cooperate in legal proceedings against traffickers'.

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’. 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’.

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

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

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

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380 Human Rights Committee, Concluding Observations on the fifth periodic report of Portugal, CCPR/C/prt/CO/5, 28 April 2020, par 32 and 33(b) and (c), available at: https://bit.ly/2Q1fn8.
382 Ibid, par.177.
383 Ibid, par.186.
384 Ibid, par.193.
return of victims of trafficking.\textsuperscript{385} The Group also highlighted the need to ensure that the reform of SEF does not impair the specialised law enforcement action in the field of trafficking in human beings.\textsuperscript{386}

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

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

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

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

1.2. Age assessment of unaccompanied children

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

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

The unaccompanied child must be informed that their age will be determined by means of such expertise and their representative must give prior consent.\textsuperscript{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.\textsuperscript{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.\textsuperscript{393}

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


\textsuperscript{389} Article 79(2) Asylum Act.

\textsuperscript{390} Article 79(6) Asylum Act.

\textsuperscript{391} Article 79(7) Asylum Act.


\textsuperscript{393} Article 79(8) Asylum Act.
The age assessment procedure may also be triggered by the Family and Juvenile Court in the framework of judicial procedures aimed at ensuring legal representation for the child and the adoption of protective measures (see *Legal Representation of Unaccompanied Children*) or by the unaccompanied child’s legal representative.

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

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

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

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

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

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, and was criticised by the Council of Europe.400

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394 In this case, it is mandatory.
395 While the border procedure has not been applied since March 2020, it is worth mentioning that, within that context, SEF has in the past refused to trigger age assessment procedures and/or give the benefit of the doubt to asylum seekers claiming to be children, with significant implications regarding detention and access to procedural rights in the absence of a legal representative.
398 According to CPR’s observation, the refusal is usually referred in the relevant report together with an estimation of sexual development.
399 See e.g., TAC Leiria, Decision 784/14.9 BELRA, 19 July 2014, unpublished.
It is common for SEF to suspend the asylum procedure on the basis of general administrative rules in order to wait for the results of age assessment procedures ordered by the Family and Juvenile Courts. According to the information available to CPR, if upon registration of the asylum application SEF identifies Eurodac hits with different personal information, the Family and Juvenile Court is informed accordingly.

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

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

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

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

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

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

2. Special procedural guarantees

<table>
<thead>
<tr>
<th>Indicators: Special Procedural Guarantees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Are there special procedural arrangements/guarantees for vulnerable people?</td>
</tr>
<tr>
<td>☐ Yes ☒ For certain categories ☐ No</td>
</tr>
<tr>
<td>⚫ If for certain categories, specify which: Unaccompanied children, pregnant women</td>
</tr>
</tbody>
</table>

401 Article 38(1) Administrative Procedure Code.
402 Article 51(1) and (2) Code of Procedure in Administrative Courts.
403 Committee on the Rights of the Child, Concluding observations on the combined fifth and sixth periodic reports of Portugal, CRC/C/PRT/CO/5-6, 9 December 2019, pars.41(e) and 42(e), available at: https://bit.ly/2G1F07z.
While the implementation of certain special procedural guarantees will necessarily require a decision from SEF, according to the law, the responsibility for implementing these measures lies with the Institute of Social Security (ISS).\textsuperscript{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.\textsuperscript{405}

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

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

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

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

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

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

\textsuperscript{404} Article 17-A(5) Asylum Act.

\textsuperscript{405} Article 17-A(3) Asylum Act.

\textsuperscript{406} TAC Lisbon, Decision 1502/18.8BLSB, 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 [...].”

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

As mentioned in Border Procedure, since March 2020, the border procedure is not applied in Portugal.

Exemption from the accelerated procedure

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

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.

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

This understanding was clearly at odds with the applicable legal provisions as well as with the national jurisprudence. In the beginning of 2020, TAC Lisbon confirmed this assessment by overturning another decision and reaffirming the reasoning adopted in 2018.

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

408 Article 79(3) Asylum Act.
409 For further information on the application of border procedures to vulnerable applicants prior to 2020, please check prior AIDA reports, available at: https://bit.ly/43mdTxp.
410 Article 17-A(4) Asylum Act.
412 Article 79(9) Asylum Act.
413 TAC Lisbon, Decision 869/18.2BELSB, 24 June 2018, unpublished.
414 TAC Lisbon, Decision 2154/19.3BELSB, 17 January 2020, unpublished.
element was taken into account by the examining authority and considered that, in light of article 31(7)(b) of the APD and article 17-A of the Asylum Act, the application should not have been analysed in an accelerated procedure, but instead fast-tracked.\footnote{\textit{TCA} South, Decision 637/21.4BELSB, 18 November 2021, available at: \url{https://bit.ly/381jeBZ}.}

Statistical data from SEF for 2022 indicates that accelerated procedures were not used in such cases.\footnote{While according to SEF such procedures have not been used in 2019 and 2020, according to the information available to CPR, accelerated procedures were indeed applied to unaccompanied children in four cases in 2019 and in one case in 2020.}

### 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.\footnote{Article 15(2) Asylum Act.} It further foresees the possibility for SEF to request reports on specific issues from experts (e.g. cultural or medical) during the regular procedure.\footnote{Article 28(3) Asylum Act.} 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.\footnote{Italian Council for Refugees \textit{et al.}, \textit{Time for Needs: Listening, Healing, Protecting}, October 2017, available at: \url{https://bit.ly/3gEoe1T}.} According to the available information, medical reports are currently not issued based on the methodology laid down in the Istanbul Protocol.

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

### 4. Legal representation of unaccompanied children

#### Indicators: Unaccompanied Children

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

The Asylum Act determines that all unaccompanied child asylum seekers and beneficiaries of international protection are entitled to legal representation.\footnote{Article 79(1) and (2) Asylum Act.} Legal representation can be provided by an organisation and can take the form and modalities laid down in law,\footnote{Ibid. See also Article 2(1)(ad) Asylum Act.} such as those provided by the General Legal Regime of Civil Guardianship Act.\footnote{Act 141/2015 of 8 September 2015.}

In this regard, SEF is required to immediately flag the need for legal representation to the Family and Juvenile Court.\footnote{Article 79(1) and (2) Asylum Act.}
The legal representative must be informed in advance and in a timely manner by SEF of the asylum interview and is entitled to attend and to make oral representations. The presence of the legal representative does not exempt the unaccompanied child from the personal interview. 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. The legal representative must also give their consent to SEF for the purpose of age assessment procedures.

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. Its scope usually covers the representation of the child for all legal purposes, including the asylum procedure and reception conditions. In the case of spontaneous applicants for international protection, the Family and Juvenile Court usually appoints CPR’s Director to act as legal representative. Material protection is provided in accordance with the protective measures set out in the Children and Youths at Risk Protection Act, which includes, in the case of spontaneous applicants, referring them to the CACR managed by the CPR.

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

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

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

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

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

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424 Article 79(3) Asylum Act.
426 Article 79(4) Asylum Act.
427 Article 79(7) Asylum Act.
428 Act 147/99 of 1 September 1999.
429 Article 25(1)(a) recast Asylum Procedures Directive; Article 24(1) recast Reception Conditions Directive.
430 Article 91 General Legal Regime of Civil Guardianship Act and the Children and Youths at Risk Protection Act.
431 In addition to the relevant rules of the General Legal Regime of Civil Guardianship Act and the Children and Youths at Risk Protection Act; this is provided for in article 79(2) Asylum Act.
While SEF does not conduct individual interviews prior to the appointment of a legal representative, there is no best interests’ assessment or intervention of a legal representative prior to the registration of the asylum claim. The Asylum Act allows children to lodge their own asylum application.

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

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

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

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

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433 Article 13(6) Asylum Act.

434 Article 54 Children and Youth at Risk Protection Act.


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

437 Information provided by UNICEF (March 2023).

E. Subsequent applications

Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No

2. Is a removal order suspended during the examination of a first subsequent application?
   - At first instance ☒ Yes ☐ No
   - At the appeal stage ☒ Yes ☐ No

3. Is a removal order suspended during the examination of a second, third, subsequent application?
   - At first instance ☒ Yes ☐ No
   - At the appeal stage ☒ Yes ☐ No

The law provides for specific features in the Admissibility Procedure of subsequent applications, including:

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

However, the Asylum Act does not provide for specific rules regarding the right to remain on the territory pending the examination of the application, or the suspension of a removal decision, nor does it provide specific time limits or limitations on the number of subsequent applications a person can lodge. Nevertheless, an ‘unjustified’ subsequent application can lead to the Reduction or Withdrawal of Reception Conditions.

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

The analysis of admissibility of a subsequent claim must determine (i) whether new elements of proof have been submitted or (ii) if the reasons that led to the rejection of the application have ceased to exist.

The law does not provide further clarification on what is to be considered as a new element of proof or on how to assess cessation of the rejection motives. The preliminary admissibility assessment also applies to cases where the applicant has explicitly withdrawn their application and where SEF has rejected an application following its implicit withdrawal.

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

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

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439 Article 33(4) Asylum Act.
440 Article 33(2), (4) and (6) Asylum Act.
441 Article 33(1) and (6) Asylum Act.
442 Article 33(6) Asylum Act.
443 Articles 13(1) and 33(9) Asylum Act.
444 In this case it should be understood that the general rule providing for the suspension of a removal order until a final decision is reached in the asylum application applies: Article 12(1) Asylum Act.
445 Article 33(1) Asylum Act, according to which the asylum seeker is entitled to present a new application whenever there are new elements in light of the first asylum procedure.
446 Article 60(3)(f) Asylum Act.
447 Article 33(6) Asylum Act.
448 Article 33(1) Asylum Act.
449 Article 2(1)(t) Asylum Act.
application. Several first instance decisions from 2018 referred to ‘any event occurred since prior decisions at first instance and appeal stages [were adopted]’, ‘new elements of proof regarding the alleged facts’, and that the ‘absence of new facts is also enhanced by the fact that according to his statement the applicant did not return to his country of origin or left European soil since his last application’. According to the available information, more recent decisions do not offer further guidance with regard to the interpretation of the relevant concepts.

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

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

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

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

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

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

\textsuperscript{450} TAC Lisbon, Decision 1748/18.9BELSB, 26 November 2018, unpublished.

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

\textsuperscript{452} Article 33 Asylum Act states that subsequent applications are submitted to SEF with all available supporting evidence and that SEF may, following the application, provide the applicant with a reasonable time limit to present new facts, information or evidence.

\textsuperscript{453} Article 33(6) Asylum Act.

\textsuperscript{454} Ibid.

\textsuperscript{455} Article 33(8) Asylum Act.
F. The safe country concepts

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<tr>
<td>2. Is there a national list of safe countries of origin? Yes</td>
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<tr>
<td>3. Is the safe country of origin concept used in practice? Yes</td>
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<tr>
<td>2. Does national legislation allow for the use of “safe third country” concept? Yes</td>
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<tr>
<td>3. Is the safe third country concept used in practice? Yes</td>
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<tr>
<td>3. Does national legislation allow for the use of “first country of asylum” concept? Yes</td>
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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. 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.

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. These inconsistencies were raised by CPR during the legislative process that transposed the second-generation acquis into national law, and include the following:

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

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

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456 Article 2(1)(q) Asylum Act.
458 Article 2(1)(r) Asylum Act.
460 Article 2(1)(r) Asylum Act.
461 Article 2(1)(i)(i) Asylum Act.
462 Article 19-A(1)(d) Asylum Act that excludes EU Member States from the concept of third safe country.
Although the concept is a ground for inadmissibility (see Admissibility Procedure), the authorities have not introduced further rules in national legislation to date (e.g., relevant connection indicators or rules regarding the application of the concept to a particular country or to a particular applicant).

According to the information available to CPR, SEF does not currently have a list of countries designated to be generally safe as a matter of administrative guidance. While the number of inadmissibility decisions on safe third country grounds is generally low, countries such as include Brazil, Ecuador, Morocco, Mozambique, South Africa, United States of America, and Turkey have been deemed as such.

According to SEF, in 2022 there were no negative decisions based on the concept of ‘safe third country’ (see Admissibility Procedure).

**Connection criteria**

To date, SEF has used indicators such as transit (sometimes as short as a few weeks), the registration of an asylum application or the existence of residence rights to assess the connection between the applicant and the third country. The remaining legal requirements of the clause have usually not been (adequately) analysed.

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

A decision from TCA South issued in 2021 focused on the application of the safe third country concept to the United States of America. The applicant, a transgender woman from Honduras, left her country at the age of 16 fearing persecution on the basis of her gender identity. Since then, she lived in the United States irregularly for a number of years. She eventually left because, inter alia, she was not able to apply for asylum or to otherwise regularise her stay in the country, was exposed to extreme poverty as a consequence, and feared discrimination and violence on the grounds of her gender identity (particularly in light of the risk of being subject to migration detention). The United States was deemed as a safe third country both by SEF and the first instance court.

Closely following the reasoning adopted by the lower court, in its analysis, the TCA South considered, inter alia, that:

- It is ‘unequivocal’ that the United States is a safe country, and, as such, the Portuguese authorities do not have to anticipate the actions of the American authorities as it must be assumed that fundamental rights are respected in the country (arguing that a similar reasoning to that applied to EU Member States should be adopted);
- There was an effective link because the applicant lived in the third country for a number of years, studied and worked there and has personal, cultural and language connections to it;
- It was not deemed relevant that the applicant was irregularly present in the country and the risk of deportation to the country of origin was disregarded, based on the fact that, as a State Party to the 1951 Convention, the United States are bound to the prohibition of refoulement.

While the applicant also alleged that in order to have a chance to regularly stay in the United States she would necessarily have to return to Honduras, where she feared persecution, TCA South has disregarded the concern, deeming it only relevant that there is a chance for the applicant to regularise her stay in the United States.

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464 However, data collected by CPR on the basis of communications from SEF/legal support provided to asylum seekers indicates that there was in fact a residual number of such decisions in 2022.
466 TCA South, Decision 2238/20.5BELSB, 7 October 2021, available at: https://bit.ly/30mfs6W.
United States and pointing to the change of President as an indicator of improvements in the country’s migratory system.

This is a highly flawed decision for a number of reasons, in particular:

- It is unclear why the Court considers that a presumption of respect for fundamental rights should be applied to the United States and whether it should also be applied to other countries (and which criteria should be used to assess that);
- While the applicant indeed lived in the United States for a number of years and has clear links to the country, the Court failed to analyse the impacts of the irregular nature of her stay and the risks that it implied. Furthermore, the Court did not assess how the applicant could return to a country where she did not legally reside;
- While referring to the prohibition of refoulement applicable to the United States, the Court seemed to disregard that the same prohibition applies to Portugal and failed to assess the likelihood and potential impact of a return to Honduras (while accepting that it may occur), in order to regularise the applicant’s stay in the United States;
- The Court seems to assume that a change in the Presidency automatically entails a change in a specific policy area without fully substantiating such an assumption.

Despite all of these flaws, in 2022, the STA refused to analyse an appeal concerning this case on the grounds that its relevance was limited to the individual situation, and that every element of the case indicated that the lower courts had decided it correctly, following a careful, coherent and reasonable interpretation of the law.467

Asylum seekers assisted by CPR whose applications were rejected on the basis of this inadmissibility ground were not given a document in the language of the safe third country stating that their claim was not examined on the merits. It should be noted that the issuance of such document is currently not enshrined in the law.

3. First country of asylum

The Asylum Act provides for a definition of ‘first country of asylum’ that is in line with Article 35 of the recast Asylum Procedures Directive468 and that attempts to merge the criteria listed in Article 38(1) of the Directive.469 Without prejudice to challenges in clarity resulting from the merger, the current definition seems to exclude formal recognition of refugee status or sufficient protection in accordance to the Refugee Convention as stand-alone criteria to apply the concept as it also requires that:

- Life and liberty are not threatened;
- The principle of non-refoulement in accordance with the Refugee Convention is respected;
- The prohibition of the right to freedom from torture and cruel, inhuman or degrading treatment is respected.

The ‘first country of asylum’ concept is included among the inadmissibility grounds enshrined in the Asylum Act.470

The number of inadmissibility decisions on first country of asylum grounds is generally limited. According to SEF, there were no such decisions in 2022.

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

468 Article 2(1)(z) Asylum Act.
469 Indeed, certain elements of the definition of the “safe third country” such as that contained in Article 38(1)(b) of the recast Asylum Procedures are not included.
470 Article 19-A(1)(c) Asylum Act.
According to the information available to CPR, case law regarding the interpretation of the concept is highly limited but includes a ruling from a second-instance Administrative Court focusing on the definition of ‘sufficient protection’. According to the court’s interpretation of the provision enshrined in the Asylum Act, such protection should be interpreted to encompass the principle of non-refoulement in accordance with the Refugee Convention but also refoulement where a civilian’s life or person is at risk by reason of indiscriminate violence in situations of armed conflict.471

However, as stressed by TAC Lisbon in a ruling from November 2017, the formal recognition of refugee status is not per se sufficient to qualify a third country as a first country of asylum in the absence of a meaningful assessment of possible risks to the security of the applicant in that country.472

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

1. Provision of information on the procedure

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<th>Indicators: Information on the Procedure</th>
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<tr>
<td>1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice?</td>
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<td>❖ Is tailored information provided to unaccompanied children?</td>
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The Asylum Act provides for the right to:

❖ A broad set of information on the asylum procedure and reception conditions in general;473
❖ Information on key developments and decisions relating to the individual asylum file.474

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472 TAC Lisbon, Decision 2163/17.BESLB, 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.BESLB, 13 September 2019, unpublished.

473 This includes information on assistance and the asylum procedure by the UNHCR and CPR (Article 13(3)); information on the right to an individual application regarding dependent relatives (Article 13(5)); general information on the rights and duties in the asylum procedure (Article 14(2)); information in writing on the rights and duties in border procedures (Article 24(2)); information on the extension of the time limit for the examination and, upon demand, of the grounds for the extension and expected time limit for the decision in the regular procedure (Article 28(2)); oral information or an information brochure on the rights and duties of asylum seekers and in particular regarding the asylum procedure; applicable time limits; the duty to substantiate the claim; available service providers of specialised legal assistance; available reception and health care service providers; legal consequences of failing to cooperate with SEF in substantiating the asylum claim; the purpose of fingerprinting and of all rights of data subjects in accordance to the EURODAC Regulation; information on the admissibility decision (Article 49(1)(a), (b), (c) and (2)); information on the rights and duties of beneficiaries of international protection (Article 66).

474 This includes the individual notification of first instance decisions in admissibility and accelerated procedures on national territory (Article 20(3)); the individual notification of first instance decisions in admissibility and accelerated procedures and the right to appeal at the border (Article 24(5)); individual notification of SEF’s proposal for a first instance decision in the regular procedure (Article 29(2)); individual notification of the first instance decision and the right to appeal in the regular procedure (Article 29(6)); individual notification of the first instance decision, the right to appeal and the obligation to abandon national territory within 20 days regarding subsequent applications (Article 33(6) and (9)); individual notification of the first instance decision and the right to appeal regarding applications following a removal procedure (Article 33-A(6)); individual notification of outgoing Dublin take charge or take back decisions (Article 37(2)); individual notification of SEF’s proposal for the cessation, revocation, ending or refusal to renew the international protection status (Article 41(6)); individual notification of the cessation, revocation, ending or refusal to renew the international protection status (Article 43(2)).
Information on detention,⁴⁷⁵ and
Specific information rights of unaccompanied children.⁴⁷⁶

Furthermore, the law provides for a general right to interpretation 'whenever necessary' during registration of the application and throughout the asylum procedure.⁴⁷⁷ This refers to the right to interpretation into a language that the asylum seeker understands or is reasonably expected to understand.⁴⁷⁸

In practice, while SEF generally complies with the obligation to inform asylum seekers of key developments, decisions and associated rights during asylum procedures, interpretation for that purpose is not systematically available and rarely includes an explanation of the grounds of the decision. The absence of translation has also been problematic in cases where SEF informs asylum seekers of developments in their applications by postal mail and email in Portuguese.⁴⁷⁹

Information at the registration stage

Upon registration, asylum seekers receive an information leaflet from SEF, informing them of their rights and duties. In CPR's experience, the leaflet is only available in a limited number of foreign languages (e.g., Portuguese, French, English, Russian, Arabic, Ukrainian, and Lingala). While some specific information leaflets, including one on reception and another for unaccompanied children are available online.⁴⁸⁰ CPR is not aware of their systematic distribution to asylum seekers, including to unaccompanied children. The information contained in the leaflets is brief and not considered user-friendly, particularly in the case of unaccompanied children.

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

Information on the Dublin procedure

CPR has no indication that the common information leaflet provided for in Article 4(3) of the Dublin III Regulation is being systematically distributed. Nevertheless, SEF confirmed that such information is provided.

In CPR's experience, the only information provided on the functioning of the Dublin system seems to be contained in the general information leaflet on the Dublin III and Eurodac Regulations, which is limited.

Asylum seekers are systematically informed in writing of the likely responsibility of another Member State, and the corresponding supporting evidence during the personal interview. If the take back/take charge request is refused by the Member State and another Member State is deemed responsible by the Portuguese authorities, the asylum seekers is usually notified of the likelihood of being transferred to that Member State. In such cases, according to CPR's experience, the asylum seeker is not informed of details

⁴⁷⁵ This includes immediate information in writing on the grounds of detention as well as the right to appeal and to free legal aid (Article 35-B(2)); information on the internal rules of the detention facility and the detainee's rights and duties (Article 35-B(5)).
⁴⁷⁶ This includes information on mandatory legal representation (Article 79(1)); information on the purpose, potential consequences and preparation of the personal interview by the legal representative (Article 79(4)); information on the submission to an age assessment expertise (Article 79(7)).
⁴⁷⁷ Article 49(1)(d) Asylum Act.
⁴⁷⁸ Articles 14(2), 24(2) and (5), 29(6), 33(6), 35-B(2) and (5), 37(2), 43(2), 49(1)(a), (b) and (2) and 66 Asylum Act.
⁴⁷⁹ Attaching documents such as accelerated procedures decisions, Dublin transfer decisions or proposals for a final decision in the regular procedure, also in Portuguese.
regarding the refusal to take back/take charge (see Dublin: Procedure).

Information on the border procedure

In the case of asylum seekers detained at the border, the certificate of the asylum application used to contain a brief reference to Article 26 of the Asylum Act that provides for the systematic detention of asylum seekers in the border procedure. Asylum seekers were not systematically informed or aware of their rights and obligations in detention despite the existence of information leaflets available in a limited number of foreign languages.\textsuperscript{481} Gaps in the provision of information within the context of detention at the border have been flagged by the National Preventive Mechanism,\textsuperscript{482} both with regard to the applicable legal frameworks and the individual situation of the applicants.

Child-friendly information

Despite having been designated as legal representative of a significant number of unaccompanied children who applied for asylum in 2022, CPR is unaware of the provision of child-friendly information by SEF, including the specific information leaflet for unaccompanied children and the information leaflet provided for by Article 4(3) of the Dublin Regulation.

Information on procedural developments

Despite written requests to that purpose, asylum seekers are usually not informed of the extension of the time limit for the examination of their application, the grounds for the extension and the expected time limit for the decision in the regular procedure as required by law.\textsuperscript{483}

Information by NGOs

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

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

In 2022, UNHCR launched the Help information website Portugal.\textsuperscript{484}


\textsuperscript{483} Article 28(2) Asylum Act.

\textsuperscript{484} Available at: https://bit.ly/414z4BN.
2. Access to NGOs and UNHCR

**Indicators: Access to NGOs and UNHCR**

1. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice?  
   - Yes  
   - With difficulty  
   - No

2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice?  
   - Yes  
   - With difficulty  
   - No

3. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice?  
   - Yes  
   - With difficulty  
   - No

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

H. Differential treatment of specific nationalities in the procedure

**Indicators: Treatment of Specific Nationalities**

1. Are applications from specific nationalities considered manifestly well-founded?  
   - Yes  
   - No

   - If yes, specify which:

2. Are applications from specific nationalities considered manifestly unfounded?  
   - Yes  
   - No

   - If yes, specify which:

While this is not an official practice, CPR has observed that SEF systematically deems applications lodged by Venezuelans as unfounded within accelerated procedures (notably on grounds of irrelevance), and refers the cases to regularisation procedures through the humanitarian clause of the exceptional regularisation regime of the Immigration Act.

According to the decisions, such a referral is due to the political, social, and humanitarian crisis in the country and its impacts in the regular functioning of institutions and public services. While further information on the implementation and outcome of such procedures is not available to CPR, this is an uncommon practice from the authorities that was only systematically applied to Venezuelans.

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.

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485 Whether under the “safe country of origin” concept or otherwise.
486 Article 19(1)(e) Asylum Act.
488 The decisions analysed do not clarify whether such procedures are triggered automatically by SEF and if residence permits on humanitarian grounds are effectively granted.
489 TCA South, Decision 1574/19.8BELSB, 17 March 2020, unpublished. A decision from TAC Lisbon followed a similar understanding, while also pointing out, *inter alia*, the broader scope of subsidiary protection in the national context (that also includes situations of systematic violation of human rights and generalised and indiscriminate violation of human rights). TAC Lisbon, Decision 1371/22.9BELSB, 26 June 2022, not publicly available.
Furthermore, the practice seems to contradict the position adopted by Portugal externally regarding persons fleeing Venezuela, notably through the pledges made in the 2019 Global Refugee Forum where the country committed ‘to ensure financial contributions for [...] joint operations of the UNHCR/IOM operation in Colombia (to address the urgent needs of Venezuelan refugees) [...]’ and also referred to supporting the higher education of Venezuelan refugees.\(^{490}\)

While statistical data is not available, CPR has observed that persons relocated to Portugal following rescue operations in the Mediterranean Sea whose applications for international protection were rejected are also (at least at times) referred to regularisation procedures through the humanitarian clause of the exceptional regularisation regime of the Immigration Act.\(^{491}\) This was due, according with at least some decisions analysed, to the commitment made by Portugal following the disembarkation.

