

Country Report: Portugal



**2017
Update**

Acknowledgements & Methodology

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

The information in this report draws on the experience of CPR staff, gathered *inter alia* through research, advocacy, legal assistance and reception services, as well as data and information shared by national authorities, civil society organisations and other stakeholders consisting of SEF, ISS, ACM, CNIS, CSTAF, CVP, DGE, DGS, IEF, SCML and UNHCR.

The information in this report is up-to-date as of 31 December 2017, unless otherwise stated.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is coordinated by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 23 countries. This includes 20 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI, UK) and 3 non-EU countries (Serbia, Switzerland, Turkey) which is easily accessible to the media, researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. Furthermore the project seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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Glossary & List of Abbreviations

ACM	High Commission for Migration Alto Comissariado para as Migrações
AGD	Age, Gender and Diversity Idade, Género e Diversidade
ACSS	Central Administration of the Health System Administração Central do Sistema de Saúde
ANMP	National Association of Portuguese Municipalities Associação Nacional de Municípios Portugueses
APF	Family Planning Association Associação para o Planeamento da Família
APIC	Portuguese Association of Conference Interpreters Associação Portuguesa de Intérpretes de Conferência
CA	Steering Commission Comissão de Acompanhamento
CACR	Refugee Children Reception Centre Centro de Acolhimento para Crianças Refugiadas
CAP	Anti-Trafficking Reception and Protection Centre Centro de Acolhimento e Proteção para Vítimas de Tráfico
CAR	Refugee Reception Centre Centro de Acolhimento para Refugiados
CATR	Temporary Reception Centre for Refugees Centro de Acolhimento Temporário para Refugiados
CAVITOP	Centre for the Support of Torture Victims in Portugal Centro de Apoio às Vítimas de Tortura em Portugal
CHPL	Psychiatric Hospital Centre of Lisbon Centro Hospitalar Psiquiátrico de Lisboa
CIT	Temporary Installation Centre Centro de Instalação Temporária
CJEU	Court of Justice of the European Union
CNAIM/CLAIM	National and Local Support Centres for Migrant Integration Centros Nacionais e Locais de Apoio à Integração de Migrantes
CNIS	National Confederation of Solidarity Institutions Confederação Nacional das Instituições de Solidariedade
CPR	Portuguese Refugee Council Conselho Português para os Refugiados
CRC	Central Registrations Service Conservatória dos Registos Centrais
CSTAF	High Council of Administrative and Fiscal Courts Conselho Superior dos Tribunais Administrativos e Fiscais
CVP	Portuguese Red Cross Cruz Vermelha Portuguesa
DGAL	Directorate General of Local Municipalities Direcção-Geral das Autarquias Locais
DGE	Directorate General of Education Direcção-Geral da Educação
DGEE	Directorate General of Education Institutions Direcção-Geral dos Estabelecimentos Escolares
DGS	Directorate General for Health Direcção-Geral da Saúde
DRC	Democratic Republic of Congo
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EDAL	European Database of Asylum Law

EPVA	Teams for the Prevention of Violence between Adults Equipas para a Prevenção da Violência entre Adultos
GAR	Asylum and Refugee Cabinet Gabinete de Asilo e Refugiados
GIP	Professional Insertion Office Gabinete de Inserção Profissional
GTO	Technical Operative Group Grupo Técnico Operativo
ICRC	International Committee of the Red Cross
IEFP	Employment and Professional Training Institute Instituto do Emprego e Formação Profissional
IHRU	Institute for Housing and Urban Rehabilitation Instituto da Habitação e da Reabilitação Urbana
INE	National Institute for Statistics Instituto Nacional de Estatística
INMLCF	National Institute of Legal Medicine and Forensic Science Instituto Nacional de Medicina Legal e Ciências Forenses
IOM	International Organisation for Migration
ISS	Institute of Social Security Instituto da Segurança Social
JRS	Jesuit Refugee Service
MdM	Doctors of the World Médicos do Mundo
MoU	Memorandum of Understanding
NISS	Social Security Identification Number Número de Identificação da Segurança Social
PAR	Refugee reception platform Plataforma de Apoio aos Refugiados
RSI	Social Insertion Revenue Rendimento Social de Inserção
SCML	Santa Casa da Misericórdia de Lisboa
SEF	Aliens and Borders Service Serviço de Estrangeiros e Fronteiras
SGAI	General Secretariat of Internal Administration Secretaria Geral da Administração Interna
STA	Supreme Administrative Court Supremo Tribunal Administrativo
SNS	National Health Service Serviço Nacional de Saúde
TAC	Administrative Circle Court Tribunal Administrativo de Círculo
TAFS	Administrative and Fiscal Court of Sintra Tribunal Administrativo e Fiscal de Sintra,
TCA	Central Administrative Court Tribunal Central Administrativo
UCAT	Antiterrorism Coordination Unit Unidade de Coordenação Antiterrorismo
UHSA	Unidade Habitacional de Santo António
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund

Statistics

Overview of statistical practice

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

Applications and granting of protection status at first instance: 2017

	Applicants in 2017	Pending at end 2017	Refugee status	Subsidiary protection	Rejection	Refugee rate	Sub. Prot. rate	Rejection rate
Total	1,750	476	119	136	455	17%	19%	64%

Breakdown by countries of origin of the total numbers

Syria	426	:	4	59	3	6%	89%	4%
Iraq	283	:	0	0	0	-	-	-
DRC	158	:	0	4	117	0%	3%	97%
Ukraine	124	:	4	15	8	15%	55%	30%
Angola	121	:	0	0	0	-	-	-
Eritrea	67	:	83	23	0	78%	22%	0%
Congo	58	:	0	0	0	-	-	-
Guinea	42	:	0	4	0	0%	100%	0%
Venezuela	33	:	0	0	0	-	-	-
Afghanistan	32	:	0	0	0	-	-	-

Source: SEF.

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

Gender/age breakdown of the total number of applicants: 2017

	Number	Percentage
Total number of applicants	1,750	-
Men	1,072	61%
Women	678	39%
Children	455	26%
Unaccompanied children	28	16%

Source: SEF.

Comparison between first instance and appeal decision rates: 2017

Overall statistics on appeals decisions are not available.

According to the information provided by the High Council of Administrative and Fiscal Courts (*Conselho Superior dos Tribunais Administrativos e Fiscais*, CSTAF), in 2017 the Administrative Circle Court (*Tribunal Administrativo de Círculo*, TAC) of Lisbon was the only first instance administrative court that had a specific registration string and therefore statistics pertaining to asylum-related appeals. Furthermore, it was (by far) the first instance court with the most abundant asylum-related case law in Portugal and the only one that registered more than 5 asylum-related appeals during the year.

The most representative nationalities among appellants included the Democratic Republic of Congo (80), Angola (20), Gambia (19), Senegal (18), China (16), Guinea (16), Sierra Leone (16), Iraq (14) and Mali (10). Nationalities such as Afghanistan (5) and Syria (1) remained marginal in the overall number of registered judicial appeals.

In 2017 the TAC of Lisbon rendered a total of 418 asylum-related appeal decisions, including 107 rulings of lack of jurisdiction, but the statistical information shared does not include a breakdown per type of asylum procedure. Of these, 16 rulings were in favour of the appellants granting them international protection and 12 annulling the first instance decision. Additionally, there were 262 rulings against the appellants and 14 rulings of dismissal of the appeal on technical grounds.² The overall success rate of appeals all nationalities and procedures included stood roughly at 9%. In the case of the Democratic Republic of Congo, the most representative nationality, the success rate of appeals was around 11%. With few exceptions, the success rate for other nationalities was equally low: Angola (10%); Gambia (5%); Senegal (0%); China (31%); Guinea (13%); Sierra Leone (19%); Iraq (0%) and Mali (10%).

² These relate to various legal grounds such as the lack of legal capacity of appellants, *lis pendens*, *res judicata*, etc.

While neither the information provided by SEF nor CSTAF (regarding the TAC of Lisbon) includes a breakdown allowing for clear-cut statistics on decision rates per type of procedure, according to the information available to CPR the main type of asylum procedures used in 2017 per country of origin to reject asylum applications at first instance consisted of accelerated procedures in the case of the Democratic Republic of Congo (103 out of a total 107 rejections), Angola (38 out of 38), Gambia (12 out of 15); Senegal (17 out of 19), Sierra Leone (23 out of 25) and Mali (12 out of 13); Dublin procedures in the case of Guinea (9 out of 17) and Iraq (21 out of 23); and regular procedures for China (37 out of 39, including a few decisions issued in late 2016).

Overview of the legal framework

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

Title (EN)	Original Title (PT)	Abbreviation	Web Link
<p>Act n. 27/2008 of 30 June 2008 establishing the conditions for granting asylum or subsidiary protection, transposing Directives 2004/83/EC and 2005/85/EC</p> <p><i>Amended by:</i> Act n. 26/2014 of 5 May 2014 amending Act n. 27/2008, transposing Directives 2011/95, 2013/32/EU and 2013/33/EU</p>	<p>Lei n.º 27/2008 de 30 de junho que estabelece as condições e procedimentos de concessão de asilo ou protecção subsidiária e os estatutos de requerente de asilo, de refugiado e de protecção subsidiária, transpondo para a ordem jurídica interna as Directivas n.os 2004/83/CE, do Conselho, de 29 de Abril, e 2005/85/CE, do Conselho, de 1 de Dezembro</p> <p>Lei n.º 26/2014 de 5 de maio que procede à primeira alteração à Lei n.º 27/2008, de 30 de junho, que estabelece as condições e procedimentos de concessão de asilo ou protecção subsidiária e os estatutos de requerente de asilo, de refugiado e de protecção subsidiária, transpondo as Diretivas n.os 2011/95/UE, do Parlamento Europeu e do Conselho, de 13 de dezembro, 2013/32/UE, do Parlamento Europeu e do Conselho, de 26 de junho, e 2013/33/UE, do Parlamento Europeu e do Conselho, de 26 de junho</p>	Asylum Act	<p>http://bit.ly/2npMI5T (PT)</p> <p>http://bit.ly/1jd3hcG (PT)</p> <p>http://bit.ly/2AfJ7sS (EN)</p>
Act n. 23/2007 of 4 July 2007 on the legal status of entry, residence, departure and removal of foreigners from the national territory	Lei n.º 23/2007, de 4 de julho, que aprova o regime jurídico de entrada, permanência, saída e afastamento de estrangeiros do território nacional	Aliens Act	https://goo.gl/9KBsS1 (PT)
Act n. 15/2002 of 22 February 2002 approving the Code of Procedure before the Administrative Tribunals	Lei n.º 15/2002 de 22 de fevereiro que aprova o Código de Processo nos Tribunais Administrativos	Administrative Court Procedure Code	http://bit.ly/2yekj3x (PT)
Act n. 13/2003 of 21 May 2003 establishing the Social Insertion Revenue	Lei n.º 13/2003, de 21 de maio que cria o rendimento social de inserção	RSI Act	http://bit.ly/2zyQuOc (PT)

Act n. 220/2006 of 3 November 2006 establishing the legal framework for the social protection in case of unemployment of persons working for an employer	Lei n.º 220/2006, de 3 de Novembro, Regime jurídico de protecção social da eventualidade de desemprego dos trabalhadores por conta de outrem		https://bit.ly/2JzdoHt (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	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		https://bit.ly/2IDrmGX (PT)
Act n. 35/2014 of 20 June 2014 governing employment in public functions	Lei n.º 35/2014 de 20 de junho que a prova a Lei Geral do Trabalho em Funções Públicas		http://bit.ly/2B27JEC (PT)
Act n. 7/2009 of 12 February 2009 approving the Labour Code	Lei n.º 7/2009 de 12 de fevereiro que aprova a revisão do Código do Trabalho	Labour Code	http://goo.gl/8gcMW6 (PT)
Act n. 37/81 of 3 October 1981 approving the Act on Nationality	Lei n.º 37/81 de 3 de outubro de 1981 que aprova a Lei da Nacionalidade	Nationality Act	http://bit.ly/2jukiBm (PT)
Act n. 81/2014 of 19 December 2014 <i>Amended by:</i> Act n. 32/2016 of 24 August 2016	Lei n.º 81/2014 de 19 de dezembro alterada pela Lei n.º 32/2016 de 24 de Agosto que estabelece o novo regime do arrendamento apoiado para habitação Lei n.º 32/2016 de 24 de agosto	Public Leasing Act	http://bit.ly/2ndGox8 (PT)

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

Title (EN)	Original Title (PT)	Abbreviation	Web Link
Decree-Law n. 252/2000 of 16 October 2000 Organisational structure of the Aliens and Borders Service	Decreto-Lei n.º 252/2000 de 16 de outubro que aprova a estrutura orgânica e define as atribuições do Serviço de Estrangeiros e Fronteiras	SEF Structure Decree-Law	http://goo.gl/F7KoBY (PT)
Decree-Law n. 4/2015 of 7 January 2015 - Code of Administrative Procedure	Decreto-Lei n.º 4/2015 de 7 de janeiro que aprova o novo Código do Procedimento Administrativo	Administrative Procedure Code	http://bit.ly/2mmF8Hw (PT)
Act n. 147/99 of 1 September 1999 - Children and Youths at Risk Protection Act	Lei n.º 147/99, de 01 de Setembro – Lei de Protecção de Crianças e Jovens em Perigo		https://goo.gl/7G71tX (PT)

Act n. 141/2015 of 8 September 2015 - General Regime of Civil Guardianship Process	Lei n.º 141/2015, de 08 de Setembro – Regime Geral do Processo Tutelar Cível		https://goo.gl/agJ1yJ (PT)
Decree-Law n. 464/80 of 13 October 1980 establishing new conditions of access and entitlement to social pension	Decreto-Lei n.º 464/80 de 13 de outubro que estabelece em novos moldes as condições de acesso e de atribuição da pensão social		http://bit.ly/2yqCxIG (PT)
Ministerial Order 98/2017 of 7 March 2017 approving the annual revaluation of pensions and other social allowances for 2017	Portaria n.º 98/2017 de 7 de março que procede à atualização anual das pensões e de outras prestações sociais, para o ano de 2017		http://bit.ly/2C0dEKn (PT)
Ministerial Order 257/2012 of 27 August 2012 implementing Law 13/2013 on the Social Insertion Revenue (RSI) and determining the value of the RSI	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.		http://goo.gl/kpb5mR (PT)
Ministerial Order 4/2017 of 3 January 2017 approving the annual revaluation of the social assistance index value	Portaria n.º 4/2017, de 3 de Janeiro que procede à atualização anual do valor do indexante dos apoios sociais		http://goo.gl/L8ktbc (PT)
Law Decree n. 113/2011 of 29 November 2011 regulating access to National Health Service in respect to co-payments and special benefits	Decreto-Lei n.º 113/2011, de 29 de novembro que regula o acesso às prestações do Serviço Nacional de Saúde por parte dos utentes no que respeita ao regime das taxas moderadoras e à aplicação de regimes especiais de benefícios		http://bit.ly/2iaqtL7 (PT)
Decree-Law n. 227/2005 of 28 December 2005 defining the framework of concession of equivalence of foreign qualifications	Decreto-Lei n.º 227/2005 de 28 de dezembro que define o novo regime de concessão de equivalência de habilitações estrangeiras dos ensinos básico e secundário		http://bit.ly/2zd71Ea (PT)
Decree-Law n. 83/2000 of 11 May 2000 on the new regime for the issuance of passports	Decreto-Lei n.º 83/2000 de 11 de maio que aprova o novo regime legal da concessão e emissão dos passaportes	Travel Documents Order	http://bit.ly/2AjwA7G (PT)
Governmental Decree n. 84/2007 of 5 November 2007 regulating Act n. 23/2007 of 4 July 2007 on the legal status of entry, residence, departure and removal of foreigners from the national territory	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		https://goo.gl/Jzaqqw (PT)
Ministerial Order n. 1334-E/2010, 31 December	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,		https://goo.gl/jWnPVS (PT)

Amended by: Ministerial Order n. 305-A/2012 of 4 October 2014	com as alterações introduzidas pela Lei n.º 29/2012, de 9 de Agosto		
Decision n. 10041-A/2015 of 3 September 2015 establishing the Working Group on the European Agenda on Migration	Despacho n.º 10041-A/2015 que cria um Grupo de Trabalho para a Agenda Europeia para as Migrações	European Agenda on Migration Working Group Order	http://bit.ly/1KtbCGk (PT)
Council of Ministers resolution n. 5/2016 of 27 January 2016 assigning the political coordination of the Working Group created by Decision n. 10041-A/2015 of 3 September 2015 to the Deputy Minister	Resolução do Conselho de Ministros n.º 5/2016, de 27 de janeiro que mandata no Ministro Adjunto a coordenação política do Grupo de Trabalho constituído pelo Despacho n.º 10041-A/2015, de 31 de agosto, publicado no Diário da República, 2.ª série, n.º 172, de 3 de setembro		https://goo.gl/nY6AkL (PT)
Parliament Resolution n. 167/17 of 25 July 2017 recommending the Government to publish an evaluation report of the Portuguese reception policy for refugees	Resolução da Assembleia da República n.º 167/2017 que recomenda ao Governo a publicação de um relatório de avaliação da política portuguesa de acolhimento de refugiados		https://bit.ly/2GdX39b (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		http://bit.ly/2yyIMRL (PT)
Ministerial Order n. 1042/2008 of 15 September 2008 establishing the terms of access of asylum seekers and their family members to the National Health Service	Portaria n.º 1042/2008 de 15 de setembro que estabelece os termos e as garantias do acesso dos requerentes de asilo e respectivos membros da família ao Serviço Nacional de Saúde		http://bit.ly/2zywnzF (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		http://bit.ly/2jfEMOc (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 outros sistemas de ensino, bem como as tabelas de		http://bit.ly/2zZcIyv (PT)

Portuguese education system and other education systems	conversão dos sistemas de classificação correspondentes respeitantes a vários países		
Decree-Law n. 131/95 of 6 June 1995 approving the Civil Registration Code	Decreto-Lei n.º 131/95 de 6 de Junho que aprova o Código do Registo Civil		http://goo.gl/wQHHx8 (PT)
Decree-Law n. 237-A/2006 of 14 December 2006 approving the regulation of the Portuguese nationality	Decreto-Lei n.º 237-A/2006 de 14 de dezembro que aprova o regulamento da Nacionalidade Portuguesa	Portuguese 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	http://bit.ly/2k5N2Ey (PT)
Ministerial Order n. 302/2015 of 22 September 2015 Template refugee travel document <i>Amended by:</i> Ministerial Order n. 412/2015 of 27 November 2015	Portaria n.º 302/2015 de 22 de setembro, Modelo do título de viagem para os cidadãos estrangeiros residentes em Portugal na qualidade de refugiados Portaria n.º 412/2015 de 27 de novembro	Refugee Travel Document Order	http://bit.ly/1JmsAOR (PT) http://bit.ly/2ih7QIN (PT)
Ministerial Order n. 1262/2009 of 15 October 2009 approving the creation of Portuguese language courses for non-native speakers and the rules pertaining to teaching methodologies and certification. <i>Amended by:</i> Ministerial Order n. 216-B/2012 of 18 July 2012	Portaria n.º 1262/2009 de 15 de outubro alterada pela Portaria 216-B/2012 de 18 de julho que cria os cursos de Português para Falantes de Outras Línguas, assim como as regras a que obedece a sua lecionação e certificação		https://goo.gl/16V8io (PT) https://goo.gl/NjrrTe (PT)

Overview of the main changes since the first report

The first report was published in **November 2017**.

Asylum procedure

- ❖ **Dublin:** While in recent years asylum seekers in a Dublin procedure were systematically offered a personal interview, the information available to CPR in 2017 no longer confirms this assessment. During the year, CPR was informed by the SEF of 104 transfer decisions of adult applicants but only of 39 individual interviews, raising the question of whether the gap is related to a failure in communicating the interviews in accordance with the law or the lack of individual interviews altogether. It should be noted that recent case law from the Central Administrative Court (TAC) of Lisbon has confirmed the right of an asylum seeker to an individual interview in accordance with Article 5 of the Dublin Regulation and overturned a transfer decision to Denmark because the SEF had failed to provide the applicant with such an interview.

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

- ❖ **Safe third country:** Countries designated as safe third countries in 2017 included South Africa and Ecuador. A ruling of the TAC Lisbon from November 2017 considered the transit and the holding of a 3-month visa as evidence of a sufficient connection between the applicant and the third country concerned on the basis of which it would be reasonable for that person to go to that country.
- ❖ **Appeals:** According to the CSTAF, in 2017 there were a total 475 appeals lodged at the TAC of Lisbon against negative decisions on asylum applications, which represents an increase of over 200% when compared to 2016.

Reception conditions

- ❖ **Reception capacity:** At the end of April 2017, CPR informed the SEF and the GTO that it could no longer accept new arrivals due to overcrowding. Only vulnerable cases such as women with young children were accepted in the CAR during that period. The CAR reopened in June 2017 following the transfer of several asylum seekers to housing provided by the ISS and SCML in accordance with the relevant MoUs. Systematic overcrowding has put severe strains on the living conditions and access to services, despite the continuous efforts to accommodate specific needs both at CAR and in external accommodation.
- ❖ **Relocation:** In July 2017, the Parliament commissioned an evaluation of the reception of relocated asylum seekers in Portugal. The report, coordinated and drafted by the ACM, collected input from 39 hosting entities and 1 refugee community organisation and was completed in December 2017. The evaluation conducted by the ACM is based on a set of general indicators drawn from the priority areas of the Working Group's national plan for the reception and integration of relocated persons. Despite the general acknowledgement of some challenges, the overall evaluation of the programme is very positive. However, the results presented regarding reception and integration conditions are based on very general quantitative indicators and provide limited qualitative information. The qualitative information presented in the report is mostly based on the consultation conducted with hosting and refugee community organisations and points to challenges such as insufficient financial support and the need for longer reception programmes; gaps in pre and post departure information; lack of interpreters; and insufficient and ill-adapted language training as well as insufficient professional training opportunities.

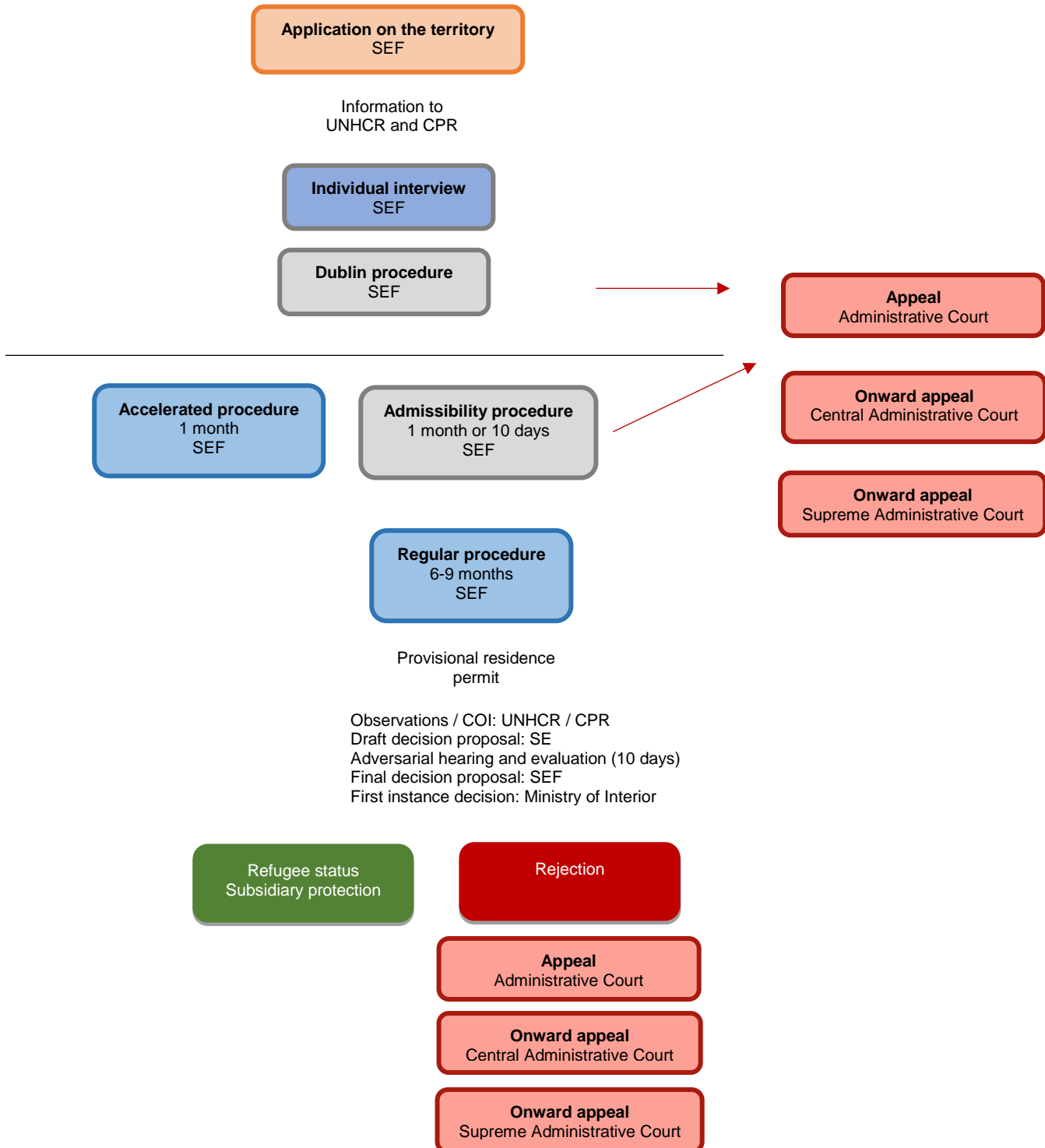
Detention of asylum seekers

- ❖ **Alternatives to detention:** CPR has witnessed throughout 2017 a growing tendency of the Lisbon Criminal Court to invite the SEF to give due consideration to the release of single-parent families with children and their referral to CPR's CAR in Bobadela. However, these decisions fall short of conducting an individual assessment of necessity and proportionality and of issuing a command and in many of these instances the SEF has disregarded the recommendations issued by the court.
- ❖ **Detention of vulnerable applicants:** A very significant percentage of vulnerable applicants such as unaccompanied children, families with children and pregnant women were detained and subject to the border procedure in 2017. CPR continued to observe long waiting periods between asylum applications filed by unaccompanied children and families with children at border points, and their entry into the national territory and referral to the CACR and CAR.
- ❖ **Conditions in detention facilities:** In September 2017, the Ombudsman published a report on the treatment of foreign citizens in irregular situation or asylum seekers in temporary installation centres or spaces classified as such, focusing on the situation at the detention facility at the Lisbon airport. The report shed light on the detention conditions, particularly highlighting deficiencies in the treatment offered to vulnerable persons, and corroborating some of the concerns reported last year by CPR.

