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Asylum Information Database

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CONSELHO PORTUGUÊS PARA OS REFUGIADOS

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European Council on Refugees and Exiles

2023 UPDATE

PORTUGAL

COUNTRY REPORT

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, reception and integration services, as well as data and information shared by national authorities, civil society organisations and other stakeholders consisting of AIMA, CSTAF, DGE, DGEstE, ISS, OIM, PSP, SCML, 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 2023 update to the AIDA country report on Portugal was sent to the Agency for Integration, Migration and Asylum (AIMA) to grant the Agency the opportunity to provide comments on the draft country report. The comments were taken into account by the authors in the report below and are also published in a separate annex on the AIDA website.

The information in this report is up to date as of 31 December 2023, unless otherwise stated.

The Asylum Information Database (AIDA)

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

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Glossary & List of Abbreviations

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

EASO	European Asylum Support Office (now named EUAA)
ECHR	European Convention on Human Rights
ECRI	European Commission Against Racism and Intolerance
ECtHR	European Court of Human Rights
EDAL	European Database of Asylum Law
EECIT	Detention facilities qualified as Temporary Installation Centres | Espaço Equiparado a Centro de Instalação Temporária
EPVA	Teams for the Prevention of Violence between Adults I Equipas para a Prevenção da Violência entre Adultos
EUAA	European Union Agency for Asylum (formerly EASO)
GAR	Asylum and Refugees Department | Gabinete de Asilo e Refugiados
GIP	Professional Insertion Office | Gabinete de Inserção Profissional
GNR	National Republican Guard | Guarda Nacional Republicana
GRETA	Group of Experts on Action Against Trafficking in Human Beings
GTO	Technical Operative Group I Grupo Técnico Operativo
ICRC	International Committee of the Red Cross
IEFP	Employment and Vocational Training Institute I Instituto do Emprego e Formação Profissional
IGAI	General Inspectorate of Internal Administration I Inspecção Geral da Administração Interna
IHRU	Institute for Housing and Urban Rehabilitation I Instituto da Habitação e da Reabilitação Urbana
INE	National Institute for Statistics I Instituto Nacional de Estatística
INMLCF	National Institute of Legal Medicine and Forensic Science | Instituto Nacional de Medicina Legal e Ciências Forenses
IOM	International Organisation for Migration
IPDJ	Portuguese Institute of Sports and Youth | Instituto Português do Desporto e da Juventude
IRN	Institute of Registries and Notary | Instituto dos Registos e Notariado
ISS	Institute of Social Security I Instituto da Segurança Social
JRS	Jesuit Refugee Service
MAI	Minister of Home Affairs | Ministério da Administração Interna
MAAP	Minister in the Cabinet of the Prime Minister and for Parliamentary Affairs | Ministra Adjunta e dos Assuntos Parlamentares
MdM	Doctors of the World | Médicos do Mundo
MoU	Memorandum of Understanding

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

Statistics

Overview of statistical practice

The Immigration and Borders Service (SEF) published a yearly statistical report providing information on asylum applications: number, nationalities, place of application, gender, unaccompanied children, positive first instance decisions, relocation.[1]

Following the adoption of Parliament Resolution no. 292/2018, recommending the publication of a yearly report on national asylum policy, the Observatory for Migration (OM) published a yearly report on asylum.[2] Within this context, in July 2023, the OM published 'Applicants and Beneficiaries of International Protection – Statistical Report of Asylum 2023'.[3] The OM was an autonomous unit of the High Commission for Migration (ACM).

ACM and SEF were both terminated in October 2023, and their attributions within this area were transferred to AIMA (see: Determining Authority). At the time of writing, it is unclear which will be AIMA's practice regarding the publication of statistics and data.

1 SEF, *Yearly Statistical Reports*, available at: https://bit.ly/3vHDYbz. These reports were usually published in June (with information on the previous year).
2 The first of such reports was published in May 2020.
3 Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2023*, July 2023. While the reports produced by the OM were previously available online, at the time of writing it was not possible to access them online, neither in the website of ACM, which was still online, nor in the website of AIMA.

Applications and granting of protection status at first instance: 2023[4]

	Applicants in 2023	Pending at end of 2023	Total decisions in 2023	Refugee status and Subsidiary protection	Humanitarian protection	Total rejection
Total	2,992 (2,715)[5]	N.A.	562	404	0	158
Breakdown by countries of origin of the total numbers						
Afghanistan	332	N.A.	:	:	-	:
Gambia	315	N.A.	:	:	-	:
Colombia	253	N.A.	:	:	-	:
Senegal	197	N.A.	:	:	-	:
Angola	155	N.A.	:	:	-	:
Iraq	129	N.A.	:	:	-	:
Israel	129	N.A.	:	:	-	:
Syria	125	N.A.	:	:	-	:
Morocco	117	N.A.	:	:	-	:
Guinea Bissau	117	N.A.	:	:	-	:

Source: AIMA. Calculations by the author.

The rejection figures indicated above include inadmissibility decisions as well as in-merit rejections adopted in accelerated procedures. AIMA did not provide the number of rejections adopted within the regular procedure in 2023.

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

4 Data marked with ":" is not included for data protection purposes.

5 The total number of asylum applications indicated by AIMA is 2,992. According to the information provided by the Agency, this includes 277 resettled refuges. As resettled refugees are not usually counted as applicants for international protection, the number of applicants minus the number of resettled refugees (2,715) is also included in the table for easier comparability.

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 AIMA, in 2023, 281 admissibility decisions were issued.[6]

Applications and granting of protection status at first instance: rates for 2023

	Overall protection rate	Refugee rate	Subsidiary protection rate	Rejection rate
Total	72%	N.A.	N.A.	28%

Breakdown by countries of origin of the total numbers

Afghanistan	98%	N.A.	N.A.	2%
Gambia	7%	N.A.	N.A.	93%
Colombia	0%	N.A.	N.A.	100%
Senegal	0%	N.A.	N.A.	100%
Angola	0%	N.A.	N.A.	100%
Iraq	100%	N.A.	N.A.	0%
Israel	-	-	-	-
Syria	98%	N.A.	N.A.	2%
Morocco	0%	N.A.	N.A.	100%
Guinea Bissau	0%	N.A.	N.A.	100%

Source of the percentages: Calculated by the author based on data provided by AIMA. As per the data above, the rejection rate included non in merit rejections.

[6] However, CPR is aware of a much higher number of admissibility decisions taken during the year, notably due to non-compliance by the authority with the relevant deadlines to deem an application inadmissible/reject it as manifestly unfounded in an accelerated procedure. According to data collected by CPR based on SEF's/AIMA's communications through the year and information provided by asylum-seekers, at least 865 such decisions were issued to asylum-seekers whom applied for asylum in 2023 (this figure may include decisions already issued in 2024).

Gender/age breakdown of the total number of applicants: 2023

	Men	Women
Number	2,115	877
Percentage	71%	29%

	Adults	Children	
		Accompanied	Unaccompanied
Number	2,383	511	98
Percentage	80%	17%	3%

Source: AIMA. Percentages calculated by the author.

Note: The gender breakdown (Men/Women) applies to all applicants, not only adults.

According to Eurostat data:

- A total of 2,695 asylum applications were registered in Portugal in 2023.[7]
- 435 first instance final decisions were adopted by the authorities, out of which 125 were rejections and 310 were decisions granting international protection.[8]
- Out of 310 decisions granting international protection, 290 recognised refugee status and 20 granted subsidiary protection.[9]
- 515 applicants had their asylum applications processed under an accelerated procedure.[10]
- By the end of the year, 365 asylum applications were pending.[11]

Information on appeals: 2023

According to information provided by the High Council of Administrative and Fiscal Courts (*Conselho Superior dos Tribunais Administrativos e Fiscais*, CSTAF), in 2023, the Administrative Circle Court (*Tribunal Administrativo de Círculo,* TAC) of Lisbon and the Administrative and Fiscal Courts of Almada, Beja, and Sintra were the only Courts with a specific registration string pertaining to asylum-related appeals.[12] 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.

7 Eurostat, *Asylum applicants by type, citizenship, age and sex - annual aggregated data*, available at: https://tinyurl.com/mpehcsf2.
8 Eurostat, *First instance decisions on asylum applications by type of decision - annual aggregated data*, available at: https://tinyurl.com/3k6cyr9t.
9 Ibid.
10 Eurostat, *Asylum applicants having had their applications processed under the accelerated procedure, by age, sex and citizenship - annual aggregated data*, available at: https://tinyurl.com/5n94dw8p.
11 Eurostat, *Persons subject of asylum applications pending at the end of the month by citizenship, age and sex - monthly data*, available at: https://tinyurl.com/ykpb3ykn.
12 Until 2021, only TAC Lisbon had such a registration string.

A total of 306 appeals against negative decisions were filed in national first instance courts. This represents an increase of approximately 26% compared to 2022, when 242 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 306 appeals against negative asylum decisions, 287 were registered in this Court (i.e., 94% of all appeals). In 2023, appeals were further lodged in TAF **Almada**, TAF **Beja,** TAF **Leiria**, TAF **Porto,** TAF **Sintra**, and **TAF Viseu**.

Those appeals concerned applicants of 42 nationalities. The most represented nationalities among appellants included Gambia (75), Guinea Bissau (37), Pakistan (25), Senegal (22), and Morocco (19). According to CSTAF, out of the total of 306 appeals, 267 concerned male applicants and 39 concerned female applicants.

In 2023, first instance courts issued a total of 255 asylum-related appeal decisions, of which 153 concerned Dublin cases (60%). The data available does not include a breakdown of the remaining procedures concerned.

Out of the total of 255 decisions, 236 were issued by TAC **Lisbon**. Out of the total of 255 asylum-related appeal decisions (first instance courts), 23 were in favour of the applicant (9 granting subsidiary protection, 1 determining that the procedure should be resumed/reanalysed by the administrative authority, 10 determining that Dublin procedures should be resumed/reanalysed by the administrative authority).[13] There were 232 decisions ruling against the appellants.

Out of the total of 236 decisions issued by TAC **Lisbon**, 18 were decided in favour of the appellant, and 218 against the appellant.

As such, the overall success rate of appeals[14] at TAC **Lisbon** (all countries of origin and procedures included) stood at roughly 8%. The overall success rate of appeals in courts outside Lisbon stood roughly at 26%. The overall success rate of appeals at national level stood at 9%. In the case of Gambia, the most represented nationality at appeal stage, the overall success rate of appeals was around 6%. 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: Guinea Bissau (5%); Pakistan (0%); Senegal (5%); Morocco (11%).

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 2023 to reject asylum applications filled by nationals of the 5 most represented nationalities at appeal stage at first instance consisted of Dublin procedures for applicants from Gambia, Pakistan, and Senegal, and accelerated procedures for applicants from Guinea-Bissau, and Morocco.

According to information provided by CSTAF, a total of 50 appeals were filed in second instance courts (TCA South and TCA North) in 2023. A total of 28 such appeals were decided during the year.

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13 According to CPR's observation of national jurisprudence, instances where national courts decide to grant protection directly are traditionally extremely rare. CPR has not been able to identify the judicial decisions granting subsidiary protection to analyse its content. While CPR receives a significant number of judicial decisions either through the asylum-seekers it supports or through their lawyers, the organisation does not process statistical data regarding judicial procedures.

14 Rates calculated by CPR based on the data provided by CSTAF. Success rates are based on the number of relevant decisions issued during the year.

Overview of the legal framework

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

Title (EN)	Original Title (PT)	Abbreviation	Web Link
Act n. 27/2008 of 30 June 2008 establishing the conditions for granting asylum or subsidiary protection *Last amended by:* Act n. 53/2023, of 31 August 2023	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 53/2023, de 31 de agosto	Asylum Act	https://bit.ly/3j3r6c6 (PT) https://bit.ly/3pHbedv (EN – not including the 2022 and 2023 amendments)
Act n. 23/2007 of 4 July 2007 on the legal status of entry, residence, departure and removal of foreigners from the national territory *Last amended by:* Act n. 56/2023, of 6 October 2023	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 56/2023, de 6 de outubro	Immigration Act	https://bit.ly/3iXOKIO (PT)
Decree-Law no. 41/2023, of 2 June 2023 creating the Agency for Integration, Migration and Asylum, I.P.	Decreto-Lei n.º 41/2023, de 2 de junho, que cria a Agência para a Integração, Migrações e Asilo, I.P.	AIMA Act	http://tinyurl.com/3vsf4bzx (PT)
Decree-Law n. 4/2015 of 7 January 2015 - Code of Administrative Procedure *Last amended by:* Decree-Law n. 11/2023 of 10 February 2023	Decreto-Lei n.º 4/2015, de 7 de janeiro, que aprova o novo Código do Procedimento Administrativo *Alterado pela última vez pelo:* Decreto-Lei n.º 11/2023, de 10 de fevereiro)	Administrative Procedure Code	http://bit.ly/2mmF8Hw (PT)
Act n. 15/2002 of 22 February 2002 approving the Code of Procedure in Administrative Courts *Last 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 *Alterado pela última vez pela:* Lei n.º 56/2021, de 16 de agosto	Administrative Courts Procedure Code	http://bit.ly/2yekj3x (PT)

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 *Last amended by:* Act n. 53/2023, of 31 August 2023	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 *Alterada pela última vez pela:* Lei n.º 53/2023, de 31 de agosto		https://bit.ly/3OitRkJ (PT)
Decree-Law no. 99-A/2023, of 27 October, approving the organisation of the Borders and Foreigners Coordination Unit	Decreto-Lei n.º 99-A/2023, de 27 de outubro, que aprova a orgânica da Unidade de Coordenação de Fronteiras e Estrangeiros		http://tinyurl.com/mrypb6x6 (PT)
Act n. 13/2003 of 21 May 2003 establishing the Social Insertion Revenue *Last amended by:* Act n. 100/2019 of 6 September 2019	Lei n.º 13/2003, de 21 de Maio, que cria o rendimento social de inserção *Alterada pela última vez pela:* Lei n.º 100/2019, de 6 de setembro de	RSI Act	http://bit.ly/2zyQuOc (PT)
Act n. 220/2006 of 3 November 2006 establishing the legal framework for the social protection in case of unemployment of persons working for an employer *Last amended by:* Decree-Law n. 113/2023 of 30 November 2023	Lei n.º 220/2006, de 3 de Novembro - Regime jurídico de protecção social da eventualidade de desemprego dos trabalhadores por conta de outrem *Alterada pela última vez pelo:* Decreto-Lei n.º 113/2023, de 30 de novembro		https://bit.ly/2sppYFA (PT)

Decree-Law 176/2003 of 2 August 2003 establishing the family allowance to children and youth and defining protection in case of family expenses in the context of the family protection subsystem *Last amended by:* Decree-Law n.24-D/2022, of 30 December 2022	Decreto-Lei n.º 176/2003, de 2 de Agosto, que Institui o abono de família para crianças e jovens e define a protecção na eventualidade de encargos familiares no âmbito do subsistema de protecção familiar *Alterada pela última vez pelo:* Decreto-Lei n.º 24-D/2022, de 30 de dezembro		https://bit.ly/2IDrmGX (PT)
Act n. 35/2014 of 20 June 2014 governing employment in public functions *Last amended by:* Decree-Law n. 12/2024, of 10 January 2024	Lei n.º 35/2014, de 20 de junho, que aprova a Lei Geral do Trabalho em Funções Públicas *Alterada pela última vez pelo:* Decreto-Lei n.º 12/2024, de 10 de dezembro		http://tinyurl.com/3hct8cdx (PT)
Act n. 7/2009 of 12 February 2009 approving the Labour Code *Last amended by:* Act n. 13/2023 of 3 April 2023	Lei n.º 7/2009, de 12 de Fevereiro, que aprova a revisão do Código do Trabalho *Alterada pela última vez pela:* Lei n.º 13/2023, de 3 de abril	Labour Code	https://bit.ly/2rJtbzm (PT)
Act n. 37/81 of 3 October 1981 approving the Act on Nationality *Last amended by:* Organic Law n. 2/2020 of 10 November 2020	Lei n.º 37/81, de 3 de Outubro, que aprova a Lei da Nacionalidade *Alterada pela última vez pela:* Lei Orgânica n.º 2/2020, de 10 de Novembro	Nationality Act	http://bit.ly/2jukiBm (PT) https://bit.ly/2u63cD5 (EN – this version does not include the 2020 amendment)
Act n. 81/2014 of 19 December 2014 *Last amended by:* Decree-Law n. 38/2023 of 29 May 2023	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 *Alterada pela última vez pelo:* Decreto-Lei n.º 38/2023, de 29 de maio	Public Leasing Act	http://tinyurl.com/4f7unbez (PT)

Decree-Law n. 26/2021 of 31 March 2021 creating the National Pool of Urgent and Temporary Accommodation *Amended by*: Decree-Law no. 41/2023, of 2 June 2023	Decreto-Lei n.º 26/2021, de 31 de março que procede à criação da Bolsa Nacional de Alojamento Urgente e Temporário *Alterada pelo*: Decreto-Lei n.º 41/2023, de 2 de junho		https://bit.ly/3L3aXfq (PT)

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

Title (EN)	Original Title (PT)	Abbreviation	Web Link
Decree-Law n. 252/2000 of 16 October 2000 Organisational structure of the Immigration and Borders Service *Last amended by:* Act n.73/2021 of 12 November 2021 (restructures the Portuguese border control system)	Decreto-Lei n.º 252/2000, de 16 de Outubro, que aprova a estrutura orgânica e define as atribuições do Serviço de Estrangeiros e Fronteiras *Alterada pela última vez pela:* Lei n.º 73/2021, de 12 de novembro (aprova a reestruturação do sistema português de controlo de fronteiras)	SEF Structure Decree-Law	https://bit.ly/3agkrmq (PT)
Ministerial Order no. 324-A/2023 of 27 October, approving the Statute of Agency for Integration, Migration and Asylum, I.P.	Portaria n.º 324-A/2023, de 27 de outubro, que aprova os Estatutos da Agência para a Integração, Migrações e Asilo, I.P.	AIMA Statute	http://tinyurl.com/br97m4ws (PT)
Act n. 147/99 of 1 September 1999 - Children and Youths at Risk Protection Act *Last amended by:* Act n. 23/2023 of 25 May 2023	Lei n.º 147/99, de 01 de Setembro – Lei de Protecção de Crianças e Jovens em Perigo *Alterada pela última vez pela:* Lei n.º 23/2023, de 25 de maio		https://bit.ly/3XdCVvi (PT)
Act n. 141/2015 of 8 September 2015 - General Regime of Civil Guardianship Process *Amended by:* Act n. 24/2017 of 24 May 2017	Lei n.º 141/2015, de 08 de Setembro – Regime Geral do Processo Tutelar Cível *Alterada pela:* Lei n.º 24/2017, de 24 de maio		https://bit.ly/3CQHq6G (PT)

Resolution of the Council of Ministers no. 103/2020 of 23 November 2020, establishing a single system of reception and integration of applicants for and beneficiaries of international protection	Resolução do Conselho de Ministros n.º103/2020, de 23 de novembro, que estabelece um sistema único de acolhimento e integração de requerentes e beneficiários de protecção internacional	Single Reception and Integration System Resolution	https://bit.ly/3oBLXQm (PT)
Decree-Law n. 464/80 of 13 October 1980 establishing new conditions of access and entitlement to social pension *Last amended by:* Decree-Law n.136/2019 of 6 September 2019	Decreto-Lei n.º 464/80, de 13 de Outubro, que estabelece em novos moldes as condições de acesso e de atribuição da pensão social *Alterado pela última vez pelo:* Decreto-Lei n.º 136/2019, de 6 de setembro		https://bit.ly/2MVXE4L (PT)
Ministerial Order n. 24-B/2023, of 9 January 2023, updating the pensions for 2023	Portaria n.º 24-B/2023, de 9 de janeiro, que procede à atualização das pensões para 2023		http://tinyurl.com/52e5ayf7 (PT)
Ministerial Order n. 298/2022, of 16 December 2023 approving the annual revaluation of the social assistance index value	Portaria n.º 298/2022, de 16 de dezembro, que procede à atualização anual do valor do indexante dos apoios sociais (IAS)		http://tinyurl.com/yc2avsp4 (PT)
Ministerial Order n. 120/2021 of 8 June 2021 establishing the functioning and management of the National Pool of Urgent and Temporary Accommodation	Portaria n.º 120/2021, de 8 de junho que define o modelo de funcionamento e gestão da Bolsa Nacional de Alojamento Urgente e Temporário		https://bit.ly/3jTh0qX (PT)
Ministerial Order n. 257/2012 of 27 August 2012 implementing Law 13/2013 on the Social Insertion Revenue (RSI) and determining the value of the RSI *Last amended by:* Ministerial Order n. 420/2023 of 11 December 2023	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. *Alterada pela última vez pela:* Portaria n.º 420/2023, de 11 de dezembro		https://bit.ly/2u6W6hL (PT)

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	Decreto-Lei n.º 113/2011, de 29 de novembro, que regula o acesso às prestações do Serviço Nacional de Saúde por parte dos utentes no que respeita ao regime das taxas moderadoras e à aplicação de regimes especiais de benefícios *Alterada pela última vez pela:* Decreto-Lei n.º 37/2022, de 27 de maio		http://bit.ly/2iaqtL7 (PT)
Ministerial Order n. 30/2001 of 17 January 2001 establishing the specific modalities of health care in different stages of the asylum procedure	Portaria n.º 30/2001, de 17 de Janeiro, que estabelece as modalidades específicas de assistência médica e medicamentosa a prestar nas diferentes fases do procedimento de concessão do direito de asilo, desde a apresentação do respectivo pedido à decisão final que recair sobre o mesmo		https://bit.ly/2F8gRMe (PT)
Ministerial Order n. 1042/2008 of 15 September 2008 establishing the terms of access of asylum seekers and their family members to the National Health Service	Portaria n.º 1042/2008, de 15 de Setembro, que estabelece os termos e as garantias do acesso dos requerentes de asilo e respectivos membros da familia ao Serviço Nacional de Saúde		https://bit.ly/2u6dyTt (PT)
Decree-Law n. 227/2005 of 28 December 2005 defining the framework of granting the recognition of foreign qualifications	Decreto-Lei n.º 227/2005, de 28 de Dezembro, que define o novo regime de concessão de equivalência de habilitações de sistemas educativos estrangeiros a habilitações do sistema educativo português ao nível dos ensinos básico e secundário		https://bit.ly/39ssv26 (PT)
Ministerial Order n. 224/2006 of 8 March 2006 approving comparative tables between the Portuguese education system and other education systems	Portaria n.º 224/2006, de 8 de Março, que aprova as tabelas comparativas entre o sistema de ensino português e outros sistemas de ensino, bem como as tabelas de conversão dos sistemas de classificação correspondentes		https://bit.ly/2FUHTYE (PT)
Ministerial Order n. 699/2006 of 12 July 2006 approving comparative tables between the	Portaria n.º 699/2006, de 12 de Julho 2006, que aprova as tabelas comparativas entre o sistema de ensino português e		https://bit.ly/2HUjgxh (PT)

Portuguese education system and other education systems	outros sistemas de ensino, bem como as tabelas de conversão dos sistemas de classificação correspondentes		
Decree-Law n. 83/2000 of 11 May 2000 on the new regime for the issuance of passports *Last amended by:* Decree-Law n. 41/2023 of 2 June of 2023	Decreto-Lei n.º 83/2000, de 11 de Maio, que aprova o novo regime legal da concessão e emissão dos passaportes *Alterada pela última vez pela:* Decreto-Lei n.º 41/2023, de 2 de junho	Travel Documents Order	http://bit.ly/2AjwA7G (PT)
Implementing Decree n. 84/2007 of 5 November 2007 regulating Act n. 23/2007 of 4 July 2007 on the legal status of entry, residence, departure and removal of foreigners from the national territory *Last amended by:* Implementing Decree n.1/2024, of 17 January 2024	Decreto Regulamentar n.º 84/2007, de 5 de Novembro, que regulamenta a Lei n.º 23/2007, de 4 de Julho, que aprova o regime jurídico de entrada, permanência, saída e afastamento de cidadãos estrangeiros de território nacional *Alterada pela última vez pelo:* Decreto Regulamentar n.º 1/2024, de 17 de janeiro		http://tinyurl.com/5amduz5d (PT)
Ministerial Order n. 1334-E/2010, of 31 December (on the cost of certain administrative procedures) *Last amended by:* Ministerial Order n. 204/2020 of 24 August 2020 (revoked as of 29/10/2023)	Portaria n.º 1334 -E/2010, de 31 de Dezembro, que fixa as taxas e demais encargos a cobrar pelos procedimentos administrativos previstos na Lei n.º 23/2007, de 4 de Julho, com as alterações introduzidas pela Lei n.º 29/2012, de 9 de agosto *Alterada pela última vez pela:* Portaria n.º 204/2020, de 24 de agosto (revogada a partir de 29/10/2023)		https://bit.ly/3iXuSzb (PT)

Ministerial Order n. 307/2023, of 13 October 2023 (on the cost of certain administrative procedures)	Portaria n.º 307/2023, de 13 de outubro, que aprova a tabela das taxas e dos demais encargos devidos pelos procedimentos administrativos inerentes à concessão de vistos em postos de fronteira, à prorrogação de permanência em território nacional, à emissão de documentos de viagem, à concessão e renovação de autorizações de residência e à prática dos demais atos relacionados com a entrada e permanência de estrangeiros em território nacional		http://tinyurl.com/4dkz7a8z (PT)
Decree-Law n. 131/95 of 6 June 1995 approving the Civil Registration Code *Last amended by:* Decree-Law n. 126/2023 of 26 December 2023	Decreto-Lei n.º 131/95, de 6 de Junho, que aprova o Código do Registo Civil *Alterado pela última vez pelo:* Decreto-Lei n.º 126/2023, de 26 de dezembro	Civil Registration Code	https://bit.ly/3gxLDlA (PT)
Decree-Law n. 237-A/2006 of 14 December 2006 approving the regulation of the Portuguese nationality *Last amended by:* Decree-Law n. 41/2023, of 2 June 2023	Decreto-Lei n.º 237-A/2006, de 14 de Dezembro, que aprova o Regulamento da Nacionalidade Portuguesa *Alterado pela última vez pelo:* Decreto-Lei n.º 41/2023, de 2 de junho	Nationality Regulation	http://bit.ly/2nelr5o (PT)
Ministerial Order n. 176/2014 of 11 September 2014	Portaria n.º 176/2014, de 11 de setembro, que regulamenta a realização da prova do conhecimento da língua portuguesa, prevista na alínea *b*) do n.º 2 do artigo 25.º do Regulamento da Nacionalidade Portuguesa, aprovado pelo Decreto-Lei n.º 237-A/2006, de 14 de Dezembro, na sua atual redação.	Nationality Language Assessment Test Order	https://bit.ly/2MHt3aS (PT)
Decree-Law n. 322-A/2001 of 14 December 2001 approving the Regulation of Administrative Fees of Registries and Notary *Last amended by:* Decree-Law n.114-D/2023 of 5 December 2023	Decreto-Lei n.º 322-A/2001, de 14 de Dezembro de 2001, que aprova o Regulamento Emolumentar dos Registos e Notariado *Alterado pela última vez pelo:* Decreto-Lei n.º 1149-D/2023, de 5 de Dezembro		https://bit.ly/3592YrB (PT)

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

Overview of the main changes since the previous report update

The report was previously updated in **May 2023**.

Background information

The reform of the national asylum authority[15] culminated in 2023 with the creation of the Agency for Integration, Migration and Asylum (AIMA), which began its operations on 29 October.[16] Until that date, SEF remained the national asylum authority.

Accordingly, from 29 October 2023, AIMA's National Centre for Asylum and Refugees (CNAR) became the specialised determining authority in the field of asylum. The institutional change also entailed that existing general police forces became responsible for border control and for executing expulsion decisions.

According to CPR's analysis, while the transition process was quite long, it was neither gradual, nor participatory. Notably, it did not include a sustained strategy of cooperation with other relevant public entities and with civil society organisations.

While the separation between administrative and law enforcement-related competencies is a positive element, the beginning of AIMA's operation presented multiple challenges and potential protection shortcomings.

With regards to asylum in particular, CPR observed multiple gaps in the implementation of legal norms concerning the asylum procedure and reception conditions, without proper account to the need to ensure the continuity of services despite institutional reforms. Furthermore, there have been notable difficulties in obtaining information regarding the procedures adopted by the Agency, and a structural lack of adequate communication both with civil society organisations and with applicants for international protection. CPR also observed a growing tendency for narratives focused on the need to contain and limit the number of asylum applications, which is highly concerning.[17]

2023 was a particularly challenging year for civil society organisations involved in the provision of assistance to applicants for and beneficiaries of international protection. Due to lack of funding, notably due to delays in the provision of AMIF funding at national level, such organisations faced significant financial constraints leading to delays in payments, and to reductions of capacity and workforce. The permanent financial instability and lack of predictability of funding led to reduced capacity to respond to the needs of applicants for and beneficiaries of international protection and has, at times, undermined their subsistence.[18]

The Asylum Act was amended three times in the course of 2023.

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15 For detailed information on the process and its origins prior to 2023, please revert to previous AIDA reports. 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, last amended by Act n. 53/2023, of 31 August 2023, available at: https://bit.ly/3OitRkJ.

16 Decree-Law no. 41/2023, of 2 June 2023 creating the Agency for Integration, Migration and Asylum, I.P., available at: http://tinyurl.com/3vsf4bzx; Ministerial Order no. 324-A/2023 of 27 October, approving the Statute of Agency for Integration, Migration and Asylum, I.P., available at: http://tinyurl.com/br97m4ws.

17 Within the context of the right of reply of the authorities to the draft AIDA report, AIMA noted that it had strengthened its procedures with the support of UNHCR. Information provided by AIMA, 25 June 2024.

18 See, for instance: Expresso, *Atraso do Governo pode deixar várias centenas de refugiados "na rua", diz o Serviço Jesuíta aos Refugiados*, 24 November 2023, available at [paywall]: https://tinyurl.com/ka8u3fxp; Público, *Conselho Português para os Refugiados confirma salários e verbas em atraso*, 8 January 2024, availble at: https://tinyurl.com/t73nw4ue. Within the context of the right to reply of the authorities to the draft AIDA report, AIMA affirmed that it has expanded reception capacity and that the procedures adopted aimed to ensure transparency. It also confirmed that the transition between financial frameworks created constraints, but asserted that such constraints had been overcome by June 2024.

The Decree-Law that created AIMA amended a number of legislative files, including the Asylum Act where the amendments focused on replacing references to SEF with references to AIMA, references to SEF's National Director with Board of AIMA, and references to the Ministry of Home Affairs to the Ministry in charge of Migration.[19] These amendments, enacted in June, entered into force on 29 October 2023.

Act no.41/2023, of 10 August[20] included the definition of stateless person in the Asylum Act (article 2(1)(ai)), and added two provisions referring to the recognition and cessation of stateless status (articles 7-A and 7-B). The Act did not introduce any procedures to such effect, but determined that the Parliament should approve the Status of Stateless Persons in 90 days. The provisions entered into force on 11 August 2023. It is unclear why these provisions were added to the Asylum Act as they are not (exclusively) related to Asylum Law and the core regulation of statelessness determination, protection of stateless persons, and links to the asylum procedure are not included in this amendment.

Finally, Act no.53/2023, of 31 August[21] introduced a number of substantive amendments to the Asylum Act:[22]

- A paragraph was added to the definition of the "safe third country" concept establishing that if the country at stake does not authorise the applicant to enter its territory, they must have access to the Portuguese asylum procedure.[23]
- The danger for security clause determining exclusion from refugee status[24] was reworded;[25]
- Among other minor changes to the corresponding provisions, the deadline for asylum seekers to respond in writing to the report on their application was reduced from 5 to 3 working days.[26] This change raises significant concerns as the new deadline is insufficient to ensure the right at stake and will likely create obstacles to its effective exercise (see: Asylum Procedure: Regular Procedure – Personal Interview);
- A provision was added determining that, if a case is rejected exclusively due to the application of the safe third country concept, the applicant must receive a document informing the authorities of said third country that the merits of the asylum application have not been assessed in Portugal. Such document must be issued in the third country's language.[27]
- The danger for security clause determining withdrawal of international protection[28] was reworded;[29]
- Situations where asylum seekers could be offered forms/combinations of material reception conditions other than those provided in the law became more restrict (see: Reception Conditions: Forms and levels of material reception conditions).[30]
- Regarding the right of asylum seekers to the satisfaction of their basic needs to a level that guarantees their human dignity,[31] it was added that material reception conditions must satisfy basic needs.

As previously reported, in January 2023, the European Commission announced having opened **infringement procedures** to Portugal "for failing to transpose in a fully conform manner all provisions" of

19 Decree-Law no. 41/2023, of 2 June 2023, available at: https://tinyurl.com/3w7nxe94.
20 Act no.41/2023, of 10 August, available at: https://tinyurl.com/34a66wnn.
21 Act no.53/2023, of 31 August, available at: https://tinyurl.com/53zu86c6.
22 These amendments entered into force of 29 October 2023.
23 Article 2(1)(r)(iv) Asylum Act.
24 Article 9(1)(d) Asylum Act.
25 It previously referred to a "danger or established threat to internal or external security or to the public order" and was amended to "danger do the security of the Member State where [the person is] present."
26 Article 17(2) Asylum Act.
27 Article 19-A(3) Asylum Act.
28 Article 41(5)(c) Asylum Act.
29 The reference to "danger to the internal security" was replaced by "danger do the security of the Member State where [the person is] present."
30 Article 57(4) Asylum Act.
31 Article 56(1) Asylum Act.

both the Qualification and the Reception Conditions Directives.[32] Further information remained unavailable at the time of writing.

In April 2023, the **Committee on the Elimination of Racial Discrimination** (CERD) published its Concluding Observations on the 18th and 19th periodic reports of Portugal.[33] With regards to international protection in particular, the Committed recommended Portugal to:[34]

- Ensure that all applicants for international protection at the borders and in reception and detention centres are promptly received, registered, and referred to the asylum authorities and refugee status determination procedures, ensuring the identification of vulnerable applicants, in particular, stateless persons;
- Ensure that the length of detention of migrants and asylum seekers is reasonable, necessary, and appropriate in accordance with international human rights standards;
- Ensure that the living conditions and treatment in reception centres and detention facilities are in conformity with international standards.

By the end of 2022, the national Parliament approved a **Parliamentary Resolution** recommending the government to, inter alia, promote discussion regarding legal recognition and international protection of particularly vulnerable migrants, and to develop efforts to create an International Humanitarian Passport.[35]

In 2023, the national Parliament approved a Parliamentary Resolution recommending the government, inter alia, to condemn the barriers imposed by the Taliban regime for women to access higher education; to facilitate travelling and recognition of refugee stats to Afghan women barred from accessing higher education; to assess the creation of a specific student status to such women, in order to ensure prompt access to higher education in Portugal; to mirror such efforts both at European and international level.[36]

International protection

- **Key asylum statistics – first instance**: According to the information provided by AIMA, in 2023, the Portuguese authorities registered 2,992 **applications for international protection** (including 96 made by persons relocated to Portugal). This figure includes 277 resettled refugees which are not usually counted as applicants for international protection. As such, excluding resettled refugees,[37] a total of 2,715 applications were registered in 2023. According to Eurostat data a total of 2,695 asylum applications were registered in Portugal in 2023[38] (see Statistics).

- **Key asylum statistics – appeals** : According to CSTAF, a total of 306 appeals were lodged against negative asylum decisions in 2023, an increase of around 26% compared to 2022. Out of these, 287 were filled in TAC Lisbon. The information provided by the CSTAF for 2023 regarding the outcome of judicial reviews of first instance decisions indicates a poor success rate at appeal stage (8% at TAC Lisbon, and 9% at national level) (see Statistics).

Asylum procedure

32 European Commission, *January Infringements package: key decisions*, 26 January 2023, available at: https://bit.ly/3nD0sJg. See also: Fundamental Rights Agency (FRA), *Asylum and Migration: Progress Achieved and Remaining Challenges*, p.29, April 2023, available at: https://tinyurl.com/3z46dtu8.

33 Committee on the Elimination of Racial Discrimination, Concluding Observations on the combined eighteenth and nineteenth periodic reports of Portugal, CERD/C/PRT/CO/18-19, 28 April 2023, available at: https://tinyurl.com/26znu7z8.

34 Ibid, par.34, c), d), and e).

35 Resolução da Assembleia da República no.8/2023, of 16 February 2023, available at: https://tinyurl.com/55dh8svp.

36 Resolução da Assembleia da República no.11/2023, of 28 February 2023, available at: https://tinyurl.com/5aahzrva.

37 For purposes of comparison with previous years, this figure should be considered.

38 Eurostat, *Asylum applicants by type, citizenship, age and sex - annual aggregated data*, available at: https://tinyurl.com/mpehcsf2.

- **Registration of asylum applications**: Since the beginning of AIMA's operation, CPR has observed/received reports of concerning practices pertaining to the registration of asylum applications, namely, provision of incorrect information, difficulties in registering asylum applications due to practices adopted by the services/lack of knowledge, and late registration (see: Asylum Procedure: Registration of the asylum application).

- **Interviews**: Concerning systematic practices regarding asylum **interviews** have also been registered, notably:
  - Oversimplification of the interviews and of the questions asked to the applicants;
  - Interviews being conducted late in the night/early in the morning and following trips to different areas of the country;39
  - Applicants systematically asked during the interview if they wish to be immediately notified of the decision of their asylum application without being informed that such a decision implies a relinquishment of their right to reply to the interview/case report and without having access to legal information and assistance before making a decision;
  - Applicants not being informed of the possibility to be interviewed in a language they understand with the assistance of an interpreter, despite clear difficulties in communicating in another language;
  - Refusal by the interviewing officers to receive evidentiary elements despite the applicant's attempts on the grounds that it would not be necessary (no written decision/explanation provided).[40]

  A decision from TCA South issued in 2023 considered that the information provided by the **applicant** in writing following the interview are irrelevant as such statements are not spontaneous and are, consequently, motivated by the willingness to fulfil the requirements to be granted international protection[41] (see Asylum procedure – Personal interview).

- **Length of appeals procedures**: information provided by the High Council of Administrative and Fiscal Courts (*Conselho Superior dos Tribunais Administrativos e Fiscais* – CSTAF) for 2023 regarding the duration of judicial reviews of first instance decisions reveals that, in 2023, the average duration of appeals at first instance courts was of 74 days (see Regular procedure – Appeals).

- **Dublin**: According to the information provided by AIMA, only 29 Dublin transfers were implemented out of the total of 519 outgoing requests, out of which 393 accepted. The transfer rate (calculated on the basis of accepted requests) was thus of 7.4% in 2023 [42] (see Dublin).

- **Resumption of the border procedure**: The application of the border procedure was resumed in November 2023 and it has been systematically applied since then, including to vulnerable applicants. CPR has observed a number of problematic practices impacting the procedural guarantees of asylum seekers subjected to the border procedure and the corresponding use of detention (as well as detention conditions) (see Border procedure).

- **Safe country of origin**: While according to CPR's observation AIMA did not explicitly use the safe country of origin concept to reject asylum applications in accelerated procedures, the organisation received reports of applicants that described being told by AIMA officials that no positive decisions are issued to applicants from certain nationalities, notably Gambia and Senegal[43] (see Safe country of origin).

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39 In some cases, applicants in such situations have also reported not being provided adequate food in the meantime.

40 Within the context of the right of reply of the authorities to the draft AIDA report, AIMA denied that this specific practice occurred. AIMA, 25 June 2024.

41 TCA South, Decision 3275/22.0BELSB, 23 March 2023, available at: https://tinyurl.com/2bpmc3c5.

42 The transfer rate on the basis of the overall number of outgoing requests was of 5.6%.

43 Information provided by AIMA, 25 June 2024.

Reception conditions

- **Responsibility for provision of material reception conditions**: Until 29 October 2023, the primary responsibility for the provision of material reception conditions lay with the Ministry of Home Affairs. Due to the institutional changes that occurred in 2023, from that date on, the primary responsibility for the provision of material provisions is assigned to the Ministry in charge of Migration.[44] Responsibility for the provision of material reception conditions to asylum seekers who pass the admissibility procedure and are in the regular procedure lies with the Ministry of Employment, Solidarity and Social Security.[45] 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.[46]

The process of termination of the activity of SEF and ACM led to the suspension of the activity of the SOG,[47] with the exception of the social monitoring sub-group.

- **Lack of funding for accommodation**: In the last quarter of 2023 CPR has been unable to ensure the provision of accommodation to all spontaneous asylum seekers as per previous practice both due to the lack of further capacity of infra-structures, and to the lack of funding to that effect.[48] Within this context, AIMA has been directly providing accommodation to asylum seekers under the competencies assigned by the Asylum Act to the Ministry in charge of Migration[49] (see Reception conditions).

- **Issues in provision of material reception conditions:** According to the information available to CPR, AIMA provides accommodation in hostels/hotels. CPR has received consistent reports of significant issues impacting asylum applicants within this context, namely: lack of information, lack of access to material reception conditions, instances of withdrawal of accommodation immediately following notification of a negative decision (in violation of the applicable legal framework), frequent and often unannounced changes of place of accommodation, and lack of response to specific needs (including access to health care) (see Reception conditions).[50]

- **Updated financial allowance**: In 2023, ISS updated the reference value of the financial allowances granted to asylum seekers under its support – from social pension (*pensão social*) to a percentage (70%) of the Social Support Reference Index (*Indexante de Apoios Sociais,* IAS). According to the information provided by ISS, the reference value of 70% will rise to 85% in 2024, and to 100% of the IAS in 2025. ISS reported that this change was implemented in response to the increasing cost of living.