According to CPR’s observation, and to the information provided by UNICEF, this has also happened in the case of relocated unaccompanied children and young adults whose asylum applications were rejected.

CPR has observed that access to this regime may be hampered by the lack of documents issued by the country of origin (e.g., passports). This has also been noticed by UNICEF with regard to unaccompanied children and young adults in particular.

According to the data provided by SEF, a total of 140 humanitarian protection statuses were granted in the course of 2022, all of which to Afghan nationals.


\(^{491}\) Article 123 Immigration Act.
Reception Conditions

Short overview of the reception system

The primary responsibility for the provision of material reception conditions lies with the Ministry of Home Affairs.\(^{492}\) However, the responsibility for reception lies with the Ministry of Employment, Solidarity, and Social Security for asylum seekers who pass the admissibility procedure and are in the regular procedure.\(^{493}\) The authorities can cooperate with other public entities and/or private non-profit organisations within the framework of a MoU to ensure the provision of such services.\(^{494}\)

The practical framework for the reception of asylum seekers in Portugal currently stems from bilateral MoUs,\(^ {495}\) the resolution of the Council of Ministers no. 103/2020 of 23 November 2020, establishing a single system of reception and integration of applicants for and beneficiaries of international protection, and the internal regulations of the Single Operative Group (SOG) it created.\(^ {496}\)

In practice, the following entities are competent to provide reception conditions to spontaneous applicants depending on the type and stage of the procedure and/or the profile of the applicant:

- The Institute for Social Security (ISS) provides material receptions conditions to asylum seekers in the regular procedure;
- Santa Casa da Misericórdia de Lisboa (SCML) assists asylum seekers who have submitted an appeal against a Dublin decision or a first instance decision (with the exception of a first instance decision in the regular procedure) as well as certain categories of asylum seekers in the regular procedure;
- The Portuguese Refugee Council (CPR) provides reception services to asylum seekers in the admissibility (including Dublin) and accelerated procedures on the national territory. As regards unaccompanied children, CPR also provides for material reception conditions in the regular procedure and at appeal stage in accordance with the relevant protective measures.
- The Immigration and Borders Service (SEF) retains responsibility for material reception conditions in border procedures and procedures in detention following a removal order.\(^ {497}\)

Asylum seekers who lack resources\(^ {498}\) are entitled to support from the moment they apply for asylum,\(^ {499}\) and until a final decision is reached on their asylum application,\(^ {500}\) without prejudice to the suspensive effect of appeals,\(^ {501}\) and to the provision of material reception conditions beyond final rejection in case of ongoing need for support on the basis of an individual assessment of the applicant’s social and financial circumstances.\(^ {502}\)

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

In the current reception system, adults, and families with children are mostly accommodated at CPR’s Refugee Reception Centre (CAR) or in private accommodation provided by CPR (apartments and rooms in the private market or hostels) during admissibility (including Dublin) and accelerated procedures on the
According to protection single organisations procedure Social Affairs. The when accommodated (rooms) Asylum offers territory. Notably Article 61(1) of the asylum procedure? Does the law make material reception conditions to asylum seekers in the following stages of access seekers? Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? Reduced material conditions □ No

1.1. Responsibility for reception

The primary responsibility for the provision of material reception conditions lies with the Ministry of Home Affairs. 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. The authorities can cooperate with other public entities and/or private non-profit organisations within the framework of a MoU to ensure the provision of such services.

The practical framework for the reception of asylum seekers in Portugal currently stems from bilateral MoUs, the resolution of the Council of Ministers no. 103/2020 of 23 November 2020, establishing a single system of reception and integration of applicants for and beneficiaries of international protection, and the internal regulations of the Single Operative Group (SOG) it created.

According to the Resolution, the main features of the single system of reception and integration are as follows:

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503 This includes admissibility procedures (including Dublin procedures); accelerated procedures, border procedures, subsequent applications and applications following a removal decision: Article 61(1) Asylum Act.
504 Article 61(2) Asylum Act.
505 Article 61(1) and (2) in fine Asylum Act.
506 Notably MoUs between the Ministry of Home Affairs / SEF and CPR, between ISS and CPR, and between the ISS and Santa Casa da Misericórdia de Lisboa (SCML).
The system covers all applicants and beneficiaries of international protection, including unaccompanied children, resettled refugees, and relocated asylum seekers;
A Single Operative Group (SOG) is established. The SOG has a restricted and an extended line-up;
The restricted line-up of the SOG ensures its coordination and is composed by ACM, SEF and ISS;
The extended line-up of the SOG develops technical and operational tasks. In addition to ACM, SEF and ISS it includes: the Directorate General for Higher Education (DGES), DGEstE, Portuguese Institute of Sports and Youth (IPDJ), IEFP, ANQEP, SCML, ACSS, DGS, and IHRU. The resolution further establishes that other entities with competences in the fields of reception and integration, namely CPR, are also part of this line up.
ACM is responsible for organising periodic meetings (at least one every month), providing logistical and administrative support, and preparing the regulation of the SOG;
The resolution further details the responsibilities of ACM, SEF and ISS within the context of the SOG;
The SOG is established for 5 years with possibility of extension. Instruments concerning reception and integration of applicants for and beneficiaries of international protection in force must be adjusted to the provisions of the resolution.

Within the framework of the SOG, three subgroups have been created so far to handle operational matters: the social monitoring subgroup, the unaccompanied children subgroup, and the programmed arrivals subgroup.\(^{508}\)

In practice, the following entities are competent to provide reception conditions to spontaneous applicants, depending on the type and stage of the procedure and/or the profile of the applicant:

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

- The **Santa Casa da Misericórdia de Lisboa (SCML)** assists asylum seekers who have submitted an appeal against a Dublin decision or a first instance decision (with the exception of a first instance decision in the regular procedure) as well as certain categories of asylum seekers in the regular procedure (e.g., vulnerable cases such as unaccompanied children initially accommodated at CACR that move into assisted apartments and former unaccompanied children initially accommodated at CACR; or individuals and families with strong social networks in the Lisbon area);

- The **Portuguese Refugee Council (CPR)** provides reception services to asylum seekers in the admissibility (including Dublin) and accelerated procedures on the national territory. CPR also provides for material reception conditions to unaccompanied children within the regular procedure and at appeal stage, in accordance with protective measures adopted by Family and Juvenile Courts in the framework of the Children and Youths at Risk Protection Act (see Legal Representation of Unaccompanied Children).

- The **Immigration and Borders Service (SEF)** is responsible for the provision of material reception conditions within the context of border procedures and procedures in detention following a removal order (see Conditions in Detention Facilities).\(^{509}\)

The social monitoring subgroup of the SOG replaced the previous structure for referral and follow up on the provision of reception conditions to spontaneous asylum seekers. The group is composed by ACM,

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\(^{508}\) In 2022, a new SOG sub-group was created in order to address the area of vulnerabilities within the asylum system. It is composed by ACM, CPR, ISS, SCML, SEF, and UNHCR. According to the information available at the time of writing, the sub-group will be led by UNHCR during the first semester of 2023, and will identify services and mechanisms to address specific vulnerabilities.

\(^{509}\) Article 61(1) Asylum Act.
CPR, ISS, SCML and SEF, and meets twice a month. The extended line-up of the SOG meets once a month.

1.2. The right to reception and sufficient resources

The law provides for the right of asylum seekers to material reception conditions regardless of the procedure they are in, with the exception of a possible withdrawal or reduction of those conditions in the case of ‘unjustified’ subsequent applications.

Asylum seekers are entitled to support from the moment they apply for asylum and until a final decision is reached on their asylum application, without prejudice to: (i) the suspensive effect of appeals and (ii) the provision of material reception conditions beyond the final rejection in case of ongoing need for support on the basis of an individual assessment of the applicant’s social and financial circumstances.

Only asylum seekers who lack resources are entitled to material reception conditions. 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’. To date, ISS has interpreted this provision as referring to the social pension (pensão social) that, in 2022, stood at € 213.91 per month. According to the information provided by ISS, cases are reassessed every three months and the provision of material reception conditions is maintained where indicators of a lack of resources subsist.

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

In practice, the majority of spontaneous asylum applicants are systematically referred by SEF and benefit from the provision of material reception conditions by CPR in the framework of admissibility and accelerated procedures on the territory. This has been done without a strict assessment of resources by SEF as most asylum seekers had recently arrived in the country and were considered as being manifestly in need of assistance. In cases where they had financial resources or relatives in Portugal, certain asylum seekers chose not to benefit from the accommodation provided by CPR.

Access to CPR’s Refugee Reception Centre (Centro de Acolhimento para Refugiados, CAR) that accommodates isolated adults and families is dependent on written referral from SEF-GAR. The transition from border facilities to reception centres within the territory is carried out smoothly in general. As for unaccompanied children, referral by SEF to CPR’s CACR is made by the most expedient means available such as telephone or email, and children released from the border are escorted by SEF to the premises. For those asylum seekers who have opted for private housing with relatives, the provision of material

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Articles 51(1) and 56(1)-(2) Asylum Act.
Article 60(3)(f) Asylum Act. The meaning of “unjustified subsequent application” seems to indicate that the potential withdrawal or reduction would only intervene at the end of the 10-day admissibility/preliminary assessment as per Article 33(4). According to the information available to CPR, such possibility was not enforced in 2018 and 2019, as SEF referred subsequent applicants in need of housing to the relevant entities. 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.
Article 60(1) Asylum Act.
Articles 60(1) in fine and 30(1) Asylum Act.
Article 60(2) Asylum Act.
Articles 51(1) and 56(1) Asylum Act.
Article 56(3) Asylum Act.
Decree-Law 464/80 and Ministerial Order 301/2021. According to the referred Decree-Law, the social pension is measure of solidarity to offer social protection to the most vulnerable populations. It is provided, among others, to nationals, who are not entitled to a pension from the contributory social security system who lack any revenue or whose revenue is below the value of the social pension (Article 1).
Article 56(4) Asylum Act.
Article 56(5) Asylum Act.
reception conditions such as financial assistance by CPR is dependent on the presentation of an individual certificate of the asylum application.

CPR does not proactively engage in means assessments for the duration of the provision of material reception conditions given that access to paid employment is, in practice, limited at this stage.

Following admission to the regular procedure, or if the application is deemed inadmissible or is rejected in an accelerated procedure,\(^{521}\) the asylum seeker is referred CPR to the Single Operative Group (SOG) through its social monitoring subgroup. The SOG decides on the provision of material reception conditions in the regular procedure (by ISS), or at appeal stage (by SCML), based on an individual report that includes information on the socio-economic circumstances of the individual. Given that asylum seekers admitted to the regular procedure are often unemployed, and lack financial resources, it is not common to cease the provision of material reception conditions at this point.

While spontaneous asylum applicants do not face systematic obstacles in gaining access to available material reception conditions (e.g., due to delays in the issuance of the individual certificate of the asylum application or a strict assessment of resources), some concerns remain regarding access to support. These include the provision of support by CPR to asylum seekers accommodated in private accommodation in remote locations (e.g., due to the lack of information from SEF’s regional representations regarding available assistance and costs associated with travel and communications for initial and follow-up interviews with social workers at CPR). Another concern stems from the potential exclusion of asylum seekers from material reception conditions in the regular procedure in the event of a refusal to accept the geographical dispersal policy managed by the GTO (see Freedom of Movement).

2. Forms and levels of material reception conditions

<table>
<thead>
<tr>
<th>Indicators: Forms and Levels of Material Reception Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Amount of the monthly financial allowance/vouchers granted to adult asylum seekers as of 31 December 2022 (in original currency and in €):</td>
</tr>
</tbody>
</table>

The Asylum Act provides for a general definition of material reception conditions,\(^{522}\) as well as a closed list of forms of provision of material reception conditions in article 57(1) that includes:

- Housing;\(^{523}\)
- Food;
- Monthly social support allowance for food, clothing, transport, and hygiene items;
- Monthly complementary allowance for housing; and
- Monthly complementary allowance for personal expenses and transport.

Additionally, Article 57(3) establishes a closed list of possible combinations of forms of material reception conditions that consist of:

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

\(^{521}\) This includes rejected asylum seekers released from the border after the expiry of the 60-day time limit (see Duration of Detention).

\(^{522}\) Article 2(1)(e) Asylum Act: housing, food, clothing and transportation offered in kind, through financial allowances, vouchers or daily allowances.

\(^{523}\) Under Article 57(2), housing and food in kind can consist of: (a) housing declared as equivalent to reception centres for asylum seekers in the case of border applications; (b) installation centres for asylum seekers or other types of housing declared equivalent to installation centres for asylum seekers that offer adequate living conditions; and (c) private houses, apartments, hotels, or other forms of housing adapted to accommodate asylum seekers.
However, asylum seekers may exceptionally be offered forms and combinations of material reception conditions other than those provided in the law for a limited period of time where:

- There is a need for an initial assessment of the special needs of the applicant;
- The housing in kind as per the law is not available in the area where the asylum seeker is located; and/or
- Available reception capacity is temporarily exhausted and/or the international protection applicants are detained at a border where housing equivalent to reception centres is not available.524

While the Asylum Act enshrines the right of asylum seekers to the satisfaction of their basic needs to a level that guarantees their human dignity,525 it does not provide for specific criteria to determine what is an adequate standard of living which guarantees their subsistence and protects their physical and mental health as per Article 17(2) of the recast Reception Conditions Directive.

The specific criteria for establishing the value of the financial allowances consists of a percentage of the ‘social support allowance’,526 which, to date, has been interpreted by the ISS as referring to the social pension (pensão social).527 These percentages represent the upper limit of the allowances.

In 2022, the following amounts applied:528

<table>
<thead>
<tr>
<th>Level of financial allowances per expense: 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type of monthly allowance</strong></td>
</tr>
<tr>
<td>Social support allowance for food, clothing, transport and hygiene items</td>
</tr>
<tr>
<td>Complementary allowance for housing</td>
</tr>
<tr>
<td>Complementary allowance for personal expenses and transport</td>
</tr>
</tbody>
</table>

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

CPR’s Social Department provides asylum seekers with second-hand clothes as well as food items as needed and/or weekly with the support of the charities/projects such as the Food Bank (Banco Alimentar), Refood and Missão Continente, as well as sporadic private donations.

Depending on the individual circumstances, CPR also pays for: (i) medication - due to problems related to access to State funded medication through the National Health Service (Serviço Nacional de Saúde, SNS), and in the case of non-funded medication; (ii) school supplies for children; (iii) differentiated health

524 Article 57(4) Asylum Act.
525 Article 56(1) Asylum Act.
526 Article 58 Asylum Act.
527 In 2022, the value of the social pension stood at €213.91/ month – Decree-Law 464/80 and Ministerial Order 301/2021.
528 While the ISS updated the amounts in 2022, SCML confirmed that they continued to use the 2019 social pension as a reference. Hence, the amounts for each entity are slightly different.
care, e.g., dentists; and (iv) taxi transportation, e.g., in case of a medical emergency or for particularly vulnerable individuals.

In the case of unaccompanied children in the regular procedure and at appeal stage, CPR provides material reception conditions in kind such as housing, food, clothing, transportation, school supplies, sports, social and cultural activities, capacity-building and personal development activities. They also receive a monthly allowance for personal needs, whose amount varies according to the child’s age: € 12 for children between the age of 13 and 14; and €16 for children aged 15 and over. Unaccompanied young people in pre-autonomy stage under CPR’s care are responsible for managing their own monthly allowance of €150.

In the regular procedure or pending an appeal against a rejection decision during the admissibility stage or in an accelerated procedure, the financial allowance provided by ISS and by SCML is expected to cover all expenses. SCML provides an additional monthly allowance in cases of severe economic vulnerability (which are often linked to the extremely high costs of accommodation). In 2022, 42 applicants were covered by this measure. ISS has also confirmed that in 2022 it has continued to provide further support for housing expenses (first two months of rent upon presentation of a lease proposal) and that, when deemed justified following assessment, additional support for housing and other expenses can be granted.

The monthly allowance for all expenses is calculated in accordance with the percentages of the social pension set out in the Asylum Act, as mentioned above, albeit with a regressive percentage per additional member of the household.

While in previous years, the amount of the allowances granted by ISS and SCML was the same, this has not been the case since 2020. According to ISS, an audit carried out in 2020 concluded that the ‘social support allowance for food, clothing, transport and hygiene items’ could not, according to Article 57(3) of the Asylum Act, be combined with the ‘complementary allowance for personal expenses and transport’. SCML continued to follow the previous model to determine the amount of the financial allowances it granted. Consequently, in 2022, the amounts applied were as follows:

<table>
<thead>
<tr>
<th>Category of applicant</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ISS</td>
</tr>
<tr>
<td>Head of household</td>
<td>€ 213.91</td>
</tr>
<tr>
<td>Other adult(s) in household</td>
<td>€ 149.74</td>
</tr>
<tr>
<td>Child</td>
<td>€ 106.96</td>
</tr>
</tbody>
</table>

Even though no qualitative research has been conducted to date on destitution of asylum seekers in the asylum procedure, the level of financial allowances is manifestly low, particularly in light of the current living costs in the country. CPR’s Social Department receives regular complaints from asylum seekers at all stages of the asylum procedure regarding financial difficulties to meet basic needs and anxiety regarding low levels of income. In the course of 2022, CPR also noted an increase in the number of requests for additional food support, particularly from families with children.

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.

Article 58 Asylum Act.
A study focusing on unaccompanied asylum-seeking children and ageing out in Portugal published in 2021 revealed that, while the children and young people involved generally rated the response of relevant entities in a positive manner, the vast majority stated that the financial allowances received are insufficient to cover their expenses.\(^{531}\)

Such difficulties might constitute a contributing factor to the level of absconding and cessation of support (see Reduction or Withdrawal of Reception Conditions).

The 2022 Statistical Report of Asylum describes the reception of spontaneous asylum seekers, relocated asylum seekers (within the different programmes), and resettled refugees, but does not assess the amount of the financial allowance granted or their potential impact on the integration of applicants for and beneficiaries of international protection.\(^{532}\)

Throughout 2022, the SOG discussed the possibility of increasing the financial allowances granted to asylum seekers, particularly in light of the increasing number of complaints of their insufficiency, but no change was decided until the end of the year.

### 3. Reduction or withdrawal of reception conditions

<table>
<thead>
<tr>
<th>Indicators: Reduction or Withdrawal of Reception Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the law provide for the possibility to reduce material reception conditions?</td>
</tr>
<tr>
<td>2. Does the law provide for the possibility to withdraw material reception conditions?</td>
</tr>
</tbody>
</table>

The Asylum Act provides for an exhaustive list of grounds that may warrant the reduction or withdrawal of material reception conditions.\(^{533}\) These consist of unjustifiably:

- (a) Abandoning the place of residence determined by the authority without informing SEF or without adequate permission;
- (b) Abandoning the place of residence without informing the reception organisation;
- (c) Failing to comply with reporting duties;
- (d) Failing to provide information that was requested or to appear for personal interviews when summoned;
- (e) Concealing financial resources and hence unduly benefiting from material reception conditions; and
- (f) Lodging a subsequent application.

For the reduction or withdrawal to be enacted, the behaviour of the applicant needs to be unjustified,\(^{534}\) implying the need for an individualised assessment of the legality of the decision, which is however not clearly stated in the law.

Reduction or withdrawal decisions must be individual, objective, impartial, and reasoned.\(^{535}\) The asylum seeker is entitled to appeal the decision before an Administrative Court,\(^{536}\) with suspensive effect,\(^{537}\) and may benefit from free legal aid to that end.\(^{538}\) Reception conditions reduced or withdrawn pursuant to grounds (a) to (c) above can be reinstated if the asylum seeker is found or presents him/herself to the authorities.\(^{539}\)

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533 Article 60(3) Asylum Act.
534 Article 60(3) Asylum Act.
535 Article 60(5) Asylum Act.
536 Article 60(8) Asylum Act.
537 Articles 63(1) and 30(1) Asylum Act.
538 Article 63(2) Asylum Act.
539 Article 60(4) Asylum Act.
SEF affirmed that it does not have official data on reduction or withdrawal of reception conditions. Nevertheless, CPR is aware of multiple instances where withdrawal of reception conditions was determined by the entity as per article 60 of the Asylum Act. CPR is however not aware of the issuance of formal decisions in such cases, and the criteria and procedures used in this regard remain unclear. According to the experience of the organisation, where support was suspended because an applicant repeatedly failed to present themselves as required by SEF, it was reinstated upon appearance.

According to the data provided by ISS, out of the 1,762 persons supported by the entity in 2022, a total of 54 disappeared or failed to comply with their duties, thus leading to the termination of support provision.

According to the available information, other instances of cessation of support were connected to situations where the applicant no longer lacked financial resources according to the relevant criteria (see above).\textsuperscript{540}

The law does not provide for specific sanctions for seriously violent behaviour or serious breaches of the rules of accommodation centres and other housing provided in the framework of material reception conditions. Nevertheless, service providers are required to adopt adequate measures to prevent violence, and notably sexual and gender-based violence.\textsuperscript{541}

In the case of CAR, both the Regulation of the centre and the individual contract signed between CPR and the asylum seeker include specific prohibitions of abusive and violent behaviour. Such behaviour can ultimately result in withdrawal of support following an assessment of the individual circumstances and taking into consideration the vulnerability of the applicant.\textsuperscript{542} In the case of CACR, while the Regulation contains similar prohibitions and age appropriate remedial action,\textsuperscript{543} the accommodation of unaccompanied children stems from and can only be reviewed by the competent Family and Juvenile Court in the framework of the Children and Youths at Risk Protection Act (see Legal Representation of Unaccompanied Children).

In practice, without prejudice to criminal proceedings where applicable, instances of withdrawal of support from CPR following abusive and/or violent behaviour in breach of internal rules remain rare events. For most cases, the consequences consist of a transfer to alternative accommodation to ensure the security and well-being of the remaining residents.\textsuperscript{544} In the case of unaccompanied children, Family and Juvenile Courts generally prioritise the stability of the living environment\textsuperscript{545} and are extremely reluctant to uproot the child by transfer to another institution.

4. Freedom of movement

<table>
<thead>
<tr>
<th>Indicators: Freedom of Movement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is there a mechanism for the dispersal of applicants across the territory of the country?</td>
</tr>
<tr>
<td>2. Does the law provide for restrictions on freedom of movement?</td>
</tr>
</tbody>
</table>

\textsuperscript{540} Articles 51(1) and 56(1) Asylum Act.
\textsuperscript{541} Article 59(1)(e) Asylum Act.
\textsuperscript{542} The contract is currently available \textit{inter alia} in Portuguese, English, French and is otherwise interpreted to the client if not available in a language that he understands.
\textsuperscript{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.
\textsuperscript{544} According to SCML this measure is also adopted by the organisation when the behaviour of the beneficiary jeopardises the well-being of other other residents and staff.
\textsuperscript{545} Article 78(2)(e) Asylum Act provides for stability of housing as a contributing factor to upholding the best interests of the child.
The Asylum Act does not contain specific restrictions on the freedom of movement or grounds for residence assignment but provides for the duty of asylum seekers to keep SEF informed of their place of residence.\textsuperscript{546} Furthermore, the authorities may decide to transfer the asylum seekers from housing facilities when needed for an adequate decision-making process regarding the asylum application or to improve housing conditions.\textsuperscript{547}

Since 2012, the operational framework for the reception of asylum seekers in Portugal provides for a dispersal mechanism (see Criteria and Restrictions to Access Reception Conditions).

Following the admissibility procedure and admission to the regular procedure, or if the application is deemed inadmissible or rejected in an accelerated procedure, the asylum seeker is generally referred by frontline service providers such as CPR to the social monitoring sub-group of the SOG. The social monitoring sub-group meets at least twice a month to discuss individual cases and decides on the provision of material reception conditions in the regular procedure (generally by ISS) or at appeal stage (by SCML). This is done on the basis of an individual monitoring report and in accordance with existing reception capacity countrywide. This can either result in a dispersal decision for those admitted to the regular procedure (with assistance provided by local Social Security services) or placement in private housing/hostels in the Lisbon area for those who have appealed the rejection of their application (under the responsibility of SCML).

When an asylum seeker needs to move to a different part of the country within this context, the trip (public transportation) is organised, and the cost covered, by ISS. CPR usually provides logistical support to the applicant. Applicants are informed about the travel arrangements in a language they understand, and it is standard practice for a member of ISS staff to be present on arrival.

In practice, according to the statistics shared by the ISS, as of December 2022, a total of 1,762 applicants and beneficiaries of international protection benefited from ISS material support. The beneficiaries resided in the following areas:\textsuperscript{548}

<table>
<thead>
<tr>
<th>Area</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lisbon</td>
<td>726</td>
</tr>
<tr>
<td>Coimbra</td>
<td>191</td>
</tr>
<tr>
<td>Porto</td>
<td>167</td>
</tr>
<tr>
<td>Setúbal</td>
<td>149</td>
</tr>
<tr>
<td>Castelo Branco</td>
<td>121</td>
</tr>
<tr>
<td>Braga</td>
<td>83</td>
</tr>
<tr>
<td>Viseu</td>
<td>60</td>
</tr>
<tr>
<td>Santarém</td>
<td>54</td>
</tr>
<tr>
<td>Guarda</td>
<td>40</td>
</tr>
<tr>
<td>Viana do Castelo</td>
<td>38</td>
</tr>
</tbody>
</table>

\textsuperscript{546} Article 15(1)(f) Asylum Act.  
\textsuperscript{547} Article 59(2) Asylum Act.  
\textsuperscript{548} Figures below fifteen are not included.
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Évora</td>
<td>29</td>
</tr>
<tr>
<td>Aveiro</td>
<td>26</td>
</tr>
<tr>
<td>Portalegre</td>
<td>24</td>
</tr>
<tr>
<td>Leiria</td>
<td>21</td>
</tr>
<tr>
<td>Vila Real</td>
<td>15</td>
</tr>
</tbody>
</table>

Source: Information provided by ISS (March 2023).