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

- | | | |
|---|---|-----------------------------|
| ❖ Regular procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: ³ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Fast-track processing: ⁴ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Dublin procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Admissibility procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Border procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Accelerated procedure: ⁵ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Other: | | |

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

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

Stage of the procedure	Competent authority (EN)	Competent authority (PT)
Application <ul style="list-style-type: none"> ❖ At the border ❖ On the territory 	Aliens and Borders Service	Serviço de Estrangeiros e Fronteiras (SEF)
Dublin	Aliens and Borders Service	Serviço de Estrangeiros e Fronteiras (SEF)
Refugee status determination	Aliens and Borders Service Secretary of State for Internal Affairs	Serviço de Estrangeiros e Fronteiras (SEF) Secretaria de Estado da Administração Interna
First appeal	Administrative Court of Lisbon Administrative and Fiscal Courts	Tribunal Administrativo de Círculo de Lisboa Tribunais Administrativos e Fiscais
Onward appeal	Central Administrative Courts Administrative Supreme Court	Tribunais Centrais Administrativos Supremo Tribunal Administrativo
Subsequent application	Aliens and Borders Service Secretary of State for Internal Administration	Serviço de Estrangeiros e Fronteiras (SEF) Secretaria de Estado da Administração Interna

4. Number of staff and nature of the first instance authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?
Aliens and Borders Service (SEF), Asylum and Refugee Cabinet (GAR)	11	Secretary of State for Internal Administration, Ministry of Internal Administration	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Source: SEF.

The Asylum and Refugee Cabinet (GAR) of the Aliens and Borders Service (SEF) is composed of eight case officers who are responsible for the examination of asylum applications. Two additional officials are

³ For applications likely to be well-founded or made by vulnerable applicants.

⁴ Accelerating the processing of specific caseloads as part of the regular procedure.

⁵ Labelled as “accelerated procedure” in national law.

responsible for revising the files and/or proposals drafted by the case officers and one additional official is responsible for the final decisions.

5. Short overview of the asylum procedure

The Portuguese asylum procedure is a single procedure for both refugee status and subsidiary protection.⁶ There are different procedures depending on whether the asylum application: is submitted to the regular procedure; is deemed unfounded (including in the case of applications following a removal procedure) and therefore submitted to an accelerated procedure; or is presented at a national border.

Anyone who irregularly enters or remains on Portuguese national territory must present his or her request to the SEF or to any other police authority as soon as possible, orally or in writing. In the latter case, the police authority has 48 hours to inform the SEF of the application.⁷ The SEF is required to immediately inform the United Nations High Commissioner for Refugees (UNHCR) and the Portuguese Refugee Council (CPR), as an organisation working on its behalf, of all asylum applications.⁸ The SEF is required to register the asylum application within 3 days of presentation and to issue the applicant a certificate of the asylum application within 3 days after registration.⁹

Except for special cases e.g. applicants lacking legal capacity,¹⁰ 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 territory¹¹ and at the border.¹² Following the interview, the SEF produces a document narrating the essential facts of the application and in the case of applications on the territory (with the exception of subsequent applications and applications following a removal decision) the applicant has 5 days to seek revision of the narrative.¹³

Admissibility

With the exception of Dublin decisions, the National Director of the SEF has 30 days to make a decision on the admissibility of applications on the territory,¹⁴ (10 days for subsequent applications and applications following a removal order)¹⁵ as opposed to 7 days for applications at the border. If the Director denies admissibility on the territory, the asylum seeker has 8 days to appeal the decision before the Administrative Court with suspensive effect,¹⁶ with the exception of 4 days for inadmissible subsequent applications and applications following a removal order,¹⁷ or, failing an appeal, 20 days to leave the country.¹⁸ In the case of border procedures, the time limit to appeal is reduced to 4 days.¹⁹ In the particular case of a Dublin decision, the deadlines for the admissibility decision is suspended pending a reply from the requested Member State.²⁰ Upon notification of a “take charge” / “take back” decision from the SEF, the applicant has 5 days to appeal before the Administrative Court with suspensive effect.²¹

⁶ Article 10(2) Asylum Act.

⁷ Articles 13(1) and (2) and 19(1)(d) Asylum Act.

⁸ Article 13(3) Asylum Act.

⁹ Articles 13(7) and 14(1) Asylum Act.

¹⁰ Articles 16(5) Asylum Act.

¹¹ Article 16 Asylum Act.

¹² Article 24(2) and (3) Asylum Act.

¹³ Article 17 Asylum Act.

¹⁴ Article 20(1) Asylum Act.

¹⁵ Articles 33(4) and 33-A(5) Asylum Act.

¹⁶ Articles 22(1) Asylum Act.

¹⁷ Articles 33(6) and 33-A(6) Asylum Act.

¹⁸ Articles 21(2) and (3) and 33(9) Asylum Act.

¹⁹ Article 25(1) Asylum Act.

²⁰ 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.

²¹ Article 37(4) Asylum Act.

Regular procedure

As soon as an asylum application is deemed admissible,²² it proceeds to the eligibility evaluation.²³ In accordance with the law, this stage lasts up to 6 months but can be extended to 9 months in cases of particular complexity.²⁴ The asylum seeker receives a provisional residence permit valid for 6 months renewable that grants access to education and employment.²⁵ During this phase, the SEF conducts due diligence, evaluating all relevant facts to prepare a reasoned decision. This is generally done on the basis of the personal interview conducted during the admissibility stage of the procedure given that this interview also encompasses the merits of the application.²⁶ UNHCR and CPR as its representative are entitled to present their observations to the SEF at any time during the procedure in accordance with Article 35 of the 1951 Refugee Convention.²⁷ Upon notification of the proposal for a final decision, the applicant has 10 days to evaluate the SEF's reasoning and may produce documentation to that effect.²⁸ The SEF then sends its recommendation to the Director, who has 10 days to present it to the Ministry of Internal Administration that in turn has 8 days to make a final decision.²⁹ In the event of a negative decision, the applicant may appeal with suspensive effect to the Administrative Court within 15 days,³⁰ voluntarily depart from national territory within 30 days or face a removal procedure.³¹

Accelerated procedure

The law provides for an accelerated procedure regarding applications deemed unfounded on certain grounds. These grounds include, among others, subsequent applications that are not deemed inadmissible and applications following a removal procedure.³² While these procedures provide for the basic principles and guarantees of the regular procedure,³³ they lay down time limits for the adoption of a decision at first instance regarding the merits of the application that are significantly shorter than those of the regular procedure.³⁴ In addition, it entails reduced guarantees such as exclusion from the right of the applicant to seek revision of the narrative of his or her personal interview,³⁵ or to be notified and evaluate the SEF's reasoning of the proposal for a final decision, as well as shorter appeal deadlines.³⁶

Border procedure

The law provides for a special procedure regarding applications made at a national border.³⁷ While this procedure provides for the basic principles and guarantees of the regular procedure,³⁸ it lays down a

²² Article 20(4) Asylum Act. In the absence of a decision within 30 days the application is automatically admitted to the procedure.

²³ Article 21(1) Asylum Act.

²⁴ Article 28(2) Asylum Act.

²⁵ Article 27(1) Asylum Act. Ministerial Order 597/2015 provides for the model and technical features of the provisional residence permit.

²⁶ Article 28(1) Asylum Act.

²⁷ Article 28(5) Asylum Act.

²⁸ Article 29(2) Asylum Act.

²⁹ Article 29(4) and (5) Asylum Act.

³⁰ Article 30(1) Asylum Act.

³¹ Article 31 Asylum Act.

³² Article 19 Asylum Act.

³³ 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.

³⁴ 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).

³⁵ This is limited to accelerated procedures at the border and in the case of applications following a removal procedure.

³⁶ 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).

³⁷ Article 23(1) Asylum Act.

³⁸ This includes access to the procedure, the right to remain in national territory pending examination, the right to information, personal interviews, the right to legal information and assistance throughout the procedure, the right to free legal aid, special procedural guarantees, among others.

significantly shorter time limit for the adoption of a decision regarding admissibility or the grounds for the accelerated procedure.³⁹ Additionally, the border procedure is characterised by a shorter appeal deadline of 4 days before the Administrative Court,⁴⁰ as well as reduced guarantees such as exclusion from the right of the applicant to seek revision of the narrative of his or her personal interview.⁴¹ Asylum seekers are detained during the border procedure.⁴²

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? ☐ Yes ☒ No

The Portuguese authorities are bound by the duty to protect asylum seekers and beneficiaries of international protection from *refoulement*.⁴³ National case law has reaffirmed on different occasions the protection against *refoulement* both on national territory and at the border, regardless of the migrant's status and in cases of either direct or indirect exposure to *refoulement*.⁴⁴ CPR is unaware of national case law that addresses the extraterritorial dimension of *non-refoulement*.

There are no published reports by NGOs about cases of actual *refoulement* at the border of persons wanting to apply for asylum. CPR does not conduct border monitoring and only has access to applicants after the registration of their asylum claim and once the SEF has conducted the individual interview, which constitutes an additional risk factor. However, it receives at times third party contacts informing it of the presence of individuals in need of international protection at the border. With rare exceptions, and even where CPR does not immediately intervene, the registration of the corresponding applications in these cases is normally communicated by the SEF to CPR in the following days.

Notwithstanding this, in 2014 CPR carried out research on access to protection and the principle of *non-refoulement* at the borders and in particular at **Lisbon Airport**.⁴⁵ While no cases of actual push backs at the border were identified, the research allowed for the identification of certain shortcomings such as extraterritorial *refoulement* in the framework of extraterritorial border controls by air carrier personnel in conjunction with the SEF in Guinea Bissau.

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

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

³⁹ 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.

⁴⁰ Article 25(1) Asylum Act.

⁴¹ Article 24 Asylum Act.

⁴² Articles 26(1) and 35-A(3)(a) Asylum Act.

⁴³ Articles 2(aa), 47 and 65 Asylum Act; Articles 31(6), 40(4) and 143 Aliens Act.

⁴⁴ See e.g. Administrative Court of Lisbon, Decisions No 1480/12.7BELSB and No 2141/10.7BELSB.

⁴⁵ CPR, *Access to Protection: a Human Right, country report, Portugal*, 2014, available at: <http://bit.ly/2xA2aiV>.

It should be noted that in 2017 CPR was denied access by the SEF to a stowaway on board a vessel that docked in Portugal travelling from Spain to the United Kingdom on the grounds that the individual, seemingly of Eritrean nationality, did not intend to apply for asylum in Portugal but rather seek international protection in the UK. While this information was later confirmed to UNHCR and CPR by the captain of the vessel, the situation is an indicator of ongoing constraints to border monitoring by civil society organisations in Portugal.

2. Registration of the asylum application

Indicators: Registration

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

While the asylum application can be presented either to the SEF or to any other police authority that must then refer the claim to the SEF, responsibility to register asylum claims lies solely with the SEF.⁴⁶ In accordance with the SEF's internal organisation,⁴⁷ the responsibility for organising asylum files (including registration) lies with its Refugee and Asylum Cabinet (GAR). The SEF/GAR is required to inform CPR as an organisation working on UNHCR's behalf of the registration of individual asylum applications. In 2017, out of a total of 1,750 applicants registered, 1,722 cases were communicated to CPR.

In accordance with the law, anyone who irregularly enters Portuguese national territory or is refused entry at the border must present his or her request to the SEF or to any other police authority as soon as possible. Despite not laying down specific time limits for asylum seekers to lodge their application, the law provides for use of the [Accelerated Procedure](#) in case the asylum applicant enters or remains irregularly on national territory and fails to apply for asylum as soon as possible without a valid reason.⁴⁸ However, this provision has rarely, if ever, been applied in practice. It should also be noted that failure to apply for asylum at the earliest possible time, unless the applicant can demonstrate good reason for not having done so, constitutes a ground for not granting the benefit of the doubt.⁴⁹ This provision has been applied by the SEF in practice. Additionally, it should be noted that persons refused entry at the border are liable to immediate removal to the point of their departure,⁵⁰ meaning that they are required to present their asylum application immediately in practice.

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

The SEF is required to register the asylum application within 3 days of presentation and to issue the applicant a certificate of the asylum application within 3 days of registration.⁵¹ Despite isolated delays in obtaining appointments at SEF/GAR for registration, or delays related to the registration of asylum applications presented in the SEF's regional representations, CPR has not encountered systemic or serious problems regarding the registration of applications as opposed to some instances of delayed issuance and extension of the certificates of the asylum application.

⁴⁶ Article 13(7) Asylum Act.

⁴⁷ Article 17 Decree-Law 252/2000.

⁴⁸ Article 19(1)(d) Asylum Act.

⁴⁹ Article 18(4)(d) Asylum Act.

⁵⁰ Article 41(1) Aliens Act.

⁵¹ Articles 13(7) and 14(1) Asylum Act.

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

- | | |
|--|---|
| 1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance: | 6 months |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases at first instance as of 31 December 2017: | 476 |

In accordance with the Asylum Act and the SEF's internal organisation,⁵² the responsibility for examining applications and drafting first instance decisions lies with SEF/GAR, while the decision is formally adopted by the Secretary of State for Internal Administration within the Ministry of Internal Administration. The SEF/GAR is a specialised authority in the field of asylum whose competences are restricted to the following asylum-related tasks: (i) to organise and process asylum applications; (ii) to organise and process subsidiary protection applications; (iii) to organise and process Dublin procedures and where necessary to issue *laissez passer*; (iv) to issue reasoned opinions on submissions for refugee resettlement; (v) to issue reasoned opinions on applications for the renewal of refugee travel documents presented before the Portuguese Consulates; (vi) to issue refugee identity cards and travel documents as well as residence permits provided for in the Asylum Act as well as renew and extend the validity of such documents; (vii) to act as contact point of the European Asylum Support Office (EASO); and (viii) to provide for the strategic planning of EASO-related activities.

The first instance determining authority is required to take a decision on the asylum application within 6 months. This time limit is additional to the duration of the admissibility procedure and can be extended to 9 months in cases of particular complexity.⁵³ The Asylum Act does not provide for specific consequences in case of failure to meet the time limit and in practice asylum seekers are reluctant to act on the delay on the basis of general administrative guarantees, e.g. by requesting Administrative Courts to order SEF to issue a decision on the application within a given time limit.⁵⁴

The significant increase in the number of spontaneously arriving and relocated asylum seekers, leading to an increase in asylum applications from 447 in 2014 to 896 in 2015, 1,469 in 2016 and 1,750 in 2017 has led SEF/GAR to recruit additional staff in the recent past. The SEF indicates that the average duration of the asylum procedure in 2017 was 7 working days, a reference probably related to the average duration of admissibility and accelerated procedures at the border. The SEF further indicates an average duration of 6 months for the first instance procedure in the case of Syria, Afghanistan and Iraq. In the 15 cases communicated to CPR by the SEF the duration of the regular procedure ranged from 10 to 26 months. CPR is uncertain whether the low number of notifications of asylum decisions is related to gaps in communication with the SEF or indicates delays in the decision-making process. The statistics provided by the SEF on first instance decisions seem to confirm the first scenario.

1.2. Prioritised examination and fast-track processing

According to the SEF, while there are no precise statistics available, vulnerable applicants such as pregnant women, women accompanied by young children, elderly or those in need of medical care and unaccompanied children are processed in a prioritised manner.

⁵² Article 29(1) Asylum Act; Article 17 Decree-Law 252/2000.

⁵³ Article 28(2) Asylum Act.

⁵⁴ Article 129 Decree-Law 4/2015; Article 66(1) Administrative Court Procedure Code.

The statistical information collected by CPR for 2017 based on the information received from the SEF does not indicate a clear trend in this regard, as the average duration of the first instance procedure for vulnerable asylum seekers such as unaccompanied children in the regular procedure does not seem to clearly differ from that of other caseloads. Nevertheless, the CNIS reported that the examination of the asylum application of the 4 unaccompanied asylum-seeking children transferred to Portugal from Greece in the framework of its pilot project were clearly prioritised (processed under 6 months) in relation to other clients in the framework of the relocation programme.

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No
 ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

The Asylum Act provides for the systematic personal interview of all asylum seekers in the regular procedure prior to the issuance of a first instance decision,⁵⁵ except for cases where:

1. The evidence already available allows for a positive decision; or
2. The applicant lacks legal capacity due to long-lasting reasons beyond his or her control.⁵⁶ In this case, the SEF is required to offer the applicant or his or her dependant(s) the opportunity to communicate relevant information by other means.⁵⁷

The asylum seeker is entitled to give his or her statement in his or her preferred language or in any other language that he or she understands and in which he or she is able to communicate clearly.⁵⁸ To that end, he or she is entitled to the assistance of an interpreter when applying for asylum and throughout the asylum procedure, if needed.⁵⁹ The asylum seeker can also be assisted by a lawyer but the absence thereof does not preclude the SEF from conducting the interview.⁶⁰

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

Interpretation

The quality of interpretation services used for interviews remains a serious challenge, as in many cases service providers are not trained interpreters but rather individuals with sufficient command of source languages. While the interpreters are bound by a legal duty of confidentiality, there is no agreed code of conduct used by the SEF. In 2015, CPR conducted training for interpreters in partnership with the Portuguese Association of Conference Interpreters (APIC) focusing on technical aspects of interpretation and on asylum law.

⁵⁵ Article 16(1), (2) and (3) Asylum Act.

⁵⁶ Article 16(5) Asylum Act.

⁵⁷ Article 16(6) Asylum Act.

⁵⁸ Article 16(1) Asylum Act.

⁵⁹ Article 49(1)(d) Asylum Act.

⁶⁰ Article 49(7) Asylum Act.

In November 2017, the ACM organised a training for interpreters who work with reception service providers as well as professionals who resort to interpreters in the provision of reception and health services to asylum seekers and beneficiaries of international protection. The training was conducted by experts of the International Rescue Committee in the framework of the European Resettlement and Integration Technical Assistance (EURITA) joint project of the U.S. Department of State and the International Rescue Committee and consisted of a 2-day training for interpreters and a 1- to 2-hour training for professionals. The training was not focused on interpretation in asylum procedures, however.

In the case of rarer languages – e.g. Tigrinya, Pashto, Bambara, Kurdish and to a lesser extent Arabic and Farsi – securing interpreters with an adequate command of the target language remains very challenging, including in the framework of [Relocation](#).

Recording and report

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

The SEF produces a written report narrating the most important elements raised during the interview. The report is immediately provided to the applicant who has 5 days to seek revision of the narrative.⁶¹ CPR provides systematic legal assistance to asylum seekers at this stage, with the assistance of interpreters, for the purpose of reviewing and submitting comments / corrections to the report of SEF/GAR. Given that the written report is drafted during the interview, the case officer is under significant time pressure to complete both the interview and the report and this generally results in the applicant having to make many comments and corrections.

1.4. Appeal

Indicators: Regular Procedure: Appeal

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

❖ If yes, is it	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If yes, is it automatically suspensive	<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2. Average processing time for the appeal body to make a decision: 2.5 to 6 months

The Asylum Act provides for an appeal against the first instance decision in the regular procedure consisting of judicial review of relevant facts and points of law by the Administrative Court.⁶² The asylum seeker has 15 days to lodge the appeal, which is automatically suspensive.⁶³

Administrative Courts have a review competence which allows them to either: (1) confirm the negative decision of the first instance decision body; (2) annul the decision and refer the case back to the first instance decision body with guidance on applicable standards;⁶⁴ or (3) overturn it by granting refugee or subsidiary protection status.⁶⁵

The Asylum Act qualifies the judicial review as urgent,⁶⁶ and provides for a simplified judicial process with reduced formalities and time limits with the objective of shortening the duration of the judicial review.⁶⁷

⁶¹ Article 17 Asylum Act.

⁶² Article 30(1) Asylum Act; Article 95(3) Administrative Court Procedure Code.

⁶³ Article 30(1) Asylum Act.

⁶⁴ Article 71(2) Administrative Court Procedure Code. In practice this is normally the case when the courts find that there are relevant gaps in the assessment of the material facts of the claim, thus requiring the first instance decision body to conduct further investigations.

⁶⁵ Article 71(1) Administrative Court Procedure Code.

⁶⁶ Article 84 Asylum Act.

⁶⁷ Article 30(2) Asylum Act; Article 110 Administrative Court Procedure Code.

According to the SEF, the average processing time for the reviewing body to make a decision in 2017 was 4 months, although this information does not seem to make a clear distinction between appeals pertaining to the regular procedure and the remaining procedures.

The information provided by the CSTAF for 2017 regarding the duration of judicial reviews of first instance decisions by the TAC of Lisbon only does not make a distinction between the type of asylum procedure. According to these statistics, the average duration of appeals ranged from 2.5 to 6 months depending on whether witnesses are called to testify during the court procedure. The average duration of appeals did not change significantly in the case of Iraq (2.5 months), Afghanistan (2.5 months) and Syria (2 months).

While the Asylum Act does not specifically provide for a hearing of the asylum seeker during the appeal procedure, such a guarantee is enshrined in the general procedure that provides for the hearing of the parties,⁶⁸ although this is rarely used in practice by lawyers as procedures before the Administrative Court tend to be formalistic and essentially written. As a general rule, the hearing of the appeal body is public but the judge may rule for the need of a private audience based on the need to protect the dignity of the individual or the smooth operation of the procedure.⁶⁹ Only the rulings of second instance Administrative Courts (*Tribunal Central Administrativo*, TCA) and the Supreme Administrative Court (*Supremo Tribunal Administrativo*, STA) are systematically published.⁷⁰

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

According to the SEF, there were 528 appeals against rejections of asylum applications lodged in 2017. According to the CSTAF, there were a total 475 appeals lodged at the TAC of Lisbon against negative decisions on asylum applications in 2017, which represented an increase of over 200% when compared to 2016.. During this period, the TAC of Lisbon rendered 418 rulings on asylum-related appeals, of which 107 were rulings of lack of jurisdiction. The information provided by the CSTAF for 2017 regarding the outcome of judicial reviews of first instance decisions before the TAC of Lisbon indicates a very poor success rate. However, as mentioned in [Statistics](#), these figures do not make a distinction between the type of asylum. In this regard, it must be acknowledged that the quality of many appeals submitted is often poor, given that very few lawyers have any relevant expertise in the field.

Onward appeal

In case of rejection of the appeal, onward appeals are possible before the TCA, consisting of a full judicial review of relevant facts and points of law,⁷¹ with suspensive effect.⁷² Furthermore, the law provides for an additional appeal with suspensive effect before the STA on points of law but only in exceptional cases of fundamental importance of the appeal for legal and social reasons or to improve the quality of legal reasoning in decision-making more broadly.⁷³ The STA make its own assessment and decision on the facts of the case.⁷⁴ In both cases the asylum seeker has 15 days to lodge the appeal.⁷⁵

⁶⁸ Article 90(2) Administrative Court Procedure Code; Article 466 Act 41/2013.

⁶⁹ Article 91(2) Administrative Court Procedure Code; Article 606 Act 41/2013.

⁷⁰ Decisions are available at: <http://www.dgsi.pt/>.

⁷¹ Article 149(1) Administrative Court Procedure Code; Article 31(3) Act 13/2002.

⁷² Article 143(1) Administrative Court Procedure Code.

⁷³ Articles 143(1) and 150(1) Administrative Court Procedure Code.

⁷⁴ Article 150(3) Administrative Court Procedure Code.

⁷⁵ Article 147 Administrative Court Procedure Code.

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.⁷⁶

1.5.1. Legal assistance at first instance

The Asylum Act in particular provides for the right of asylum seekers to free legal assistance at all stages of the asylum procedure which is to be understood as including the first instance of the regular procedure.⁷⁷ Such legal assistance is to be provided without restrictions by a public or private non-governmental organisation in line with a Memorandum of Understanding (MoU).⁷⁸

Furthermore, under the Asylum Act, UNHCR and CPR as an organisation working on its behalf must be informed of all asylum applications in Portugal and are entitled to personally contact all asylum seekers irrespective of the place of application to provide information regarding the asylum procedure and the intervention of UNHCR in the procedure that is dependent on the consent of the applicant.⁷⁹ These organisations are also entitled to be informed of key developments in the asylum procedure upon consent of the applicant,⁸⁰ and to present their observations at any time during the procedure pursuant to Article 35 of the 1951 Refugee Convention.⁸¹

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

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

Regarding particularly vulnerable asylum seekers, CPR provides for specific legal assistance to unaccompanied asylum-seeking children who benefit from the presence of one of its legal officers during the personal interview with the SEF given its legal representative capacity (see [Legal Representation of](#)

⁷⁶ Article 20(1) Constitution.

⁷⁷ Article 49(1)(e) Asylum Act.

⁷⁸ *Ibid.*

⁷⁹ Article 13(3) Asylum Act. See also Article 33(3) Asylum Act concerning subsequent applications.

⁸⁰ Article 17(3): document narrating the essential facts of the request; Article 20(1): decision on admissibility and accelerated procedures in national territory; Article 24(5): decision on admissibility and accelerated procedures at the border; Article 29(6) first instance decision in the regular procedure; Article 37(5): Dublin take charge decision.

⁸¹ Article 28(5) Asylum Act.