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44 This includes admissibility procedures (including Dublin procedures); accelerated procedures, border procedures, subsequent applications and applications following a removal decision: Article 61(1) Asylum Act. As previously mentioned, until the end of 2023 migration was part of the portfolio of the Ministry of Parliamentary Affairs.

45 Article 61(2) Asylum Act.

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

47 The last meeting of the extended line-up of the SOG took place on 20 September 2023.

48 On the one hand, there were significant delays in the provision of AMIF funding at national level, on the other, since the beginning of its operations AIMA publicly stated that it wanted to evaluate the provision of services by the organisation before renewing any cooperation frameworks. While AIMA and CPR signed a contract for the provision of accommodation for a limited number of asylum seekers in January 2024, this did not ensure the payment of services previously ensured by the organisation and did not provide sufficient resources for CPR to continue ensuring the usual reception model. In fact, by the end of the year the organisation often faced financial constraints leading to delays in the payment of financial allowances to asylum seekers and salaries to employees. See, for instance: Público, *Conselho Português para os Refugiados confirma salários e verbas em atraso*, 8 January 2024, availble at: https://tinyurl.com/t73nw4ue.

49 Article 61(1) Asylum Act.

50 Within the context of the right to reply of the authorities to the draft AIDA report, AIMA stated that all asylum seekers are informed of the available accommodation and its conditions, and that all asylum seekers were offered accommodation. It has also noted that asylum seekers are duly informed of changes to their accommodation arrangements, and that applicants are referred to healthcare authorities. AIMA did not provide further information regarding the procedures and criteria for withdrawal of accommodation. Information provided by AIMA, 25 June 2024.

Article 57(4) was amended in 2023,[51] limiting the situations where asylum seekers could be offered forms/combinations of material reception conditions other than those provided in the law (see Forms and levels of material reception conditions).

- **Insufficient levels of material reception conditions to cover needs**: The Asylum Act enshrines the right of asylum seekers to the satisfaction of their basic needs to a level that guarantees their human dignity.[52] One of the amendments to the Asylum Act enacted in 2023 added that the material reception conditions must satisfy basic needs.[53] The Asylum Act does not include further 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. While it can be argued that the 2023 amendment responds to the subsistence requirement included in the Directive, it is doubtful that it implies adequate protection of the physical and mental health of asylum seekers.
  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 2023, CPR continued to note an increase in the number of requests for additional food support, particularly from families with children. This assessment regarding the level of financial allowances was also confirmed by SCML (see Forms and levels of material reception conditions).

- **Access to adequate housing**: Access to adequate housing remained as a major issue. 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[54] (see Housing).

- **Accommodation of unaccompanied children**: In the course of 2023, CPR has often reported to the relevant authorities not being able to accept further referrals of **unaccompanied children** due to lack of capacity of CACR. According to the information available to CPR, in such cases, children are usually referred to child-care facilities of the general national protection system.
  CPR has also received reports of unaccompanied children provided accommodation directly by AIMA in general facilities used by the Agency for the accommodation of asylum seekers (such as hostels), despite being underage. To the extent of CPR's knowledge, such children are provided assistance by organisations specialised in child-care, but it is unclear whether further adaptations are made by the authorities to ensure compliance with the rules applicable to the reception of unaccompanied children. Information regarding the reasons/criteria underlying this practice (see Special reception needs of vulnerable groups).

Detention of asylum seekers

- **Resumption of the border procedure**: The application of border procedures and of detention of asylum seekers subjected to border procedures was resumed by the beginning of November 2023, after being suspended for approximately 3 and a half years. It is publicly known that since late October/beginning of November 2023, asylum seekers and other migrants refused entry into national territory at Lisbon airport were frequently detained in the **transit zone of the airport** in

51 As per article 6 Act no.53/2023, of 31 August 2023. The amended version entered into force on 29 October 2023.
52 Article 56(1) Asylum Act.
53 Article 57(5) Asylum Act.
54 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.

appalling conditions due to the lack of capacity of the corresponding detention facility[55] (see Border procedure and Detention).

- **Authority responsible for detention facilities**: Following the termination of SEF's activities, PSP became responsible for the operation of CIT-UHSA and airport detention facilities since 29 October 2023. According to the information provided by PSP, this change posed operational and administrative challenges. PSP noted, for instance, the need to provide specific training to officials and to allocate them to the detention facilities, the limited capacity of the facilities, and the transition of service provision contracts previously concluded by SEF to PSP (see Detention).

- **Detention statistics**: PSP reported that a total of 127 foreign nationals were subject to administrative detention between 29/10/2023 and 31/12/2023, of which 101 were asylum seekers.[56] According to the information provided by PSP, there is no limit to the number of persons that may be detained in such spaces. According to the information provided by PSP only 11 persons were detained in the transit zone of the Lisbon airport between 29 October 2023 and 31 December 2023, for an average period of 48 hours, but CPR's observation and public reports point towards much higher figures and longer periods. (see Detention).

- **Detention conditions**: CPR has received consistent reports according to which significant numbers of asylum seekers remained detained in the international area of the airport for prolonged periods of time in **conditions** that are incompatible with human dignity. For instance, people sleeping in airport seats/floor/camp beds and not having access to bedclothes, personal items, and personal hygiene facilities on a systematic basis. CPR has also received reports that the food provided (mostly sandwiches) was not adequate and did not fulfil nutritional needs. This situation has also been publicly condemned by the National Preventive Mechanism (see Detention conditions).

Content of international protection

- **Statistics on beneficiaries of international and national protection**: 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 2023 indicates that by the end of 2022, 3,126 beneficiaries of international protection had valid residence permits in Portugal (2,086 refugees and 1,040 beneficiaries of subsidiary protection).[57] It should be noted that the report includes humanitarian residence permits as beneficiaries of subsidiary protection which is not in line with the applicable legal framework. It also includes in the figure residence permits issued to family members of holders of humanitarian residence permits. As such, the real number of beneficiaries of subsidiary protection at the time would likely be 636. 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, and Iraq[58] (see Content of international protection – Residence permit).

- **Naturalisation**: According to AIMA, 272 beneficiaries of international protection applied to Portuguese nationality through naturalisation in 2023. AIMA did not provide information regarding the number of persons granted Portuguese nationality through naturalisation in 2023. Disaggregation per status was also not provided (see Naturalisation).

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55 See, for instance: Diário de Notícias, *Requerentes de asilo "dormem em bancos" no aeroporto. Sindicato da PSP denuncia situação "caótica"*, 3 December 2023, available at: https://tinyurl.com/p77u7m8m.

56 Note that the statistics provided by PSP to this report only cover the period between 29/10/2023 and 31/12/2023. Data regarding SEF's tenure is not available.

57 Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2023*, pp.221 e ss, July 2023. While the reports produced by the OM were previously available online, at the time of writing it was not possible to access them online, neither in the website of ACM, which was still online, nor in the website of AIMA.

58 Ibid. Nationalities such as Cape Verde, and Brazil are listed among the main nationalities of beneficiaries of subsidiary protection, which is likely due to the fact that the figures include holders of humanitarian residence permits.

Temporary protection

The information given hereafter constitute a short summary of the Portugal Report on Temporary Protection, for further information, see Annex on Temporary Protection.

- **Actions related to sexual violence**: The national Parliament approved a Parliamentary Resolution recommending the government, inter alia, to support an international investigation to sexual crimes perpetrated within the context of the armed conflict in Ukraine; to provide support to mental and physical healthcare to persons displaced from Ukraine victims of sexual violence and collect their statements; to provide sexual and reproductive healthcare to refugees.[59]

- **Duration of temporary protection**: the duration of temporary protection was extended twice by the Portuguese government in the course of 2023. In March 2023, the Government approved a Resolution extending the validity of temporary residence permits for 6 months (from 1 March 2023 to 1 September 2023).[60] In October, another Resolution was approved, extending the validity of such residence permits for 6 months (from 1 September 2023 to 1 March 2024).[61] In February 2024, the government approved a resolution that extended the validity of temporary protection residence permits until 31 December 2024. The resolution also transferred the competencies previously allocated to SEF to AIMA.[62]

- **Key temporary protection statistics**: According to the information provided by AIMA, since 2022, 59,361 persons requested registration for temporary protection to the Portuguese authorities.[63] Out of these, 8,284 were third country nationals that lived in Ukraine, mostly from Nigeria, Morocco, India, Russia, and Algeria.[64] Per AIMA's data, by the end of the year, there were 54,231 beneficiaries of temporary protection registered in the country.[65]
  AIMA did not provide information regarding the number of refusals and withdrawals of temporary protection. According to Eurostat's data, no withdrawals have occurred in Portugal since the beginning of the application of temporary protection.[66] According to media reports, around 4,000 beneficiaries of temporary protection left Portugal between April and May 2023.[67]

- **Issuance of certificates for temporary protection**: In the course of 2023, CPR became aware of cases of significant delays (up to one year) in the issuance of the certificates of temporary protection without any information being provided by the authorities to the persons concerned. This has particularly impacted non-Ukrainians. This problem has also been flagged by the Ombudsperson in the report to the Parliament covering 2022 (and published in 2023). According

59 Resolução da Assembleia da República no.52/2023, of 29 May 2023, available at: https://tinyurl.com/4rnabrmh.
60 Resolution of the Council of Ministers no.22-D/2023, of 13 March 2023, available at: http://tinyurl.com/y54rua6r.
61 Resolution of the Council of Ministers no.120/2023, of 9 October 2023, available at: http://tinyurl.com/47bfmcxm.
62 Resolution of the Council of Ministers no. 29/2024, of 29 February, available at: https://tinyurl.com/5b5x36u9.
63 23,776 Men, 35,585 Women; 14,457 Children (information on the number of unaccompanied children was not provided by AIMA). The overall figure seems to be incoherent with Eurostat's data on granting of temporary protection as the latter indicates that a total of 65,770 persons have been granted temporary protection since the activation of the mechanism, out of which 8,550 in 2023. Eurostat's data available at: https://tinyurl.com/5c8h7xsa.
64 Information provided by SEF for the previous edition of this report indicated that, out of the 56,599 persons that requested registration for temporary protection in 2022, 12,075 were third country nationals that lived in Ukraine. The reasons for this discrepancy in the figures are unknown.
65 However, Eurostat's data indicates that by the end of December 2023, there were 58,820 registered beneficiaries in Portugal. See: https://tinyurl.com/27xhnv5k.
66 Eurostat, *Decisions withdrawing temporary protection by citizenship and reason - quarterly data*, available at: https://tinyurl.com/mr23buv3.
67 Lusa, *Perto de 4.000 refugiados ucranianos já deixaram Portugal,* 5 June 2023, available at: https://tinyurl.com/37m77w37.

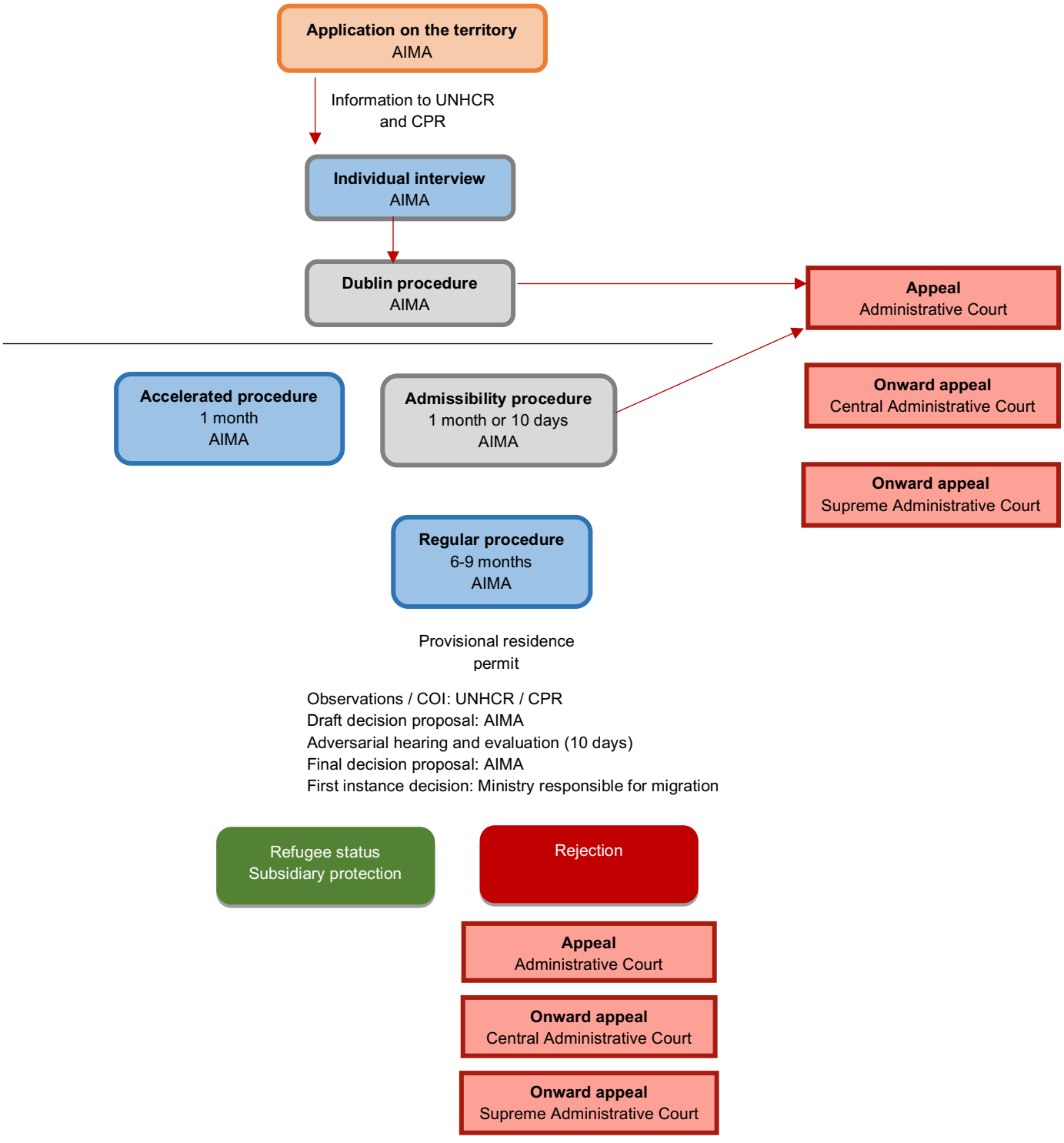
to the same report, SEF informed the Ombudsperson that such cases required a more detailed analysis, notably regarding security and documentary checks.[68]

[68] Ombudsman, Relatório à Assembleia da República 2022, July 2022, available at: https://tinyurl.com/4j5jexx6, 58-59.

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

1. Which types of procedures exist in your country?
   - ❖ Regular procedure: ☒ Yes ☐ No
     - ▪ Prioritised examination:[69] ☐ Yes ☒ No
     - ▪ Fast-track processing:[70] ☐ Yes ☒ No
   - ❖ Dublin procedure: ☒ Yes ☐ No
   - ❖ Admissibility procedure: ☒ Yes ☐ No
   - ❖ Border procedure: ☒ Yes ☐ No
   - ❖ Accelerated procedure:[71] ☒ Yes ☐ No
   - ❖ Other: ☒ Yes ☐ No

     Specific admissibility rules apply to subsequent applications and to applications following a removal order.
2. Are any of the procedures that are foreseen in the law not being applied in practice? ☐ Yes ☒ No

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

Stage of the procedure	Competent authority (EN)		Competent authority (PT)	
	Until 28/10/2023	From 29/10/2023	Until 28/10/2023	From 29/10/2023
Registration of applications	Immigration and Borders Service (SEF)	Agency for Integration, Migration and Asylum (AIMA)	Serviço de Estrangeiros e Fronteiras (SEF)	Agência para a Integração, Migrações e Asilo (AIMA)
Dublin	Immigration and Borders Service (SEF)	Agency for Integration, Migration and Asylum (AIMA)	Serviço de Estrangeiros e Fronteiras (SEF)	Agência para a Integração, Migrações e Asilo (AIMA)
Refugee status determination	Immigration and Borders Service (SEF) Minister of Home Affairs	Agency for Integration, Migration and Asylum (AIMA) Minister for Parliamentary Affairs[72]	Serviço de Estrangeiros e Fronteiras (SEF) Ministro/a da Administração Interna	Agência para a Integração, Migrações e Asilo (AIMA) Ministro/a dos Assuntos Parlamentares
First appeal	Administrative and Fiscal Courts		Tribunais Administrativos e Fiscais	
Onward appeal	Central Administrative Courts Supreme Administrative Court		Tribunais Centrais Administrativos Supremo Tribunal Administrativo	
Subsequent application	Immigration and Borders Service	Agency for Integration,	Serviço de Estrangeiros e Fronteiras (SEF)	Agência para a Integração,

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

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

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

72 According to the Asylum Act, the Ministerial competencies referred to in the table are attributed to the Minister responsible for the field of migration. Between 29 October 2023 and the end of 2023, the Ministry of Parliamentary Affairs was in charge of migration.

	Minister of Home Affairs	Migration and Asylum (AIMA) Minister for Parliamentary Affairs	Ministro/a da Administração Interna	Migrações e Asilo (AIMA) Ministro/a dos Assuntos Parlamentares

4. Determining authority

	Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
Until 28/10/2023	Immigration and Borders Service (SEF), Asylum and Refugees Department (GAR)	24	Ministry of Home Affairs	☐ Yes ☒ No
From 29/10/2023	Agency for Integration, Migration and Asylum (AIMA), National Council for Asylum and Refugees (CNAR)	N.A.	Ministry for Parliamentary Affairs	☐ Yes ☒ No

Source: Information provided by SEF (April 2023), and Asylum Act.

The reform of the national asylum authority[73] culminated in 2023 with the creation of the Agency for Integration, Migration and Asylum (AIMA), which began its operations on 29 October,[74] and with the termination of the Immigration and Borders Service (SEF). Until that date, SEF remained the national asylum authority.

Until 29 October 2023, in accordance with the Asylum Act and the internal regulation of the Immigration and Borders Service (SEF), the Asylum and Refugees Department of SEF (SEF-GAR) was responsible for examining applications for international protection and drafting first instance. Decisions granting, refusing (except in accelerated and admissibility procedures), ceasing, and withdrawing international protection were formally adopted by the Ministry of Home Affairs.[75] In practice, the latter adopted such decisions based on the assessment and recommendations of the determining authority, which thus remained the main entity responsible for the examination of asylum claims.

73 For detailed information on the process and its origins prior to 2023, please revert to previous AIDA reports. 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, last amended by Act n. 53/2023, of 31 August 2023, available at: https://bit.ly/3OitRkJ.

74 Decree-Law no. 41/2023, of 2 June 2023 creating the Agency for Integration, Migration and Asylum, I.P., available at: http://tinyurl.com/3vsf4bzx; Ministerial Order no. 324-A/2023 of 27 October, approving the Statute of Agency for Integration, Migration and Asylum, I.P., available at: http://tinyurl.com/br97m4ws.

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

SEF-GAR was the specialised determining authority in the field of asylum. Its competencies were restricted to the following asylum-related tasks:[76]

- to organise and process asylum applications;
- to organise and process subsidiary protection applications;
- to organise and process Dublin procedures and, where necessary, to issue laissez passer;
- to issue reasoned opinions on submissions for refugee resettlement;
- to issue reasoned opinions on applications for the renewal of refugee travel documents presented to Portuguese Consulates;
- 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;
- to act as contact point of the EUAA; and
- 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. Information on the structure of SEF-GAR in 2023 is not available.

According to SEF, caseworkers conducted interviews, COI research, case analysis, and drafted decision proposals. Such decisions were revised by supervisors who also investigated suspicions of fraud (cancellation procedures) and drafted and supervised the implementation of procedural and eligibility guidelines. Administrative officers ensured the registration of applications and the screening/referral of cases.

AIMA began its operation on 29 October 2023, having been created by Decree-Law in June.[77] The Decree-Law that created AIMA amended a number of legislative files, including the Asylum Act where the amendments focused on replacing references to SEF with references to AIMA, references to SEF's National Director with Board of AIMA, and references to the Ministry of Home Affairs to the Ministry in charge of Migration. Between 29 October 2023 and the end of 2023, the Ministry of Parliamentary Affairs was in charge of migration.

The above-mentioned Decree-Law also created the Borders and Foreigners Coordination Unit (*Unidade de Coordenação de Fronteiras e Estrangeiros*, UCFE), responsible for the coordination of the activities of the police forces and other actors working in the field. The UCFE is primarily composed of officials from the two police forces with border control competencies (GNR and PSP).

The instrument further established AIMA's structure. AIMA is a Public Institute with administrative and financial autonomy. The Agency works in the fields of equality and migration and is under the oversight and remit of the ministry responsible for such themes.[78]

Notably, AIMA is responsible for the execution of public policies within the fields of migration and asylum.

Among its main competencies within the field of asylum, AIMA is inter alia responsible for:[79]

- Supporting border points in issuing visas and in providing reception conditions to asylum seekers;
- Recognising the right to family reunification;
- Analysing and deciding applications for international protection and temporary protection;
- Coordinating and implementing solidarity programmes such as relocation and resettlement;

76 Article 17(1) Decree-Law 252/2000.
77 Decree-Law no. 41/2023, of 2 June 2023, available at: https://tinyurl.com/3w7nxe94.
78 Article 1 of the Annex to Decree-Law no. 41/2023, of 2 June 2023, available at: https://tinyurl.com/3w7nxe94
79 Article 3 of the Annex to Decree-Law no. 41/2023, of 2 June 2023, available at: https://tinyurl.com/3w7nxe94.

- Ensuring the existence of a single reception and integration system for applicants and beneficiaries of international and temporary protection;
- Ensuring the provision of assistance to applicants for international protection until a decision regarding their application is reached (including unaccompanied children);
- Ensuring the implementation of transition plans concerning financial allowances granted to applicants and beneficiaries of international protection, supporting their autonomy;
- Providing financial assistance to reception entities;
- Promoting civil society initiatives regarding reception and integration;
- Representing Portugal at EU and international level institutions and for a regarding asylum and migration, including being the national contact point for the EUAA.

The agency is composed by three bodies – the Board, the Single Auditor, and the Council for Migrations and Asylum.[80]

The Council for Migrations and Asylum is a consultative body, composed by an array of entities, including civil society organisations.[81] Per the information available, by the end of 2023, the Council had not yet been appointed and there was no publicly available information regarding the timeline for the beginning of its operation.

The internal organisation of AIMA is governed by its Statute, which was approved by the Government by the end of October.[82]

Accordingly, from 29 October 2023, AIMA's National Centre for Asylum and Refugees (CNAR) became the specialised determining authority in the field of asylum, in charge of:[83]

- Receiving asylum applications and processing determination procedures;
- Organising and processing applications for humanitarian residence permits;
- Organising and processing Dublin procedures and, where necessary, issuing laissez passer;
- Organising and processing submissions for resettlement of refugees and relocation;
- Issuing reasoned opinions on applications for the renewal and extension of refugee travel documents presented to Portuguese Consulates;
- Ensuring AIMA's connection to the EUAA and preparing the corresponding strategic planning;
- Ensuring reception conditions according to the law; and
- Developing quantitative and qualitative indicators to assess elements such as its performance.

According to AIMA's Statute, the Department of Administrative Procedures and Quality may participate in the analysis of applications for international protection and temporary protection.[84]

AIMA did not provide information regarding the internal structure of CNAR, staff responsible for examining asylum applications, nor the quality assurance mechanisms in place.

The institutional change also entailed that existing general police forces became responsible for border control and for executing expulsion decisions. As such:

- The National Republican Guard (*Guarda Nacional Republicana*, GNR) became responsible for the surveillance and control of maritime and land borders, and for executing expulsion decisions within its jurisdiction;[85]

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80 Article 4 of the Annex to Decree-Law no. 41/2023, of 2 June 2023, available at: https://tinyurl.com/3w7nxe94.
81 Article 7 of the Annex to Decree-Law no. 41/2023, of 2 June 2023, available at: https://tinyurl.com/3w7nxe94.
82 Ministerial Order no.324-A/2023, of 27 October 2023, available at: https://tinyurl.com/br97m4ws.
83 Article 12 AIMA Statute.
84 Article 10 (c) and (d) Ministerial Order no.324-A/2023, of 27 October 2023, available at: https://tinyurl.com/br97m4ws.
85 Article 2(a) 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, last amended by Act n. 53/2023, of 31 August 2023, available at: https://bit.ly/3OitRkJ.

- The Public Security Police (*Polícia de Segurança Pública,* PSP) became responsible for the surveillance and control of air borders, and for executing expulsion decisions within its jurisdiction;[86]

As a consequence of the reform, competencies regarding foreigners with a residence permit and the issuance of travel documents were attributed to the Institute of Registries and Notary (*Instituto dos Registos e Notariado,* IRN).[87]

In July 2023, the Ombudsperson published a report on activity and process of termination of SEF. The report noted, inter alia:[88]

- SEF's increasing lack of capacity to provide timely responses to the requests received (e.g. lack of capacity of the contact centre, lack of availability of in-person appointments);
- The need to ensure the continuity of the public service during the transition.
- That the creation of a new entity would not, by itself, solve the problems identified in SEF's activity.

Regarding the transition for the new immigration and asylum authority, the Ombudsperson noted, inter alia, that:[89]

- Such a wide reform has not been preceded by a wide public debate and no reports or studies analysing the proposed changes were made public;
- Regarding the administrative competencies, the choice of the type of entity created, and the definition of the scope of its functions caused concern to the Ombudsperson. In particular, the Ombudsperson highlighted that the termination of the High Commission for Migration, that had a role in providing support to migrants in Portugal, and its integration in the new administrative authority that would have decision-making powers, jeopardised the relationship of trust with migrants.
- While the process was necessarily complex, it was bewildering that it was so long and uncertain.
- The need for a medium- and long-term strategy to respond to requests by migrants.

The Ombudsperson issued a number of recommendations accordingly.

According to the Government, AIMA began its operation with 34 front desk services spread through the country and with a backlog of 347,00 pending procedures.[90]

According to CPR's analysis, while the transition process was quite long, it was neither gradual, nor participatory. Notably, according to CPR's analysis, it did not include a sustained strategy of cooperation with other relevant public entities and with civil society organisations.

While the separation between administrative and law enforcement-related competencies is a positive element, the beginning of AIMA's operation presented multiple challenges and potential protection shortcomings.

With regards to asylum in particular, CPR observed multiple gaps in the implementation of legal norms concerning the asylum procedure and reception conditions, without proper account to the need to ensure the continuity of services despite institutional reforms. Furthermore, there have been notable difficulties in obtaining information regarding the procedures adopted by the Agency, and a structural lack of adequate communication both with civil society organisations and with applicants for international protection.

86 Ibid, article 2(b).
87 Ibid, article 3(1)(b).
88 Provedor de Justiça, *Monitorização da Actividade e do Processo de Extinção do Serviço de Estrangeiros e Fronteiras – Relatório*, July 2023, available at: https://tinyurl.com/59y4sfz6
89 Ibid, pp.10 et seq.
90 Governo de Portugal, *Agência para a Integração, Migrações e Asilo: o primeiro dia de um novo paradigma,* 29 October 2023, available at: https://tinyurl.com/ht3nefvz.

CPR also observed a growing tendency for narratives focused on the need to contain and limit the number of asylum applications, which is highly concerning. Within the context of the right of reply of the authorities to the draft AIDA report, AIMA noted that it had strengthened its procedures with the support of UNHCR.[91]

Quality assurance

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

Within the context of the reform of the national asylum authority, UNHCR and CPR provided short trainings to staff joining the new asylum unit in October 2023 and January 2024. While this is a positive aspect, according to the feedback of both CPR trainers and trainees, the training needs were wider and not fully addressed.

UNHCR reported that it has also provided training to PSP and GNR.

AIMA did not provide information regarding quality assurance mechanisms in place and the initial training provided to new officials.

5. Short overview of the asylum procedure

The Portuguese asylum procedure is a single procedure for both refugee status and subsidiary protection.[92] 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/AIMA or to any other police authority as soon as possible.[93] In the latter case, the police authority has 48 hours to inform SEF/AIMA of the application.[94]

SEF/AIMA 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.[95] The applicant must be informed of their rights and duties in a language they understand or are expected to understand.[96] Moreover, SEF/AIMA 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.[97]

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,[98] and to provide their observations to SEF/AIMA at any time during the procedure.[99] 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.[100]

91 Information provided by AIMA, 25 June 2024.
92 Article 10(2) Asylum Act.
93 Articles 13(1) and 19(1)(d) Asylum Act.
94 Article 13(2) Asylum Act.
95 Articles 13(7) and 14(1) Asylum Act.
96 Article 14(2) Asylum Act.
97 Articles 13(3), 24(1), 33(3), 33-A(3) Asylum Act.
98 E.g. Articles 17(3), 20, 24(5), 29(6) Asylum Act.
99 Article 28(5) Asylum Act.
100 Article 43(3) Asylum Act.

Except for special cases, such as applicants lacking legal capacity,[101] 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,[102] and at the border.[103]

According to the law, following the interview on the territory, SEF/AIMA produces a document narrating the essential facts of the application and the applicant has 3[104] days from the date of notification of such document to seek revision of its content (with the exception of subsequent applications and applications following a removal decision).[105] 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[106] and applications following a removal order[107] is subject to specific rules.

Admissibility procedure

The National Director of SEF/Board of AIMA has 30 days to make a decision on the admissibility of applications on the territory[108] (10 days for subsequent applications and applications following a removal order).[109] In the border procedure, that timeframe is reduced to 7 days.[110]

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,[111] with the exception of inadmissible subsequent applications and applications following a removal order (4 days to appeal, with automatic suspensive effect).[112] Failing an appeal, the applicant has 20 days to leave the country.[113] In the case of border procedures, the time limit to appeal is reduced to 4 days.[114]

In the case of Dublin procedures, the deadline for the admissibility decision is suspended pending a reply from the requested Member State.[115] Upon notification of a 'take charge'/'take back' decision, the applicant has 5 days to appeal before the Administrative Court with suspensive effect.[116]

101 Article 16(5) Asylum Act.
102 Articles 16 Asylum Act and 33-A(4) (for applications following a removal decision).
103 Article 24(2) and (3) Asylum Act.
104 Following an amendment to the Asylum Act, from 29 October 2023 the deadline was reduced from 5 to 3 days.
105 Article 17 Asylum Act.
106 Article 33 Asylum Act.
107 Article 33-A Asylum Act.
108 Article 20(1) Asylum Act.
109 Articles 33(4) and 33-A(5) Asylum Act.
110 Article 24(4) Asylum Act.
111 Articles 22(1) Asylum Act.
112 Articles 33(6) and 33-A(6) Asylum Act.
113 Articles 21(2) and (3) and 33(9) Asylum Act.
114 Article 25(1) Asylum Act.
115 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.
116 Article 37(4) Asylum Act.

Regular procedure

As soon as an asylum application is deemed admissible,[117] it proceeds to an eligibility evaluation.[118] In accordance with the law, this stage lasts up to 6 months but can be extended to 9 months in particularly complex cases.[119] The asylum seeker receives a provisional residence permit valid for 6 months (renewable).[120]

SEF/AIMA must evaluate all relevant facts to prepare a reasoned decision.[121] 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/AIMA at any time during the procedure in accordance with Article 35 of the 1951 Refugee Convention.[122]

Upon notification of the proposal for a final decision, the applicant has 10 days to respond.[123] SEF/AIMA then sends the recommendation to its Director/Board, who has 10 days to present it to the Ministry of Home Affairs/Ministry of Parliamentary Affairs. In turn, the Ministry has 8 days to adopt a final decision.[124]

In case of a negative decision, the applicant may lodge an appeal with automatic suspensive effect before the Administrative Court within 15 days,[125] or voluntarily depart from national territory within 30 days (after this period, the applicant will be subject to the general removal regime).[126]

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.[127]

While the rules governing accelerated procedures provide for the basic principles and guarantees of the regular procedure,[128] they also 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.[129] 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/report on the application,[130] or to be notified of and respond to SEF's/AIMA's reasoning of the proposal for a final decision,[131] as well as shorter appeal deadlines.[132]

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117 Article 20(4) Asylum Act. In the absence of a decision within 30 days the application is automatically admitted to the procedure.
118 Article 21(1) Asylum Act.
119 Article 28(2) Asylum Act.
120 Article 27(1) Asylum Act. Ministerial Order 597/2015 provides for the model and technical features of the provisional residence permit.
121 Article 28(1) Asylum Act.
122 Article 28(5) Asylum Act.
123 Article 29(2) Asylum Act.
124 Article 29(4) and (5) Asylum Act.
125 Article 30(1) Asylum Act.
126 Article 31 Asylum Act.
127 Article 19 Asylum Act.
128 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.
129 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).
130 This is limited to accelerated procedures at the border and in the case of applications following a removal procedure.
131 See infra the section on Accelerated Procedures for details on the current practice in this regard.
132 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.[133] However, the onward appeal in the case of an application following a removal order does not.[134]

Border procedure

The law provides for a special procedure regarding applications made at a national border.[135] While this procedure provides for the basic principles and guarantees of the regular procedure,[136] 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).[137]

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,[138] and a shorter appeal deadline before the Administrative Court (4 days).[139] Furthermore, asylum seekers can be detained during the border procedure.[140]

The border procedure was not applied in practice since March 2020,[141] however its application was resumed in November 2023.

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

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

The Portuguese authorities are bound by the duty to protect asylum seekers and beneficiaries of international protection from *refoulement*.[142] National case law has reaffirmed the protection against *refoulement* both on national territory and at the border, regardless of the migrant's status,[143] and in cases of either direct or indirect

133 Articles 22(1) and 33-A(6) Asylum Act.
134 Article 33-A(8) Asylum Act.
135 Article 23(1) Asylum Act.
136 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.
137 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.
138 Article 24 Asylum Act.
139 Article 25(1) Asylum Act.
140 Articles 26(1) and 35-A(3)(a) Asylum Act.
141 Persons applying for international protection at the border were generally been granted entry into national territory, and their applications were processed according to the rules applicable to applications made in the territory.
142 Articles 2(aa), 47 and 65 Asylum Act; Articles 31(6), 40(4) and 143 Immigration Act.
143 Nevertheless, the recent replies of Portugal to the list of issues of the Committee on the Elimination of Discrimination against Women (CEDAW) seem to indicate an understanding of the principle of non-refoulement as being almost exclusively linked to refugee status determination: ""[t]he principle of "non-refoulement" is established in Law 27/2008

exposure to *refoulement*.[144] 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. 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). At the time of writing, there is no experience in this regard with AIMA, GNR, and PSP.

Recent research on access to the asylum system and the principle of non-refoulement at the border.[145]

CPR has no indication of cases of push backs at the border. Nevertheless, according to the information available at the time of writing, there is no clear framework for the systematic assessment of the risk of *refoulement* of persons refused entry at border points. Furthermore, it is unclear whether staff responsible for border control receives specific training concerning non-refoulement obligations.[146] These risk factors are aggravated by the absence of border monitoring by independent organisations.[147]

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 whose entry into national territory was refused (Lisbon, Porto, Faro, Funchal and Ponta Delgada airports).[148] 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.[149]

While the implementation of this protocol is a positive development, concerns have been raised informally by several stakeholders because access to legal support can only occur following the refusal of entry into the national territory and not before second stage border controls conducted prior to such refusal.

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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).

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

145 The latest available research seems to be CPR, *Access to Protection: A Human Right, country report, Portugal*, 2014, available at: https://bit.ly/3sWjYNx. At the time, while no instances of push-backs at the border were identified, shortcomings such as extraterritorial refoulement within the framework of extraterritorial border controls performed by air carrier personnel and SEF in Guinea Bissau were observed.

146 In the List of Issues published in June 2023, the Committee Against Torture (CAT) requested information regarding, inter alia, training for immigration and border control officers regarding the treatment of detainees, the absolute prohibition of torture, the principle of non-refoulement and identification of potential victims of torture, gender-based violence and trafficking in human beings among asylum seekers. See Committee Against Torture (CAT), *List of issues prior to submission of the eight periodic report of Portugal,* 9 June 2023, par.10, available at: https://tinyurl.com/5ynxhpx9.

147 These concerns had been previously observed by CPR in the above-mentioned research.

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

149 Publicly available information regarding the implementation of this Protocol remains limited.

It must be also noted that according to the Ombudsperson, 66,6% of persons refused entry at Lisbon airport and 94% of those refused entry at Porto airport in 2022 waived their right to legal assistance.[150] While the Ombudsperson praised the fact that such a waiver is done in writing, it was highlighted that it is important that the text is either written in a language that the applicant understands or that it is translated by an interpreter, which was not always the case.[151]

The UN Committee Against Torture noted in 2019 that Portugal should '[e]sure 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.[152]

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

AIMA reported not having data regarding sea arrivals in 2023.

Legal access to the territory

Since 2018, Portugal has systematically participated in ***ad hoc* relocation mechanisms** following rescue operations in the Mediterranean and disembarkation in Malta and Italy.[153]

IOM Portugal 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, in collaboration with relevant IOM offices.

According to the information provided by AIMA, 40 persons were relocated to Portugal in 2023 from Italy, Malta, and Cyprus. IOM reported having provided assistance to all these persons. According to AIMA, the majority of those relocated were Afghan nationals.

In 2023, IOM has also supported the relocation of 56 unaccompanied children to Portugal from Greece under a **bilateral relocation agreement**.[154] According to the information provided by IOM, relocation under this scheme was led by the relevant governments and coordinated by the European Commission. IOM organised pre-departure orientation activities, medical screenings, in-flight escorts for the children, and provided assistance upon arrival at Lisbon airport. AIMA confirmed that a total of 56 unaccompanied children were relocated to Portugal in 2023.

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 Minister of Home Affairs / Minister of Parliamentary Affairs (as the Minister in charge of Migration).[155] Within 60 days, SEF/AIMA must conduct all

150 Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2022*, July 2023, 91-92, 95, available at: https://tinyurl.com/yumbbkwf.

151 Ibid.

152 Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, available at: https://bit.ly/2G1F07z, par.38(a) and (b). In its List of Issues published in June 2023, the Committee Against Torture (CAT) requested information regarding the safeguards in place to ensure access of all individuals under the jurisdiction of Portugal to access legal counselling and relevant procedural safeguards, as well as on the identification of vulnerable persons and regarding the consideration of their special needs within relevant procedures. See Committee Against Torture (CAT), *List of issues prior to submission of the eight periodic report of Portugal,* 9 June 2023, available at: https://tinyurl.com/5ynxhpx9, para.8.

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

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

155 Article 35(1) Asylum Act.

the actions needed for the analysis and decision of each case.[156] 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.[157] Following referral of the case by SEF/AIMA, the Ministry of Home Affairs/Minister of Parliamentary Affairs must issue a decision within 15 days.[158]

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 oversees pre-departure orientation activities, the performance of medical assessments prior to departure, the provision of assistance in transit and arrival support, and it assists the coordination with diplomatic representations for the issuance of visas and travel documents. With regard to pre-departure orientation, IOM reported that, prior to departure, all families participated in a video call with the host institution and were handled a factsheet with integration-related information. As per the information provided by IOM, the duration of pre-departure activities varies, typically ranging between 4 weeks and 6 months.

According to publicly available information for 2023 data, Portugal pledge to resettle 300 persons and to receive 100 persons under the humanitarian admission scheme.[159]

According to the information provided by AIMA and UNHCR to the AIDA report, a total of 277 refugees were resettled to Portugal in 2023 (90 from Egypt, 145 from Turkey and 42 from Jordan).[160] The group included nationals from Syria, South Sudan, Sudan, Eritrea, Iraq, Afghanistan, Iran and Yemen.

As per the information provided by IOM, refugees resettled in Portugal in 2023 were hosted in a total of 8 districts, with the majority being hosted in the Lisbon region and in the north of the country.

Upon arrival in Portugal, resettled refugees are received by a host entity – typically a civil society organisation, such as CPR – and begin an 18-month integration programme. According to the information provided by AIMA, in 2023, reception of resettled refugeed was ensured by civil society organisations, SCML, and municipalities.

With regard to documentation, resettled refugees are issued a "Declaration of International Protection in Portugal" (*Declaração Comprovativa de Protecção Internacional em Portugal*) upon arrival which is valid until the corresponding residence permit is issued. For more, please see: Content of International Protection.

According to CPR's experience, while the resettlement programme is an important protection avenue that must be reinforced, there are implementation challenges hindering its success in practice such as:

- Lack of a permanent and organised coordination structure, supporting the implementation of the programme as well as the organisations involved;
- Lack of adaptability of the programme to the specific needs of the resettled refugees;
- Insufficient involvement of the hosting entities in the pre-departure activities/procedures and management of expectations;
- Delays in the arrivals;
- Insufficient distribution of the arrivals through an adequate span of time allowing for better response capacity of hosting entities (for instance, out of the resettled refugees hosted by CPR 80% arrived in only two dates).