Most asylum seekers and beneficiaries of international protection receiving material reception conditions from ISS in 2022 resided in Lisbon. Additionally, SCML supported a total of 1,213 individuals, all of whom resided in Lisbon or in nearby districts due to difficulties in accessing the housing market in Lisbon (see Types of Accommodation).

There is some flexibility in the implementation of the dispersal policy, and, according to CPR’s experience, the entities involved make an effort to take personal preferences into account. According to ISS, asylum seekers admitted to the regular procedure may request a review of their dispersal decision and their accommodation in a particular area where accommodation, education, employment and/or health related grounds justify an exception (e.g., regarding unaccompanied children enrolled in schools, asylum seekers who are employed at the time of the decision or particularly vulnerable asylum seekers who benefit from specialised medical care in Lisbon, see Responsibility for Reception). Otherwise, refusal to accept the dispersal decision by failing to report to the local Social Security service or abandoning its support following the dispersal decision will generally result in the withdrawal of material reception conditions. ISS noted, however, that if the reinstatement of support is subsequently requested, the services do evaluate the individual situation.

According to the information available to CPR, once the dispersal decision is made by the SOG, asylum seekers are not subjected to onward dispersal decisions resulting in their move from the initial District of assignment. Nevertheless, CPR is aware of cases where there is a subsequent move as deemed adequate for the integration process.

Even though no research has been conducted to date to assess the impact of the dispersal policy, according to the information collected by CPR, the main concerns raised by asylum seekers include isolation, lack of interpreters and specialised mental health care, difficulties in accessing specialised legal assistance (including that provided by CPR due to the geographical distance), lack of tailor-made integration services such as language training and vocational training, inequalities in access to public services and lack of homogenisation of information provided by such services, and the absence of culturally relevant facilities/services in certain parts of the country.

According to the Statistical Report of Asylum 2022, the dispersal mechanism is generally considered an example of good practice despite the implementation challenges. Among the challenges identified by the Report are: (i) the reluctance of applicants in moving from the Lisbon area to other parts of the country; (ii) the need to finetune the distribution criteria; and (iii) discrepancies in the response capacity of local Social Security services. These are persisting implementation challenges, also mentioned in prior reports.

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549 It should be noted that in accordance with Article 59(2) Asylum Act, decisions ordering the transfer of asylum seekers from housing facilities can only occur when needed for an adequate decision-making process regarding the asylum application or to improve housing conditions.

B. Housing

1. Types of accommodation

<table>
<thead>
<tr>
<th>Indicators: Types of Accommodation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Number of reception centres:    2 (spontaneous asylum seekers)</td>
</tr>
<tr>
<td>2. Total number of places in the reception system: 74</td>
</tr>
<tr>
<td>3. Total number of places in private accommodation: Variable</td>
</tr>
<tr>
<td>4. Type of accommodation most frequently used in a regular procedure:</td>
</tr>
<tr>
<td>Reception centre ☑ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☑ Other</td>
</tr>
<tr>
<td>5. Type of accommodation most frequently used in an accelerated procedure:</td>
</tr>
<tr>
<td>Reception centre ☑ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☑ Other</td>
</tr>
</tbody>
</table>

Accommodation of spontaneous asylum seekers

As mentioned in Freedom of Movement, asylum seekers are generally referred by frontline service providers to the SOG following admission to the regular procedure, or in case of appeals against negative decisions. At this point, the provision of housing is relayed by either local Social Security services for the duration of the regular procedure or by SCML in the Lisbon area at appeal stage.

According to information provided by ISS, asylum seekers are mostly accommodated in private housing (rented flats/houses and rooms) without prejudice to accommodation provided by relatives in Portugal and placement in collective accommodation facilities such as hotels or non-dedicated reception centres, e.g., emergency shelters, nursing homes, etc. While ISS manages reception facilities where applicants for and beneficiaries of international protection may be accommodated in certain circumstances,551 none of them has places specifically assigned to such persons.

While the majority of applicants for international protection supported by SCML are accommodated in private housing, since 2020, SCML also resorts to hostels to accommodate asylum seekers in order to guarantee accommodation while another solution is not available.552 A very limited number of asylum seekers are sometimes referred to homeless shelters managed by the organisation on a temporary basis to address specific vulnerabilities.

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

<table>
<thead>
<tr>
<th>Capacity and occupancy of the asylum reception system in 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>Centre</td>
</tr>
<tr>
<td>------------</td>
</tr>
<tr>
<td>CAR</td>
</tr>
<tr>
<td>CACR</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

Source: CPR.

551 16 persons in 2022.
552 In 2021, a total of 120 places were available within this context.
CAR is an open reception centre located in Bobadela, Municipality of Loures, and operates in the framework of MoUs with the Ministry of Home Affairs and the Ministry of Labour, Solidarity and Social Security. The official capacity of the CAR stands at 60 places but, in practice, the centre can accommodate up to 80 persons. Nevertheless, due to the persisting needs, by the end of the year, a total of 105 persons were accommodated in the facility.

In 2022, CPR provided reception assistance to a total of 1,504 asylum seekers,\(^{553}\) of which 42% were accommodated at CAR/CAR 2, 52% in alternative private accommodation (including rooms in private apartments and hostels), 5% with friends/family, and the remaining 1% in other places of accommodation (e.g., accommodation for COVID-19 isolation).\(^{554}\)

CPR ensures accommodation until ISS or SCML take over. As such, asylum seekers only leave its facilities when alternative accommodation is secured (see Responsibility for Reception).

Factors such as the number of referrals for accommodation, occasional delays in the transition into accommodation provided by other stakeholders, as well as the need to preserve family units, continued to determine the need to resort to external accommodation solutions such as hostels at this stage, as well as to instances of overcrowding.

While the average accommodation period with the assistance of CPR in 2022 continued to be of 2 and a half months, an increase has been observed during the second semester. By the end of the year, overcrowding in relevant facilities became a concern once again.

The Statistical Report of Asylum 2020 acknowledged the capacity challenges faced by frontline reception entities and noted that a number of entities consulted recommended the expansion of protocols to increase reception capacity for spontaneous asylum seekers.\(^{555}\)

CACR is an open reception house for unaccompanied asylum-seeking children located in Lisbon that has operated since 2012 in the framework of MoUs with the Ministry of Home Affairs, the Municipality of Lisbon and the Ministry of Labour, Solidarity and Social Security. Its official capacity stands at 14 places.

In order to address overcrowding in the facility, CPR revisited its accommodation policy for unaccompanied children in 2020. Accordingly, young applicants at more advanced stages of the integration process may be transferred from CACR to CAR 2 in a process of growing autonomy. Furthermore, changing arrangements in rooms allowed to expand the capacity of the facility while preserving adequate accommodation standards. In some instances, unaccompanied children have to be provisionally accommodated at CAR due to shortage of places at CACR or other imperative motives. In 2022, CACR accommodated a total of 65 unaccompanied children.

Throughout 2022, CPR continued its operations in the CAR 2, located in S. João da Talha, Municipality of Loures, specifically devoted to the reception of resettled refugees. CAR 2 has a maximum capacity of 90 places. In 2022, CAR 2 accommodated a total of 173 persons, the majority of whom resettled refugees and Afghan asylum seekers evacuated to Portugal. The facility is also part of CPR’s response to spontaneous asylum seekers in case of emergency, beneficiaries of temporary protection and ad hoc relocation (rescue operations in the Mediterranean).

\(^{553}\) Including applicants for international protection whose applications were made before 2022.

\(^{554}\) Accommodation by the end of the provision of support or by 31/12/2022. In total, and according to the reception model currently implemented by CPR, a total of 68% of the supported asylum seekers was accommodated in CAR during a period of time.

JRS has also managed facilities providing temporary accommodation to Afghan applicants for/beneficiaries of international protection evacuated to Portugal, as well as beneficiaries of temporary protection.

It has been announced that AMIF funding has been granted to JRS for the creation of a reception centre in Vendas Novas. According to the available information, it is expected to start its operations in 2023.\textsuperscript{556}

**Housing of relocated unaccompanied children from Greece**

Reception of unaccompanied children relocated from Greece is subject to a different practical framework. According to the available information, it includes an initial period of 3 to 6 months during which the psychological, educational, and social support are ensured. Support is then guaranteed through the general network of the ISS, ‘independent living’,\textsuperscript{557} or foster families.\textsuperscript{558}

According to the information provided by the Secretary of State for Integration and Migration (SEIM) to the Parliament in December 2020, foster families\textsuperscript{559} are a solution meant to younger children and have been applied in practice.\textsuperscript{560} The SEIM also noted that reception entities involved in the programme receive training, and that a manual is being prepared. Furthermore, weekly visits are performed by ISS (and, in Lisbon, the SCML).\textsuperscript{561}

According to ISS, 5 specialised reception centres with a total of 67 places were involved in this programme in 2022. Out of the 5, 2 closed during the year (with 30 places remaining). Relocated unaccompanied asylum seekers were also accommodated in previously existing reception centres. According to the information provided by ISS, 60 unaccompanied children were received under this framework in 2022. Additionally, 10 young adults were directly referred to ‘independent living’ solutions.

According to the Statistical Report of Asylum 2022, the monitoring board of the programme flagged the need to analyse the number of unaccompanied children that absconded from reception centres within this programme and the possible need for changes in the reception model.\textsuperscript{562}

**Emergency reception**

Decree-Law 26/2021 of 31 March 2021\textsuperscript{563} created a National Pool of Urgent and Temporary Accommodation and a National Plan of Urgent and Temporary Accommodation. Recognising the lack of solutions in this regard, the National Plan aims to create structured responses to people in need of emergency or transitional accommodation.\textsuperscript{564}


\textsuperscript{557} Unofficial translation (“autonomia de vida”).

\textsuperscript{558} See, for instance: State Party report on Follow-up to Concluding Observations [Human Rights Committee], CCPR/PRT/FCO/5, 27 July 2021, pp.11-13 available at: https://bit.ly/3E42KoA.

\textsuperscript{559} The legal framework for foster families is established by Decree-Law 164/2019 of 25 October 2019, available at: https://bit.ly/3eB02M.

\textsuperscript{560} Reception through foster families has not been used in the case of asylum seeking/refugee children in other occasions/contexts.

\textsuperscript{561} Video recording of the parliamentary hearing of the Ministry of the Presidency and the Secretary of State for Integration and Migration (21 December 2020) available at: https://bit.ly/3uCeeM.

\textsuperscript{562} Observatorio das Migrações (OM), Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2022, June 2022, pp.177-178, available in Portuguese at: https://bit.ly/3XYsYgz.

\textsuperscript{563} Available at: https://bit.ly/3Oc68Ct. The functioning of the National Pool of Urgent and Temporary Accommodation is governed by Ministerial Order 120/2021, 8 June, available at: https://bit.ly/3uEmOLm.

\textsuperscript{564} Article 11 Ministerial Order 120/2021, 8 June defines the maximum periods of emergency/transition accommodation – 15 days or 6 months, respectively, that may be renewed for an equal period. A specific regime applies to victims of domestic violence.
According to the Decree-Law, the National Plan covers persons under the mandate of the entities that form the restricted line-up of the SOG (SEF, ACM and ISS). Referrals of applicants for/beneficiaries of international protection to accommodation within this context should be made by ISS and ACM. Such referrals must be communicated to the SOG. Additionally, entities responsible for the reception of applicants and beneficiaries of international protection may access support to promote urgent and temporary accommodation solutions for the National Pool.

At the time of writing, the implementation and impact of this legislation remained unclear.

2. Conditions in reception facilities

<table>
<thead>
<tr>
<th>Indicators: Conditions in Reception Facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places?</td>
</tr>
<tr>
<td>2. What is the average length of stay of asylum seekers in the reception centres?</td>
</tr>
<tr>
<td>❖ Adults</td>
</tr>
<tr>
<td>❖ Unaccompanied children</td>
</tr>
<tr>
<td>3. Are unaccompanied children ever accommodated with adults in practice?</td>
</tr>
</tbody>
</table>

The main forms of accommodation used during admissibility, including Dublin, and accelerated procedures on the national territory are CPR’s (funded) private accommodation and reception centres. As regards the regular procedure, private accommodation is usually used (see Types of Accommodation).

There is currently no regular monitoring of the reception system in place.

ISS is among the competent authorities for licensing, monitoring and providing technical support to the operation of reception centres for asylum seekers. ISS has laid down specific rules for temporary reception centres for children at risk (such as CACR). Furthermore, the law provides for specific standards regarding housing in kind for asylum seekers and children at risk (such as unaccompanied children). The specific material reception standards relevant to CAR and CACR are foreseen in the underlying bilateral MOUs (see Types of Accommodation) and in the internal regulations of each facility.

CAR is composed of shared rooms with dedicated bathrooms/toilets and is equipped to accommodate asylum seekers with mobility constraints, e.g., it includes a lift and adapted bathrooms/toilets. The residents are expected to cook their own meals in a communal kitchen and have access to common fridges and cupboards. The centre also has a laundry service, a playground, a day-care/kindergarten for resident and local community children, as well as a library connected to the municipal library system and a theatre/event space that can be rented out.

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566 Article 12(1) and (2) Ministerial Order 120/2021, 8 June.
567 Article 12(3) Ministerial Order 120/2021, 8 June.
568 Article 12 Decree-Law 26/2021 of 31 March; article 26(c) Decree-Law 37/2018 of 4 June; article 7(c) Ministerial Order 120/2021, 8 June.
569 Decree-Law No 64/2007.
570 These rules are contained among others in technical guidelines that provide for quality standards on issues such as capacity, duration of stay, composition and technical skills of staff, hygiene and security standards, location and connectivity, access to the building, construction materials, composition and size of the building, internal regulation, personal integration plans, activities planning, reporting and evaluation etc. An earlier version from 1996 is available at: http://bit.ly/2meygMC. According to the information available at: http://bit.ly/2mJdH0, the ISS has also adopted quality standards for other temporary reception centres (such as the CAR and the CATR) contained in technical guidelines dated 29 November 1996 (unpublished).
571 Article 59 Asylum Act: protection of family life, including the unity of children and parents/legal representatives; right to contact relatives and representatives of UNHCR and CPR; adoption of adequate measures by the management of the facility to prevent violence, and notably sexual and gender-based violence.
572 Articles 52-54 Children and Youth at Risk Protection Act.
The centre provides psychosocial and legal assistance, Portuguese language training, socio-cultural activities, as well as integration-related support (see Access to the Labour Market). Logistical support staff is present 24 hours a day and the overall cleaning of the centre is carried out by a private company, though the residents are expected to contribute to the cleaning of their room and that of the common kitchen.

According to the current reception strategy, in general, spontaneous asylum seekers are initially accommodated at CAR (until October 2022, after testing negative for COVID-19) for an initial period of 2 to 3 weeks during which social and health needs are identified and information on the host country is provided. Afterwards, the applicant generally moves to another accommodation with the support of CPR (either a hostel, apartment, or room in the private market). Vulnerable applicants remain in CAR if deemed appropriate. Support continues to be ensured by CPR's team.

While the average accommodation period with the assistance of CPR in 2022 continued to be two and a half months, an increase has been observed during the second semester. By the end of the year, overcrowding in relevant facilities became a concern once again, notably related to factors such as the increasing number of referrals, occasional delays in the transition into accommodation provided by other stakeholders, as well as the need to preserve family units.

CACR is composed of shared rooms with dedicated bathrooms/toilets and is equipped to accommodate asylum seekers with mobility constraints. Two resident cooks are responsible for the provision of meals in line with the nutritional needs of children, although children can be allowed to cook their own meals under supervision. The centre also has a laundry service, a playground and a small library, and provides psychosocial and legal assistance, Portuguese language training and socio-cultural activities. Children accommodated at CACR are systematically enrolled in local schools or in vocational training programmes. In 2022, the staff of CACR included three social workers and support staff (present 24 hours a day to ensure the overall functioning of the centre), who were assisted by legal officers and a language trainer.

CACR offers unaccompanied children appropriate housing and reception conditions regardless of the stage of the asylum procedure. Given the specific needs and contexts involved, the average stay in 2022 stood at 225 days.

The official capacity of CACR stands at 14 places but the existing gap in specialised reception capacity has resulted in overcrowding that has been partially averted by: changing arrangements in rooms to expand capacity while preserving adequate accommodation standards; resorting to separate accommodation of unaccompanied children above the age of 16 at the CAR and CAR 2, supervised by the Family and Juvenile Court (both as a measure of last resort in the case of capacity shortages, and in a process of growing autonomy for young applicants at more advanced stages of the integration process); and, depending on the individual circumstances, promoting the placement of children above the age of 16 in supervised private housing by decision of the Family and Juvenile Court in line with the protective measures enshrined in the Youths at Risk Protection Act.573

Absconding and the subsequent risk of human trafficking remain relevant concerns. A total of 12 out of 65 (18%) unaccompanied children accommodated by CPR absconded in 2022574 (see Special Reception Needs). CACR’s team reports cases where unaccompanied children were suspected to be victims of human trafficking to the competent authorities (see Guarantees for Vulnerable Groups: Identification).

A study focusing on the situation of asylum-seeking unaccompanied children and ageing out in Portugal published in 2021 revealed, inter alia, that the children and young people involved reported challenges related to the cultural and religious diversity of those living in reception centres, as well as difficulties in adjusting to different alimentary practices. Some of those questioned also highlighted difficulties in

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573 Act 147/99.
574 These figures include unaccompanied children who applied for asylum before 2022.
transitioning to autonomous living due to financial hurdles and, when dispersed to locations outside the Lisbon area, social isolation.575

Access to adequate housing is identified as a major issue within the national context by asylum seekers, refugees and NGOs.576 Factors such as high prices, and contractual demands including high deposits, need of guarantors and proof of income hinder the capacity of asylum seekers and refugees to access the market directly, and that of frontline service providers to increase reception capacity. Consequently, asylum seekers and refugees often have to resort to overcrowded or sub-standard housing options when accessing the private housing market.577

C. Employment and education

1. Access to the labour market

<table>
<thead>
<tr>
<th>Indicators: Access to the Labour Market</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the law allow for access to the labour market for asylum seekers?</td>
<td>☑ Yes ☐ No</td>
<td>When they apply for asylum (since August 2022)</td>
</tr>
<tr>
<td>❖ If yes, when do asylum seekers have access the labour market?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Does the law allow access to employment only following a labour market test?</td>
<td>☐ Yes ☑ No</td>
<td></td>
</tr>
<tr>
<td>3. Does the law only allow asylum seekers to work in specific sectors?</td>
<td>☐ Yes ☑ No</td>
<td></td>
</tr>
<tr>
<td>❖ If yes, specify which sectors:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Does the law limit asylum seekers’ employment to a maximum working time?</td>
<td>☐ Yes ☑ No</td>
<td></td>
</tr>
<tr>
<td>❖ If yes, specify the number of days per year</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Are there restrictions to accessing employment in practice?</td>
<td>☑ Yes ☐ No</td>
<td></td>
</tr>
</tbody>
</table>

An amendment to the Asylum Act enacted in 2022, determines that asylum seekers are entitled to the right to work from the moment of the application for international protection.578 Furthermore, asylum seekers are entitled to benefit from support measures and programmes in the area of employment and vocational training under specific conditions to be determined by the competent Ministries.579

There are no limitations attached to the right of asylum seekers to employment such as labour market tests or prioritisation of nationals and legally resident third country nationals. The issuance and renewal of declarations of asylum applications and provisional residence permits by SEF, which clearly state the right to employment,580 are free of charge.581 The only restriction on employment enshrined in the law consists in limiting access to certain categories of the public sector for all third-country nationals.582

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576 In addition to CPR, SCML and JRS also expressed this concern when providing information for the AIDA report.
577 It should be noted that while these issues are not only specific to applicants and beneficiaries of international protection, factors such as the absence of support networks increase their impact in asylum seeking and refugee families.
578 Articles 54(1), as amended by Act n.18/2022, of 25 August. Before this change, asylum seekers were entitled to access the labour market and to benefit from support measures and programmes in the area of employment and vocational training following admission to the regular procedure and issuance of a provisional residence permit.
579 Article 55 Asylum Act.
580 Ministerial Order 597/2015.
581 Article 84 Asylum Act.
582 Article 15(2) Constitution and Article 17(1)(a) and (2) Act 35/2014.
Asylum seekers benefit from the same conditions of employment as nationals, including regarding salaries and working hours. 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).

With the exception of the submission of beneficiaries of international protection to the same conditions applicable to Portuguese nationals, there are no specific rules regarding the recognition of diplomas and academic qualifications in the Asylum Act. The general rules for the recognition of foreign qualifications at primary, lower, and upper secondary levels include conditions that are particularly challenging for asylum seekers and beneficiaries of international protection (see Access to Education).

There are no statistics available on the number of asylum seekers in employment at the end of 2022. The Employment and Vocational Training Institute (Instituto do Emprego e Formação Profissional, IEFP) did not provide data on applicants and beneficiaries of international protection registered in their services for 2022.

A study focusing on the situation of asylum-seeking unaccompanied children and ageing out in Portugal published in 2021 revealed that, out of those consulted, 34.3% were working, mostly in civil construction. Only 65.2% of those questioned deemed the salaries as fair compensation for the work performed. The analysis conducted concluded that the participants are mostly engaged in unskilled and likely precarious jobs.

In 2022, within the context of CPR’s integration-related support, asylum seekers were able to find jobs in areas such as cleaning, costumer services, civil construction, and agriculture. With the exception of specific functions (such as electrician jobs), low salaries were generally observed.

In CPR’s experience, asylum seekers and beneficiaries of international protection face many challenges in securing employment, such as:

- Poor language skills and communication difficulties;
- Professional skills that are misaligned with the needs of employers;
- Difficulties in obtaining recognition of diplomas (particularly relevant for regulated professions);
- Lack of or difficulties in obtaining a social security identification number (Número de Identificação da Segurança Social, NISS) or fiscal identification (Número de Indentificação Fiscal, NIF);
- Difficulties in opening bank accounts, in particular due to the requirement to present documents such as a residence permit;
- Reluctance by employers to hire asylum seekers (namely due to lack of knowledge regarding their legal status);
- Lack of support network;
- Limited knowledge about the labour market and cultural norms;
- Difficulties in accessing certified training due to lack of proof of prior qualifications.

While the Fiscal authority drafted clear guidance regarding the sufficiency of the declaration of the asylum application for the issuance of fiscal numbers, throughout the year CPR continued to observe practical obstacles, such as difficulties in accessing the relevant services, and discrepancies in the treatment of
asylum seekers. Similar issues have been observed regarding registration with the Social Security, despite efforts from the authorities to simplify and digitalise processes.

Within the context of a specific project aiming to support the integration of unaccompanied children over 15 years old in the job market, internships and training opportunities, CPR observed additional challenges in the integration of asylum seekers in specific sectors such as sports, particularly by not being able to compete due to the lack of documentation. The project also highlighted the impacts of the challenges mentioned above in this specific group.

CPR’s Integration department continued to observe persistent challenges with regard to access to recognition/validation/certification of professional and academic competencies of asylum seekers and refugees. Notably:

- Lack of original diplomas and certificates (for instance, IEFP does not accept personal statements regarding qualifications, simply registering these persons as literate job applicants);
- Difficulties in obtaining certified translations of existing documents;
- Long administrative procedures for recognition/validation/certification, and lack of regular communication flows;
- Lack of knowledge of Portuguese language.

Upon admission to the regular procedure, asylum seekers can register as ‘job applicants’ with IEFP, being able to search for jobs, and benefit from vocational training and assistance.

While there are no specific programmes targeting applicants for and beneficiaries of international protection, asylum seekers and beneficiaries of international protection are included among the target population of some IEFP’s employability support measures.

Governmental programmes Estágios ATIVAR.PT (which provides for 9 month paid internships) and Incentivo ATIVAR.PT (which provides financial incentives to employers who recruit employees for 12 months or longer under the obligation to provide them with vocational training) include refugees in its priority groups. As such, applicants are exempt of the need to be registered with IEFP for a certain period to be eligible, and the financial support provided to the employer is increased by 10%.

According to CPR’s experience, the main challenge faced by applicants/beneficiaries of international protection within this context is that the amount paid to interns by the programme depends on their level of qualifications. As many applicants/beneficiaries of international protection cannot prove their qualifications, most of them are only eligible to the lowest tier of grant (in 2022, € 443.20). Furthermore, sometimes, asylum seekers are not allowed to register to these programmes, on the grounds of not yet being beneficiaries of international protection.

CPR’s Integration Department offers individual assistance that covers job search techniques, recognition procedures, search and referrals to vocational training and volunteering opportunities. Other NGOs, such as JRS, also provide employment assistance to asylum seekers and develop projects in this field.

In the context of relocation, ACM has created a Refugee Support Unit as well as tailored services within the National and Local Support Centres for the Support of Migrants (Centros Nacionais e Locais de Apoio à Integração de Migrantes, CNAIM/CLAIM) to support asylum seekers (e.g., hiring a permanent Arabic-speaking intercultural mediator, promoting entrepreneurship training for refugees). A number of services, such as free legal support and information on employment, training and recognition of qualifications, provided by multiple institutions, are available at CNAIM, a space also known as one-stop-shop.

589 With some branches requiring a passport for registration, for instance.
590 For more information see https://bit.ly/37eCZWD.
591 Additional information is available at: https://bit.ly/3uFUhlC.
592 It was not possible to confirm whether applicants for international protection admitted to the regular procedure are also included as was the case with previous similar programmes.
ACM has also launched the Refujobs online platform, that aims to match potential employers and asylum seekers and beneficiaries of international protection looking for employment as well as to build their capacity for self-employment.

The National Plan to Combat Racism and Discrimination 2021-2025 provides for the implementation of training courses with internships in the area of tourism to promote the integration of refugees and migrants in the labour market.594

Portuguese Language training
The legal framework for public Portuguese language was amended in 2022, expanding access to persons over 16 years old (previously, it only covered persons over 18), and to applicants for temporary protection.595 Access by asylum seekers was already provided for.