Unaccompanied Children), as well as legal information and assistance in the framework of legal representation and protection procedures before the Family and Juvenile Court.⁸²

In the case of relocated asylum seekers, CPR provides legal information and assistance as requested by applicants and hosting entities. In practice, support has focused on providing legal information on the asylum procedure, submission of observations on applicable legal standards advocating for the recognition of refugee status to Syrian nationals when appropriate as well as information and assistance on Family Reunification.

According to the SEF, the total number of requests for legal assistance by asylum seekers during the first instance procedure in 2017 was 421, of which 118 in Dublin procedures. However, these statistics are most likely related to legal assistance at appeal stage and do not offer a breakdown of the total number of requests by type of procedure concerned.

In 2017, CPR provided support to 855 spontaneously arriving asylum seekers in all types of asylum procedures in 2017 (about 85% of the total number of spontaneous applicants), including:

- Conducting 180 refugee status determination interviews related to 335 asylum seekers (main applicants and dependants);
- Submitting 149 comments / corrections to the report narrating the most important elements of the interview with the SEF related to 322 asylum seekers (main applicants and dependants);
- Accompanying 8 unaccompanied children in their interview with the SEF;
- Providing the SEF with observation on applicable legal standards and COI in the regular procedure for 15 asylum seekers;
- Providing assistance in accessing free legal aid for appealing a first instance negative decision in 296 applications, including 20 applications in the regular procedure;
- Assisting 335 lawyers in preparing appeals with relevant standards and COI, including 8 in the regular procedure.

However, the continuing increase in asylum applications in 2017, compounded by the ongoing arrivals of asylum seekers through Relocation, has further aggravated the pressure on CPR's capacities and resulted in corresponding gaps in the provision of legal information and assistance during at first instance, particularly regarding asylum seekers placed in detention or private accommodation in more remote locations.

It should be noted that there are other organisations that also provide legal information and assistance to asylum seekers during the first instance of the regular procedure such as the Jesuit Refugee Service (JRS) Portugal, the National Confederation of Solidarity Institutions (CNIS) regarding unaccompanied asylum-seeking children who were transferred to Portugal in accordance with the "humanitarian clause" of the Dublin Regulation under a pilot-project, and to a lesser extent the High Commission for Migration (ACM) through their Local Support Centres for Migrants Integration (*Centro Local de Apoio à Integração de Migrantes*, CLAIM) but these remain residual and mostly focused on integration.

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.⁸³ The legal framework of free legal aid provides for a "means assessment" on the basis of the household income,⁸⁴ as only applicants who do not hold sufficient income are entitled to free or more favourable conditions to access legal aid.⁸⁵ The application is submitted to the Institute of Social Security (*Instituto da Segurança Social*, ISS) that conducts the means assessment⁸⁶ and refers successful applications to the Portuguese Bar Association (*Ordem dos Advogados*) that

⁸² 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.

⁸³ Article 49(1)(f) Asylum Act.

⁸⁴ Act 34/2004; Ministerial Order 10/2008.

⁸⁵ Article 8-A and Annex Act 34/2004.

⁸⁶ Article 22 Act 34/2004.

appoints a lawyer,⁸⁷ on the basis of a random / automatic selection procedure.⁸⁸ The sole responsibility for organising the selection lies with the Portuguese Bar Association but such procedure should however ensure the quality of the legal aid provided.⁸⁹

It should be noted that national legislation provides for a “merits test” to be conducted by the appointed lawyer according to which free legal assistance can be refused on the basis that the appeal is likely to be unsuccessful. In that case the free legal aid lawyer can excuse him or herself from the case and ultimately the Portuguese Bar Association can choose not to appoint a replacement.⁹⁰ While the average duration of this procedure is around 1-2 months, the law provides for the suspension of the time limit for the appeal upon presentation of the free legal aid application and until the free legal aid appointed lawyer submits the judicial appeal.⁹¹

According to the figures provided by the SEF, the likely number of requests for legal assistance by asylum applicants at appeal stage in 2017 was 421, of which 118 in Dublin cases. These statistics do not offer a breakdown of the total number of requests by type of procedure concerned.

In general asylum seekers in the regular procedure enjoy unhindered access to free legal aid at appeal stage as the practical implementation of potential bottlenecks such as the “means test” conducted by ISS or the “merits test” conducted by free legal aid appointed lawyers have not resulted in a significant number of refusals.

- In the case of the “means test” conducted by the ISS, the fact that asylum seekers admitted to the regular procedure are issued a provisional residence permit and are therefore entitled to access the labour market (see [Access to the Labour Market](#)) has at times resulted in asylum applicants having a level of income that excludes them from free legal aid. In this case, given the limited levels of income, they are still offered more favourable conditions to access legal aid such as instalments that can however discourage them from applying.
- In the case of the “merits test”, instances where free legal aid lawyers excuse themselves from the case for reasons of merit remain limited, as do cases where the Portuguese Bar Association chooses not to appoint a replacement. In this regard, the practice of the Portuguese Bar Association has been inconsistent, sometimes refusing to appoint a replacement after a single lawyer excuses him or herself from a case and in others only after several lawyers do so.

A more significant concern relates to the overall quality of free legal aid at appeal stage, as the current selection system is based on a random / automatic selection procedure managed by the Portuguese Bar Association on the basis of preferred areas of legal assistance chosen beforehand by the appointed lawyers,⁹² that are general in nature and not specifically related to asylum law. In general, however, appointed lawyers are not trained in asylum law and have limited experience in this particular field of law. In the course of 2017, CPR in partnership with UNHCR has engaged with the Portuguese Bar Association with the aim of providing training to legal aid lawyers. Discussions are also ongoing regarding the creation of a specific area of legal assistance dedicated to asylum within the legal aid system, which could eventually contribute to the overall quality of appeals. Furthermore, in September and October 2017, CPR provided a training module to judges, public prosecutors and lawyers on European and EU asylum case law in the framework of an EU funded training programme.⁹³

Additional persisting challenges include the absence of an easily accessible interpretation service, which hinders the communication between the lawyer and the client during the preparation stage of the appeal; the ACM’s translation hotline can constitute a useful tool in this regard but is insufficiently used by lawyers

⁸⁷ Article 30 Act 34/2004.

⁸⁸ Article 2(1) Ministerial Order 10/2008.

⁸⁹ Article 10(2) and (3) Ministerial Order 10/2008.

⁹⁰ Article 34(5) Act 34/2004.

⁹¹ 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>.

⁹² Article 3(3)(c) Regulation of the Bar Association 330-A/2008 of 24 June 2008.

⁹³ The Charter of Fundamental Rights of the EU "in action", available at: <https://goo.gl/1G9LBf>.

according to CPR's experience.⁹⁴ 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.⁹⁵ This is an additional obstacle to effective legal representation at this stage.

2. Dublin

2.1. General

Dublin statistics: 2017

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	250	45	Total	1,603	234
Germany	48	9	Germany	617	72
Italy	44	10	France	229	84
Norway	17	:	Belgium	92	:

Source: SEF. Note that this includes 27 outgoing and 149 incoming information requests under Article 34 of the Regulation.

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

Outgoing and incoming Dublin requests by criterion: 2016-2017				
	2016		2017	
Dublin III Regulation criterion	Outgoing	Incoming	Outgoing	Incoming
Family provisions: Articles 8-11	3	3	1	14
Documentation: Article 12	42	414	29	883
Irregular entry: Article 13	2	0	4	10
Visa-waived entry:	0	1	0	0
Dependent persons clause: Article 16	0	0	0	0
Sovereignty clause: Article 17(1)	0	0	0	2
Humanitarian clause: Article 17(2)	1	2	6	8
"Take back": Article 18(1)(b)	66	122	113	434
"Take back": Article 18(1)(c)	1	1	5	1
"Take back": Article 18(1)(d)	23	36	64	98
"Take back": Article 20(5)	0	0	1	4
Total outgoing and incoming requests	138	579	223	1,454

Source: SEF.

⁹⁴ ACM's interpretation hotline relies on a database of 58 interpreters/translators to enable communication with non-Portuguese speaking citizens. Access is free of charge (cost of a local call) and can be used on working days, between 9:00 and 17:00. Additional information, including the list of languages covered, is available at <http://bit.ly/2A4Ekga>.

⁹⁵ Article 8(3) Ministerial Order 10/2008.

Application of the Dublin criteria

The Asylum Act makes a formal reference to the criteria enshrined in the Dublin III Regulation for determining the responsible Member State.⁹⁶ However, CPR is unaware of any additional formal guidelines from the SEF regarding the practical implementation of those criteria.

Empirical evidence of the implementation of the Dublin criteria pertaining to family unity is also scarce given the very limited number of incoming or outgoing requests pursuant to responsibility criteria provided in Articles 8-11 of the Regulation. In 2017 there were only 1 outgoing and 14 incoming “take charge” requests under Article 8 and, according to CPR, which provides legal and social assistance to unaccompanied children in Dublin procedures, there were no actual incoming or outgoing transfers during this period according to such criteria.

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

In 2017, the TAC of Lisbon offered clear guidance to the SEF regarding the interpretation of Article 6 of the Dublin Regulation in a judgment that overturned a transfer decision to Germany of an unaccompanied child under the care of CPR, for failing to give due consideration to the best interests of the child in its reasoning, notably regarding the minor’s well-being, social development and views.⁹⁷

As for the remaining family unity criteria, CPR is aware of a “take charge” request in 2017 regarding a border application that was presented by the SEF on the basis of Article 9. The application was rejected by the competent authority of the requested Member State on the basis of insufficient evidence of family ties. This could indicate a flexible interpretation of evidence requirements from the SEF to initiate the procedure.

The discretionary clauses

The “sovereignty clause” enshrined in Article 17(1) of the Dublin Regulation and the “humanitarian clause” enshrined in its Article 17(2) are at times applied in practice but the criteria for their application are unclear and no specific statistics are available on their use, except for the number of outgoing and incoming take charge requests under these clauses.⁹⁸

Regarding the “humanitarian clause”, in 2017 a group of four unaccompanied children and one young adult were transferred from Greece to Portugal in accordance with Article 17(2) of the Dublin Regulation under a [pilot project](#) involving the national authorities, the National Confederation of Solidarity Institutions (CNIS) in Portugal and the Greek organisation Metadrasi.

According to the SEF, the “sovereignty clause” was applied in two cases in 2017. CPR was informed of the use of the “sovereignty clause” by the SEF in the case of an asylum application for health reasons. However, in CPR’s experience the underlying criteria in the application of the clause remain unclear.

There have been no transfer decisions to Greece since the *M.S.S. v. Belgium and Greece* judgment of the European Court of Human Rights (ECtHR) with the sovereignty clause being applied in potential transfer cases to Greece assisted by CPR during this period. However, the SEF issued transfer decisions to countries such as Bulgaria (1 decision communicated to CPR in 2016, but no transfer decisions in 2017) and Hungary (6 transfer decisions communicated to CPR in 2016, 2 decisions in 2017) without any

⁹⁶ Article 37(1) Asylum Act.

⁹⁷ TAC Lisbon, Decision 2334/17.5BELSB, 24 November 2017, unpublished.

⁹⁸ According to the SEF, in 2017 there were 8 incoming take charge requests pursuant to Article 17(2) of the Regulation.

relevant reasoning pertaining to possible risks of *refoulement*, indicating that detention and reception conditions, guarantees in the asylum procedure and access to an effective remedy in the responsible State are not consistently taken into consideration when deciding whether or not to apply the “sovereignty clause”.

In this regard, it should also be noted that in 2015 the SEF refused to take responsibility for certain asylum seekers of Ukrainian nationality who had relevant family ties in Portugal and/or prior periods of legal residence in Portugal under the Aliens Act. Despite requests from CPR in individual cases for the application of the sovereignty clause,⁹⁹ most requests were not taken into consideration, probably given the risks of creating a perceived pull factor in light of the significant Ukrainian community residing in Portugal.

2.2. Procedure

Indicators: Dublin: Procedure

1. On average, how long does a transfer take after the responsible Member State has accepted responsibility? 15 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 the SEF shall make a “take charge” or “take back” request to the competent authorities of the relevant Member State.¹⁰⁰

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,¹⁰¹ the consequences of an asylum seeker's refusal to comply with the obligation to be fingerprinted¹⁰² are limited to the application of an [Accelerated Procedure](#).¹⁰³ There are no legal provisions on the use of force to take fingerprints and CPR is not aware of any operational guidelines to that end. According to the information available to CPR, asylum seekers are systematically fingerprinted and checked in Eurodac in practice. Among those who benefit from CPR's legal assistance, instances of accelerated procedures due to a refusal to be fingerprinted are a very rare (to non-existent) occurrence.

In practice, the SEF systematically determines which country is responsible for examining the asylum application in accordance with the criteria set out in the Dublin Regulation. This is done among others on the basis of the information collected through a preliminary form that must be filled by the asylum seeker upon registration and/or the individual interview. The preliminary form includes information on identification, itinerary, grounds for the asylum application, prior stays in Europe and supporting evidence. During the individual interview with the SEF the asylum seeker is also asked to clarify relevant Dublin-related issues such as his or her identity and nationality, travel documents, visas and travel arrangements, itinerary and transportation to Portugal, and prior asylum applications. This information can eventually lead to a Dublin procedure that is preliminary to the assessment of the application and, once initiated, suspends the applicable time limits for the issuance of a decision on the (other) inadmissibility grounds or the merits of the application.¹⁰⁴

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.¹⁰⁵ CPR has no indication that this obligation is systematically implemented in practice or that the common information leaflet set out in Article 4(3) of

⁹⁹ In 2015 CPR made 8 formal requests in individual asylum files and additionally informed the SEF of a significant number of other asylum applicants who were in similar circumstances for the purposes of considering the application of the sovereignty clause.

¹⁰⁰ Articles 36 and 37(1) Asylum Act.

¹⁰¹ Article 35-A(3)(c) Asylum Act.

¹⁰² Article 15(1)(e) Asylum Act.

¹⁰³ Article 19(1)(j) Asylum Act.

¹⁰⁴ Article 39 Asylum Act.

¹⁰⁵ Article 49(1)(b) Asylum Act.

the Dublin III Regulation is systematically distributed. The information offered by the SEF regarding the implementation of the Dublin Regulation is contained in a leaflet that mentions the possibility of a “take charge” request and applicable time limits.¹⁰⁶ The possibility of a “take charge” request as well as a waiver for sharing information under Article 34 of the Regulation is also included in the document narrating the individual interview that is signed and handed out to the asylum applicant. In cases where at the time of the individual interview there are relevant indicators that warrant a Dublin procedure, the SEF may give the applicant the opportunity at that point to raise any relevant objections to the transfer that should be considered in the procedure.

Asylum seekers are systematically informed in writing of the request made to another Member State, the corresponding supporting evidence and the reply of that Member State but only at the time of written notification of the actual transfer decision.¹⁰⁷

Individualised guarantees

The SEF does not seek individualised guarantees that the asylum seeker will have adequate reception conditions upon transfer in practice, either systematically or for specific categories of applicants or specific Member States.¹⁰⁸ In the case of transfer decisions issued in 2017 to countries such as Hungary,¹⁰⁹ or Italy,¹¹⁰ the reasoning bore no reference to possible risks of ill-treatment in the responsible State, with some decisions regarding Italy being issued on the basis of the absence of a timely response from the requested Member State. CPR has no indication that such guarantees are sought following the notification of the transfer decision / prior to the transfer of the asylum applicant to the responsible Member State.

It should be noted that this practice is supported by the case law of Administrative Courts. According to this case law in the absence of incorrect application of the Dublin criteria systemic deficiencies in the asylum system of the requested Member State remain the only situation where the authorities' compliance with the Dublin Regulation may be challenged, as opposed to capacity shortages of asylum systems in particular areas and in light of the particular needs of the applicant.¹¹¹

Transfers

While the law provides for the detention of asylum seekers subject to the Dublin procedure,¹¹² this provision is not implemented in practice and CPR is unaware of detentions on this ground.

In accordance with the law, asylum seekers are entitled to a standard *laissez-passer* upon notification in writing of the transfer decision.¹¹³ However, given the high rate of appeals, such a document is usually not issued at this point in time. According to the information available to CPR all transfers are voluntary and the applicant is informed of the exact date, time and place he or she should present him or herself to the SEF for travel purposes.

According to the SEF, in the absence of a judicial appeal, the average duration of the Dublin procedure is 45 working days from the moment an outgoing request is issued and two weeks from the moment another Member State accepts responsibility until the effective transfer to the Member State responsible. Practical experience in this regard is limited as only a very small percentage of outgoing Dublin requests resulted in actual transfers in 2017.

¹⁰⁶ SEF, *Guia do requerente asilo*, available in Portuguese at: <http://bit.ly/2hpa3xZ>.

¹⁰⁷ Article 37(2) Asylum Act.

¹⁰⁸ ECtHR, *Tarakhel v. Switzerland*, Application No 29217/12, Judgment of 4 November 2014.

¹⁰⁹ In 2017 the SEF issued at least 1 transfer decision to Hungary.

¹¹⁰ In 2017 the SEF issued at least 23 transfer decisions to Italy.

¹¹¹ TCA South, Decision 13607/16, 22 September 2016.

¹¹² Article 35-A(3)(c) Asylum Act.

¹¹³ Article 37(3) Asylum Act.

2.3. Personal interview

Indicators: Dublin: Personal Interview

☒ Same as regular procedure

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

The Asylum Act provides for the systematic personal interview of all asylum seekers, including of those in a Dublin procedure,¹¹⁴ except for cases where: (i) the evidence already available allows for a positive decision; or (ii) the applicant lacks legal capacity due to long lasting reasons that are not under his or her control.¹¹⁵

While in recent years asylum seekers in a Dublin procedure were systematically offered a personal interview, the information available to CPR in 2017 no longer confirms this assessment. During the year, CPR was informed by the SEF of 104 transfer decisions of adult applicants but only of 39 individual interviews, raising the question of whether the gap is related to a failure in communicating the interviews in accordance with the law or the lack of individual interviews altogether. It should be noted that recent case law from the TAC of Lisbon has confirmed the right of an asylum seeker to an individual interview in accordance with Article 5 of the Dublin Regulation and overturned a transfer decision to Denmark because the SEF had failed to provide the applicant with such an interview.¹¹⁶

The modalities of the interview are the same as those of the and the interview is generally conducted by SEF/GAR, although interviews are at times conducted by the SEF's regional representations in cases of asylum applications made in more remote locations.

Practice regarding the content of the interview seems to vary depending on the existence and type of Dublin indicators available at that time. The individual interview can either focus on Dublin-related questions only or cover both admissibility and the merits of the claim, as well as specific questions to clarify relevant Dublin-related issues such as prior asylum applications, visas, resident permits and relatives residing in other EU Member States as well as the itinerary to Portugal. In cases where at the time of the individual interview there are relevant indicators that warrant a Dublin procedure, the SEF may give the applicant the opportunity to raise any relevant objections to the transfer that should be considered in the procedure.

2.4. Appeal

Indicators: Dublin: Appeal

☐ Same as regular procedure

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

The Asylum Act provides for an appeal against the decision in the Dublin procedure consisting of a judicial review of relevant facts and points of law by the Administrative Court.¹¹⁷ The asylum seeker has 5 days to lodge the appeal.¹¹⁸ As in the regular procedure, the initial appeal and onward appeals are automatically

¹¹⁴ Article 16(1)-(3) Asylum Act.

¹¹⁵ Article 16(5) Asylum Act.

¹¹⁶ TAC Lisbon, Decision 2379/17.6 BELSB, 15 January 2018, unpublished.

¹¹⁷ Article 37(4) Asylum Act; Article 95(3) Administrative Court Procedure Code.

¹¹⁸ *Ibid.*

suspensive,¹¹⁹ 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.¹²⁰

The scarce case law available indicates that the asylum seeker can challenge the correct application of the Dublin criteria,¹²¹ as per the ruling of the Court of Justice of the European Union (CJEU) in *Ghezelbash*.¹²² The court also verifies if all formalities have been respected by the SEF, including applicable deadlines set forth in the Dublin Regulation.¹²³

As mentioned above, the case law of Administrative Courts indicates that (failing an incorrect application of the Dublin criteria) systemic deficiencies in the asylum system of the requested Member State remain the only situation where the authorities compliance with the Dublin Regulation may be challenged.¹²⁴ However, according to the information available to CPR in certain cases where deficiencies have been raised by the applicant, the court has failed to conduct an *ex officio* inquiry on the nature of those deficiencies on the basis of objective criteria such as reception conditions, recognition rates or procedural guarantees.¹²⁵

The information provided by the CSTAF for 2017 regarding the number, nationalities of appellants, average duration and results of judicial reviews by the TAC of Lisbon of first instance decisions does not make a distinction between the type of asylum procedures (see [Statistics](#)).

The information collected by CPR for 2017 regarding the duration and outcome of judicial review against first instance decisions in Dublin procedures, albeit very limited, indicates a very poor success rate, with only 1 out of 6 appeals being successful, and an average duration of 2.5 months per appeal.

2.5. Legal assistance

Indicators: Dublin: Legal Assistance

☒ Same as regular procedure

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

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

¹¹⁹ Article 37(4) and (6) Asylum Act.

¹²⁰ Article 37(5) Asylum Act.

¹²¹ TCA Lisbon, Decision 2183/15.6BESLB, 25 November 2015, unpublished, which states that a Dublin transfer decision can be challenged in case of incorrect application of the criteria enshrined in the Dublin Regulation and then moves on to assess the content of the criteria enshrined in Articles 8 to 10 and 17(1) in light of the particular circumstances of the applicant.

¹²² CJEU, Case C-63/15 *Ghezelbash*, Judgment of 7 June 2016.

¹²³ TCA Lisbon, Decision 1235/16.0BESLB, 14 September 2016, unpublished.

¹²⁴ TCA South, Decision 13607/16, 22 September 2016, unpublished.

¹²⁵ TCA Lisbon, Decision 350/17.7BESLB, 3 May 2017, unpublished; TCA South, Decision 13607/16, 22 September 2016, unpublished.

2.6. Suspension of transfers

Indicators: Dublin: Suspension of Transfers

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

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

However, in 2017 the SEF issued transfer decisions to countries such as **Hungary** without any relevant reasoning pertaining to possible risks of *refoulement*. In the case of Hungary, Administrative Courts failed to conduct an *ex officio* inquiry in 2016 on the nature of potential deficiencies of the asylum system in the destination country despite the appeal court stating that systemic deficiencies in the asylum system of the requested Member State could be a valid ground for challenging the authorities compliance with the Dublin Regulation.¹²⁶

In 2017, the *Tribunal Administrativo e Fiscal de Sintra* (TAFS) requested *ex officio* the CPR to issue an advisory opinion in the framework of an appeal of a Dublin transfer to Hungary in order “...to assess the existence or inexistence of ‘systemic failures in the asylum procedure and the reception conditions of asylum seekers that imply a risk of inhumane or degrading treatment in accordance to Article 4 of the Charter of Fundamental Rights of the European Union’ taking into consideration Article 3 (2) of Regulation (EU) n.º 604/2013...”¹²⁷ CPR has since issued the requested opinion, that also encompassed an overview of protection standards enshrined in recent European case law. However, the appeal was still pending as of 31 December 2017.

2.7. The situation of Dublin returnees

The National Director of the SEF is the competent authority to accept the responsibility of the Portuguese State for “assessing an application for international protection” presented in other Member States of the European Union.¹²⁸ In practice asylum seekers do not face relevant or systematic obstacles in accessing the asylum procedure following a “take charge” decision and their transfer to Portugal.

In the case of particularly vulnerable asylum seekers, notably for serious health reasons, the SEF tends to inform CPR beforehand of the date of arrival and of relevant health conditions for purposes of immediate referral to its reception centre and preparing the initial reception of the asylum seeker. In the remaining cases, asylum seekers are simply notified at the airport that they should present themselves at SEF/GAR for registration of the asylum application (where they are then referred to CPR’s reception centre for accommodation). Such referrals are done by the SEF’s inspectors at the airport and do not entail any additional assistance e.g. for transportation or locating the address, which at times can give rise to short delays in the reception referral process.

In accordance with the Asylum Act, where the asylum seeker withdraws his or her application implicitly by disappearing or absconding for at least 90 days without informing the SEF, the file can be deemed closed by the National Director of the SEF.¹²⁹ Notwithstanding this, the asylum applicant is entitled to reopen his or her asylum case by presenting him or herself to the SEF at a later stage. In this case the file is to be resumed at the exact stage where it was discontinued by the National Director of the SEF.¹³⁰

¹²⁶ TCA Lisbon, Decision 1062/16.4BELSB, 12 June 2016, unpublished; TCA South, Decision 13607/16, 22 September 2016.

¹²⁷ TAFS, Application 555/17.0BESNT.

¹²⁸ Article 40(1) Asylum Act.

¹²⁹ Article 32(1)(c) and (2) Asylum Act.

¹³⁰ Article 32(3) of the Asylum Act.

According to the information available to CPR, asylum seekers who had previously abandoned their application and left the country have not faced relevant or systematic problems in reopening their asylum cases and have not been treated as subsequent applicants following incoming transfers. Indeed, none of the subsequent asylum applications communicated to CPR by the SEF in 2017 concerned individuals transferred back to Portugal after having abandoned their application, despite insert incoming transfers throughout the year.¹³¹

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

The law provides for an admissibility procedure that is characterised by: specific grounds for considering an asylum application inadmissible;¹³² specific time limits for the first instance decision on admissibility;¹³³ legal implications in case the deciding authority does not comply with those time limits;¹³⁴ the right to an appeal against the inadmissibility decision;¹³⁵ and specific rights attached to the admission to the procedure which represent a distinctive feature of the Portuguese asylum procedure.¹³⁶

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

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

The National Director of the SEF has 30 days to take a decision on the admissibility of the application,¹³⁷ which is reduced to 7 days in the case of the [Border Procedure](#).¹³⁸ In case the SEF does not comply with those time limits, the claim is deemed automatically admitted to the procedure.¹³⁹

In practice, all asylum applicants undergo an interview that assesses the above mentioned inadmissibility clauses along with the merits of the application,¹⁴⁰ including those at the border. However, except for Dublin-related decisions, the number of asylum applications deemed inadmissible in 2017 was minimal. Although the SEF does not collect statistics on the number and grounds of inadmissibility decisions, according to the information available to CPR, among 9 (non-Dublin) inadmissibility decisions issued in 2017 there were: 3 subsequent applications without new elements; 2 “safe third country” decisions;¹⁴¹ and 1 decision concerning an applicant granted protection in another EU Member State.