156 Article 35(2) Asylum Act.
157 Article 35(3) Asylum Act.
158 Article 35(4) Asylum Act.
159 European Commission, *Pledges submitted by the Member States for 2023*, available at: http://tinyurl.com/4f3vm864.
160 A figure slightly higher than that indicated on UNHCR's Resettlement Data Finder portal as of April 2024 (241). See: https://tinyurl.com/54heejjd.

In 2024-2025, Portugal has pledged to resettle 600 persons and to receive 400 persons on humanitarian grounds within the context of the 2024-2025 EU resettlement and humanitarian admission scheme.[161]

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 the country.[162] 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,[163] and another of the Afghanistan National Institute of Music,[164] and respective family members have also been hosted in the country.[165]

A specific scheme was adopted to ensure the reception of those evacuated to Portugal (see Differential treatment in reception).[166] 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.

According to information previously provided by SEF, a total of 768 applications for international protection were made in 2021 within this context.

In 2022 and 2023, the national authorities continued to allow for humanitarian admissions of Afghans for the purposes of family reunion.

Such requests must be submitted to the High Commission for Migration (Alto Comissariado para as Migrações, ACM) or to AIMA, and fulfil the following requirements: (1) existence of valid travel documents; (2) logistical ability to travel from a third country, as the persons concerned must be outside Afghanistan to request the relevant visa;[167] (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.[168] ACM/AIMA 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 AIMA, a total of 472 persons evacuated from Afghanistan arrived in Portugal in 2023. It is unclear how many of them applied for international protection.

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161 European Commission, *Pledges submitted by the Member States for 2024-2025,* December 2023, available at: http://tinyurl.com/4689sxtf.

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

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

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

165 See also 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, 78-79.

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

167 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.

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

Since 2021 CPR has been implementing a pilot project on **community sponsorship** in Portugal funded by AMIF.[169]

Following a significant number of outreach and capacity-building activities targeting potential sponsor groups, in 2023 two families were hosted under the project.

The first family was preselected by governmental authorities and allocated to CPR's availability to host resettled refugees. CPR then matched the family with a sponsor group, taking into account the characteristics of the refugees as well as the welcome plan designed by the sponsors and potential inclusion outcomes. The second family was received under named-sponsorship and in connection to the emergency evacuation of Afghan nationals.

CPR is currently working with 5 established sponsor groups and supporting emerging groups, aiming to host over 40 persons under this programme. Arrivals are currently pending approval from the national authorities.

For information on access to the territory through **family reunification** with a beneficiary of international protection, see Content of International Protection: Family Reunification.

2. Registration of the asylum application

Indicators: Registration

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

While the asylum application can be presented ('made') either to SEF/AIMA or to any other police authority, the responsibility to register asylum claims lies solely with SEF/AIMA.[170] If an asylum application is presented to a different police authority, it must be referred to SEF/AIMA within 48 hours.[171]

The responsibility for organising asylum files (including registration) lies with SEF's Asylum and Refugees Department (SEF-GAR)/ AIMA's National Centre for Asylum and Refugees (AIMA-CNAR).[172] SEF-GAR/AIMA-CNAR is required to inform CPR, as an organisation working on UNHCR's behalf, of the registration of individual asylum applications.

According to the information provided by AIMA, in 2023, the Portuguese authorities registered a total of 2,992 applications for international protection (including 96 made by persons relocated to Portugal). It should be noted that this figure also includes 277 resettled refugees which are not usually counted as applicants for international

169 *Vitality and Engagement – Developing Communities* - https://tinyurl.com/594ss492, and *A Comunidade* - https://www.acomunidade.org/.
170 Article 13(1) and (7) Asylum Act.
171 Article 13(2) Asylum Act.
172 Article 17 Decree-Law 252/2000.

protection. As such, excluding resettled refugees,[173] a total of 2,715 applications were registered in 2023. CPR received 2,565 communications throughout the year.[174]

In accordance with the law, applications for international protection must be presented to SEF/AIMA or to any other police authority as soon as possible, but the timeframe for doing so is not specified.[175]

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.[176] 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.[177] According to CPR's observation, this provision has been applied in practice.

Persons refused entry at the border are liable to immediate removal to the point of departure,[178] 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. Until 2023, according to the information available to CPR, the preliminary form was 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 were deployed to the premises of SEF-GAR/AIMA-CNAR, 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). While according to CPR's observation, this measure has facilitated communication between the relevant entities and the provision of support to asylum seekers, it came to an end in January 2024 following a decision made by AIMA.

SEF/AIMA 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.[179]

During SEF's tenure, 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).[180]

173 For purposes of comparison with previous years, this figure should be considered.
174 As of 3231/01/2024. 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.
175 Article 13(1) Asylum Act.
176 Article 19(1)(d) Asylum Act.
177 Article 18(4)(d) Asylum Act.
178 Article 41(1) Immigration Act.
179 Articles 13(7) and 14(1) Asylum Act.
180 Appointments are generally made through a phone line that is often quite difficult to reach.

Since the beginning of AIMA's operation, CPR has observed/received reports of concerning practices pertaining to the registration of asylum applications, namely:

- Applicants being incorrectly informed that applications for international protection could only be made by persons displaced from Ukraine;
- Individuals reporting having to make multiple attempts in order for their application to be registered by the authorities;
- Refusals to register applications due to lack of personnel;
- Introduction of a ticketing system at CNAR's premises according to which a ticket was required to apply for asylum. Following the distribution of 20 tickets per day no further applications were allowed;
- Late registration of applications made by individuals in administrative detention (up to several days), compounded by the fact that, upon registration, the authorities recorded the date of registration as the date of the application instead of referring to the date when the asylum seeker effectively applied for international protection.

CPR is also aware of instances where asylum seekers were urged by AIMA officials to withdraw their applications for international protection without having access to legal information/assistance and based on wrongful information. This includes incorrect information such as the suggestion/advice that only applications related to political matters or problems with the authorities are accepted; wrongful assumptions regarding the situation in the country of origin; and the provision of incorrect and/or incomplete information regarding other avenues for regular stay and corresponding reception conditions. Importantly, such cases concerned particularly vulnerable applicants. CPR required clarifications regarding this practice and assisted the concerned applicants in requesting reversal of the withdrawal. While no specific feedback was received by the organisation, CPR is aware that the asylum applications concerned were reinstated by the authorities.

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).[181] According to CPR's observation, this did not lead to changes in 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 recognise those in need of international protection and to afford sufficient guarantees of respect for the principle of non-refoulement under the Covenant'.[182] 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*'*.[183]

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.[184]

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

182 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.

183 Ibid, par.35(f).

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

C. Procedures

1. Regular procedure

1.1 General (scope, time limits)

Indicators: Regular Procedure: General	
1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance:	6 months
2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing?	☒ Yes ☐ No
3. Backlog of pending cases at first instance as of 31 December 2023:	Not available
4. Average length of the first instance procedure in 2023:	Not available

The first instance determining authority is required to take a decision on the asylum application within 6 months. This time limit is additional to the duration of the admissibility procedure and can be extended to 9 months in particularly complex cases.[185] The Asylum Act does not provide for specific consequences in case of failure to meet the time limit. Nevertheless, it establishes that when the six-month deadline is extended, the determining authority must inform the applicant accordingly. If the applicant so requests, the determining authority must also inform them of the reasons for the extension and of the expected timeline for the issuance of a decision.[186]

Asylum seekers are usually reluctant to act on the delay on the basis of general administrative guarantees, e.g., by requesting Administrative Courts to order SEF/AIMA to issue a decision on the application within a given time limit.[187]

AIMA did not share an estimation of the average duration of the procedure at first instance for 2023. 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 recognise those in need of international protection and to afford sufficient guarantees of respect for the principle of non-refoulement under the Covenant.'[188]

According to CPR's observation, significant delays in the processing of regular asylum applications still persist. CPR was able to gather information on 11 regular procedure decisions issued in the course of 2023, including decisions communicated by the authorities 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[189] ranged from 128 to 1,581 days, with an average duration of 565 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).

185 Article 28(2) Asylum Act.
186 Ibid.
187 Article 129 Administrative Procedure Code; Article 66(1) Administrative Courts Procedure Code.
188 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.
189 Time comprised between the date of the application and the date of issuance of the first instance decision on the (regular) asylum procedure.

CPR has further observer significant delays between the date of issuance of decisions and its notification to the asylum seeker. In some cases, this delay was of over one year.

Throughout the year, CPR often contacted the determining authority, on behalf of asylum seekers, requesting information regarding the status of their application and the expected timeline for the issuance of a decision. The competent authorities have very rarely replied to such requests. In instances where a response was provided, CPR/the applicant was merely informed that the analysis of the application was delayed due to the high number of applications and to the low number of staff members of the authority, and that there was no expectation of a timeline for the issuance of the decision.

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.[190]

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. At the time of writing, it was not yet possible to ascertain AIMA's practice in this regard.

AIMA did not share the number of pending cases at first instance by the end of the year. According to Eurostat, 365 asylum applications were pending by the end of 2023.[191]

1.2 Prioritised examination and fast-track processing

AIMA did not provide information regarding prioritisation and fast-tracking of asylum applications. CPT's observation does not indicate trends in this regard.

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

191 Eurostat, *Persons subject of asylum applications pending at the end of the month by citizenship, age and sex - monthly data,* available at: https://tinyurl.com/ykpb3ykn.

1.3 Personal interview

Indicators: Regular Procedure: Personal Interview

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

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.[192] 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.[193]

According to the law, if the interview is waived, SEF/AIMA is required to offer the applicant or their dependant(s) the opportunity to communicate relevant information by other means.[194]

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.[195] To that end, the asylum seeker is entitled to the assistance of an interpreter when applying for asylum and throughout the asylum procedure, if needed.[196] The asylum seeker can also be assisted by a lawyer but the absence thereof does not preclude SEF from conducting the interview.[197]

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

192 Article 16(1) (2) and (3) Asylum Act.
193 Article 16(5) Asylum Act.
194 Article 16(6) Asylum Act.
195 Article 16(1) Asylum Act.
196 Article 49(1)(d) Asylum Act.
197 Article 49(7) Asylum Act.

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.

In practice, asylum seekers are only interviewed once throughout the asylum procedure, which means that the general rules and practice of the regular procedure apply to the vast majority of cases (except border procedures, applications following a removal order, subsequent applications).

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 at the applicant's request and if 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.

In the past, SEF affirmed that applicants are guaranteed the right to an interview before any decision regarding their application is adopted, emphasising that interviews could only be waived in the cases listed in the Asylum Act. SEF also noted that interviews were conducted in all types of procedure, including Dublin. AIMA did not provide information regarding its interviewing practices, notably the number of interviews conducted, number of applications decided without a personal interview, and use of remote means (for the conduction of interviews or for interpretation).

According to CPR's observation in 2023, personal individual interviews were generally conducted in practice. Nevertheless, CPR found that AIMA had internal guidance according to which in the case of evacuated Afghan citizens only the head of the family (i.e. the man) was to be interviewed. CPR was not able to confirm this information and to establish when such a practice may have begun.

It is unclear whether there are specific internal guidelines for interviewers regarding the identification of vulnerabilities and the precautions to take when interviewing particularly vulnerable applicants.

According to SEF, interviews were not conducted by remote communication means, but interpretation may be provided by phone/videoconferencing. While according to CPR's observation, this continued to be the case with AIMA, the Agency did not provide information in this regard (see infra the sub-section on Interpretation).

The interview was generally conducted by SEF-GAR, although some interviews were conducted by SEF's regional delegations in cases of asylum applications made outside the Lisbon area. Such interviews were conducted on the basis of a questionnaire prepared by SEF-GAR.

Since the beginning of AIMA's activity, CPR has observed that interviews were also conducted outside AIMA-CNAR. It is unclear whether the officials conducting such interviews were associated to CNAR specifically.

Since the beginning of AIMA's operation, CPR has been observing concerning systematic practices regarding interviews, notably:

- Oversimplification of the interviews and of the questions asked to the applicant;
- Interviews being conducted late in the night/early in the morning and following trips to different areas of the country;[198]

198 In some cases, applicants in such situations have also reported not being provided adequate food in the meantime.

- ❖ Applicants systematically asked during the interview if they wish to be immediately notified of the decision of their asylum application without being informed that such a decision implies a relinquishment of their right to reply to the interview/case report and without having access to legal information and assistance before making a decision;
- ❖ Applicants not being informed of the possibility to be interviewed in a language they understand with the assistance of an interpreter, despite clear difficulties in communicating in another language;
- ❖ Refusal by the interviewing officers to receive evidentiary elements despite the applicant's attempts on the grounds that it would not be necessary (no written decision/explanation provided).

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., where the applicant absconded). These decisions are based on general administrative procedure rules.[199] Procedures were also suspended in cases while the results of age assessment procedures triggered by the Family Courts were pending.[200]

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/AIMA;
(iv) does not comply with the obligation to appear or to communicate with the authorities.[201] The competence to determine the extinction of an application belongs to the National Director of SEF/Board of AIMA.[202]

Notwithstanding, the applicant is entitled to reopen their asylum case by presenting themselves to SEF/AIMA at a later stage.[203] In this case, the file is to be resumed at the exact stage where it was discontinued.[204] 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;[205]
- ❖ Conducting an asylum interview without a lawyer present *per se* does not violate the Portuguese Constitution;[206]
- ❖ 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.[207]

199 Article 119(3) Administrative Procedure Code.
200 Article 38(1) Administrative Procedure Code.
201 Article 32(1) Asylum Act.
202 Article 31(2) Asylum Act.
203 The Asylum Act does not establish a deadline to do so.
204 Article 31(3) Asylum Act.
205 TCA South, Decision 2285/20.7BELSB, 21 April 2021, available at: https://bit.ly/3tQAjHc.
206 Ibid.
207 TCA South, Decision 806/21.7BELSB, 23 September 2021, available at: https://bit.ly/3iQyns9; TCA South, Decision 2144/20.3BELSB, 7 October 2021, available at: https://bit.ly/3IR83IZ.

The appeal of one such case was decided by the Supreme Administrative Court (STA) in 2022.[208] Overall, the Court considered that:[209]

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

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

1.3.1 Interpretation

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 could happen in practice at the applicant's request and if possible. It is unclear to CPR whether applicants were systematically made aware of that possibility. Information on the criteria used to analyse such requests or the arrangements in place to ensure effective implementation was not available. AIMA's practice in this regard is unclear and the Agency did not provide information on this matter.

The quality of interpretation services used for interviews remains a serious challenge. 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/AIMA has a code of conduct/guidance applicable to interpreters.[210]

According to the information previously provided by SEF, interpretation was at times provided by phone/videoconferencing. According to CPR's observation, since the beginning of AIMA's operation, recourse to phone interpretation (via the translation hotline managed by AIMA) became very frequent. The systematic use of the translation hotline for asylum interviews raises a number of concerns namely regarding confidentiality and the creation of an environment that assures the applicant and promotes the proper sharing of information.

CPR has also received reports of applicants not being informed of the possibility to be interviewed by AIMA in a language they understand with the assistance of an interpreter, despite clear difficulties in communicating in another language (such as English).

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

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

210 In this regard, SEF previously reported that the entity followed the interview recommendations issued by EUAA. AIMA did not provide information on this matter.

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 reporting

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.

According to the Asylum Act, following the interview, SEF/AIMA must prepare a transcript of de statements provided by the applicant or a *detailed and factual* report containing all the essential elements of the statements provided by the applicant.[211] This provision of the Asylum Act was amended in August 2023 (entering into force on 29 October 2023). The previous wording only referred to the transcript of the statements provided by the applicant during the interview.[212]

The applicant must be notified of the document and their right to reply to it.[213]

In practice, SEF/AIMA produces a written report summarising the most important elements raised during the interview, which is generally provided to the applicant immediately after the interview. Applicants are also notified of a report summarising the information that will underlie the decision to deem the application admissible/not unfounded and, as such, submit it to the regular procedure, or to reject it as inadmissible/unfounded (accelerated procedure). It should be noted that, since the beginning of 2024, CPR has been observing frequent changes of practice by AIMA regarding the documents and procedures connected to the interview and the summary report, leading to lack of clarity and to an increase of potential violations of procedural rights.

The summary report broadly contains information on: (i) identification of the applicant; (ii) family members; (iii) time and place of the application for international protection; (iv) prior information; (v) itinerary; (vi) summary of the facts that will underlie the decision;[214] (vii) the prospective decision to be taken (brief reference to the relevant legal basis).

Until 29 October 2023, the applicant had 5 days to submit comments in response to the summary report. Following an amendment to the Asylum Act, the deadline was reduced to 3 days since then.[215]

This reduced deadline to reply to the report is highly concerning for a number of reasons. Firstly, it is appalling that there was no broad consultation in this regard, and that no justification was provided for such a change. Secondly, according to CPR´s experience, the 3-day deadline is not sufficient to ensure the right at stake and will create obstacles to its effective exercise.

The right to reply to the interview report, provided for in article 17(2) Asylum Act, is an integral part of the right of the asylum seeker to be heard within the asylum procedure. Along with the personal interview provided for in article 16 Asylum Act, this is, in practice, the moment when the facts underlying the application for international protection are established.

Article 17(2) Asylum Act is also to be read in line with the right of applicants for international protection to access legal information and assistance (article 49(1)(e) Asylum Act). This is because, in practice, applicants usually resort to legal assistance in order to be able to fully exercise the right to respond in writing to the report on their application (which usually includes a proposal to reject the application either on admissibility grounds or under an accelerated procedure).

211 Article 17(1) Asylum Act.
212 For information regarding the evolution of national practice in this regard, please refer to the previous AIDA reports.
213 Article 17(2) Asylum Act.
214 Presentation of the application, motives, relevant elements.
215 Article 17 (1) and (2) Asylum Act.

According to CPR's experience in providing legal assistance at this stage, in order to ensure that applicants can effectively exercise their right to reply it is, for instance, often necessary to involve interpreters. Furthermore, time is required for the provision of adequate information and to adequately take into account the individual characteristics of the applicant concerned.

Furthermore, the written reply of the applicant is usually critical to a better understanding of the material facts of the application.

A deadline of 3 days cannot be deemed as reasonable to ensure an effective right to respond to the report. This is particularly the case when taking into account the structure and duration of the asylum procedure, as well as the importance of this procedural guarantee, and the practicalities required for its effective exercise. The reduction of this procedural guarantee will not only affect asylum seekers, it will also negatively impact the overall quality of the asylum procedure as it will reduce the information available to the asylum authority (and later, to judges) to conduct a fair and proper assessment of cases.

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.[216] In the past, interview reports were usually communicated to CPR accordingly. Currently, only the summary reports are communicated to CPR (although reports for Dublin cases are not systematically communicated). 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 tend to oversimplify the statements provided by the applicant to the authorities, and the merits analysis 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.

AIMA's practice in this regard has been deteriorating since the beginning of the Agency's operation. The case reports have become more and more laconic both regarding the information provided by the applicant and the grounds for the analysis of the application (mostly, the report merely refers to the legal rule invoked to reject the application).

CPR has also observed that some SEF case workers usually deemed 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. According to CPR's observation, since the beginning of AIMA's operation, clarifications/corrections provided in writing by the applicants are not usually properly analysed by the authority nor taken into account in the decision-making process.

As mentioned above, AIMA's officials systematically ask the applicants during the interview if they wish to be immediately notified of the decision of their asylum application. Applicants are not properly informed that such a decision implies a relinquishment of their right to reply to the interview/case report, and do not have access to legal information and assistance before making a decision. As a consequence of this practice, a significant number of applicants have been unable to exercise their right to reply to the written report since the beginning of AIMA's operations.

During SEF's operations, CPR observed inconsistent practices with regard to cases that are to be admitted to the regular procedure. Depending on the assigned caseworker, the applicant could be notified of a report and

216 Article 17(3) Asylum Act.

given the corresponding deadline to provide written comments or could only be notified of a decision deeming the application admissible. The latter was potentially problematic given that, usually, no further interviews are conducted during the procedure. Consequently, in practice, such applicants were potentially 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. AIMA's practice in this regard remained unclear at the time of writing.

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 was not systematically provided by to the applicants. Such reports were not communicated to CPR on a systematic basis as well.[217] AIMA's practice in this regard remained unclear at the time of writing.

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 Procedures Directive as the relevant requirements apply to the personal interview, regardless of the moment in which it is conducted.[218]

A decision from TCA South issued in 2021 considered that, despite the absence of an explicit reference in the relevant norm,[219] 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.[220]

Worryingly, a decision from TCA South issued in 2023 considered that the information provided by the applicant in writing following the interview are irrelevant as such statements are not spontaneous and are, consequently, motivated by the willingness to fulfil the requirements to be granted international protection.[221]

1.4 Appeal

Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure? ☒ Yes ☐ No
   - ❖ If yes, is it ☒ Judicial ☐ Administrative
   - ❖ If yes, is it automatically suspensive ☒ Yes ☐ Some grounds ☐ No
2. Average processing time for the appeal body to make a decision: 74 days (1st instance courts)

1.4.1 First appeal before the Administrative Court

The Asylum Act provides for an appeal against the first instance decision in the regular procedure consisting of judicial review of relevant facts and points of law by the Administrative Court.[222] The asylum seeker has 15 days to lodge the appeal, which has automatic suspensive effect.[223]

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217 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.

218 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.

219 Article 33-A Asylum Act.

220 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).

221 TCA South, Decision 3275/22.0BELSB, 23 March 2023, available at: https://tinyurl.com/2bpmc3c5.

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

223 Article 30(1) Asylum Act.

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.[224]

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;[225] or
- overturn it by granting refugee or subsidiary protection status.[226]

The Asylum Act qualifies the judicial review as urgent,[227] and provides for a simplified judicial process with reduced formalities and time limits with the objective of shortening the duration of the judicial review.[228]

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.[229]

The information provided by the High Council of Administrative and Fiscal Courts (*Conselho Superior dos Tribunais Administrativos e Fiscais* – CSTAF) for 2023 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 2023 was of 74 days.

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.[230] 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.[231] 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.[232] CSTAF confirmed that no such hearings occurred in 2023.

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, guidance on legal standards, or other expert opinion, it is not a party thereto and is therefore not systematically notified of judicial decisions by the courts.

According to CSTAF, a total of 306 appeals were lodged against negative asylum decisions in 2023, an increase of around 26% compared to 2022. Out of these, 287 were filled in TAC **Lisbon**.

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224 Article 84 Asylum Act.

225 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.

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

227 Article 84 Asylum Act.

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

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

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

231 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.

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

The information provided by the CSTAF for 2023 regarding the outcome of judicial reviews of first instance decisions indicates a poor success rate at appeal stage (8% at TAC **Lisbon,** and 9% 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 previously 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 2023 in this regard.

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,[233] with automatic suspensive effect.[234]

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.[235] STA makes its own assessment and decision on the facts of the case.[236] In both cases the asylum seeker has 15 days to lodge the appeal.[237]

The rulings of second instance Administrative Courts (TCA) and the STA are systematically published.[238]

According to information provided by CSTAF, Higher Courts do not collect autonomous data on asylum-related processes. Nevertheless, CSTAF reported that, in 2023, a total of 50 appeals were filed in second instance courts (TCA South and TCA North), out of which 28 were decided. According to the information provided by CSTAF, the average duration of appeals at second instance courts was of 180 days.

233 Article 149(1) Code of Procedure in Administrative Courts; Article 31(3) Act 13/2002.
234 Article 143(1) Code of Procedure in Administrative Courts.
235 Articles 143(1) and 150(1) Code of Procedure in Administrative Courts.
236 Article 150(3) Code of Procedure in Administrative Courts.
237 Article 147 Code of Procedure in Administrative Courts.
238 Decisions are available at: https://bit.ly/3abzUaZ.

1.5 Legal assistance

Indicators: Regular Procedure: Legal Assistance

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

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

The Portuguese Constitution enshrines the right of every individual to legal information and judicial remedies regardless of their financial condition.[239]

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.[240] 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).[241]

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).[242] These organisations are also entitled to be informed of key developments in the asylum procedure upon consent of the applicant,[243] and to present their observations at any time during the procedure pursuant to Article 35 of the 1951 Refugee Convention.[244]

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

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

Regarding particularly vulnerable asylum seekers, CPR provides specific legal assistance to unaccompanied asylum-seeking children. This includes the presence of a legal officer during the personal interview with SEF

239 Article 20(1) Constitution.
240 Article 49(1)(e) Asylum Act.
241 Ibid.
242 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.
243 Article 17(3) Asylum Act: document narrating the essential facts of the request; Article 20(1): decision on admissibility and accelerated procedures in national territory; Article 24(5): decision on admissibility and accelerated procedures at the border; Article 29(6) first instance decision in the regular procedure; Article 37(5): Dublin take charge decision.
244 Article 28(5) Asylum Act.

(see Legal Representation of Unaccompanied Children) as well as the provision of information and assistance in the framework of procedures before the Family and Juvenile Court.[245]

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 2023, CPR provided legal support to 1,772 spontaneously arrived asylum seekers in all types of asylum procedures lodged throughout the year, which represents around 69% of the total number of applications communicated to CPR according to the law (2,565) and 65% of the total number of applicants registered by the national authorities (2,715, excluding resettled refugees).

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 other organisations responsible for the reception of applicants for international protection.

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, 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 (until the end of October 2023), 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;[246]
(ii) The performance of the asylum interview without a lawyer present *per se* does not violate the Portuguese Constitution;[247]
(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.[248]

245 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.
246 TCA South, Decision 2285/20.7BELSB, 21 April 2021, available at: https://bit.ly/3tQAjHc.
247 Ibid.
248 TCA South, Decision 806/21.7BELSB, 23 September 2021, available at: https://bit.ly/3iQyns9; TCA South, Decision 2144/20.3BELSB, 7 October 2021, available at: https://bit.ly/3IR83IZ.

The appeal of one such case was decided by the Supreme Administrative Court (STA) in 2022.[249] Overall, the Court considered that:[250]

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

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

1.5.2 Legal assistance in appeals

Regarding legal assistance at the appeal stage, the Asylum Act provides for the right of asylum seekers to free legal aid in accordance with the law.[251]

The legal framework of free legal aid provides for a 'means assessment' on the basis of the household's income,[252] as only applicants who do not hold sufficient income are entitled to free or more favourable conditions to access legal aid.[253] 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*).[254]

The Bar appoints a lawyer,[255] on the basis of a random/automatic selection procedure.[256] 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.[257] While the average duration of this procedure in 2023 was around 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.[258]

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.[259]

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249 STA, Decision 02144/20.3BELSB, 25 January 2022, available at: https://bit.ly/3EMaIEI.
250 Following the same reasoning, see also TCA North, Decision 02331/21.7BELSB, 2 March 2022, available at: https://bit.ly/3YmUcSA.
251 Article 49(1)(f) Asylum Act.
252 Act 34/2004; Ministerial Order 10/2008.
253 Article 8-A and Annex Act 34/2004.
254 Article 22 Act 34/2004.
255 Article 30 Act 34/2004.
256 Article 2(1) Ministerial Order 10/2008.
257 Article 10(2) and (3) Ministerial Order 10/2008.
258 Article 33(4) Act 34/2004. See e.g., TCA South, Decision 10733/13, 2 April 2014, available in Portuguese at: http://bit.ly/2gyVQOJ.
259 Article 34(5) Act 34/2004.

CPR supported the submission of 292 applications for legal aid in the course of 2023. While a breakdown of application 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 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. CPR has observed 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, the Bar Association generally considers that it is up to the appointed lawyer to analyse whether the applicant's position is legitimate and legally viable. As such, reversals are systematically refused.[260] Up until now, this practice has mostly impacted applicants within Dublin/Admissibility/Accelerated procedures. This remains a concerning practice that may have an impact on the effective access to legal aid by asylum seekers.

Another concern relates to the overall quality of free legal aid at appeal stage, as the current selection system is based on a random/automatic selection procedure managed by the Portuguese Bar Association. This is done on the basis of preferred areas of legal assistance chosen beforehand by the appointed lawyers.[261] 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.

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/AIMA's translation hotline can constitute a useful tool in this regard, according to CPR's experience, it is insufficiently used by lawyers.[262] 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.[263]

260 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.

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

262 ACM's interpretation hotline relied on a database of 60 interpreters/translators to enable communication with non-Portuguese speaking citizens. Access was free of charge (cost of a local call) and the line could be used on working days, between 9:00 and 19:00. It was possible to request the interpretation immediately (upon availability of interpreter) or to schedule a call. With the termination of ACM's activity, the management of this hotline was transferred to AIMA. Since the beginning of 2024 access to the service is conditioned upon email request. Direct access by phone is theoretically available through AIMA's general contact but, according to CPR's experience, contact through this avenue is not practically possible. Additional information, including the list of languages covered, is available at http://bit.ly/2A4Ekga.

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

2. Dublin

2.1 General

Dublin statistics: 2023

Outgoing procedure						Incoming procedure					
	Requests				Transfers		Requests				Transfers
	Take charge	Take back	Total	Accepted requests			Take charge	Take back	Total	Accepted requests	
Total	**118**	**401**	**519**	**393**	**29**	**Total**	**1247**	**349**	**1,596**	**1,275**	**169**
Italy	33	89	122	95	-	France	829	122	951	805	86
Germany	3	101	104	79	7	Germany	249	137	386	298	52
France	8	88	96	69	5	Belgium	65	23	88	50	1
Spain	36	20	56	47	6	Switzerland	31	24	55	33	11
Netherlands	2	29	31	13	1	Netherlands	27	25	52	40	8
Austria	-	16	16	18	1	Austria	8	6	15	15	3
Switzerland	5	9	14	10	3	Finland	12	-	12	10	2
Malta	5	7	12	12	-	Italy	4	3	7	5	-
Sweden	4	6	10	9	-	Norway	6	-	6	5	2
Croatia	5	4	9	5	-	Sweden	4	1	5	3	1
Belgium	-	8	8	7	2	Spain	2	3	5	2	-
Poland	5	2	7	7	1	Denmark	1	3	4	2	-
Slovenia	-	6	6	5	-	Greece	4	-	4	-	-
Bulgaria	2	3	5	1	-	Luxembourg	3	-	3	3	3
Finland	2	2	4	4	1	Iceland	2	-	2	2	-
Norway	3	1	4	4	-	Ireland	-	1	1	1	-
Romania	0	4	4	2	-	Slovakia	-	1	1	1	-
Hungary	3	-	3	2	-						
Cyprus	-	2	2	2	-						
Denmark	0	2	2	-	-						
Czechia	1	-	1	1	1						
Ireland	-	1	1	-	1						
Latvia	1	-	1	1	-						
Slovakia	-	1	1	-	-						

Source: AIMA

Outgoing Dublin requests by criterion: 2023	
Dublin III Regulation criterion	Requests sent
'Take charge':	
Article 8 (minors)	-
Article 9 (family members granted protection)	-
Article 10 (family members pending determination)	-
Article 11 (family procedure)	1
Article 12 (visas and residence permits)	70
Article 13 (entry and/or remain)	46
Article 14 (visa free entry)	-
'Take charge': Article 16	-
'Take charge' humanitarian clause: Article 17(2)	1

'Take back': Article 18	
Article 18 (1) (b)	175
Article 18 (1) (c)	-
Article 18 (1) (d)	218
Article 20(5)	-
Rejected outgoing requests: 2023	
Total	**172**

Source: AIMA

Incoming Dublin requests by criterion: 2023	
Dublin III Regulation criterion	Requests received
'Take charge':	
Article 8 (minors)	4
Article 9 (family members granted protection)	1
Article 10 (family members pending determination)	-
Article 11 (family procedure)	3
Article 12 (visas and residence permits)	1,204
Article 13 (entry and/or remain)	19
Article 14 (visa free entry)	-
'Take charge': Article 16	-
'Take charge' humanitarian clause: Article 17(2)	-
'Take back': Articles 18 and 20(5)	
Article 18 (1) (b)	334
Article 18 (1) (c)	-
Article 18 (1) (d)	9
Article 20(5)	4

Source: AIMA

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.[264] 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 AIMA, in 2023, there were 1 outgoing and 8 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. Information regarding AIMA's practice in this regard was not available at the time of writing.

According to the information provided in the past by SEF regarding the practical application of Article 8, the best interest of the child was the only relevant criterion. SEF further reported that, when family reunification through

264 Article 37(1) Asylum Act.

this avenue was a possibility, the capacity of the family members to receive the child was also analysed. According to the information provided by AIMA, the best interest of the child and parental conditions to receive the child remained as the relevant criteria guiding the application of Article 8.

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.[265] 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,[266] in at least one, the applicant was deemed to be an adult due to the lack of evidence proving childhood.[267]

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. Information regarding AIMA's practice in this regard was not available at the time of writing.

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

According to the information provided by AIMA the grounds of rejection of outgoing take charge/take back requests by other Member States (172 in 2023) are not systematised. Nevertheless, the Agency reported that most rejections are due to factors such as the transfer of responsibility to another Member State, or questions regarding cessation of responsibility due to lack of knowledge of the applicant's whereabouts for certain periods of time.

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 specific statistics are also limited.

According to information provided by SEF in the past and reiterated by AIMA for 2023, 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 issued in 2021 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',[268] apparently following a very narrow understanding of the logic and purpose of the clause.

According to AIMA, there was 1 outgoing and no incoming take charge requests pursuant to Article 17(2) of the Regulation in 2023.[269]

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

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

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

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

269 However, AIMA has also reported that 40 applicants for international protection were relocated to Portugal from Malta, Cyprus, and Italy, and 56 unaccompanied children and young adults were relocated from Greece. These transfers were likely based on the humanitarian clause.

According to information previously provided by SEF, the 'sovereignty clause' has not been applied since 2018. AIMA further reported that Article 17(1) has not been applied by the national authorities in 2023.

A decision from TCA South issued in 2023 regarding the application of article 17 of the Dublin Regulation underlined the discretionary nature of its application. The Court considered that it could not decide to apply article 17 in this case due to the principle of the separation of powers.[270]

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). AIMA confirmed that Portugal does not make neither take charge nor take back requests to Greece. 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/AIMA shall make a 'take charge' or 'take back' request to the competent authorities of the relevant Member State.[271]

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).[272]

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,[273] the consequences of an asylum seeker's refusal to comply with the obligation to be fingerprinted[274] are limited to the application of an Accelerated Procedure.[275] 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/AIMA systematically determines which country is responsible for examining the asylum application in accordance with the criteria set out in the Dublin Regulation. This is done, among others, on the basis of the information collected through a preliminary form that must be filled by the asylum seeker upon registration and/or the individual interview. The preliminary form includes information on identification, itinerary, grounds for the asylum application, prior stays in Europe and supporting evidence.

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270 The applicant invoked that the transfer would be damaging for himself and his family and that he wished to have his asylum application analysed in Portugal as his brother lived in the country, and he had a job and felt integrated in Portugal. TCA South, Decision 1595/23.6BELSB, 26 October 2023, available at: https://tinyurl.com/3yhazw2z.

271 Articles 36 and 37(1) Asylum Act.

272 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.

273 Article 35-A(3)(c) Asylum Act.

274 Article 15(1)(e) Asylum Act.

275 Article 19(1)(j) Asylum Act.

During the interview with SEF/AIMA, 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.

Until the end of 2023, even when the personal interview focused on the grounds of the application for international protection, the document narrating the individual interview handed out to the applicant included a reference to the Dublin Regulation, as well as a waiver for sharing information under Article 34 of the Regulation. Since the beginning of 2024, the document contained no such reference.

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.[276] 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/AIMA[277] does not include all the information included on the Annex X (Parts A and B) of the corresponding Implementing Regulation.[278]

2.2.1 Individualised guarantees

According to information available to CPR, SEF/AIMA 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.[279]

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 either.

AIMA did not provide information regarding requests for individualised guarantees.

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),[280] CPR is not aware of judicial decisions focusing specifically on individualised guarantees.

276 Article 49(1)(b) Asylum Act.

277 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.

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

279 A practice not aligned with ECtHR's decision in *Tarakhel v. Switzerland*, Application No 29217/12, 4 November 2014.

280 For example: TCA South, Decision 1982/18.1BELSB, 22 August 2019, available in Portuguese at: https://bit.ly/36vzJAV, confirming a judgement of TAF Sintra (unpublished) that annulled the decision to transfer an applicant with hepatitis B to Italy; TAC Lisbon, Decision 2364/18.0BELSB, 22 March 2019 (unpublished), annulling a transfer decision to Italy, *inter alia*, because the adjudicating authority did not properly assess the nature and severity of health 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,[281] this provision is not implemented in practice and CPR is unaware of detention cases on this ground.

However, applicants subjected to the Dublin procedure are required to present themselves to SEF/AIMA monthly, and attendance is registered in a form and non-attendance may result in the reduction/withdrawal reception conditions. This practice is framed by the authorities as a requirement under the general duty of the applicant to present themselves to the asylum authority whenever requested.[282] However, it can be argued that the practice constitutes a restriction to the applicant's freedom of movement. While the application of such a measure as an alternative to detention is possible according to article 35-A(4)(a) of the Asylum Act, it is doubtful that it can be applied systematically, without an individual assessment of necessity and proportionality and without judicial control.
Within the context of the right to reply of the authorities to the draft AIDA report, AIMA noted that if applicants are unable to present themselves on a scheduled date, they can request rescheduling.[283] CPR was not able to independently confirm this information.

Asylum seekers are entitled to a standard *laissez-passer* upon notification in writing of the transfer decision.[284] 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 AIMA, in the absence of a judicial appeal or absconding, 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 29 transfers were implemented out of the total of 519 outgoing requests, out of which 393 accepted. The transfer rate (calculated on the basis of accepted requests) was thus of 7.4% in 2023.[285]

According to the information provided by AIMA regarding 2023, the most common obstacles to the implementation of transfers included: (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) applicants absconding.

281 Article 35-A(3)(c) Asylum Act.
282 Article 15(1)(g) Asylum Act.
283 Information provided by AIMA, 25 June 2024.
284 Article 37(3) Asylum Act.
285 The transfer rate on the basis of the overall number of outgoing requests was of 5.6%.

2.3 Personal interview

Indicators: Dublin: Personal Interview
☒ Same as regular procedure

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

The Asylum Act provides for the systematic personal interview of all asylum seekers, including those in a Dublin procedure.[286] 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.[287]

As mentioned above (see: Regular Procedure: Personal interview), SEF previously reported that applicants were guaranteed the right to an interview before any decision regarding their application was adopted, emphasising that interviews could only be waived in the cases listed in the Asylum Act. SEF also noted that interviews were conducted in all types of procedure, including Dublin. AIMA did not provide information on its interviewing practices and procedures.

According to CPR's observation, in 2023, 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.[288]

Overall, the modalities of the interview are the same as those of the Regular Procedure.

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.

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 and respective criteria.[289] This document also notifies the applicant of the possibility to provide written comments pursuant to the general administrative rules.[290] However, despite the general rule determining that the deadline for response cannot be of less than 10 days,[291] the deadline prescribed by the above-mentioned notifications was of only 5 days until the end of October, and of 3 days since then. Such documents are not communicated to CPR by the authorities on a systematic basis.[292]

286 Article 16(1)-(3) Asylum Act.
287 Article 16(5) Asylum Act.
288 Pursuant to article 5(2)(a) of the Dublin Regulation.
289 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.
290 Article 121 Administrative Procedure Code.
291 Article 122 Administrative Procedure Code.
292 A practice observed at least since the third trimester of 2019.

2.4 Appeal

Indicators: Dublin: Appeal
☐ Same as regular procedure

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

The Asylum Act provides for an appeal against decisions in the Dublin procedure consisting of a judicial review of relevant facts and points of law by the Administrative Court.[293] The asylum seeker has 5 days to lodge the appeal.[294] As in the Regular Procedure, the initial and onward appeals are automatically suspensive,[295] 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.[296]

The available case law indicates that the asylum seeker can challenge the correct application of the Dublin criteria,[297] as per the ruling of the Court of Justice of the European Union (CJEU) in *Ghezelbash*.[298] The court also verifies if all formalities have been respected by SEF, including applicable deadlines set forth in the Dublin Regulation.[299]

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 2023 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 255 decisions rendered by first instance courts in 2023, 153 concerned Dublin procedures (around 60%). According to the same source, within the context of Dublin cases, first instance courts decided in favour of the applicant on 10 occasions (7% success rate).

According to the information available to CPR, Dublin procedures were the main type of asylum procedure used in 2023 to reject asylum applications at first instance in the case of Gambia, Pakistan, and Senegal (three of the five most represented nationalities at appeal stage).

293 Article 37(4) Asylum Act; Article 95(3) Code of Procedure in Administrative Courts.
294 Ibid.
295 Article 37(4) and (6) Asylum Act.
296 Article 37(5) Asylum Act.
297 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.
298 CJEU, Case C-63/15 *Ghezelbash*, Judgment of 7 June 2016.
299 TAC Lisbon, Decision 1235/16.0BESLB, 14 September 2016, unpublished.

2.5 Legal assistance

Indicators: Dublin: Legal Assistance
☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
   ☒ Yes ☐ With difficulty ☐ No
   ❖ Does free legal assistance cover: ☐ Representation in interview
   ☒ Legal advice

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

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

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

2.6 Suspension of transfers

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

According to the information available to CPR the only country to which Dublin transfers are suspended as a matter of practice (as no requests are made by the Portuguese authorities) is **Greece**. This has been the case since the 2011 *M.S.S. v. Belgium and Greece* judgment of the ECtHR. AIMA confirmed that Portugal does not make neither take charge nor take back requests to Greece.

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.