According to available information asylum seekers are able to register with IEFP to access Portuguese language training.596

Among the challenges traditionally encountered in this area are the lack of training tailored to persons with low levels of education/illiteracy/poor knowledge of the Latin alphabet, the limited availability of alphabetic training for foreigners, as well as limited availability of training at B1 and B2 levels due to group size requirements. This was particularly challenging in certain parts of the country with lower numbers of eligible learners.

In 2022, CPR observed an improvement in the access of asylum seekers to ‘Portuguese as a host language’ courses, the public Portuguese language training scheme, with an increase of the number of entities that may organise relevant courses.597

ACM also funds informal language trainings, that are delivered by municipalities and civil society organisation.598

CPR provides literacy,599 and Portuguese language training free of charge to asylum seekers who are accommodated at CAR, CACR, in private housing provided by the institution, and to asylum seekers and beneficiaries of international protection assisted by other institutions that live nearby CPR’s facilities or that can easily reach them. This training includes a sociocultural component, with activities inside and outside the classrooms, aiming to promote integration in the hosting society.

In 2022, CPR provided 1,385 hours of training to 347 applicants for and beneficiaries of international protection.

A partnership between CPR and the Faculty of Social and Human Sciences of NOVA University continued to enable the referral of applicants for and beneficiaries of international protection to Portuguese language classes throughout the year.

ACM an Online Platform for Portuguese to promote informal learning of Portuguese.

596 According to the information available to CPR’s Integration Department, in 2022, enrolment in IEFP to access Portuguese language training was possible to all asylum seekers, regardless of their document and of the existence of NISS and NIF.
598 For more information on these programmes see ACM, Learning of the Portuguese Language, available at: http://bit.ly/2iqmXQg.
599 Literacy courses were not held in 2022.
Vocational training

Regarding vocational training, the low level of language skills associated with the lack of diplomas and/or potentially challenging recognition procedures, render access to vocational training offered by IEF and its partners within the public system challenging to most asylum seekers and beneficiaries of international protection while vocational training in the private sector is generally unaffordable. In this regard, as of 2018 asylum seekers admitted to the regular procedure and beneficiaries of international protection that are unable to present the relevant diplomas/certificates or whose documents and academic qualifications have not been recognised in the Portuguese educational system can be registered by IEF as ‘literate users’ in the SIGO platform. Other than Portuguese language training courses, such registration only provides access to: (a) modular training 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. Neither modular training nor training in basic skills entail an academic certification.

2. Access to education

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<thead>
<tr>
<th>Indicators: Access to Education</th>
<th>Yes</th>
<th>No</th>
</tr>
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<tbody>
<tr>
<td>1. Does the law provide for access to education for asylum-seeking children?</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>2. Are children able to access education in practice?</td>
<td>☐</td>
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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. This right cannot be curtailed if the asylum seeker reaches adulthood while already attending school to complete secondary education. The Ministry in charge of education is responsible for ensuring the right of children to education.

Enrolment in schools (primary, lower and upper secondary education levels) requires a procedure for the recognition of foreign academic qualifications, but children must be granted immediate access to schools and classes while that procedure is pending.

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, such as:

- The presentation of documents certifying academic qualifications, and, eventually, of additional supporting documents;
- The presentation of duly translated and legalised documents;

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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 IEF, Fomação Modular, available in Portuguese at: https://goo.gl/aCPTXi.


603 Article 53(1) Asylum Act.
604 Article 53(2) Asylum Act.
605 Article 61(4) Asylum Act.

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In the absence of such documents, the presentation of a sworn statement issued by the applicant or their parents or legal guardian accompanied by a statement from an Embassy or a reception organisation related to the country of origin confirming exceptional individual circumstances; and the completion of a competency test.

Given that asylum seekers are rarely in possession of duly legalised diplomas and other supporting documents, the procedure generally entailed a placement test conducted by the school taking into account the age and school year of the applicant. 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.

In 2020, the Directorate-General for Education (DGE) and the National Agency for Qualification and Vocational Education and Training (ANQEP) issued a circular letter regarding extraordinary educational measures applicable to children applicants/beneficiaries of international protection. It clarifies procedures for the recognition of academic qualifications/school placement, the progressive integration in the Portuguese education system, and provides for the reinforcement of Portuguese language training, and school social support. These guidelines are only applicable to children within the compulsory school age (6 to 18 years old).

Accordingly, with regard to the recognition of qualifications/school placement:

- **In the absence of documents proving the academic/professional qualifications** (e.g. certificates, diplomas), applicants must present the following elements: (i) a sworn statement issued by the applicant, their parents or legal guardian, specifying the number of school years completed; (ii) a statement by a competent authority (such as SEF, CPR or ACM) confirming exceptional individual circumstances. If any document concerning previous qualifications is available to the applicant, it should be added to the process. In this case the applicant is integrated in the education system, but no equivalence/recognition is granted. Placement must consider the age of the applicant and the corresponding school level. School attendance must be ensured during the first month following enrolment and may be progressive. While the analysis is pending, the applicant must be conditionally enrolled in school enabling them to attend the corresponding activities.

- **If documents proving the academic/professional qualifications are available**, in order to obtain an equivalence, the relevant norms apply, but applicants are exempt from translating and legalising the certificates/diplomas. Processes are analysed by DGE (primary, lower, and upper secondary levels) or by ANQEP (other qualifications, excluding higher education). School attendance must be ensured during the first month following enrolment and may be progressive. While the analysis is pending, the applicant must be conditionally enrolled in school enabling them to attend the corresponding activities.

As such, currently, in practice, school placement of children does not require the performance of tests.

The 2020 circular letter further reaffirmed the increased autonomy of schools in adjusting activities to the specific needs of asylum seekers and beneficiaries of international protection. Such adaptations include a progressive convergence with the regular curriculum by temporarily exempting students from certain

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611 Article 10(1) and (2) Decree-Law 227/2005.
612 The content of the test varies according to the level of education and the curriculum, but always includes a Portuguese as a Second Language. See Article 10(5) and (6) Decree-Law 227/2005.
614 Article 11(2), (3) and (4) Decree-Law 227/2005.
616 Applicants previously identified by governmental entities are exempt of presenting this statement.
617 Decree-Law 227/2005 of 28 December (primary, lower and upper secondary levels) and Order 13584/2014 of 10 November.
618 Only if the documents are written in German, Spanish, French or English.
subjects and providing additional Portuguese language classes. The guidelines also clarify the entitlement of asylum seekers and beneficiaries of international protection to the various modalities of social assistance available to students enrolled in the public education sector for the purposes of food, accommodation, financial assistance and school supplies.\textsuperscript{619} Furthermore, the circular letter recommends the creation of multidisciplinary teams in hosting schools to support response to specific needs. However, such teams must be created with existing resources.

In the course of 2020, several reference documents were created to support schools and teachers. The relevant instruments are available online.\textsuperscript{620}

A Ministerial Order issued in 2022 by the Secretary of State of Education,\textsuperscript{621} defined further rules to support students whose first language is not Portuguese. This allows schools to adopt specific integration and support measures, based on the situation of each student.

DGEstE supports coordination between reception entities and public schools to ensure integration in the education system. According to the information provided by the entity in 2021, its staff provided follow up in schools and liaised with staff of relevant reception facilities.

In practice, accompanied and unaccompanied children are systematically referred to public schools upon accommodation at CAR and CACR or contact with CPR’s social workers. According to the experience of the organisation, enrolment in local public schools is generally guaranteed within a reasonable period (on average, two weeks). Unaccompanied children enrolling in upper secondary education are usually enrolled in an area of their interest with subsequent adjustments introduced afterwards considering the individual progress. According to the experience of CPR, this has been positive, allowing a smoother integration in the education system and faster language learning.

Nevertheless, CPR has highlighted the need to consider other frequent challenges, such as the lack of adequate solutions to children over 15 years old with little or very low education. In the absence of dedicated solutions, these children are included in existing pathways (such as adult training) that are not necessarily adjusted to their needs. According to the information provided by DGEstE in 2021, efforts have been made to increase the response to older children and young adults with low qualifications (namely by increasing flexibility in the creation of training groups of adult learning programmes).

In 2022,\textsuperscript{622} UNICEF Portugal conducted a number of training sessions on integration of unaccompanied children to school communities in partnership with ACM and DGEstE.\textsuperscript{623} According to the information shared by the organisation, these activities allowed for the identification of promising practices such as:

- The creation of the role of “tutor”, a school professional with an increased focus on the integration of the child;
- The adaptation of activities and spaces of the school to better respond to the needs of unaccompanied children;
- The use of interpreters and technology to facilitate communication.

Nevertheless, persistent challenges were also observed. Notably:

- Insufficient Portuguese language training;
- Dissonance between the expectations of the children with regard to school and labour integration and the reality;
- Insufficient specialised human resources in schools to ensure individual support/action;


\textsuperscript{621} Order no.2044/2022, of 16 February 2022, available at: https://bit.ly/437KqqN.

\textsuperscript{622} Until March 2023.

\textsuperscript{623} Covering 14 school clusters and 206 participants.
Lack of structured communication between relevant actors.

UNICEF Portugal also reported that, in 2023, it will establish a community of practice between the schools covered by the training in order to facilitate information-sharing.

Following the 2022 amendment, the Asylum Act establishes that all asylum seekers are entitled to access vocational training. Nevertheless, according to CPR’s experience, access to vocational training by adults remains particularly limited as opportunities generally require a good command of the Portuguese language and diplomas that asylum seekers and beneficiaries of international protection rarely have or are unable to legalise due to the legal requirements of recognition procedures (see Access to the Labour Market).

A study focusing on the situation of asylum-seeking unaccompanied children and ageing out in Portugal published in 2021 revealed that, out of those consulted 55.2% felt safe in school and only 4.5% disagreed. The report also observed that there is an overall positive image of teachers and of the overall school context. With regard to integration, however, language barriers have been mentioned as a significant challenge.

Regarding higher education, the Government introduced the ‘student in an emergency situation for humanitarian reasons’ status in 2018, following a review of the Portuguese educational system by the Organisation for Economic Co-operation and Development (OECD).

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. According to the law, beneficiaries of international protection and asylum seekers admitted to the regular procedure are entitled to the status by operation of the law. 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, equal treatment to Portuguese students regarding university fees and other levies, and full access to social assistance available to higher education students. It should be noted that the rules do not address the issue of access to entry visas for eligible students living abroad.

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. Such exemptions are analysed on a case-by-case basis. In 2020, this possibility was extended to situations where the applicant cannot prove their qualifications due to circumstances affecting the regular functioning of the institutions of the State concerned.

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624 Article 55(1) Asylum Act.
626 Ibid, 54.
629 Article 8A(1) Decree-Law 36/2014.
630 Article 8A(2) (a) and (b) and 3(a) Decree-Law 36/2014.
633 Article 10(1) Decree-Law 36/2014.
It is unclear to CPR whether this status has an effective impact on access to higher education by applicants for and beneficiaries of international protection.

**D. Health care**

**Indicators: Health Care**

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation? ✗ Yes ☐ No
2. Do asylum seekers have adequate access to health care in practice? ☒ Yes ☐ Limited ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice? ☒ Yes ☐ Limited ☐ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care? ☒ Yes ☐ Limited ☐ No

The Asylum Act enshrines the right of asylum seekers and their family members to health care provided by the National Health System (Serviço Nacional de Saúde, SNS),\(^{637}\) and includes a specific provision on the right to adequate health care at the border.\(^{638}\)

The primary responsibility for the provision of health care lies with the Ministry of Health,\(^{639}\) except for asylum seekers detained at the border that fall under the responsibility of the Ministry of Home Affairs.\(^{640}\) The latter can however cooperate with public entities and/or private non-profit organisations to ensure the provision of such services.\(^{641}\)

In accordance with the Asylum Act\(^ {642}\) the specific rules governing access of asylum seekers and their family members to health care\(^ {643}\) are provided by Ministerial Order No 30/2001 and Ministerial Order No. 1042/2008,\(^ {644}\) according to which:

1. Access to health care encompasses medical care and medication, and is available from the moment the asylum seeker applies for asylum;\(^ {645}\)
2. Medical assistance and access to medicines for basic health needs and for emergency and primary health care are to be provided under the same conditions as for Portuguese citizens;\(^ {646}\)

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637 Articles 52(1) and 56(1) Asylum Act.
638 Article 56(2) Asylum Act. This provision should be read in conjunction with Article 146-A(3) Immigration Act that provides for the right of pre-removal detainees in CIT to emergency and basic health care.
639 Article 61(3) Asylum Act.
640 Article 61(1) Asylum Act. While not included in this provision, SEF should also be considered responsible for providing access to health care to asylum seekers in pre-removal detention given its managing responsibilities of CIT: Article 146-A(3)-(4) Immigration Act.
642 Article 52(1) *in fine* Asylum Act.
644 Ministerial Order No 1042/2008 extends Ministerial Order No 30/2001 *ratione personae* to applicants for subsidiary protection and their family members.
645 Ministerial Order No 30/2001, para 2. Under Article 52(2) Asylum Act, the asylum seeker is required to present the certificate of the asylum application to be granted access to health care under these provisions. The internal guidance note issued on 12 May 2016 by the ACSS and the DGS provides for possible documents entitling the asylum seeker to access health care and includes a complete list of documents issued to the asylum seeker by SEF during the asylum procedure (e.g., renewal receipts of the certificate of the asylum application, provisional residence permit, etc.)
3. Asylum seekers have access to the SNS free of charge for emergency health care, including diagnosis and treatment, and for primary health care as well as assistance with medicines, to be provided by the health services of their residence area.

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. 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. This provision remains to be tested in practice (see Reduction or Withdrawal of Reception Conditions).

The special needs of particularly vulnerable persons must be taken into consideration in the provision of health care and special medical care, and specialised mental health care including for survivors of torture and serious violence and in detention. The responsibility for special treatment required by survivors of torture and serious violence lies with ISS.

In practice, asylum seekers have effective access to free health care in the SNS in line with the applicable legal provisions. However, persisting challenges have an impact on the quality of health care. According to prior research, and to the information available to CPR, these include:

- Language and cultural barriers (e.g., the lack of interpreters for certain languages and the reluctance of health care services to use interpretation services such as ACM’s translation hotline);
- Difficult access to diagnosis procedures and medication paid by the SNS due to bureaucratic constraints;
- Very limited access to mental health care and to other categories of specialised medical care (e.g., dentists) in the SNS.

According to CPR’s experience, despite some challenges, it has been possible for unaccompanied children under its to access mental health care support within the SNS or through other resources. CPR’s CACR has also registered an improvement in access to mental health care in 2022 due to a protocol established with Psychiatric Hospital Centre of Lisbon that allowed easier and faster access to services, medication and specialised care.

In 2021, CPR created a Psychological Support Department. The department, which has one psychologist, provides psychological assistance to applicants for international protection supported by CPR, and also facilitates referrals to relevant services provided by partners such as psychiatric follow-up. In the course of 2022, the Psychological Support Department provided 525 individual consultations, mediated through

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648 For the purposes of free access to the SNS, primary health care is to be understood as including among others: (i) Health prevention activities such as out-patient medical care, including general care, maternal care, family planning, medical care in schools and geriatric care (ii) specialist care, including mental care (iii) in-patient care that does not require specialised medical care, (iv) complementary diagnostic tests and therapies, including rehabilitation and (v) nursing assistance, including home care: Ministerial Order No 30/2001, par.6.
649 Ministerial Order No 30/2001, par.5.
650 Ministerial Order No 30/2001; par.8.
651 Article 60(7) Asylum Act.
652 Article 77(1) Asylum Act.
653 Articles 52(5) and 56(2) Asylum Act.
654 Articles 78(3)-(4) and 80 Asylum Act.
655 Article 35-B(8) Asylum Act.
656 Article 80 Asylum Act.
658 In this regard, DGS noted in the past that such difficulties are similar to those faced by Portuguese citizens. Particularly through programme “Aparece” (information available at: https://bit.ly/3mzqad1.
multicultural meetings with applicants for international protection and organised other group activities, and made referrals to external services.

According to the information provided by SCML, the team ensuring support to asylum seekers includes a psychologist. Applicants can also be referred to psychiatric care within the health care units managed by the organisation. SCML also confirms that access to mental healthcare within the SNS is often challenging, particularly due to delays, the suitability of available solutions, and language barriers. JRS also reported having a Mental Health Office, specialising migration-related matters.

In August 2020, the National Association of Pharmacies informed its associates of new procedures regarding medical prescriptions issued to applicants for international protection. According to CPR's experience, access to medication by the SNS has improved and, in general, applicants only have to pay for medication that is not (fully or partially) co-paid by the SNS. Nevertheless, there are still discrepancies in the procedures adopted by different health units for the issuance of prescriptions and flaws in the issuance of digital prescriptions. This led, for instance, to the need for CPR to pay for the medication of unaccompanied asylum-seeking children under the care of CACR on several occasions.

CPR and the local health centres of Loures-Odivelas cooperate closely. The long-term care unit conducts medical appointments at CAR once a week and ensures the implementation of the national vaccination plan as well as COVID-19 vaccination among applicants. Additionally, the unit provides routine support to persons in need of assisted medication, pregnant women, new-borns, as well as to persons with other health-related vulnerabilities. Within the context of the coronavirus pandemic, the team also supported testing whenever necessary.

CPR provides financial support to unaccompanied asylum-seeking children and asylum seekers in admissibility and accelerated procedures to cover the costs of diagnosis procedures and medication depending on the individual circumstances and available resources. Unaccompanied children residing at CPR’s CACR usually have access to dental care in the private sector in urgent situations.

In 2022, CACR continued to face challenges in liaising with the geographically responsible healthcare unit, including for registration (a necessary requirement for subsequent medical follow-up, vaccination, Covid testing). Access has been ensured with the support of other healthcare units.

According to a study focusing on the situation of asylum-seeking unaccompanied children and ageing out in Portugal published in 2021, the majority of participants evaluated their health condition and the relationship with doctors positively and did not feel discriminated within the context of healthcare.

In 2021, DGS launched an awareness-raising campaign targeting the general population and healthcare practitioners focusing on the promotion of human rights and prevention of violence and discrimination towards migrants and refugees.

### E. Special reception needs of vulnerable groups

**Indicators: Special Reception Needs**

1. Is there an assessment of special reception needs of vulnerable persons in practice?

- Yes
- No

An ‘applicant in need of special reception needs’ is defined in terms of reduced ability to benefit from the rights and comply with the obligations stemming from the Asylum Act due to their vulnerability. The Asylum

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660 Following what was prescribed in the handbook governing the relationship between Pharmacies and the SNS, available at https://bit.ly/3sapk7K.

661 Sandra Roberto, Carla Moleiro, ed. Observatório das Migrações, De menor a maior: acolhimento e autonomia de vida em menores não acompanhados, April 2021, pp. 44 et seq. available at: https://bit.ly/3lqMKKBK.

662 For more information see: https://bit.ly/3JuehPe.
Act provides for a non-exhaustive list of applicants with an increased vulnerability risk profile that could need special reception conditions: minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of domestic violence and female genital mutilation.\(^{663}\)

While the Asylum Act also refers to guarantees available to particularly vulnerable persons,\(^{664}\) the two concepts seem to be used interchangeably, meaning that any person with special reception needs is a priori a vulnerable person for the purposes of the Asylum Act.\(^{665}\)

The identification of persons with special needs and the nature of such needs must take place upon registration of the asylum application or at any stage of the asylum procedure,\(^{666}\) but within reasonable time following registration.\(^{667}\)

The provision of special reception conditions should take into consideration: (i) the material reception needs of particularly vulnerable persons;\(^{668}\) (ii) their special health needs, including those particular to survivors of torture and serious violence.\(^{669}\)

The law further details the modalities of some of these categories of special reception conditions particularly regarding the special needs of children\(^{670}\) (including unaccompanied children)\(^{671}\) and housing conditions.

There are no specific mechanisms, standard operating procedures, or units in place to systematically identify asylum seekers in need of special reception conditions. The only exceptions are age assessment procedures and procedures for the identification and protection of potential victims of trafficking that present practical and technical implementation challenges (see Identification).

In the framework of admissibility (including Dublin) and accelerated procedures on the territory, asylum seekers who present apparent vulnerabilities entailing special reception needs such as children, disabled people, elderly people, pregnant women, single parents with minor children, persons with serious illnesses or mental disorders would generally be identified by CPR within a reasonable period of time after registration. This is done based on information received from SEF prior to their referral to CPR’s reception centres or collected directly during legal assistance, social interviews or initial medical screenings.

In 2021, CPR created a Psychological Support Department. The department, which has one psychologist, provides psychological assistance to applicants for international protection supported by CPR, and also facilitates referrals to relevant services provided by partners such as psychiatric follow-up. In the course of 2022, the Psychological Support Department provided 525 individual consultations, mediated multicultural meetings with applicants for international protection and organised other group activities, and made referrals to external services.

According to SCML, asylum seekers referred to the organisation by the SOG benefit from specific social counselling at the appeal stage and may be referred to homeless shelters managed by the organisation on a temporary basis to address specific vulnerabilities. Rooms with individual bathrooms can also be used to respond to certain special needs. Similarly, according to ISS special needs are assessed and

\(^{663}\) Article 2(1)(ag) Asylum Act.
\(^{664}\) Article 2(1)(y) Asylum Act.
\(^{665}\) Article 77(1) and (3) Asylum Act.
\(^{666}\) Article 77(2) Asylum Act.
\(^{667}\) Article 77(3) Asylum Act.
\(^{668}\) Articles 56(2) and 77(1) of Asylum Act.
\(^{669}\) Articles 35-B(8), 52(5), 56(2), 78(3)-(4) and 80 Asylum Act.
\(^{670}\) Article 78 Asylum Act.
\(^{671}\) Article 79 Asylum Act.
vulnerable asylum seekers are provided differentiated support during the regular procedure, notably in the case of children, disabled and the elderly.

According to the information provided by SCML, the team ensuring support to asylum seekers includes a psychologist. Applicants can also be referred to psychiatric care within the health care units managed by the organisation. SCML also confirms that access to mental healthcare within the SNS is often challenging, particularly due to delays, suitability of available solutions and language barriers.

JRS also reported having a Mental Health Office, specialising in the field of migration.

In November 2020, a specific service to support victims of domestic violence and/or traditional harmful practices was inaugurated in CNAIM Lisbon. Another one was inaugurated in February 2021 in CNAIM Norte.

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

In September 2022, UNHCR and EUAA organised two training sessions on the Agency’s Tool for Identification of Persons With Special Needs in Lisbon.

1. Reception of families and children

The accommodation of unaccompanied children who are 16 and over in adult reception centres and the initiation of family tracing are dependent on a best interests assessment. Under the Asylum Act, the best interest of the child also requires that children:

- Be placed with parents or, in their absence, with adult relatives, foster families, specialised reception centres or tailored accommodation;
- Not be separated from siblings;
- Are offered stability, notably by keeping changes in place of residence to a minimum;
- Are ensured well-being and social development;
- Have security and protection challenges addressed, notably where there is a risk of human trafficking; and
- Express their opinion, taking into consideration their age and maturity.

The provision of special reception conditions during the asylum procedure includes a specialised reception centre for unaccompanied children, CACR, and the accommodation of unaccompanied children who are 16 or older in CAR and CAR 2 as a measure of last resort, in the absence of appropriate alternatives or in pre-autonomy stages (see Types of Accommodation). CPR promotes family tracing, in partnership with the Portuguese Red Cross (CVP), if considered to be in the best interest of the child and taking into consideration the child’s opinion.

CPR’s reception centres offer facilities to accommodate disabled people and playgrounds for children who are systematically enrolled in public education. Despite practical challenges, families are generally given separate accommodation either at CAR or in external accommodation. Asylum seekers are

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674 Article 79(10) and (14) Asylum Act.
675 Article 78(2)(a)-(h) Asylum Act.
generally referred to the SNS for health assessments and care, including differentiated care, even though referral constraints particularly for mental health care and certain categories of specialised medical care have been traditionally experienced.

To the extent that it is possible, and with consent of the applicants, family unity should be preserved in the provision of housing, 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.

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. Among the measures adopted by CPR in this regard are the definition of separate room areas, the development awareness raising activities, the possibility to adopt accommodation arrangements adequate to specific needs, and monitoring by staff.

In May 2022, ACM signed a cooperation agreement with the organisation Adolescer, to implement a specific reception programme for single parent families and young people.

While commending the efforts of the Portuguese authorities within the implementation of the bilateral relocation of unaccompanied children from Greece, UNICEF also pointed out that there is no structured reception strategy for this group, leading to discrepancies in the treatment granted to unaccompanied children depending on the particularities of their case (relocated/spontaneous applicant, for instance). The organisation also reported being aware of situations where unaccompanied children are housed in non-specialised residential care facilities without clear criteria thereto.

## 2. Reception of survivors of torture and violence

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

The provision of reception conditions by ISS in the regular procedure following a dispersal decision by the SOG is done in accordance to agreed standards. In each district there is a responsible officer for reception conditions who reports directly to central services, but there is no specialised team dedicated to survivors of torture and/or serious violence. According to ISS, caseworkers can make referrals to specialised services at local level, for instance, for asylum seekers placed in the area of Coimbra, ISS has the possibility to make referrals to the Centre for the Prevention and Treatment of Psychogenic Trauma that provides differentiated mental health care adapted to the needs of survivors of torture and/or serious violence.

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676 Articles 51(2) and 59(1)(a) and (b) Asylum Act.
677 Article 59(1)(c) Asylum Act.
678 Article 59(1)(e) Asylum Act.
680 Article 80 Asylum Act.
F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

The Asylum Act provides for the right of asylum seekers to be immediately informed about their rights and duties related to reception conditions.\(^{681}\) It also foresees that they must be informed about the organisations that can provide assistance and information regarding available reception conditions, including medical assistance.\(^{682}\) Furthermore, SEF is required to provide asylum seekers with an information leaflet, without prejudice to providing the information contained therein orally.\(^{683}\) In both cases the information must be provided in a language that the asylum seeker either understands, or is reasonably expected to understand.