¹³¹ According to the statistics collected by the SEF, a total of 9 subsequent applications were lodged in 2017 (see [Subsequent Applications](#)).

¹³² Article 19-A Asylum Act.

¹³³ Articles 20(1) and 24(4) Asylum Act.

¹³⁴ Articles 20(2) and 26(4) Asylum Act.

¹³⁵ Articles 22(1) and 25(1) Asylum Act.

¹³⁶ Article 27(1)-(3) Asylum Act pertaining to the issuance of a provisional residence permit and Article 54(1) pertaining to the right to access the labour market.

¹³⁷ Article 20(1) Asylum Act.

¹³⁸ Article 24(4) Asylum Act.

¹³⁹ Articles 20(2) and 26(4) Asylum Act.

¹⁴⁰ Article 16 Asylum Act.

¹⁴¹ One of the cases was based on both “safe third country” and “first country of asylum” grounds.

While the SEF generally admits asylum seekers to the regular procedure in case of non-compliance with applicable time limits, the automatic admission and issuance of a provisional residence permit has at times required a proactive intervention of the asylum seeker or of his or her legal counsel. In 2017 the number of such admissions remained low.

3.2. Personal interview

Indicators: Admissibility Procedure: Personal Interview

☒ Same as regular procedure

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

The Asylum Act provides for the systematic personal interview of all asylum seekers, including for assessing admissibility,¹⁴² except for cases where: (i) the evidence already available allows for a positive decision; or (ii) the applicant lacks legal capacity due to long lasting reasons that are not under his or her control.¹⁴³

In practice, all asylum applicants undergo either a Dublin interview or an interview that assesses the remaining inadmissibility clauses along with the merits of the application. The individual interview can either focus on Dublin related questions only or cover both admissibility and the merit of the claim. The modalities of the interview are the same as those of the regular procedure and the interview is generally conducted by SEF/GAR, although interviews are at times conducted by SEF's regional representations in cases of asylum applications made in more remote locations.

3.3. Appeal

Indicators: Admissibility Procedure: Appeal

☐ Same as regular procedure

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

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.¹⁴⁴ The time limit for lodging the appeal varies according to the inadmissibility ground and depending on whether border procedures apply. Time limits vary as follows:

Time limits for appealing inadmissibility decisions in calendar days		
Inadmissibility ground	Asylum Act provision	Days
Inadmissibility at the border	Article 25(1)	4
Inadmissibility on the territory		
Subsequent application with no new elements	Article 33(6)	4
Dublin decision	Article 37(4)	5
Protection in another EU Member State	Article 22(1)	8

¹⁴² Article 16(1)-(3) Asylum Act.

¹⁴³ Article 16(5) Asylum Act.

¹⁴⁴ Articles 22(1), 25(1), 33(6) and 37(4) Asylum Act and Article 95(3) Administrative Court Procedure Code.

First country of asylum	Article 22(1)	8
Safe third country	Article 22(1)	8
Application by dependant	Article 22(1)	8

As in the regular procedure, the first appeal and onward appeals are automatically suspensive,¹⁴⁵ with the exception of onward appeals concerning inadmissible subsequent applications.¹⁴⁶ The law also provides for a simplified judicial process with reduced formalities and time limits with the objective of shortening the duration of the judicial review.¹⁴⁷

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.

The information provided by the CSTAF for 2017 regarding the number, nationalities of appellants, average duration and results of judicial reviews by the TAC of Lisbon 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

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

4. Border procedure (border and transit zones)

4.1. General (scope, time limits)

Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? ☒ Yes ☐ No
2. Can an application made at the border be examined in substance during a border procedure? ☒ Yes ☐ No
3. Is there a maximum time limit for border procedures laid down in the law? ☒ Yes ☐ No
 - ❖ If yes, what is the maximum time limit? 7 days

The law provides for a specific procedure regarding applications made at a national border,¹⁴⁸ A distinctive feature of the legal framework of border procedures consists in the provision for the detention of asylum

¹⁴⁵ Articles 22(1), 25(3) and 37(6) Asylum Act.

¹⁴⁶ Article 33(6) Asylum Act.

¹⁴⁷ Articles 22(2), 25(2), 33(7) and 37(5) Asylum Act.

¹⁴⁸ Article 23(1) Asylum Act.

seekers for the duration of the admissibility stage / accelerated procedure (see [Detention of Asylum Seekers](#)).¹⁴⁹

Portugal has 36 external border posts, of which 8 air border posts and 28 maritime border posts.¹⁵⁰ The SEF is responsible for border controls, including for refusing entry and exit from the territory.¹⁵¹ The overwhelming majority of border procedures in 2017 were conducted at **Lisbon Airport**. While the statistics provided by the SEF indicate a total of 485 border procedures but do not include a breakdown per border post. The information collected by CPR suggests that at least 428 procedures were conducted at Lisbon Airport in 2017, compared to 201 in 2016.

In practice a person who: does not meet the entry requirements set in the law; is subject to a national or an EU entry ban; or represents a risk or a serious threat to public order, national security or public health, is refused entrance in national territory,¹⁵² and is notified in writing by the SEF of a decision of refusal of entry to the territory.¹⁵³ The notification bears a reference to the right of individuals refused entry at the border to seek asylum as enshrined in the law.¹⁵⁴ The SEF also informs the carrier company (i.e. the air company for most cases) for the purposes of return of the individual in the shortest possible time either to: the point where the individual initiated travel with the company; the country that issued the travel document; or any country where entrance is guaranteed.¹⁵⁵ This is done in accordance to the Convention on International Civil Aviation,¹⁵⁶ as according to the SEF the individual remains in the international area of the airport and is therefore not subject to the rules applicable to removal procedures from national territory.¹⁵⁷ When the individual refused entry into national territory applies for asylum, the air company is immediately informed by the SEF of the suspension of return.

While the border procedure provides for the basic principles and guarantees of the regular procedure,¹⁵⁸ it lays down time limits for a decision on admissibility or for accelerated procedures regarding applications deemed unfounded on certain grounds (see [Accelerated Procedure](#) grounds) that are significantly shorter than those in national territory. Additionally, border procedures are characterised by shorter appeal deadlines, as well as reduced guarantees such as the exclusion from the right of the applicant to seek revision of the narrative of his or her personal interview,¹⁵⁹ or the possibility to consult with CPR prior to the individual interview conducted by the SEF.

The National Director of the SEF has 7 days to issue a decision either on admissibility or on the merits of the application in an accelerated procedure.¹⁶⁰ In the absence of inadmissibility grounds or grounds for deeming the application unfounded in an accelerated procedure, the SEF admits the asylum seeker to the regular procedure and authorises entry into national territory / release from border detention.¹⁶¹ Non-compliance with those time limits results in the automatic admission of the applicant to the regular procedure and release from the border.¹⁶²

The asylum seeker remains in detention in the international area of the airport or port until the National Director of the SEF issues a decision on the admissibility / merits of the claim,¹⁶³ or for up to 60 days in

¹⁴⁹ Articles 26(1) and 35-A(3)(a) Asylum Act.

¹⁵⁰ Annex II Decree-Law 252/2000.

¹⁵¹ Article 2 Decree-Law 252/2000.

¹⁵² Article 32 Aliens Act.

¹⁵³ Article 38(2) Aliens Act.

¹⁵⁴ Article 40(4) Aliens Act.

¹⁵⁵ Articles 38(3) and 41(1) Aliens Act.

¹⁵⁶ Chicago Convention on International Civil Aviation, 7 December 1944, Annex IX, Chapter V, points 5.9 -5.11.1.

¹⁵⁷ CPR, *Access to Protection: a Human Right, country report, Portugal*, 2014, available in Portuguese at: <http://bit.ly/2xA2aiV>, para 2.1.

¹⁵⁸ 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.

¹⁵⁹ Article 25 Asylum Act.

¹⁶⁰ 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.

¹⁶¹ Article 26(4) Asylum Act.

¹⁶² *Ibid.*

¹⁶³ Article 26(1) Aliens Act.

the case of appeal (see [Duration of Detention](#)). While in the overwhelming majority of cases the National Director of the SEF issues a decision within the 7-day time limit, the automatic admission of the asylum application is generally upheld in the rare cases where that does not happen.

Exempted categories

The law identifies a sub-category of individuals whose special procedural needs result from torture, rape or other serious forms of psychological, physical or sexual violence and who may be exempted from the border procedure under certain conditions (see [Special Procedural Guarantees](#)).¹⁶⁴ Furthermore, the placement of unaccompanied and separated children in temporary installations (detention) at the border – and hence application of border procedures – must abide by applicable international recommendations such as those of UNHCR, UNICEF and ICRC.¹⁶⁵

The border procedure is applied systematically, while certain categories of vulnerable asylum seekers such as unaccompanied children, pregnant women and seriously ill were usually released from the border and submitted to an admissibility procedure and/or regular or accelerated procedure in national territory. However, CPR has witnessed a change in practice since 2016, due to which a very significant percentage of vulnerable applicants such as unaccompanied children, families with children and pregnant women were detained and subject to the border procedure in 2017 (see [Detention of Vulnerable Applicants](#)). The lack of standard operational procedures and tools allowing for the early and effective identification of survivors of torture and/or serious violence and their special procedural needs has meant that in general, and despite the lack of provision of special procedural guarantees at the border, asylum seekers who claimed to be survivors of torture, rape or other serious forms of psychological, physical or sexual violence were not exempted from border procedures.¹⁶⁶

Statistics provided by the SEF for 2017 refer to a total of 485 asylum seekers subject to the border procedure (approximately 48% of the 1,009 spontaneously arriving asylum seekers), but figures on the outcome of those applications or the number of persons in need of special procedural guarantees were not available, except for unaccompanied children (see also [Detention of Vulnerable Applicants](#)). The number of unaccompanied children subject to the border procedure in 2017 was 13. According to the information collected by CPR in 2017, the negative decisions taken in the border procedure included at least: 346 applications deemed unfounded in an accelerated procedure; 11 applications rejected as inadmissible on Dublin grounds; and 4 applications rejected as inadmissible on a ground other than Dublin.

4.2. Personal interview

Indicators: Border Procedure: Personal Interview

☐ Same as regular procedure

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

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If so, are questions limited to nationality, identity, travel route?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
❖ If so, are interpreters available in practice, for interviews?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

The rules and modalities of the interview are the same as those of the regular procedure and the interview is generally conducted by SEF/GAR. However, given the short time limits of the border procedure, the interview is conducted in detention at the Temporary Installation Centre (CIT) a few days after arrival, with little time to prepare and substantiate the asylum application and with reduced guarantees such as the

¹⁶⁴ 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.”

¹⁶⁵ Article 26(2) Asylum Act.

¹⁶⁶ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <http://bit.ly/2xZqCGh>.

exclusion from the right of the applicant to seek revision of the narrative of the interview.¹⁶⁷ An additional problem regarding interviews conducted at the **Lisbon Airport** are the space constraints of the interview offices which leave very limited space and privacy, notably due to inadequate sound isolation (see [Conditions in Detention Facilities](#)).

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

Regarding certain categories of vulnerable asylum seekers such as survivors of torture, rape or other serious forms of psychological, physical or sexual violence, the absence of identification and vulnerability assessments means that potential special needs may not be known to the asylum authorities and may not have been taken into account at the time of interview. CPR is unaware of the implementation of special procedural guarantees at the border such as the postponement of the interview, additional time for submitting supporting evidence or the attendance of supporting personnel in the interview in 2017.¹⁶⁸

4.3. Appeal

Indicators: Border Procedure: Appeal

☐ Same as regular procedure

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

- | | | |
|--|--|---|
| ❖ If yes, is it | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it automatically suspensive | <input checked="" type="checkbox"/> Judicial | <input type="checkbox"/> Administrative |
| | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> 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.¹⁶⁹ The time limit for lodging the appeal is 4 days for all grounds.¹⁷⁰

As in the regular procedure, the first and onward appeals are automatically suspensive.¹⁷¹ The law also provides for a simplified judicial process with reduced formalities and time limits with the objective of shortening the duration of the judicial review.¹⁷² However, the Administrative Courts rarely reach a decision on the appeal within the maximum detention time limit of 60 days, meaning that the asylum applicant is granted access to the territory, albeit liable to a removal procedure in case his or her application is rejected by final decision.¹⁷³

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

Limited information collected by CPR for 2017 regarding the duration and outcome of judicial reviews of first instance decisions in border procedures suggests an average duration of 2.5 months. This information also indicates a very poor success rate, with only 1 in 15 appeals being successful. In this regard, it must be acknowledged that the quality of many appeals submitted is often poor as in the other procedures, given that very few lawyers have relevant expertise and training in the field. It should be noted that while CPR may be requested to intervene in the judicial procedure, namely by providing country of origin

¹⁶⁷ Article 25 Asylum Act.

¹⁶⁸ Article 17-A(3) Asylum Act. See also Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <http://bit.ly/2xZqCGh>.

¹⁶⁹ Article 25(1) Asylum Act; Article 95(3) Administrative Court Procedure Code.

¹⁷⁰ Article 25(1) Asylum Act.

¹⁷¹ Article 25 Asylum Act.

¹⁷² Article 25(2) Asylum Act.

¹⁷³ Article 21(2) and (3) Aliens Act.

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

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

4.4. Legal assistance

Indicators: Border Procedure: Legal Assistance

☐ Same as regular procedure

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

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

Regarding free legal assistance at first instance, the law expressly provides the possibility for UNHCR and CPR as an organisation working on its behalf to interview the asylum seeker at the border¹⁷⁴ and to provide assistance.¹⁷⁵ However, following the registration of the asylum claim CPR only has access to applicants once the SEF has conducted its individual interview covering admissibility and eligibility.

The Asylum Act also provides for an accelerated free legal aid procedure at the border for the purposes of appeal on the basis of a MoU between the Ministry of Interior and the Portuguese Bar Association.¹⁷⁶ However, such a procedure remains to be implemented to date, meaning that securing access to free legal aid at appeal stage is currently an integral part of the legal assistance provided by CPR at the border. To that end, CPR is obliged to resort to the same (bureaucratic and lengthy) procedure used in the territory albeit faced with specific constraints (e.g. shorter deadlines for application, communication problems, timely access to interpreters, etc.)

As mentioned in [Regular Procedure: Legal Assistance](#), in 2017, CPR in partnership with UNHCR has engaged with the Portuguese Bar Association with the aim of providing training to free legal aid lawyers. The CPR is also advocating for the Portuguese Bar Association to engage with the Ministry of Interior in order to promote the full implementation of the legal provisions mentioned above regarding an accelerated free legal aid procedure at the border for the purposes of appeal.

While CPR provided support to 851 asylum seekers in 2017, the continuing increase in asylum applications in 2017 has further impacted on its capacity to provide legal information and assistance in the case of asylum seekers placed in detention at the border, similar to the regular procedure. This problem is aggravated by shorter deadlines, communication problems and bureaucratic clearance procedures for accessing the restricted area of the airport where the CIT is located regarding interpreters and limitations in the timely provision of information by the SEF regarding dates of interviews and language skills of the asylum seekers.

¹⁷⁴ Article 24(1) Asylum Act.

¹⁷⁵ Article 49(6) Asylum Act.

¹⁷⁶ Article 25(4) Asylum Act.

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

As with the regular procedure, the overall quality of free legal aid at appeal stage remains a concern due to the current selection system of lawyers based on a random / automatic procedure. The unscrupulous activity of a limited number of private lawyers at the **Lisbon Airport's** CIT, providing poor quality services in exchange for excessively elevated fees, remained a problem in 2017. This concern has been raised by CPR with the SEF and the Portuguese Bar Association but is still ongoing despite past criminal investigations conducted by the SEF that have resulted in criminal charges related to smuggling and trafficking in human beings.

5. Accelerated procedure

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

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

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

- a. Misleading the authorities by presenting false information or documents or by withholding relevant information or documents with respect to identity and/or nationality that could have had a negative impact on the decision;
- b. In bad faith, destroying or disposing of an identity or travel document that would have helped establish identity or nationality;
- c. Making clearly inconsistent and contradictory, clearly false or obviously improbable representations which contradict sufficiently verified COI, thus making the claim clearly unconvincing in relation to whether the applicant qualifies for international protection;
- d. Entering the territory of the country unlawfully or prolonging the stay unlawfully and, without good reason, failing to make an application for international protection as soon as possible;
- e. In submitting the application and presenting the facts, only raising issues that are either not relevant or of minimal relevance to the examination of whether the applicant qualifies for international protection;
- f. Coming from a **Safe Country of Origin**;
- g. Introducing an admissible subsequent application;¹⁷⁷
- h. Making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in removal;
- i. Representing a danger to the national security or public order; and
- j. Refusing to comply with an obligation to have fingerprints taken.

A first instance decision on the territory must be taken within 30 days for all grounds, except for cases concerning an application following a removal order which must be decided within 10 days.¹⁷⁸ In contrast to the regular procedure,¹⁷⁹ the National Director of SEF is the responsible authority for issuing a first instance decision on the merits of the application in the accelerated procedure,¹⁸⁰ while non-compliance with the applicable time limits grants the applicant automatic access to the regular procedure.¹⁸¹

¹⁷⁷ 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.

¹⁷⁸ Articles 20(1) and 33-A(5) Asylum Act.

¹⁷⁹ Article 29(5) Asylum Act.

¹⁸⁰ Articles 20(1) and 24(4) Asylum Act.

¹⁸¹ Articles 20(2) and 26(4) Asylum Act.

In practice all applications are channelled through the accelerated procedure where the specific grounds provided in the law apply.¹⁸² In 2017 the statistics collected from the SEF indicated a total of 28 asylum applications processed under an accelerated procedure, all of which regarding unaccompanied children. These statistics are nonetheless to be understood in light of the SEF's interpretation of accelerated procedures which does not seem to strictly coincide with the framework enshrined in the recast Asylum Procedures Directive but rather applications that are (purported to be) fast-tracked.

The SEF was unable to share statistics on the total number of decisions taken under the accelerated procedure or the breakdown of the total number of decisions taken under the accelerated procedure by outcome. According to the information available to CPR in 2017 there were at least 96 applications rejected under the accelerated procedure on the territory and 346 at the border. In CPR's experience, most of rejections in accelerated procedures continued to be based on inconsistency or irrelevance.

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview

☐ Same as regular procedure

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

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

 - ❖ If so, are questions limited to nationality, identity, travel route?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
------------------------------	--
 - ❖ If so, are interpreters available in practice, for interviews?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
---	-----------------------------
2. Are interviews conducted through video conferencing?

<input type="checkbox"/> Frequently	<input type="checkbox"/> Rarely	<input checked="" type="checkbox"/> Never
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The law foresees reduced guarantees in the accelerated procedure, namely by excluding asylum seekers from the right to seek revision of the narrative of their personal interview in cases concerning applications following a removal order,¹⁸³ or the right to be notified and evaluate the SEF's reasoning of the proposal for a final decision.¹⁸⁴

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

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?

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

 - ❖ If yes, is it

<input checked="" type="checkbox"/> Judicial	<input type="checkbox"/> Administrative
--	---
 - ❖ If yes, is it suspensive

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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.¹⁸⁵

The time limit for lodging the appeal on the territory varies according specific ground of the accelerated procedure: from 4 days for applications following a removal order,¹⁸⁶ to 8 days for the remaining

¹⁸² There is a distinction to be made between border procedures from which certain categories of vulnerable asylum seekers may be exempted and accelerated procedures. While the vulnerable asylum seeker may be exempted from the border procedure and be released from detention, he or she will remain liable to an accelerated procedure in national territory.

¹⁸³ Article 33-A(4) and (5) Asylum Act.

¹⁸⁴ Article 29(2) Asylum Act.

¹⁸⁵ Articles 22(1), 33-A(6) and 25(1) Asylum Act and Article 95(3) Administrative Court Procedure Code.

¹⁸⁶ Article 33-A(6) Asylum Act.

grounds.¹⁸⁷ As in the regular procedure, the initial appeal is automatically suspensive.¹⁸⁸ However, the onward appeal in the case of a removal order is not.¹⁸⁹ The law also provides for a simplified judicial process with reduced formalities and time limits with the objective of shortening the duration of the judicial review.¹⁹⁰

The information provided by the CSTAF for 2017 regarding the number, nationalities of appellants, average duration and results of judicial reviews by the TAC of Lisbon of first instance decisions does not make a distinction between the type of asylum procedures (see [Statistics](#)). However, according to the information available to CPR the main type of asylum procedures used in 2017 to reject asylum applications consisted of accelerated procedures in the case of the Democratic Republic of Congo (103 out of a total 107 rejections), Angola (38 out of 38), Gambia (12 out of 15); Senegal (17 out of 19), Sierra Leone (23 out of 25) and Mali (12 out of 13).

The information collected by CPR for 2017 regarding the duration and result of judicial reviews of first instance decisions in accelerated procedures, albeit very limited, indicates a very poor success rate, with only 1 in 20 appeals being successful in an initial appeal, and only 1 in 5 onward appeals being successful. In this regard, it must be acknowledged that the quality of many appeals submitted is often poor as in the remaining procedures, given that very few lawyers have any specific training or relevant expertise in the field.

Without prejudice to issues discussed for the regular procedure such as the poor quality of legal assistance and language barriers therein that have an impact on the quality and effectiveness of appeals, CPR is not aware of systemic or relevant obstacles faced by asylum seekers to appealing a first instance decision in the accelerated procedure.

5.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance

☒ Same as regular procedure

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

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

 - ❖ Does free legal assistance cover:

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

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

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

 - ❖ Does free legal assistance cover

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

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](#)).

¹⁸⁷ Articles 22(1) Asylum Act.

¹⁸⁸ Articles 22(1) and 33-A(6) Asylum Act.

¹⁸⁹ Article 33-A(8) Asylum Act.

¹⁹⁰ Article 22(2) and 33-A(7) Asylum Act.

D. Guarantees for vulnerable groups

1. Identification

Indicators: Special Procedural Guarantees

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

The Asylum Act defines an “applicant in need of special procedural guarantees” in terms of reduced ability to benefit from the rights and comply with the obligations stemming from the Asylum Act due to individual circumstances.¹⁹¹ 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.¹⁹² 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.¹⁹³ The nature of special procedural needs should be assessed before a decision on the admissibility of the application is taken.¹⁹⁴

1.1. Screening of vulnerability

Despite these legal obligations, there are no (specific) mechanisms, standard operating procedures or unit in place to systematically identify asylum seekers who need special procedural guarantees. Publicly available statistics regarding vulnerable asylum seekers are scarce and relate mostly to unaccompanied children and families with children. CPR also collects statistical information on asylum seekers who self-identify or are identified as vulnerable on the basis of information received from the SEF in accordance with the law, collected directly from clients or provided by other service providers.¹⁹⁵ In 2017, of the 995 spontaneous asylum applications communicated by the SEF, a total of 422 were identified as vulnerable:

Asylum seekers communicated to CPR and identified as vulnerable: 2017	
Category of vulnerable group	Number
Unaccompanied children	41
Accompanied children	194
Single-parent families	67
Pregnant women	17
Elderly persons	2
Disabled persons	1
Survivors of torture	12
Survivors of physical, psychological or sexual violence	74
Persons with chronic or serious illnesses	13
Persons with addictions	1
Total	422

Source: CPR

¹⁹¹ Article 17-A(1) Asylum Act.

¹⁹² *Ibid.*

¹⁹³ Article 77(2) Asylum Act.

¹⁹⁴ Article 17-A(1) Asylum Act.

¹⁹⁵ The identification criteria and age assessment procedures used by the SEF may explain the difference between the number of unaccompanied children identified by the SEF and CPR.

In the case of survivors of torture and/or serious violence, recent research concluded that identification is conducted *ad hoc* and mostly on the basis of self-identification during refugee status determination, social interviews or initial medical screenings.¹⁹⁶ The staff working with asylum seekers lack specific training on the identification of survivors of torture and/or serious violence and their special needs. In the specific case of victims of trafficking, the SEF claimed to have staff with specific training in trafficking indicators operating at the **Lisbon Airport**, and while CPR is unaware of the identification of trafficking victims in border procedures, particularly regarding unaccompanied children, some were referred to CPR for [Accommodation](#) with an informal indication of possible trafficking risks. Furthermore, CPR is unaware of instances where asylum applicants were granted access to the asylum procedure or granted international protection on the basis of a well-founded fear of persecution for reasons of trafficking in human beings.

Despite the absence of identification procedures for unaccompanied children victims of trafficking either at the border or on the territory, CPR systematically flags potential unaccompanied children victims of trafficking under its care at the Refugee Children Reception Centre (*Centro de Acolhimento para Crianças Refugiadas*, CACR) to the National Anti-Trafficking Observatory (on the basis of an anonymous form with indicators), as well as to the SEF's asylum and criminal investigation departments for the purposes of criminal investigation and protection. In the very limited number of instances where CPR caseworkers are able to obtain the unaccompanied child's consent for adequate protection, the cases are further referred to the multidisciplinary team of the Family Protection Association (APF) that conducts an initial assessment that can lead to the placement of the potential victim in an Anti-Trafficking Reception and Protection Centre (CAP). In 2017, a total of 8 out of 41 unaccompanied children absconded from the CACR and, during this period, CPR made 11 referrals to the to the National Anti-Trafficking Observatory with one child being granted a victim status by the authorities and placed in a specialised reception centre for victims of trafficking. CPR conducted some information initiatives at the CACR with the support of APF to inform unaccompanied children about trafficking and associated risks.

1.2. Age assessment of unaccompanied children

Despite the obligation to refer unaccompanied children to Family and Juvenile Courts for the purposes of legal representation,¹⁹⁷ the Asylum Act does not provide for a specific identification mechanism for unaccompanied children or objective criteria to establish which asylum seekers must undergo an age assessment.