In a 2020 judgement, concerning a transfer decision to Spain, TCA South considered, *inter alia*, that the strong migratory pressure and poor reception conditions,[300] were not sufficient to consider that there would be a serious risk of inhuman or degrading treatment.[301]

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.

300 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.

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

Within that context, the Court concluded, *inter alia*, that, in light of the available information on the human rights, humanitarian and security situation in the applicant's region of origin and relevant recommendations of international organisations, return may imply a serious risk of torture, inhuman or degrading treatment or a threat to his life and physical integrity.

Given that the information available on the individual case did not allow for an assessment of such risks, TCA South determined that the administrative authority must complete the analysis of the case namely by obtaining all the relevant information on the applicant's profile and individual situation and on the situation in Iraq.[302]

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 *refoulment* 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.[303]

Dublin transfers to Italy have been 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.[304]

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.[305]

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.[306]

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302 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.

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

304 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.

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

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

This interpretation has been reaffirmed in subsequent cases.[307] An analysis of the jurisprudence of STA in this regard, indicates that the Court considers, inter alia, 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.[308]

With regard to the burden imposed on the applicant the following main features can be inferred from the decisions of STA:[309]

- It is insufficient for the applicant to invoke 'generic and abstract deficiencies';[310]
- 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 the responsible Member State;[311]
- The applicant must invoke 'concrete facts allowing to conclude that there is an effective risk that they could be subject to inhuman treatment in the responsible Member State;[312]
- The applicant must invoke and demonstrate 'exceptional personal circumstances and not only a common and generalised knowledge of the reception difficulties in the responsible Member State;[313]
- The personal circumstances of the applicant must not be described 'in an overly generic manner and with lack of detail';[314]
- The absence of references in the applicant's statements/allegations to prior inhuman or degrading treatment in the responsible Member State is detrimental to their claim (especially if they were there for a long period of time);[315]

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307 Namely: STA, Decision 01108/19.4BELSB, 11 May 2020, available at: https://bit.ly/3lXMxZ9; STA, Decision 01322/19.2BELSB, 4 June 2020, available at: https://bit.ly/3feFnOY; STA, Decision 01088/19.6BELSB, 2 July 2020, available at: https://bit.ly/3riiCN1; STA, Decision 01786/19.4BELSB, 2 July 2020, available at: https://bit.ly/3rlpk4h; STA, Decision 01419/19BELSB, 9 July 2020, available at: https://bit.ly/3fdz51X; STA, Decision 03421/19.1BEPRT, 10 September 2020, available at: https://bit.ly/3d3nmjT; STA, Decision 01705/19.8BELSB, 10 September 2020, available at: https://bit.ly/39dVSXH; STA, Decision 02364/18.0BELSB, 5 November 2020, available at: https://bit.ly/3tUOI2i; STA, Decision 01932/19.8BELSB, 5 November 2020, available at: https://bit.ly/3w1B67x; STA, Decision 01301/19.0BELSB, 19 November 2020, available at: https://bit.ly/39fas0S; STA, Decision 02212/19.4BELSB, 10 December 2020, available at: https://bit.ly/3d5ncbB; STA, Decision 01988/20.0BELSB, 19 April 2023, available at: https://tinyurl.com/y649bksh (a summary of this judgment is available at EUAA's case-law database, see: https://tinyurl.com/38fp6mzr).

308 With regard to the situation in Italy in particular, in a number of cases adjudicated in 2021, TCA South valued the fact that a number of the restrictive measures implemented by Matteo Salvini as Ministry of Home Affairs has been reverted in the meantime. See TCA South, Decision 998/20.2BELSB, 18 February 2021, available at: https://bit.ly/3Nywsqo; TCA South, Decision 1113/20.8BELSB, 4 February 2021, available at: https://bit.ly/3IT2nyf; TCA South, Decision 88/21BELSB, 17 June 2021, available at: https://bit.ly/36E5SLK. Furthermore, it has also been considered that the "overall situation in the country" does not lead to the conclusion that all Dublin transfers to Italy would violate article 3 ECHR and article 4 CFREU. See: TCA South, Decision 998/20.2BELSB, 18 February 2021, available at: https://bit.ly/3Nywsqo; TCA South, Decision 88/21BELSB, 17 June 2021, available at: https://bit.ly/36E5SLK. In one case, TCA South used as an indicator of the absence of systemic flaws in the Italian reception system the fact that there are also foreigners sleeping on the streets and without food in Portugal. TCA South, Decision 1696/20.2BELSB, 18 February 2021, available at: https://bit.ly/3K90IpL.

309 Unofficial translations.

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

311 STA, Decision 01108/19.4BELSB, 11 May 2020, available at: https://bit.ly/3lXMxZ9.

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

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

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

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

- ❖ The applicant's statements must allow to conclude that 'there is a concrete situation in which the applicant was affected in a manner beyond acceptable by the deficient reception conditions';[316]
- ❖ 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.[317] Furthermore, apparently, the applicant is required to disclose such treatment/events *proprio motu*, as the authorities are not specifically required to ask follow-up questions regarding potential risks in the responsible Member State. While according to CPR's analysis, some diverging decisions were identified[318] the jurisprudence of TCA South has predominantly adopted similar positions since then.[319]

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;[320]
- ❖ 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.[321]

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

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

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

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

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

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

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

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.[322]

A more protective approach than that followed by the STA in the above-mentioned jurisprudence, but that tries to reconcile the reasoning of the STA with the fundamental rights obligations of the national authorities, was followed by TCA South in one case decided in 2023. In a case where the applicant described to the determining authority having lived on the streets in the receiving Member State without any assistance, TCA South considered that the determining authority was bound to investigate the reception conditions in said Member State as the applicant's statements referred to the absence of basic living conditions and, as such, of extreme material deprivation.[323]

In two cases adjudicated in 2021, TCA South 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.[324] A similar reasoning has been followed by the same court in at least two cases adjudicated in 2022.[325]

With regard to the conditions offered in the receiving Member State, TCA South decided in 2022 that an allegation of non-satisfaction of basic housing needs must be analysed by the administrative authorities.[326] STA decided in 2022 that the non-provision of financial support to an asylum seeker for almost a month does not amount to inhuman or degrading treatment.[327] TCA South has also decided in at least two cases in 2022 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.[328]

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.[329]

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

323 TCA South, Decision 1566/22.0BELSB, 9 March 2023, available at: https://tinyurl.com/ywfeznvz.

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

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

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

327 STA, Decision 0269/22.0BELSB, 25 November 2022, available at: https://bit.ly/3y5Y0Nc

328 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 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.

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

According to CPR's experience, the national authorities tend to disregard individual concerns regarding the situation that applicants will likely face in the receiving Member State, including reports of previous violence/abuse by private actors.

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 another EU Member State.[330] 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 informed CPR beforehand of the date of arrival, flight details, and medical reports (if applicable). Upon arrival at the airport, asylum seekers received a notification to present themselves at SEF-GAR in the following day(s) and were 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.[331] According to CPR's experience, practice in this regard has been irregular since the beginning of AIMA's operations, and, even when CPR is informed in advance of the arrival of Dublin returnees, no other reports are provided.

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.[332] 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.[333]

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.[334] The agreement aims to facilitate returns by introducing non-binding shorter timeframes – one month instead of three months for a 'take charge' request – and providing for group instead of individual transfers.[335]

According to the observation of CPR, the agreement does not impact the treatment of Dublin returnees.

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https://bit.ly/3cVM0E8); TCA South, Decision 65/20.9BELSB, 24 September 2020, available at: https://bit.ly/3cV2IIK (referring only to the absence of risks in the relevant Member State); TCA South, Decision 988/20.5BELSB, 1 October 2020, available at: https://bit.ly/3tMexSj; TCA South, Decision 1050/20.6BELSB, 29 October 2020, available at: https://bit.ly/3sb5dXE; TCA South, Decision 1065/20.4BELSB, 21 January 2021, available at: https://bit.ly/3DnVjIA; TCA South, Decision 1120/22.6BELRS, 6 October 2022, available at: https://bit.ly/3kNYHHM. This interpretation has also been explicitly rejected by the same court in the course of 2022: TCA South, Decision 545/21.9BELSB, 3 February 2022, available at: https://bit.ly/3ZCtSot ; TCA South, Decision 177/22.4BELSB, 26 June 2022, unpublished.

330 Article 40(1) Asylum Act.

331 See: SEF, EUAA, *Information on procedural elements and rights of applicants subject to a Dublin transfer to Portugal,* 14 April 2023, available at: https://tinyurl.com/y6ytzsck.

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

333 Article 32(3) of the Asylum Act.

334 According to the information available at the time of writing this was the only agreement of its kind involving Portugal.

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

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;[336]
(ii) specific time limits for the first instance decision on admissibility;[337]
(iii) legal consequences in case the competent authority does not comply with those time limits;[338]
(iv) the right to an appeal against the inadmissibility decision;[339] and
(v) specific rights related to admission to the regular procedure[340]

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;[341]
Has been granted international protection in another EU Member State;[342]
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;[343]
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;[344]
Has made a subsequent application without new elements or findings pertaining to the conditions for qualifying for international protection;[345] 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.[346]

The National Director of SEF/Board of AIMA has 30 days to take a decision on the admissibility of the application,[347] which is reduced to 10 days in the case of subsequent applications[348] and applications following a removal decision,[349] and to 7 days in the case of the Border Procedure.[350]

In case SEF/AIMA does not comply with these time limits, the claim is automatically admitted to the procedure.[351]

In practice, all asylum applicants undergo an interview that assesses the above-mentioned inadmissibility clauses along with the merits of the application.[352]

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336 Article 19-A Asylum Act.
337 Articles 20(1),24(4), 33(4) and 33-A(5) Asylum Act.
338 Articles 20(2) and 26(4) Asylum Act.
339 Articles 22(1) and 25(1) Asylum Act.
340 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.
341 Article 19-A(1(a) Asylum Act.
342 Article 19-A(1(b) Asylum Act.
343 Article 19-A(1(c) and Article 2(1)(z) Asylum Act.
344 Article 19-A(1(d) and Article 2(1)(r) Asylum Act.
345 Article 19-A(1(e) Asylum Act.
346 Article 19-A(1(f) Asylum Act.
347 Article 20(1) Asylum Act.
348 Article 33(4) Asylum Act.
349 Article 33-A(5) Asylum Act.
350 Article 24(4) Asylum Act.
351 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.
352 Article 16 Asylum Act.

Statistics shared by AIMA for 2023 do not make a distinction between inadmissibility decisions and in-merit rejections in accelerated procedures, merely indicating a total of 158 decisions for both categories.

According to the information available to CPR, except for Dublin-related decisions, the number of asylum applications deemed inadmissible in 2023 was low. As per the data collected by CPR, a total of 271 inadmissibility decisions from applications made in 2023 were adopted by the beginning of 2024.[353] Out of those, 18 were non-Dublin decisions, including inadmissibility on the grounds of having been granted international protection in another Member State, first country of asylum, safe third country and a subsequent application without new elements.

While SEF/AIMA 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.

Additionally, in 2023, CPR observed significant delays in the recognition of automatic admission to the regular procedure by the national authorities. Notably, by the end of the year, AIMA issued more than 300 admissibility decisions due to the non-compliance with the 30-day time limit by the national authorities.[354] A significant number of these decisions concerned applications made several months before.

Since the beginning of the operation of AIMA, CPR has also observed a number of cases where applications are simultaneously deemed inadmissible, rejected as manifestly ill-founded (accelerated procedure), and deemed excluded from subsidiary protection (including in border procedures).[355]

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,[356] 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.[357]

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

353 These figures may include a low number of inadmissibility decisions issued already in the first quarter of January, as the data collection is made through date of application and not date of decision (which also means that decisions issued in 2023 regarding applications made in prior years are not included).
354 However, as mentioned in Statistics, AIMA reported that only 281 such decisions have been adopted in 2023. This figure is not compatible with CPR's experience and observation.
355 In what seems to be a wrong interpretation of the concept of exclusion given that, despite resorting to the institute of exclusion, in the decisions analysed, the authorities do not substantiate that an exclusion clause is verified, but merely that the inclusion requirements are not verified.
356 Article 16(1)-(3) Asylum Act.
357 Article 16(5) Asylum Act.

AIMA did not provide information regarding its interviewing practices, notably the number of interviews conducted, the number of applications decided without a personal interview, and the use of remote means (for the conduction of interviews or for interpretation).

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 (see Regular procedure: Personal interview).

CPR is aware of cases deemed inadmissible on the grounds of the applicant having been granted protection in another Member State where the personal interview was waived on the grounds of article 5(2)(a) of the Dublin Regulation.

CPR is not aware of the use of videoconferencing for interviews. This has been confirmed by SEF in the past.

A decision from TCA South issued in 2021 considered that, despite the absence of an explicit reference in the relevant norm,[358] 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.[359]

3.3 Appeal

Indicators: Admissibility Procedure: Appeal

☐ Same as regular procedure

1. Does the law provide for an appeal against an inadmissibility decision? ☒ Yes ☐ No
   - ❖ If yes, is it ☒ Judicial ☐ Administrative
   - ❖ If yes, is it automatically suspensive ☒ Yes ☐ 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.[360] The time limit for lodging the appeal varies according to the inadmissibility ground. It is further impacted by the application of the border procedure.

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

358 Article 33-A Asylum Act.

359 TCA South, Decision 139/21.9 BELSB, 23 September 2021, available at: https://tinyurl.com/3hzeyywd. 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).

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

As in the regular procedure, the first and onward appeals are automatically suspensive,[361] with the exception of onward appeals concerning inadmissible subsequent applications and applications following a removal order.[362]

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.[363]

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

While CPR may be requested to intervene[364] 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 2023 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).

361 Articles 22(1), 25(3) and 37(6) Asylum Act.
362 Articles 33(8) and 33-A(8) Asylum Act, respectively.
363 Articles 22(2), 25(2), 33(7) and 37(5) Asylum Act.
364 Again, by providing country of origin information, Dublin country information, guidance on legal standards, or other expert opinion

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.[365] 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).[366]

Despite some unclear instances, the border procedure has not been applied in practice between March 2020 and October 2023.

Within that period, persons applying for international protection at the border were, 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.

Since November 2023, the border procedure is systematically applied, including to vulnerable applicants.

Following the resumption of the application of border procedures in 2023, CPR has observed a number of problematic practices impacting the procedural guarantees of asylum seekers subjected to the border procedure and the corresponding use of detention (as well as detention conditions). CPR repeatedly raised its concerns with the relevant authorities.

CPR identified significant gaps in the provision of information by the authorities to asylum seekers detained at the border regarding their right to free legal assistance and the contacts that could be used to reach the organisation. At times, this was compounded by the provision of incorrect information regarding the deadlines to file appeals by the authorities.[367] The fact that multiple gaps have been observed in the communications of procedural acts by AIMA to CPR (as required by the Asylum Act) has also compounded the situation of uncertainty and lack of clarity.

Detention conditions in the Lisbon airport have also raised serious concerns, notably due to the fact that high numbers of asylum seekers remained detained for significant periods of time in the transit area of Lisbon airport due to the lack of capacity of the corresponding detention facility in appalling conditions.

Following resumption of the application of border procedures in 2023, CPR has observed a number of problematic practices impacting the procedural guarantees of asylum seekers subjected to the border procedure

365 Article 23(1) Asylum Act.
366 Articles 26(1) and 35-A(3)(a) Asylum Act.
367 PSP and AIMA systematically told applicants that the deadlines for appeal are to be counted in working days, instead of calendar days.

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Detention conditions in the Lisbon airport have also raised serious concerns, notably due to the fact that high numbers of asylum seekers remained detained for significant periods of time in the transit area of Lisbon airport due to the lack of capacity of the corresponding detention facility in appalling conditions.

In response to media reports and outcry regarding the situation at the border, AIMA affirmed, inter alia, that it was not able to do much regarding detention conditions at the border,[369] and that the Agency was adjudicating applications filled at the border in less than 3 days at the time. In the context of its right of reply to the draft country report, AIMA states that it processed applications within the minimum number of days possible to minimise the number of days in detention, and that it had strengthened its team and procedures to ensure rapid and quality analysis. However, civil society including CPR points out that this short delay for the analysis is highly concerning and raises serious doubts regarding the quality of the analysis conducted by the authorities.[370]

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.[371] SEF was responsible for border controls, including for refusing entry and exit from the territory until the end of October 2023.[372] Since then:

- The National Republican Guard (*Guarda Nacional Republicana*, GNR) is responsible for the surveillance and control of maritime and land borders, and for executing expulsion decisions within its jurisdiction;[373]
- The Public Security Police (*Polícia de Segurança Pública,* PSP) is responsible for the surveillance and control of air borders, and for executing expulsion decisions within its jurisdiction.[374]

According to data provided by AIMA, 669 asylum applications were filled at the border in 2023,[375] and 76 decisions were adopted within border procedures. AIMA further reported that 17 unaccompanied children applied for asylum at the border in 2023. AIMA did not provide data on applications filled at the border by persons in need of special procedural guarantees.

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368 PSP and AIMA systematically told applicants that the deadlines for appeal are to be counted in working days, instead of calendar days.

369 Highly doubtful considering that according to the Asylum Act (article 61(1)), the Ministry in charge for migration remains responsible for the provision of conditions to applicants detained at the border (see: Detention Conditions).

370 See, for instance: Rádio Renascença, *"Há pouco que a AIMA possa fazer" pelos migrantes que dormem no aeroporto,* 25 January 2024, available at: https://tinyurl.com/yd4v79vm.

371 Annex II Decree-Law 252/2000.

372 Article 2 Decree-Law 252/2000.

373 Article 2(a) 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, last amended by Act n. 53/2023, of 31 August 2023, available at: https://bit.ly/3OitRkJ.

374 Ibid, article 2(b).

375 While at some point the response to the information request to the AIDA report seems to indicate that this is the number of applications processed at the border, a full analysis of the data provided (that includes the reference to 76 decisions taken under the border procedure), as well as information available to CPR regarding the general context, indicates that this was likely the overall number of applications made at the border, thus including cases that were not analysed under the border procedure. According to CPR's data (based on communications made by the authorities according to the Asylum Act), 630 applications were made at the border in 2023.

The majority of border procedures were conducted at the **Lisbon Airport**.[376]

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,[377] and is notified in writing of the corresponding decision.[378] Such a notification bears a reference to the right of individuals refused entry at the border to seek asylum as enshrined in the law.[379]

The authority responsible for border control 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.[380] This is done in accordance to the Convention on International Civil Aviation,[381] as, according to the national authorities, 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.[382] If the individual refused entry into national territory applies for asylum, the air company must be immediately informed by the authority responsible for border control of the suspension of return.

While the border procedure provides for the basic principles and guarantees of the regular procedure,[383] 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,[384] or the possibility to consult with CPR prior to the individual interview conducted by the asylum authority. Furthermore, asylum seekers are detained for the duration of the admissibility stage/accelerated procedure (see Detention of Asylum Seekers).[385]

The National Director of SEF/Board of AIMA has 7 days to issue a decision either on admissibility or on the merits of the application in an accelerated procedure.[386] In the absence of inadmissibility grounds or grounds for deeming the application unfounded in an accelerated procedure, SEF/AIMA must admit the application to the regular procedure and authorise entry into national territory/release from border detention.[387] Non-compliance

376 For a detailed overview of the use of border procedures before March 2020, please consult the corresponding AIDA reports, available at: https://bit.ly/3GubAhN.
377 Article 32 Immigration Act.
378 Article 38(2) Immigration Act.
379 Article 40(4) Immigration Act.
380 Articles 38(3) and 41(1) Immigration Act.
381 Chicago Convention on International Civil Aviation, 7 December 1944, Annex IX, Chapter V, points 5.9 -5.11.1.
382 CPR, 'Access to Protection: A Human Right, country report, Portugal', 2014, para 2.1, available in Portuguese at: https://bit.ly/3sWjYNx.
383 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.
384 Article 25 Asylum Act.
385 Articles 26(1) and 35-A(3)(a) Asylum Act.
386 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.
387 Article 26(4) Asylum Act.

with the time limit results in the automatic admission of the applicant to the regular procedure and release from the border.[388]

In practice, within the context of border procedures, asylum seekers are detained in detention centres at the international area of airports or at the transit area of the airport itself until the National Director of SEF/Board of AIMA issues a decision on the admissibility/merits of the claim,[389] or for up to 60 days in the case of appeal (see Duration of Detention).[390]

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 Procedural Guarantees). [391] Furthermore, the 'temporary installation' of unaccompanied and separated children in facilities 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.[392]

According to the available information, no standard operational procedures and tools allowing for the early and effective identification of survivors of torture and/or serious violence and their special procedural needs are in place. As such, asylum seekers who claim to be survivors of torture, rape, or other serious forms of psychological, physical, or sexual violence are not exempt from border procedures in practice on such grounds, despite the lack of provision of special procedural guarantees at the border.[393]

Following resumption of the application of border procedures in 2023, CPR has observed a number of problematic practices impacting the procedural guarantees of asylum seekers subjected to the border procedure and the corresponding use of detention (as well as detention conditions). CPR repeatedly raised its concerns with the relevant authorities.

CPR identified significant gaps in the provision of information by the authorities to asylum seekers detained at the border regarding their right to free legal assistance and the contacts that could be used to reach the organisation. At times, this was compounded by the provision of incorrect information regarding the deadlines to file appeals by the authorities.[394]

Furthermore, gaps in the communication of relevant information by AIMA to CPR caused challenges to the provision of adequate legal assistance at this stage.

Despite CPR's efforts, AIMA's practices within this context remained largely unchanged until the end of the year. Since the beginning of 2024, CPR has reinforced the provision of legal information at the airport in response to the contextual changes. The provision of information on the right to legal assistance and CPR's contacts to asylum seekers by the relevant authorities seemed to have improved in the meantime.

388 Ibid.
389 Article 26(1) Asylum Act.
390 Article 35-B(1) Asylum Act.
391 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*."
392 Article 26(2) Asylum Act.
393 Italian Council for Refugees *et al.*, 'Time for Needs: Listening, Healing, Protecting', October 2017, available at: https://bit.ly/3gEoe1T.
394 PSP and AIMA systematically told applicants that the deadlines for appeal are to be counted in working days, instead of calendar days.

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.

Interviews are generally conducted a few days after arrival, while the applicant is detained. This means that there was little time to prepare and substantiate the asylum application. Furthermore, the legal framework provides for reduced procedural guarantees such as the exclusion from the right of the applicant to seek revision of the interview report.[395]

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 tend to be rarely effective for the purposes of securing supporting evidence in due time, given the short period of time between the arrival, the personal interview and the first instance decision.

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.[396]

An additional concern regarding interviews conducted at **Lisbon Airport** are the space and privacy constraints of the interview offices, notably due to inadequate sound isolation (see Conditions in Detention Facilities).

4.3 Appeal

Indicators: Border Procedure: Appeal
☐ Same as regular procedure

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

The Asylum Act provides for an appeal against a rejection decision at the border, either on admissibility grounds or on the merits in an accelerated procedure. The appeal consists of a judicial review of relevant facts and points of law by the Administrative Court.[397] The time limit for lodging the appeal is of 4 days.[398]

395 Article 25 Asylum Act. TCA South, Decision 1539/19.0BELSB, 11 September 2020, available at: https://bit.ly/31gEInN.
396 Article 17-A(3) Asylum Act. See also Italian Council for Refugees *et al.*, 'Time for Needs: Listening, Healing, Protecting', October 2017, available at: https://bit.ly/3gEoe1T.
397 Article 25(1) Asylum Act; Article 95(3) Code of Procedure in Administrative Courts.
398 Article 25(1) Asylum Act.

Similarly to the regular procedure, the first and onward appeals have an automatic suspensive effect.[399] The law provides for a simplified judicial process with reduced formalities and time limits.[400] 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 are usually granted access to the territory, albeit liable to a removal procedure in case their application is rejected by final decision.[401]

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 in general. Nevertheless, factors such as the provision of incorrect information regarding the deadlines for appeal by the authorities, gaps in the provision of information regarding the right to legal assistance and relevant contacts to do so, and lack of clarity regarding the mandate of legal aid lawyers appointed within the context of the refusal of entry have at times hindered access to appeals in the end of 2023.

4.4 Legal assistance

Indicators: Border Procedure: Legal Assistance

☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
   ☒ Yes ☐ With difficulty ☐ No
   - ❖ Does free legal assistance cover: ☐ Representation in interview[402]
     ☒ Legal advice

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

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

As regards free legal assistance at first instance, the law expressly provides the possibility for UNHCR and CPR to interview the asylum seeker at the border[403] and to provide assistance.[404]

In practice, free legal assistance provided by CPR in first instance procedures at the border includes:

(a) providing legal information on the asylum procedure, rights and duties of the applicant 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 the relevant authorities for the release of particularly vulnerable asylum seekers.

399 Article 25 Asylum Act.
400 Article 25(2) Asylum Act.
401 Article 21(2) and (3) Immigration Act.
402 Applicants may apply for legal aid to have representation in the interview (see below), but this does not happen in practice. The access to free legal advice (provided by CPR) of the following box is automatic (i.e. does not entail an application for access to be granted) and incomparably more frequent. Thus, representatiron in the interview is not considered here as accessible in practice.
403 Article 24(1) Asylum Act.
404 Article 49(6) Asylum Act.

The provision of information and assistance to asylum seekers placed in detention at the border by CPR is typically challenging due to factors such as short deadlines, difficulties in accessing applicants detained at the international area of the airport (instead of the detention facility), and communication barriers.

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.[405] However, such a procedure has not been implemented, meaning that securing access to free legal aid at appeal stage remains an integral part of the legal assistance provided by CPR at the border. To that end, CPR resorts to the same procedure used in the territory albeit faced with specific constraints (e.g., shorter deadlines for application, communication barriers, 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.

Upon resumption of the application of the border procedure, some of the lawyers appointed within this context supported appeals of negative decisions issued within the asylum procedure. There were practical questions regarding the services covered by their mandate and legitimacy to do so. In some instances, miscommunication and lack of clarity regarding the procedures adopted by such lawyers created confusion and potential obstacles to access to judicial reviews. It has in the meantime been clarified that the appointment does not cover asylum appeals and that representation in such procedures must be requested through an autonomous process as before.

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;[406]
- In bad faith, destroying or disposing of an identity or travel document that would have helped establish identity or nationality;[407]
- 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;[408]
- 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;[409]

405 Article 25(4) Asylum Act.
406 Article 19(1)(a) Asylum Act.
407 Article 19(1)(b) Asylum Act.
408 Article 19(1)(c) Asylum Act.
409 Article 19(1)(d) Asylum Act.

- 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;[410]
- Coming from a Safe Country of Origin;[411]
- Introducing an admissible subsequent application;[412]
- Making an application merely to delay or frustrate the enforcement of an earlier or imminent decision which would result in removal;[413]
- Representing a danger to the national security or public order;[414] and
- Refusing to comply with an obligation to have fingerprints taken.[415]

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.[416] In contrast to the Regular Procedure,[417] the National Director of SEF/Board of AIMA is the responsible authority for issuing a first instance decision on the merits of the application in the accelerated procedure.[418] Non-compliance with the applicable time limits grants automatic access to the regular procedure.[419]

SEF/AIMA 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.

Additionally, in 2023, CPR observed significant delays in the recognition of automatic admission to the regular procedure by the national authorities. Notably, by the end of the year, AIMA issued more than 300 admissibility decisions due to the non-compliance with the 30-day time limit by the national authorities. A significant number of these decisions concerned applications made several months before.

In the beginning of 2024, CPR identified some cases where AIMA issued a rejection of the application after the 30-day deadline was elapsed. This situation was flagged to the Agency and, at least in some instances, the negative decisions were later revoked.

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. CPR has also observed that the authorities do not consider

410 Article 19(1)(e) Asylum Act.
411 Article 19(1)(f) Asylum Act.
412 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.
413 Article 19(1)(h) Asylum Act.
414 Article 19(1)(i) Asylum Act.
415 Article 19(1)(j) Asylum Act.
416 Articles 20(1) and 33-A(5) Asylum Act.
417 Article 29(5) Asylum Act.
418 Articles 20(1) and 24(4) Asylum Act.
419 Articles 20(2) and 26(4) Asylum Act. However, according to information gathered by CPR in the course of 2021, SEF seemed 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. This understanding seems to be at odds with an adequate interpretation of the provision and with the rationale of the Asylum Act's provisions. AIMA's practice at the time of writing seems to follow this interpretation too.

the 30 days' mandatory deadline for decisions deeming an application inadmissible/unfounded to apply in these circumstances. As such, SEF did not deem the applications admitted to the regular procedure when the deadline is elapsed. AIMA's practice in this regard was still unclear at the time of writing.

In practice all applications are channelled through the accelerated procedure where the specific grounds provided in the law apply.[420] The significant application of accelerated procedure continued to be registered since the beginning of AIMA's tenure. CPR has even received reports of applicant's that described being told by officials that no positive decisions are issued to applicants from certain nationalities. Within the context of the right of reply of the authorities to the draft AIDA report, AIMA denied that this has occurred.[421]

Statistics shared by AIMA for 2023 do not make a distinction between inadmissibility decisions and in-merit rejections in accelerated procedures, merely indicating a total of 158 decisions for both categories. According to Eurostat data, 515 applicants had their asylum applications processed under an accelerated procedure.[422]

According to CPR's observation, accelerated procedures continued to be used very often in 2023, and most rejections in such procedures continued to be based on inconsistency and/or irrelevance.

Since the beginning of the operation of AIMA, CPR has also observed a number of cases where applications are simultaneously deemed inadmissible, rejected as manifestly ill-founded (accelerated procedure), and deemed excluded from subsidiary protection (including in border procedures).[423]

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.[424]

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.[425]

In its 2020 Concluding Observations on Portugal, the UN Human Rights Committee expressed concern with the '[e]xcessive use of accelerated procedures, which might compromise the quality of the assessment of applications and increase the risk of refoulement.' Notably, the Committee recommended Portugal to '[c]ontinue its efforts to maintain and strengthen the quality of its refugee status determination procedures, in order to fairly and efficiently identify and recognise those in need of international protection and to afford sufficient guarantees of respect for the principle of non-refoulement under the Covenant'.[426]

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

421 Information provided by AIMA, 25 June 2024.

422 Eurostat, *Asylum applicants having had their applications processed under the accelerated procedure, by age, sex and citizenship - annual aggregated data*, available at: https://tinyurl.com/5n94dw8p.

423 In what seems to be a wrong interpretation of the concept of exclusion given that, despite resorting to the institute of exclusion, in the decisions analysed, the authorities do not substantiate that an exclusion clause is verified, but merely that the inclusion requirements are not verified.

424 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.

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

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

5.2 Personal interview

Indicators: Accelerated Procedure: Personal Interview
☐ Same as regular procedure

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

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

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

However, the law foresees reduced guarantees in the accelerated procedure, namely by excluding asylum seekers' right to seek revision of the statements made during the personal interview in cases concerning applications following a removal decision,[427] or the right to be notified of and to respond to SEF's reasoning of the proposal for a final decision.[428] The right of the applicant to submit comments to the written report the interview is fully applicable in accelerated procedures.[429]

It is worth mentioning that the concerning practices highlighted in Regular Procedure: Personal Interview are of particular relevance within the context of accelerated procedures. A decision from TCA South issued in 2021 considered that, despite the absence of an explicit reference in the relevant norm,[430] 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.[431]

5.3 Appeal

Indicators: Accelerated Procedure: Appeal
☐ Same as regular procedure

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

The Asylum Act provides for judicial review of facts and points of law by the Administrative Court against a rejection decision in an accelerated procedure.[432]

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,[433] to 8 days for the remaining grounds.[434]

427 Article 33-A(4) and (5) Asylum Act.
428 Article 29(2) Asylum Act. See infra the current practice in this regard as well as its link to the national jurisprudence.
429 Article 17(1) and (2) Asylum Act.
430 Article 33-A Asylum Act.
431 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).
432 Articles 22(1), 33-A(6) and 25(1) Asylum Act and Article 95(3) Code of Procedure in Administrative Courts.
433 Article 33-A(6) Asylum Act.
434 Articles 22(1) Asylum Act.

Similarly to the regular procedure, the appeal has an automatic suspensive effect.[435] The onward appeal in the case of an application following a removal decision does not.[436] The law also provides for a simplified judicial process with reduced formalities and time limits.[437]

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 2023 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 2023 to reject applications in the case of Guinea-Bissau and Morocco, two of the five most representative nationalities at appeal stage.

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

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

5.4 Legal assistance

Indicators: Accelerated Procedure: Legal Assistance

☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
   ☒ Yes ☐ With difficulty ☐ No
   - ❖ Does free legal assistance cover: ☐ Representation in interview[438]
     ☒ 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).

435 Articles 22(1) and 33-A(6) Asylum Act.
436 Article 33-A(8) Asylum Act.
437 Article 22(2) and 33-A(7) Asylum Act.
438 Applicants may apply for legal aid to have representation in the interview (see below), but this does not happen in practice. The access to free legal advice (provided by CPR) of the following box is automatic (i.e. does not entail an application for access to be granted) and incomparably more frequent. Thus, representatiron in the interview is not considered here as accessible in practice.

D. Guarantees for vulnerable groups

1. Identification

Indicators: Special Procedural Guarantees

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers?
   ☐ Yes ☒ For certain categories ☐ No
   - ❖ If for certain categories, specify which: Unaccompanied minors, victims of trafficking

2. Does the law provide for an identification mechanism for unaccompanied children?
   ☐ Yes ☒ No

The Asylum Act defines an 'applicant in need of special procedural guarantees' in terms of reduced ability to benefit from the rights and comply with the obligations stemming from the Asylum Act due to individual circumstances.[439] Even though it does not include an exhaustive list of asylum seekers presumed to be in need of special procedural guarantees, it does refer to age, gender, gender identity, sexual orientation, disability, serious illness, mental disorders, and victims of 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.[440]

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.[441] The nature of special procedural needs should be assessed before a decision on the admissibility of the application is taken.[442]

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'.[443]

The questionnaire used by SEF/AIMA in first instance asylum includes two questions on the applicant's self-assessed health condition and capacity to undergo the interview.[444] Dublin interview forms also contain a couple of questions on health-related vulnerabilities.[445] According to CPR's observation, there is no clear link between the answer provided by the applicant and the adoption of special procedural guarantees in practice. In the context of the right of reply to the draft country report, AIMA stated that an appropriate referral mechanism was put in place if a particular vulnerable person or a particular health situation was identified, depending on the specific case, but did not provide further information as to specific measures adopted in such cases.[446]

According to the information provided by SEF in previous years, its caseworkers received training on the identification of vulnerable persons, and specific interviewing techniques under the EASO training curriculum. It is unclear whether AIMA's caseworkers received similar specific training. UNHCR reported having provided

439 Article 17-A(1) Asylum Act.
440 Ibid.
441 Article 77(2) Asylum Act.
442 Article 17-A(1) Asylum Act.
443 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.
444 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?".
445 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?".
446 Information provided by AIMA on 25 June 2024.

training covering the identification and referral of asylum seekers and refugees with special needs to AIMA, PSP, GNR, ISS and entities involved in the reception of unaccompanied children. Within the context of the right of reply of the authorities to the draft AIDA report, AIMA noted that it is expected that staff will attend EUAA training until the end of 2024.[447]

In 2022, a new SOG sub-group was created in order to address the area of vulnerabilities within the asylum system. The group was composed by ACM, CPR, ISS, SCML, SEF, and UNHCR. According to the information provided by UNHCR, the group was active during the first semester, but its activities were halted with the suspension of the activity of the SOG.[448] In April 2023, the sub-group organised a meeting with multiple stakeholders active in the field of asylum, migration, healthcare, security and child-protection to discuss, inter alia, practices and recommendations concerning special needs. Further output of its activity was not publicly available at the time of writing.

Publicly available statistics regarding vulnerable asylum seekers are scarce and relate mostly to unaccompanied children and families with children.

AIMA reported that the identification of vulnerabilities as determined by article 21 of the recast RCD is conducted within the context of relocation and resettlement programmes. According to AIMA, vulnerabilities are identified by the relevant entities in the country of resettlement/relocation and communicated to the Portuguese authorities. According to the information provided by AIMA, in 2023, a total of 174 persons were identified as vulnerable within such programmes, of which 56 were unaccompanied children. AIMA further informed that 71 persons evacuated from Afghanistan were identified as vulnerable. A breakdown per vulnerability is not available.

AIMA did not provide further information regarding the identification of vulnerabilities in Portugal and by the national authorities.

CPR collects statistical information on asylum seekers who self-identify or are identified as vulnerable on the basis of information received from SEF/AIMA in accordance with the law, collected directly from the applicants or shared by other service providers. In 2023, of the 2,565 asylum applicants whose cases were communicated by the asylum authority, 482 were identified as vulnerable:

Asylum seekers communicated to CPR and identified as vulnerable: 2019-2023[449]					
Category of vulnerable group	2019	2020	2021	2022	2023
Unaccompanied children	77	38	65	146	108
Accompanied children	236	88	304	245	268
Single-parent families	61	23	19	41	49
Pregnant women	13	6	10	6	-
Elderly persons	5	-	7	12	9
Disabled persons	-	-	-	-	-
Survivors of torture	19	6	8	8	6
Survivors of physical, psychological or sexual violence	49	18	8	20	12

447 Information provided by AIMA on 25 June 2024.
448 The activity of the SOG was not resumed until the end of the year.
449 Figures below five are not included in this table.

Persons with chronic or serious illnesses	40	21	19	29	20
Persons with addictions	-	-	-	-	-
Total	**503**	**204**	**438**	**513**	**482**
% of applicants identified as vulnerable (out of the total spontaneous applications communicated to CPR)	29%	23%	31%	24%	19%

Source: CPR.

According to the information available to CPR, a number of age assessment procedures were pending at the time of writing. Applicants may be 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/AIMA, or based on information received from other EU Member States. The number of such cases regarding unaccompanied children who applied for asylum in 2023 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.[450]

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'.[451] 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'.[452] The necessity and consistency of the assessment of the best interests of the child in asylum procedures were also highlighted by the Committee.[453]

Victims of torture and serious violence

In the case of survivors of torture and/or serious violence, research has demonstrated that identification is conducted on an *ad hoc* basis and mostly on the basis of self-identification during refugee status determination, social interviews, or initial medical screenings.[454] 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,[455] '[…] 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

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

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

452 Ibid., para. 42(c).

453 Ibid., paras 41(b) and 42(b).

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

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

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.[456]

Following this report, the identification of survivors of torture was one of the issues addressed by the UN Committee Against Torture in its Concluding Observations on Portugal. The Committee observed that '[…] the State party has not provided complete information on the procedures in place for the timely identification of victims of torture among asylum seekers […]' and recommended '[…] the establishment of effective mechanisms to promptly identify victims of torture among asylum seekers'.[457]

Victims of human trafficking

According to information previously provided SEF, staff with specific training in trafficking indicators operated in cases involving victims of trafficking at the **Lisbon Airport**.[458] 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 in the past by SEF-GAR specific attention was 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.[459] 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.[460] 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 the relevant authorities for 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 can be 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).

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

457 Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, par.38(d), available at https://bit.ly/2G1F07z. In the List of Issues published in June 2023, the Committee Against Torture (CAT) requested information regarding, inter alia, "the number of successful applications and the number of asylum-seekers whose applications were accepted because they had been tortured or might be tortured if returned." See Committee Against Torture (CAT), *List of issues prior to submission of the eight periodic report of Portugal,* 9 June 2023, par.7, available at: https://tinyurl.com/5ynxhpx9.

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

459 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

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

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.[461] 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 protection and support, including temporary residence permits, irrespective of their ability to cooperate in legal proceedings against traffickers'.[462]

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'.[463]

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'.[464]

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.[465] 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;[466]
- 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;[467]

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461 Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, para 43, available at https://bit.ly/2G1F07z. In the List of Issues published in June 2023, the Committee Against Torture (CAT) requested information regarding, inter alia, the investigation of cases of trafficking of persons, data concerning victims, complaints, prosecutions, convictions and sentences, provision of redress to victims, data on protection and support measures, as well as measures to increase training of relevant officials." See Committee Against Torture (CAT), *List of issues prior to submission of the eight periodic report of Portugal,* 9 June 2023, par.6, available at: https://tinyurl.com/5ynxhpx9.

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

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

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

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

466 Ibid, par.177.

467 Ibid, par.186.

- ❖ 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'*.[468]

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 return of victims of trafficking.[469] 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.[470]

Within the context of the termination of SEF's activities, competences concerning the investigation of crimes relating to the assistance of illegal migration, trafficking in human beings and related crimes were transferred to the Judiciary Police (PJ) in 2023.[471] It is worth mentioning that a significant number of inspectors who were previously part of SEF were transferred to PJ. It was not possible to gather information regarding the practical impact of this institutional change in the protection of victims of trafficking within the asylum system.

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.[472]

In July 2021, a Ministerial Order reviewing the documents issued to persons with victim status and particularly vulnerable victim status was published.[473] 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.

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,[474] 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/AIMA 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.[475] The law does not define or list the non-invasive methods that may be used within this context.

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468 Ibid, par.193.

469 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.

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

471 Article 2(c) 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, last amended by Act n. 53/2023, of 31 August 2023, available at: https://bit.ly/3OitRkJ.