In practice, upon registration, asylum seekers receive an information leaflet from SEF regarding their rights and duties that briefly covers some information regarding reception conditions. According to CPR’s experience, the leaflet is only available in a limited number of foreign languages (e.g., Portuguese, French, English, Ukrainian, Russian, Arabic, and Lingala). While specific information leaflets on reception and unaccompanied children (with information on reception conditions) are available online,\(^{684}\) CPR is not aware of their systematic distribution to asylum seekers, including to unaccompanied children. The information contained in the leaflets is brief and not considered user-friendly, particularly in the case of unaccompanied children.

In accordance with existing MoUs with the authorities (see Responsibility for Reception), CPR provides information to asylum seekers throughout the asylum procedure and particularly during admissibility (including Dublin) and accelerated procedures. This is done through individual interviews as well as through social and legal support. The information provided by CPR broadly covers the information requirements provided in the law as regards the institutional framework of reception, including on the dispersal policy, as well as the types and levels of material reception conditions, access to health care, education, employment, etc. Information leaflets regarding CAR’s support are also distributed.

The information provided by CPR further includes the provision of tailor-made information to unaccompanied children upon their admission to CACR orally and using supporting materials such as a leaflet that contains child-friendly information on internal rules, available services, geographical location, general security tips and contacts, etc. (available in Portuguese, English, Russian, Tigrinya and French).

During the regular procedure and at appeal stage, asylum seekers should benefit from individual follow-up with ISS and SCML. While no research has been conducted to date to assess the impact of the dispersal policy, CPR is not aware of any serious challenges in accessing social services or in the provision of information regarding reception conditions during this stage of the asylum procedure despite some complaints regarding difficulties in securing an appointment/effective contact, accessing specific services, and language barriers.

Other organisations such as JRS, Crescer, and ACM through its Local Support Centres for Migrants Integration (CLAIM), also provide information and assistance to asylum seekers during the first instance of the regular procedure albeit in a limited number of cases and mostly focused on integration.

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681 Article 49(1)(a) Asylum Act.
682 Article 49(1)(a)(iv) Asylum Act.
683 Article 49(2) Asylum Act.
2. Access to reception centres by third parties

<table>
<thead>
<tr>
<th>Indicators: Access to Reception Centres</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?</td>
</tr>
<tr>
<td>☒ Yes □ With limitations □ No</td>
</tr>
</tbody>
</table>

The Asylum Act provides for the right of access to reception centres and other reception facilities for family members, legal advisers, UNHCR, CPR, and other refugee-assisting NGOs recognised by the State for the provision of assistance to asylum seekers. 685

The internal regulation of CACR provides for the right of unaccompanied children to receive visits from family and friends upon approval by the Family and Juvenile Court. The internal regulation of CAR provides for a general right to visits upon authorisation of the Director of the Centre.

In practice, asylum seekers accommodated at CAR and CACR benefit from legal assistance from CPR’s staff (see Regular Procedure: Legal Assistance) as well as from information and facilitation of contacts and meetings with lawyers at appeal stage. Such meetings can either take place at the reception centres or at the lawyers’ offices, in the presence of a representative of CPR in the case of unaccompanied children.

G. Differential treatment of specific nationalities in reception

There is no information available regarding discrimination or preferential treatment of asylum seekers pertaining to reception conditions such as accommodation, health care, employment, education or others, on the basis of nationality.

Nevertheless, in 2021, the emergency reception of Afghans evacuated from their country of origin and transferred to Portugal was subject to different procedures. While their applications for international protection followed the regular procedure, the reception of those evacuated was structured in two stages: first, they remained in temporary reception centres in the Lisbon area (managed by different entities), and afterwards, they were transferred to individualised solutions organised by ACM and ISS.

685 Article 59(4) Asylum Act.
A. General

**Indicators: General Information on Detention**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Total number of asylum seekers detained in 2022:</td>
<td>306</td>
</tr>
<tr>
<td>2. Number of asylum seekers in detention at the end of 2022:</td>
<td>39</td>
</tr>
<tr>
<td>3. Number of detention centres specifically for asylum seekers:</td>
<td>2</td>
</tr>
<tr>
<td>4. Total capacity of detention centres specifically for asylum seekers:</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

Since March 2020, detention of asylum seekers predominantly occurs when applicants for international protection were previously detained due to a removal procedure, and in cases where precautionary measures/alerts regarding the person concerned are active. Detention within the context of border procedures was the rule until March 2020 but, since then, such procedures have not been systematically applied. At the time of writing, it is not clear whether this is temporary or will become permanent practice and whether it applies to all national border posts. The border procedure and corresponding detention regime continue to be provided in national law.

While the Asylum Act also provides for the possibility of placing other categories of asylum seekers in detention, including those subjected to Dublin procedures, according to CPR’s experience, these are not used in practice.

The competent authority to place and review the detention of an asylum seeker in a CIT, or in detention facilities at the border, 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.

UNHCR, CPR, legal representatives, and other NGOs have effective access to asylum seekers in detention at the border in accordance with the law. Nevertheless, access to legal information as well as assistance in detention has been hindered by factors such as shorter deadlines, and limited capacity of service providers.

In addition to the impacts of detention, shorter deadlines and reduced procedural guarantees are applicable in the context of procedures conducted while the applicants are detained. These reduced guarantees may give rise to risks of poorer quality decision-making.

**Unidade Habitacional de Santo António** (CIT – UHSA) is the only temporary installation centre per...
As currently functioning in Portugal. The main detention facility at the border is located in the international area of Lisbon airport, and has an overall capacity of 24 places.\textsuperscript{696}

SEF reported that a total of 306 asylum seekers have been detained in 2022 within the context of coercive removal procedures by court order (185 at CIT-UHSA and 121 at EECIT Lisbon).

### B. Legal framework of detention

#### 1. Grounds for detention

<table>
<thead>
<tr>
<th>Indicators: Grounds for Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. In practice, are most asylum seekers detained</strong></td>
</tr>
<tr>
<td>- on the territory:</td>
</tr>
<tr>
<td>- at the border:</td>
</tr>
<tr>
<td><strong>2. Are asylum seekers detained during a regular procedure in practice?</strong></td>
</tr>
<tr>
<td>☐ Frequently</td>
</tr>
<tr>
<td><strong>3. Are asylum seekers detained during a Dublin procedure in practice?</strong></td>
</tr>
<tr>
<td>☐ Frequently</td>
</tr>
</tbody>
</table>

Under the Asylum Act, detention of asylum seekers cannot be based on the application for international protection alone,\textsuperscript{697} and can only occur on grounds of:

- National security, public order, public health; or
- Risk of absconding; and

Must be based on an individual assessment and occur only if the effective application of less severe alternative measures is not possible.\textsuperscript{698}

The possible grounds for the detention of asylum seekers also include:\textsuperscript{699}

- Applying for asylum at the border;
- Applying for asylum following a decision of removal from national territory; or
- The application of the Dublin procedure.

According to the law, detention may only be applied if it is not possible to effectively implement less severe alternative measures.

Moreover, Article 26(1) of the Asylum Act also determines that asylum seekers who applied for asylum at the border remain in the international area of the (air)port while waiting for the decision.\textsuperscript{700}

As mentioned in General, systematic detention of asylum seekers in Portugal has been applied within the context of border procedures in which asylum seekers were detained until their application was admitted to the procedure (7 days),\textsuperscript{701} or for a maximum of 60 days in case of an appeal against the rejection of

\textsuperscript{696} While pre-removal facilities also exist in the airports of Ponta Delgada and Madeira, CPR is unaware of its use for detention of applicants for international protection. According to the information provided by SEF, as in 2021, the detention facilities located in the international areas of Porto and Faro airports remained closed in 2022.

\textsuperscript{697} Article 35-A(1) Asylum Act.

\textsuperscript{698} Article 35-A(2) Asylum Act.

\textsuperscript{699} Article 35-A(3) Asylum Act.

\textsuperscript{700} It is our understanding that while this article seems to provide for the general detention of asylum seekers within the context of border procedures, it must be applied with due regard for the rules established in Art.35-A of the Asylum Act.

\textsuperscript{701} Article 26(4) Asylum Act.
the application. \(^{702}\) According to the information provided by SEF, while a total of 694 asylum applications were made at the border in 2022, only a residual was were analysed under the border procedure (due to the existence of relevant precautionary measures).

At the time of writing, it remains unclear whether this was temporary or will become permanent practice.

Asylum seekers who apply for asylum in detention at a CIT due to a removal procedure remain in detention during the asylum procedure until their application is admitted to the procedure (10 days)\(^{703}\) or for a maximum of 60 days in case of an appeal against the rejection of the asylum application.\(^{704}\) While the Asylum Act provides for the suspension of all administrative and/or criminal procedures related to the irregular entry of the asylum applicant on the national territory - and thus requires that the competent authorities are informed of the asylum application within 5 days for that purpose - \(^{705}\) detention at a CIT due to a removal procedure will rarely, if ever, be suspended \textit{ex officio} by the Criminal Courts on that basis. Detention within this context continues to be systematically applied.

CPR is unaware of case law relating to or judicial interpretations of detention grounds such as the application of a Dublin procedure, threat to national security, public order, public health, or risk of absconding.

2. Alternatives to detention

<table>
<thead>
<tr>
<th>Indicators: Alternatives to Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Which alternatives to detention have been laid down in the law?</td>
</tr>
<tr>
<td>☑ Reporting duties</td>
</tr>
<tr>
<td>☑ Surrendering duties</td>
</tr>
<tr>
<td>☑ Financial guarantee</td>
</tr>
<tr>
<td>☑ Residence restrictions</td>
</tr>
<tr>
<td>☑ Other</td>
</tr>
<tr>
<td>2. Are alternatives to detention used in practice?</td>
</tr>
<tr>
<td>□ Yes □ No</td>
</tr>
</tbody>
</table>

As mentioned in \textit{Grounds for Detention}, according to the Asylum Act, detention of asylum seekers requires an assessment of the individual circumstances of the applicant and of the possibility to effectively implement less severe alternative measures,\(^{706}\) thus demanding proof that alternatives to detention cannot be effectively applied. The Asylum Act lays down alternatives to detention consisting either of reporting duties before SEF on a regular basis or residential detention with electronic surveillance (house arrest).\(^{707}\)

Despite the safeguards enshrined in the law to ensure that detention of asylum seekers, including at the border, is used as a last resort and only where necessary, in practice, criminal courts rarely conducted an individual assessment on whether it is possible to effectively implement alternatives to detention. Even where the Criminal Court of Lisbon invited SEF to consider the release of families with children and their referral to CAR,\(^{708}\) the decisions systematically fell short of conducting an individual assessment of necessity and proportionality and of issuing an order to SEF.

\(^{702}\) Article 35-B(1) Asylum Act.
\(^{703}\) Article 33-A(5) Asylum Act.
\(^{704}\) Article 35-B(1) Asylum Act.
\(^{705}\) Article 12(1) and (3) Asylum Act.
\(^{706}\) Article 35-A(2) and (3) Asylum Act. While the need for an assessment of the individual circumstances of the applicant is only mentioned in the case of detention on the grounds of national security, public order, public health or when there is a flight risk, it is difficult to conceive an assessment of less severe alternative measures for the remaining grounds for detention that is not based on the individual circumstances of the applicant.
\(^{707}\) Article 35-A(4)(a) and (b) Asylum Act.
\(^{708}\) Judicial Court of the Lisbon District, Local Misdemeanour Court of Lisbon – Judge 2, Applications Nos 3881/17.5T8LSB, 13 February 2017; 19736/17.0T8LSB, 11 September 2017; 22330/17.2T8LSB, 16 October 2017; 22779/17.0T8LSB, 20 October 2017; 23770/17.2T8LSB, 3 November 2017; 25058/17.0T8LSB, 20 November 2017; 25060/17.1T8LSB, 20 November 2017; 8909/19.1T8LSB, 29 April 2019.
Concerns regarding the judicial review of decisions to detain were flagged by the Ombudsperson in a hearing at the Parliament in 2020 (see Procedural Safeguards: Judicial review of the detention order).709

In 2019, the practice was also condemned by the UN Committee Against Torture. It expressed concerns on multiple issues, including the excessive use of detention, the absence of individualised assessments as well as little consideration for alternatives to detention, the lack of adequate detention conditions in the relevant facilities, and entry fees charged to external parties at Lisbon airport.710 Among other detention-related observations, the Committee recommended that detention is used only ‘as a measure of last resort and for as short a period as possible, by ensuring individualised assessments, and promote the application of non-custodial measures’.711

In 2020, the UN Committee on Human Rights, echoed concerns regarding detention at the border (namely regarding its duration and conditions), and recommended Portugal to ‘[e]nsure that the detention of migrants and asylum seekers is reasonable, necessary and proportionate […] and that alternatives to detention are found in practice’.712

With the exception of the release of asylum seekers without conditions from the border, CPR is unaware of the application of alternatives to detention in practice.

3. Detention of vulnerable applicants

**Indicators: Detention of Vulnerable Applicants**

1. Are unaccompanied asylum-seeking children detained in practice?
   - [ ] Frequently
   - [ ] Rarely
   - X Never
   - [ ] If frequently or rarely, are they only detained in border/transit zones?
     - [ ] Yes
     - [ ] No

2. Are asylum seeking children in families detained in practice?
   - [ ] Frequently
   - X Rarely
   - [ ] Never

The Asylum Act defines an ‘applicant in need of special procedural guarantees’ in terms of reduced ability to benefit from the rights and comply with the obligations stemming from the Asylum Act due to their individual circumstances.713 Even though it does not include an exhaustive list of asylum seekers presumed to be in need of special procedural guarantees, it refers to age, gender, gender identity, sexual orientation, disability, serious illness, mental disorders, torture, rape or other serious forms of psychological, physical or sexual violence as possible factors underlying individual circumstances that could lead to the need of special procedural guarantees.714

Within these applicants, the Asylum Act identifies a sub-category of individuals whose special procedural needs result from torture, rape, or other serious forms of psychological, physical or sexual violence that may be exempted from border procedures and hence detention.715 Furthermore, it clearly determines that placement of unaccompanied and separated children in detention facilities at the border must comply with applicable international recommendations such as those by UNHCR, UNICEF, and the International Committee of the Red Cross (ICRC).716

The asylum system continues to lack a systematic mechanism of identification of vulnerabilities, including within the context of detention (see: Guarantees for vulnerable groups).

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711 Ibid, para 40(a).
712 Human Rights Committee, Concluding Observations on the fifth periodic report of Portugal, CCPR/C/PRT/CO/5, 28 April 2020, par 34(d) and (e), and 35 (d), available at: https://bit.ly/2Q1f8n8.
713 Article 17-A(1) Asylum Act.
714 Ibid.
715 Article 17-A(4) Asylum Act.
716 Article 26(2) Asylum Act. For detailed information on the practices concerning detention of children in previous years, please refer to the corresponding AIDA reports.
Therefore, response to cases continued to happen mostly on an ad hoc basis, with no clear general guidance, leading to uncertainty. According to the information available to CPR, in at least one instance in 2022, SEF deemed detention at UHSA as adequate to a person with clear signs of severe mental illness, referring in particular to the fact that medical care and assistance by JRS were provided to the applicant in the facility.

According to the data provided by SEF for 2022, a residual number of children accompanied by family members has been detained in EECIT Lisbon with family members. According to SEF, unaccompanied asylum-seeking children have not been detained in 2022. SEF further informed that no cases of victims of trafficking in human beings or torture were reported within the context of detention of asylum seekers in 2022.

4. Duration of detention

<table>
<thead>
<tr>
<th>Indicators: Duration of Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. What is the maximum detention period set in the law (incl. extensions):</td>
</tr>
<tr>
<td>2. In practice, how long in average are asylum seekers detained?</td>
</tr>
</tbody>
</table>

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.\textsuperscript{717} If SEF takes a positive admissibility decision or if no decision has been taken within 7 working days, the applicant is released. If the claim is deemed inadmissible or unfounded in an accelerated procedure, the asylum seeker can challenge the rejection before the administrative courts with suspensive effect and remains detained for up to 60 days during the appeal proceedings. After 60 days, even if no decision has yet been taken on the appeal, SEF must release the individual from detention and provide access to the territory. The maximum detention period of 60 days is equally applicable in instances where the application is made from detention at a CIT due to a removal procedure.\textsuperscript{718}

According to SEF the average detention period of applicants for international protection at CIT-UHSA in 2022 was 41 days. Data for EECIT Lisbon was not provided.

While SEF reported that a residual number of children accompanied by family members has been detained in EECIT Lisbon, data on the duration of such detention was not provided. According to SEF, unaccompanied asylum-seeking children were not detained in 2022.

CPR is not aware of instances where the maximum detention duration was exceeded in the case of asylum seekers.

C. Detention conditions

1. Place of detention

<table>
<thead>
<tr>
<th>Indicators: Place of Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td>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)?</td>
</tr>
<tr>
<td>2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure?</td>
</tr>
</tbody>
</table>

\textsuperscript{717} Article 26 and 35-A(3)(a) Asylum Act.

\textsuperscript{718} Article 35-B(1) Asylum Act.
The legal framework of detention centres is enshrined in Act 34/94 which provides for the detention of migrants in Temporary Installation Centres (Centros de Instalação Temporária, CIT) managed by SEF, either for security reasons (e.g., aimed at enforcing a removal from national territory) or for irregular entry at the border. Detention facilities at the border (EECIT),\(^{719}\) which are not CIT *per se*, have been classified as such by Decree-Law 85/2000 for the purposes of detention following a refusal of entry at the border.\(^ {720}\)

<table>
<thead>
<tr>
<th>Detention capacity in border detention centres: 2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detention centre(^ {721})</td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>Detention facility – Lisbon airport</td>
</tr>
</tbody>
</table>

Source: Information provided by SEF (April 2023). This refers to the total capacity of the detention centre and is thus not limited to asylum seekers specifically.

According to information previously provided by SEF, CIT-UHSA has an overall capacity for 30 persons. Within the current context, CIT-UHSA is the facility where the majority of asylum seekers is detained. As far as CPR is aware, the facility does not have dedicated places for asylum seekers.

CPR is unaware of the detention of asylum seekers in police stations or in regular prisons for the purposes of the asylum procedure.

According to the 2020 report of the National Preventive Mechanism, the construction of a new CIT in Almoçageme (CATA) was halted by judicial order\(^ {722}\) and the construction of another CIT in Guarda was planned.\(^ {723}\) According to the 2021 report, the construction of the CATA has been abandoned.\(^ {724}\) Further information on the construction of a CIT in Guarda is not available.

In 2021, the Ministry of Home Affairs referred to the possibility of requalifying an area of the Caxias Prison to be used as a CIT.\(^ {725}\) This project was strongly criticised by civil society organisations,\(^ {726}\) and ended up being abandoned by the Government.\(^ {727}\)

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\(^ {719}\) Council of Ministers Resolution 76/97.

\(^ {720}\) See also Council of Ministers Resolution 76/97. In this context, it is important to underline, as recalled by the Ombudsperson: "The confinement of foreign citizens, including where it takes place in the international area of an airport, indeed consists in a deprivation of freedom (...) that goes beyond a mere restriction of freedom. On this matter cf. the judgement of the European Court of Human Rights n. \(^5\) 1977/692, 25 June 1992 (Amuur v France)." Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, available in Portuguese at: https://bit.ly/3MKjmFq. fn. 14 [unofficial translation].

\(^ {721}\) According to the information provided by SEF, as in 2021, the detention facilities located in the international areas of Porto and Faro airports remained closed in 2022.


\(^ {723}\) Ibid, 58.


\(^ {726}\) See, for instance, ONG’s exigem a revogação do protocolo de detenção administrativa de migrantes na prisão de Caxias, 21 June 2021, available at: https://bit.ly/3GDIYIE.

\(^ {727}\) See, for instance, TSF/Lusa, *MAI suspende reconversão de ala da prisão de Caxias em centro para imigrantes*, 8 July 2021, available at: https://bit.ly/3GFHPZC. This plan was also strongly criticised by the Ombudsperson in its report covering 2021, namely due to the lack of public transportation to the area, to the physical features of the space, the lack of adequate conditions for the administrative detention of migrants. See Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República*, 2021, July 2022, pp.76-77, available at: https://bit.ly/3wjJS29.
The 2021 report of the National Preventive Mechanism also refers to the detention of a group of migrants in a Military Facility in 2021.\textsuperscript{728} Within this context, the Ombudsperson has mentioned the need to create further facilities, namely in the south and centre areas of the country. As per the report, SEF has indicated to the National Preventive Mechanism that a new CIT will be built in Almancil.\textsuperscript{729}

According to the same source, SEF also signed a protocol providing for the creation of a hotspot in the port of Vila Real de Santo António.\textsuperscript{730} This facility would be meant to provide immediate support to persons arriving by sea in the coast of Algarve with the support of the Portuguese Red Cross. As underlined in the 2021 report, despite the limited information available in this regard, in light of previous experiences with such facilities within the European Union and particularly given the low number of sea arrivals that has been experienced in the past, this does not seem to be an appropriate solution. In the meantime, the Ombudsperson, has also expressed concern with this project, namely due the unavailability of information, the lack of clarity of the facility’s purpose, and the lack of physical conditions of the space (namely for being too small and for lacking outdoor areas). The Ombudsperson recommended the authorities to reconsider the adoption of this plan.\textsuperscript{731} No further information was available at the time of writing.

The possible expansion of CIT-UHSA has also been addressed by the National Preventive Mechanism in its report covering 2021. The entity expressed concern with reports that the expansion will be implemented through the addition of prefabricated housing containers to the facility’s outdoor area.\textsuperscript{732}

A project of €1,560,000 submitted by SEF to FAMI was approved in July 2020. The project aims to ‘reinforce the quality of temporary installation centres with adequate spaces, namely for families and vulnerable groups, and services of social, legal, linguistic, and health assistance’.\textsuperscript{733}

SEF did not provide AIDA with any information regarding any of these projects or on new detention facilities that may be used to detain applicants for international protection.

2. Conditions in detention facilities

<table>
<thead>
<tr>
<th>Indicators: Conditions in Detention Facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Do detainees have access to health care in practice?</td>
</tr>
<tr>
<td>2. If yes, is it limited to emergency health care?</td>
</tr>
</tbody>
</table>

2.1. Overall conditions

In the absence of legal standards for the operation of CIT, the detention facilities at the border and the CIT – UHSA in Porto are managed by SEF pursuant to internal regulations.\textsuperscript{734}

The general regulation governing the placement of foreign and stateless persons in CIT and EECIT has been approved by the Minister of Home Affairs in July 2020.\textsuperscript{735} The regulation explicitly states that it is


\textsuperscript{729} Ibid, pp. 106 et seq.

\textsuperscript{730} Ibid, pp. 106 et seq.


\textsuperscript{734} Ministerial Decision n. 5863/2015 of 2 June 2015 regulates in detail detention conditions by police forces, including SEF, but is only applicable to the initial 48-hour detention period.

\textsuperscript{735} Regulamento Regime geral sobre o acolhimento de estrangeiros e apátridas em Centros de Instalação Temporária (CIT) e Espaços Equiparados a Centros de Instalação Temporária (EECIT), 31 July 2020, available at: https://bit.ly/3MmNbvp.
applicable to applicants for international protection, and that, in such cases, detention is subject to the rules provided by the Asylum Act.\textsuperscript{736} It also establishes, inter alia, that:

\begin{itemize}
\item Possible victims of trafficking in human beings and unaccompanied children should be accommodated in adequate facilities;\textsuperscript{737}
\item SEF must inform detainees, according to the law, of the grounds of detention, status of their file and their rights and duties in a language that they understand or may be reasonably presumed to understand;\textsuperscript{738}
\item Transfers of persons between facilities may occur in order to ensure adequate reception conditions;\textsuperscript{739}
\item Each facility must have an internal regulation, to be approved by the National Director of SEF;\textsuperscript{740}
\item SEF is responsible for the management of the facilities and for the coordination of the fulfilment of the basic needs of detainees. The entity must appoint a person to be in charge of each facility;\textsuperscript{741}
\item The Ministry of Social Security and the Ministry of Health are responsible for the fulfilment of needs within their scope of action in centres located within the national territory;\textsuperscript{742}
\item Private companies may be hired to ensure the security of persons and goods;\textsuperscript{743}
\item Staff working in the facilities must have multidisciplinary training (namely with regard to languages) and the teams must be composed of both men and women;\textsuperscript{744}
\item SEF may establish cooperation protocols with civil society organisations within this context;\textsuperscript{745}
\item Upon consent, detainees must be subject to a clinical evaluation performed by a healthcare professional. Access to healthcare (including psychological care) free of charge must be ensured during the detention, specific care is to be provided to particularly vulnerable persons;\textsuperscript{746}
\item Detainees are entitled to visits from direct family members and lawyers. Specific rules on schedules and duration of visits must be included in the internal regulation of each facility. Visits by entities entitled to access by the law are subject to the rules applicable to lawyers;\textsuperscript{747}
\item If they wish, detainees can be contacted and visited by the diplomatic/consular authorities of their country of origin;\textsuperscript{748}
\item Specific rules are established for telephone calls, namely the distribution of calling cards or access to telephones for a reasonable period of time. As a general rule, possession of communication equipment is forbidden unless the internal regulations state otherwise;\textsuperscript{749}
\item The facilities must ensure the dignity of detainees, provide for their separation by gender and age (except in the case of families), have an outdoor space and available leisure activities. Measures must be adopted to prevent violence, inhuman treatment or abuse by other detainees;\textsuperscript{750}
\item The food provided must be subject to quality control, be sufficient, and respect dietary or philosophical/religious beliefs.\textsuperscript{751}
\end{itemize}

\textsuperscript{736} Articles 1(1) and 3.
\textsuperscript{737} Article 1(2).
\textsuperscript{738} Article 5(2).
\textsuperscript{739} Article 7(1).
\textsuperscript{740} Article 8(4).
\textsuperscript{741} Article 9(1) and (2).
\textsuperscript{742} Article 9(3).
\textsuperscript{743} Article 9(4).
\textsuperscript{744} Article 9(5).
\textsuperscript{745} Article 9(6).
\textsuperscript{746} Article 10.
\textsuperscript{747} Articles 12, 13 and 15.
\textsuperscript{748} Article 14.
\textsuperscript{749} Article 16.
\textsuperscript{750} Article 19.
\textsuperscript{751} Article 23.
Detainees are to be provided with a hygiene kit, access to toilets, bathrooms with hygiene and security, and the necessary conditions to wash clothes must be ensured. Access to luggage must also be ensured.752

A monitoring commission to evaluate and monitor the functioning of the relevant facilities composed by representatives from SEF, IGAI, Ombudsperson and ACM is to be established. It must meet at least twice a year.753

In April 2020, the UN Human Rights Committee expressed concern over the detention conditions of migrants in Portugal, recommending that conditions and treatment in relevant facilities comply with international standards.754

**EECIT Lisbon**

Until March 2020, the detention facility at Lisbon airport was the most relevant detention space of applicants for international protection (mostly within the context of border procedures). However, according to the information publicly available, the new regulation of EECIT Lisbon explicitly excludes detention of applicants for international protection in the facility. Nevertheless, within the context of the provision of individual legal assistance, CPR became aware of multiple cases of applicants for international protection detained in the facility in 2022 (mainly cases where the application for asylum was made following a removal decision).