The SEF may resort to medical expertise using a non-invasive examination to determine the age of the unaccompanied child who must be given the benefit of the doubt in case well founded doubts persist regarding his or her age after the examination.¹⁹⁸ The unaccompanied child must be informed that his or her age will be determined by means of such expertise and his or her representative must give prior consent.¹⁹⁹ Refusal to allow an expert examination shall not result in the rejection of the application for international protection, but does not prevent a decision from being issued in this regard.²⁰⁰ The age assessment procedure may also be triggered by the Family and Juvenile Court in the framework of court procedures aimed at ensuring legal representation for the child (see [Legal Representation of Unaccompanied Children](#)) or by the unaccompanied child's legal representative.

In practice, while the SEF was unable to provide statistics, age assessment procedures remain limited and can be triggered by the SEF after the personal interview when there are significant doubts regarding the age of the applicant on the basis of physical appearance and/or demeanour. Family Courts also trigger age assessment procedures for the purposes of legal representation and child protection procedures (see [Legal Representation of Unaccompanied Children](#)). The absence of objective criteria to establish what constitutes reasonable doubt and who must undergo an age assessment is particularly problematic in the

¹⁹⁶ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <http://bit.ly/2xZqCGh>.

¹⁹⁷ Article 79(2) Asylum Act.

¹⁹⁸ Article 79(6) Asylum Act.

¹⁹⁹ Article 79(7) Asylum Act.

²⁰⁰ Article 79(8) Asylum Act.

framework of border procedures where the SEF has at times refused to trigger age assessment procedures and/or give the benefit of the doubt to asylum seekers claiming to be children, with significant implications regarding detention and access to procedural rights in the absence of a legal representative.

The initial age assessment is conducted by SEF and does not involve child protection staff while second stage assessments fail to meet the holistic and multidisciplinary standards proposed by UNHCR.²⁰¹ Indeed, the methods used only include wrist and dental X-rays and are conducted by the National Institute of Legal Medicine and Forensic Science (INMLCF). Despite the established technical limitations of such methods, their results have been used by the SEF as evidence of the adulthood of the applicant, and as grounds for refusing the benefit of the doubt despite their inability to establish an exact age. This practice has been overturned by Administrative Courts in at least one instance.²⁰²

The age assessment determination is made by the SEF for different purposes including: (i) the provision of special procedural guarantees i.e. referral to the Family and Juvenile Courts for the purposes of legal representation in the asylum procedure; (ii) the provision of special reception conditions i.e. immediate referral to the CACR and referral to the Family and Juvenile Courts for purposes of confirming the provision of special reception conditions there; and (iii) for the purposes of refugee status determination as a material fact of the asylum application. With regard to legal remedies, while the law does not provide for a specific appeal on the age assessment determination for purposes other than refugee status determination, despite their interim nature, these remain administrative decisions that can be challenged before the Administrative Courts in accordance with the law.²⁰³ Additionally, the Family and Juvenile Courts also conduct their own independent age assessment for purposes of legal representation (following the SEF's referral) that can be appealed pursuant to general rules. In practice, however this is rarely – if ever – the case given the very limited number of age assessments conducted and the lack of available legal expertise.

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

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

☐ Yes ☒ For certain categories ☐ No

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

Applicants identified as being in need of special procedural guarantees can benefit from the postponement of refugee status determination interviews and extended deadlines for presenting evidence or carrying out interviews with the assistance of experts,²⁰⁴ as well as exemption from border procedures held in detention.²⁰⁵ While the implementation of certain special procedural guarantees will necessarily require a decision from the SEF, the responsibility for implementing these measures lies with the Institute of Social Security (ISS).²⁰⁶

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

²⁰¹ UNHCR, *The Way Forward to Strengthened Policies and Practices for Unaccompanied and Separated Children in Europe*, July 2017, available at: <http://bit.ly/2ngwmYT>.

²⁰² See e.g. TAC Leiria, Decision 784/14.9 BELRA, 19 July 2014, unpublished.

²⁰³ Article 51(1) and (2) Administrative Court Procedure Code.

²⁰⁴ Article 17-A(3) Asylum Act.

²⁰⁵ Article 17-A(4) Asylum Act.

²⁰⁶ Article 17-A(5) Asylum Act.

In the particular case of survivors of torture and/or serious violence, recent research in the framework of the project “Time for Needs: Listening, Healing, Protecting” found that the practical implementation of special procedural guarantees such as the possibility to postpone the refugee status determination interview is hampered by the lack of a specific identification tool or mechanism.²⁰⁷ Even where a medical report concerning the vulnerability of the applicant for mental health reasons is presented, the SEF might refuse to postpone the interview unless the medical report clearly states the reduced capacity of the applicant, the need for medical assistance, as well as a prediction of when the applicant is expected to be able attend the interview, if need be accompanied by a mental health professional, in order to avoid excessive delays in the procedure.

Furthermore, in 2017 CPR conducted two training sessions and one national awareness meeting for national stakeholders, including the SEF, in the framework of the project “Time for Needs: Listening, Healing, Protecting”, aimed among others at the dissemination of a tool for the identification of special procedural needs and special reception needs of survivors of torture and/or serious violence developed in the framework of the project.²⁰⁸ While there is no indication that the tool has been adopted by the SEF, CPR is currently planning the implementation of the tool in the framework of its legal information and assistance.

In accordance with the law,²⁰⁹ the CPR provides specific legal assistance to unaccompanied asylum-seeking children that includes the presence of a legal officer during the personal interview with the SEF given its legal representative capacity (see [Legal Representation of Unaccompanied Children](#)).²¹⁰

2.2. Exemption from special procedures

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

While pregnant women, families with children and the severely ill were generally exempted from border procedures and such guarantee was also generally extended to unaccompanied asylum-seeking children, as of 2017 the immediate release of families with children and pregnant women from border points and exemption from border procedures is no longer standard practice (see [Detention of Vulnerable Applicants](#)).²¹¹

3. Use of medical reports

Indicators: Use of Medical Reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm?

☒ Yes
 ☐ In some cases
 ☐ No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements?

☒ Yes
 ☐ No

The Asylum Act contains a general provision on the right of asylum seekers to submit supporting evidence in the asylum procedure,²¹² as well as a provision giving the SEF the possibility to request experts to issue reports on specific issues (e.g. cultural or medical) in the regular procedure.²¹³ Nevertheless, there are no

²⁰⁷ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <http://bit.ly/2xZqCGh>.

²⁰⁸ Questionnaire for the Assessment of the Special Needs of Survivors of Torture and/or Serious Violence Among Asylum Seekers and Beneficiaries of International Protection (QASN), available at: <http://bit.ly/2GmiXr1>.

²⁰⁹ Article 79(3) Asylum Act.

²¹⁰ In 2017, CPR accompanied 6 unaccompanied asylum-seeking children in their interviews with the SEF.

²¹¹ According to the information available to CPR, in 2016 a total of 35 unaccompanied children applied for asylum at the border and 7 were submitted to border procedures, with 4 being rejected in an accelerated procedure at the border.

²¹² Article 15(2) Asylum Act.

²¹³ Article 28(3) Asylum Act.

specific standards in law or administrative guidance pertaining to medical reports for those claiming to have been subjected to torture or other serious acts of physical, psychological and sexual violence.

In the particular case of survivors of torture and/or serious violence, the lack of standard operational procedures regarding the issuance, content and relevance of supporting medical reports in the asylum procedure has been highlighted by recent research.²¹⁴ Medical reports are currently not issued based on the methodology laid down in the Istanbul Protocol. Even where mental health service providers issue medical reports concerning the vulnerability of the applicant for the purposes of postponing the individual interview, the SEF tends to refuse due to factors pertaining to the content of the report (see [Special Procedural Guarantees](#)).

4. Legal representation of unaccompanied children

Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children?

☒ Yes ☐ No

Under the Asylum Act, all unaccompanied child asylum seekers and beneficiaries of international protection are entitled to legal representation to enjoy the rights and discharge their obligations enshrined in the law.²¹⁵ Legal representation can either be provided by an organisation or consist of any of the legal representation modalities in the law,²¹⁶ such as those provided by the General Legal Regime of Civil Guardianship Act.²¹⁷ In this regard, the SEF is required to immediately flag the need of the unaccompanied asylum-seeking child for legal representation to the Family and Juvenile Court while informing the child of the procedure.²¹⁸

Regarding the (specificities of the) scope of legal representation in the case of unaccompanied asylum-seeking children, the legal representative must be informed in advance by the SEF of the refugee status determination interview and is entitled to attend the interview and make oral representations.²¹⁹ The absence of the legal representative does not however exempt unaccompanied children from the personal interview.²²⁰ Additionally, the SEF must ensure that the legal representative is given the opportunity to inform the child of the significance and implications of the personal interview and on how to prepare for it.²²¹ The legal representative must give prior consent to the SEF for the purpose of age assessment procedures.²²²

In practice, the legal representation of unaccompanied asylum-seeking children has taken varying legal modalities in accordance with General Legal Regime of Civil Guardianship Act and the Children and Youths at Risk Protection Act,²²³ and its scope usually covers the representation of the child for all legal purposes, including the asylum procedure and reception conditions.²²⁴ The Family and Juvenile Court usually appoints CPR's Director to act as legal representative,²²⁵ while the material protection of the child is provided in accordance with the protective measures set out in the Children and Youths at Risk Protection Act, by referring him or her to CPR's CACR. CPR's Legal Department provides legal information and assistance to unaccompanied children throughout the asylum procedure, attends

²¹⁴ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <http://bit.ly/2xZqCGh>.

²¹⁵ Article 79(1) and (2) Asylum Act.

²¹⁶ *Ibid.* See also Article 2(1)(ad) Asylum Act.

²¹⁷ Act 141/2015 of 8 September 2015.

²¹⁸ Article 79(1) and (2) Asylum Act.

²¹⁹ Article 79(3) Asylum Act.

²²⁰ Article 79(5) Asylum Act.

²²¹ Article 79(3) Asylum Act.

²²² Article 79(7) Asylum Act.

²²³ Act 147/99 of 1 September 1999.

²²⁴ Article 25(1)(a) recast Asylum Procedures Directive; Article 24(1) recast Reception Conditions Directive.

²²⁵ In 2017, CPR was appointed legal representative of 27 unaccompanied asylum-seeking children out of the 41 who claimed to be unaccompanied children. Out of these 41, 4 unaccompanied asylum-seeking children were hosted in the context of CNIS' pilot project and represented by the hosting entity.

personal interviews given its legal representative capacity, ensures that children have access to legal aid for appeals and provides assistance to lawyers appointed within this mechanism.

Except for cases where, according to the SEF, there is a doubt regarding the age of the applicant, the SEF usually flags the need of the unaccompanied asylum-seeking child for legal representation to the Family and Juvenile Court within a few days following the registration of the asylum application, including in the case of border procedures. The Family and Juvenile Court usually appoints CPR as a legal representative / guardian of unaccompanied children within a few weeks following the SEF's communication, including for the purpose of representation in the asylum procedure, given its knowledge and experience in the field of international protection.

It should be noted that while the SEF does not conduct individual interviews prior to the appointment of a legal representative, there is no best interests' assessment or intervention of a legal representative prior to the registration of the asylum claim. In a recent development in late 2017, however, and despite the law providing for that possibility,²²⁶ the SEF has refused to register the asylum application of two unaccompanied children in the absence of legal representatives, a change that could potentially bring the procedure regarding unaccompanied children more in line with UNHCR recommendations in this regard.²²⁷

While the law does not provide for specific requirements for being eligible as a representative of an unaccompanied asylum-seeking child, the Children and Youths at Risk Protection Act contains rules governing the composition of the technical staff of reception centres for children. The teams must be multidisciplinary and include personnel with, at least, a BA in the field of Psychology and Social Work. The technical director of the centre must be appointed among staff members with that background.²²⁸

E. Subsequent applications

Indicators: Subsequent Applications

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

The law provides for specific features in the [Admissibility Procedure](#) regarding subsequent applications that include: a time limit of 10 days for the adoption of an admissibility decision at first instance i.e. preliminary assessment;²²⁹ the absence of automatic consequences in case of non-compliance with the time limit for deciding on admissibility; reduced guarantees regarding the right to a personal interview and to seek revision of the narrative of his or her personal interview;²³⁰ specific criteria for assessing the admissibility of the claim;²³¹ and partially different time limits and effects of (onward) appeals.

The Asylum Act does not provide, however, for specific rules regarding the right to remain in national territory pending the examination of the application,²³² or the suspension of a removal order,²³³ nor does

²²⁶ Article 13(6) Asylum Act.

²²⁷ UNHCR, *The Way Forward to Strengthened Policies and Practices for Unaccompanied and Separated Children in Europe*, July 2017.

²²⁸ Article 54 Children and Youth at Risk Protection Act.

²²⁹ Article 33(4) Asylum Act.

²³⁰ Article 33(2), (4) and (6) Asylum Act.

²³¹ Article 33(1) and (6) Asylum Act.

²³² Articles 13(1) and 33(9) Asylum Act.

²³³ 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.

it provide specific time limits or limitations on the number of subsequent applications a person can lodge.²³⁴ However, an “unjustified” subsequent application can lead to the [Reduction or Withdrawal of Reception Conditions](#).²³⁵

The SEF remains the competent authority to take a decision on the admissibility of subsequent applications.²³⁶

The criteria for assessing the admissibility of the subsequent claim are enshrined in the Asylum Act and consist in whether new elements of proof that entitle the applicant to international protection have been submitted or if the reasons that led to the rejection of the application have ceased to exist.²³⁷ The law does not provide further clarifications on what is to be considered a new element of proof or the cessation of the rejection motives but clarifies that the preliminary admissibility assessment also encompasses cases where the applicant has explicitly withdrawn his or her application and cases where the SEF has rejected an application following its implicit withdrawal.²³⁸ A first instance decision on the admissibility of a subsequent application from 2016 makes reference to a “substantial and fundamental” difference as criteria for assessing the admissibility of the subsequent application.

The limited number of subsequent applications received by the SEF – only 9 lodged in 2017, compared to 4 in 2016 – does not allow for a general assessment of existing obstacles in lodging a subsequent application related to the interpretation of the applicable admissibility criteria pertaining to new facts, evidence or a change in the rejection motives. CPR is unaware of any case law pertaining to the interpretation of the criteria for assessing the admissibility of subsequent claims.

According to the information collected by CPR, in 2017, 3 out of the 7 subsequent applications communicated to CPR underwent a preliminary interview to assess whether new elements were submitted as defined in national legislation. Other applicants were only allowed to submit written representations in accordance with the law.²³⁹ The preliminary interview to assess the admissibility of the application differed from a personal interview conducted in the admissibility / regular procedure insofar as it mainly sought to ascertain new facts, evidence or changes in circumstances related to persecution since the presentation of the initial asylum application. The reasoning of the corresponding inadmissibility decisions included an assessment of 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, and inconsistencies between the information provided and the facts described in the context of the original application were also analysed.

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.²⁴⁰ The initial appeal before the Administrative Court is automatically suspensive,²⁴¹ as opposed to onward appeals that have no automatic suspensive effect.²⁴²

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

²³⁴ 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.

²³⁵ Article 60(3)(f) Asylum Act.

²³⁶ Article 33(6) Asylum Act.

²³⁷ Article 33(1) Asylum Act.

²³⁸ Article 2(1)(t) Asylum Act.

²³⁹ Article 33 Asylum Act states that subsequent applications are submitted to the SEF with all available supporting evidence and that the SEF may, following the application, provide the applicant with a reasonable time limit to present new facts, information or evidence.

²⁴⁰ Article 33(6) Asylum Act.

²⁴¹ *Ibid.*

²⁴² Article 33(8) Asylum Act.

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

Only 9 subsequent applications were lodged in 2017, of which 2 from nationals of Russia, 2 from Ghana, 2 from China, 1 from Morocco and 1 from Ukraine.

F. The safe country concepts

Indicators: Safe Country Concepts

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

1. Safe country of origin

The Asylum Act provides for a definition of “safe country of origin” that is in line with Article 36 of the recast Asylum Procedures Directive.²⁴³ However, with the exception of its inclusion among the possible grounds for applying an **Accelerated Procedure**,²⁴⁴ the law does not provide for further rules and modalities for its application.

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

According to the information available to CPR, the SEF does not have a list of safe countries of origin as a matter of administrative guidance and the concept is not used in practice as a ground for channelling asylum applications into an accelerated procedure. The SEF was unable to provide statistics on breakdown of rejection decisions based on the concept of “safe country of origin” by nationality.

2. Safe third country

The Asylum Act provides for a definition of “safe third country” that presents some inconsistencies with Article 38 of the recast Asylum Procedures Directive.²⁴⁵ These inconsistencies were raised in 2014 by CPR during the legislative process that transposed the second-generation *acquis* into national law,²⁴⁶ and include the following:

- The provision applies *ratione personae* to asylum seekers alone, as opposed to applicants for international protection;²⁴⁷
- 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.²⁴⁸

²⁴³ Article 2(1)(q) Asylum Act.

²⁴⁴ Article 19(1)(f) Asylum Act.

²⁴⁵ Article 2(1)(r) Asylum Act.

²⁴⁶ 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>.

²⁴⁷ Article 2(1)(r) Asylum Act.

²⁴⁸ Article 2(1)(r)(i) Asylum Act.

It should also be noted that the Asylum Act, while excluding EU Member States from the concept of safe third country,²⁴⁹ 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](#)),²⁵⁰ according to the information available to CPR, to date the authorities have not introduced further rules in national legislation such as relevant connection indicators or rules regarding the methodology by which the SEF satisfies itself that the safe third country concept may be applied to a particular country or to a particular applicant.

According to the information available to CPR, the SEF does not have a list of countries designated to be generally safe as a matter of administrative guidance. While the number of inadmissibility decisions on safe third country grounds is generally very limited, countries designated as such in the past have included **Morocco** and **Turkey**, and last year **South Africa** and **Ecuador**. The SEF was unable to provide statistics on breakdown of rejection decisions based on the concept of “safe third country” by nationality.

The safe third concept has been used in a very limited number of individual cases as a ground for rejecting asylum claims as inadmissible in practice; according to the information available to CPR it was used in two cases in 2017 (see [Admissibility Procedure](#)).

Connection criteria

In the two cases mentioned above, the identification of a connection rendering the applicant’s transfer to a safe third country reasonable was based on indicators such as transit, the registration of an asylum application or residence rights, and the remaining legal requirements of the clause were not (adequately) analysed. However, a ruling of the TAC Lisbon from November 2017 considered the transit and the holding of a 3-month visa as evidence of a sufficient connection between the applicant and the third country concerned on the basis of which it would be reasonable for that person to go to that country.²⁵¹

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

3. First country of asylum

The Asylum Act provides for a definition of “first country of asylum” that is in line with Article 35 of the recast Asylum Procedures Directive,²⁵² and that attempts a merger with the criteria listed in Article 38(1) of the Directive.²⁵³ Without prejudice to challenges in clarity resulting from the merger, the current definition seems to exclude formal recognition of refugee status or sufficient protection in accordance to the Refugee Convention as stand-alone criteria to apply the concept as it also requires that (i) life and liberty are not threatened (ii) the principle of *non-refoulement* in accordance with the Refugee Convention is respected and that (iii) the prohibition of the right to freedom from torture and cruel, inhuman or degrading treatment is respected. The “first country of asylum” concept is included among the inadmissibility grounds enshrined in the Asylum Act.²⁵⁴

The SEF was unable to provide statistics on breakdown of inadmissibility decisions based on the concept of “first country of asylum” by country designated as first country of asylum. In practice and according to the information available to CPR, the first country of asylum concept has been used in a very limited

²⁴⁹ Article 19-A(1)(d) Asylum Act that excludes EU Member States from the concept of third safe country.

²⁵⁰ Article 19-A(1)(d) Asylum Act.

²⁵¹ TAC Lisbon, Decision 2163/17.7BESLB, 30 November 2017, unpublished.

²⁵² Article 2(1)(z) Asylum Act.

²⁵³ 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.

²⁵⁴ Article 19-A(1)(c) Asylum Act.

number of individual cases in relation to **Brazil** and **Egypt** (for 2017, see [Admissibility Procedure](#)). In those limited cases the analysis conducted by the SEF into the conditions of the concept generally focused on the legal status of the applicant, failing to adequately assess security risks in the first country of asylum alleged by the applicant.

According to the information available to CPR, case law regarding the interpretation of the concept is very limited but includes a ruling from a second-instance Administrative Court focusing on the definition of “sufficient protection”. According to the court’s generous interpretation of the provision enshrined in the Asylum Act, such protection should be interpreted to encompass the principle of *non-refoulement* in accordance with the Refugee Convention but also *refoulement* where a civilian’s life or person is at risk by reason of indiscriminate violence in situations of armed conflict.²⁵⁵

However, as stressed by the 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 on a meaningful assessment of possible risks to the security of the applicant in that country.²⁵⁶

G. Relocation

Indicators: Relocation

1. Number of persons effectively relocated since the start of the scheme: 1,518
2. Are applications by relocated persons subject to a fast-track procedure? ☐ Yes ☒ No

According to the latest statistics released by the European Commission at the end of January 2018, the number of relocated persons stands at 1,518 – 326 persons relocated from Italy and 1,192 from Greece.²⁵⁷ The main nationalities are Syrians, Eritreans and Iraqis. Statistics shared by the SEF contain a nationality breakdown for 2017:

Relocation statistics: 1 January – 31 December 2017

Relocation from Italy			Relocation from Greece		
	Requests	Relocations		Requests	Relocations
Total	:	59	Total		682
Eritrea	:	58	Syria		418
Yemen	:	1	Iraq		252
			Stateless		10
			Eritrea		2

Source: SEF.

²⁵⁵ 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.

²⁵⁶ TAC Lisbon, Decision 2163/17.7BESLB, 30 November 2017, unpublished.

²⁵⁷ European Commission, *Member States' Support to Emergency Relocation Mechanism*, 26 January 2018, available at: <http://bit.ly/2ifnGlX>.

1. Relocation procedure

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

The security clearance procedures within the relocation programme do not involve individual interviews with candidates but include queries to the representative of the Antiterrorism Coordination Unit (*Unidade de Coordenação Antiterrorismo*, UCAT) in the Working Group of the European Agenda for Migration that liaises with its members of the security community for background checks. According to the SEF, as of 31 December 2017, 14 requests for relocation of Iraqis from Greece had been rejected on the basis of exclusion clauses set out in Articles 12 and 17 of the recast Qualification Directive.

The statistics shared by the SEF indicate that as of 22 August 2017 the relocation of vulnerable caseloads was limited to 10 separated children from Greece.

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

2. Post-arrival treatment

While in 2015 and 2016 applications of relocated asylum seekers of Syrian and Eritrean nationality had benefited from an initial fast-tracking of admissibility and regular procedures, this practice subsided throughout 2016 due to the increasing caseload before the SEF. In 2017, the SEF systematically failed to inform CPR of first instance decisions on asylum applications in accordance with its legal obligations.

The SEF indicates that the average duration of the first instance procedure in 2017 was 1 month, a reference probably related to the duration of admissibility procedures at national territory. ACM reported that the procedure had an average length of 1 year. ACM also noted that the length of the procedure has decreased since the second trimester of 2017.²⁵⁸

According to the information available to CPR, the tendency to grant subsidiary protection to Syrians as opposed to Eritreans who are generally granted refugee status has continued in 2017. Taking into account UNHCR's International Protection Considerations with regard to people fleeing the Syrian Arab Republic, CPR has submitted observations on applicable legal standards advocating for the recognition of refugee status to Syrian nationals when appropriate, albeit with to no avail so far.

CPR is unaware of cases of persons receiving a negative decision on their asylum application after being relocated to Portugal.

²⁵⁸ ACM, *Relatório de Avaliação da Política Portuguesa de Acolhimento de Pessoas Refugiadas, Programa de Recolocação*, December 2017, unpublished.

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

1. Provision of information on the procedure

Indicators: Information on the Procedure

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

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

The Asylum Act provides for the right to:

- A broad set of information on the asylum procedure and reception conditions in general;²⁵⁹
- Information on key developments and decisions relating to the individual asylum file;²⁶⁰
- Information on detention;²⁶¹ and
- Specific information rights of unaccompanied children.²⁶²

Furthermore, the law provides for a general right to interpretation “whenever necessary” during registration of the application and throughout the asylum procedure,²⁶³ along with specific references to the right to interpretation into a language that the asylum seeker understands or is reasonably expected to understand to ensure the effectiveness of the right to information in some of the aforementioned instances.²⁶⁴

In practice, while the SEF generally complies with the obligation to inform asylum seekers of developments, decisions and associated rights in their individual asylum files throughout the asylum procedure and regardless of the type of procedure, interpretation for that purpose is not systematically available and rarely includes an explanation of the grounds of the decision. The absence of translation has also been problematic in cases where the SEF informs asylum seekers of developments in their asylum applications by postal mail, using letters written in Portuguese to which are attached documents such as Dublin transfer decisions or proposals for a final decision in the regular procedure in Portuguese,

²⁵⁹ This includes information on assistance and the asylum procedure by the UNHCR and CPR (Article 13(3)); information on the right to an individual application regarding dependant relatives (Article 13(5)); general information on the rights and duties in the asylum procedure (Article 14(2)); information in writing on the rights and duties in border procedures (Article 24(2)); information on the extension of the time limit for the examination and, upon demand, of the grounds for the extension and expected time limit for the decision in the regular procedure (Article 28(2)); oral information or an information brochure on the rights and duties of asylum seekers and in particular regarding the asylum procedure; applicable time limits; the duty to substantiate the claim; available service providers of specialised legal assistance; available reception and health care service providers; legal consequences of failing to cooperate with the SEF in substantiating the asylum claim; the purpose of fingerprinting and of all rights of data subjects in accordance to the EUODAC Regulation; information on the admissibility decision (Article 49(1)(a), (b), (c) and (2)); information on the rights and duties of beneficiaries of international protection (Article 66).