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

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

474 Article 79(2) Asylum Act.

475 Article 79(6) Asylum Act.

The unaccompanied child must be informed that their age will be determined by means of such expertise and their representative must give prior consent.[476] 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.[477]

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.[478]

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)[479] or by the unaccompanied child's legal representative.

As such, age assessment procedures can be triggered either by SEF/AIMA 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, and without an analysis of the individual need for such procedures.[480]

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:[481]

- In cases of asylum applicants who were referred by SEF/AIMA to childcare facilities 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 systematic use of age assessments triggered by Family and Juvenile Courts without adequate justification of their need and proportionality.

The law also does not establish further specific rules and principles applicable to age assessment procedures. Age assessment procedures are conducted by the National Institute of Legal Medicine and Forensic Science (INMLCF).[482] It is unclear whether child protection concerns are specifically considered in such assessments. According to CPR's observation the procedures thereto fail to meet the holistic and multidisciplinary standards

476 Article 79(7) Asylum Act.

477 National Commission for the Promotion of Rights and the Protection of Children and Young People, *Une évaluation de l'âge qui respecte les droits des enfants*/*An age assessment procedure that respects children's rights,* 19 February 2020, available at: https://tinyurl.com/mw8ydu2n

478 Article 79(8) Asylum Act.

479 In this case, it is mandatory.

480 This has also been confirmed by UNICEF.

481 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.

482 Article 2(1) Act no.45/2004, of 19 of August as amended by Decree-Law no.53/2021, of 16 June, available at: https://tinyurl.com/5n6dkrnm.

recommended by UNHCR.[483] This has also been observed by UNICEF.[484] 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.[485] These methods, in particular the evaluation of sexual development, are arguably invasive and therefore not in line with those permitted by the Asylum Act.

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.[486]

Despite the established technical limitations of such methods,[487] their results have been used by the national authorities 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,[488] and was criticised by the Council of Europe.[489]

It was 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.[490] According to the information available to CPR, if upon registration of the asylum application SEF identified Eurodac hits with different personal information, the Family and Juvenile Court was informed accordingly. AIMA's practice in this domain remained unclear at the time of writing, but CPR is aware of cases that remained suspended.

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 childcare services 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 for purposes other than the refugee status determination. However, if adopted at administrative level, in principle, these that can be challenged before the Administrative Courts as per general Administrative Law.[491] Age assessments conducted within the context of Family and Juvenile Courts procedures may be, in principle, 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 many

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

484 As per the information shared by UNICEF to the 2023 AIDA Report. UNICEF has further reported that, in some instances, legal representatives are not properly informed or trained to fully advocate for the best interest of the child within these procedures.

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

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

487 For an analysis of the framework of the use of medical examinations for this purpose see, for instance: ECRE, *Age assessment in Europe – Applying European and International Legal Standards at stages of age assessment procedures*, December 2022, pp.12 et seq, available at: https://tinyurl.com/ysm249fw.

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

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

490 Article 38(1) Administrative Procedure Code.

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

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. While no data is available in this regard, this practice has been observed both by CPR and UNICEF.[492]

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'.[493]

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?
   ☐ Yes ☒ For certain categories ☐ No
   - ❖ If for certain categories, specify which:
     Unaccompanied children; applicants whose reduced ability to benefit from rights/comply with obligations is self-evident

As mentioned in Identification, the Asylum Act does not include an exhaustive list of asylum seekers presumed to be in need of special procedural guarantees. Nevertheless, it does refer to age, gender, gender identity, sexual orientation, disability, serious illness, mental disorders, and victims of torture, rape or other serious forms of psychological, physical or sexual violence as possible factors which may indicate the need for special procedural guarantees.[494]

The Asylum Act establishes that, when such needs are identified, applicants must be provided the necessary support and conditions to exercise their rights and duties within the asylum procedure.[495] While the Asylum Act does not provide an exhaustive list of special procedural guarantees, it explicitly provides for the possibility to postpone the personal interview, to extend deadlines for presenting evidence, and to carry out interviews with the assistance of experts.[496]

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.[497]

492 As per the information shared by UNICEF to the 2023 AIDA Report.
493 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.
494 Article 17-A(1) Asylum Act.
495 Article 17-A(2) Asylum Act.
496 Article 17-A(3) Asylum Act.
497 Article 17-A(4) Asylum Act.

While the implementation of certain special procedural guarantees will in practice depend on action from SEF/AIMA, according to the law, the responsibility for implementing these measures lies with the Institute of Social Security (ISS).[498]

2.1 Adequate support during the interview

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.

It must be noted that the practices of the national authorities in this regard are not homogeneous or systematic. CPR has observed cases of manifest inability or reduced ability of applicants to exercise the rights and comply with the obligations stemming from the Asylum Act where no or insufficient special measures were adopted by the authorities (e.g. cases where there were clear signs of mental illness).

Case law regarding the provision of special procedural guarantees in the asylum procedure has consolidated the approach of not implementing such guarantees.[499]

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 certified temporary medical reasons, extensions of the relevant deadlines were granted upon request. Such requests were typically refused within the context of Dublin procedures as SEF argued that it could not extend deadlines due to the direct applicability of EU Law. 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). The duration of the postponement/extension of deadlines varied. AIMA's practice in this regard was not yet clear at the time of writing.

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. When accepted, the extension granted was very short (e.g. 1 day).

In accordance with the law,[500] 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.[501]

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498 Article 17-A(5) Asylum Act.

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

500 Article 79(3) Asylum Act.

501 Article 17-A(4) Asylum Act.

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 are not specifically exempted from border procedures in practice, despite the lack of provision of special procedural guarantees at the border.

According to CPR's observations, since the resumption of the application of border procedures, even if an applicant alleges that they were victims of torture and/or serious violence, AIMA does not conduct an assessment of the need of special procedural guarantees, nor exempts them from the border procedure.

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.[502]

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.[503]

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.[504]

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 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.[505]

While CPR is not aware of the adoption of similar decisions in 2023, it has been observed that at least in some cases of applicants claiming to be children, the asylum procedure has been suspended for more than a year (allegedly while waiting for the results of age assessment procedures).

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

502 Article 79(9) Asylum Act.
503 TAC Lisbon, Decision 869/18.2BELSB, 24 June 2018, unpublished.
504 TAC Lisbon, Decision 2154/19.3BELSB, 17 January 2020, unpublished.
505 TCA South, Decision 637/21.4BELSB, 18 November 2021, available at: https://bit.ly/381jeBZ.

The Asylum Act contains a general provision on the right of asylum seekers to submit supporting evidence in the asylum procedure.[506] It further foresees the possibility for SEF/AIMA to request reports on specific issues from experts (e.g. cultural or medical) during the regular procedure.[507] 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.[508] 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, the procedures and criteria followed by the authorities in order to request medical evaluations (including concerning mental health) were also unclear. Within the context of the right of reply of the authorities to the draft AIDA report, AIMA affirmed that if it identifies a particularly vulnerable person or health needs, it will make referrals for appropriate social and/or psychological/psychiatric support to be provided. However, the Agency did not provide further details on the criteria and procedures used to that purpose. Furthermore, AIMA did not provide information regarding its procedures to request medical examinations or reports moto proprio.[509]

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.[510] Legal representation can be provided by an organisation and can take the form and modalities laid down in law,[511] such as those provided by the General Legal Regime of Civil Guardianship Act.[512]

In this regard, SEF/AIMA is required to immediately flag the need for legal representation to the Family and Juvenile Court.[513]

The legal representative must be informed in advance and in a timely manner by SEF/AIMA of the asylum interview and is entitled to attend and to make oral representations.[514] The presence of the legal representative does not exempt the unaccompanied child from the personal interview.[515] Additionally, SEF/AIMA 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.[516] The legal representative must also give their consent to age assessment procedures triggered by SEF/AIMA.[517]

506 Article 15(2) Asylum Act.
507 Article 28(3) Asylum Act.
508 Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: https://bit.ly/3gEoe1T.
509 Information provided by AIMA on 25 June 2024.
510 Article 79(1) and (2) Asylum Act.
511 *Ibid*. See also Article 2(1)(ad) Asylum Act.
512 Act 141/2015 of 8 September 2015.
513 Article 79(1) and (2) Asylum Act.
514 Article 79(3) Asylum Act.
515 Article 79(5) Asylum Act.
516 Article 79(4) Asylum Act.
517 Article 79(7) Asylum Act.

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.[518] Its scope usually covers the representation of the child for all legal purposes, including the asylum procedure and reception conditions.[519]

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. Practice in this regard is, however, inconsistent. Furthermore, according to CPR's experience, the assistance provided by such lawyers is usually limited.

As noted by UNICEF, the procedures in place are not in line with the principles of independence and impartiality of the guardian, as the role is typically assigned to the head of the institution responsible for the implementation of the child-protective measure (i.e., notably, for the provision of accommodation and daily assistance and care).[520]

In the case of spontaneous applicants for international protection referred to CPR's care, the Family and Juvenile Court appoints CPR's Director to act as legal representative, including for the purpose of representation/assistance in the asylum procedure. Material protection is provided in accordance with the protective measures set out in the Children and Youths at Risk Protection Act.

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.

In the course of 2023, CPR has often reported to the relevant authorities of not being able to accept further referrals of unaccompanied children due to lack of capacity of CACR. According to the information available to CPR, in such cases, children are usually referred to child-care facilities of the general national protection system. According to ISS, by the end of 2023, a total of 41 unaccompanied asylum-seeking children were under the care of such facilities.

CPR has also received reports of unaccompanied children provided accommodation directly by AIMA in general facilities used by the Agency for the accommodation of asylum seekers (such as hostels), despite being underage. To the extent of CPR's knowledge, such children are provided assistance by organisations specialised in child-care but it is unclear whether further adaptations are made by the authorities to ensure compliance with the rules applicable to the reception of unaccompanied children. Information regarding the reasons/criteria underlying this practice.
Within the context of the right of reply of the authorities to the draft AIDA report, AIMA noted that procedures regarding the accommodation of such children are coordinated with the relevant authorities, that such entities have met regularly and are developing standard operational procedures for the reception of unaccompanied asylum-seeking children. [521]

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, upon request, and with due consideration for the relevant legal framework. Within this context, CPR has observed/received reports that organisations often lack information and support regarding the specific rules and procedures applicable to asylum cases, due to their lack of experience in the field. Cooperation regarding social and integration issues is also common.

518 Act 147/99 of 1 September 1999.
519 Article 25(1)(a) recast Asylum Procedures Directive; Article 24(1) recast Reception Conditions Directive.
520 As per the information shared by UNICEF to the 2023 AIDA Report.
521 Information provided by AIMA on 25 June 2024.

UNICEF expressed further concern with the fact that the current system does not ensure that the organisations appointed to represent unaccompanied asylum-seeking children have the necessary knowledge and skills in the field of asylum to ensure effective representation.[522]

Following referral to adequate accommodation,[523] SEF/AIMA 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.[524] Practice regarding children accompanied by adults who are not their parents varies.

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

While SEF/AIMA 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.[525] The Asylum Act allows children to lodge their own asylum application.[526]

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).[527]

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.[528]

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'.[529] 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'.[530]

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.[531]

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522 Information provided by UNICEF to the 2023 AIDA Update.

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

524 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.

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

526 Article 13(6) Asylum Act.

527 According to article 6(1) Act no.45/2004, of 19 of August as amended by Decree-Law no.53/2021, of 16 June, nobody is allowed to refuse the performance of medico-legal examinations necessary to a process if it is determined by the relevant judicial authority. Available at: https://tinyurl.com/5n6dkrnm.

528 Article 54 Children and Youth at Risk Protection Act.

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

530 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).

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

E. Subsequent applications

Indicators: Subsequent Applications

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

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

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

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

- ❖ a time limit of 10 days for the adoption of an admissibility decision at first instance i.e., to conduct a preliminary assessment;[532]
- ❖ 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;[533]
- ❖ specific criteria for assessing the admissibility of the claim;[534] and
- ❖ partially different time limits and effects of (onward) appeals.[535]

The Asylum Act does not provide for specific rules regarding the right to remain on the territory pending the examination of the application,[536] or the suspension of a removal decision,[537] nor does it provide specific time limits or limitations on the number of subsequent applications a person can lodge.[538] Nevertheless, an 'unjustified' subsequent application can lead to the Reduction or Withdrawal of Reception Conditions.[539]

The National Director of SEF/Board of AIMA is the competent authority to take a decision on the admissibility of subsequent applications.[540]

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.[541]

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/AIMA has rejected an application following its implicit withdrawal.[542]

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

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532 Article 33(4) Asylum Act.
533 Article 33(2), (4) and (6) Asylum Act.
534 Article 33(1) and (6) Asylum Act.
535 Article 33(6) Asylum Act.
536 Articles 13(1) and 33(9) Asylum Act.
537 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.
538 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.
539 Article 60(3)(f) Asylum Act. The Asylum Act does not provide criteria to assess whether a subsequent application is unjustified. CPR is not aware of internal guidance used by the authorities to perform such assessment either.
540 Article 33(6) Asylum Act.
541 Article 33(1) Asylum Act.
542 Article 2(1)(t) Asylum Act.

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 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.[543] 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.[544]

The limited number of subsequent applications registered does not allow for a general assessment of existing obstacles in lodging a subsequent application. According to data provided by AIMA, 29 were made in 2023.[545] Figures of previous years were typically below or around 10.

According to information collected by CPR, in recent years, subsequent applicants are generally provided a personal interview to assess whether new elements were submitted.[546] Such an interview tends to differ from those conducted in the admissibility/accelerated/regular procedure insofar as it mainly seeks to ascertain new facts, evidence, or changes in circumstances related to persecution since the presentation of the initial asylum application. The reasoning of inadmissibility decisions generally includes an assessment of the existence, credibility and relevance of new facts and changes in circumstances since the presentation of the initial asylum application. The evidentiary value of documents and other elements of proof submitted, as well as the inconsistencies between the information provided and the facts described in the context of the original application, are usually analysed.

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

The Asylum Act provides for an appeal against the decision to reject a subsequent application (see Admissibility Procedure: Appeal). The time limit for lodging the appeal is 4 days.[547] The initial appeal has automatic suspensive effect,[548] as opposed to onward appeals that have no automatic suspensive effect.[549]

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

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

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

544 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.

545 Data collected by CPR based on communications made by the authorities according to the Asylum Act indicates a total of 31 subsequent applications made in 2023.

546 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.

547 Article 33(6) Asylum Act.

548 Ibid.

549 Article 33(8) Asylum Act.

In 2023, STA adjudicated a case on the relationship between Dublin cases and subsequent applications. The applicant in the case had been issued a transfer decision to Germany following a take back request (article 18(1)(d) Dublin Regulation), accepted by the German authorities. The appeal court (TCA South) stated that, if the applicant based his asylum application in Portugal on new facts, this was not the adequate solution and the application should be analysed as a subsequent application. TCA South considered that in the case analysed the applicant had in fact invoked introduced/relied on new facts and it concluded that the asylum authority should have conducted an analysis of such facts and assessed whether the grounds for the decision taken by the German authorities persisted.

STA considered that the applicant merely restated facts previously invoked to the German authorities and did not refer explicitly to any change that had occurred in the meantime in the country of origin. As such, STA concluded that the application could not be deemed as a subsequent one. The Court further stated that in order for such an application to be deemed as a subsequent one, the applicant did not have to qualify it as such but they bear the burden of referring to the change of circumstances. STA emphasised that the administrative authority has no obligation to assess moto proprio whether a change of circumstances occurred in the country of origin. The Court further added that the Portuguese authorities would never be competent to adjudicate such a subsequent application, due to the responsibility criteria of the Dublin Regulation.[550]

F. The safe country concepts

Indicators: Safe Country Concepts

1.	Does national legislation allow for the use of "safe country of origin" concept?	☒ Yes ☐ No
	❖ Is there a national list of safe countries of origin?	☐ Yes ☒ No
	❖ Is the safe country of origin concept used in practice?	☐ Yes ☒ No
2.	Does national legislation allow for the use of "safe third country" concept?	☒ Yes ☐ No
	❖ Is the safe third country concept used in practice?	☒ Yes ☐ No
3.	Does national legislation allow for the use of "first country of asylum" concept?	☒ Yes ☐ No

1. Safe country of origin

The Asylum Act provides for a definition of 'safe country of origin' that is in line with Article 36 of the recast Asylum Procedures Directive.[551] 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.[552]

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 provided by SEF to CPR, in previous years, SEF did not have a list of safe countries of origin as a matter of administrative guidance and the concept was not used in practice as a ground for channelling asylum applications into an accelerated procedure.

While according to CPR's observation AIMA has not explicitly used the safe country of origin concept to reject asylum applications in accelerated procedures, the organisation has received reports of applicant's that described

550 STA, Decision 03319/22.6BELSB, 9 November 2024, available at: https://tinyurl.com/mrfv7fnw. A summary of this decision is available in the EUAA case-law database (see: https://tinyurl.com/mrymd9sf). One of the STA judges adjudicating the case dissented, considering that (1) the applicant invoked new and sufficient facts to qualify their the application as a subsequent application; (2) the applicant alleged that a return decision was pending in Germany, and that, as such, the national authorities could and should analyse the case taking into account the principle of non-refoulement.

551 Article 2(1)(q) Asylum Act.

552 Article 19(1)(f) Asylum Act.

being told by AIMA officials that no positive decisions are issued to applicants from certain nationalities, notably Gambia and Senegal. Within the context of the right of reply of the authorities to the draft AIDA report, AIMA denied that this has occurred.[553]

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.[554] These inconsistencies were raised by CPR during the legislative process that transposed the second-generation *acquis* into national law,[555] 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;[556]
- 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.[557]

In one of the amendments to the Asylum Act enacted in 2023, a paragraph was added to the definition of the "safe third country" concept establishing that if the country at stake does not authorise the applicant to enter its territory, they must have access to the Portuguese asylum procedure.[558]

While excluding EU Member States from the concept of safe third country,[559] the Asylum Act does not provide for specific rules regarding EU and non-EU European safe third countries.

Although the concept is a ground for inadmissibility (see Admissibility Procedure),[560] 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 did not have a list of countries designated to be generally safe as a matter of administrative guidance. AIMA's practice in this regard remains unclear at the time of writing.

The number of inadmissibility decisions on safe third country grounds is generally low. Countries such as **Brazil, China, Ecuador, Morocco**, **Mozambique, South Africa**, **United Arab Emirates, United Kingdom, United States of America,** and **Türkiye** have been deemed as safe third countries by the Portuguese authorities.

According to information previously provided by SEF, in 2022 there were no negative decisions based on the concept of 'safe third country' (see Admissibility Procedure).[561] AIMA did not provide information regarding its practices in this regard. According to data collected by CPR based on the communications made by the authorities in line with the Asylum Act and contacts from asylum seekers, at least 8 cases were rejected in 2023 on the basis of the safe third country concept.

553 Information provided by AIMA on 25 June 2024.
554 Article 2(1)(r) Asylum Act.
555 CPR, *Proposta de Lei 187 - XII que altera a Lei n.º 27/2008, de 30 de Junho – Comentários,* January 2014, available in Portuguese at: http://bit.ly/2zT1oef.
556 Article 2(1)(r) Asylum Act.
557 Article 2(1)(r)(i) Asylum Act.
558 Article 2(1)(r)(iv) Asylum Act.
559 Article 19-A(1)(d) Asylum Act that excludes EU Member States from the concept of third safe country.
560 Article 19-A(1)(d) Asylum Act.
561 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.

Following an amendment enacted in 2023, according to the Asylum Act, if a case is rejected exclusively due to the application of the safe third country concept, the applicant must receive a document informing the authorities of said third country that the merits of the asylum application have not been assessed in Portugal. Such document must be issued in the third country's language.[562]

However, 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.

Connection criteria

In the past, 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.

CPR analysed a number of inadmissibility decisions grounded on the safe third country concept issued by AIMA in the course of 2023 and concluded that, typically, the criteria of the concept are not adequately analysed by the authorities. The reasons provided for such decisions do not engage with the legal requirements for the application of the concept and consequent inadmissibility of the asylum application, and do not include an individual assessment, even when applicants allege security risks in the third country designated as safe by AIMA.

In the cases observed, mere transit for a few days/months is sufficient for the authorities to deem the safe third country concept applicable to a case. In at least one of the cases, the authorities even designated more than one country as safe for the applicant.

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.[563]

A decision from TCA South issued in 2021 focused on the application of the safe third country concept to the United States of America.[564] 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;

562 Article 19-A(3) Asylum Act.

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

564 TCA South, Decision 2238/20.5BELSB, 7 October 2021, available at: https://bit.ly/3Omfs6W.

- ❖ 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 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.[565]

3. First country of asylum

The Asylum Act provides for a definition of 'first country of asylum' that is in line with Article 35 of the recast Asylum Procedures Directive,[566] and that attempts to merge the criteria listed in Article 38(1) of the Directive.[567] 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.[568]

The number of inadmissibility decisions on first country of asylum grounds is generally limited.

565 STA, Decision 02238/20.5BELSB, 13 January 2022, available at: https://bit.ly/3ZcrNj6.
566 Article 2(1)(z) Asylum Act.
567 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.
568 Article 19-A(1)(c) Asylum Act.

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. AIMA's practice in this regard was still unclear at the time of writing.

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.[569]

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.[570]

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

1. Provision of information on the procedure

Indicators: Information on the Procedure

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☐ With difficulty ☒ No[571]

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

The Asylum Act provides for the right to:

- ❖ A broad set of information on the asylum procedure and reception conditions in general;[572]
- ❖ Information on key developments and decisions relating to the individual asylum file;[573]

569 TAC Lisbon, Decision 1791/15.0BESLB, 29 September 2015, unpublished; TCA South, Decision 12873/16, 11 February 2016, available at: http://bit.ly/2zUrEVt on Brazil as a first country of asylum for a Syrian asylum seeker.

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

571 In the context of its right of reply to the draft country report, AIMA disagreed and considers that sufficient information is provided in practice. Information provided by AIMA, 25 June 2024.

572 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).

573 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;[574] and
- Specific information rights of unaccompanied children.[575]

Furthermore, the law provides for a general right to interpretation 'whenever necessary' during registration of the application and throughout the asylum procedure.[576] This refers to the right to interpretation into a language that the asylum seeker understands or is reasonably expected to understand.[577]

In practice, while SEF generally complied with the obligation to inform asylum seekers of key developments, decisions and associated rights during asylum procedures, interpretation for that purpose was not systematically available and rarely included an explanation of the grounds of the decision. The same deficiencies have been broadly observed since the beginning of AIMA's operation. The absence of translation had also been problematic in cases where SEF informed asylum seekers of developments in their applications by postal mail and email in Portuguese.[578]

Information at the registration stage

Upon registration, asylum seekers receive an information leaflet from SEF/AIMA, 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,[579] 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/AIMA until the end of January 2024 used to develop efforts to explain the content of the documents handled to applicants, especially when they were not able to read.

Within the context of the right of reply of the authorities to the draft AIDA report, AIMA asserted that upon registration applicants receive information on their rights and duties and may request clarifications. AIMA also reported that if the information is not available in the applicant's main language, translation is provided by its translation hotline or in-person interpreters.[580]

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 stated in the past that such information was in fact being provided. AIMA's practice in this regard is unclear.

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.

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574 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)).

575 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)).

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

577 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.

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

579 SEF, *Informação para Menores Não-Acompanhados Requerentes de Proteção Internacional em Portugal*, available in Portuguese at: https://bit.ly/2FFVjc3; SEF, *Acolhimento em Portugal*, available in Portuguese at: https://bit.ly/2MkBnvC; SEF, *Informação para Requerentes de Proteção Internacional em Portugal*, available in Portuguese at: https://bit.ly/2MoTRez; SEF, *Regulamento Dublin III*, available in Portuguese at: https://bit.ly/2Hq5aEy.

580 Information provided by AIMA on 25 June 2024.

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 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.[581]

According to CPR's observation, following resumption of the border procedure, applicants detained at the border seem to have very limited information regarding their rights, the grounds of detention, and the differences between the refusal of entry and the asylum procedure.

Child-friendly information

CPR is unaware of the provision of child-friendly information by SEF/AIMA, including the specific information leaflet for unaccompanied children and the information leaflet provided for by Article 4(3) of the Dublin Regulation.

According to the information provided by UNICEF to this report, the reception of unaccompanied children by entities with limited experience in the field of asylum has negatively impacted the access of such children to information regarding their migratory status and related procedures.

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.[582]

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 (see Regular Procedure: Legal Assistance). Since the beginning of the operation of AIMA, CPR has faced challenges in contacting significant numbers of asylum seekers due to the lack of communication of their addresses.[583]

There are other organisations that provide legal information and assistance to asylum seekers such as the Jesuit Refugee Service (JRS) Portugal, and Crescer. Before the termination of the activity of 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) also provided important

581 Portuguese Ombudsman, *Tratamento de Cidadãos Estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, available in Portuguese at: http://bit.ly/2z15JPu, Chapter II, Section 9.

582 Article 28(2) Asylum Act.

583 Upon being informed of the registration of an asylum application made by an applicant that was not referred to CPR for the provision of material reception conditions, the organisation's legal department sends a letter to the address indicated by SEF/AIMA to provide information regarding the possibility to receive free legal assistance and the relevant contacts to that effect.

assistance to migrants, as well as applicants and beneficiaries of international protection. According to the available information, these services remain residual and mostly focused on integration.

In 2022, UNHCR launched the Help information website Portugal.[584] However, at the time of writing, the website is pending an update following AIMA's establishment.

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?[585] ☐ Yes ☒ No
   - ❖ If yes, specify which:

While this was not an official practice, CPR has observed that SEF systematically deemed applications lodged by **Venezuelans** as unfounded within accelerated procedures (notably on grounds of irrelevance),[586] and referred the cases to regularisation procedures through the humanitarian clause of the exceptional regularisation regime of the Immigration Act.[587] It is unclear whether this continued to be the case in 2023.[588]

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 were also (at least at times) referred to regularisation procedures through the humanitarian clause of the exceptional regularisation regime of the Immigration Act.[589] This was due, according with at least some decisions analysed, to the commitment made by Portugal following the disembarkation. AIMA's practice in this regard was not yet clear at the time of writing.

584 Available at: https://bit.ly/414z4BN.
585 Whether under the "safe country of origin" concept or otherwise.
586 Article 19(1)(e) Asylum Act.
587 Article 123 Immigration Act. Note that this practice was confirmed in the Statistical Report of Asylum (2020): Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, available in Portuguese at: https://bit.ly/2MGYtB9, 62.
588 For further information regarding this practice, please see previous AIDA reports available at: https://tinyurl.com/5n9a9a3k.
589 Article 123 Immigration Act.

According to CPR's observation, and to the information provided by UNICEF[590] in 2022, 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.

CPR has received reports of applicant's that described being told by AIMA officials that no positive decisions are issued to applicants from certain nationalities, notably Gambia and Senegal. No further information regarding this practice was available at the time of writing.

590 Information provided by UNICEF to the 2022 AIDA update.

Reception Conditions

Short overview of the reception system

Until 29 October 2023, the primary responsibility for the provision of material reception conditions laid with the Ministry of Home Affairs. Due to the institutional changes that occurred in 2023, from that date on, the primary responsibility for the provision of material provisions is assigned to the Ministry in charge of Migration.[591] Nevertheless, the responsibility for the provision of material reception conditions to asylum seekers who pass the admissibility procedure and are in the regular procedure lies with the Ministry of Employment, Solidarity and Social Security.[592] 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.[593]

For the majority of the year, the practical framework for the reception of asylum seekers in Portugal stemmed from bilateral MoUs;[594] 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.[595]

The process of termination of the activity of SEF and ACM led to the suspension of the activity of the SOG,[596] with the exception of the social monitoring sub-group.

In practice, for most of the year, the following entities were 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)** provided material receptions conditions to asylum seekers in the regular procedure;
- **Santa Casa da Misericórdia de Lisboa (SCML)** assisted 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)** provided reception services to asylum seekers in the admissibility (including Dublin) and accelerated procedures on the national territory. CPR also provided material reception conditions to unaccompanied children in the regular procedure and at appeal stage in accordance with the relevant protective measures.
- The **Immigration and Borders Service (SEF)** was responsible for the provision of material reception conditions within the context of border procedures and procedures in detention following a removal order.[597]

As described infra, following the termination of SEF, and the beginning of AIMA's operations, some changes have occurred to the practical arrangements in place for the provision of material reception conditions to asylum seekers. Despite the institutional changes, ISS, SCML and CPR continued to work on the above-mentioned areas.

591 This includes admissibility procedures (including Dublin procedures); accelerated procedures, border procedures, subsequent applications and applications following a removal decision: Article 61(1) Asylum Act. As previously mentioned, until the end of 2023 migration was part of the portfolio of the Ministry of Parliamentary Affairs.
592 Article 61(2) Asylum Act.
593 Article 61(1) and (2) *in fine* Asylum Act.
594 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).
595 Resolution of the Council of Ministers no. 103/2020 of 23 November 2020, available at: https://bit.ly/3oBLXQm.
596 The last meeting of the extended line-up of the SOG took place on 20 September 2023.
597 Article 61(1) Asylum Act.

Asylum seekers who lack resources[598] are entitled to support from the moment they apply for asylum[599] until a final decision is reached on their asylum application,[600] without prejudice to the suspensive effect of appeals,[601] and to the provision of material reception conditions beyond final rejection in case of the ongoing need for support on the basis of an individual assessment of the applicant's social and financial circumstances.[602]

In practice, the majority of spontaneous asylum applicants were systematically referred by SEF and benefited 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.

In the last quarter of 2023, CPR has been unable to ensure the provision of accommodation to all spontaneous asylum seekers as per previous practice both due to the lack of further capacity of infra-structures, and to the lack of funding to that effect.[603] Within this context, AIMA has been directly providing accommodation to asylum seekers under the competencies assigned by the Asylum Act to the Ministry in charge of Migration.[604]
Within the context of the right of reply of the authorities to the draft AIDA report, AIMA asserted that it has expanded the reception capacity and that the procedures adopted aimed to ensure transparency. It also confirmed that the transition between financial frameworks created constraints but affirmed that such constraints had been overcome by June 2024.[605]

Adults, and families with children who receive reception conditions provided by CPR 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 territory. In the case of unaccompanied children, CPR's Refugee Children Reception Centre (CACR) offers appropriate housing and reception conditions during the regular procedure and at appeal stage.

According to the information available to CPR, AIMA provides accommodation in hostels/hotels. CPR has received consistent reports of significant issues impacting asylum applicants within this context, namely: lack of information, lack of access to material reception conditions, instances of withdrawal of accommodation immediately following notification of a negative decision (in violation of the applicable legal framework), frequent and often unannounced changes of place of accommodation, and lack of response to specific needs (including access to health care).
Within the context of the right of reply of the authorities to the draft AIDA report, AIMA stated that all asylum seekers are informed of the available accommodation and its conditions, and that all asylum seekers were offered accommodation, although they witnessed some refusals, according to AIMA because the accommodation was outside of Lisbon. It has also noted that asylum seekers are duly informed of changes to their accommodation arrangements, and that applicants are referred to healthcare authorities. AIMA did not provide further information regarding the procedures and criteria for withdrawal of accommodation.[606]

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598 Articles 51(1) and 56(1) Asylum Act.
599 Articles 51(1), 56(1) and 2(1)(ae) Asylum Act.
600 Article 60(1) Asylum Act.
601 Articles 60(1) *in fine* and 30(1) Asylum Act.
602 Article 60(2) Asylum Act.
603 On the one hand, there were significant delays in the provision of AMIF funding at national level, on the other, since the beginning of its operations AIMA publicly stated that it wanted to evaluate the provision of services by the organisation before renewing any cooperation frameworks. While AIMA and CPR signed a contract for the provision of accommodation for a limited number of asylum seekers in January 2024, this did not ensure the payment of services previously ensured by the organisation and did not provide sufficient resources for CPR to continue ensuring the usual reception model. In fact, by the end of the year the organisation often faced financial constraints leading to delays in the payment of financial allowances to asylum seekers and salaries to employees. See, for instance: Público, *Conselho Português para os Refugiados confirma salários e verbas em atraso*, 8 January 2024, available at: https://tinyurl.com/t73nw4ue.
604 Article 61(1) Asylum Act.
605 Information provided by AIMA on 25 June 2024.
606 Information provided by AIMA on 25 June 2024.

Asylum seekers supported by ISS are mostly provided with private housing (rented flats/houses and rooms) without prejudice to accommodation provided by relatives in Portugal and collective accommodation such as hotels or non-dedicated reception centres e.g., emergency shelters, nursing homes, etc. Applicants supported by SCML are accommodated either in private housing, or in hostels.

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

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

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

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

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

1.1 Responsibility for reception

Until 29 October 2023, the primary responsibility for the provision of material reception conditions laid with the Ministry of Home Affairs. Due to the institutional changes that occurred in 2023, from that date on, the primary responsibility for the provision of material provisions is assigned to the Ministry in charge of Migration.[607] Nevertheless, the responsibility for the provision of material reception conditions to asylum seekers who pass the admissibility procedure and are in the regular procedure lies with the Ministry of Employment, Solidarity and Social Security.[608] 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.[609]

For the majority of the year, the practical framework for the reception of asylum seekers in Portugal stemmed from bilateral MoUs,[610] 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.[611]

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

607 This includes admissibility procedures (including Dublin procedures); accelerated procedures, border procedures, subsequent applications and applications following a removal decision: Article 61(1) Asylum Act. As previously mentioned, until the end of 2023 migration was part of the portfolio of the Ministry of Parliamentary Affairs.
608 Article 61(2) Asylum Act.
609 Article 61(1) and (2) *in fine* Asylum Act.
610 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).
611 Resolution of the Council of Ministers no. 103/2020 of 23 November 2020, available at: https://bit.ly/3oBLXQm.

- The system covered all applicants and beneficiaries of international protection, including unaccompanied children, resettled refugees, and relocated asylum seekers;
- A Single Operative Group (SOG) was established. The SOG had a restricted and an extended line-up;
- The restricted line-up of the SOG ensured its coordination and was composed by ACM, SEF and ISS;
- The extended line-up of the SOG developed technical and operational tasks. In addition to ACM, SEF and ISS it included: 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 established that other entities with competences in the fields of reception and integration, namely CPR, were part of this line up.
- ACM was 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 detailed the responsibilities of ACM, SEF and ISS within the context of the SOG;
- The SOG was 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 were created to handle operational matters: the social monitoring subgroup, the unaccompanied children subgroup, and the programmed arrivals subgroup.[612]

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 was composed by ACM, SEF (both replaced by AIMA since the beginning of its operations), CPR, ISS, and SCML, and meets twice a month. The extended line-up of the SOG used to meet once a month.

The process of termination of the activity of SEF and ACM led to the suspension of the activity of the SOG,[613] with the exception of the social monitoring sub-group.

In practice, for most of the year, the following entities were 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)** provided material receptions conditions to asylum seekers in the regular procedure;
- **Santa Casa da Misericórdia de Lisboa (SCML)** assisted 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)** provided reception services to asylum seekers in the admissibility (including Dublin) and accelerated procedures on the national territory. CPR also provided 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).

612 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.

613 The last meeting of the extended line-up of the SOG took place on 20 September 2023.

- The **Immigration and Borders Service (SEF)** was 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).[614]

Following the termination of SEF, and the beginning of AIMA's operations, some changes have occurred to the practical arrangements in place for the provision of material reception conditions to asylum seekers. Notably:

- While the Asylum Act determines that the Ministry in charge of migration is responsible for the provision of material reception conditions to applicants detained at the border, detention at the border is managed by PSP following the transfer of competences previously assigned to SEF. PSP is a police authority under the Ministry of Home Affairs.[615]
- Since the last trimester of 2023 CPR has been unable to ensure the provision of accommodation to all spontaneous asylum seekers as per previous practice both due to the lack of further capacity of infra-structures, and to the lack of funding to that effect.[616]
- AIMA has been directly providing accommodation to asylum seekers under the competencies assigned by the Asylum Act to the Ministry in charge of Migration.[617]

According to the information available to CPR, AIMA provides accommodation in hostels/hotels. CPR has received consistent reports of significant issues impacting asylum applicants within this context, namely: lack of information, lack of access to material reception conditions, instances of withdrawal of accommodation immediately following notification of a negative decision (in violation of the applicable legal framework), frequent and often unannounced changes of place of accommodation, and lack of response to specific needs (including access to health care). This is not the case according to AIMA.[618]
Despite the institutional changes, ISS, SCML and CPR continued to work on the above-mentioned areas.

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,[619] with the exception of a possible withdrawal or reduction of those conditions in the case of 'unjustified' subsequent applications.[620]

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614 Article 61(1) Asylum Act.

615 PSP's competencies at the border were used by AIMA in recent public statements to reject any responsibility for the situation of asylum seekers detained at the border, a position hardly compatible with the provisions of the Asylum Act. See, for instance: Rádio Renascença, *"Há pouco que a AIMA possa fazer" pelos migrantes que dormem no aeroporto,* 25 January 2024, available at: https://tinyurl.com/yd4v79vm.

616 On the one hand, there were significant delays in the provision of AMIF funding at national level, on the other since the beginning of its operations AIMA publicly stated that it wanted to evaluate the provision of services by the organisation before renewing any cooperation frameworks. While AIMA and CPR signed a contract for the provision of accommodation for a limited number of asylum seekers in January 2024, this did not ensure the payment of services previously ensured by the organisation and did not provide sufficient resources for CPR to continue ensuring the usual reception model. In fact, by the end of the year the organisation often faced financial constraints leading to delays in the payment of financial allowances to asylum seekers and salaries to employees. See, for instance: Público, *Conselho Português para os Refugiados confirma salários e verbas em atraso*, 8 January 2024, availble at: https://tinyurl.com/t73nw4ue. Within the context of the right of reply of the authorities to the draft AIDA report, AIMA affirmed that it has expanded reception capacity and that the procedures adopted aimed to ensure transparency. It also confirmed that the transition between financial frameworks created constraints, but asserted that such constraints had been overcome by June 2024. Information provided by AIMA, 25 June 2024.

617 Article 61(1) Asylum Act.

618 Within the context of the right of reply of the authorities to the draft AIDA report, AIMA noted that all asylum seekers are informed of the available accommodation and its conditions, and that all asylum seekers were offered accommodation. It has also noted that asylum seekers are duly informed of changes to their accommodation arrangements, and that applicants are referred to healthcare authorities. AIMA did not provide further information regarding the procedures and criteria for withdrawal of accommodation. Information provided by AIMA, 25 June 2024.

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

620 Article 60(3)(f) Asylum Act. The reference to an "unjustified subsequent application" seems to indicate that the potential withdrawal or reduction would only occur 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 the past, as SEF referred subsequent applicants in need of housing to the relevant entities. AIMA's practice in this regard is not yet clear.

Asylum seekers are entitled to support from the moment they apply for asylum,[621] and until a final decision is reached on their asylum application,[622] without prejudice to: (i) the suspensive effect of appeals,[623] 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.[624]

Only asylum seekers who lack resources are entitled to material reception conditions.[625] 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'.[626] While until 2023, ISS has interpreted this provision as referring to the social pension (*pensão social*),[627] the practice changed in 2023. As such, in 2023, the provision has been interpreted as referring to 70% of the Social Support Reference Index (*Indexante de Apoios Sociais,* IAS).[628] According to the information provided by ISS, the reference value of 70% will rise to 85% in 2024, and to 100% of the IAS in 2025. Consequently, in 2023, the reference value for the calculation of the allowances was of €333.16, per the information shared by ISS. ISS reported that this change was implemented in response to the increasing cost of living.

According to 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,[629] or reimburse,[630] 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 were systematically referred by SEF and benefited 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.

In the last quarter of 2023 CPR has been unable to ensure the provision of accommodation to all spontaneous asylum seekers as per previous practice both due to the lack of further capacity of infra-structures, and to the lack of funding to that effect.[631]

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621 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.

622 Article 60(1) Asylum Act.

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

624 Article 60(2) Asylum Act.

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

626 Article 56(3) Asylum Act.

627 That, in 2023, stood at € 291,38. Decree-Law no. 464/80 and Ministerial Order no. 24-B/2023. 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).

628 Act no.53-B/2006, of 29 December as amended, and Ministerial Order no.298/2022. In 2023, the IAS stood at € 480.43.

629 Article 56(4) Asylum Act.

630 Article 56(5) Asylum Act.

631 On the one hand, there were significant delays in the provision of AMIF funding at national level, on the other, since the beginning of its operations AIMA publicly stated that it wanted to evaluate the provision of services by the organisation before renewing any cooperation frameworks. While AIMA and CPR signed a contract for the provision of accommodation for a limited number of asylum seekers in January 2024, this did not ensure the payment of services previously ensured by the organisation and did not provide sufficient resources for CPR to continue ensuring the usual reception model. In fact, by the end of the year the organisation often faced financial constraints leading to delays in

AIMA has been directly providing accommodation to asylum seekers under the competencies assigned by the Asylum Act to the Ministry in charge of Migration.[632]

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/AIMA-CNAR. The transition from border facilities to reception centres within the territory is carried out smoothly in general. As for unaccompanied children, referral by the asylum authority 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 the authorities to the premises.

For asylum seekers who have opted for private housing with relatives, the provision of material reception conditions such as financial assistance by CPR is dependent on the presentation of an individual certificate of the asylum application.

CPR does not proactively engage in means assessments for the duration of the provision of material reception conditions given that 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,[633] 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.