According to the information provided by SEF, in 2022, the EECIT Lisbon had an overall capacity of 24 places. According to prior information, 18 places are divided in two separate wings for men and women. It also has a family room and another room for persons with special needs (e.g., reduced mobility).

In its report covering 2020, the National Preventive Mechanism noted that the renovation of the space was overall positive and took into account relevant concerns such as security, privacy and contact with the exterior.755

The National Preventive Mechanism noted that the family and the multipurpose rooms have private bathrooms, and that there is a room that can be used for isolation.756 While the facility was previously composed of collective dormitories, these were converted into individual rooms (7 per wing) and double rooms (1 per wing). The Ombudsperson deemed the room’s conditions adequate (dimension, natural light, security mechanisms – e.g., access through key card, panic button system).757

Each wing has a common area that includes a space for meals.758 The report also highlights the creation of a prayer room that can be used upon scheduling to avoid conflicting practices.759 The toilet and bathroom facilities are shared and were deemed as having good conditions by the Ombudsperson, who also highlighted that washing and dryer machines have been added to the facility.760 Each wing has a small courtyard.

The reception area of the facility includes an office for a member of SEF’s staff and two offices for visits, including by lawyers and NGOs such as CPR. CPR’s assessment is that the offices do not ensure adequate privacy, notably due to inadequate sound isolation.

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752 Article 25.
753 Article 28.
756 Ibid, 92 et seq.
757 Ibid.
758 Ibid.
759 Ibid.
760 Ibid, 92 and 94.
According the National Preventive Mechanism, SEF officers are present in the facility 24h per day. Staff of a private security company performs logistical tasks such as ensuring that the food provided to detainees is adequate to their diet/religious needs. While the other tasks are not specified in the report, in the past, those included initial registration; collection and access to personal belongings; provision of medication; registration and referral of requests for medical assistance; and distribution of meals.

The preparation of meals is ensured by a catering company. According to the Ombudsperson, the number of meals and dietary options provided was reinforced.

Information on the current cleaning arrangements is not available. According to CPR’s observation, in the past, the facility was regularly cleaned by a cleaning company.

According to the National Preventive Mechanism, in 2021, detainees were allowed to keep hand luggage with them in the detention facility, but access to hold baggage remained dependent on coordination between SEF, staff from the private security company and the relevant airline. Valuable items are kept in safes managed by SEF.

Detainees may use their mobile phones in the rooms, a significant change to the prior practice. Nevertheless, the Ombudsperson has repeatedly argued that access to free wi-fi internet should also be ensured.

In the past, the Ombudsperson had raised concerns about the lack of specific training and language skills of supporting staff from security companies to perform their duties and the impact it could have on detainees in terms of isolation and access to services such as health care. Updated information in this regard was not available at the time of writing, but there is no information on significant measures adopted to address this issue.

In the latest report available at the time of writing, the Ombudsperson noted that the video security coverage of the facility must be improved, and that the announced panic button system to be installed in the rooms was not operational in 2021. It is also noted that capacity constraints were an issue in the course of 2021, leading to the need to accommodate men in the women's wing, possibly posing privacy risks.

**CIT-UHSA**

The Ombudsperson deems the conditions at CIT-UHSA as overall adequate.

According to the available information, the facility has separate wings for men and women, as well as a family room. There is a big outdoor space whose use depends on being accompanied by staff of the facility/volunteers. Daily cleaning is ensured, and the Ombudsperson deemed the food provided varied and adequate. Access to personal belongings that to do not jeopardise physical integrity is allowed.

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761 Ibid.
762 Ibid.
763 Ibid. pp. 92 and 97.
765 Ibid. 69-70.
766 Ibid.
767 Ibid.
768 Ibid. 69.
770 Ibid.
771 Ibid.
Volunteers and workers from organisations such as JRS, IOM and Doctors of the World (MdM) are regularly present in the facility.\textsuperscript{772} Access to personal mobile phones is allowed in certain periods of the day,\textsuperscript{772} and detainees may also have access to a mobile phone provided by the Jesuit Refugee Service (JRS) staff present in the facility.\textsuperscript{774}

According to the information provided by IOM, a room for meetings between detainees and their lawyers was added to the facility in 2022.

In its 2022 report (covering 2021), the National Preventive Mechanism continued to express concern with the lack of access to free wi-fi, and with the lack of adequate regulation of the use and conditions of placement in the cell-room (a measure that may be adopted when the security of the facility is compromised).\textsuperscript{775}

\subsection*{2.2. Activities}

Each wing of the detention facility at EECIT Lisbon has a courtyard with tables and chairs. The courtyards in the border detention facilities have been criticised by the Ombudsperson in the past for being too small, surrounded by walls and lacking natural light.\textsuperscript{776} As far as CPR is aware, the situation remains unchanged.

According to the latest report of the Ombudsperson available at the time of writing, despite a prior commitment, no sports materials have been added to the space. The Ombudsperson also criticised the absence of a cultural mediator in the facility.\textsuperscript{777}

According to the National Preventive Mechanism, in 2021, detainees were allowed to keep hand luggage with them in the detention facility, but access to hold baggage remained dependent on coordination between SEF, staff from the private security company and the relevant airline. Valuable items are kept in safes managed by SEF.\textsuperscript{778}

Detainees may use their mobile phones in the rooms, a significant change to the prior practice. Nevertheless, the Ombudsperson has repeatedly argued that access to free wi-fi internet should also be ensured.\textsuperscript{779}

CIT-UHSA has big outdoor space whose use depends on detainees being accompanied by staff of the facility/volunteers.\textsuperscript{780} Access to personal mobile phones is allowed in certain periods of the day.\textsuperscript{781} Access to personal belongings that to do not jeopardise physical integrity is allowed.\textsuperscript{782} According to the report of

\begin{itemize}
\item \textsuperscript{772} Ombudsman, Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021, July 2022, p.74, available at: https://bit.ly/3wjJS29; information provided by IOM in March 2023.
\item \textsuperscript{773} According to the Ombudsperson, in 2021, the use of personal mobile phones was allowed between 10h and 21h30m. Ombudsman, Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2021, July 2022, pp.75-76, available at: https://bit.ly/3wjJS29.
\item \textsuperscript{779} Ibid, pp.69-70.
\item \textsuperscript{781} Ibid, pp.103 et seq.
\item \textsuperscript{782} Ibid.
\end{itemize}
the National Preventive Mechanism published in 2021, in 2020, more toys were made available in the facility and it had a play room that was well equipped.\textsuperscript{783}

In its 2022 report (covering 2021), the National Preventive Mechanism continued to express concern with the lack of access to free wi-fi internet.\textsuperscript{784}

While the law provides for access to education of children asylum seekers under the same conditions as nationals,\textsuperscript{785} and the rules governing CIT provide for the access of detained children to education depending on the duration of their detention,\textsuperscript{786} children in detention do not have access to education in practice either at the detention facility or by accessing normal schools.

2.3. Health care and special needs in detention

The responsibility for providing health care to asylum seekers at the border lies with the Ministry of Home Affairs that can rely on public entities and/or private non-profit organisations in the framework of a MoU to ensure the provision of such services.\textsuperscript{787}

The Asylum Act provides for the right of asylum seekers and their relatives to adequate health care at the border (i.e., in detention),\textsuperscript{788} and for the right of vulnerable asylum seekers in detention to regular health care that meets their particular needs.\textsuperscript{789} The Asylum Act does not, however, specify this particular standard,\textsuperscript{790} and/or whether it differs from the general standard of health care provision in the asylum procedure.\textsuperscript{791}

According to the available information, nursing and medical care, as well as referrals to the national healthcare system at EECIT\textsuperscript{s} and CIT-UHSA are ensured by the NGO Doctors of the World (\textit{Médicos do Mundo}, MdM).\textsuperscript{792} SEF reported that asylum seekers at the border are entitled to weekly medical checks.

According to previous research,\textsuperscript{793} and the information available to CPR, there are no specific mechanisms or standard operational procedures for the early identification of vulnerable asylum seekers and their special reception needs at the border or in pre-removal detention.

When detained (see \textit{Detention of Vulnerable Applicants}), vulnerable applicants are granted access to services and medical treatment under the same standards that are applicable to all detainees.

\begin{flushleft}
\textsuperscript{783} Ibid, pp.102 et seq.
\textsuperscript{785} Article 53 Asylum Act.
\textsuperscript{786} Article 146-A(7) Immigration Act.
\textsuperscript{787} Article 61(1) Asylum Act.
\textsuperscript{788} Article 56(2) Asylum Act.
\textsuperscript{789} Article 35(b)(8) Asylum Act.
\textsuperscript{790} However, Article 146-A(3) Immigration Act states that a foreigner detained at a CIT or an equivalent detaining facility (i.e., at the border) is entitled to emergency and basic health care only and that special attention should be provided to vulnerable individuals, particularly to minors, unaccompanied minors, handicapped persons, elderly persons, pregnant women, families with children and survivors of torture, rape and other forms of serious psychological, physical or sexual violence.
\textsuperscript{791} In accordance with Article 52(1) Asylum Act and Ministerial Orders (“Portaria”) No 30/2001 and No 1042/2008, asylum seekers and their relatives are entitled to medical assistance and access to medicines for basic needs, and for emergency and primary care in the National Health Service (SNS) under the same conditions as nationals. Primary care is to be understood as including at least access to general practitioners, access to specialists, inpatient care, complementary diagnostic tests and therapies, and nursing assistance. Furthermore, Article 4(1)(n) Decree-Law No 113/2011 (recast) provides for free access to the SNS by asylum seekers.
\textsuperscript{792} Details on the project available at: https://bit.ly/3GSfMYh.
\end{flushleft}
3. Access to detention facilities

### Indicators: Access to Detention Facilities

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>Limited</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lawyers:</td>
<td></td>
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<tr>
<td>NGOs:</td>
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<tr>
<td>UNHCR:</td>
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<tr>
<td>Family members:</td>
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</table>

The Asylum Act and the general regulation governing the placement of foreign and stateless persons in CIT and EECIT provide for the right of detainees to receive visits from legal representatives, embassy representatives, relatives, as well as national and international human rights organisations.

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.

In the particular case of legal assistance, asylum seekers in detention are entitled to receive visits from lawyers, UNHCR, and CPR. Access restrictions can only be based on grounds of security, public order or operational reasons and only to the extent that they do not limit access in a significant or absolute manner.

In practice, CPR has access to asylum seekers detained at the border (in the past depending on accreditation) or in pre-removal detention centres, but only following the status determination interview conducted by SEF, as opposed to lawyers who have unrestricted access to detainees prior to and during the status determination interview.

Following the renovation work conducted at EECIT Lisbon, access to the detention facility is no longer made by the international area of the airport. This is a significant change as, previously, access by visitors (including lawyers) was dependent on complex and bureaucratic procedures, and involved obtaining (paid) access cards in advance. According to the Ombudsperson, detainees may receive visits lasting up to one hour between 9h and 19h.

Regarding other forms of contact with the exterior, detainees at EECIT Lisbon are allowed to use their mobile phones in their rooms. While this has been commended by the Ombudsperson, the latest report

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795 Article 35-B(3) Asylum Act.
796 Article 13(3) Asylum Act.
797 Article 49(6) Asylum Act.
798 Article 35-B(4) Asylum Act.
799 Throughout recent years, legal aid lawyers have raised concerns regarding this fee which could discourage them from visiting their clients. See: Público, ‘Taxa cobrada a advogados para ver detidos no aeroporto é “nonsense”, acusa bastonário’, 3 September 2018, available in Portuguese at: https://bit.ly/2NoCWkA. The fee, which was applied to all external visitors that are not accredited, was also repeatedly criticised by the Ombudsman that qualified it as a restriction to Article 35-B(4) of the Asylum Act (Ombudsman, ‘Mecanismo Nacional de Prevenção, Relatório à Assembleia da República’, June 2020, p.61, available at: https://bit.ly/2Pz1ZIN). The UN Committee Against Torture also expressed concern with the application of this access fee in its 2019 Concluding Observations on Portugal, thereby recommending the State to “guarantee that retained asylum seekers and irregular migrants have unhindered, prompt and adequate access to counsel, including legal services”. Committee Against Torture, Concluding Observations on the seventh periodic report of Portugal, CAR/C/PRT/CO/7, 18 December 2019, par.40(d), available at https://bit.ly/2G1F07z.
available at the time of writing continued to underline the importance of ensuring free access to wi-fi internet. The Ombudsperson also noted that, while a 5-minute prepaid card to be used in the public phone of the facility is provided to detainees, such a period of communications is clearly insufficient.\(^{802}\) The Ombudsperson also criticised the absence of a cultural mediator in the facility.\(^{803}\)

CPR's legal officers visit EECIT Lisbon on a needs basis to provide free legal information and assistance within the context of the asylum procedure to asylum seekers detained in the facility.

In the case of CIT– UHSA, the law provides for an MoU with the International Organisation for Migration (IOM) and the Jesuit Refugee Service (JRS) Portugal,\(^{804}\) that are responsible for training staff and providing social, psychological, and legal assistance to detainees. According to CPR's experience regarding asylum seekers who have applied from detention at CIT – UHSA, JRS Portugal has staff in the detention facility that provide in-house assistance. Medical and psychological assistance is provided by volunteer organisations such as MdM. Furthermore, IOM shares information materials at the facility (namely on the rights and duties of detainees, regular migration, removal and detention), organises information sessions and conducts interviews on the circumstances of detention.

Asylum seekers detained in CIT-UHSA benefit from legal assistance provided by CPR in cooperation with JRS staff present in the facility.

According to the National Preventive Mechanism, visits are also allowed in CIT-UHSA (1 visitor per detainee at each time).\(^{805}\)

D. Procedural safeguards

1. Judicial review of the detention order

<table>
<thead>
<tr>
<th>Indicators: Judicial Review of Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is there an automatic review of the lawfulness of detention?</td>
</tr>
<tr>
<td>2. If yes, at what interval is the detention order reviewed?</td>
</tr>
</tbody>
</table>

The law provides for the right of asylum seekers to receive information in writing regarding the grounds for their detention, access to free legal aid and legal challenges against detention in a language they either understand or are reasonably expected to understand.\(^{806}\)

The competent authority to impose and review the detention of an asylum seeker in a CIT,\(^{807}\) or in detention facilities at the border,\(^{808}\) is the Criminal Court which has territorial jurisdiction over the place where detention occurs. In the case of detention at the border, SEF is required to inform the Criminal Court of the detention within 48 hours upon arrival at the border for purposes of maintaining the asylum seeker in detention beyond that period.\(^{809}\)

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\(^{802}\) Constraints to contact with the exterior, please refer to previous editions of the AIDA report, available at: https://bit.ly/3XM0080.


\(^{805}\) Article 3 Decree-Law 44/2006.


\(^{807}\) Article 35-B(2) Asylum Act.

\(^{808}\) Article 35-A(5) Asylum Act.

\(^{809}\) Ibid.
The review of detention can be made *ex officio* by the Criminal Court or upon request of the detained asylum seeker at all times on the basis of new circumstances or information that have a bearing on the lawfulness of the detention.810

According to CPR’s experience, detention reviews (either *ex officio* or upon request) are uncommon in practice. As such, release usually takes place following admission to the regular procedure or at the end of the maximum detention time limit of 60 days in cases of a negative decision and appeal (see Duration of Detention).

CPR has also observed instances where the special needs of the applicant were not taken into account by the Court when assessing the necessity and proportionality of detention.

In a hearing at the Parliament in December 2020, the Ombudsperson noted that there is a need for dialogue with judicial bodies to ensure that judicial actors are aware of the need for effective judicial control in these cases.811

### 2. Legal assistance for review of detention

<table>
<thead>
<tr>
<th>Indicators: Legal Assistance for Review of Detention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the law provide for access to free legal assistance for the review of detention?</td>
</tr>
<tr>
<td>2. Do asylum seekers have effective access to free legal assistance in practice?</td>
</tr>
</tbody>
</table>

The law sets out the right of asylum seekers to free legal aid under the same conditions as nationals,812 which thus includes proceedings in front of the Criminal Court regarding detention at the border. Access to legal aid is processed under the same conditions as nationals, which include a ‘means test’.813 In the context of legal aid for the purposes of appealing the rejection of the asylum application, this test is generally applied in a flexible manner. CPR has no experience with legal aid applications for the purposes of detention review.

While the law provides for an accelerated free legal aid procedure at the border on the basis of a MoU between the Ministry of Home Affairs and the Bar Association,814 such procedures are only for purposes of the application and remain to be implemented to date. The relevance of broader legal support within the context of detention and the possibility of implementing specific MoUs with the Bar Association for that purpose have also been repeatedly underlined by the Ombudsperson.815

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

In November 2020, the Ministry of Home Affairs, the Ministry of Justice, and the Bar Association signed a protocol to ensure the provision of legal counselling and assistance to foreigners to whom entry into national territory was refused (Lisbon, Porto, Faro, Funchal and Ponta Delgada airports).816 According to

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810 Article 35-B(1) Asylum Act.
812 Article 49(1)(f) Asylum Act.
814 Article 25(4) Asylum Act.
the information available, this protocol was made within the framework of Article 40(2) of the Immigration Act and is not intended to cover applicants for international protection.

E. Differential treatment of specific nationalities in detention

CPR is unaware of any increased risk of detention and/or systematic detention and/or longer periods of detention of asylum seekers based on nationality.
A. Status and residence

1. Residence permit

<table>
<thead>
<tr>
<th>Indicators: Residence Permit</th>
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<tbody>
<tr>
<td>1. What is the duration of residence permits granted to beneficiaries of protection?</td>
</tr>
<tr>
<td>❖ Refugee status</td>
</tr>
<tr>
<td>❖ Subsidiary protection</td>
</tr>
</tbody>
</table>

The Portuguese authorities are bound by a duty to issue beneficiaries of international protection a residence permit.\(^{817}\) Its duration varies according to the type of international protection granted: the residence permit for refugees is valid for 5 years,\(^ {818}\) while the residence permit for subsidiary protection beneficiaries is valid for 3 years.\(^ {819}\) The issuance of these residence permits is free of charge.\(^ {820}\)

According to the statistics provided by SEF, in 2022 a total of 715 residence permits were issued to refugees and 252 residence permits were issued to beneficiaries of subsidiary protection.

According to CPR’s experience in providing legal information and assistance to asylum seekers and beneficiaries of international protection at all stages of the asylum procedure (see Regular Procedure: Legal Assistance), the average length of the procedure for issuing a residence permit following a decision granting international protection in previous years was considered reasonable, ranging from a few weeks to a month and a half. Starting in 2019, CPR noticed significant waiting periods for the issuance of residence permits, in particular due to difficulties in booking appointments for renewals. During such periods, asylum seekers are issued a declaration from SEF certifying their application for the issuance/renewal of a residence permit. It should be noted that asylum seekers admitted to the regular procedure are in possession of a provisional residence permit, valid and renewable for 6 months, at the time they are granted international protection (see Short Overview of the Asylum Procedure).\(^ {821}\)

The delays in the issuance and renewal of residence permits have been flagged by the UN Human Rights Committee.\(^ {822}\) Such delays, with impacts in access to services and assistance, have also been identified by the Statistical Report of Asylum 2020.\(^ {823}\)

In late 2014 and 2015, the launch of a cessation procedure by SEF regarding Guinean nationals, the first ever to target citizens of a specific nationality in a collective manner, was characterised by significant shortcomings, including a curtailment of the residence rights of those concerned by failing to renew or by delaying the renewal of expired residence permits during the procedures. The same practice was observed since 2019 as a significant number of cessation procedures were triggered by the authorities (see Cessation).

While noting the existence of difficulties in determining the number of beneficiaries of international protection in the country each year, the Statistical Report of Asylum 2022 indicates that by the end of 2021, 2,725 beneficiaries of international protection had valid residence permits in Portugal (1,596

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817 Article 67 Asylum Act. This provision is generally in line with Article 24 recast Qualification Directive.
818 Article 67(1) Asylum Act.
819 Article 67(2) Asylum Act.
820 Article 67(4) Asylum Act.
821 Article 27(1) Asylum Act.
refugees and 1,129 beneficiaries of subsidiary protection). According to the same source, the majority of refugees were from Syria, Eritrea and Iraq, and the majority of subsidiary protection beneficiaries were from Syria, Iraq and Ukraine.

In June 2022, the Government amended Decree-Law 10-A/2020, determining, inter alia, that documents expired since its entry into force (or within the previous 15 days) were to be accepted as valid until 31 December 2022. It further determined that, after 31 December 2022, such documents would continue to be accepted providing the holder has an appointment for its renewal. Said Decree-Law was further amended in December 2022, determining inter alia that:

- Visas and documents related to the residency of foreign nationals expired since the entry into force of the Decree-Law, or within the previous 15 days, are accepted as valid until 31 December 2023;
- After 31 December 2023, such documents will continue to be accepted providing the holder has an appointment for its renewal;
- This regime does not apply to documents concerning temporary protection.

With regard to the readmission of beneficiaries of international protection in Portugal, SEF reported that requests for readmission are analysed according to the following criteria:

- The person concerned holds a valid residence permit;
- The person concerned has a valid right of residence in Portugal, regardless of the validity of the corresponding residence permit;
- The person concerned continues to benefit from international protection in Portugal, regardless of the issuance of the corresponding residence permit.

According to SEF, if the person concerned is undocumented, they can be either issued a laissez-passer by the requesting authorities or request a travel document to the Portuguese consular authorities for the purposes of readmission in Portugal.

According to SEF, in 2022, the Portuguese authorities received a total of 81 readmission requests concerning beneficiaries of international protection (49 concerning persons with valid residence permits and 32 concerning persons with expired/without residence permits). Given the extension of validity of documents referred to above, many of the expired documents were deemed as valid in national territory.

2. Civil registration

2.1. Registration of childbirth

Civil registration acts of foreign authorities regarding foreigners, can only be transcribed into the Portuguese civil registry if the applicant demonstrates a legitimate interest in the transcription, and if the act is: duly translated, legal, and does not raise well-founded doubts as to its authenticity.

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825 Ibid, p.186.
827 Including visas and documents related to the residency of foreign nationals.
829 Decree-Law 90/2022, of 30 December 2022.
830 Article 6(4) Civil Registration Code.
831 Article 49(8) Civil Registration Code.
832 Article 49(1) Civil Registration Code. In case the civil registry officer is not satisfied with the credibility of the foreign registration act, it may suspend the procedure and contact ex officio the issuing authority for clarifications at the expense of the applicant, an option that is ill adapted to beneficiaries of international protection (Article 49(2) and (3) Civil Registration Code). The applicant may also lodge a judicial appeal against the decision of the civil registration officer to refuse partially or in total the authenticity of the document (Article
In practice, the need of beneficiaries of international protection to transcribe foreign birth certificates normally arises in the framework of naturalisation procedures that require the registration of birth by the Central Registrations Service (Conservatória dos Registos Centrais, CRC) based on a duly legalised birth certificate prior to the registration of the acquisition of Portuguese nationality.\textsuperscript{833} It may also arise in the case of marriage (transcription of foreign marriages and registration of marriages contracted in Portugal) and the regulation of parental authority as both are added to the birth registry of the parties involved.\textsuperscript{834}

In the case of Naturalisation procedures and registration of marriages, the law provides for alternative avenues in case the applicant is unable to produce a duly legalised birth certificate.

According to the experience of CPR, there are no other recurring instances where the need for the registration of birth with the national authorities arises as SEF does not require such registration for identification and issuance of international protection residence permits. Furthermore, according to the law, residence permits issued by the authorities replace identification documents for all legal purposes.\textsuperscript{835}

It is mandatory to register any birth occurred in Portuguese territory, regardless of nationality.\textsuperscript{836} The birth must be declared to the civil registry authorities either by: (1) the parents, another legal representative of the child, or a person assigned that responsibility in writing by the parents; (2) the next closest relative of the child, or; (3) an official of the institution where the birth took place or to which the birth was orally reported.\textsuperscript{837}

According to the law, if the child is born in a medical facility where it is possible to declare the birth, that should be done before medical discharge of the mother. When that is not the case, the birth must be declared in a civil registry office within 20 days.\textsuperscript{838}

The actual registration of birth that follows the declaration can either take place at the maternity ward or at a civil registry office.\textsuperscript{839}

The law does not contain limitations on birth registration due to the legal status of parents.