²⁶⁰ This includes the individual notification of first instance decisions in admissibility and accelerated procedures in national territory (Article 20(3)); the individual notification of first instance decisions in admissibility and accelerated procedures and the right to appeal at the border (Article 24(5)); individual notification of the SEF’s proposal for a first instance decision in the regular procedure (Article 29(2)); individual notification of the first instance decision and the right to appeal in the regular procedure (Article 29(6)); individual notification of the first instance decision, the right to appeal and the obligation to abandon national territory within 20 days regarding subsequent applications (Article 33(6) and (9)); individual notification of the first instance decision and the right to appeal regarding applications following a removal procedure (Article 33-A(6)); individual notification of outgoing Dublin take charge or take back decisions (Article 37(2)); individual notification of the SEF’s proposal for the cessation, revocation, ending or refusal to renew the international protection status (Article 41(6)); individual notification of the cessation, revocation, ending or refusal to renew the international protection status (Article 43(2)).

²⁶¹ 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)).

²⁶² 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)).

²⁶³ Article 49(1)(d) Asylum Act.

²⁶⁴ 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.

a problem that is mostly related to asylum seekers in private accommodation. CPR has also received a few complaints from asylum seekers according to whom the SEF did not provide for the interpretation of the document narrating the essential facts at the end of their personal interview and prior to its signature. This is despite the document stating that its content was translated in full and that the applicant ratified its content accordingly.

Upon registration, the asylum seeker receives written information (available in a limited number of languages e.g. French, English) regarding the rights and duties attached to the certificate of the asylum application. The SEF has also produced an information leaflet that briefly covers some of its information obligations.²⁶⁵ The information contained in the leaflet is brief, not considered user-friendly by many asylum seekers and does not adequately address relevant issues such as fingerprinting, the rights of individuals vis-à-vis Eurodac and the rights and duties of beneficiaries of international protection. According to CPR's experience, the leaflet is only available in a limited number of foreign languages (e.g. French, English, Arabic) and is not distributed systematically. Furthermore, the leaflet was produced prior to the changes introduced in 2014 to the Asylum Act and CPR is not aware of the distribution of an updated version. According to CPR's experience, and despite written requests to that end, asylum seekers are rarely if ever informed of the extension of the time limit for the examination, its grounds and expected time limit for the decision in the regular procedure.

CPR has no indication that the common information leaflet provided for in Article 4(3) of the Dublin III Regulation is systematically distributed and the only information given on the functioning of the Dublin system is contained in the general information leaflet, which simply mentions the possibility of a "take charge" request and applicable time limits. This information is deemed manifestly insufficient. Information on a possible "take charge" request as well as a waiver for sharing information under Article 34 of the Dublin Regulation is also included in either the document narrating the individual interview that is signed and handed out to the asylum applicant or a separate letter provided to the applicant prior to the decision. Asylum seekers are systematically informed in writing of the request made to another Member State, the corresponding supporting evidence and the reply of that Member State but only at the time of written notification of the actual transfer decision.²⁶⁶

In the case of asylum seekers detained at the border, the certificate of the asylum application contains a brief reference to Article 26 of the Asylum Act that provides for the systematic detention of asylum seekers in the border procedure. Asylum seekers are not systematically informed or aware of their rights and obligations in detention despite the existence of information leaflets available in a limited number of foreign languages.²⁶⁷

Despite having been designated as legal representative for the majority of unaccompanied children who applied for asylum in 2017, CPR is unaware of the provision of child-friendly information by the SEF, including the specific information leaflet for unaccompanied children provided for by Article 4(3) of the Dublin Regulation.

Information by NGOs

CPR provides free legal information to asylum seekers throughout the asylum procedure that broadly cover the information requirements provided in the law, including tailored information to unaccompanied children and to relocated asylum seekers on the basis of individual interviews and legal attendance. CPR has also developed the [HELP](#) information portal which offers among others cultural orientation information, information on the asylum procedure, reception services and relevant institutional contacts. The portal is available in Portuguese, English, French and Spanish. However, challenges in capacity have restricted the provision of legal information during the first instance asylum procedure, particularly

²⁶⁵ SEF, *Guia do requerente asilo*, available in Portuguese at: <http://bit.ly/2hpa3xZ>.

²⁶⁶ Article 37(2) Asylum Act.

²⁶⁷ Portuguese Ombudsman, *Tratamento de Cidadãos Estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equipados*, September 2017, available in Portuguese at: <http://bit.ly/2z15JPu>, Chapter II, Section 9.

regarding asylum seekers placed in detention or private accommodation in more remote locations (see [Regular Procedure: Legal Assistance](#)).

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

2. Access to NGOs and UNHCR

Indicators: Access to NGOs and UNHCR

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

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

I. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☒ Yes ☐ No
❖ If yes, specify which: Syria, Eritrea
2. Are applications from specific nationalities considered manifestly unfounded?²⁶⁸ ☐ Yes ☒ No
❖ If yes, specify which:

The SEF has a tendency to grant subsidiary protection relocated Syrians, as opposed to relocated Eritreans who are generally granted refugee status (see [Relocation](#)).

²⁶⁸ Whether under the “safe country of origin” concept or otherwise.

Reception Conditions

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

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

❖ Regular procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Dublin procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Admissibility procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Border procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Accelerated procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ First appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Onward appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Subsequent application	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Reduced material conditions	<input checked="" type="checkbox"/> No
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?

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

The primary responsibility for the provision of material reception conditions lies with the Ministry of Internal Administration,²⁶⁹ except for asylum seekers who pass the admissibility procedure and are in the regular procedure, who fall under the responsibility of the Ministry of Employment, Solidarity and Social Security.²⁷⁰ Nevertheless, the authorities can cooperate with public and/or private non-profit organisations in the framework of a MoU to ensure the provision of such services.²⁷¹

The practical framework for the reception of asylum seekers in Portugal currently stems from both bilateral MoUs,²⁷² and a multilateral MoU between relevant stakeholders.²⁷³ The latter is coordinated by a Steering Commission (*Comissão de Acompanhamento*, CA) presided by the Institute of Social Security (*Instituto da Segurança Social*, ISS).²⁷⁴ The Memoranda provide for an overall responsibility-sharing mechanism among stakeholders according to which different entities provide reception conditions depending on the type and stage of the procedure or the profile of the applicant:

1. The **Institute for Social Security (ISS)** offers material reception conditions to asylum seekers in the regular procedure;
2. **Santa Casa da Misericórdia de Lisboa (SCML)** is tasked with assisting asylum seekers who have submitted an appeal against a Dublin decision or a first instance decision (with the exception of a first instance decision in the regular procedure) as well as certain categories of

²⁶⁹ This includes admissibility procedures (including Dublin procedures); accelerated procedures, border procedures, subsequent applications and applications following a removal decision: Article 61(1) Asylum Act.

²⁷⁰ Article 61(2) Asylum Act.

²⁷¹ Article 61(1) and (2) *in fine* Asylum Act.

²⁷² Notably MoUs between the Ministry of Internal Administration / SEF and CPR, between ISS and CPR, and between the ISS and Santa Casa da Misericórdia de Lisboa (SCML).

²⁷³ The initial signatories in 2012 included the SEF, ISS, SCML, CPR, ACM and the Employment and Professional Training Institute (*Instituto do Emprego e Formação Profissional*, IEFP). In 2014, the partnership was extended to include the Directorate General for Health (*Direcção-Geral da Saúde*, DGS), the Central Administration of the Health System (Administração Central do Sistema de Saúde, ACSS), the Directorate General of Education (*Direcção-Geral da Educação*, DGE), the Directorate General of Education Institutions (*Direcção-Geral dos Estabelecimentos Escolares*, DGEE), the National Association of Portuguese Municipalities (*Associação Nacional de Municípios Portugueses*, ANMP) and JRS.

²⁷⁴ The Steering Commission is assisted by a Technical Operative Group (*Grupo Técnico Operativo*, GTO) tasked, among others, with ensuring operational guidance and coordination of reception and integration services provided to spontaneous asylum seekers and resettled refugees at central and local levels.

asylum seekers in the regular procedure (e.g. vulnerable cases such as unaccompanied children initially accommodated at CACR that move into assisted apartments and former unaccompanied children initially accommodated at CACR; or individuals and families with strong social networks in the Lisbon area);;

3. The **Portuguese Refugee Council (CPR)** offers reception services to asylum seekers in the admissibility (including Dublin) and accelerated procedures in the national territory. In the particular case of unaccompanied children, CPR also provides for material reception conditions in the regular procedure and at appeal stage in accordance with protective measures adopted by Family and Juvenile Courts in the framework of the Children and Youths at Risk Protection Act (see [Legal Representation of Unaccompanied Children](#)).
4. The **Aliens and Borders Service (SEF)** retains responsibility for material reception conditions in border procedures and procedures in detention following a removal order (see [Conditions in Detention Facilities](#)).²⁷⁵

In the particular case of [Relocation](#), a special coordination framework, the Working Group for the Agenda for Migration, was launched in 2015 to assess existing capacities, plan and prepare an action plan for relocation under the political coordination of the Deputy Minister.²⁷⁶ The Working Group is composed of various public and private stakeholders and reception service providers.²⁷⁷ Within the framework of this Working Group, ACM maintains a database of potential hosting entities that apply to receive relocated asylum by providing information to ACM for this database. The information provided includes a description of how the entities will provide support in six areas: provision of independent housing, education, health, language training, mental health, and vocational training / labour market. ACM sends the selected hosting entity a list of their assigned cases, which must then evaluate their own capacity and match persons to housing with SEF arranging for the transfer. Relocated asylum seekers benefit from an 18-month support programme and the main providers of reception services include the Platform for Reception of Refugees (PAR), followed by CPR (in partnership with municipalities), the Municipality of Lisbon, União de Misticórdias, the Portuguese Red Cross (CVP), and other stand-alone municipalities. In the case of PAR, the initial support programme lasts 24 months.²⁷⁸

However, and despite it being considered a good practice by hosting entities, in 2017 the Working Group only met in December. While ACM provided variable levels of monitoring of the reception programmes during the 18-month support programme through articulation with the reception services the need for increased and improved monitoring and support from ACM and the SEF was raised by hosting entities consulted in the framework of the assessment of the national relocation programme conducted by the government.²⁷⁹

According to the guidelines adopted by the ISS, the responsibility for the provision of reception conditions to relocated asylum seekers in the regular procedure reverts to the ISS three months after completion of the initial the 18- to 24-month support programme provided in the framework of the Working Group for the Agenda for Migration. While according to the authorities the phase-out stage of the relocation programme, which is coordinated by the ACM and initiated 6 months before the end of individual support, is running

²⁷⁵ Article 61(1) Asylum Act.

²⁷⁶ Ministerial Order n. 10041-A/2015 and Council of Ministers Resolution n. 5/2016.

²⁷⁷ These include: SEF, ACM, General Secretariat of Internal Administration (*Secretaria Geral da Administração Interna*, SGAI), Ministry of Foreign Affairs (*Ministério dos Negócios Estrangeiros*, MNE), DGE, ANMP, Directorate General of Local Municipalities (*Direcção-Geral das Autarquias Locais*, DGAL), ISS, DGS, Municipality of Lisbon, Institute for Housing and Urban Rehabilitation (*Instituto da Habitação e da Reabilitação Urbana*, IHRU), IEF, CPR, União das Misticórdias, União das Mutualidades, PAR, JRS, CVP and CNIS.

²⁷⁸ ACM, *Relatório de Avaliação da Política Portuguesa de Acolhimento de Pessoas Refugiadas, Programa de Recolocação*, December 2017, unpublished. The report, coordinated by the ACM, was drafted following the approval of Resolution 167/17 by the Parliament in June 2017 and involved input from 39 hosting entities and 1 refugee community organisation.

²⁷⁹ *Ibid.*

smoothly, there is concern among hosting entities about the length of the transition process,²⁸⁰ and in consultations with CPR some voiced concern that the 3-month period adopted by the ISS could lead to gaps in the provision of material reception conditions to relocated asylum seekers upon completion of their initial support programme.

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,²⁸¹ with the exception of a possible withdrawal or reduction of those conditions in the case of “unjustified” subsequent applications.²⁸² Asylum seekers are entitled to support from the moment they apply for asylum,²⁸³ until a final decision is reached on their asylum application,²⁸⁴ without prejudice to the suspensive effect of appeals²⁸⁵ and the provision of material reception conditions beyond the final rejection in case of ongoing need for support on the basis of an individual assessment of the applicant’s social and financial circumstances.²⁸⁶

Furthermore, there is a requirement in the law according to which only asylum seekers who lack resources are entitled to material reception conditions.²⁸⁷ The law provides for criteria to assess the sufficiency of resources that consist in either the lack thereof or a level of financial resources which is inferior to the “social support allowance” provided in the law.²⁸⁸ To date the ISS has interpreted this provision as referring to the social pension (*pensão social*) that in 2017 stood at 203.35 € per month.²⁸⁹ Asylum seekers can be called to contribute,²⁹⁰ or reimburse,²⁹¹ partly or in full, the cost of material reception conditions and health care depending on the level and the point in time when the authorities become aware of their financial resources.

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

In the case of referrals to CPR’s Refugee Reception Centre (*Centro de Acolhimento para Refugiados*, CAR) that accommodates isolated adults and families, access was dependent on the applicant presenting an individual certificate of the asylum application or a written request (e.g. email) from SEF/GAR where the timely issuance of the certificate was not possible, for instance in the case of late arrivals of incoming Dublin transfers. As for unaccompanied children, referral by the SEF to CPR’s CACR is made by the most

²⁸⁰ *Ibid.* According to the report, as of September 2017 a total of 39 relocated individuals had been referred to ISS and SCML for the provision of reception conditions at the end of the initial 18- to 24-month support programme.

²⁸¹ Articles 51(1), 56(1) and 56(1)-(2) Asylum Act.

²⁸² Article 60(3)(f) Asylum Act. The meaning of “unjustified subsequent application” seems to indicate that the potential withdrawal or reduction would only intervene at the end of the 10-day admissibility/preliminary assessment as per Article 33(4). In 2017 such possibility was not enforced given that the SEF referred subsequent applicants in need of housing to CPR for the provision of reception conditions during the first-instance admissibility procedure, while SCML provided reception conditions at appeal stage in the case of a rejected subsequent application.

²⁸³ 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.

²⁸⁴ Article 60(1) Asylum Act.

²⁸⁵ Articles 60(1) *in fine* and 30(1) Asylum Act.

²⁸⁶ Article 60(2) Asylum Act.

²⁸⁷ Articles 51(1) and 56(1) Asylum Act.

²⁸⁸ Article 56(3) Asylum Act.

²⁸⁹ Decree-Law 464/80 and Ministerial Order 98/2017.

²⁹⁰ Article 56(4) Asylum Act.

²⁹¹ Article 56(5) Asylum Act.

expedient means available such as telephone or email and in many instances, those of children released from the border, involved escort by the SEF to the premises. Finally, for those asylum seekers who have opted for private housing with relatives, the provision of material reception conditions such as financial assistance by CPR is dependent on the presentation of an individual certificate of the asylum application. CPR does not proactively engage in means assessments for the duration of the provision of material reception conditions given that asylum seekers are not entitled to access paid employment at this stage of the procedure.

Following admission to the regular procedure, or if the application is deemed inadmissible or is rejected in an accelerated procedure,²⁹² the asylum seeker is generally referred by frontline service providers such as CPR to the GTO using a standard individual monitoring report. The GTO decides on the provision of material reception conditions in the regular procedure (by ISS) or at appeal stage (by SCML) based on the report that includes information on the socio-economic circumstances of the individual. CPR is unaware of asylum seekers refused material reception conditions at this stage due to a strict application of criteria pertaining to sufficient resources. This can be explained by the fact that at this stage asylum seekers admitted to the regular procedure have just been given access to paid employment and are often unemployed. According to the statistics provided by the ISS, in 2017 there was no cessation of material reception conditions in the regular procedure due to the resources of the applicant. According to the information available to CPR the contribution or reimbursement of material reception conditions at this stage is not implemented in practice.

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

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 2017 (in original currency and in €): 264 €

The Asylum Act provides for a general definition of material reception conditions,²⁹³ as well as a closed list of forms of material reception conditions in Article 57(1) that includes:

- a. Housing;²⁹⁴
- b. Food;
- c. Monthly social support allowance for food, clothing, transport and hygiene items;
- d. Monthly complementary allowance for housing; and
- e. Monthly complementary allowance for personal expenses and transport.

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

²⁹² This includes rejected asylum seekers released from the border after the expiry of the 60-day time limit (see [Duration of Detention](#)).

²⁹³ Article 2(1)(e) Asylum Act: housing, food, clothing and transportation offered in kind, through financial allowances, vouchers or daily allowances.

²⁹⁴ 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.

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

However, asylum seekers may exceptionally be offered forms and combinations of material reception conditions other than those provided in the law for a limited period of time where: (i) there is a need for an initial assessment of the special needs of the applicant; (ii) the housing in kind as per the law is not available in the area where the asylum seeker is located; and/or (iii) available reception capacity is temporarily exhausted and/or the international protection applicants are detained at a border that is not equipped housing declared as equivalent to reception centres.²⁹⁵

While the Asylum Act enshrines the right of asylum seekers to the satisfaction of their basic needs to a level that guarantees their human dignity,²⁹⁶ it does not provide for specific criteria to determine what is an adequate standard of living which guarantees their subsistence and protects their physical and mental health as per Article 17(2) of the recast Reception Conditions Directive.

The specific criteria for establishing the value of the financial allowances consists of a percentage of the “social support allowance”,²⁹⁷ which to date has been interpreted by the ISS as referring to the social pension (*pensão social*).²⁹⁸ These percentages represent the upper limit of the allowances and in 2017 consisted of the following:

Level of financial allowances per expense: 2017		
Type of monthly allowance	Percentage	Amount
Social support allowance for food, clothing, transport and hygiene items	70%	142.56 €
Complementary allowance for housing	30%	60.72 €
Complementary allowance for personal expenses and transport	30%	60.72 €

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

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

²⁹⁵ Article 57(4) Asylum Act.

²⁹⁶ Article 56(1) Asylum Act.

²⁹⁷ Article 58 Asylum Act.

²⁹⁸ Decree-Law 464/80. In 2016 the value of the social pension stood at 201.53 € / month: Ministerial Order 286-A/2014.

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 the ISS and by the SCML is expected to cover all expenses. In the case of SCML there is the possibility of providing additional financial support for medication and school supplies following an individual needs assessment.

The monthly allowance for all expenses is calculated in accordance to the percentages of the social pension set out in the Asylum Act,²⁹⁹ as mentioned above, albeit with a regressive percentage per additional member of the household:

Level of ISS / SCML financial allowance for all expenses: 2017	
Category of applicant	Amount
Head of household	264 €
Other adult in household	184.80 €
Child	131.99 €

Financial allowances for asylum seekers and beneficiaries of international protection in the regular procedure and in appeal saw a sharp decrease in 2012 during the financial crisis and the reasoning of the ISS since has been to bring them strictly in line to those provided in the law to destitute nationals. According to the law, the social pension constitutes a measure of solidarity to offer social protection to the most vulnerable populations.³⁰⁰

Even though no qualitative research has been conducted to date on destitution of asylum seekers in the asylum procedure, the current level of financial allowances is manifestly low and CPR's Social Department receives regular complaints from asylum seekers at all stages of the asylum procedure regarding financial difficulties to meet basic needs and anxiety regarding low levels of income, although short of outright destitution. Such difficulties might constitute a contributing factor to the high level of absconding and cessation of support in the regular procedure and in the relocation programme (see [Reduction or Withdrawal of Reception Conditions](#)).

Following a resolution passed by the Parliament in June 2017 recommending the publication of an evaluation report of the Portuguese reception policy for refugees,³⁰¹ the Government opted for a more limited assessment of the national relocation programme leaving out the reception system for spontaneous asylum seekers. The report, coordinated and drafted by ACM, collected inputs from 39 hosting entities and 1 refugee community organisation and was completed in December 2017.³⁰² The evaluation conducted by the ACM is based on a set of general indicators drawn from the priority areas of the Working Group's national plan for the reception and integration of relocated persons. Despite the general acknowledgement of some challenges, the overall evaluation of the programme is very positive. However, the results presented regarding reception and integration conditions are based on very general quantitative indicators and provide limited qualitative information.³⁰³ The qualitative information presented in the report is mostly based on the consultation conducted with hosting and refugee community organisations and points to challenges such as insufficient financial support and the need for longer

²⁹⁹ Article 58 Asylum Act.

³⁰⁰ Preamble to Law Decree 464/80 regarding the social pension that refers to "improving social protection for the most destitute". The social pension is provided among others to nationals, who are not entitled to a pension from the contributory social security system who lack any revenue or whose revenue is below the value of the social pension (Article 1).

³⁰¹ Resolução da Assembleia da República n.º 167/2017 Recomenda ao Governo a publicação de um relatório de avaliação da política portuguesa de acolhimento de refugiados, available at: <https://bit.ly/2GdX39b>.

³⁰² ACM, *Relatório de Avaliação da Política Portuguesa de Acolhimento de Pessoas Refugiadas, Programa de Recolocação*, December 2017, unpublished.

³⁰³ The indicators used included a 100% rate regarding registration with the SNS and access to medical care; 98% access to Portuguese language classes; around 80% access of children to education; around 80% first instance decisions on the asylum application; 29 births on the territory; 50% of persons in working age that remained in Portugal in training or employment; around 90% and 80% of persons granted fiscal identification numbers and social security numbers.

reception programmes; gaps in pre and post departure information; lack of translators; and insufficient and ill adapted language training as well as insufficient professional training opportunities.

3. Reduction or withdrawal of reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?
☒ Yes ☐ No
2. Does the law provide for the possibility to withdraw material reception conditions?
☒ Yes ☐ No

The Asylum Act provides for a closed list of grounds that may warrant the reduction or withdrawal of material reception conditions. These consist of:

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

For the reduction or withdrawal to be enacted, the behaviour of the applicant needs to be unjustified,³⁰⁴ implying the need for an individualised assessment of the legality of the decision, which is however not clearly stated in the law. The asylum seeker is entitled to appeal the decision under these grounds before an Administrative Court,³⁰⁵ with suspensive effect,³⁰⁶ and may benefit from free legal aid to that end.³⁰⁷ Reception conditions reduced or withdrawn pursuant to grounds (a) to (c) above can be reinstated if the asylum seeker is found or presents him or herself to the authorities.³⁰⁸

According to the statistical information collected, the ISS did not adopt decisions to reduce or withdraw material reception conditions of asylum seekers in the regular procedure under these grounds in 2017. It is worth noting, however, that during the same period a total of 112 spontaneous asylum seekers in the regular procedure abandoned *proprio motu* the support provided by the ISS for reasons that could in certain instances be linked to poor living standards offered by material reception conditions. The rate of absconding in the **Relocation** programme since 2015 has also been quite important.³⁰⁹ However, according to the information available to CPR the absconding of spontaneous and relocated asylum seekers was not followed by formal decisions of reduction or withdrawal of material reception conditions, rendering irrelevant the issue of reinstatement of reception conditions provided in the law. In the particular case of relocation, asylum seekers who have absconded and later transferred back to Portugal in accordance to the Dublin Regulation are systematically provided reception conditions upon arrival either by the initial reception service provider, a different service provider or by the ACM.

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,

³⁰⁴ *Ibid.*

³⁰⁵ Article 60(8) Asylum Act.

³⁰⁶ Articles 63(1) and 30(1) Asylum Act.

³⁰⁷ Article 63(2) Asylum Act.

³⁰⁸ Article 60(4) Asylum Act.

³⁰⁹ Público, 'Quase metade dos 1500 refugiados que chegaram já deixou Portugal', 16 October 2017, available in Portuguese at: <http://bit.ly/2j8gF7J>; News Deeply, 'Portugal Offers Refugees a Warm Welcome, but Can't Get Them to Stay', 1 September 2017, available at: <http://bit.ly/2gMuHdW>. According to the evaluation report of the relocation programme, on 28 November 2017 the overall rate of absconding stood at 45%: ACM, *Relatório de Avaliação da Política Portuguesa de Acolhimento de Pessoas Refugiadas, Programa de Recolocação*, December 2017.

and notably sexual and gender-based violence.³¹⁰ In the case of the **CAR**, both the Regulation and the individual contract signed between CPR and the asylum seeker include specific prohibitions of abusive and violent behaviour that can ultimately result in withdrawal of support following an assessment of the individual circumstances of the case and taking into consideration the vulnerability of the applicant.³¹¹ In the case of **CACR**, while the Regulation contains similar prohibitions and age appropriate sanctions,³¹² the accommodation of unaccompanied children stems from and can only be reviewed by the Family and Juvenile Courts in the framework of the Children and Youths at Risk Protection Act (see [Legal Representation of Unaccompanied Children](#)).

In practice, without prejudice to criminal proceedings where relevant, instances of withdrawal of support from CPR following abusive and/or violent behaviour in breach of internal rules remain an extremely rare event. For most cases the consequences consist of transfer into private accommodation to ensure the security and well-being of the remaining clients.. In the particular case of unaccompanied children, the Family and Juvenile Courts generally prioritise the stability of the living environment,³¹³ and are extremely reluctant to uproot the child by transfer into another institution.

4. Freedom of movement

Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country? ☒ Yes ☐ No
2. Does the law provide for restrictions on freedom of movement? ☐ Yes ☒ No

The Asylum Act does not contain specific restrictions on the freedom of movement or grounds for residence assignment but provides for the duty of asylum seekers to keep the SEF informed of their address and immediately flag any changes thereto.³¹⁴ 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.³¹⁵

Since 2012, the operational framework for the reception of asylum seekers in Portugal provides for a dispersal mechanism of asylum seekers (see [Criteria and Restrictions to Access Reception Conditions](#)). Following the admissibility procedure and admission to the regular procedure, or if the application is deemed inadmissible or rejected in an accelerated procedure, the asylum seeker is generally referred by frontline service providers such as CPR to the GTO, using a standard individual monitoring report. The GTO meets at least once a month to discuss individual cases and decides on the provision of material reception conditions in the regular procedure (generally by ISS) or at appeal stage (by SCML) on the basis of the report and in accordance to existing reception capacity nationwide. This can either result in a dispersal decision implemented by local Social Security services for those admitted to the regular procedure or their placement in private housing in the **Lisbon** area under the responsibility of SCML for those who have appealed the rejection of their application.