In previous years, and despite practical challenges and concerns,[634] spontaneous asylum applicants did 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).

However, since the last quarter of 2023, CPR has received consistent reports of significant issues impacting asylum applicants who are provided accommodation directly by AIMA, namely: lack of information, lack of access to material reception conditions, instances of withdrawal of accommodation immediately following notification of a negative decision (in violation of the applicable legal framework), frequent and often unannounced changes of place of accommodation, and lack of response to specific needs (including access to health care). This was not the case according to AIMA.[635]

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the payment of financial allowances to asylum seekers and salaries to employees. See, for instance: Público, *Conselho Português para os Refugiados confirma salários e verbas em atraso*, 8 January 2024, availble at: https://tinyurl.com/t73nw4ue.

632 Article 61(1) Asylum Act.

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

634 These included, as reported in the past, 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).

635 Within the context of the right of reply of the authorities to the draft AIDA report, AIMA noted that all asylum seekers are informed of the available accommodation and its conditions, and that all asylum seekers were offered accommodation. It has also noted that asylum seekers are duly informed of changes to their accommodation arrangements, and that applicants are referred to healthcare authorities. AIMA did not provide further information regarding the procedures and criteria for withdrawal of accommodation. Information provided by AIMA, 25 June 2024.

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions	
1. Amount of the monthly financial allowance/vouchers granted to adult asylum seekers as of 31 December 2023 (in original currency and in €):	€ 336.16 - € 273.42

The Asylum Act provides for a general definition of material reception conditions,[636] as well as a closed list of forms of provision of material reception conditions in article 57(1) that includes:

- Housing;[637]
- 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].

However, in duly justified instances, 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; and/or
- Available reception capacity is temporarily exhausted.[638]

Article 57(4) was amended in 2023,[639] limiting the situations where asylum seekers could be offered forms/combinations of material reception conditions other than those provided in the law. Until then, the law also allowed such a change if:

- The housing in kind as per the law was not available in the area where the asylum seeker is located; and/or
- The international protection applicants are detained at a border where housing equivalent to reception centres is not available.

The Asylum Act enshrines the right of asylum seekers to the satisfaction of their basic needs to a level that guarantees their human dignity.[640] One of the amendments to the Asylum Act enacted in 2023 added that the material reception conditions must satisfy basic needs.[641] The Asylum Act does not include further 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. While it can be

636 Article 2(1)(e) Asylum Act: housing, food, clothing and transportation offered in kind, through financial allowances, vouchers or daily allowances.
637 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.
638 Article 57(4) Asylum Act.
639 As per article 6 Act no.53/2023, of 31 August 2023. The amended version entered into force on 29 October 2023.
640 Article 56(1) Asylum Act.
641 Article 57(5) Asylum Act.

argued that the 2023 amendment responds to the subsistence requirement included in the Directive, it is doubtful that it implies adequate protection of the physical and mental health of asylum seekers.

The specific criteria for establishing the value of the financial allowances consists of a percentage of the 'social support allowance'.[642] While until 2023, ISS has interpreted this provision as referring to the social pension (*pensão social*),[643] the practice changed in 2023. As such, in 2023, the provision has been interpreted as referring to 70% of the Social Support Reference Index (*Indexante de Apoios Sociais,* IAS).[644] According to the information provided by ISS, the reference value of 70% will rise to 85% in 2024, and to 100% of the IAS in 2025. Consequently, in 2023, the reference value for the calculation of the allowances was of € 333.16, per the information shared by ISS. ISS reported that this change was implemented in response to the increasing cost of living.

These percentages represent the upper limit of the allowances. In 2023, the following amounts applied:

Level of financial allowances per expense: 2023			
Type of monthly allowance	Percentage	Amount	
		ISS	SCML
Social support allowance for food, clothing, transport and hygiene items	70%	€ 235.31	€ 147.22
Complementary allowance for housing	30%	€ 100.85	€ 63.10
Complementary allowance for personal expenses and transport	30%	€ 100.85	€ 63.10

In practice, asylum seekers referred by SEF/AIMA 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.

Applicants may also find accommodation in the private market. If they do, they may request an additional monthly allowance for the rent of € 150 per adult, and € 75 per child.

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. Personal care products are provided.

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 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

642 Article 58 Asylum Act.

643 That, in 2023, stood at € 291,38. Decree-Law no. 464/80 and Ministerial Order no. 24-B/2023. 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).

644 Act no.53-B/2006, of 29 December as amended, and Ministerial Order no.298/2022. In 2023, the IAS stood at € 480.43.

of € 50 for personal needs. 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.

Nevertheless, SCML provides an additional monthly allowance in cases of severe economic vulnerability (which are often linked to the extremely high costs of accommodation). In 2023, 40 applicants were covered by this measure.[645]

ISS has also confirmed that in 2023 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 total monthly allowance for all expenses per person is calculated in accordance with the amounts mentioned above,[646] albeit with a regressive percentage per additional member of the household. In 2023, the amounts applied were as follows:

Level of ISS / SCML financial allowance for all expenses: 2023		
Category of applicant	Amount	
	ISS	SCML
Head of household	€ 336.16	€ 273.42
Other adult(s) in household	€ 235.31	€ 191.39
Child	€ 168.08	€ 136.71

Even though no qualitative research has been conducted to date on destitution of asylum seekers in the asylum procedure, the level of financial allowances is manifestly low, particularly in light of the current living costs in the country.

CPR's Social Department receives regular complaints from asylum seekers at all stages of the asylum procedure regarding financial difficulties to meet basic needs and anxiety regarding low levels of income. In 2023, CPR continued to note an increase in the number of requests for additional food support, particularly from families with children. This assessment regarding the level of financial allowances was also confirmed by SCML.

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.[647]

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

3. Reduction or withdrawal of reception conditions

645 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.

646 Article 58 Asylum Act.

647 Sandra Roberto, Carla Moleiro, ed. Observatório das Migrações, *De menor a maior: acolhimento e autonomia de vida em menores não acompanhados,* April 2021, p.44, available at: https://bit.ly/3fqMKBK.

Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions? ☒ Yes ☐ No
2. Does the law provide for the possibility to withdraw material reception conditions? ☒ Yes ☐ No

The Asylum Act provides for an exhaustive list of grounds that may warrant the reduction or withdrawal of material reception conditions.[648] These consist of **unjustifiably**:

(a) Abandoning the place of residence determined by the authority without informing SEF/AIMA 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,[649] 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.[650] The asylum seeker is entitled to appeal the decision before an Administrative Court,[651] with suspensive effect,[652] and may benefit from free legal aid to that end.[653] Reception conditions that are reduced or withdrawn pursuant to grounds (a) to (c) above can be reinstated if the asylum seeker is found or presents themself to the authorities.[654]

Official data on reduction or withdrawal of reception conditions by SEF is not available. 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.

In other instances, in 2023, where CPR was ensuring the provision of reception conditions, SEF has at times sent communications to the organisation reporting that an applicant was failing to comply with the reporting duties (i.e. they missed an appointment with the authority) and suggested that CPR should determine whether to withdraw the provision of reception conditions. While data available is still limited, this has also at times happened with AIMA.[655] Given the legal framework applicable to the reduction and withdrawal of reception condition and CPR's legal status it is hard to reconcile such a practice with the Asylum Act and with the guarantees provided by the law to the applicant.

According to the experience of CPR, where support was suspended because an applicant repeatedly failed to present themselves as required by the authorities, it was reinstated upon appearance.

Furthermore, CPR has received consistent reports of deficiencies in the provision of reception conditions by AIMA, including instances of withdrawal of accommodation immediately following notification of a negative

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648 Article 60(3) Asylum Act.
649 Article 60(3) Asylum Act.
650 Article 60(5) Asylum Act.
651 Article 60(8) Asylum Act.
652 Articles 63(1) and 30(1) Asylum Act.
653 Article 63(2) Asylum Act.
654 Article 60(4) Asylum Act.
655 In the case of AIMA, similar communications also occurred in cases where the applicant missed an appointment within the requirement to themselves to SEF/AIMA monthly within the Dublin procedure. See above, the section on the Dublin Procedure.

decision (in violation of the applicable legal framework). It was not possible to assess what are the criteria used by the Agency to withdraw the provision of reception conditions in such cases.[656]

According to the data provided by ISS, out of the 2,248 persons supported by the entity in 2023, support provision was terminated in a total of 48 cases, either due to disappearance without informing the entity or due to the failure to comply with their duties of information/attend individual interviews.[657]

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 criteria and restrictions to access reception conditions).[658]

Criteria and restrictions to access reception conditions

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.[659] The law does not provide any guidance regarding the measures to be adopted.

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 the support provided by CPR following an assessment of the individual circumstances and taking into consideration the vulnerability of the applicant.[660] Specific follow-up measures also vary considering the individual situation of the applicant.

In the case of **CACR**, while the Regulation contains similar prohibitions and age-appropriate remedial action,[661] 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.[662] In the case of unaccompanied children, Family and Juvenile Courts generally prioritise the stability of the living environment,[663] and are extremely reluctant to uproot the child by transfer to another institution.

4. Freedom of movement

Indicators: Freedom of Movement

656 Within the context of the right of reply of the authorities to the draft AIDA report, AIMA noted that all asylum seekers are informed of the available accommodation and its conditions, and that all asylum seekers were offered accommodation. It has also noted that asylum seekers are duly informed of changes to their accommodation arrangements, and that applicants are referred to healthcare authorities. AIMA did not provide further information regarding the procedures and criteria for withdrawal of accommodation. Information provided by AIMA, 25 June 2024.

657 Article 60(3)(b) and (d).

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

659 Article 59(1)(e) Asylum Act.

660 The contract is currently available *inter alia* in Portuguese, English, French and is otherwise interpreted to the client if not available in a language that he understands.

661 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.

662 According to SCML this measure is also adopted by the organisation when the behaviour of the beneficiary jeopardises the well-being of other residents and staff.

663 Article 78(2)(e) Asylum Act provides for stability of housing as a contributing factor to upholding the best interests of the child.

1. Is there a mechanism for the dispersal of applicants across the territory of the country? ☒ Yes ☐ No

2. Does the law provide for restrictions on freedom of movement? ☐ Yes ☒ No

The Asylum Act does not contain specific restrictions on the freedom of movement or grounds for residence assignment but provides for the duty of asylum seekers to keep SEF informed of their place of residence.[664] 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.[665]

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.

It is unclear how transfers from the provision of support by AIMA to ISS are operationalised.

According to the statistics shared by the ISS, as of December 2023, a total of 2,248 applicants and beneficiaries of international protection benefited from ISS material support across the country.

Dispersal of applicants and beneficiaries of international protection receiving ISS support – 5 main districts: 2023	
Area	Number
Lisbon	783
Setúbal	255
Coimbra	200
Porto	191
Castelo Branco	190

Source: Information provided by ISS (April 2024).

664 Article 15(1)(f) Asylum Act.
665 Article 59(2) Asylum Act.

Most asylum seekers and beneficiaries of international protection receiving material reception conditions from ISS in 2023 resided in Lisbon. Additionally, SCML supported a total of 783 individuals in 2023, the majority of whom resided in Lisbon (see Types of Accommodation). By the end of the year, SCML was providing support to 539 applicants for or beneficiaries of international protection.

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. CPR and ISS have also developed efforts to conduct joint videocalls with the applicants to promote a smooth transition process.

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.[666]

On the contrary, CPR has received consistent reports according to which asylum seekers to whom AIMA provides reception condition may be subject to frequent and often unannounced changes of place of accommodation, without any apparent link to the grounds for change of the place of accommodation prescribed by the Asylum Act. Within the context of the right of reply of the authorities to the draft AIDA report, AIMA stated that are duly informed of changes to their accommodation arrangements.[667]

Even though no official evaluation 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. CPR has also received reports of applicants stating that the delays in the implementation of the dispersal decision led them to initiate their integration process in the Lisbon area, making them later reluctant to accept to move and restart.

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.[668] These are persisting implementation challenges, also mentioned in prior reports.

666 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.

667 Information provided by AIMA, 25 June 2024.

668 Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2022*, June 2022, p.138, available in Portuguese at: https://bit.ly/3XySygz.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

1. Number of reception centres: 2 (spontaneous asylum seekers)
2. Total number of places in the reception system: 74
3. Total number of places in private accommodation: Variable
4. Type of accommodation most frequently used in a regular procedure:
   ☐ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☒ Private housing ☐ Other
5. Type of accommodation most frequently used in an accelerated procedure:
   ☒ Reception centre ☒ Hotel or hostel ☐ Emergency shelter ☐ Private housing ☐ Other

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,[669] none of them has places specifically assigned to such persons.

Applicants supported by SCML are accommodated either in private housing, or in hostels.[670] 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 who receive reception conditions provided by CPR are accommodated at CPR's Refugee Reception Centre (**CAR**) or in private accommodation provided by CPR (apartments and rooms in the private market or hostels) during admissibility (including Dublin) and accelerated procedures on the territory. CPR's Refugee Children Reception Centre (**CACR**) offers unaccompanied children appropriate housing and reception conditions during the regular procedure and at appeal stage.

Capacity and occupancy of the asylum reception system in 2023		
Centre	Capacity	Occupancy at 31 December 2023
CAR	60	96
CACR	13	25
Total	**73**	**121**

Source: CPR.

669 16 persons in 2022.
670 In 2023, a total of 107 places were available in hostels for this purpose.

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 96 persons were accommodated in the facility.

In 2023, CPR provided reception assistance to a total of 1,937 asylum seekers,[671] of which 27% were accommodated at CAR/CAR 2, 64% in alternative private accommodation (including rooms in private apartments and hostels), 8% with friends/family, and the remaining 1% in other places of accommodation.[672]

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. The average accommodation period with the assistance of CPR in 2023 was of 109 days (roughly 3 and a half months).

Since the last quarter of 2023 CPR has been unable to ensure the provision of accommodation to all spontaneous asylum seekers as per previous practice both due to the lack of further capacity of infra-structures, and to the lack of funding to that effect.[673]

AIMA has been directly providing accommodation to asylum seekers under the competencies assigned by the Asylum Act to the Ministry in charge of Migration.[674]

According to the information available to CPR, AIMA provides accommodation in hostels/hotels. CPR has received consistent reports of significant issues impacting asylum applicants within this context namely concerning: lack of information, lack of access to material reception conditions, instances of withdrawal of accommodation immediately following notification of a negative decision (in violation of the applicable legal framework), frequent and often unannounced changes of place of accommodation, and lack of response to specific needs (including access to health care). This is not the case according to AIMA.[675]

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671 Including applicants for international protection whose applications were made before 2023.

672 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.

673 On the one hand, there were significant delays in the provision of AMIF funding at national level, on the other since the beginning of its operations AIMA publicly stated that it wanted to evaluate the provision of services by the organisation before renewing any cooperation frameworks. While AIMA and CPR signed a contract for the provision of accommodation for a limited number of asylum seekers in January 2024, this did not ensure the payment of services previously ensured by the organisation and did not provide sufficient resources for CPR to continue ensuring the usual reception model. In fact, by the end of the year the organisation often faced financial constraints leading to delays in the payment of financial allowances to asylum seekers and salaries to employees. See, for instance: Público, *Conselho Português para os Refugiados confirma salários e verbas em atraso*, 8 January 2024, availble at: https://tinyurl.com/t73nw4ue. Within the context of the right of reply of the authorities to the draft AIDA report, AIMA affirmed that it has expanded reception capacity and that the procedures adopted aimed to ensure transparency. It also confirmed that the transition between financial frameworks created constraints, but asserted that such constraints had been overcome by June 2024. Information provided by AIMA, 25 June 2024.

674 Article 61(1) Asylum Act.

675 Within the context of the right of reply of the authorities to the draft AIDA report, AIMA noted that all asylum seekers are informed of the available accommodation and its conditions, and that all asylum seekers were offered accommodation. It has also noted that asylum seekers are duly informed of changes to their accommodation arrangements, and that applicants are referred to healthcare authorities. AIMA did not provide further information regarding the procedures and criteria for withdrawal of accommodation. Information provided by AIMA, 25 June 2024.

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. It has an official capacity of 13 places.

In order to ensure response to the reception needs, young applicants at more advanced stages of the integration process may be transferred from CACR to CAR or 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. Despite all efforts, there were instances in 2023 where CPR informed the authorities of the lack of capacity to provide adequate reception conditions to unaccompanied children. In such cases, unaccompanied children were referred to other reception facilities within the child-care system. In 2023, CACR accommodated a total of 62 unaccompanied children.

In 2023, CPR continued to operate **CAR 2**, a reception centre 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 2023, CAR 2 accommodated a total of 149 persons, the majority of whom resettled refugees and Afghan asylum seekers evacuated to Portugal. The facility was also part of CPR's response to spontaneous asylum seekers in case of emergent needs.

Access to adequate housing is identified as a major issue within the national context by asylum seekers, refugees and NGOs.[676] 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.[677]

The 2023 edition of the Statistical Report of OM also highlighted that reception entities are under pressure to respond to the accommodation of all spontaneous asylum seekers due to factors such as the increase number of applications, lack of human and financial resources, and lack of places for reception.[678]

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',[679] or foster families.[680]

According to the information provided by the Secretary of State for Integration and Migration (SEIM) to the Parliament in December 2020, foster families[681] are a solution meant to younger children and have been applied

676 In addition to CPR, SCML also expressed this concern when providing information for the AIDA report.

677 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.

678 Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2023*, p.153, July 2023. While the reports produced by the OM were previously available online, at the time of writing it was not possible to access them online, neither in the website of ACM, which was still online, nor in the website of AIMA.

679 Unofficial translation ("autonomia de vida").

680 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.

681 The legal framework for foster families is established by Decree-Law 164/2019 of 25 October 2019, available at: https://bit.ly/3ejB02M.

in practice.[682] 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).[683]

According to ISS, 3 specialised reception centres with a total of 37 places were involved in this programme in 2023. Additionally, there were also places available in supervised autonomy facilities for the reception of unaccompanied children. According to the information provided by ISS, a total of 197 places were available for reception within this context by the end of the year. According to the information provided by ISS, by the ed of 2023, a total of 71 unaccompanied children were included in the programme.

Emergency reception

Decree-Law 26/2021 of 31 March 2021[684] 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.[685]

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).[686] Referrals of applicants for/beneficiaries of international protection to accommodation within this context should be made by ISS and ACM.[687] Such referrals must be communicated to the SOG.[688] 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.[689]

Neither CPR, nor SCML had information regarding access by asylum seekers to this programme. ISS noted that the period of applications for building/rehabilitating housing under this programme would be open until 31 May 2024.

682 Reception through foster families has not been used in the case of asylum seeking/refugee children in other occasions/contexts.
683 Video recording of the parliamentary hearing of the Ministry of the Presidency and the Secretary of State for Integration and Migration (21 December 2020) available at: https://bit.ly/3ouCeeM.
684 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.
685 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.
686 Article 5(1)(b)(iii) Decree-Law 26/2021 of 31 March.
687 Article 12(1) and (2) Ministerial Order 120/2021, 8 June.
688 Article 12(3) Ministerial Order 120/2021, 8 June.
689 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.

2. Conditions in reception facilities

Indicators: Conditions in Reception Facilities	
1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places?	☐ Yes ☒ No
2. What is the average length of stay of asylum seekers in the reception centres?	
❖ Adults	78 days
❖ Unaccompanied children	225 days
3. Are unaccompanied children ever accommodated with adults in practice?	☒ Yes ☐ No
4. Are single women and men accommodated separately?	☒ Yes ☐ No

The main forms of accommodation used during admissibility, including Dublin, and accelerated procedures on the national territory are CPR's (funded) private accommodation and reception centres. As regards the regular procedure, private accommodation is usually used (see Types of Accommodation).

There is currently no regular monitoring of the reception system in place.

ISS is among the competent authorities for licensing, monitoring and providing technical support to the operation of reception centres for asylum seekers.[690] ISS has laid down specific rules for temporary reception centres for children at risk (such as CACR).[691] Furthermore, the law provides for specific standards regarding housing in kind for asylum seekers,[692] and children at risk (such as unaccompanied children).[693] 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. Single men and women are accommodated in separate areas. 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.

CPR 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 at CACR 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. The team of the centre often liaises with other organisations to provide specific support to particularly vulnerable residents.

According to the current reception strategy, in general, spontaneous asylum seekers are initially accommodated at CAR 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.[694] Afterwards, the applicant generally moves to another accommodation with the

690 Decree-Law No 64/2007.

691 These rules are contained among others in technical guidelines that provide for quality standards on issues such as capacity, duration of stay, composition and technical skills of staff, hygiene and security standards, location and connectivity, access to the building, construction materials, composition and size of the building, internal regulation, personal integration plans, activities planning, reporting and evaluation etc. An earlier version from 1996 is available at: http://bit.ly/2meygMC. According to the information available at: http://bit.ly/2mljDHo, the ISS has also adopted quality standards for other temporary reception centres (such as the CAR and the CATR) contained in technical guidelines dated 29 November 1996 (unpublished).

692 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.

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

694 Efforts have been developed to reduce the initial evaluation period to around 1 week.

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.

The average accommodation period with the assistance of CPR in 2023 was of 109 days (roughly 3 and a half months). This followed the increase already registered in the second semester of 2022.

Since the last quarter of 2023 CPR has been unable to ensure the provision of accommodation to all spontaneous asylum seekers as per previous practice both due to the lack of further capacity of infra-structures, and to the lack of funding to that effect.[695]

AIMA has been directly providing accommodation to asylum seekers under the competencies assigned by the Asylum Act to the Ministry in charge of Migration.[696]

According to the information available to CPR, AIMA provides accommodation in hostels/hotels. CPR has received consistent reports of significant issues impacting asylum applicants within this context namely concerning: lack of information, lack of access to material reception conditions, instances of withdrawal of accommodation immediately following notification of a negative decision (in violation of the applicable legal framework), frequent and often unannounced changes of place of accommodation, and lack of response to specific needs (including access to health care). This is not the case according to AIMA.[697]

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 2023 stood at 242 days.

The official capacity of CACR stands at 13 places but the existing gap in specialised reception capacity has repeatedly 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

695 On the one hand, there were significant delays in the provision of AMIF funding at national level, on the other since the beginning of its operations AIMA publicly stated that it wanted to evaluate the provision of services by the organisation before renewing any cooperation frameworks. While AIMA and CPR signed a contract for the provision of accommodation for a limited number of asylum seekers in January 2024, this did not ensure the payment of services previously ensured by the organisation and did not provide sufficient resources for CPR to continue ensuring the usual reception model. In fact, by the end of the year the organisation often faced financial constraints leading to delays in the payment of financial allowances to asylum seekers and salaries to employees. See, for instance: Público, *Conselho Português para os Refugiados confirma salários e verbas em atraso*, 8 January 2024, available at: https://tinyurl.com/t73nw4ue. Within the context of the right of reply of the authorities to the draft AIDA report, AIMA affirmed that it has expanded reception capacity and that the procedures adopted aimed to ensure transparency. It also confirmed that the transition between financial frameworks created constraints, but asserted that such constraints had been overcome by June 2024. Information provided by AIMA, 25 June 2024.

696 Article 61(1) Asylum Act.

697 Within the context of the right of reply of the authorities to the draft AIDA report, AIMA noted that all asylum seekers are informed of the available accommodation and its conditions, and that all asylum seekers were offered accommodation. It has also noted that asylum seekers are duly informed of changes to their accommodation arrangements, and that applicants are referred to healthcare authorities. AIMA did not provide further information regarding the procedures and criteria for withdrawal of accommodation. Information provided by AIMA, 25 June 2024.

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.[698]

In the course of 2023, CPR has often reported to the relevant authorities not being able to accept further referrals of unaccompanied children due to lack of capacity of CACR. According to the information available to CPR, in such cases, children are usually referred to child-care facilities of the general national protection system. According to ISS, by the end of 2023, a total of 41 unaccompanied asylum-seeking children were under the care of such facilities.

CPR has also received reports of unaccompanied children provided accommodation directly by AIMA in general facilities used by the Agency for the accommodation of asylum seekers (such as hostels), despite being underage. To the extent of CPR's knowledge, such children are provided assistance by organisations specialised in child-care but it is unclear whether further adaptations are made by the authorities to ensure compliance with the rules applicable to the reception of unaccompanied children. Information regarding the reasons/criteria underlying this practice is not available.[699]

Absconding and the associated risk of human trafficking remain relevant concerns. A total of 23 out of 61 (38%) unaccompanied children accommodated by CPR absconded in 2023 (see Special Reception Needs).

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 transitioning to autonomous living due to financial hurdles and, when dispersed to locations outside the Lisbon area, social isolation.[700]

Access to adequate housing is identified as a major issue within the national context by asylum seekers, refugees and NGOs.[701] 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.[702]

698 Act 147/99.

699 Within the context of the right of reply of the authorities to the draft AIDA report, AIMA noted that procedures regarding the accommodation of such children are coordinated with the relevant authorities, that such entities have met regularly and are developing standard operational procedures for the reception of unaccompanied asylum-seeking children. Information provided by AIMA, 25 June 2024.

700 Sandra Roberto, Carla Moleiro, ed. Observatório das Migrações, *De menor a maior: acolhimento e autonomia de vida em menores não acompanhados,* April 2021, pp.53 et seq, available at: https://bit.ly/3fqMKBK

701 In addition to CPR, SCML and JRS also expressed this concern when providing information for the AIDA report.

702 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.

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market

1. Does the law allow for access to the labour market for asylum seekers? ☒ Yes ☐ No
   - ❖ If yes, when do asylum seekers have access the labour market? When they apply for asylum
2. Does the law allow access to employment only following a labour market test? ☐ Yes ☒ No
3. Does the law only allow asylum seekers to work in specific sectors? ☐ Yes ☒ No
   - ❖ If yes, specify which sectors:
4. Does the law limit asylum seekers' employment to a maximum working time? ☐ Yes ☒ No
   - ❖ If yes, specify the number of days per year
5. Are there restrictions to accessing employment in practice? ☒ Yes ☐ No

An amendment to the Asylum Act enacted in 2022, determines that asylum seekers have the right to work from the moment of the application for international protection.[703] 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.[704]

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/AIMA, which clearly state the right to employment,[705] are free of charge.[706] 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.[707]

Asylum seekers benefit from the same conditions of employment as nationals, including regarding salaries and working hours.[708] 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).[709]

With the exception of the submission of beneficiaries of international protection to the same conditions applicable to Portuguese nationals,[710] 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 2023.

Asylum seekers can register as 'job applicants' with IEFP. As such they are able to search for jobs and benefit from vocational training and assistance. Such registration is usually smooth in practice, but throughout 2023 CPR observed some instances where the services were not aware of the documents issued by the asylum authorities

703 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.
704 Article 55 Asylum Act.
705 Ministerial Order 597/2015.
706 Article 84 Asylum Act.
707 Article 15(2) Constitution and Article 17(1)(a) and (2) Act 35/2014.
708 Article 4 Labour Code.
709 Article 5 Labour Code.
710 Article 70(3) Asylum Act.

to asylum seekers. These instances were solved after intervention by the organisation. It was not possible to obtain data on the number of asylum seekers registered with IEFP to that effect.

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.[711] Similar issues have been observed regarding registration with the Social Security, despite efforts from the authorities to simplify and digitalise processes.

A study focusing on the situation of unaccompanied asylum-seeking 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.[712] The analysis conducted concluded that the participants are mostly engaged in unspecialised and likely precarious jobs.[713]

In 2023, 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.

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. [714] 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;

711 With some branches requiring a passport for registration, for instance.
712 Sandra Roberto, Carla Moleiro, ed. Observatório das Migrações, *De menor a maior: acolhimento e autonomia de vida em menores não acompanhados,* April 2021, p.46, available at: https://bit.ly/3fqMKBK.
713 Ibid, 64.
714 For more information see https://bit.ly/37eCZWD.

- ❖ Long administrative procedures for recognition/validation/certification, and lack of regular communication flows;
- ❖ Lack of knowledge of Portuguese language.

Such challenges have also been reported by SCML.[715]

While there are no specific programmes targeting applicants for and beneficiaries of international protection, asylum seekers and beneficiaries of international protection are included among the target population of some of IEFP's employability support measures.

Governmental programmes *Estágios ATIVAR.PT* (which provides for 9 months 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)[716] include refugees in its priority groups.[717] 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 2023, € 624,56).[718] 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. Until the end of ACM's operation in October 2023, the organisation had 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, were available at CNAIM, a space also known as one-stop-shop. Publicly available information regarding these services under AIMA's mandate is still limited.[719]

ACM had also launched the Refujobs online platform which aimed 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. At the time of writing, the website was unavailable.

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.[720] It was not possible to gather further information regarding the implementation of this measure.

715 SCML further reported that, in 2023, 29 of the asylum seekers assisted by the organisation were able to become autonomous due to their integration on the job market.
716 Additional information is available at: https://bit.ly/3uFUhlC.
717 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.
718 See https://tinyurl.com/3upzwhrm and https://bit.ly/3jCG2KN.
719 See AIMA's official website here: https://aima.gov.pt/pt
720 *National Plan to Combat Racism and Discrimination 2021-2025*, available at: https://bit.ly/42GKTPA, 74-75.

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.[721] Access by asylum seekers was already provided for.

According to available information asylum seekers are able to register with IEFP to access to Portuguese language training.

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.

Since 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.[722]

In 2023, CPR was unable to provide Portuguese language training courses due to the lack of funding to that effect. In order to mitigate the impacts of this scenario, CPR strengthened its partnerships with organisations such as the Faculty of Social and Human Sciences of NOVA University and referred asylum seekers to the courses provided by them.

ACM created an Online Platform for Portuguese to promote informal learning of Portuguese, which continues to be available online.[723]

Vocational training

The low level of language skills associated with the lack of diplomas and/or potentially challenging recognition procedures, render access to vocational training offered by IEFP and its partners within the public system challenging to most asylum seekers and beneficiaries of international protection. According to CPR's observations, vocational training in the private sector is generally unaffordable.

As of 2018 asylum seekers admitted to the regular procedure and beneficiaries of international protection that are unable to present the relevant diplomas/certificates or whose documents and academic qualifications have not been recognised in the Portuguese educational system can be registered by IEFP as 'literate users' in the SIGO platform.[724] Other than Portuguese language training courses, such registration only provides access to: (a) modular training[725] 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

721 Ministerial Order no.183/2020, of 5 August 2020, amended by Ministerial Order no.184/2022, of 16 February 2022, available at: https://bit.ly/3UeqD52. These courses are free of charge for participants and may be funded by EU funds (article 10).

722 Available at: https://bit.ly/39Z9WF0. A guide by IEFP on the organisation of trainings under the new framework is available at: https://bit.ly/2Qd2Jdc.

723 See: https://pptonline.acm.gov.pt/

724 Integrated Information and Management System for Education and Training Courses (*Sistema Integrado de Informação e Gestão da Oferta Educativa e Formativa*, SIGO) which contains a national catalogue of education and training courses offered by training institutions at national level and the certification of individual trainees: DGEEC, 'Sobre o Sistema Integrado de Informação e Gestão da Oferta Educativa e Formativa', 3 July 2017, available in Portuguese at: https://bit.ly/2uok84C.

725 Modular training aims to refresh and improve the practical and theoretical knowledge of adults and improve their educational and vocational training levels. For more information see IEFP, *Fomação Modular*, available in Portuguese at: https://goo.gl/aCPTXi.

of basic education or a professional certificate.[726] Neither modular training nor training in basic skills entail an academic certification.

2. Access to education

Indicators: Access to Education		
1.	Does the law provide for access to education for asylum-seeking children?	☒ Yes ☐ No
2.	Are children able to access education in practice?	☒ Yes ☐ No

The Asylum Act provides for the right of asylum-seeking children to public education under the same conditions as nationals and third-country nationals whose mother tongue is not Portuguese.[727] This right cannot be curtailed if the asylum seeker reaches adulthood while already attending school to complete secondary education.[728] The Ministry in charge of education is responsible for ensuring the right of children to education.[729]

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,[730] such as:

- The presentation of documents certifying academic qualifications,[731] and, eventually, of additional supporting documents;[732]
- The presentation of duly translated and legalised documents;[733]
- 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;[734] and the completion of a competency tests.[735]

Considering the challenges faced by child applicants for and beneficiaries of international protection in this regard, in 2020, the Directorate-General for Education (DGE) and the National Agency for Qualification and Vocational Education and Training (ANQEP) issued a circular letter[736] defining extraordinary educational measures applicable to child applicants for/beneficiaries of international protection. It clarifies procedures for the recognition of academic qualifications/school placement, the progressive integration in the Portuguese education system, and provides for the reinforcement of Portuguese language training and school social support. These guidelines are only applicable to children within the compulsory school age (6 to 18 years old).

Accordingly, with regard to the recognition of qualifications/school placement:

- **In the absence of documents proving the academic/professional qualifications** (e.g. certificates, diplomas), applicants must present the following elements: (i) a sworn statement issued by the applicant, their parents or legal guardian, specifying the number of school years completed; (ii) a statement by a

726 IEFP, *Cursos de Educação e Formação para Adultos (Cursos EFA)*, available in Portuguese at: https://bit.ly/2HCey7a.
727 Article 53(1) Asylum Act.
728 Article 53(2) Asylum Act.
729 Article 61(4) Asylum Act. For information regarding the functioning of early childhood education and care in Portugal, see https://tinyurl.com/yha4udvu.
730 Decree-Law 227/2005. In general, 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 (article 8(5) Decree-Lawy 227/2005.
731 Article 7(2) Decree-Law 227/2005.
732 Article 7(4) Decree-Law 227/2005.
733 Article 7(2) Decree-Law 227/2005.
734 Article 10(1) and (2) Decree-Law 227/2005.
735 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.
736 Circular letter - DGE and ANQEP, *Medidas educativas de integração de crianças e jovens no sistema educativo*, August 2020, available at: https://bit.ly/3mwfSKq.

competent authority (such as SEF, CPR or ACM) confirming exceptional individual circumstances.[737] 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[738] apply, but applicants are exempt from translating[739] 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. This has been confirmed by CPR's experience.

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 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.[740] 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.[741]

A Ministerial Order issued in 2022 by the Secretary of State of Education,[742] 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.

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. Progressive integration in school is also possible. According to the experience of CPR, this has been positive, allowing a smoother

737 Applicants previously identified by governmental entities are exempt of presenting this statement.
738 Decree-Law 227/2005 of 28 December (primary, lower and upper secondary levels) and Order 13584/2014 of 10 November.
739 Only if the documents are written in German, Spanish, French or English.
740 Ministry of Education Legislative Order 8452-A/2015 of 31 July 2015, as amended by Legislative Order 7255/2018 of 31 July 2018.
741 Available at https://bit.ly/32dkFY9.
742 Order no.2044/2022, of 16 February 2022, available at: https://bit.ly/437KqqN.

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 resources in certain schools to ensure the necessary teaching of Portuguese language as well as the lack of literacy courses.

UNICEF[743] has also reported similar observations, adding that, inter alia, the reception of spontaneous unaccompanied asylum-seeking children in different parts of the country has created challenges to the school enrolment due to the lack of awareness of the relevant services.

Following the 2022 amendment, the Asylum Act establishes that all asylum seekers are entitled to access **vocational training**.[744]

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).

In the case of unaccompanied children, according to CPR's experience, access to vocational training is only possible if they have a certain level of education (e.g. if they completed the 6th grade in Portugal or if they state having previously attended secondary education), regardless of prior professional experience, for instance.

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.[745] With regard to integration, however, language barriers have been mentioned as a significant challenge.[746]

Regarding **higher education**, the Government introduced the 'student in an emergency situation for humanitarian reasons' status in 2018,[747] following a review of the Portuguese educational system by the Organisation for Economic Co-operation and Development (OECD).[748]

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.[749] 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.[750]

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,[751] equal treatment to Portuguese students regarding university fees and other levies,[752] and full access to social assistance available to higher education students.[753] It should be noted that the rules do not address the issue of access to entry visas for

743 Per the information provided by UNICEF to the 2023 AIDA Update.
744 Article 55(1) Asylum Act.
745 Sandra Roberto, Carla Moleiro, ed. Observatório das Migrações, *De menor a maior: acolhimento e autonomia de vida em menores não acompanhados,* April 2021, p.44, available at: https://bit.ly/3fqMKBK.
746 Ibid, 54.
747 Article 8A Decree-Law 36/2014, inserted by Decree-Law 62/2018.
748 OECD, *OECD Reviews of School Resources: Portugal 2018*, December 2018, available at: https://bit.ly/2BlpEbS.
749 Article 8A(1) Decree-Law 36/2014.
750 Article 8A(2) (a) and (b) and 3(a) Decree-Law 36/2014.
751 Article 14(1)(c) Decree-Law 36/2014.
752 Article 8A(5) Decree-Law 36/2014.
753 Article 10(1) Decree-Law 36/2014.

eligible students living abroad.[754]

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.[755] 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.[756]

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),[757] and includes a specific provision on the right to adequate health care at the border.[758]

The primary responsibility for the provision of health care lies with the Ministry of Health,[759] except for asylum seekers detained at the border who fall under the responsibility of the Ministry of Home Affairs/Ministry in charge of migration.[760] The latter can however cooperate with public entities and/or private non-profit organisations to ensure the provision of such services.[761]

In accordance with the Asylum Act,[762] the specific rules governing access of asylum seekers and their family members to health care[763] are provided by Ministerial Order No 30/2001 and Ministerial Order No. 1042/2008,[764] according to which:

754 For a critical assessment of Decree-Law 36/2014, see JRS, *Estudante em Situação de Emergência por Razões Humanitárias: Mais um direito sem visto?,* November 2018, available in Portuguese at: https://bit.ly/2qIpGF3.
755 Article 13 Ministerial Order 33/2019 of 25 January, available at: https://bit.ly/2Q7GjtT.
756 Article 14 Ministerial Order 33/2019 of 25 January, available at: https://bit.ly/2Q7GjtT.
757 Articles 52(1) and 56(1) Asylum Act.
758 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.
759 Article 61(3) Asylum Act.
760 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.
761 *Ibid*.
762 Article 52(1) *in fine* Asylum Act.
763 The legal and operational background pertaining to the access of asylum seekers to health care was revisited by the ACSS and the DGS in an internal guidance note issued on 12 May 2016 in the framework of the European Agenda for Migration, available at: http://bit.ly/2jdBIFW.
764 Ministerial Order No 1042/2008 extends Ministerial Order No 30/2001 *ratione personae* to applicants for subsidiary protection and their family members.

Access to health care encompasses medical care and medication, and is available from the moment the asylum seeker applies for asylum;[765]
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;[766]
Asylum seekers have access to the SNS free of charge[767] for emergency health care, including diagnosis and treatment, and for primary health care,[768] as well as assistance with medicines, to be provided by the health services of their residence area.[769]

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.[770] 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.[771] 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,[772] through adequate medical care,[773] and specialised mental health care including for survivors of torture and serious violence,[774] and in detention.[775] The responsibility for special treatment required by survivors of torture and serious violence lies with ISS.[776]

In practice, asylum seekers have effective access to free health care in the SNS in line with the applicable legal provisions.[777] However, persisting challenges have an impact on the quality of health care. According to prior research,[778] 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/AIMA's translation hotline);
- Difficult access to diagnosis procedures and medication paid by the SNS due to bureaucratic constraints.

While CPR has observed improvements in access to mental health care services and to other categories of specialised medical care (e.g., dentists)[779] in the SNS due to partnerships with relevant actors,[780] access to these services generally continues to be challenging.

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765 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.)

766 *Ibid*.

767 Article 4(1)(n) Decree-Law 113/2011.

768 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.

769 Ministerial Order No 30/2001, par.5.

770 Ministerial Order No 30/2001, par.8.

771 Article 60(7) Asylum Act.

772 Article 77(1) Asylum Act.

773 Articles 52(5) and 56(2) Asylum Act.

774 Articles 78(3)-(4) and 80 Asylum Act.

775 Article 35-B(8) Asylum Act.

776 Article 80 Asylum Act.

777 However, UNICEF reported having observed challenges in the registration of unaccompanied asylum seeking children in certain healthcare units throughout the country mostly due to lack of awareness of the relevant services.

778 Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017.

779 In this regard, DGS noted in the past that such difficulties are similar to those faced by Portuguese citizens.

780 Such as the Psychiatric Hospital Centre of Lisbon, the Unit for Intervention in Addiction and Dependency and the Local Healthcare Unit of Sacavém.

Worryingly, between the end of 2023 and the beginning of 2024 CPR has received occasional reports of difficulties in accessing necessary healthcare by applicants who have been provided accommodation directly by AIMA.[781] Despite CPR's efforts, it was not possible to obtain further information in this regard.

According to CPR's experience, while it has been possible for unaccompanied children under its care to access mental health care support within the SNS[782] or through other resources, access to psychological support remains challenging. Similar concerns have been shared by UNICEF. Challenges are especially relevant for children that do not speak Portuguese. CPR's CACR has observed an improvement in access to psychiatric care since 2022 due to a protocol established with Psychiatric Hospital Centre of Lisbon that allowed easier and faster access to services, medication and specialised care.

CPR's Psychological Support Department continued to provide psychological assistance to applicants for international protection supported by CPR, and to facilitate referrals to relevant services provided by partners such as psychiatric follow-up. In the course of 2023, the Psychological Support Department provided 783 individual consultations, mediated multicultural meetings with applicants for international protection and organised other group activities, and made referrals to external services, such as psychiatric care.