The registration of birth requires that identification documents of the parents are presented ‘whenever possible’.\textsuperscript{840} According to the Immigration Act, the residence permit replaces the identification document for all legal purposes.\textsuperscript{841} Furthermore, according to the Civil Registration Code, if the parents cannot provide an identification document, this requirement may be replaced by the presentation of two witnesses.\textsuperscript{842} An interpreter must be appointed in case the parents are unable to communicate with the civil registry officer in Portuguese and the civil registry officer is not familiar with the language spoken by the parents.\textsuperscript{843}

If the child or their parent(s) are foreign citizens, were born abroad or have an additional nationality, the law allows for their registration under a foreign first name.\textsuperscript{844}

\begin{footnotes}
\footnotetext{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).
\footnotetext{833} Article 50(1) Portuguese Nationality Regulation.
\footnotetext{834} Article 69(1)(a) and (e) Civil Registration Code.
\footnotetext{835} Article 84 Immigration Act.
\footnotetext{836} Article 1(1) and (2) Civil Registration Code.
\footnotetext{837} Article 97(1) Civil Registration Code.
\footnotetext{838} Article 96 Civil Registration Code.
\footnotetext{839} Articles 101, 101-A and 101-B Civil Registration Code.
\footnotetext{840} Article 102 Civil Registration Code.
\footnotetext{841} Article 84 Immigration Act.
\footnotetext{842} Article 45 Civil Registration Code.
\footnotetext{843} Article 42 Civil Registration Code.
\footnotetext{844} Article 103 Civil Registration Code.
\end{footnotes}
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.\textsuperscript{845}

According to CPR's experience, applicants for and beneficiaries of international protection whose children are born in Portugal do not face significant or systematic challenges in registering their birth. However, some problems may arise with the registration of paternity where the father cannot personally declare his willingness to be registered as such before a Portuguese civil registry office, and the marriage contracted abroad is not previously registered in Portugal, as is generally the case. In these cases, a paternity investigation is usually conducted by the Family Court with uncertain results given the potential difficulties of applicants and beneficiaries of international protection to meet evidentiary requirements.\textsuperscript{846} The requirement of presenting two witnesses in the absence of an identification document may also be challenging in some cases.

In this regard, it is also important to note that children born in Portugal to foreigners who are not representing their country (i.e. in an official capacity), are Portuguese by birth if:

(i) one of the parents legally resides in the country at the time of the birth; or
(ii) one of the parents resides in Portugal for at least one year at the time of birth (regardless of status), and if they do not declare that they do not want to be Portuguese.\textsuperscript{847}

According to official information obtained by CPR within the context of provision of legal assistance to applicants for and beneficiaries of international protection, this provision, that was amended in 2020, is applicable retroactively.\textsuperscript{848}

While according to information previously gathered by CPR, for this purpose, applicants for international protection were deemed to be legally residing in Portugal from the moment the application for international protection is made, discrepant practice was observed in 2021 and 2022, whereby some registration services did not consider the certificate of the asylum application as proof of regular residence. In the course of 2022, the Ministry of Justice officially informed CPR that the certificate of the asylum application is not to be accepted as proof of regular residence, as, according to the law, it only allows permanence in the national territory.\textsuperscript{849} Furthermore, the Nationality Regulation also determines that, for these purposes, legal residency requires the existence of a residence permit (Immigration Act or Asylum Act).\textsuperscript{850}

In 2022, CPR has also observed instances where the temporary residence permit granted to asylum seekers admitted to the regular procedure was also insufficient to prove legal residency. While the former is in line with the applicable legal framework, the later seems to be at odd with the intent of the provisions of the Asylum Act. The issue was raised by CPR with the Ministries of Justice and Home Affairs, but official information on this matter was not available at the time of writing.

Additional problems observed in this regard relate to the (non)issuance of citizen cards to such children due to the lack of an identification document from the mother. This issue was also raised with the Ministry of Justice, that recognised that the practice was incorrect and reportedly clarified the internal procedures in this regard.

\textsuperscript{845} Article 102-A Civil Registration Code.
\textsuperscript{846} Article 120 Civil Registration Code and Articles 1847, 1853(a), 1864 and 1865 Civil Code.
\textsuperscript{847} Article 1(1)(f) Nationality Act. Until the 2020 recast, a minimum of 2 years of legal residence of one of the parents at the time of birth was required.
\textsuperscript{848} The provision's retroactive application has also been confirmed by na opinion of the Advisory Board of the Institute of Registries and Notary Affairs (IRN). See Conselho Consultivo do Instituto de Registos e Notariado, \textit{Parecer n.º 1/CC/2021}, 21 February 2021, available at: \url{https://bit.ly/33jFXH3}.
\textsuperscript{849} Article 14(1) Asylum Act.
\textsuperscript{850} Article 10(3)(a) Nationality Regulation.
2.2. Registration of marriage

In practice, according to CPR’s experience, the need of beneficiaries of international protection to transcribe foreign marriage registries is not a recurring issue given that SEF does not require such registration for the purposes of derivative international protection (i.e., when protection is extended to someone else) or family reunification of procedures (see Family Criteria).

Marriage between foreigners in Portugal, on the other hand, requires the presentation of the spouses’ residence permits, birth certificates and certificates of no impediment, that must be either duly legalised or not raise well-founded doubts regarding their authenticity. 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, or justify the absence of the certificate of no impediment, where there are strong reasons thereto. To that end, the civil registry officer may choose to conduct the investigations deemed appropriate, and consider alternative evidence such as witness statements.

According to CPR’s experience, beneficiaries of international protection do not face significant or systematic challenges in contracting marriage in Portugal as civil registry offices generally accept alternative legal avenues to either replace the birth certificate or to justify the absence of the certificate of no impediment due to their legal status and recognised protection needs.

3. Long-term residence

<table>
<thead>
<tr>
<th>Indicators: Long-Term Residence</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Number of long-term residence permits issued to beneficiaries in 2022: 0</td>
</tr>
</tbody>
</table>

Competence for issuing a long-term residence permit lies with the National Director of SEF, that must issue a decision within 6 months of application. The residence permit is valid for 5 years and is automatically renewed at the request of the beneficiary of protection.

The following criteria must be met to obtain a long-term resident status regardless of the type of international protection held by the beneficiary:

- Legal and continuous residence in the national territory for 5 years following the date of the application for international protection;
- Stable and regular resources to ensure their survival and that of their family members, without having to resort to the social assistance system;
- Health insurance;
- Accommodation;
- Fluency in basic Portuguese.

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851 Article 137(1) Civil Registration Code.
852 Article 137(2) Civil Registration Code.
853 Article 166(1) Civil Registration Code.
854 Article 49(1) Civil Registration Code.
855 Articles 135(5), 137(5) and 266 to 269 Civil Registration Code.
856 Article 166(2) Civil Registration Code.
857 Article 268(1) Civil Registration Code.
858 Articles 143(1) and 166(3) Civil Registration Code.
859 Article 128 Immigration Act.
860 Article 129(4) Immigration Act. The time limit can be extended by 3 months in particularly complex cases but the applicant must be informed of the extension of the time limit (Article 129(5) Immigration Act) and the application is automatically accepted in the absence of a decision at the end of the 3-month time limit extension (Article 129(6) Immigration Act).
861 Article 130(2) Immigration Act.
862 Article 126 Immigration Act.
Long term resident status can be refused to a former beneficiary of international protection whose refugee status has ceased because they have voluntarily accepted the protection of the country of nationality or, have voluntarily re-acquired the nationality of their country of origin (see Cessation).\textsuperscript{863}

According to SEF, no such permits were issued to beneficiaries of international protection in 2022.

As the main provider of legal information and assistance to asylum seekers and beneficiaries of international protection, CPR is not aware of the issuance of long-term residence status to beneficiaries of international protection in recent years and has provided legal assistance for that purpose in a very limited number of cases. According to its experience, access to such status by beneficiaries of international protection is rare for reasons mostly related to a lack of information and awareness, lack of the necessary financial resources, insufficient language skills, and the priority given to applications for Naturalisation.

4. Naturalisation

<table>
<thead>
<tr>
<th>Indicators: Naturalisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. What is the minimum residence period for obtaining citizenship?</td>
</tr>
<tr>
<td>Refugee status: 5 years</td>
</tr>
<tr>
<td>Subsidiary protection: 5 years</td>
</tr>
<tr>
<td>2. Number of citizenship grants to beneficiaries in 2022: 195 (naturalisation procedures)</td>
</tr>
</tbody>
</table>

Competence for conferring Portuguese nationality lies either with the Minister of Justice regarding naturalisation,\textsuperscript{864} or with the Central Registry Office (Conservatória dos Registos Centrais, CRegC) regarding other modalities for obtaining Portuguese nationality.\textsuperscript{865} According to the law, and in the absence of any deficiencies or irregularities in the procedure attributable to the applicant the time limit for taking a final decision on the file is at least 3.5 months in naturalisation cases,\textsuperscript{866} and 3 months in the remaining cases.\textsuperscript{867} Official data on actual timeframes is not available but, according to CPR’s experience, naturalisation procedures in particular tend to be much longer in practice.

The Portuguese Nationality regime is relatively flexible, and the amendments introduced in recent years, including in 2020, have generally broadened the scope for nationality acquisition.

Some of the modalities of acquisition of Portuguese nationality are of particular relevance to beneficiaries of international protection.

Foreign citizens, including refugees and beneficiaries of subsidiary protection, are eligible for naturalisation under the following conditions.\textsuperscript{868}

- 18 years of age or emancipation in accordance with Portuguese law;
- Minimum legal residence of 5 years in Portugal;
- Proof of proficiency in Portuguese (at least, A2 level);
- Absence of conviction to a prison sentence of at least 3 years for a crime punishable by Portuguese law;
- Not being a danger or a threat to national security or defence due to their involvement in activities related to the practice of terrorism, in accordance with the law that governs terrorism.

According to the information available to CPR, in the case of beneficiaries of international protection, the regular residence period runs from the date of the application for international protection.

\textsuperscript{863} Article 127(3) Immigration Act.
\textsuperscript{864} Article 27 Portuguese Nationality Regulation.
\textsuperscript{865} Article 41 Portuguese Nationality Regulation.
\textsuperscript{866} Article 27 Portuguese Nationality Regulation.
\textsuperscript{867} Article 41(1) and (2) Portuguese Nationality Regulation.
\textsuperscript{868} Article 6(1) Nationality Act; Article 19 Portuguese Nationality Regulation.
Furthermore, the Nationality Act contains a number of special naturalisation regimes exempting certain applicants of some of the above-mentioned requirements. Notably, children of foreign nationals born on national territory are eligible for naturalisation under the following conditions:

- Absence of conviction to a prison sentence of at least 3 years for a crime punishable by Portuguese law (if over 16 years old);
- Not being a danger or a threat to national security or defence due to their involvement in activities related to the practice of terrorism, in accordance to the law that governs terrorism (if over 16 years old);
- At least one parent resided in the country (regularly or not) at least for the 5 years prior to the application; or one of the parents regularly resides in the country; or the child has completed at least one level of pre-school, basic education, or the secondary education (including vocational training) in Portugal.

Naturalisation under this provision is free of charge. For information on acquisition of nationality at birth by children born in Portugal see Civil Registration.

Children in residential care to whom a definitive child protective measure has been applied by the Family and Juvenile Courts may also acquire Portuguese nationality through naturalisation, with exemption of residency requirements. If the child is over 16 years old, eligibility depends upon:

- Absence of conviction to a prison sentence of at least 3 years for a crime punishable by Portuguese law (if over 16 years old);
- Not being a danger or a threat to national security or defence due to their involvement in activities related to the practice of terrorism, in accordance to the law that governs terrorism (if over 16 years old);

In this case, the process must be triggered by the Public Prosecutor Office and is also free of charge.

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. The law also details the proof of proficiency in Portuguese.

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.

CPR’s experience indicates that the main challenges in acquiring nationality through naturalisation are related to poor language skills and obtaining supporting evidence. Supporting evidence required in naturalisation applications generally consists of legalised and translated birth certificates as well as criminal records from the country of nationality and former countries of residence, including EU Member states. In accordance with the applicable provisions, the authorities are generally flexible regarding supporting evidence in naturalisation procedures involving refugees and beneficiaries of subsidiary protection who present reasoned justifications. CPR further provides support to that end, e.g., by clarifying the international legal standards that apply to administrative assistance.

869 Article 6(2) – (9) Nationality Act.
870 Article 6(2) Nationality Act; Article 20 Portuguese Nationality Regulation.
871 Article 6(12) Asylum Act. The provision, added in 2020, determines that naturalisation under some of the special regimes is free of charge. Naturalisation under other provisions (including the general regime) has a cost of €250.
872 Article 6(3) Nationality Act.
873 Ibid.
874 Article 6(12) Nationality Act.
875 Article 26 Portuguese Nationality Regulation.
876 Article 25(2)-(9) Portuguese Nationality Regulation.
877 Ministerial Order 176/2014.
878 Article 3 Nationality Act; Article 14 Portuguese Nationality Regulation.
Another issue identified in the course of 2021 that persisted in 2022 despite contacts with SEF in this regard, is related to the content of the declarations issued by SEF to certify the period of legal residence. According to CPR’s observation, when the renewal of the residence permit is pending, that period of time is not referred to as legal residence by SEF. This is the case despite the beneficiary of international protection holding a certificate that replaces the actual residence permit for all legal purposes (including to attest regular residency in the country).

According to SEF, 195 beneficiaries of international protection were granted Portuguese nationality through naturalisation in 2022. Disaggregation per status was not available.

5. Cessation and review of protection status

<table>
<thead>
<tr>
<th>Indicators: Cessation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is a personal interview of the beneficiary in most cases conducted in practice in the cessation procedure? [ ] Yes [ ] No</td>
</tr>
<tr>
<td>2. Does the law provide for an appeal against the first instance decision in the cessation procedure? [ ] Yes [ ] No</td>
</tr>
<tr>
<td>3. Do beneficiaries have access to free legal assistance at first instance in practice? [ ] Yes [ ] With difficulty [ ] No</td>
</tr>
</tbody>
</table>

Competence for taking decisions on the cessation of international protection lies with the Ministry of Home Affairs on the basis of a proposal put forward by the national director of SEF.879 The representative of UNHCR or CPR shall be informed of the declaration of loss of the right to international protection.880

The Asylum Act establishes the grounds for cessation of international protection.881

Regarding refugee status, the right to asylum ceases when the foreign national or stateless person.882

- a. Decides to voluntarily accept the protection of the country of their nationality;883
- b. Voluntarily reacquires their nationality after having lost it;884
- c. Acquires a new nationality and enjoys the protection of the country of the newly acquired nationality;885
- d. Returns voluntarily to the country they left or outside which they had remained for fear of persecution;886
- e. Cannot continue to refuse the protection of the country of nationality or habitual residence, since the circumstances due to which they were recognised as a refugee no longer exist;887 or
- f. Expressly renounces to the right to asylum.888

Regarding subsidiary protection, the right ceases when the circumstances resulting in said protection no longer exist or have changed to such an extent that the protection is no longer necessary.889

The grounds relating to a change in circumstances justifying the cessation of refugee status or subsidiary protection can only be applied if SEF concludes that the change in circumstances in the country of origin

879 Article 43(1) Asylum Act.
880 Article 43(3) Asylum Act.
881 Article 41 (1)-(4) Asylum Act.
882 Article 41(1) Asylum Act.
883 Article 41(1) (a) Asylum Act.
884 Article 41(1) (b) Asylum Act.
885 Article 41(1) (c) Asylum Act.
886 Article 41(1) (d) Asylum Act.
887 Article 41(1) (e) and (f) Asylum Act.
888 Article 41(1) (g) Asylum Act.
889 Article 41(2) Asylum Act.
or habitual residence is significant and durable to exclude a well-founded fear of persecution or a risk of serious harm.\textsuperscript{890} Furthermore, this cessation ground is without prejudice to the principle of \textit{non-refoulement}.\textsuperscript{891} and is not applicable to refugees who are able to invoke imperative reasons related to prior persecution to refuse to avail themselves of the protection of the country of their nationality or habitual residence.\textsuperscript{892} The latter safeguard is only explicitly provided in the Asylum Act for refugees, failing to adequately transpose Article 16(3) of the Qualification Directive.

SEF is required to notify the beneficiary of protection of the intended cessation in order to allow them to exercise the right to an adversarial hearing in writing within 8 days.\textsuperscript{893} A decision on cessation is subject to a judicial appeal with suspensive effect.\textsuperscript{894} In the absence of specific provisions, it should be understood that beneficiaries of international protection are entitled to apply for free legal aid at appeal stage under the same conditions as nationals as legal aid is an integral part of the social security system (see \textit{Regular Procedure: Legal Assistance}).\textsuperscript{895}

Cessation of international protection results in the applicability of the Immigration Act to former beneficiaries,\textsuperscript{896} according to which an individual whose refugee status has ceased is entitled to a temporary residence permit without the need to present a residence visa,\textsuperscript{897} even though other requirements such as a travel document, accommodation, and income still apply.

Cessation of subsidiary protection has become increasingly relevant in recent years. According to the information provided by SEF, cessation of refugee status also occurred in 2021 and 2022 (while extremely rare). CPR was not aware of prior cessation decisions concerning refugee status.

According to statistics provided by SEF, in 2016 there were 14 cessations of the subsidiary protection status of beneficiaries from Guinea. No cessation decisions were adopted in 2017 and 2018. In 2019, a total of 98 decisions ceasing subsidiary protection were adopted, of which 75 concerned beneficiaries from Ukraine. In 2020, 262 decisions ceasing subsidiary protection were adopted (of which 176 concerned beneficiaries from Ukraine, 25 beneficiaries from Guinea, and 20 beneficiaries from Pakistan). In 2021, a total of 36 cessation of subsidiary protection decisions were adopted by the national authorities, mostly concerning Ukrainian citizens (13).

According to the information provided by SEF for 2022, a total of 33 decisions of cessation of subsidiary protection were issued by the Portuguese authorities, mostly concerning nationals of Ukraine (19) and DRC (7).

In the framework of the legal assistance provided to some of those concerned in 2016, CPR identified several shortcomings in the cessation proceedings including the lack of renewal of the residence permits while the cessation process was pending and the poor quality of the assessment conducted into the change in circumstances in the country of nationality. Indeed, the assessments conducted did not take into consideration the specific/individual circumstances of each person concerned as the same information was used for all persons meaning that it lacked an actual assessment of whether there was a significant and durable change in circumstances for each individual. Similar shortcomings were subsequently observed.

According to the information provided by SEF on CPR’s request following the invasion of Ukraine, cessation procedures concerning Ukrainian where a final decision was not adopted by the time of the

\begin{itemize}
  \item Article 41(3) Asylum Act.
  \item Article 47 Asylum Act.
  \item Article 41(4) Asylum Act.
  \item Article 41(6) Asylum Act.
  \item Article 44 Asylum Act.
  \item Article 72 Asylum Act.
  \item Article 42(2) Asylum Act.
  \item Article 122(1)(f) Immigration Act. According to CPR’s experience, persons in this situation are granted a residence permit valid for 2 years, that may be renewed for periods of 3 years, under article 77 Immigration Act.
\end{itemize}
invasion were to be reviewed. CPR does not have further information on the implementation of this measure.

National jurisprudence on cessation is limited. The existing decisions available at the time of writing concern subsidiary protection cessation due to a change of circumstances, and offer limited guidance. Two main general points are reinforced by such decisions:

- The burden of proof of a change in the circumstances lies with the national authorities;\(^{898}\)
- A double test – sufficiency and durability - is applicable to cessation due to a change of circumstances.\(^{899}\)

With regard to the **sufficiency** criterion, in one of the cases, the holding of an election in DRC, with a subsequent change of president was deemed as representative of a change of regime and, therefore, as sufficient within the cessation context.\(^{900}\) In the other case analysed, the court concluded that the armed conflict in Ukraine, even if (at the time) limited to certain regions, its indiscriminate and long lasting impact in the civilian population, and the risk of military conscription observed when the applicant was granted subsidiary protection (2016) persisted. As such, the changes in the country of origin were deemed as insufficient to trigger cessation of subsidiary protection.\(^{901}\)

With regard to **durability** of the change, TAF Braga considered that there has to be stability in the change, allowing the authorities to predict that it will last. The court further stated that the analysis cannot be based on a fixed timeframe, and that durability must be determined on a case-by-case basis. In the case analysed, the court concluded that the change observed in DRC two years after the presidential election and change was not yet consolidated, given the information available regarding the country’s political setting. Furthermore, the court noted that the information to be considered in the analysis must be broad and go beyond the political context (for instance, information regarding the legal and judicial system must be analysed as well).\(^{902}\)

The Statistical Report of Asylum 2022 (covering 2021) bears no reference to cessation procedures despite the relevance of the issue.\(^{903}\)

**6. Withdrawal of protection status**

<table>
<thead>
<tr>
<th>Indicators: Withdrawal</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is a personal interview of the beneficiary in most cases conducted in practice in the withdrawal procedure? [ ] Yes [ ] No</td>
</tr>
<tr>
<td>2. Does the law provide for an appeal against the withdrawal decision? [ ] Yes [ ] No</td>
</tr>
<tr>
<td>3. Do beneficiaries have access to free legal assistance at first instance in practice? [ ] Yes [ ] With difficulty [ ] No</td>
</tr>
</tbody>
</table>

The Asylum Act establishes specific grounds for revocation, ending or refusal to renew international protection that are assessed pursuant to the same procedural rules applicable to **Cessation**.

These include the cases where the beneficiary of international protection:\(^{904}\)

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898 TAC Lisbon, Decision 1837/21.2BELSB, 23 December 2021, not publicly available.
899 TAF Braga, Decision 1294/21.3EBR, 7 October 2021, not publicly available.
900 TAF Braga, Decision 1294/21.3EBR, 7 October 2021, not publicly available.
901 TAC Lisbon, Decision 1837/21.2BELSB, 23 December 2021, not publicly available.
902 TAF Braga, Decision 1294/21.3EBR, 7 October 2021, not publicly available.
904 Article 41(5) Asylum Act.
(a) Should have been or can be excluded from the right to asylum or subsidiary protection, pursuant to the exclusion clauses.\textsuperscript{905}
(b) Has distorted or omitted facts, including through the use of false documents, that were decisive for benefiting from the right to asylum or subsidiary protection,\textsuperscript{906}
(c) Represents a danger for national security,\textsuperscript{907}
(d) Having been sentenced by a final judgment for an intentional common law crime punishable with a prison term of more than three years, represents a danger for national security or for public order.\textsuperscript{908}

Practice in this regard remains limited. According to the information provided by SEF, no such decision was adopted in 2022.

B. Family reunification

1. Criteria and conditions

<table>
<thead>
<tr>
<th>Indicators: Family Reunification</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is there a waiting period before a beneficiary can apply for family reunification?</td>
</tr>
<tr>
<td>‣ If yes, what is the waiting period?</td>
</tr>
<tr>
<td>2. Does the law set a maximum time limit for submitting a family reunification application?</td>
</tr>
<tr>
<td>‣ If yes, what is the time limit?</td>
</tr>
<tr>
<td>3. Does the law set a minimum income requirement?</td>
</tr>
</tbody>
</table>

Refugees and beneficiaries of subsidiary protection have the same right to family reunification under the law.\textsuperscript{909} While the right to family reunification encompasses the family members listed in the Asylum Act, its exercise is mostly governed by the provisions of the Immigration Act.\textsuperscript{910}

1.1. Eligible family members

A person granted international protection in Portugal can reunite with the following family members:\textsuperscript{911}

\begin{itemize}
  \item A spouse or unmarried partner,\textsuperscript{912} including same-sex partners, if the relationship is regarded as a sustainable relationship i.e., at least 2 years of living together in conditions analogous to marriage.\textsuperscript{913}
  \item Children under 18 years old if they are dependent on the sponsor and/or on their spouse or unmarried partner and regardless of their marital status. The right to family reunification also includes adopted children under 18 years old of the sponsor or of their spouse or unmarried partner. Adult children who lack legal capacity (e.g., for reasons of mental health) and are dependent on the sponsor and/or on their spouse or unmarried partner are also included; and
  \item Parents, if the sponsor is under 18 years old.
\end{itemize}

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\textsuperscript{905} Article 41(5)(a) Asylum Act.
\textsuperscript{906} Article 41(5)(b) Asylum Act.
\textsuperscript{907} Article 41(5)(c) Asylum Act.
\textsuperscript{908} Article 41(5)(d) Asylum Act.
\textsuperscript{909} Article 68(1) Asylum Act.
\textsuperscript{910} Ibid. Articles 98 et seq Immigration Act.
\textsuperscript{911} Articles 68 and 2(1)(k) Asylum Act.
\textsuperscript{912} Both the sponsor and the spouse/unmarried partner must be at least 18 years old.
\textsuperscript{913} Unmarried partner unions may be attested by any means of proof provided in the law (testimony, documentary proof, affidavit, common children, etc.) In accordance with the law, when a refugee is unable to present official documents to prove his or her family relations, other means of proof will be taken into consideration.
Unaccompanied children can apply for family reunification with their parent(s). In the absence of biological parents, the child can apply for family reunification with an adult responsible for them (e.g., grandparents, legal guardians, or other family members).

It is not required that family formation pre-dates entry into Portugal.

The list of eligible family members in the case of beneficiaries of international protection is more restrictive than that enshrined in the Immigration Act for migrants. The latter also includes: (i) dependent children over 18 years old who are unmarried and studying in Portugal; (ii) dependent first-degree ascendants in the direct line; (iii) siblings under 18 years old, as long as the resident is their guardian, according to a decision issued by the competent authority of the country of origin, duly recognised in Portugal.914

While in the past it was common for SEF to extend the more favourable regime to beneficiaries of international protection, information gathered by CPR indicates that this is no longer the case as the authorities now tend to restrict family reunification to the list of relatives included in the Asylum Act.