In practice, according to the statistics shared by the ISS and SCML, in 2017 there were a total of 899 spontaneous asylum seekers and beneficiaries of international protection – including relocated persons – who benefited from ISS material support, residing in the following areas:

³¹⁰ Article 59(1)(e) Asylum Act.

³¹¹ 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.

³¹² 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.

³¹³ Article 78(2)(e) Asylum Act provides for stability of housing as a contributing factor to upholding the best interests of the child.

³¹⁴ Article 15(1)(f) Asylum Act.

³¹⁵ Article 59(2) Asylum Act.

Dispersal of applicants and beneficiaries of international protection receiving ISS support	
Area	Number
Lisbon	445
Porto	79
Coimbra	64
Castelo Branco	52
Setúbal	49
Évora	30
Viseu	26
Portalegre	25
Guarda	22
Aveiro	21
Vila Real	21
Braga	20
Santarém	15
Beja	11
Leiria	8
Viana do Castelo	5
Faro	5
Bragança	1
Total	899

Source: ISS

Most asylum seekers and beneficiaries of international protection receiving material reception conditions from ISS in 2017 resided in **Lisbon**. Additionally, a total of 394 individuals benefited from material support of the SCML mostly in the Lisbon area and its surroundings. These included 307 asylum seekers who had submitted an appeal against a Dublin decision or a first instance decision (except for a first instance decision in the regular procedure); 47 vulnerable asylum seekers in the regular procedure; and 40 beneficiaries of international protection.

There is some flexibility in the implementation of the dispersal policy. According to the 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 health related grounds justify an exception (e.g. regarding unaccompanied children enrolled in schools, asylum seekers who are employed at the time of the decision or particularly vulnerable asylum seekers who benefit from specialised medical care in Lisbon, see [Responsibility for Reception](#)). Otherwise the refusal to accept the dispersal decision by failing to report to the local Social Security service or abandoning its support following the dispersal decision will generally result in the withdrawal of material reception conditions. According to the information available to CPR, once the dispersal decision is made by the GTO, asylum seekers are not subjected to onward dispersal decisions resulting in their move from the initial District of assignment.³¹⁶

Even though no research has been conducted to date to assess the impact of the dispersal policy, according to the information collected by CPR, the main concerns raised by asylum seekers include isolation, lack of interpreters and specialised mental health care, difficulties in accessing specialised legal assistance, including that provided by CPR due to the geographical distance, and lack of tailor-made integration services such as language training and vocational training.

³¹⁶ It should be noted that in accordance to Article 59(2) Asylum Act, decisions ordering the transfer of asylum seekers from housing facilities can only occur when needed for an adequate decision-making process regarding the asylum application or to improve housing conditions.

The law only provides for the possibility to appeal a decision to withdraw or reduce material reception conditions in case of abandonment of the place of residence assigned by the competent authority without informing the SEF, without proper authorisation or without informing the reception service provider.³¹⁷

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation	
1. Number of reception centres:	2
2. Total number of places in the reception system:	47
3. Total number of places in private accommodation (incl. beneficiaries):	1,594
4. Type of accommodation most frequently used in a regular procedure:	<input type="checkbox"/> Reception centre <input type="checkbox"/> Hotel or hostel <input type="checkbox"/> Emergency shelter <input checked="" type="checkbox"/> Private housing <input type="checkbox"/> Other
5. Type of accommodation most frequently used in an accelerated procedure:	<input checked="" type="checkbox"/> Reception centre <input checked="" type="checkbox"/> Hotel or hostel <input type="checkbox"/> Emergency shelter <input type="checkbox"/> Private housing <input checked="" type="checkbox"/> Detention

As mentioned in [Freedom of Movement](#), asylum seekers are generally referred by frontline service providers to the GTO following admission to the regular procedure or in case of appeal of the rejection of the application at first instance. At this point the provision of housing is relayed by either local Social Security services for the duration of the regular procedure or by SCML in the Lisbon area at appeal stage. According to information provided by the ISS, asylum seekers are mostly provided with private housing without prejudice to occasional short-term transitional housing upon arrival at the dispersal location in collective accommodation such as hotels or non-dedicated reception centres e.g. emergency shelters, nursing homes, etc. In the case of SCML, the provision of housing consists mostly of accommodation in private inns in the Lisbon area. In 2017, the number of asylum seekers and beneficiaries of international protection assisted by the ISS and SCML for the provision of housing in private accommodation reached 1,293 people.

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

Capacity and occupancy of the asylum reception system		
Centre	Capacity	Occupancy at 31 December 2017
CAR	52	111
CACR	13	22
Total	65	133

Source: CPR

The **CAR** is an open reception centre located in **Bobadela**, Municipality of Loures, and operates in the framework of MoUs with the Ministry of Internal Administration and the Ministry of Labour, Solidarity and Social Security. The official capacity of the CAR stands at 52 places. In 2017, CPR provided reception assistance to a total of 654 asylum seekers of which 50% were accommodated at CAR, 46% in alternative private accommodation, and the remaining 4% with friends / family.

³¹⁷ Articles 60(3)(a)-(b) and (8), and 63(1) Asylum Act.

CPR ensures accommodation until ISS/SCML take over and asylum seekers only leave its facilities when alternative accommodation is secured (see [Responsibility for Reception](#)). The difficulties faced by asylum seekers in finding private housing due to the lack of available properties and increased market prices contributed to stays in CPR's CAR or private accommodation of up to 6 months.

At the end of April 2017, CPR informed the SEF and the GTO that it could no longer accept new arrivals due to overcrowding, as at the time the centre was offering accommodation to 102 persons, far beyond its capacity. At the same time,, 159 persons were accommodated in hostels or rooms paid by CPR due to the lack of capacity in the centre. Between April and June, only vulnerable cases such as women with young children – 47 in total – were accepted in the CAR. The CAR reopened in June 2017 following the transfer of several asylum seekers to housing provided by the ISS and SCML in accordance with the relevant MoUs.

Throughout the two-month period during which CPR was unable to accommodate asylum seekers, the ISS and SCML stepped in and provided emergency accommodation to asylum seekers in the admissibility, Dublin and accelerated procedure on the territory, although in certain instances CPR received complaints regarding difficulties in accessing these alternative forms of accommodation.

Notwithstanding the transitional solution found following its closure in April, overcrowding in CAR persisted throughout the year. Aggravating factors included the fact that, despite the existing arrangements, asylum seekers who have appealed the rejection of their application at the border are systematically referred to the CAR upon their release for purposes of transitional accommodation during the referral process to the GTO.

The [CACR](#), on the other hand, is an open reception house for unaccompanied asylum-seeking children located in **Lisbon** that operates since 2012 in the framework of MoUs with the Ministry of Internal Administration, the Municipality of Lisbon and the Ministry of Labour, Solidarity and Social Security. The official capacity stands at 13 places and in 2017 the CPR provided housing at CACR to a total of 56 unaccompanied children.

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

In the particular case of asylum seekers arriving through [Relocation](#), the hosting organisations offer an initial 18-month support programme – 24-month in the case of PAR – that generally includes housing in kind either in private accommodation rented by the hosting organisation or in collective accommodation such as reception centres for vulnerable populations. In 2016 and 2017, CPR established MoUs with 19 municipalities and institutions for the reception of up to 251 relocated asylum seekers that for the most part benefited from rented accommodation. In February 2016, the Lisbon Municipality inaugurated a Temporary Reception Centre for Refugees (*Centro de Acolhimento Temporário para Refugiados*, **CATR**) that provides transitory reception to relocated asylum seekers. The CATR has a capacity of 26 places and is complemented by temporary accommodation in private housing supervised by designated operational partners.

ACM conducts individual interviews with relocated beneficiaries at three stages: six months before, three months before, and upon completion of the initial 18-month support programme. These interviews are tailored to assist the transition into the general support system available to asylum seekers in the regular procedure.³¹⁸

³¹⁸ ACM, *Relatório de Avaliação da Política Portuguesa de Acolhimento de Pessoas Refugiadas, Programa de Recolocação*, December 2017.

Following consultations in late 2017 with reception providers and relocated asylum seekers, CPR was informed of concerns regarding delays in the process of transition to the general support system and regarding the level of support provided, which was considered too low an income on which to survive. However, it was noted that such problems similarly affected Portuguese nationals.

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 90 days
 - ❖ Unaccompanied children 231 days
3. Are unaccompanied children ever accommodated with adults in practice? ☐ Yes ☒ No

The main form of accommodation used during admissibility, including Dublin, and accelerated procedures in national territory are CPR's reception centres while in the regular procedure and at appeal stage as well as in the case of relocation is private accommodation (see [Types of Accommodation](#)). There is currently no regular system of reception monitoring in place.

The ISS is the competent authority for the licensing and monitoring of reception centres, including for asylum seekers.³¹⁹ The quality standards applicable to collective accommodation facilities have been laid down by the ISS in detail regarding temporary reception centres for children at risk (such as the CACR).³²⁰ Furthermore, the law provides for specific standards regarding housing in kind for asylum seekers,³²¹ and children at risk such as unaccompanied children in particular.³²² The specific material reception standards of the CAR and CACR are encapsulated in the underlying bilateral MOUs (see [Types of Accommodation](#)) and their internal regulations.

The **CAR** is composed of shared rooms with dedicated bathrooms / toilets and is equipped to accommodate asylum seekers with mobility constraints; it includes a lift and adapted bathrooms / toilets. The residents are expected to cook their own meals in a communal kitchen and have access to common fridges and cupboards. The centre also has a laundry service, a playground, a day-care / kindergarten for resident and local community children, as well as a library connected to the municipal library system and a theatre / event space that can be rented out. The centre provides psychosocial and legal assistance, Portuguese language training, socio-cultural activities as well as job search support (see [Access to the Labour Market](#)). There is logistical support staff present 24 hours a day and the overall cleaning of the centre is carried out by a private company, though the residents are expected to cooperate in the cleaning of their room and the common kitchen. The residents have converted part of the common area into a prayer space.

The average stay at the CAR is around 3 months albeit problems in the transition into private housing provided by the ISS and SCML tend to extend the stay by several months (see [Types of Accommodation](#)). The official capacity stands at 52 places. However, existing gaps in centralised reception capacity have

³¹⁹ Decree-Law No 64/2007.

³²⁰ 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>, 5, the ISS has also adopted quality standards for other temporary reception centres (such as the CAR and the CATR) contained in technical guidelines dated 29 November 1996 (unpublished).

³²¹ 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.

³²² Articles 52-54 Children and Youth at Risk Protection Act.

resulted in chronic overcrowding that has been partially averted by resorting to the private housing market (hostels, rooms, apartments) for the most part in the Municipality of **Loures**. Systematic overcrowding has put severe strains on the living conditions and access to services, despite the continuous efforts to accommodate specific needs both at CAR and in external accommodation. This includes conflicts in the use of the common kitchen and storing spaces, petty thefts and tensions with other residents, delayed access to services such as social and legal assistance and complaints regarding insufficient socio-cultural activities.³²³

CPR suspended new arrivals for a two-month period between April and June 2017 due to overcrowding, as a measure to ensure adequate living standards for asylum seekers accommodated at the CAR (see [Types of Accommodation](#)).

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

The CACR offers unaccompanied children age-appropriate housing and reception conditions for an average stay period of 7 months and 3 weeks, regardless of the stage of the asylum procedure. The official capacity stands at 13 places but the existing gap in specialised reception capacity has also resulted in overcrowding that has been partially averted by: changing arrangements in rooms to expand capacity while preserving adequate accommodation standards; resorting to separate accommodation of unaccompanied children above the age of 16 at the **CAR**, supervised by the Family and Juvenile Court; and, depending on the individual circumstances, promoting the placement of children above the age of 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.³²⁴ Despite the overcrowding, living conditions remain adequate but put a strain on the timing and quality of support provided. A relevant concern is absconding from the CACR, which stood at 14,29% (8 unaccompanied children) in 2017, compounded by instances of trafficking in human beings (see [Special Reception Needs](#)). During the same period, CACR's team flagged 11 instances of suspicions of trafficking in human beings to the competent authorities.

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

In the case of [Relocation](#), even though the poor quality of accommodation was sometimes raised by asylum seekers during consultations conducted by the CPR in late 2017, reception conditions did not stand out as a particular factor in motivating onward movements and the overall appraisal was positive.

³²³ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <http://bit.ly/2xZqCGh>.

³²⁴ Act 147/99.

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market

- | | |
|--|--|
| 1. Does the law allow for access to the labour market for asylum seekers?
❖ If yes, when do asylum seekers have access the labour market? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7-30 days |
| 2. Does the law allow access to employment only following a labour market test? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 3. Does the law only allow asylum seekers to work in specific sectors?
❖ If yes, specify which sectors: | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 4. Does the law limit asylum seekers' employment to a maximum working time?
❖ If yes, specify the number of days per year | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 5. Are there restrictions to accessing employment in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

The Asylum Act provides for the right of asylum seekers to access the labour market following admission to the regular procedure and the issuance of a provisional residence permit.³²⁵ In case of admission to the regular procedure, access to the labour market can therefore be granted after 7 days in the context of the border procedure or after 10 to 30 days in procedures on the territory.³²⁶ Furthermore, asylum seekers entitled to access the labour market can also benefit from support measures and programmes in the area of employment and vocational training under specific conditions to be determined by the competent Ministries.³²⁷

There are no limitations attached to the right of asylum seekers to employment such as labour market tests or prioritisation of nationals and legally resident third country nationals. The issuance and renewal of provisional residence permits by the SEF, which clearly state the right to employment,³²⁸ are free of charge.³²⁹ The only restriction on employment enshrined in the law consists in limited access for all third-country nationals to certain categories of employment in the public sector.³³⁰ Furthermore, asylum seekers benefit from the same conditions of employment of nationals, including those pertaining to salaries and working hours.³³¹ 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).³³²

With the exception of the submission of beneficiaries of international protection to the conditions applicable to nationals of the same country,³³³ there are no specific rules regarding the recognition of diplomas and academic qualifications in the Asylum Act. The general rules regarding recognition of foreign diplomas at basic and secondary level include conditions that are particularly challenging for asylum seekers and beneficiaries of international protection,³³⁴ such as:

- a. The presentation of original diplomas,³³⁵ and eventually of additional supporting documents;³³⁶
- b. Duly translated and legalised documents;³³⁷

³²⁵ Articles 54(1) and 27(1) Asylum Act.

³²⁶ The 10 days correspond to the time limit of admissibility decisions in subsequent applications and applications following a removal order (on the territory) and the 30 days to the remaining admissibility procedures in the territory: Articles 33(4)-(5), 33-A (5) and 20(1) Asylum Act.

³²⁷ Article 55 Asylum Act.

³²⁸ Ministerial Order 597/2015.

³²⁹ Article 84 Asylum Act.

³³⁰ Article 15(2) Constitution and Article 17(1)(a) and (2) Act 35/2014.

³³¹ Article 4 Labour Code.

³³² Article 5 Labour Code.

³³³ Article 70(3) Asylum Act.

³³⁴ Decree-Law 227/2005; Ministerial Order 224/2006; Ministerial Order 699/2006.

³³⁵ Article 7(2) Decree-Law 227/2005.

³³⁶ Article 7(4) Decree-Law 227/2005.

³³⁷ *Ibid.*

- c. In the absence of such documents, a statement from an Embassy or a reception organisation related to the country of origin confirming exceptional individual circumstances;³³⁸ and
- d. A competency evaluation test.³³⁹

In 2016 the Directorate-General for Education (DGE) issued a legislative order in the framework of the [Relocation](#) programme regarding the recognition of diplomas at basic and secondary level but its scope has since been extended to all asylum seekers and beneficiaries of international protection.³⁴⁰ While the guidelines clarify who may issue statements confirming exceptional individual circumstances and exempt asylum seekers and beneficiaries of international protection from translating and legalising diplomas, the other conditions remain applicable. Moreover, the guidelines are applicable only to children and young adults, given that in accordance to the law the competences of the DGE are limited to the preschool, basic and secondary education levels.

There are no statistics available on the number of asylum seekers in employment at the end of 2017. However, according to the information provided by IEPF, 167 asylum seekers admitted to the regular procedure and/or beneficiaries of international protection were registered in their services as “job applicants”, and 41 as “users” as of 9 March 2018.³⁴¹ Additionally, 8 asylum seekers were registered as “users”, presenting a declaration of application for international protection therefore, it is likely that they had still not been admitted to the regular procedure).

In the context of [Relocation](#), however, the ISS has shared provisional information concerning asylum seekers who are now coming to the end of the 18-month integration programme according to which a third of those in working age who have remained in the country have secured employment since arriving in Portugal.³⁴² In this regard, a total of 31 out of the 146 relocated asylum seekers hosted by CPR who remained in Portugal had secured paid employment as of October 2017.

According to CPR’s experience, asylum seekers and beneficiaries of international protection face many challenges in securing employment that are both general and specific in nature.

Even though the particularly difficult economic situation of the country following the financial crisis has started to revert to pre-crisis levels, at the end of 2017 the unemployment rate still stood at around 7.8% for the general working population.³⁴³ This adverse context is compounded by specific fragilities that include poor language skills and professional skills that are misaligned with the needs of employers, thus requiring professional recycling which itself presents many challenges.

Challenges of a more bureaucratic nature include: difficulties in obtaining equivalence of diplomas as described above which are particularly relevant for regulated professions; lack of a social security identification number (*Número de Identificação da Segurança Social*, NISS) at the time of application and bureaucratic difficulties in the issuance of a NISS on the basis of the temporary residence permit; or the provisional residence permit stating not to be an identification document.³⁴⁴ These issues may put off employers from hiring asylum seekers in a very competitive employment market. Additional challenges, include lack of support network, limited knowledge about the labour market and cultural norms, etc. In the particular case of victims of torture and/or serious violence, these include specific vulnerabilities related

³³⁸ Article 10(1) Decree-Law 227/2005.

³³⁹ The content of the tests varies according to the level of education but always includes a Portuguese language test. See Article 10(5) (basic education) and Article 10(6) (secondary education) Decree-Law 227/2005.

³⁴⁰ DGE, *Agenda Europeia para as Migrações - medidas a implementar no sistema educativo*, 1 March 2016, available in Portuguese at: <http://bit.ly/2jqFkok> and DGE, *Crianças e jovens refugiados - medidas a implementar no sistema educativo*, 21 October 2016, available in Portuguese at: <http://bit.ly/2z0dgzf>.

³⁴¹ IEPF is able to provide information on registered persons disaggregated by the type of document presented. As both asylum seekers admitted to the regular procedure and beneficiaries of international protection hold residence permits (although distinct types), it is not possible to establish how many of them are asylum seekers in the regular procedure and how many were beneficiaries of international protection.

³⁴² See Working Group on the European Agenda on Migration, ‘Quase 30 por cento dos refugiados inseridos no mercado de trabalho’, 26 September 2017, available in Portuguese at: <http://bit.ly/2A1ypZM>.

³⁴³ National Institute for Statistics, ‘November unemployment rate at 8.1% - December 2017’, 30 January 2018, available at: <https://goo.gl/YJdEHu>.

³⁴⁴ Ministerial Order 597/2015.

to health, mental health and high levels of anxiety related to the uncertainty of the asylum procedure, separation from relatives, and financial instability that hinder the ability to focus on a medium-long term individual integration process (see [Special Reception Needs](#)).

CPR provides literacy and Portuguese language training free of charge to asylum seekers who are accommodated at **CAR**, **CACR**, in private housing provided by the institution, and to asylum seekers and beneficiaries of international protection assisted by other institutions that live nearby CPR's facilities or that can easily reach them. This training includes a sociocultural element, with activities inside and outside the classroom, aiming to promote integration in the hosting society.

Asylum seekers are able to register with IEFP as "users" to have access to Portuguese language training upon applying for asylum and following admission to the regular procedure in the framework of the programme "Portuguese for All" (*Português para Todos*), an initiative of the Ministry of Employment, Solidarity and Social Security and the Ministry of Education,³⁴⁵ that is managed by the ACM and funded by the European Social Fund. *Português para Todos* offers certified language training modules delivered by public schools and training centres of the IEFP corresponding to A2 (150 hours) and B2 (150 hours) levels as well as technical Portuguese language training (25 hours) in areas such as business, hotel and tourism, beauty care, civil construction and engineering. The ACM also funds informal language training, including some alphabetic training, that is delivered by civil society organisations, including CPR, and Municipalities.³⁴⁶

In 2017, CPR provided certified language training at A1 and B1 levels to 360 asylum seekers and refugees, including literacy and complementary language training for children enrolled in schools (a total of 1,879 hours of training). Available language training following admission to the regular procedure consisted mostly of A1-A2 *Português para Todos* language training that is tailored for more advanced users, who are familiar with the Latin alphabet and is therefore not necessarily tailored to asylum seekers and beneficiaries of international protection who may present low levels of education / illiteracy / poor knowledge of the Latin alphabet. Notwithstanding, opportunities for alphabetic training for foreigners remained very limited. Furthermore, available *Português para Todos* language training at B1 and B2 levels remained limited according to the experience of CPR's Professional Insertion Cabinet (GIP), thus curtailing the employability of asylum seekers and refugees.

Such programmes were available at national level in public schools and training centres following registration with and referral from IEFP employment centres or registration with schools or ACM. It should be noted that these require putting together groups of a minimum size, which constitutes an additional challenge in certain locations given the current dispersal policy (see [Freedom of Movement](#)). In March 2016, ACM launched an [Online Platform for Portuguese](#) to promote informal learning of Portuguese. The modules are currently available in Arabic in order to tackle the needs of the asylum seekers.

The IEFP has also at times organised modular training³⁴⁷ of between 25-50 hours in technical language skills (e.g. business) with flexible admission conditions pertaining to language skills and diplomas. According to the information provided to CPR's GIP, it is unlikely that similar training will take place in the near future due to bureaucratic constraints in certification connected with the lack of documents proving the academic qualifications of the participants.

CPR's GIP, which operates at CAR since 2001 in the framework of a MoU with the IEFP, offers individual assistance and training sessions on job search techniques, equivalence procedures, search and referrals to vocational training and volunteering opportunities, among others. Other organisations that provide similar employment assistance to spontaneous asylum seekers, and more recently relocated asylum seekers, include the JRS that also offers a robust employability programme in partnership with private

³⁴⁵ Ministerial Order 1262/2009 and Ministerial Order 216-B/2012.

³⁴⁶ For more information on these programmes see ACM, *Learning of the Portuguese Language*, available at: <http://bit.ly/2iqmXQg>.

³⁴⁷ Modular training aims to refresh and improve the practical and theoretical knowledge of adults and improve their educational and professional training levels. For more information see IEFP, *Fomação Modular*, available in Portuguese at: <https://goo.gl/aCPTXi>.

sponsors as well as personal skills training and vocational training in areas such as food retail, domestic services, geriatric care, food and beverage, hostels or child care. Upon admission to the regular procedure, asylum seekers can also register as “job applicants” with the IEF, being able to search for jobs, and benefit from professional training and assistance. IEF noted that, to harmonise procedures, internal efforts were developed in order to inform all its units and services about the documents attributed to applicants and beneficiaries of international protection, and the rights attached thereto.

However, the low level of language skills associated with the lack of diplomas and/or challenging equivalence procedures described above render access to vocational training offered by the IEF and its partners within the public system inaccessible to most asylum seekers and beneficiaries of international protection while vocational training in the private sector is generally unaffordable.

In the context of relocation, ACM has created a Refugee Support Unit as well as tailored services within the National and Local Support Centres for the Support of Migrants (CNAIM) to support asylum seekers (e.g. hiring a permanent Arabic-speaking intercultural mediator, promoting entrepreneurship training for refugees). A number of services, such as free legal support and information on employment, training and recognition of qualifications, provided by multiple institutions are available at CNAIM, also known as one-stop-shop.

2. Access to education

Indicators: Access to Education

- | | |
|--|---|
| 1. Does the law provide for access to education for asylum-seeking children? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Are children able to access education in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

The Asylum Act provides for the right of asylum-seeking children to public education under the same conditions as nationals and third-country nationals whose mother tongue is not Portuguese.³⁴⁸ This right cannot be curtailed if the asylum seeker reaches adulthood while already attending school to complete secondary education.³⁴⁹ The Ministry in charge of education retains sole responsibility to ensure the right of children to education.³⁵⁰

Enrolment in schools at basic and secondary levels requires an equivalence procedure but children must be granted immediate access to schools and classes while that procedure is pending.³⁵¹ Given that asylum seekers are rarely in possession of duly legalised diplomas and other supporting documents, the procedure generally entails a placement test conducted by the school that takes into consideration the age and school year of the applicant.³⁵² In accordance with the law, schools should offer children in these conditions appropriate pedagogical support to overcome their difficulties on the basis of an individual diagnosis, notably regarding their Portuguese language skills.³⁵³ In 2016 the DGE issued a legislative order which among others grants schools increased autonomy for adapting pedagogical activities to the specific needs of asylum seekers and beneficiaries of international protection with an increased focus on Portuguese language learning and additional resources for that purpose (see [Access to the Labour Market](#)).³⁵⁴ The guidelines also clarify the entitlement of asylum seekers and beneficiaries of international protection under the most favourable regime to the various modalities of social assistance available to students enrolled in the public education sector for the purposes of food, accommodation, financial assistance and school supplies.³⁵⁵

³⁴⁸ Article 53(1) Asylum Act.

³⁴⁹ Article 53(2) Asylum Act.

³⁵⁰ Article 61(4) Asylum Act.

³⁵¹ Article 8(5) Decree-Law 227/2005.

³⁵² Article 10(3) Decree-Law 227/2005.