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 has a Mental Health Office, specialising migration-related matters.

According to CPR's experience, unaccompanied asylum-seeking children have access to gender-specific care and family planning support. CAR has further observed that arrangements to promote patient's comfort in medical care are ensured upon request.

In August 2020, the National Association of Pharmacies informed its associates of new procedures regarding medical prescriptions issued to applicants for international protection.[783] 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 medication 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 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.

CPR provides financial support to unaccompanied asylum-seeking children and asylum seekers in admissibility and accelerated procedures to cover the costs of diagnosis procedures and medication depending on the individual circumstances and available resources. In 2023, CACR began a partnership with the Faculty of Dental Medicine of the University of Lisbon which has led to significant improvements in the access of unaccompanied children to dental care, as well as in the continuity of such care with reduced costs.

781 For instance, no assistance in referrals, and being accommodated far away from the nearest hospital and not having financial conditions to pay for the necessary trip. Within the context of the right of reply of the authorities to the draft AIDA report, AIMA noted that applicants are referred to healthcare authorities. Information provided by AIMA, 25 June 2024.

782 Particularly through programme "Aparece" (information available at: https://bit.ly/3mzqad1.

783 Following what was prescribed in the handbook governing the relationship between Pharmacies and the SNS, available at https://bit.ly/3sapk7K.

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.[784]

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 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.[785]

While the Asylum Act also refers to guarantees available to particularly vulnerable persons,[786] 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.[787]

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,[788] but within reasonable time following registration.[789]

The provision of special reception conditions should take into consideration: (i) the material reception needs of particularly vulnerable persons;[790] (ii) their special health needs, including those particular to survivors of torture and serious violence.[791]

The law further details the modalities of some of these categories of special reception conditions particularly regarding the special needs of children[792] (including unaccompanied children)[793] 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 practice, 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 referred to CPR for the provision of material reception conditions, are generally identified by the organisation. This can be based on information received from SEF/AIMA prior to their referral to CPR's reception

784 Sandra Roberto, Carla Moleiro, ed. Observatório das Migrações, *De menor a maior: acolhimento e autonomia de vida em menores não acompanhados*, April 2021, available at: https://bit.ly/3fqMKBK, 44 et seq.
785 Article 2(1)(ag) Asylum Act.
786 Article 2(1)(y) Asylum Act.
787 Article 77(1) and (3) Asylum Act.
788 Article 77(2) Asylum Act.
789 Article 77(3) Asylum Act.
790 Articles 56(2) and 77(1) of Asylum Act.
791 Articles 35-B(8), 52(5), 56(2), 78(3)-(4) and 80 Asylum Act.
792 Article 78 Asylum Act.
793 Article 79 Asylum Act.

centres, but mostly depends on information voluntarily provided by the applicants or collected directly during legal assistance, social interviews or initial medical screenings.

Single men and women accommodated at CPR's CAR are accommodated in separate areas, and rooms have bathrooms. Where accommodation is provided by CPR in other facilities, e.g. in hostels, men and women have separated rooms and bathrooms.

CPR's teams often liaise with other organisations to provide specific support to the special needs of particularly vulnerable residents.

CPR's Psychological Support Department continued to provide psychological assistance to applicants for international protection supported by CPR, and to facilitate referrals to relevant services provided by partners such as follow-up psychiatric services. In the course of 2023, the Psychological Support Department provided 783 individual consultations, mediated multicultural meetings with applicants for international protection and organised other group activities, and made referrals to external services, such as psychiatric care.

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 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 has a Mental Health Office, specialising in the field of migration.

In November 2020,[794] 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.[795] CPR does not have experience in liaising with this service, or further information regarding its activity.

In 2022, a new SOG sub-group was created in order to address the area of vulnerabilities within the asylum system. The group was composed by ACM, CPR, ISS, SCML, SEF, and UNHCR. According to the information provided by UNHCR, the group was active during the first semester, but its activities were halted with the suspension of the activity of the SOG.[796] In April 2023, the sub-group organised a meeting with multiple stakeholders active in the field of asylum, migration, healthcare, security and child-protection to discuss, inter alia, practices and recommendations concerning special needs. Further output of its activity was not publicly available at the time of writing.

According to the information provided by SEF in previous years, its caseworkers received training on the identification of vulnerable persons, and specific interviewing techniques under the EASO training curriculum. UNHCR reported having provided training covering the identification and referral of asylum seekers and refugees with special needs to AIMA, PSP, GNR, ISS and entities involved in the reception of unaccompanied children.

794 EASO, *EASO Asylum Report 2021*, 2021, available at: https://bit.ly/3MIIDFs, 269-270.

795 For more information see: ACM, *Abertura do 1.º espaço atendimento às vítimas de violência doméstica migrantes e a vítimas de práticas tradicionais nefastas no CNAIM de Lisboa,* available at: https://bit.ly/3EAQpJ1 and Comissão para a Cidadania e a Igualdade de Género (CIG), *Novo Gabinete de Apoio às Vìtimas de Violência Doméstica e/ou de práticas tradicionais nefastas no CNAIM Norte*, 17 February 2021, available at: https://bit.ly/3OsUBil.

796 The activity of the SOG was not resumed until the end of the year.

Within the context of the right of reply of the authorities to the draft AIDA report, AIMA noted that it is expected that staff will attend EUAA training until the end of 2024.[797]

According to the information provided by UNHCR, it has organised, in cooperation with ACM and ISS, a consultation process of unaccompanied asylum-seeking children in Portugal to collect information on the challenges faced by the children and their recommendations for improvement.

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.[798] 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.[799]

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.

In the course of 2023, CPR has often reported to the relevant authorities not being able to accept further referrals of unaccompanied children due to lack of capacity of CACR. According to the information available to CPR, in such cases, children are usually referred to child-care facilities of the general national protection system. According to ISS, by the end of 2023, a total of 41 unaccompanied asylum-seeking children were under the care of such facilities.

CPR has also received reports of unaccompanied children being provided accommodation directly by AIMA in general facilities used by the Agency for the accommodation of asylum seekers (such as hostels), despite being underage. To the extent of CPR's knowledge, such children are provided assistance by organisations specialised in child-care but it is unclear whether further adaptations are made by the authorities to ensure compliance with the rules applicable to the reception of unaccompanied children. Within the context of the right of reply of the authorities to the draft AIDA report, AIMA noted that procedures regarding the accommodation of such children are coordinated with the relevant authorities, that such entities have met regularly and are developing standard operational procedures for the reception of unaccompanied asylum-seeking children.[800]

To the extent that it is possible, and with consent of the applicants, family unity should be preserved in the provision of housing.[801] 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.[802]

797 Information provided by AIMA on 25 June 2024.
798 Article 79(10) and (14) Asylum Act.
799 Article 78(2)(a)-(h) Asylum Act.
800 Information provided by AIMA on 25 June 2024.
801 Articles 51(2) and 59(1)(a) and (b) Asylum Act.
802 Article 59(1)(c) Asylum Act.

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 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.

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.[803] Among the measures adopted by CPR in this regard are the definition of separate room areas, the development awareness raising activities, the possibility to make accommodation arrangements adapted to the specific needs of individuals, 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.[804] Information regarding its implementation is not apparently publicly available.

UNICEF expressed further concern with the fact that the current system does not ensure that the organisations appointed to represent unaccompanied asylum-seeking children have the necessary knowledge and skills in the field of asylum to ensure effective representation.[805] The organisation has also noted that specialised facilities are often overcrowded.

UNICEF[806] has reported being aware of instances where unaccompanied children were assigned the protective measure of 'independent living'[807] without full consideration for their needs and effective protection, inter alia:

- Insufficiency of the financial allowance granted to such children to cover essential living costs, and inconsistent practices regarding the amounts paid, methods and frequency of payment;
- Challenges faced by children in obtaining proper accommodation in the private housing market due to the very high prices of housing in the country and the limited amounts of the financial allowances applicable, leading them to resort to solutions without the appropriate legal protection and to share accommodation with adults, and making it impossible to ensure the adequacy of the living environment.

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,[808] 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.

803 Article 59(1)(e) Asylum Act.
804 For more, see: ACM, *ACM e Adolescere assinam protocolo de cooperação,* available at: https://bit.ly/3m9FFfT and Adolescere, *Programa ACOLHER – Famílias Monoparentais Refugiadas,* available at: https://bit.ly/3Mnm2vA.
805 Information provided by UNICEF to the 2023 AIDA Update.
806 Information provided by UNICEF to the 2023 AIDA Update.
807 Unofficial translation ("autonomia de vida"). This is a protective measure that can be applied to children over 15 years old and that aims to promote its autonomy and ability to live independently, while providing economic assistance as well as social and pedagogical support (article 45 Act no.147/99, of 1 September, as amended).
808 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.[809] It also foresees that they must be informed about the organisations that can provide assistance and information regarding available reception conditions, including medical assistance.[810] Furthermore, SEF/AIMA is required to provide asylum seekers with an information leaflet, without prejudice to providing the information contained therein orally.[811] 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/AIMA 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) were available at SEF's website,[812] CPR was 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. Furthermore, CPR is not aware of the provision of tailored leaflets or information to specific groups by AIMA.

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 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 (until the end of October 2023) - 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.

809 Article 49(1)(a) Asylum Act.
810 Article 49(1)(a)(iv) Asylum Act.
811 Article 49(2) Asylum Act.
812 SEF, *Informação para Menores Não-Acompanhados Requerentes de Proteção Internacional em Portugal*, available in Portuguese at: https://bit.ly/2FFVjc3. SEF, *Acolhimento em Portugal*, available in Portuguese at: https://bit.ly/2MkBnvC.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
☒ Yes ☐ With limitations ☐ No

The Asylum Act provides for the right of access to reception centres and other reception facilities for family members, legal advisers, UNHCR, CPR, and other refugee-assisting NGOs recognised by the State for the provision of assistance to asylum seekers.[813]

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.

813 Article 59(4) Asylum Act.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention	
1. Total number of asylum seekers detained in 2023:	N/A
2. Number of asylum seekers in detention at the end of 2023:	53
3. Number of detention centres specifically for asylum seekers:814	4
4. Total capacity of detention centres specifically for asylum seekers:	Not applicable

Between March 2020 and October 2023, detention of asylum seekers predominantly occurred when applicants for international protection were previously detained pending a removal procedure,[815] and in cases where precautionary measures/alerts regarding the person concerned are active.

The application of border procedures and of detention of asylum seekers subjected to border procedures was resumed by the beginning of November 2023, after being suspended for approximately 3 and a half years.

While the Asylum Act also provides for the possibility of placing other categories of asylum seekers in detention,[816] 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,[817] or in detention facilities at the border,[818] 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.[819]

UNHCR, CPR, legal representatives, and other NGOs have effective access to asylum seekers in detention at the border in accordance with the law.[820] 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 increase the risks of poorer quality decision-making.

Unidade Habitacional de Santo António (CIT–UHSA)[821] is the only temporary installation centre *per se* currently functioning in Portugal. The main detention facility at the border is located in the international area of **Lisbon** airport and has an overall capacity of 24 places. Airport detention facilities also exist at Porto and Faro airports with a capacity of 18 and 13 places respectively.[822]

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814 This includes facilities where asylum seekers were detained in the course of 2023, according to the information provided by the national authorities – detention facilities located at airports and UHSA. These facilities are not exclusively used to detain asylum seekers.
815 Article 35-A(3)(b) Asylum Act.
816 Article 35-A(3) Asylum Act.
817 Article 35-A(5) Asylum Act.
818 Article 35-A(6) Asylum Act.
819 Ibid.
820 Article 49(6) Asylum Act.
821 Decree-Law 44/2006 provides for the creation and functioning of CIT – UHSA in Porto.
822 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.

It is publicly known that since late October/beginning of November 2023, asylum seekers and other migrants refused entry into national territory at Lisbon airport were frequently detained in the transit zone of the airport in appalling conditions due to the lack of capacity of the corresponding detention facility.[823]

As mentioned in Determining Authority the termination of the activity of SEF entailed that existing general police forces became responsible for border control and for executing expulsion decisions. As such:

- The National Republican Guard (*Guarda Nacional Republicana*, GNR) became responsible for the surveillance and control of maritime and land borders, and for executing expulsion decisions within its jurisdiction;[824]
- The Public Security Police (*Polícia de Segurança Pública,* PSP) became responsible for the surveillance and control of air borders, and for executing expulsion decisions within its jurisdiction.[825]

Consequently, PSP became responsible for the operation of CIT-UHSA and airport detention facilities since 29 October 2023. According to the information provided by PSP, this change posed operational and administrative challenges. PSP noted, for instance, the need to provide specific training to officials and to allocate them to the detention facilities, the limited capacity of the facilities, and the transition of service provision contracts previously concluded by SEF to PSP.

PSP reported that a total of 127 foreign nationals were subject to administrative detention between 29/10/2023 and 31/12/2023, of which 101 were asylum seekers.[826]

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
   - on the territory: ☒ Yes ☐ No
   - at the border: ☐ Yes ☒ No
2. Are asylum seekers detained during a regular procedure in practice? ☐ Frequently ☐ Rarely ☒ Never
3. Are asylum seekers detained during a Dublin procedure in practice? ☐ Frequently ☐ Rarely ☒ Never

Under the Asylum Act, detention of asylum seekers cannot be based on the application for international protection alone,[827] 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.[828]

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823 See, for instance: Diário de Notícias, *Requerentes de asilo "dormem em bancos" no aeroporto. Sindicato da PSP denuncia situação "caótica"*, 3 December 2023, available at: https://tinyurl.com/p77u7m8m.

824 Article 2(a) 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, last amended by Act n. 53/2023, of 31 August 2023, available at: https://bit.ly/3OitRkJ.

825 Ibid, article 2(b).

826 Note that the statistics provided by PSP to this report only cover the period between 29/10/2023 and 31/12/2023. Data regarding SEF's tenure is not available.

827 Article 35-A(1) Asylum Act.

828 Article 35-A(2) Asylum Act.

The possible grounds for the detention of asylum seekers also include: [829]

- 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.[830]

As mentioned in General, systematic detention of asylum seekers in Portugal within the context of border procedures resumed by the end of October 2023. Accordingly, asylum seekers were detained until their application was admitted to the procedure (7 days),[831] or for a maximum of 60 days in case of an appeal against the rejection of the application.[832] This is the most relevant context of detention of asylum seekers at national level. As per CPR's observation and analysis, detention within this context is applied systematically without an individual assessment of its necessity or proportionality.

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)[833] or for a maximum of 60 days in case of an appeal against the rejection of the asylum application.[834] 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 - [835] detention at a CIT due to a removal procedure will rarely, if ever, be suspended *ex officio* by the Criminal Courts on that basis. Detention within this context continues to be systematically applied.

According to the information provided by PSP, between 29 October 2023 and 31 December 2023, a total of 101 asylum seekers were subject to administrative detention, of which 94 at the border (refusal of entry and asylum application made at the border) and 7 at CIT-UHSA (within the context of a removal procedure).

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.

829 Article 35-A(3) Asylum Act.
830 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.
831 Article 26(4) Asylum Act.
832 Article 35-B(1) Asylum Act.
833 Article 33-A(5) Asylum Act.
834 Article 35-B(1) Asylum Act.
835 Article 12(1) and (3) Asylum Act.

2. Alternatives to detention

Indicators: Alternatives to Detention	
1. Which alternatives to detention have been laid down in the law?	☒ Reporting duties ☐ Surrendering documents ☐ Financial guarantee ☒ Residence restrictions ☐ Other
2. Are alternatives to detention used in practice?	☐ Yes ☒ No

As mentioned in Grounds for Detention, according to the Asylum Act, detention of asylum seekers requires an assessment of the individual circumstances of the applicant and of the possibility to effectively implement less severe alternative measures,[836] 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).[837]

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, if ever, conduct an individual assessment on whether detention is necessary and proportional and whether it is possible to effectively implement alternatives to detention. In the past, even where the Criminal Court of Lisbon invited SEF to consider the release of families with children and their referral to CAR,[838] the decisions systematically fell short of conducting an individual assessment of necessity and proportionality and of issuing an order to SEF.

Concerns regarding the judicial review of decisions to detain were flagged by the Ombudsperson in a hearing at the Parliament in 2020 (see Procedural Safeguards: Judicial review of the detention order).[839]

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.[840] 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'.[841]

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.'[842]

According to the information provided by PSP, the authority is also unaware of the application of alternatives to detention within this context.

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836 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.

837 Article 35-A(4)(a) and (b) Asylum Act.

838 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.

839 Video recording available at: https://bit.ly/3fZgcAd.

840 Committee Against Torture, *Concluding Observations on the seventh periodic report of Portugal*, CAR/C/PRT/CO/7, 18 December 2019, para 39, available at https://bit.ly/2G1F07z.

841 Ibid. para 40(a).

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

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?
   ☐ Frequently ☒ Rarely ☐ Never
   - ❖ If frequently or rarely, are they only detained in border/transit zones? ☒ Yes ☐ No
2. Are asylum seeking children in families detained in practice?
   ☒ Frequently ☐ Rarely ☐ Never

The Asylum Act defines an 'applicant in need of special procedural guarantees' in terms of reduced ability to benefit from the rights and comply with the obligations stemming from the Asylum Act due to their individual circumstances.[843] 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.[844]

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.[845] 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).[846]

The asylum system continues to lack a systematic mechanism of identification of vulnerabilities, including within the context of detention (see: Guarantees for vulnerable groups).

Therefore, response to cases continued to happen mostly on an ad hoc basis, with no clear general guidance, leading to uncertainty.

According to the data provided by PSP for the period between 29/10/2023 and 31/12/2023, a residual number of children accompanied by family members has been detained in EECIT Lisbon with family members, for an average period of 7 days. Information collected by CPR on the basis of communications from the authorities and the legal assistance provided indicates higher numbers of children subject to detention as well as longer detention periods (up to one month and a half).

PSP further reported that in the case of unaccompanied children, cases are promptly referred for accommodation in child-reception facilities. PSP noted that information regarding other vulnerabilities is not collected.

Between November 2023 and the beginning of 2024, CPR became aware of various instances of detention of accompanied children, including children under 10 years old, as well as other particularly vulnerable persons, such as sick people and victims of torture/violence, with no apparent adjustments implemented to respond to individual special needs.

843 Article 17-A(1) Asylum Act.
844 Ibid.
845 Article 17-A(4) Asylum Act.
846 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.

4. Duration of detention

Indicators: Duration of Detention	
1. What is the maximum detention period set in the law (incl. extensions):	60 days
2. In practice, how long in average are asylum seekers detained?	Less than 60 days

An asylum seeker, either at the airport or land border, 'who does not meet the legal requirements for entering national territory' can be detained for up to 7 days for an admissibility procedure.[847]

If SEF/AIMA 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/PSP 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.[848]

According to the data provided by PSP, between 29 October 2023 and 31 December 2023, the average duration of detention at the border of asylum seekers who have appealed the refusal of their application was of 55 days. For the same period, the average detention at CIT-UHSA was of 60 days.

According to the data provided by PSP for the period between 29/10/2023 and 31/12/2023, a residual number of children accompanied by family members has been detained in EECIT Lisbon with family members, for an average period of 7 days. Information collected by CPR on the basis of communications from the authorities and the legal assistance provided indicates higher numbers of children subject to detention as well as longer detention periods (up to one month and a half).

CPR is not aware of instances where the maximum detention duration was exceeded in the case of asylum seekers in 2023.

C. Detention conditions

1. Place of detention

Indicators: Place of Detention		
1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)?	☐ Yes	☒ No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure?	☐ Yes	☒ No

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

847 Article 26 and 35-A(3)(a) Asylum Act.
848 Article 35-B(1) Asylum Act.

facilities at the border (EECIT),[849] 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.[850]

Detention capacity in border detention centres: 2023			
Detention centre	Total capacity	Capacity for male detainees	Capacity for female detainees
Detention facility – Lisbon airport	24[851]	10	10
Detention facility – Porto airport	18	9	9
Detention facility – Faro airport	13	10	3

Source: Information provided by PSP (April 2024). This refers to the total capacity of the detention centre and is thus not limited to asylum seekers specifically.

According to the information provided by PSP, **CIT-UHSA** has an overall capacity for 27 persons (12 males and 15 females).

According to the information provided by the authorities, none of the facilities mentioned above have dedicated places for asylum seekers.

Persons detained at border detention facilities: 29/10/2023 – 31/12/2023[852]			
Detention centre	Total	Asylum seekers	Other migrants
Detention facility – Lisbon airport	76	63	13
Detention facility – Porto airport	17	17	0
Detention facility – Faro airport	15	:	:

Source: Information provided by PSP (April 2024). This refers to the total capacity of the detention centre and is thus not limited to asylum seekers specifically.

849 Council of Ministers Resolution 76/97.

850 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. º 19776/92, 25 June 1992 (*Amuur v France*)." Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, available in Portuguese at: https://bit.ly/3MKjmFq. fn. 14 [unofficial translation].

851 Includes a family room (capacity for 2 persons) and a multipurpose room for people with reduced mobility (capacity for 2 persons)

852 Data marked with ":" is not included due to privacy reasons.

The lack of capacity of the detention facilities referred to above has been frequently flagged by the authorities and many projects have been mentioned in the past as means to increase the detention capacity without significant follow-up.[853]

According to the information provided by PSP for the 2023 AIDA update, the following projects are currently foreseen:

- Development of a new CIT in Odivelas;
- Requalification of EECIT Porto;
- Requalification of EECIT Faro;
- Requalification and expansion of EECIT Lisbon.

CPR is unaware of the detention of asylum seekers in police stations or in regular prisons for the purposes of the asylum procedure.

It is publicly known that since late October 2023, asylum seekers and other migrants refused entry into national territory at Lisbon airport were frequently detained in the transit zone of the airport in appalling conditions (see: Conditions in detention facilities) due to the lack of capacity of the corresponding detention facility.[854]

According to the information provided by PSP, there is no limit to the number of persons that may be detained in such spaces. According to the information provided by PSP only 11 persons were detained in the transit zone of the Lisbon airport between 29 October 2023 and 31/12/2023, for an average period of 48 hours, but CPR's observation and public reports point towards much higher figures and longer periods. Following up to the information provided to AIDA, PSP informed that it can only account for people that were always detained in the international area (i.e. without being transferred to the detention centre prior to release/return).

According to one media piece from December 2023, whose one of the main sources is one of the unions of PSP officials:[855]

- There were almost permanently 15 to 20 peoples at the transit area awaiting a place in the detention facility;
- There were people detained in the transit area for 7 days, sleeping in benches;
- Access to hygiene facilities for showering and personal hygiene depended upon escort by PSP officials;
- Meals were provided by PSP officials and initial medical assistance by Doctors of the World (Médicos do Mundo, MdM), and airport medical services.

853 For an overview of projects publicly mentioned in the past, please refer the to 2022 AIDA Update available at: https://tinyurl.com/ymfh5564. Regarding the lack of capacity of detention facilities See also: Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2022*, July 2023,pp.99-100, available at: https://tinyurl.com/yumbbkwf.

854 See, for instance: Diário de Notícias, *Requerentes de asilo "dormem em bancos" no aeroporto. Sindicato da PSP denuncia situação "caótica"*, 3 December 2023, available at: https://tinyurl.com/p77u7m8m; SIC Notícias, *"Pomos roupa no chão e dormimos em cima": 13 pessoas estão a viver no aeroporto de Lisboa,* 20 December 2023, disponível em: https://tinyurl.com/2s3mb253; Jornal de Notícias, *Número de requerentes de asilo a viver no aeroporto "vai crescer"*, 20 December 2023, available at: https://tinyurl.com/5ffe2hx2.

855 Diário de Notícias, *Requerentes de asilo "dormem em bancos" no aeroporto. Sindicato da PSP denuncia situação "caótica"*, 3 December 2023, available at: https://tinyurl.com/p77u7m8m.

2. Conditions in detention facilities

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

2.1 Overall conditions

In the absence of legal standards for the operation of CIT, the detention facilities at the border and the **CIT – UHSA** in Porto are managed by SEF/PSP pursuant to internal regulations.[856]

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.[857] The regulation explicitly states that it is applicable to applicants for international protection, and that, in such cases, detention is subject to the rules provided by the Asylum Act.[858]

It is unclear whether a new Regulation was/will be adopted following the termination of the activity of SEF and the take over of PSP within this field. In any case, in the absence of new rules, it is only logical to deem references of the regulation to SEF as being applicable to PSP within the scope of its competencies.

It also establishes, inter alia, that:

- Possible victims of trafficking in human beings and unaccompanied children should be accommodated in adequate facilities;[859]
- 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;[860]
- Transfers of persons between facilities may occur in order to ensure adequate reception conditions;[861]
- Each facility must have an internal regulation, to be approved by the National Director of SEF;[862]
- 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;[863]
- 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;[864]
- Private companies may be hired to ensure the security of persons and goods;[865]
- 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;[866]
- SEF may establish cooperation protocols with civil society organisations within this context;[867]
- 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;[868]

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856 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.

857 *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.

858 Articles 1(1) and 3.

859 Article 1(2).

860 Article 5(2).

861 Article 7(1).

862 Article 8(4).

863 Article 9(1) and (2).

864 Article 9(3).

865 Article 9(4).

866 Article 9(5).

867 Article 9(6).

868 Article 10.

- 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;[869]
- If they wish, detainees can be contacted and visited by the diplomatic/consular authorities of their country of origin;[870]
- 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;[871]
- 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;[872]
- The food provided must be subject to quality control, be sufficient, and respect dietary or philosophical/religious beliefs;[873]
- 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;[874]
- 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.[875]

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.[876]

The National Preventive Mechanism reported that no complaints of ill-treatment were made by detainees during the visits to immigrant detention centres conducted in 2022.[877]

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). This became once again the case since the resumption of the application of asylum border procedures by the end of October 2023.[878]

According to the information provided by PSP, in 2023, the EECIT Lisbon had an overall capacity of 24 places – out of which, 10 for men and 10 for women. It also has a family room (with capacity for 2 persons) and a multipurpose room for people with reduced mobility (with capacity for 2 persons).

In the past, the National Preventive Mechanism affirmed that the renovation of the space was overall positive and took into account relevant concerns such as security, privacy and contact with the exterior.[879] It further noted that the room's conditions were adequate.[880] According to the latest report from the National Preventive

869 Articles 12, 13 and 15.
870 Article 14.
871 Article 16.
872 Article 19.
873 Article 23.
874 Article 25.
875 Article 28.
876 Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal,* CCPR/C/PRT/CO/5. 28 April 2020, par 34(e) and 35(e), available at: https://bit.ly/2Q1ftn8.
877 Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2022*, July 2023, p.89, available at: https://tinyurl.com/yumbbkwf.
878 This is so despite that according to the information publicly available, the new regulation of EECIT Lisbon explicitly excludes detention of applicants for international protection in the facility. It was not possible to confirm whether this regulation was amended in the course of 2023.
879 Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', 24 June 2021, available at: https://bit.ly/329nbSK., 89.
880 Ibid.

Mechanism available at the time of writing several of the new rules were not yet applied, though. Notably: the panic buttons were not functioning and video surveillance had not yet been extended to all the interview rooms located at the border.

Each wing has a common area that includes a space for meals.[881] The 2020 report also highlights the creation of a prayer room that can be used upon scheduling to avoid conflicting practices.[882] 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.[883] Each wing has a small courtyard.

The reception area of the facility includes an office for SEF/PSP and three 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.

According to CPR's observation, both PSP officers and staff of a private security company are present in the facility. Apparently, staff of the security company perform logistical tasks.

The preparation of meals is ensured by a catering company.

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 information available to CPR, detainees are allowed to keep their luggage and to keep and use their mobile phones. Free wi-fi internet is available. However, according to CPR's observation, mobile phones may only be charged in the reception area. While phones are charging, they remain under the care of security staff.

Transit area – Lisbon airport

It is publicly known that in the last quarter of 2023, asylum seekers and other migrants refused entry into national territory at Lisbon airport were frequently detained in the transit zone of the airport in appalling conditions due to the lack of capacity of the corresponding detention facility.[884]

According to the information provided by PSP, there is no limit to the number of persons that may be detained in such spaces. According to the information provided by PSP only 11 persons were detained in the transit zone of the Lisbon airport between 29 October 2023 and 31 December 2023, for an average period of 48 hours, but CPR's observation and public reports point towards much higher figures and longer periods.

According to the information provided by PSP to the AIDA report, health care of people detained at the transit zone is ensured by the airport medical teams and food and hygiene are ensured through contracts with private entities.

According to one media piece from December 2023, whose one of the main sources is one of the unions of PSP officials:[885]

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881 Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', 24 June 2021, available at: https://bit.ly/329nbSK., 89.

882 Ibid.

883 Ibid, 92 and 94.

884 See, for instance: Diário de Notícias, *Requerentes de asilo "dormem em bancos" no aeroporto. Sindicato da PSP denuncia situação "caótica"*, 3 December 2023, available at: https://tinyurl.com/p77u7m8m; Público, *Marroquino passa 19 noites a dormir no chão do aeroporto à espera do pedido de asilo,* 16 December 2023, available at [paywall]: https://tinyurl.com/54x74r4k; SIC Notícias, *"Pomos roupa no chão e dormimos em cima": 13 pessoas estão a viver no aeroporto de Lisboa,* 20 December 2023, disponível em: https://tinyurl.com/2s3mb253; Jornal de Notícias, *Número de requerentes de asilo a viver no aeroporto "vai crescer"*, 20 December 2023, available at: https://tinyurl.com/5ffe2hx2.

885 Diário de Notícias, *Requerentes de asilo "dormem em bancos" no aeroporto. Sindicato da PSP denuncia situação "caótica"*, 3 December 2023, available at: https://tinyurl.com/p77u7m8m.

- There were almost permanently 15 to 20 peoples at the transit area awaiting a place in the detention facility;
- There were people detained in the transit area for 7 days, sleeping in benches;
- Access to hygiene facilities for showering and personal hygiene depended upon escort by PSP officials;
- Meals were provided by PSP officials and initial medical assistance by Doctors of the World (Médicos do Mundo, MdM), and airport medical services.

CPR has also received consistent reports according to which significant numbers of asylum seekers remained detained in the international area of the airport for prolonged periods of time in conditions that are incompatible with human dignity. For instance, people sleeping in airport seats/floor/camp beds and not having access to bedclothes, personal items, and personal hygiene facilities on a systematic basis. CPR has also received reports that the food provided (mostly sandwiches) was not adequate and did not fulfil nutritional needs. This situation has also been publicly condemned by the National Preventive Mechanism.[886]

EECIT-Porto and EECIT-Faro

According to the information available to CPR, in the last quarter of 2023, asylum seekers detained at the border at Lisbon airport were often transferred to the EECIT's located at Porto and Faro airports due to the lack of capacity of EECIT-Lisbon.

There is no publicly available information regarding the conditions of these detention centres, and CPR did not visit the facilities in the course of 2023.[887]

CIT-UHSA

The Ombudsperson deems the conditions at CIT-UHSA as overall adequate, underlining the existence of outdoor areas and the regular presence of staff and volunteers from external entities.[888]

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.[889] Daily cleaning is ensured, and the Ombudsperson deemed the food provided varied and adequate.[890] Access to personal belongings that to do not jeopardise physical integrity is allowed.[891]

Volunteers and workers from organisations such as JRS, IOM and Doctors of the World (MdM) are regularly present in the facility.[892] Access to personal mobile phones is allowed in certain periods of the day,[893] and

886 See, for instance: SIC Notícias, *Provedoria da Justiça denuncia situação "indigna" no centro de detenção do aeroporto de Lisboa*, 24 January 2024, available at: https://tinyurl.com/2fwjbapk.

887 In its latest report available at the time of writing, covering 2022, the National Preventive Mechanism noted, inter alia, that construction work at EECIT Porto was still ongoing and the facility was not functioning. Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2022*, July 2023, pp.94-95, available at: https://tinyurl.com/yumbbkwf.

888 Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2022*, July 2023, p.96, available at: https://tinyurl.com/yumbbkwf.

889 Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', 24 June 2021, pp.102 et seq, available at: https://bit.ly/329nbSK.

890 Ibid.

891 Ibid.

892 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 2024.

893 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.

detainees may also have access to a mobile phone provided by the Jesuit Refugee Service (JRS) staff present in the facility.[894]

According to the information provided by IOM in 2023, a room for meetings between detainees and their lawyers was added to the facility in 2022.

In its 2023 report (covering 2022), the National Preventive Mechanism reiterated its concern with issues such as the lack of access to free wi-fi internet, the size of the beds, 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).[895]

According to the information provided by IOM, surveys conducted with detained migrants regarding the detention conditions revealed a mostly positive evaluation of PSP officers following the transition occurred by the end of October 2023.

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.[896] As far as CPR is aware, the situation remains unchanged.

In its 2023 report, covering 2022, the National Preventive Mechanism criticised once again the absence of a cultural mediator in the facility.[897]

According to the information available to CPR, detainees are allowed to keep their luggage and mobile phones. Free wi-fi internet is available. However, according to CPR's observation, mobile phones may only be charged in the reception area. While phones are charging, they remain under the care of security staff.

CIT-UHSA has big outdoor space whose use depends on detainees being accompanied by staff of the facility/volunteers. [898] Access to personal mobile phones is allowed in certain periods of the day.[899] Access to personal belongings that to do not jeopardise physical integrity is allowed.[900] According to the report of 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.[901]

In its 2023 report (covering 2022), the National Preventive Mechanism reiterated its concern with issues such as the lack of access to free wi-fi internet, the size of the beds, 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).[902]

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894 Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', 24 June 2021, pp.103 et seq, available at: https://bit.ly/329nbSK.

895 Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2022*, July 2023, p.96-07, available at: https://tinyurl.com/yumbbkwf.

896 Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, p.33, available in Portuguese at: https://bit.ly/3eLMNX6.

897 Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2022*, July 2023, p.92, available at: https://tinyurl.com/yumbbkwf.

898 Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', 24 June 2021, pp.101 et seq, available at: https://bit.ly/329nbSK.

899 Ibid, pp.103 et seq.

900 Ibid.

901 Ibid, pp.102 et seq.

902 Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2022*, July 2023, p.96-07, available at: https://tinyurl.com/yumbbkwf.

While the law provides for access to education of children asylum seekers under the same conditions as nationals,[903] and the rules governing CIT provide for the access of detained children to education depending on the duration of their detention,[904] according to the information available to CPR children in detention do not have access to education or pedagogical activities 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/ Ministry in charge of Migration 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.[905]

The Asylum Act provides for the right of asylum seekers and their relatives to adequate health care at the border (i.e., in detention),[906] and for the right of vulnerable asylum seekers in detention to regular health care that meets their particular needs.[907] The Asylum Act does not, however, specify this particular standard,[908] and/or whether it differs from the general standard of health care provision in the asylum procedure.[909]

According to the available information, nursing and medical care, as well as referrals to the national healthcare system at **EECIT**s and **CIT-UHSA** are ensured by the NGO Doctors of the World (*Médicos do Mundo*, MdM).[910]

According to the information provided by PSP, the provision of health care to people detained at the transit area of Lisbon airport is performed by the airport's medical teams.

In the latest available report at the time of writing, the National Preventive Mechanism deemed that in 2022 the healthcare provided at EECIT-Lisbon was insufficient both regarding the initial medical evaluation and mental healthcare services.[911]

According to previous research,[912] 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. This has been confirmed by the National Preventive Mechanism in its report published in 2023.[913]

When detained (see Detention of Vulnerable Applicants), vulnerable applicants are granted access to services and medical treatment under the same standards that are applicable to all detainees.

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903 Article 53 Asylum Act.
904 Article 146-A(7) Immigration Act.
905 Article 61(1) Asylum Act.
906 Article 56(2) Asylum Act.
907 Article 35(b)(8) Asylum Act.
908 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.
909 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.
910 Details on the project available at: https://bit.ly/3GSfMYh.
911 Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2022*, July 2023,p.94, available at: https://tinyurl.com/yumbbkwf.
912 See Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available in Italian at: https://bit.ly/3gEoe1T.
913 Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2022*, July 2023, p.93, available at: https://tinyurl.com/yumbbkwf.

3. Access to detention facilities

Indicators: Access to Detention Facilities				
1. Is access to detention centres allowed to:				
❖ Lawyers:	☒ Yes	☐ Limited	☐ No	
❖ NGOs:	☒ Yes	☐ Limited	☐ No	
❖ UNHCR:	☒ Yes	☐ Limited	☐ No	
❖ Family members:	☒ Yes	☐ Limited	☐ No	

The Asylum Act and the general regulation governing the placement of foreign and stateless persons in CIT and EECIT[914] provide for the right of detainees to receive visits from legal representatives, embassy representatives, relatives, as well as national and international human rights organisations.[915]

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.[916]

In the particular case of legal assistance, asylum seekers in detention are entitled to receive visits from lawyers, UNHCR, and CPR.[917] 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.[918]

While in the past CPR only had access to asylum seekers detained at the border or in pre-removal detention centres, following the status determination interview conducted by SEF, since the end of October 2023, the organisation has full access to detained asylum seekers. Nevertheless, some difficulties have been observed regarding access to persons detained at the transit area of Lisbon airport mostly due to the lack of PSP personnel to escort applicants/legal officers.

According to the Ombudsperson, detainees may receive visits lasting up to one hour between 9h and 19h.[919]

Regarding other forms of contact with the exterior, detainees at EECIT Lisbon are allowed to use their mobile phones in their rooms and have access to free wi-fi internet.

In its 2023 report, covering 2022, the National Preventive Mechanism criticised once again the absence of a cultural mediator in the facility.[920]

CPR's legal officers visit **EECIT Lisbon** on a regular basis to provide free legal information and assistance within the context of the asylum procedure to asylum seekers detained in the facility (see: Border Procedure: Legal Assistance)

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,[921] that are responsible for training staff and providing social, psychological, and legal assistance to detainees.

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914 *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.

915 Article 35-B(3) Asylum Act.

916 Article 13(3) Asylum Act.

917 Article 49(6) Asylum Act.

918 Article 35-B(4) Asylum Act.

919 Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', June 2020, p.61, available at: https://bit.ly/2Pz1ZiN.

920 Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2022*, July 2023, p.92, available at: https://tinyurl.com/yumbbkwf.

921 Article 3 Decree-Law 44/2006.

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).[922]

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention		
1. Is there an automatic review of the lawfulness of detention?	☒ Yes	☐ No
2. If yes, at what interval is the detention order reviewed?	7 days	

The law provides for the right of asylum seekers to receive information in writing regarding the grounds for their detention, access to free legal aid and legal challenges against detention in a language they either understand or are reasonably expected to understand.[923]

The competent authority to impose and review the detention of an asylum seeker in a CIT,[924] or in detention facilities at the border,[925] is the Criminal Court which has territorial jurisdiction over the place where detention occurs. In the case of detention at the border, SEF/PSP 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.[926]

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.[927]

According to CPR's experience, judicial decisions usually rubber stamp the decision of the border authority to detain without an assessment of the necessity and proportionality of detention and without taking into account the individual characteristics of the applicant(s) involved. In fact, between the last quarter of 2023 and the beginning of 2024, CPR observed judicial decisions that determined that an applicant could be detained in the transit area of the Lisbon airport if the detention centre was full, despite the public nature of the detention conditions in such area (see: Detention Conditions).

On the other hand, 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/near the end of the maximum detention time limit of 60 days in cases of a negative decision and appeal (see Duration of Detention).

922 Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', 24 June 2021, p.103, available at: https://bit.ly/329nbSK.
923 Article 35-B(2) Asylum Act.
924 Article 35-A(5) Asylum Act.
925 Article 35-A(5) and (6) Asylum Act.
926 Ibid.
927 Article 35-B(1) Asylum Act.

In the beginning of 2024, UNHCR and the Judicial High Council (Conselho Superior de Magistratura, CSM) initiated meetings with multiple actors relevant in the field of asylum and border control in order to, inter alia, discuss the applicable procedures.

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention		
1. Does the law provide for access to free legal assistance for the review of detention?	☒ Yes	☐ No
2. Do asylum seekers have effective access to free legal assistance in practice?	☒ Yes	☐ No

The law sets out the right of asylum seekers to free legal aid under the same conditions as nationals,[928] 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'.[929] 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,[930] 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.[931]

In practice, detained asylum seekers benefit from legal information and assistance from CPR. This includes free legal information regarding detention and assistance for the purposes of detention review, albeit the latter is 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).[932] This protocol was made within the framework of Article 40(2) of the Immigration Act and is not intended to cover the application for international protection (see: Border Procedure: Legal Assistance).

In its report covering 2022, the National Preventive Mechanism highlighted the fact that the protocol also did not cover persons with a removal order, noting that they should also have access to legal assistance. The National Preventive Mechanism also noted having encountered persons who were not aware of their legal status and rights has they had not been provided with necessary interpretation.[933]

928 Article 49(1)(f) Asylum Act.
929 Act 34/2004.
930 Article 25(4) Asylum Act.
931 Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', June 2020, p.64, available at: https://bit.ly/2Pz1ZiN.
932 Ministry of Home Affairs, *Estrangeiros impedidos de entrar em Portugal vão ter direito a advogado*, 4 November 2020, available in Portuguese at: https://bit.ly/3oCd8L3. According to the National Preventive Mechanism, the practical implementation of the Protocol was only ensured from March 2021. See: Ombudsman, '*Mecanismo Nacional de Prevenção, Relatório à Assembleia da República*', 24 June 2021, available at: https://bit.ly/329nbSK.
933 Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2022*, July 2023, p.92-93, available at: https://tinyurl.com/yumbbkwf.