1.2. Family reunification procedure

The request for family reunification can be made immediately following the granting of international protection and there is no time limit for applying for family reunification upon arrival in Portugal.

The sponsor in Portugal must apply for family reunification at SEF’s regional office in their residence area if the family member is living abroad at the time of application. If the family member is in Portugal at the time of application, the sponsor must apply for family reunification at SEF-GAR, in Lisbon. Applications are not accepted at Portuguese embassies.

The following official documents need to be presented with the application:915

- Copy of the travel document of the family member;
- Criminal record of the family member, including country of nationality and any country of residence where the family member has lived for over 1 year;
- Where applicable, statement of parental authorisation from the other parent (if not travelling with the child);
- Death certificate of the child’s other parent or evidence of sole legal guardianship if original death certificate is not obtainable, where applicable.

The following official documents are required to prove family relations:

- Spouses: marriage certificate;
- Children: birth certificate, decision of adoption duly recognised by a national authority (if applicable); proof of legal incapacity of adult child (if applicable);
- Other adults in charge of an unaccompanied minor: decision of guardianship duly recognised by a national authority.

In accordance with the law, all official documents need to be translated and duly legalised by the Portuguese embassy with territorial competence prior to their submission to SEF.916

Regarding refugees, the law explicitly lays down that in the absence of official documents to demonstrate family relations, other types of proof should be taken into consideration. The application for family reunification cannot be refused on the sole basis of lack of documentary evidence.917 Other types of proof can consist of interviews of the sponsor and family members; copies of original documents; witness

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914 Article 99 Immigration Act.
915 Article 103 Immigration Act; Article 67 Governmental Decree n. 84/2007 of 5 November 2007.
916 According to CPR’s experience, documents in English, French and Spanish are usually accepted without translation.
917 Article 106(4) Immigration Act.
testimonies; or common children in the case of unmarried partnerships. Portuguese authorities do not conduct DNA tests in the framework of family reunification applications. Even though not formally required, the law does not exclude DNA testing as means of proof of family relations.

In practice, this more favourable regime is generally extended to beneficiaries of subsidiary protection.

Furthermore, refugees are exempted from the general obligation to present proof of accommodation and income in family reunification procedures. This legal provision has also been applied to beneficiaries of subsidiary protection.

The application may be refused on the following grounds:

- Misrepresentation or omission of facts;
- Non-fulfilment of legal requirements;
- Where the potential beneficiary family member would be excluded from refugee status or subsidiary protection;
- Where the potential beneficiary is barred from entering Portugal; and/or
- Where the potential beneficiary poses a risk to public order, public security or public health.

Non-fulfilment of legal requirements may involve: (a) lack of adequate travel documents; (b) lack of criminal records of the potential beneficiary family member; (c) situations where a parent other than the sponsor has not authorised the family reunification of their child with the sponsor; or (d) non-eligibility of the family member.

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.

In the absence of a decision within 6 months from the date of the application and unless the applicant bears responsibility for the delay (e.g., unanswered request for additional information and/or documents), the application is deemed automatically accepted.

A decision refusing an application for family reunification may be appealed in the administrative courts. In the absence of specific deadlines and procedures, the general rules on administrative appeals apply. CPR does not have experience with appeals in this domain.

In recent years, significant waiting times for appointments at SEF for the purposes of family reunification has been registered by CPR. Difficulties in this regard continued to be observed in 2022.

Within the context of resettlement, CPR has observed that ACM has been making efforts to identify family members of resettled refugees present in Turkey and Egypt in order to assess the possibility of including such persons in resettlement quotas. For information on other forms of admission to the territory, see Access to the Territory and Push-backs.

According to the analysis conducted by the Observatory for Migration, the number of holders of residence

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918 Article 101(2) Immigration Act.
919 Article 68(3) Asylum Act.
920 Article 106 Immigration Act.
921 Article 105 Immigration Act.
permits within the context of family reunification of beneficiaries of international protection has been increasing. According to the same source, 167 persons held such a permit by end of 2021.\textsuperscript{923}

In 2022, SEF received 29 applications for family reunification from beneficiaries of international protection and issued 28 decisions (13 concerning refugee status holders, 15 concerning beneficiaries of subsidiary protection). A breakdown by outcome was not available.

2. Status and rights of family members

In accordance with the law, family members receive the same legal status and are entitled to the same rights as the sponsor.\textsuperscript{924} This is generally the case in practice. Nevertheless, CPR is aware of cases of issuance of Immigration Act residence permits (with inherent costs, different status, and subject to a different legal regime for renovation) to family members regarding whom family reunification was accepted and carried out, but who are not included in the restricted list of eligible members of the Asylum Act. According to CPR’s observation, this is a systematic practice in such cases. According to the information provided by SEF, this is based on the understanding that a family member who is not eligible for family reunification under the Asylum Act, must be subject to the application of the general provisions of the Immigration Act.

According to CPR’s observation, when cessation procedures are triggered with regard to the sponsor, family members are also subject to similar procedures.

C. Movement and mobility

1. Freedom of movement

Beneficiaries of international protection are guaranteed freedom of movement throughout the national territory under the same conditions provided for foreign nationals legally residing in Portugal.\textsuperscript{925}

CPR is not aware of any limitations in this regard in practice, with the exception of those possibly arising from the dispersal policy implemented by the SOG that may result in limitations for reasons of access to material support (see Reception Conditions: Freedom of Movement).

2. Travel documents

The Portuguese authorities are bound by a duty to issue travel documents to refugees and beneficiaries of subsidiary protection.\textsuperscript{926}

The refugee travel document consists of an electronic travel document,\textsuperscript{927} following the Refugee Convention format,\textsuperscript{928} which, since 2022, is valid for five years and renewable.\textsuperscript{929} The document is to be issued unless imperative national security/public order require otherwise.\textsuperscript{930} The authorities competent for granting refugee travel documents consist of the National Director of SEF for applications made on the national territory, and consulates for applications made abroad.\textsuperscript{931}

\textsuperscript{924} Article 68(2) Asylum Act.
\textsuperscript{925} Article 75 Asylum Act.
\textsuperscript{926} Article 69 Asylum Act; Article 19 Immigration Act.
\textsuperscript{927} Ministerial Order 302/2015 of 22 September 2015 and Ministerial Order 412/2015 of 27 November 2015.
\textsuperscript{928} Article 69(1) Asylum Act.
\textsuperscript{929} Article 19 Immigration Act. An amendment to the Immigration Act enacted in 2022 extended the validity of the refugee travel document from one to five years.
\textsuperscript{930} Article 69(1) Asylum Act.
\textsuperscript{931} Article 20 Immigration Act.
In 2022, the issuance of the refugee travel document had a cost of €21.93.\textsuperscript{932}

In the case of beneficiaries of \textit{subsidiary protection}, the issuance of travel documents is left to the discretion of national authorities, at odds with Article 25(2) of the recast Qualification Directive. The Asylum Act states that a Portuguese passport for foreigners may be issued to beneficiaries of subsidiary protection who cannot demonstrably obtain a national passport unless imperative motives of national security/public order require otherwise.\textsuperscript{933}

Beneficiaries of subsidiary protection are thus required to present a valid residence permit and to demonstrate their inability to obtain a national passport, notably on the basis of relevant proof or credible statements showing a potential risk to their own safety or the refusal of their country’s consular representation to issue such a passport.\textsuperscript{934} The standard for this analysis is not further specified by law and guidance in this regard is not publicly available.

The Portuguese passport for foreigners is valid for a period of up to two years,\textsuperscript{935} and, in 2022, had a cost of €112.39.\textsuperscript{936}

According to SEF, in 2022 a total of 512 travel documents were issued to beneficiaries of international protection, of which 390 to refugee status holders and 122 to beneficiaries of subsidiary protection.

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

According to the statistics provided by SEF, no request was refused in 2022.

\section*{D. Housing}

\begin{table}[h]
\centering
\begin{tabular}{|p{0.7\textwidth}|p{0.2\textwidth}|}
\hline
\textbf{Indicators: Housing} & \\
\hline
1. For how long are beneficiaries entitled to stay in reception centres? & Data not available \\
\hline
2. Number of beneficiaries staying in reception centres as of 31 December 2022 & Data not available \\
\hline
\end{tabular}
\end{table}

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,\textsuperscript{937} therefore encompassing public housing.\textsuperscript{938}

While CPR is not aware of systematic instances of homelessness among beneficiaries of international protection, access to adequate housing is identified as a major issue within the national context by asylum seekers, refugees and NGOs.\textsuperscript{939} Factors such as high prices, and contractual demands including

\begin{thebibliography}{999}
\bibitem{932} Ministerial Order n. 1334-E/2010 of 31 December 2010 last amended by Ministerial Order 204/2020 of 28 August, available at https://bit.ly/3mEANLq. Amount applied from 03/05/2022 onwards, according to information publicly available at: https://bit.ly/3XqEN3Y. In 2021 it costed €21.66. Until September 2020 the refugee travel documents issued by the Portuguese authorities were not electronic and their issuance was free of charge.
\bibitem{933} Article 69(2) Asylum Act.
\bibitem{935} Article 38 Decree-Law 83/2000 of 11 May 2000.
\bibitem{937} Article 74 Asylum Act.
\bibitem{938} Article 5 Public Leasing Act; Article 5 Regulation 84/2018.
\bibitem{939} In addition to CPR, SCML and JRS also expressed this concern when providing information for the AIDA report.
\end{thebibliography}
high deposits, need of guarantors and proof of income hinder the capacity of asylum seekers and refugees to access the market directly, and that of frontline service providers to increase reception capacity. Consequently, asylum seekers and refugees often have to resort to overcrowded or sub-standard housing options when accessing the private housing market.  

Given the impact of the matter, in 2022, the SOG decided to include it in the agenda of all its extended line-up meetings. Throughout the year, this topic continued to be discussed in the extended line up of the group, and the creation of a specific sub-group to deal with housing is being considered.

Access of beneficiaries of international protection to public housing remains extremely limited for reasons that according to CPR’s experience have traditionally been linked to legal constraints under previous rules, limited stock of available public housing, lack of prioritisation of beneficiaries of international protection in public housing policy and heavy bureaucratic requirements.

Within the context of resettlement, hosting entities are responsible for the provision of accommodation. In the case of resettled refugees supported by CPR, the reception program includes an initial period of accommodation in a reception centre – CAR 2 (3 to 6 months).

The average length of stay in the centre has increased in recent years (no less than 8 months in 2022, compared to 4.5 months in 2019), namely due to challenges in accessing housing in the private market. These difficulties have also been compounded by rent increases and evictions of families that had already left the reception centre.

Decree-Law 26/2021 of 31 March 2021 created, inter alia, a National Pool of Urgent and Temporary Accommodation and a National Plan of Urgent and Temporary Accommodation. Recognising the lack of solutions in this regard, the National Plan aims to create structured responses to people in need of emergency or transition accommodation.

According to the Decree-Law, the National Plan covers persons under the mandate of the entities that form the restricted line-up of the SOG (SEF, ACM and ISS). Referrals of applicants for/beneficiaries of international protection to accommodation within this context should be made by ACM/ISS. Such referrals must be communicated to the SOG. Additionally, entities responsible for the reception of applicants and beneficiaries of international protection may access support to promote urgent and temporary accommodation solutions for the National Pool.

At the time of writing, the implementation and impact of this legislation was unclear.

E. Employment and education

1. Access to the labour market

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940 It should be noted that while these issues are not only specific to applicants and beneficiaries of international protection, factors such as the absence of support networks increase their impact in asylum seeking and refugee families.

941 Available at: https://bit.ly/30c68Ct. The functioning of the National Pool of Urgent and Temporary Accommodation is governed by Ministerial Order 120/2021, 8 June, available at: https://bit.ly/3uEmOLm.

942 Article 11 Ministerial Order 120/2021, 8 June defines the maximum periods of emergency/transition accommodation – 15 days or 6 months, respectively, that may be renewed for an equal period. A specific regime applies to victims of domestic violence.


944 Article 12(1) and (2) Ministerial Order 120/2021, 8 June.

945 Article 12(3) Ministerial Order 120/2021, 8 June.

946 Article 12 Decree-Law 26/2021 of 31 March; article 26(c) Decree-Law 37/2018 of 4 June; article 7(c) Ministerial Order 120/2021, 8 June.
The law provides for the right of refugees and beneficiaries of subsidiary protection to access the labour market pursuant to general rules. 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. Beneficiaries of international protection benefit from the same conditions of employment as nationals, i.e., in terms of salaries and working hours. 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). 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.

With the exception of the submission of beneficiaries of international protection to the conditions applicable to nationals of the same country, there are no specific rules regarding the recognition of diplomas and academic qualifications in the Asylum Act and the general rules and practical challenges facing asylum seekers apply (see Reception Conditions: Access to the Labour Market).

There are no statistics available on the number of beneficiaries of international protection in employment at the end of 2022. According to CPR’s experience, despite existing support mechanisms pertaining to language training and employment assistance, asylum seekers and beneficiaries of international protection face many challenges in securing employment that are both general and specific in nature (see Reception Conditions: Access to the Labour Market).

2. Access to education

The Asylum Act provides for the right of children who are refugees or beneficiaries of subsidiary protection to education under the same conditions as national citizens. The right to education under the same conditions as nationals is extended to adult beneficiaries of international protection. 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

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947 Article 71(1) Asylum Act.
948 Article 67(4) Asylum Act.
949 Article 15(2) Constitution; Article 17(1)(a) and (2) Act 35/2014.
950 Article 71(3) Asylum Act; Article 4 Labour Code.
951 Article 5 Labour Code.
952 Article 71(2) Asylum Act. Even though related to the right to education, Article 70(2) Asylum Act seems to enshrine a similar right to training.
953 Article 70(3) Asylum Act.
954 Article 70(1) Asylum Act.
955 Ibid.
According to the Asylum Act, the general rules governing the social welfare system are applicable to refugees and beneficiaries of subsidiary protection. Refugees and beneficiaries of subsidiary protection are entitled to the same rights and to access social welfare under the same conditions as nationals.

The Social Insertion Revenue (Rendimento Social de Inserção, RSI) is a social protection measure that aims to support individuals in serious economic need and who are at risk of social exclusion. This is the most relevant social allowance available to beneficiaries of international protection.

In addition to the financial allowance, RSI comprises an inclusion programme, based on a contract established with the concerned household. Access by beneficiaries of international protection is subject to the fulfilment of the general conditions prescribed by law, namely:

- If the applicant lives alone – their monthly income cannot exceed the amount of the allowance;
- If the applicant lives with family members – the combined monthly income cannot exceed the total amount of the allowance;
- The applicant must be 18 years of age or older (although there are situations in which younger persons are also eligible);
- The applicant must be registered with IEPF.

The financial allowance of the RSI is as follows:

<table>
<thead>
<tr>
<th>Category of applicant</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Head of household</td>
<td>€ 189.66</td>
</tr>
<tr>
<td>Other adult in household</td>
<td>€ 132.76</td>
</tr>
<tr>
<td>Child</td>
<td>€ 94.83</td>
</tr>
</tbody>
</table>

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.

According to the law, refugees and beneficiaries of subsidiary protection are also entitled to other social allowances such as child benefits and family allowances, unemployment benefits, 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 following the assistance provided throughout the asylum procedure.

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956 Article 72 Asylum Act.
958 Amended version of Ministerial Order 257/12 of 27 August, available at: https://bit.ly/3s5DczW.
959 Ministerial Order 253/17 of 8 August.
962 SCML also supports refugees and beneficiaries of international protection in specific situations, e.g., vulnerable cases such as unaccompanied children that move into assisted apartments and former unaccompanied children previously accommodated at CACR; individuals and families with strong social networks in the Lisbon area.
In general, refugees and beneficiaries of subsidiary protection are required to present their residence permit in order to have access to such support measures. While CPR is unaware of systemic problems in accessing support, refugees and beneficiaries of subsidiary protection often report difficulties in meeting their basic needs with the low income provided by the social welfare system.

The Statistical Report of Asylum 2022 estimates that 49.6% of the beneficiaries of international protection in Portugal were autonomous from social (financial) support by the end of 2021.\textsuperscript{963}

G. Health care

The Asylum Act enshrines the right of refugees and beneficiaries of subsidiary protection, as well as their family members, to health care provided by the SNS under the same conditions as nationals.\textsuperscript{964} Furthermore, it provides for the right to tailored health care, including the treatment of mental conditions, for vulnerable refugees under the same conditions as national citizens.\textsuperscript{965}

The special needs of particularly vulnerable persons including beneficiaries of international protection must be taken into consideration in the provision of health care,\textsuperscript{966} notably through rehabilitation and psychological support to children who have been subjected to various forms of violence,\textsuperscript{967} and adequate treatment to survivors of torture and serious violence.\textsuperscript{968} Responsibility for special treatment required by survivors of torture and serious violence lies with ISS.\textsuperscript{969}

Asylum seekers and refugees are exempt from any fees to access the National Health System.\textsuperscript{970} Additionally, all children are exempt from such fees.\textsuperscript{971}

In practice, beneficiaries of international protection have effective access to free health care in the SNS in line with applicable legal provisions. However, as with asylum seekers (see Reception Conditions: Health Care) persisting challenges have a significant impact on the quality of the care available. According to research and information available to CPR, these include language and cultural barriers due to the reluctance of health care services to use available interpretation services such as ACM’s translation hotline; restricted access to diagnosis procedures and medication paid by the SNS due to bureaucratic constraints; or very limited access to mental health care and other categories of specialised medical care (e.g., dentists) in the SNS.\textsuperscript{972}

According to CPR’s experience within the provision of support to resettled refugees, access to healthcare by beneficiaries of international protection worsened within the context of the pandemic given the overburdening of healthcare services. These challenges continued to be registered in 2022. According to the publicly available information, such difficulties are common to the whole population and not particular to refugees.

\textsuperscript{963} Observatório das Migrações (OM), Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2022, June 2022, available in Portuguese at: https://bit.ly/3XySygz.

\textsuperscript{964} Article 73(1) Asylum Act.
\textsuperscript{965} Article 73(2) Asylum Act.
\textsuperscript{966} Article 77(1) Asylum Act.
\textsuperscript{967} Article 78 (3)-(4) Asylum Act.
\textsuperscript{968} Article 80 Asylum Act.
\textsuperscript{969} Ibid.
\textsuperscript{970} Article 4(1)(n) Decree-Law 113/2011 of 29 November 2011.
\textsuperscript{971} Article 4(1)(b) Decree-Law 113/2011 of 29 November 2011.
\textsuperscript{972} Italian Council for Refugees et al., Time for Needs: Listening, Healing, Protecting, October 2017, available at: https://bit.ly/3gEoe1T.
### ANNEX I – Transposition of the CEAS in national legislation

#### Directives and other CEAS measures transposed into national legislation

<table>
<thead>
<tr>
<th>Directive / Regulation</th>
<th>Deadline for transposition</th>
<th>Date of transposition</th>
<th>Official title of corresponding act</th>
<th>Web Link</th>
</tr>
</thead>
<tbody>
<tr>
<td>Directive 2011/95/EU</td>
<td>21 December 2013</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recast Qualification Directive</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recast Asylum Procedures Directive</td>
<td>20 July 2015</td>
<td>5 May 2014</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Directive 2013/33/EU</td>
<td>20 July 2015</td>
<td></td>
<td></td>
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<tr>
<td>Recast Reception Conditions Directive</td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Regulation (EU) No 604/2013</td>
<td>Directly applicable</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Dublin III Regulation</td>
<td>20 July 2013</td>
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</tbody>
</table>

The following section contains an overview of some of the most significant incompatibilities in transposition of the CEAS in national legislation:

<table>
<thead>
<tr>
<th>Directive/Provision</th>
<th>Domestic law provision</th>
<th>Non-transposition or incorrect transposition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Directive 2011/95/EU Recast Qualification Directive</td>
<td>Article 12 recast QD</td>
<td>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</td>
</tr>
<tr>
<td>Article 9 Asylum Act (exclusion clauses)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Article</td>
<td>Recast Directive</td>
<td>Article</td>
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<tr>
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</tr>
<tr>
<td>Article 8 recast Qualification Directive</td>
<td>Article 18 Asylum Act (analysis of the application – internal protection alternative)</td>
<td>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) <em>in fine</em> of the recast Qualification Directive (‘and they can safely and legally travel to and gain admittance to that part of the country and can reasonably be expected to settle there.’) would only apply to situations where the applicant ‘has access to protection against persecution or serious harm’. 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.</td>
</tr>
<tr>
<td>Article 16(3) recast QD</td>
<td>Article 41 Asylum Act (cessation of protection)</td>
<td>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.</td>
</tr>
<tr>
<td>Article 25(2) recast QD</td>
<td>Article 69(1) Asylum Act (issuance of travel documents to beneficiaries of international protection)</td>
<td>According to the Asylum Act, issuance of travel documents to beneficiaries of subsidiary protection is left to the discretion of national authorities.</td>
</tr>
<tr>
<td>Article 12 recast QD</td>
<td>Article 41 Asylum Act (revocation of, ending or refusal to renew international protection)</td>
<td>See <em>supra</em> 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.</td>
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<tr>
<td>Article 37 recast APD</td>
<td>Article 2(1)(q) Asylum Act (safe country of origin)</td>
<td></td>
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<tr>
<td>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.</td>
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<td></td>
</tr>
<tr>
<td>Article 38 recast APD</td>
<td>Article 2(1)(r) Asylum Act (definition of safe third country)</td>
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</tbody>
</table>
| 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:  
- The provision applies *ratione personae* 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’. |
| Article 14(2)(b) and (4) recast APD | Article 16 Asylum Act (personal interview) | The circumstances in which the determining authority may omit the personal interview are exhaustively listed in Article 16(5) of the Asylum Act and mirror the corresponding provision of the recast Asylum Procedures Directive (Article 14(2)). However, with regard to cases where the applicant is deemed unfit/unable due to enduring circumstances beyond their control, the final part of Article 14(2)(b) of the Directive was not transposed ('When in doubt, the determining authority shall consult a medical professional to establish whether the condition that makes the applicant unfit or unable to be interviewed is of a temporary or enduring nature.') The safeguard contained in Article 14(4) of the recast Asylum Procedures Directive that determines that the absence of personal interview in such situations 'shall not adversely affect the decision of the determining authority', was also not explicitly transposed to the Asylum Act. |
| Article 15 recast APD (also Article 4(3) in fine recast APD) | Article 16 Asylum Act (personal interview) | With regard to the conditions of the personal interview, the Asylum Act does not fully transpose the requirements set out in the recast Asylum Procedures Directive (Article 15), particularly those regarding to the characteristics of the interviewer and on the use of interpreters (Article 15(3) recast Asylum Procedures Directive). Furthermore, and without prejudice to Article 84 of the Asylum Act that refers to the adequate training of all staff working with applicants and beneficiaries of international protection, the specific training requirement for interviews provided for in Article 4(3) in fine of the recast Asylum Procedures Directive was not transposed to the domestic order ('Persons interviewing applicants pursuant to this Directive shall also have acquired general knowledge of problems which could adversely affect the applicants’ ability to be interviewed, such as indications that the applicant may have been tortured in the past'). |
| Article 16 recast APD | Article 16 Asylum Act (personal interview) | With regard to the content of the personal interview, the national legislator did not transpose the final part of Article 16 of the recast Asylum Procedures Directive, establishing that the personal interview 'shall include the opportunity to give an explanation regarding elements which may be missing and/or any inconsistencies or contradictions in the applicant’s statements.' |</p>
<table>
<thead>
<tr>
<th>Article</th>
<th>Recast APD</th>
<th>Article 18 Asylum Act (analysis of the application – country of origin information)</th>
<th>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.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Articles 31(8) and 32 recast APD</td>
<td>Article 19 Asylum Act (accelerated procedures)</td>
<td>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).</td>
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<td>Article 35 recast APD</td>
<td>Articles 2(1)(z) and 19-A(1)(c) Asylum Act (first country of asylum)</td>
<td>Neither Article 2(1)(z) of the Asylum Act, that defines the ‘first country of asylum’ concept, nor Article 19-A(1)(c) of the Asylum Act that provides for the corresponding inadmissibility clause, explicitly contain the safeguard of Article 35 of the recast Asylum Procedures Directive, entitling the applicant to challenge the application of the concept to their particular circumstances.</td>
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<td>Article 46(4) recast APD</td>
<td>Article 25(1) Asylum Act (time limits for appeal – border procedure)</td>
<td>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.</td>
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<td>Article 24 recast APD (also article 22 recast RCD)</td>
<td>Articles 17-A and 77 Asylum Act (mechanisms for assessing vulnerability and special needs – procedural and reception)</td>
<td>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.</td>
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<td>Article 25(5) recast APD</td>
<td>Article 79 (6) and (7) Asylum Act (age assessment)</td>
<td>The Asylum Act does not contain the limitation on the use of medical examination for age assessment enshrined in the first part of Article 25(5) recast Asylum Procedures Directive: ‘Member States may use medical examinations to determine the age of unaccompanied minors within the framework of the examination of an application for international protection where, following general statements or other relevant indications, Member States have doubts concerning the applicant’s age’. Furthermore, the right to information of the unaccompanied children regarding the age assessment procedure established in Article 79(7) of the Asylum Act does not fully transpose all the requirements of Article 25(5)(a), in particular with regard to the methods used and to the consequences of results.</td>
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<td>Directive 2013/33/EU Recast Reception Conditions Directive</td>
<td>Articles 8 and 9 recast RCD (also article 26 recast APD)</td>
<td>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.</td>
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<td>Article 9(5) recast RCD</td>
<td>Article 35-B(1) Asylum Act (revision of detention)</td>
<td>Article 35-B(1) of the Asylum Act establishes that detention may be reviewed <em>ex officio</em> 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, <em>ex officio</em> 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’).</td>
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<td>Article 14(2) recast APD</td>
<td>Article 53 Asylum Act (access to education)</td>
<td>The Asylum Act does not contain any reference to a maximum time limit with regard of access to education by children.</td>
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