The report also noted that, out of the 2,655 persons refused entry at the border at Lisbon airport, 1,769 (66.6%) waived their tight to legal assistance. Out of the 93 persons refused entry at the border at Porto airport, 87 (94%) waived their tight to legal assistance.[934]

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.

934 The National Preventive Mechanism praised the fact that such waivers are done in writing, while highlighting that the document should be written in a language that the person understands or that it should be translated by an interpreter to ensure full understanding of its content. Ombudsman, *Mecanismo Nacional de Prevenção - Relatório à Assembleia da República 2022*, July 2023, pp.92; 95, available at: https://tinyurl.com/yumbbkwf.

Content of International Protection

A. Status and residence

1. Residence permit

Indicators: Residence Permit

1. What is the duration of residence permits granted to beneficiaries of protection?

- ❖ Refugee status: 5 years
- ❖ Subsidiary protection: 3 years

The Portuguese authorities are bound by a duty to issue beneficiaries of international protection a residence permit.[935] Its duration varies according to the type of international protection granted: the residence permit for **refugees** is valid for 5 years,[936] while the residence permit for **subsidiary protection** beneficiaries is valid for 3 years.[937] The issuance of these residence permits is free of charge.[938]

Information provided by AIMA regarding residence permits issued in 2023 is not totally clear, but it seems to indicate that a total of 775 residence permits were issued to beneficiaries of international protection, of which 496 were issued to refugees and 279 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. 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).[939] Following the request for issuance of the international refugee status/subsidiary protection residence permit, beneficiaries are issued a declaration certifying their application for the renewal of a residence permit.

In 2023, CPR continued to notice significant difficulties in booking appointments for the renewal of residence permits. According to CPR's experience, this has often caused challenges to beneficiaries of international protection, notably regarding access to employment and access to certain services.

According to CPR's observation, the average waiting period for issuance of residence permits following such appointments is overall reasonable. Following the appointment and until the issuance of the renewed residence permit beneficiaries are issued a declaration certifying their application for the renewal of a residence permit.

The delays in the issuance and renewal of residence permits have been flagged by the UN Human Rights Committee.[940] Such delays, with impacts in access to services and assistance, have also been identified by the Statistical Report of Asylum 2020.[941]

935 Article 67 Asylum Act. This provision is generally in line with Article 24 recast Qualification Directive.
936 Article 67(1) Asylum Act.
937 Article 67(2) Asylum Act.
938 Article 67(4) Asylum Act.
939 Article 27(1) Asylum Act.
940 Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal,* CCPR/C/PRT/CO/5. 28 April 2020, available at: https://bit.ly/2Q1ftn8, para 34(a).
941 Observatory for Migration, *Entrada, Acolhimento e Integração de Requerentes e Beneficiários de Protecção Internacional em Portugal – Relatório Estatístico do Asilo 2020*, May 2020, available in Portuguese at: https://bit.ly/2MGYtB9, 227.

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 2023 indicates that by the end of 2022, 3,126 beneficiaries of international protection had valid residence permits in Portugal (2,086 refugees and 1,040 beneficiaries of subsidiary protection).[942] It should be noted that the report includes humanitarian residence permits as beneficiaries of subsidiary protection which is not in line with the applicable legal framework. It also includes in the figure residence permits issued to family members of holders of humanitarian residence permits. As such, the real number of beneficiaries of subsidiary protection at the time would likely be 636. 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, and Iraq.[943]

In December 2022, the Government amended Decree-Law 10-A/2020,[944] 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.

It was further amended in November 2023, extending the above-mentioned deadline from 31 December 2023 until 30 June 2024.[945]

With regard to the **readmission of beneficiaries of international protection** in Portugal, SEF previously 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. AIMA did not provide information in this regard.

942 Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2023*, pp.221, July 2023. While the reports produced by the OM were previously available online, at the time of writing it was not possible to access them online, neither in the website of ACM, which was still online, nor in the website of AIMA.

943 Ibid. Nationalities such as Cape Verde, and Brazil are listed among the main nationalities of beneficiaries of subsidiary protection, which is likely due to the fact that the figures include holders of humanitarian residence permits.

944 Decree-Law 10-A/2020 of 13 March 2020, available in Portuguese at: https://bit.ly/3iQ0lYE.

945 Amendment introduced by Decree-Law no.109/2023, of 24 November 2023, available at: https://tinyurl.com/35psx2tf.

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,[946] and if the act is: duly translated,[947] legal, and does not raise well-founded doubts as to its authenticity.[948]

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.[949] 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.[950] 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 such registration is not required 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.[951]

It is mandatory to register any birth occurred in Portuguese territory, regardless of nationality of the child or the parents.[952]

The birth must be declared to the civil registry authorities either by: (1) the parents or a person assigned that responsibility in writing by the parents; or (2) the next closest relative of the child who is aware of the birth.[953]

The declaration of birth may be done electronically or in person – either at a civil registry office within 20 days, or at the medical facility where the birth occurred before medical discharge of the mother.[954]

The actual registration of birth that follows the declaration can either take place at the maternity ward or at a civil registry office.[955]

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'.[956] According to the Immigration Act, the residence permit replaces the identification document for all

946 Article 6(4) Civil Registration Code.
947 Article 49(8) Civil Registration Code.
948 Article 49(1) Civil Registration Code. In case the civil registry officer is not satisfied with the credibility of the foreign registration act, it may suspend the procedure and contact *ex officio* the issuing authority for clarifications at the expense of the applicant, an option that is ill adapted to beneficiaries of international protection (Article 49(2) and (3) Civil Registration Code). The applicant may also lodge a judicial appeal against the decision of the civil registration officer to refuse partially or in total the authenticity of the document (Article 49(4)-(6) and 292(2) Civil Registration Code) in which case he or she will be allowed to present statements and alternative evidence (Article 49(7) Civil Registration Code).
949 Article 50(1) Portuguese Nationality Regulation.
950 Article 69(1)(a) and (e) Civil Registration Code.
951 Article 84 Immigration Act.
952 Article 1(1) and (2) Civil Registration Code.
953 Article 96 Civil Registration Code.
954 Article 96 Civil Registration Code. The consequences for the non-declaration of a birth occurred in Portugal are defined in article 98 Civil Registration Code.
955 Articles 101, 101-A and 101-B Civil Registration Code.
956 Article 102 Civil Registration Code.

legal purposes.[957] 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.[958] 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.[959]

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.[960]

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.[961]

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:

- one of the parents legally resides in the country at the time of the birth; or
- 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.[962]

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.[963]

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.[964] Furthermore, the Nationality Regulation also determines that, for these purposes, legal residency requires the existence of a residence permit (Immigration Act or Asylum Act).[965]

In 2022 and 2023, 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 odds with the intent of the provisions of the Asylum Act. An opinion from the Consultative Council of IRN issued in June 2023 clarified that neither the validity

957 Article 84 Immigration Act.
958 Article 45 Civil Registration Code.
959 Article 42 Civil Registration Code.
960 Article 103 Civil Registration Code.
961 Article 120 Civil Registration Code and Articles 1847, 1853(a), 1864 and 1865 Civil Code.
962 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.
963 The provision's retroactive application has also been confirmed by an opinion of the Advisory Board of the Institute of Registries and Notary Affairs (IRN). See Conselho Consultivo do Instituto de Registos e Notariado, Parecer n.º 1/CC/2021, 21 February 2021, available at: https://bit.ly/33jFXH3.
964 Article 14(1) Asylum Act.
965 Article 10(3)(a) Nationality Regulation.

nor the provisional nature of the temporary residence permits at stake should lead to the conclusion that the parent does not have legal residency in Portugal.[966] Consequently, if one of the parents of a child born in Portugal to foreign parents holds a temporary residence permit according to the Asylum Act, the child is Portuguese by birth.

Additional problems observed in this regard in the past 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 in 2022, that recognised that the practice was incorrect and reportedly clarified the internal procedures in this regard.

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/AIMA 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,[967] birth certificates,[968] and certificates of no impediment,[969] that must be either duly legalised or not raise well-founded doubts regarding their authenticity.[970] 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,[971] or justify the absence of the certificate of no impediment,[972] where there are strong reasons thereto. To that end, the civil registry officer may choose to conduct the investigations deemed appropriate,[973] and consider alternative evidence such as witness statements.[974]

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. Nevertheless, CPR is also aware of challenges in this domain, mostly depending on the service contacted.

According to CPR's experience, spouses that arrived in Portugal through family reunification procedures must register their marriage in the national system in order to be able to acquire Portuguese nationality under the specific rules for persons whom are married or in a civil partnership with a Portuguese citizen.[975]

966 Parecer do Conselho Consultivo, C.C. 38/2022 SJ-CC, 14 June 2023, available at: https://tinyurl.com/2s92r9s4.
967 Article 137(1) Civil Registration Code.
968 Article 137(2) Civil Registration Code.
969 Article 166(1) Civil Registration Code.
970 Article 49(1) Civil Registration Code.
971 Articles 135(5), 137(5) and 266 to 269 Civil Registration Code.
972 Article 166(2) Civil Registration Code.
973 Article 268(1) Civil Registration Code.
974 Articles 143(1) and 166(3) Civil Registration Code.
975 Article 3 Nationality Act establishes a specific regime for the acquisition of nationality by spouses/civil partners of a Portuguese citizen. Accordingly, the spouse/civil partner of a Portuguese citizen for more than three years may acquire the nationality by merely stating that they want to do so.

3. Long-term residence

Indicators: Long-Term Residence	
1. Number of long-term residence permits issued to beneficiaries in 2023:	0

Competence for issuing a long-term residence permit lies with the National Director of SEF/AIMA,[976] that must issue a decision within 6 months of application.[977] The residence permit is valid for 5 years and is automatically renewed at the request of the beneficiary of protection.[978]

The following criteria must be met to obtain a long-term resident status regardless of the type of international protection held by the beneficiary:[979]

- 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.

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).[980]

According to AIMA, no such permits were issued to beneficiaries of international protection in 2023.

As the main provider of legal information and assistance to asylum seekers and beneficiaries of international protection, CPR is not aware of the issuance of long-term residence status to beneficiaries of international protection in recent years and has provided legal assistance for that purpose in a very limited number of cases. According to its experience, access to such status by beneficiaries of international protection is rare for reasons mostly related to a lack of information and awareness, lack of the necessary financial resources, insufficient language skills, and the priority given to applications for Naturalisation.

4. Naturalisation

Indicators: Naturalisation	
1. What is the minimum residence period for obtaining citizenship?	
❖ Refugee status	5 years
❖ Subsidiary protection	5 years
2. Number of citizenship grants to beneficiaries in 2023:	N.A. (naturalisation procedures)

Competence for conferring Portuguese nationality lies either with the Minister of Justice regarding naturalisation,[981] or with the Central Registry Office (*Conservatória dos Registos Centrais,* CRegC) regarding other modalities for obtaining Portuguese nationality.[982]

976 Article 128 Immigration Act.
977 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). 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).
978 Article 130(2) Immigration Act.
979 Article 126 Immigration Act.
980 Article 127(3) Immigration Act.
981 Article 27 Portuguese Nationality Regulation.
982 Article 41 Portuguese Nationality Regulation.

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,[983] and 3 months in the remaining cases.[984] 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.[985]

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.[986]

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:[987]

- 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.

Furthermore, the Nationality Act contains a number of special naturalisation regimes exempting certain applicants of some of the above-mentioned requirements.[988] Notably, children of foreign nationals born on national territory are eligible for naturalisation under the following conditions:[989]

- 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.[990] 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.[991] If the child is over 16 years old, eligibility depends upon:

983 Article 27 Portuguese Nationality Regulation.
984 Article 41(1) and (2) Portuguese Nationality Regulation.
985 According to the 2022 annual report of the Ombudsperson to the Parliament, the average duration of the analysis of nationality procedures is of more than 2 years. See: Ombudsman, *Relatório à Assembleia da República 2022*, July 2022, available at: https://tinyurl.com/4j5jexx6, 25.
986 While the Nationality Regulation was amended in 2023, the changes did not impact the provisions described here.
987 Article 6(1) Nationality Act; Article 19 Portuguese Nationality Regulation.
988 Article 6(2) – (9) Nationality Act.
989 Article 6(2) Nationality Act; Article 20 Portuguese Nationality Regulation.
990 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.
991 Article 6(3) Nationality Act.

- ❖ 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,[992] and is also free of charge.[993]

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.[994] The law also details the proof of proficiency in Portuguese.[995]

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.[996]

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.

Another issue that continued to be identified in the course of 2023 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 was pending, that period of time was not referred to as legal residence by SEF. This was 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). This continued to be the case with AIMA, compounded by divergent practices adopted by different front-desks of the agency.

While in 2023 the form to apply for naturalisation removed the requirement to present this declaration, the Nationality Regulation was not amended accordingly.

According to AIMA, 272 beneficiaries of international protection applied for Portuguese nationality through naturalisation in 2023. AIMA did not provide information regarding the number of persons granted Portuguese nationality through naturalisation in 2023. Disaggregation per status was also not provided.

992 Ibid.
993 Article 6(12) Nationality Act.
994 Article 26 Portuguese Nationality Regulation.
995 Article 25(2)-(9) Portuguese Nationality Regulation and Ministerial Order 176/2014.
996 Article 3 Nationality Act; Article 14 Portuguese Nationality Regulation.

5. Cessation and review of protection status

Indicators: Cessation

1. Is a personal interview of the beneficiary in most cases conducted in practice in the cessation procedure?
   ☐ Yes ☒ No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure?
   ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice?
   ☒ Yes ☐ With difficulty ☐ No

Competence for taking decisions on the cessation of international protection lies with the Ministry of Home Affairs/Ministry in charge of Migration on the basis of a proposal put forward by the National Director of SEF/Board of AIMA.[997] The representative of UNHCR or CPR shall be informed of the declaration of loss of the right to international protection.[998]

The Asylum Act establishes the grounds for cessation of international protection.[999]

Regarding refugee status, the right to asylum ceases when the foreign national or stateless person:[1000]

- Decides to voluntarily accept the protection of the country of their nationality;[1001]
- Voluntarily reacquires their nationality after having lost it;[1002]
- Acquires a new nationality and enjoys the protection of the country of the newly acquired nationality;[1003]
- Returns voluntarily to the country they left or outside which they had remained for fear of persecution;[1004]
- 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;[1005] or
- Expressly renounces to the right to asylum.[1006]

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.[1007]

The grounds relating to a change in circumstances justifying the cessation of refugee status or subsidiary protection can only be applied if SEF/AIMA concludes that the change in circumstances in the country of origin or habitual residence is significant and durable to exclude a well-founded fear of persecution or a risk of serious harm.[1008]

Furthermore, this cessation ground is without prejudice to the principle of *non-refoulement*,[1009] 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.[1010] The latter safeguard is only explicitly provided in the Asylum Act for refugees, failing to adequately transpose Article 16(3) of the Qualification Directive.

997 Article 43(1) Asylum Act.
998 Article 43(3) Asylum Act.
999 Article 41 (1)-(4) Asylum Act.
1000 Article 41(1) Asylum Act.
1001 Article 41(1) (a) Asylum Act.
1002 Article 41(1) (b) Asylum Act.
1003 Article 41(1) (c) Asylum Act.
1004 Article 41(1) (d) Asylum Act.
1005 Article 41(1) (e) and (f) Asylum Act.
1006 Article 41(1) (g) Asylum Act.
1007 Article 41(2) Asylum Act.
1008 Article 41(3) Asylum Act.
1009 Article 47 Asylum Act.
1010 Article 41(4) Asylum Act.

SEF/AIMA 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.[1011]

A decision on cessation is subject to a judicial appeal with suspensive effect.[1012] In the absence of specific provisions, it should be understood that beneficiaries of international protection are entitled to apply for free legal aid at appeal stage under the same conditions as nationals as legal aid is an integral part of the social security system (see Regular Procedure: Legal Assistance).[1013]

Cessation of international protection results in the applicability of the Immigration Act to former beneficiaries,[1014] 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,[1015] 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.[1016]

In 2021, a total of 36 cessation of subsidiary protection decisions were adopted by the national authorities, mostly concerning Ukrainian citizens (13). 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).

According to the information provided by AIMA for 2023, while cessation decisions were adopted in 2023, the number was very low. Disaggregation per status was not provided.

In the framework of the provision of legal assistance, CPR has repeatedly observed 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.

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 invasion were to be reviewed. CPR does not have further information on the implementation of this measure. AIMA did not provide information in this regard for 2023.

1011 Article 41(6) Asylum Act.
1012 Article 44 Asylum Act.
1013 Article 72 Asylum Act.
1014 Article 42(2) Asylum Act.
1015 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.
1016 The 2023 report of the OM included data on cessation of protection. The reported data points towards relatively high numbers of cessation of refugee status, notably in 2015, 2016 and 2019 that do not match CPR's observation and data previously provided by SEF to the AIDA reports. Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2023*, pp.126 et seq, July 2023. While the reports produced by the OM were previously available online, at the time of writing it was not possible to access them online, neither in the website of ACM, which was still online, nor in the website of AIMA.

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;[1017]
- A double test – sufficiency and durability - is applicable to cessation due to a change of circumstances.[1018]

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.[1019] 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.[1020]

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).[1021]

6. Withdrawal of protection status

Indicators: Withdrawal

1. Is a personal interview of the beneficiary in most cases conducted in practice in the withdrawal procedure? ☐ Yes ☒ No
2. Does the law provide for an appeal against the withdrawal decision? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☒ Yes ☐ With difficulty ☐ No

The Asylum Act establishes specific grounds for revocation, ending or refusal to renew international protection that are assessed pursuant to the same procedural rules applicable to Cessation.

These include the cases where the beneficiary of international protection:[1022]

- Should have been or can be excluded from the right to asylum or subsidiary protection, pursuant to the exclusion clauses;[1023]
- Has distorted or omitted facts, including through the use of false documents, that were decisive for benefitting from the right to asylum or subsidiary protection;[1024]
- Represents a danger for the security of the Member State where they are present;[1025]

1017 TAC Lisbon, Decision 1837/21.2BELSB, 23 December 2021, not publicly available.
1018 TAF Braga, Decision 1294/21.3BEBRG, 7 October 2021, not publicly available.
1019 TAF Braga, Decision 1294/21.3BEBRG, 7 October 2021, not publicly available.
1020 TAC Lisbon, Decision 1837/21.2BELSB, 23 December 2021, not publicly available.
1021 TAF Braga, Decision 1294/21.3BEBRG, 7 October 2021, not publicly available.
1022 Article 41(5) Asylum Act.
1023 Article 41(5)(a) Asylum Act.
1024 Article 41(5)(b) Asylum Act.
1025 Article 41(5)(c) Asylum Act. This provision was amended in 2023, replacing "internal security" for the wording mentioned above.

- ❖ 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.[1026]

Practice in this regard remains limited. According to the information provided by AIMA, no such decision was adopted in 2023.

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification? ☐ Yes ☒ No
   - ❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application? ☐ Yes ☒ No
   - ❖ If yes, what is the time limit?
3. Does the law set a minimum income requirement? ☐ Yes ☒ No

Refugees and beneficiaries of subsidiary protection have the same right to family reunification under the law.[1027] 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.[1028]

In the 2023 Global Refugee Forum, Portugal was one of the countries leading the multi-stakeholder pledge to support family reunification.[1029]

1.1 Eligible family members

A person granted international protection in Portugal can reunite with the following family members:[1030]

- ❖ A spouse or unmarried partner,[1031] 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;[1032]
- ❖ Children under 18 years old if they are dependent on the sponsor and/or on their spouse or unmarried partner and regardless of their marital status. The right to family reunification also includes adopted children under 18 years old of the sponsor or of their spouse or unmarried partner. Adult children who lack legal capacity (e.g., for reasons of mental health) and are dependent on the sponsor and/or on their spouse or unmarried partner are also included; and
- ❖ Parents, if the sponsor is under 18 years old.

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).

1026 Article 41(5)(d) Asylum Act.
1027 Article 68(1) Asylum Act.
1028 Ibid. Articles 98 *et seq* Immigration Act.
1029 For more, see Global Compact on Refugees, *Multistakeholder Pledge: Supporting Refugee Family Reunification,* available at: https://tinyurl.com/y4apyefn.
1030 Articles 68 and 2(1)(k) Asylum Act.
1031 Both the sponsor and the spouse/unmarried partner must be at least 18 years old.
1032 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.

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.[1033]

While in the past it was common for SEF to extend the more favourable regime to beneficiaries of international protection, information gathered by CPR indicated that this was no longer the case as the authorities tend to restrict family reunification to the list of relatives included in the Asylum Act. AIMA's practice in this regard is not yet clear.

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/AIMA's regional office in their residence area if the family member is living abroad at the time of application. Until the end of October 2023, if the family member is in Portugal at the time of application, the sponsor had to apply for family reunification at SEF-GAR, in Lisbon. According to the information provided by AIMA, since the beginning of its operation, applications for family reunification with family members living abroad or for the extension of international protection to family members already present in Portugal must be submitted at an AIMA office. [1034]
Applications are *not* accepted at Portuguese embassies.[1035]

In recent years, significant challenges in obtaining appointments and extremely long waiting times for appointments at for the purposes of family reunification had been observed by CPR. This has continued to happen in 2023.

The following official documents must be presented with the application:[1036]

- 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.

1033 Article 99 Immigration Act.
1034 Information provided by AIMA, 25 June 2024.
1035 In very limited cases, the application for family reunification may be filled online at: https://tinyurl.com/5n8x2d9p.
1036 Article 103 Immigration Act; Article 67 Governmental Decree n. 84/2007 of 5 November 2007.

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/AIMA.[1037]

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.[1038] Other types of proof can consist of interviews of the sponsor and family members; copies of original documents; witness testimonies; or common children in the case of unmarried partnerships. Portuguese authorities do not conduct DNA tests in the framework of family reunification applications. Even though not formally required, the law does not exclude DNA testing as means of proof of family relations.

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.[1039] 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;[1040]
- 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.[1041]

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.[1042]

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.[1043] CPR does not have experience with appeals in this domain.

Within the context of resettlement, CPR has observed that, until the termination of its activity, ACM developed efforts to identify family members of resettled refugees present in Turkey and Egypt in order to assess the

1037 According to CPR's experience, documents in English, French and Spanish were usually accepted without translation by SEF. AIMA's practice in this regard is not yet clear.
1038 Article 106(4) Immigration Act.
1039 Article 101(2) Immigration Act.
1040 Article 68(3) Asylum Act.
1041 Article 106 Immigration Act.
1042 Article 105 Immigration Act.
1043 General rules provided in the Administrative Procedure Code – CPA - (available at: https://bit.ly/3mV8Ymn), and in the Code of Procedure in Administrative Courts – CPTA - (available at: https://bit.ly/3ToXKmo). Notably, article 58(1)(b) CPTA provides for a general deadline for appeal of 3 months.

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.

While AIMA provided data regarding family reunification procedures for 2023 (37, of which 25 concerning refugees and 12 concerning beneficiaries of subsidiary protection), it is unclear whether the figures refer to applications or decisions.

2. Status and rights of family members

According to AIMA, if the application is successful, the sponsor is informed by post by AIMA. Family outside Portuguese territory then has 90 days to go to the Portuguese diplomatic representation of the country they are in to obtain a residence visa. Upon arrival in Portugal, they are to contact an AIMA office to request an extension of their international protection status. Those already in Portugal can go directly to the AIMA office to request the extension.[1044]

In accordance with the law, family members receive the same legal status and are entitled to the same rights as the sponsor.[1045] 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.[1046]

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.[1047]

1044 Information provided by AIMA, 25 June 2024.
1045 Article 68(2) Asylum Act.
1046 Article 75 Asylum Act.
1047 Article 69 Asylum Act; Article 19 Immigration Act.

The **refugee** travel document consists of an electronic travel document,[1048] following the Refugee Convention format,[1049] which, since 2022, is valid for five years and renewable.[1050] The document is to be issued unless imperative national security/public order require otherwise.[1051] The authorities competent for granting refugee travel documents consist of the National Director of SEF/Board of AIMA[1052] for applications made on the national territory, and consulates[1053] for applications made abroad.[1054]

Between January 2023 and 28 October 2023, the issuance of the refugee travel document had a cost of €23.65.[1055] On 29 October 2023, the cost increased to € 31,45.[1056]

In the case of beneficiaries of **subsidiary protection**, the issuance of travel documents is left to the discretion of national authorities, at odds with Article 25(2) of the recast Qualification Directive. The Asylum Act states that a Portuguese passport for foreigners *may* be issued to beneficiaries of subsidiary protection who cannot demonstrably obtain a national passport unless imperative motives of national security/public order require otherwise.[1057]

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.[1058] 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,[1059] and, in 2023, had a cost of €121.16.[1060]

Following the termination of the activities of SEF, the issuance of travel documents was assigned to the Institute of Registries and Notary (*Instituto dos Registos e Notariado,* IRN).[1061] Following queries made within the context of the provision of legal assistance to beneficiaries of international protection, CPR learnt that such documents were not being issued until March 2024 due to operational issues.
According to AIMA, a total of 344 travel documents were issued to beneficiaries of international protection in 2023. A breakdown by status of the holders was not provided by the Agency.

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.

1048 Ministerial Order no. 302/2015 of 22 September 2015 and Ministerial Order 412/2015 of 27 November 2015.
1049 Article 69(1) Asylum Act.
1050 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.
1051 Article 69(1) Asylum Act.
1052 Upon favourable opinion of the Borders and Foreigners Coordination Unit.
1053 Upon favourable opinion of the Borders and Foreigners Coordination Unit and AIMA.
1054 Article 20 Immigration Act.
1055 Ministerial Order no. 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 in 2023, according to information publicly available at: https://tinyurl.com/38z32ss3. Until September 2020 the refugee travel documents issued by the Portuguese authorities were not electronic and their issuance was free of charge.
1056 Ministerial Order no.307/2023 of 13 October, available at: https://tinyurl.com/yc5zmeyy.
1057 Article 69(2) Asylum Act.
1058 Decree-Law 83/2000 of 11 May 2000, as amended by Decree-Law 138/2006 of 26 July 2006.
1059 Article 38 Decree-Law 83/2000 of 11 May 2000.
1060 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.
1061 Article 3(1)(b) 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, last amended by Act n. 53/2023, of 31 August 2023, available at: https://bit.ly/3OitRkJ.

AIMA did not provide information on refusals for 2023.

D. Housing

Indicators: Housing	
1. For how long are beneficiaries entitled to stay in reception centres?	Data not available
2. Number of beneficiaries staying in reception centres as of 31 December 2023	Data not available

The law provides for the right of refugees and beneficiaries of subsidiary protection to housing under the same conditions of foreign nationals legally residing in Portugal,[1062] therefore encompassing public housing.[1063]

While CPR is not aware of systematic instances of homelessness among beneficiaries of international protection, access to adequate housing is consistently identified as a major issue within the national context by asylum seekers, refugees and NGOs.[1064] 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.[1065]

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 2023, 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[1066] 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.[1067]

1062 Article 74 Asylum Act.
1063 Article 5 Public Leasing Act; Article 5 Regulation 84/2018.
1064 In addition to CPR, SCML and JRS also expressed this concern when providing information for the AIDA report.
1065 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.
1066 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.
1067 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).[1068] Referrals of applicants for/beneficiaries of international protection to accommodation within this context should made by ACM/ISS.[1069] Such referrals must be communicated to the SOG.[1070] 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.[1071] ISS noted that the period of applications for building/rehabilitating housing under this programme would be open until 31 May 2024.

At the time of writing, the implementation and impact of this legislation was unclear.

E. Employment and education

1. Access to the labour market

The law provides for the right of refugees and beneficiaries of subsidiary protection to access the labour market pursuant to general rules.[1072]

Similarly to asylum seekers (see Reception Conditions: Access to the Labour Market), there are no limitations attached to the right of beneficiaries of international protection to employment such as labour market tests or prioritisation of nationals and third-country nationals.

The only restriction on employment enshrined in the law is the limited access for all third-country nationals to certain categories of employment in the public sector.[1073]

The issuance and renewal of residence permits by SEF is free of charge.[1074]

Beneficiaries of international protection benefit from the same conditions of employment as nationals, i.e., in terms of salaries and working hours.[1075] 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).[1076]

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.[1077]

With the exception of the submission of beneficiaries of international protection to the conditions applicable to nationals of the same country,[1078] 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

1068 Article 5(1)(b)(iii) Decree-Law 26/2021 of 31 March.
1069 Article 12(1) and (2) Ministerial Order 120/2021, 8 June.
1070 Article 12(3) Ministerial Order 120/2021, 8 June.
1071 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.
1072 Article 71(1) Asylum Act.
1073 Article 15(2) Constitution; Article 17(1)(a) and (2) Act 35/2014.
1074 Article 67(4) Asylum Act.
1075 Article 71(3) Asylum Act; Article 4 Labour Code.
1076 Article 5 Labour Code.
1077 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.
1078 Article 70(3) Asylum Act.

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.[1079] The right to education under the same conditions as nationals is extended to adult beneficiaries of international protection.[1080] The access of children who are beneficiaries of international protection to public education and recognition procedures bares no relevant distinction to asylum seeking children and has already been described in detail. The same holds true for access of adult beneficiaries of international protection to vocational training (see Reception Conditions: Access to Education).

F. Social welfare

According to the Asylum Act, the general rules governing the social welfare system are applicable to refugees and beneficiaries of subsidiary protection.[1081] 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.[1082]

In addition to the financial allowance, RSI comprises an inclusion programme, based on a contract established with the concerned household. Access by beneficiaries of international protection is subject to the fulfilment of the general conditions prescribed by law, namely:

- If the applicant lives alone – their monthly income cannot exceed the amount of the allowance;
- If the applicant lives with family members – the combined monthly income cannot exceed the total amount of the allowance;
- The applicant must be 18 years of age or older (although there are situations in which younger persons are also eligible);
- The applicant must be registered with IEFP.

The monthly financial allowance of the RSI is as follows:[1083]

Rendimento Social de Inserção: 2023	
Category of applicant	Amount
Head of household	€ 209.11
Other adult in household	€ 146.38
Child	€ 104.56

1079 Article 70(1) Asylum Act.
1080 Ibid.
1081 Article 72 Asylum Act.
1082 Act 13/2003.
1083 Amended version of Ministerial Order 257/12 of 27 August, available at: https://bit.ly/3s5DczW. For more information on RSI, see: ISS, *Practical Guide – Social Integration Income*, available at: https://tinyurl.com/4aa3scnb.

Beneficiaries of international protection may access 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[1084] unemployment benefits,[1085] 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,[1086] following the assistance provided throughout the asylum procedure.

In general, refugees and beneficiaries of subsidiary protection are required to present their residence permit in order to have access to such support measures. While CPR is unaware of systemic problems in accessing support, refugees and beneficiaries of subsidiary protection often report difficulties in meeting their basic needs with the low income provided by the social welfare system.

The Statistical Report of Asylum 2023 estimates that 32.1% of the beneficiaries of international protection in Portugal were autonomous from social (financial) support by the end of 2022.[1087]

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.[1088] 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.[1089]

The special needs of particularly vulnerable persons including beneficiaries of international protection must be taken into consideration in the provision of health care,[1090] notably through rehabilitation and psychological support to children who have been subjected to various forms of violence,[1091] and adequate treatment to survivors of torture and serious violence.[1092] Responsibility for special treatment required by survivors of torture and serious violence lies with ISS.[1093]

Asylum seekers and beneficiaries of international protection are exempt from any fees to access the National Health System.[1094] Additionally, all children are exempt from such fees.[1095]

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

1084 Decree-Law 176/2003.
1085 Act 220/2006.
1086 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.
1087 Observatório das Migrações (OM), *Requerentes e Beneficiários de Proteção Internacional – Relatório Estatístico do Asilo 2023*, p.254, July 2023. While the reports produced by the OM were previously available online, at the time of writing it was not possible to access them online, neither in the website of ACM, which was still online, nor in the website of AIMA.
1088 Article 73(1) Asylum Act.
1089 Article 73(2) Asylum Act.
1090 Article 77(1) Asylum Act.
1091 Article 78 (3)-(4) Asylum Act.
1092 Article 80 Asylum Act.
1093 *Ibid*.
1094 Article 4(1)(n) Decree-Law 113/2011 of 29 November 2011.
1095 Article 4(1)(b) Decree-Law 113/2011 of 29 November 2011.

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/AIMA'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.[1096]

[1096] Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: https://bit.ly/3gEoe1T.

ANNEX I – Transposition of the CEAS in national legislation

Directives and other CEAS measures transposed into national legislation

Directive / Regulation	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	5 May 2014	Act n. 27/2008, transposing Directives 2011/95, 2013/32/EU and 2013/33/EU, last amended by Act n. 53/2023, of 31 August 2023	https://bit.ly/3j3r6c6 (PT) https://bit.ly/3pHbedv (EN –does not include the 2022 and 2023 amendments)
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015 [Article 31(3)-(5) - 20 July 2018]			
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015			
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013			

The following section contains an overview of some of the most significant incompatibilities in transposition of the CEAS in national legislation:

Directive	Provision	Domestic law provision	Non-transposition or incorrect transposition
Directive 2011/95/EU Recast Qualification Directive	Article 12 recast QD	Article 9 Asylum Act (exclusion clauses)	Article 9(1)(c)(ii) transposes Article 12(2)(b) of the recast Qualification Directive to the national legal order. While the directive refers to the commission of a serious non-political crime, the Asylum Act refers to the commission of an intentional non-political crime punishable with prison sentence of over three years. By operation of Article 9(2)(a) of the Asylum Act, this exclusion clause is also applicable to exclusion from subsidiary protection. While CPR is not aware of the practical application of this clause, defining the gravity threshold as a prison sentence of over three years may open the door to the exclusion of cases not envisaged by the relevant provision of the recast Qualification Directive. Furthermore, Article 9(1)(d) allows for the exclusion from refugee status where there are serious reasons for considering that the person constitutes a danger to the security of the Member State where [the person is] present.

	Article 8 recast Qualification Directive	Article 18 Asylum Act (analysis of the application – internal protection alternative)	Article 18(2)(e) of the Asylum Act establishes that an internal protection alternative may be considered in the adjudication of the application for international protection. There is some ambiguity in the transposition as a literal interpretation of the provision of the Asylum Act would determine that the criteria established in Article 8(1) *in fine* 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.
	Article 16(3) recast QD	Article 41 Asylum Act (cessation of protection)	The Asylum Act does not contain the safeguard clause determining that subsidiary protection should not cease in situations where the beneficiary can reasonably invoke reasons connected to past serious offense not to return to the country of origin.
	Article 25(2) recast QD	Article 69(1) Asylum Act (issuance of travel documents to beneficiaries of international protection)	According to the Asylum Act, issuance of travel documents to beneficiaries of subsidiary protection is left to the discretion of national authorities.
	Article 12 recast QD	Article 41 Asylum Act (revocation of, ending or refusal to renew international protection)	See *supra* the analysis of exclusion clauses, relevant to revocation of, ending or refusal to renew international protection per Article 41(5)(a) of the Asylum Act.
Directive 2013/32/EU Recast Asylum Procedures Directive	Article 10(3)(a) recast APD	-	The Asylum Act does not explicitly refer that the analysis of and the decision concerning an asylum application must be individual, objective and impartial as determined by article 10(3)(a) of the recast APD.
	Article 37 recast APD	Article 2(1)(q) Asylum Act (safe country of origin)	The Asylum Act provides for a definition of 'safe country of origin' that is in line with Article 36 of the recast Asylum Procedures Directive. However, the law does not further regulate its application. Notably, the Asylum Act does not refer to the need to adopt complementary legislation for the designation of safe countries of origin and the substantive and procedural criteria for such designation as provided in Article 37 and Annex I of the recast Asylum Procedures Directive. The safe country of origin concept is not applied in practice.

	Article 38 recast APD	Article 2(1)(r) Asylum Act (definition of safe third country)	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. 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.'
	Article 10 recast APD	Article 18 Asylum Act (analysis of the application – country of origin information)	While Article 18(2)(a) orders the national authorities to duly consider country of origin information in the analysis of applications, the domestic law does not fully transpose the requirements set out in Article 10(3)(b) of the recast Asylum Procedures Directive. Namely, it fails to state that the information must be precise and up-to-date. Even though the norm refers to different sources for such information (EASO, UNHCR and relevant human rights organisations) it does not clearly state that different sources must be consulted in each analysis. Furthermore, Article 18(2)(a) of the Asylum Act refers exclusively to the country of origin, as opposed to Article 10(3)(b) of the recast Directive that also refers to the use of information regarding transit countries whenever necessary.
	Articles 31(8) and 32 recast APD	Article 19 Asylum Act (accelerated procedures)	The wording of the Asylum Act does not seem to be fully in line with the recast Asylum Procedures Directive and with the applicable international standards as its literal application may lead not only to the accelerated processing but also to the automatic rejection of applications based on the listed grounds (e.g., a delay in making the application).
	Article 35 recast APD	Articles 2(1)(z) and 19-A(1)(c) Asylum Act (first country of asylum)	Neither Article 2(1)(z) of the Asylum Act, that defines the 'first country of asylum' concept, nor Article 19-A(1)(c) of the Asylum Act that provides for the corresponding inadmissibility clause, explicitly contain the safeguard of Article 35 of the recast Asylum Procedures Directive, entitling the applicant to challenge the application of the concept to their particular circumstances.
	Article 46(4) recast APD	Article 25(1) Asylum Act (time limits for appeal – border procedure)	Article 25(1) of the Asylum Act establishes a 4-day time limit for the appeal of a refusal (inadmissibility or merits) adopted within the context of a border procedure. While current practical implementation mitigates some of the negative consequences of such a reduced timeframe, this time limit is hardly compatible with the requirement for 'reasonable time

			limits' that do 'not render such exercise impossible or excessively difficult' provided for in Article 46(4) of the recast Asylum Procedures Directive.
	Article 24 recast APD (also article 22 recast RCD)	Articles 17-A and 77 Asylum Act (mechanisms for assessing vulnerability and special needs – procedural and reception)	The Asylum Act provides for the need to identify persons with special needs and the nature of such needs but no procedure or mechanism for such identification and assessment has been established so far at domestic level.
	Article 25(5) recast APD	Article 79 (6) and (7) Asylum Act (age assessment)	The Asylum Act does not contain the limitation on the use of medical examination for age assessment enshrined in the first part of Article 25(5) recast Asylum Procedures Directive: 'Member States may use medical examinations to determine the age of unaccompanied minors within the framework of the examination of an application for international protection where, following general statements or other relevant indications, Member States have doubts concerning the applicant's age'. Furthermore, the right to information of the unaccompanied children regarding the age assessment procedure established in Article 79(7) of the Asylum Act does not fully transpose all the requirements of Article 25(5)(a), in particular with regard to the methods used and to the consequences of results.
Directive 2013/33/EU Recast Reception Conditions Directive	Articles 8 and 9 recast RCD (also article 26 recast APD)	Article 26(1) Asylum Act (detention at the border)	Article 26(1) of the Asylum Act determines that asylum seekers that applied for asylum at the border remain in the international area of the (air)port while waiting for the decision without establishing further requirements (e.g., necessity and proportionality, individual assessment, alternatives to detention), in contravention with Articles 8 and 9 of the recast Reception Conditions Directive and with Article 26 of the recast Asylum Procedures Directive. It should be noted that further requirements to detention of asylum seekers are established in Article 35-A of the Asylum Act. It is our understanding that a correct application of Article 26(1) of the Asylum Act requires due regard for such requirements. Notwithstanding, in practice, asylum seekers that file their applications at the border are indeed systematically detained.

	Article 9(5) recast RCD	Article 35-B(1) Asylum Act (revision of detention)	Article 35-B(1) of the Asylum Act establishes that detention may be reviewed *ex officio* or upon request of the applicant if relevant circumstances or new information which may affect its lawfulness arise. This seems to fall short from the guarantees provided for in Article 9(5) of the recast Asylum Procedures Directive that establishes that revision should be conducted by a judicial authority and does not limit such revision to situations where new circumstances or information becomes available ('Detention shall be reviewed by a judicial authority at reasonable intervals of time, ex officio and/or at the request of the applicant concerned, in particular whenever it is of a prolonged duration, relevant circumstances arise or new information becomes available which may affect the lawfulness of detention').
	Article 14(2) recast RCD	Article 53 Asylum Act (access to education)	The Asylum Act does not contain any reference to a maximum time limit with regard of access to education by children.
	Article 17(2) recast RCD	Articles 56(1) and 57(5) Asylum Act	Article 56(1) of the Asylum Act enshrines the right of asylum seekers to the satisfaction of their basic needs to a level that guarantees their human dignity. One of the amendments to the Asylum Act enacted in 2023 added that the material reception conditions must satisfy basic needs (article 57(5) Asylum Act). The Asylum Act does not include further 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. While it can be argued that the 2023 amendment responds to the subsistence requirement included in the Directive, it is doubtful that it implies adequate protection of the physical and mental health of asylum seekers as also determined by the Directive provision.
	Article 22 recast RCD (also article 24 recast APD)	Articles 17-A and 77 Asylum Act (mechanisms for assessing vulnerability and special needs – procedural and reception)	The Asylum Act provides for the need to identify persons with special needs and the nature of such needs but no procedure or mechanism for such identification and assessment has been established so far at domestic level.