³⁵³ Article 11(2), (3) and (4) Decree-Law 227/2005.

³⁵⁴ DGE, *Agenda Europeia para as Migrações - medidas a implementar no sistema educativo*, 1 March 2016, available in Portuguese at: <http://bit.ly/2jqFkok> and DGE, *Crianças e jovens refugiados - medidas a implementar no sistema educativo*, 21 October 2016, available in Portuguese at: <http://bit.ly/2z0dgzf>.

³⁵⁵ Ministry of Education and Science Decision No 8452-A/2015 of 31 July 2015.

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 CPR's Social Department, enrolment in local public schools is generally guaranteed within a reasonable period, although the placement of students in secondary education (i.e. over the age of 15) can prove problematic due to more demanding bureaucratic procedures and placement tests. Additionally, the resources available in public schools for the provision of complementary support to foreign students, notably regarding Portuguese language training, is at times limited. These findings regarding access to education by asylum-seeking children have also been confirmed by CNIS regarding unaccompanied children hosted in the framework of their pilot project,³⁵⁶ and hosting organisations regarding relocated asylum seekers in the framework of informal consultations conducted by UNHCR and CPR in October 2017.

The Asylum Act limits vocational training to asylum seekers who are entitled to access the labour market i.e. admitted to the regular procedure and in possession of a provisional residence permit.³⁵⁷

In 2017 some unaccompanied asylum-seeking children were referred to Education and Professional Training Integrated Programmes (*Programas Integrados de Educação e Formação*, PIEF) regardless of their residence status. The PIEFs consist of alternative education / training programmes available to children e.g. who have not completed 4 years of education at the age of 15 or who are 3 years older than the appropriate age of students in any given level at basic or secondary education. Such programmes, initially created to combat the exploitation of child labour, have proved useful in dealing with particularly complex cases of unaccompanied asylum-seeking children with very poor education levels at arrival.

Access to professional training by adults on the other hand remains particularly limited as opportunities generally require a good command of the Portuguese language and diplomas that asylum seekers and beneficiaries of international protection rarely have or are unable to legalise due to the legal requirements of equivalence procedures (see [Access to the Labour Market](#)).

D. Health care

Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?
☒ Yes ☐ No
2. Do asylum seekers have adequate access to health care in practice?
☒ Yes ☐ Limited ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?
☐ Yes ☒ Limited ☐ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?
☒ Yes ☐ Limited ☐ No

The Asylum Act enshrines the right of asylum seekers and their family members to health care provided by the National Health System (*Serviço Nacional de Saúde*, SNS)³⁵⁸ and includes a specific provision on the right to adequate health care at the border.³⁵⁹ The primary responsibility for the provision of health care lies with the Ministry of Health,³⁶⁰ except for asylum seekers detained at the border that fall under the responsibility of the Ministry of Internal Administration.³⁶¹ The latter can however cooperate with public

³⁵⁶ CNIS also reported difficulties in the transition from the regular track to professional training in the case of unaccompanied children inserted in their pilot project.

³⁵⁷ Article 55(1) Asylum Act.

³⁵⁸ Articles 52(1) and 56(1) Asylum Act.

³⁵⁹ Article 56(2) Asylum Act. This provision should be read in conjunction with Article 146-A(3) Aliens Act that provides for the right of pre-removal detainees in CIT to emergency and basic health care.

³⁶⁰ Article 61(3) Asylum Act.

³⁶¹ Article 61(1) Asylum Act. While not included in this provision, the SEF should also be considered responsible for providing access to health care to asylum seekers in pre-removal detention given its managing responsibilities of CIT: Article 146-A(3)-(4) Aliens Act.

and/or private non-profit organisations in the framework of a MoU to insure the provision of such services.³⁶²

In accordance with the Asylum Act,³⁶³ the specific rules governing access of asylum seekers and their family members to health care³⁶⁴ are provided by Ministerial Order No 30/2001 and Ministerial Order No 1042/2008,³⁶⁵ according to which:

1. Access to health care encompasses medical care and medication and is available from the moment the asylum seeker applies for asylum;³⁶⁶
2. Medical assistance and access to medicines for basic health needs and for emergency and primary health care are to be provided under the same conditions as for Portuguese citizens;³⁶⁷
3. Asylum seekers have access to the SNS free of charge³⁶⁸ for emergency health care, including diagnosis and treatment, and for primary health care,³⁶⁹ as well as assistance with medicines, to be provided by the health services of their residence area.³⁷⁰

Furthermore, the special needs of particularly vulnerable persons must be taken into consideration in the provision of health care,³⁷¹ through adequate medical care,³⁷² and specialised mental health care including for survivors of torture and serious violence,³⁷³ including in detention.³⁷⁴ The responsibility for special treatment required by survivors of torture and serious violence lies with the ISS.³⁷⁵

In practice, asylum seekers have effective access to free health care in the SNS in line with applicable legal provisions. However, persisting challenges have an impact on the quality of the care available. According to recent research,³⁷⁶ and information available to CPR, these include language and cultural barriers due to the reluctance of health care services to use available interpretation services such as ACM's translation hotline; difficult access to diagnosis procedures and medication paid by the SNS due to bureaucratic constraints; or very limited access to mental health care and other categories of specialised medical care (e.g. dentists)³⁷⁷ in the SNS. The difficulties in accessing specialised care in the SNS, including dentists, also came out as the main concerns in recent consultations conducted by CPR in October 2017 in the framework of the [Relocation](#) programme.

³⁶² *Ibid.*

³⁶³ Article 52(1) *in fine* Asylum Act.

³⁶⁴ The legal and operational background pertaining to the access of asylum seekers to health care was recently revisited by the ACSS and the DGS in an internal guidance note issued on 12 May 2016 in the framework of the European Agenda for Migration, available at: <http://bit.ly/2jdBIFW>.

³⁶⁵ Ministerial Order No 1042/2008 extends Ministerial Order No 30/2001 *ratione personae* to applicants for subsidiary protection and their family members.

³⁶⁶ Ministerial Order No 30/2001, para 2. Under Article 52(2) Asylum Act, the asylum seeker is required to present the certificate of the asylum application to be granted access to health care under these provisions. The internal guidance note issued on 12 May 2016 by the ACSS and the DGS provides for possible documents entitling the asylum seeker to access health care and includes a complete list of documents issued to the asylum seeker by the SEF during the asylum procedure (e.g. renewal receipts of the certificate of the asylum application, provisional residence permit, etc.)

³⁶⁷ *Ibid.*

³⁶⁸ Article 4(1)(n) Decree-Law 113/2011.

³⁶⁹ 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, para 6.

³⁷⁰ Ministerial Order No 30/2001, para 5.

³⁷¹ Article 77(1) Asylum Act.

³⁷² Articles 52(5) and 56(2) Asylum Act.

³⁷³ Articles 78(3)-(4) and 80 Asylum Act.

³⁷⁴ Article 35-B(8) Asylum Act.

³⁷⁵ Article 80 Asylum Act.

³⁷⁶ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <http://bit.ly/2xZqCGh>.

³⁷⁷ In this regard, DGS notes that such difficulties are similar to those faced by Portuguese citizens.

It should be noted in this regard that CPR provides financial support to unaccompanied asylum-seeking children and asylum seekers in admissibility and accelerated procedures to cover the costs of diagnosis procedures and medication depending on the individual circumstances and available resources.

In accordance with the law, asylum seekers are entitled to health care until a final decision rejecting the asylum application unless required otherwise by the medical condition of the applicant.³⁷⁸ Additionally, the reduction or withdrawal of reception conditions cannot restrict the access of asylum seekers to emergency health care, basic treatment of illnesses and serious mental disturbances or, in the case of applicants with special reception needs, to medical care or other types of necessary assistance, including adequate psychological care where appropriate.³⁷⁹ This provision remains to be tested in practice due to the absence of such decisions (see [Reduction or Withdrawal of Reception Conditions](#)).

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?
☒ Yes ☐ No

An “applicant in need of special reception needs” is defined in terms of reduced ability to benefit from the rights and comply with the obligations stemming from the Asylum Act due to his or her vulnerability. The Asylum Act provides for a non-exhaustive list of applicants with an increased vulnerability risk profile that could present a need for special reception conditions: minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of domestic violence and female genital mutilation.³⁸⁰ While the Asylum Act also refers to guarantees available to particularly vulnerable persons,³⁸¹ 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.³⁸²

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,³⁸³ but within reasonable delay following registration.³⁸⁴ The provision of special reception conditions should take into consideration: (i) the material reception needs of particularly vulnerable persons;³⁸⁵ (ii) their special health needs; including those particular to survivors of torture and serious violence.³⁸⁶

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

There are no specific mechanisms, standard operating procedures or unit in place to systematically identify asylum seekers in need of special reception conditions. The only exceptions consist of age assessment procedures to identify unaccompanied children and the identification and protection of potential unaccompanied children victims of trafficking that present practical and technical implementation challenges (see [Identification](#)).

³⁷⁸ Ministerial Order No 30/2001, para 8.

³⁷⁹ Article 60(7) Asylum Act.

³⁸⁰ Article 2(1)(ag) Asylum Act.

³⁸¹ Article 2(1)(y) Asylum Act.

³⁸² Article 77(1) and (3) Asylum Act.

³⁸³ Article 77(2) Asylum Act.

³⁸⁴ Article 77(3) Asylum Act.

³⁸⁵ Articles 56(2) and 77(1) of Asylum Act.

³⁸⁶ Articles 35-B(8), 52(5), 56(2), 78(3)-(4) and 80 Asylum Act.

In the framework of admissibility (including Dublin) and accelerated procedures on the territory asylum seekers who present apparent vulnerabilities entailing special reception needs such as children, disabled people, elderly people, pregnant women, single parents with minor children, persons with serious illnesses or mental disorders are generally identified by CPR within a reasonable period of time after registration. This is done on the basis of information received from the SEF prior to their referral to CPR's reception centres or during legal assistance, social interviews or initial medical screenings conducted during the provision of material reception conditions. While under the care of CPR, asylum seekers will benefit from social interviews to monitor their reception needs even though overcrowding has generated challenges in terms of service capacity. According to SCML, asylum seekers referred by the GTO benefit from specific social counselling at the appeal stage (see [Conditions in Reception Facilities](#)).

In 2017, CPR updated its Age, Gender and Diversity (AGD) Strategy that is aimed at preventing Sexual and Gender Based Violence (SGBV) and promoting participation, awareness, and empowerment. . From August to December 2017, CPR developed participatory assessments, focus groups and semi-structured discussions, with both asylum seekers and staff. The participatory assessments aimed to identify the specific needs and risks of women and inform the development of a strategy to address these issues. This resulted in 43 actions (focusing on infrastructure, services and activities) that are currently being implemented related among others to the full individualisation of financial support, organisation of gender balanced activities (e.g. painting), and seeking partnerships with feminine hygiene products suppliers.

1. Reception of families and children

The accommodation of unaccompanied children who are 16 and over in adult reception centres and the initiation of family tracing are dependent of a best interests assessment.³⁸⁷ Under the Asylum Act, the best interests of the child also require that children: be placed with parents or, in their absence, with adult relatives, foster families, specialised reception centres or tailored accommodation; not be separated from siblings; promoting stability, notably by keeping changes in place of residence to a minimum; are ensured well-being and social development; have security and protection challenges addressed, notably where there is a risk of human trafficking; have their right to express opinions depending on their age and maturity taken into consideration.³⁸⁸

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

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

To the extent possible and upon consent of the applicants the unit of the family should be preserved in the provision of housing,³⁸⁹ while adult asylum seekers with special reception needs should be accommodated with adult relatives already present on the territory that are legally responsible for them.³⁹⁰ Adequate measures must be adopted to avoid sexual and gender-based violence and harassment in reception centres and other housing provided to asylum seekers.³⁹¹

³⁸⁷ Article 79(10) and (14) Asylum Act.

³⁸⁸ Article 78(2)(a)-(h) Asylum Act.

³⁸⁹ Articles 51(2) and 59(1)(a) and (b) Asylum Act.

³⁹⁰ Article 59(1)(c) Asylum Act.

³⁹¹ Article 59(1)(e) Asylum Act.

2. Reception of survivors of torture and violence

While the ISS is specifically responsible for ensuring access to rehabilitation services for survivors of torture and serious violence,³⁹² the provision of material reception conditions and health care adapted to the special needs of vulnerable persons seems to be submitted to the responsibility-sharing rules applicable to asylum seekers in general.

In the specific case of survivors of torture and/or serious violence on the territory, the information collected by CPR, including in the framework of the project “Time for Needs: Listening, Healing, Protecting”,³⁹³ shows that identification and follow-up of their special reception needs also initiates with an individual psychosocial interview at CPR’s reception centres conducted by a social worker upon arrival and at regular intervals during the admissibility stage of the asylum procedure. In the case of survivors of torture and/or serious violence, such assessment might result in referrals to the local health centre of the SNS for onward referral to differentiated care such as gynaecology and urology. According to DGS, local health centres are also the gateway to specialised mental health care and have multidisciplinary teams (Teams for the Prevention of Violence between Adults – *Equipas para a Prevenção da Violência entre Adultos*, EPVA) that are responsible for identifying and offering follow-up to vulnerable cases that are victims of violence. However, according to other stakeholders such as CPR and SCML, specialised out-patient mental health care is mainly available through voluntary organisations such as the Centre for the Support of Torture Victims in Portugal (*Centro de Apoio às Vítimas de Tortura em Portugal*, CAVITOP) / Psychiatric Hospital Centre of Lisbon (*Centro Hospitalar Psiquiátrico de Lisboa* – CHPL) whose multidisciplinary team offers free and specialised psychiatric and psychological care upon referral from frontline service providers such as the CPR, SCML and JRS. According to CPR’s experience, mental health care for children constitutes an exception and is readily available in the SNS.

In 2017 CPR also conducted two training sessions and one national awareness meeting for national stakeholders, including reception service providers for spontaneous and relocated asylum seekers such as ISS, SCML, JRS, CVP, municipalities, DGS in the framework of the project “Time for Needs: Listening, Healing, Protecting”. These initiatives aimed among others at the dissemination of a tool and of information materials pertaining to the identification and provision of special procedural needs and special reception needs of survivors of torture and/or serious violence developed in the framework of the project.³⁹⁴ While there is no indication that the tool has been adopted by the stakeholders to date, CPR is currently planning the implementation of the tool in the framework of its reception services and will seek to mainstream its use in the referral process to the GTO (see [Freedom of Movement](#)).

The provision of reception conditions by the ISS in the regular procedure following a dispersal decision by the GTO is done in accordance to agreed standards. In each district there is a responsible officer for reception conditions who reports directly to central services but there is no specialised team dedicated to survivors of torture and/or serious violence. In the case of asylum seekers placed in the area of **Coimbra** (only), the ISS has the possibility to make referrals to the [Centre for the Prevention and Treatment of Psychogenic Trauma](#) that provides differentiated mental health care adapted to the needs of survivors of torture and/or serious violence.

³⁹² Article 80 Asylum Act.

³⁹³ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <http://bit.ly/2xZqCGh>.

³⁹⁴ The Questionnaire for the Assessment of the Special Needs of Survivors of Torture and/or Serious Violence Among Asylum Seekers and Beneficiaries of International Protection (QASN) and other information materials are available: <https://goo.gl/2BP2vh>.

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,³⁹⁵ and in particular pertaining to the organisations that can provide assistance and information regarding available reception conditions, including medical assistance.³⁹⁶ Furthermore, the SEF is required to provide asylum seekers with an information leaflet without prejudice to providing the information contained therein orally.³⁹⁷ In both cases the information must be provided either in a language that the asylum seeker understands or is reasonably expected to understand to ensure the effectiveness of the right to information.

In practice, upon registration, the asylum seeker receives an information leaflet from the SEF that briefly states the right to material reception conditions and provides basic information on CPR and services available at **CAR**.³⁹⁸ According to CPR's experience, the leaflet is only available in a limited number of foreign languages (e.g. French, English, Arabic) and is not distributed systematically. Furthermore, the leaflet was produced prior to the changes introduced in 2014 to the Asylum Act and CPR is not aware of any updated version.

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

The capacity challenges faced by the CPR (see [Conditions in Reception Facilities](#) and [Regular Procedure: Legal Assistance](#)) have however restricted the provision of information during the first stage of the asylum procedure, particularly regarding asylum seekers placed in private accommodation in more remote locations. During the regular procedure and at appeal stage asylum seekers should benefit from an individual follow-up with ISS and SCML. While no research has been conducted to date to assess the impact of the dispersal policy, CPR is not aware of serious challenges in accessing social services or in the provision of information regarding reception conditions during this stage of the asylum procedure despite some complaints regarding difficulties in securing an appointment or language barriers. Other organisations also provide information and assistance to asylum seekers during the first instance of the regular procedure such as JRS, CNIS for unaccompanied asylum-seeking children and to a lesser extent the ACM through their Local Support Centres for Migrants Integration (CLAIM), albeit in a limited number of cases and mostly focused on integration.

³⁹⁵ Article 49(1)(a) Asylum Act.

³⁹⁶ Article 49(1)(a)(iv) Asylum Act.

³⁹⁷ Article 49(2) Asylum Act.

³⁹⁸ SEF, *Guia do requerente asilo*, available in Portuguese at: <http://bit.ly/2hpa3xZ>.

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.³⁹⁹ The internal regulation of the **CACR** provides for the right of unaccompanied children to visits from family and friends that must be approved by the Family and Juvenile Court, while the internal regulation of **CAR** provides for a general right to visits upon authorisation of the (Director of the) Centre.

In practice, asylum seekers accommodated at the CAR and CACR benefit from legal assistance from CPR'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 depending on the choice of the lawyer, in the presence of CPR's legal representative in the case of unaccompanied children.

G. Differential treatment of specific nationalities in reception

There is no information available regarding discrimination or preferential treatment of asylum seekers pertaining to reception conditions such as accommodation, health care, employment, education or others, on the basis of nationality.

³⁹⁹ Article 59(4) Asylum Act.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Total number of asylum seekers detained in 2017:	Not available
2. Number of asylum seekers in detention at the end of 2017:	Not available
3. Number of detention centres specifically for asylum seekers: ⁴⁰⁰	3
4. Total capacity of detention centres specifically for asylum seekers:	58

The SEF was not able to share statistics regarding the overall number of persons placed in detention during 2017 or that were in detention at the end of the year. According to the Ombudsman, a total of 2,444 third-country nationals were placed in detention in 2016 (80% of whom at **Lisbon Airport**), compared to 2,071 in 2015.⁴⁰¹ However, the figures the Ombudsman obtained from the SEF do not include a breakdown by legal status of the persons detained.

The legal framework of detention centres is enshrined in Act 34/94 that provides for the detention of migrants in Temporary Installation Centres (*Centros de Instalação Temporária*, CIT) that are managed by the SEF for either security reasons e.g. aimed at enforcing a removal from national territory or for attempted irregular entry at the border. The detention facilities at the border,⁴⁰² while 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. These are therefore detention centres with a strict separation between asylum seekers and other migrants.⁴⁰³

According to the SEF, there are no dedicated detention centres for asylum seekers in Portugal and their detention is limited to applicants at the border. The 3 detention facilities at the border are located in the international area of **Lisbon**, **Porto** and **Faro** airports and have separated detention areas for asylum seekers with a capacity of 30, 14 and 14 places respectively. Out of the three, the **Lisbon** airport is the most relevant to the detention of asylum seekers. Bearing in mind that the Asylum Act provides for the systematic detention of asylum seekers at the border,⁴⁰⁴ the 2017 statistics provided by the SEF show that a total of 485 asylum seekers were submitted to border procedures and hence placed in detention for a period of up to 60 days (see [Border Procedure](#)).

Additionally, it should be noted that an asylum seeker who applies for asylum while in detention at a CIT due to a removal procedure can and usually remain in detention during the asylum procedure.⁴⁰⁵ According to the statistical information available to CPR, in 2017 there were at least 17 asylum seekers who applied for asylum while in detention in a CIT: 7 applied from the **Porto – Unidade Habitacional de Santo António** (CIT – UHSA),⁴⁰⁶ 7 from **Lisbon**, 2 from **Faro** and 1 from **Porto**.

While the Asylum Act also provides for the possibility of placing in detention other categories of asylum seekers,⁴⁰⁷ including those subjected to Dublin procedures, in practice only the aforementioned asylum seekers are systematically detained.

⁴⁰⁰ This includes only the detention facilities at international airports, where asylum seekers may be detained. CIT are excluded.

⁴⁰¹ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, available in Portuguese at: <https://goo.gl/Hbfdvk>.

⁴⁰² Council of Ministers Resolution 76/97.

⁴⁰³ Indeed, as the Portuguese Ombudsman recalls “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*)”: *Ibid*, fn. 14.

⁴⁰⁴ Article 35-A(3)(a) Asylum Act.

⁴⁰⁵ Article 35-A(3)(b) Asylum Act.

⁴⁰⁶ Decree-Law 44/2006 provides for the creation and functioning of CIT – UHSA in Porto.

⁴⁰⁷ Article 35-A(3) Asylum Act.

The competent authority to place and review the detention of an asylum seeker in a CIT⁴⁰⁸ or in detention facilities at the border⁴⁰⁹ is the Criminal Court which has territorial jurisdiction over the place where detention is imposed. In the case of detention at the border, the SEF initially imposes detention but is required to inform the Criminal Court of the detention within 48 hours of arrival at the border for the purpose of maintaining the asylum seeker in detention beyond that period.⁴¹⁰

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

Additionally, there are shorter deadlines and reduced procedural guarantees both in detention at the border and asylum applications from detention due to removal procedures: asylum seekers in detention at the border or who apply for asylum from detention are not entitled to a 5-day period to review and offer representations regarding SEF's written report on their refugee status determination interview. While in detention at the border, asylum seekers are only entitled to 5 minutes of free telephone communications. These reduced guarantees also entail risks of poorer quality decision-making, notably in light of the significant number of applications deemed manifestly unfounded under these procedures.⁴¹¹ While in accordance with the law, UNHCR and CPR, lawyers, legal representatives and other NGOs have effective access to asylum seekers in detention at the border,⁴¹² access to legal information and assistance in detention is hindered in practice by a combination of factors that include short deadlines, limited capacity of service providers, poor quality of legal assistance provided by lawyers and of interpretation services and time consuming bureaucratic procedures for accessing the airports' restricted areas.

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained

❖ on the territory:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
❖ at the border:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2. Are asylum seekers detained during a regular procedure in practice?

<input type="checkbox"/> Frequently	<input type="checkbox"/> Rarely	<input checked="" type="checkbox"/> Never
-------------------------------------	---------------------------------	---
3. Are asylum seekers detained during a Dublin procedure in practice?

<input type="checkbox"/> Frequently	<input type="checkbox"/> Rarely	<input checked="" type="checkbox"/> Never
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Under the Asylum Act, the placement of asylum seekers in detention cannot be based on the application for international protection alone,⁴¹³ and can only occur on the following grounds:

- ❖ National security, public order, public health;
- ❖ Risk of absconding;

based on an individual assessment and whether it is possible to effectively implement less prejudicial alternative measures.⁴¹⁴

⁴⁰⁸ Article 35-A(5) Asylum Act.

⁴⁰⁹ Article 35-A(6) Asylum Act.

⁴¹⁰ *Ibid.*

⁴¹¹ According to the (partial) statistical information collected by CPR, in 2017, 346 out of 439 asylum applications at the border and 5 out of 17 applications from detention due to removal procedures were deemed manifestly unfounded.

⁴¹² Article 49(6) Asylum Act.

⁴¹³ Article 35-A(1) Asylum Act.

⁴¹⁴ Article 35-A(2) Asylum Act.

The possible grounds for detention of asylum seekers also include:

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

if it is not possible to effectively implement less coercive alternative measures.⁴¹⁵ These provisions are nonetheless to be interpreted against the (apparently contradictory) provision of unqualified detention of asylum seekers in border procedures.⁴¹⁶

As mentioned in [General](#), systematic detention of asylum seekers in Portugal is limited to border procedures in which asylum seekers are detained until their application is admitted to the procedure (7 days)⁴¹⁷ or for a maximum of 60 days in case of an appeal against the rejection of the application.⁴¹⁸ The asylum seekers who apply for asylum in detention at a CIT due to a removal procedure will also usually remain in detention during the asylum procedure until their application is admitted to the procedure (10 days)⁴¹⁹ or for a maximum of 60 days in case of an appeal against the rejection of the asylum application.⁴²⁰ While the Asylum Act provides for the suspension of all administrative and/or criminal procedures related to the irregular entry of the asylum applicant in the national territory, and for that purpose requires that the competent authorities be informed of the asylum application within 5 days,⁴²¹ detention at a CIT due to a removal procedure will seldom, if ever, be suspended *ex officio* by the Criminal Courts on that basis.

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

2. Alternatives to detention

Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?
 - ☒ Reporting duties
 - ☐ Surrendering documents
 - ☐ Financial guarantee
 - ☒ Residence restrictions
 - ☐ Other
2. Are alternatives to detention used in practice? ☐ Yes ☒ No

As mentioned in [Grounds for Detention](#), the placement of asylum seekers in detention is dependent on an assessment of the individual circumstances of the applicant and of the possibility to effectively implement less coercive alternative measures,⁴²² thus requiring proof that alternatives to detention cannot be effectively applied before asylum seekers can be detained. The Asylum Act lays down alternatives to detention consisting of either reporting duties before the SEF on a regular basis or residential detention with electronic surveillance (house arrest).⁴²³

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

⁴¹⁵ Article 35-A(3) Asylum Act.

⁴¹⁶ Article 26(1) Asylum Act.

⁴¹⁷ Article 26(4) Asylum Act.

⁴¹⁸ Article 35-B(1) Asylum Act.

⁴¹⁹ Article 33-A(5) Asylum Act.

⁴²⁰ Article 35-B(1) Asylum Act.

⁴²¹ Article 12(1) and (3) Asylum Act.

⁴²² 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 coercive alternative measures for the remaining grounds for detention that is not based on the individual circumstances of the applicant.

⁴²³ Article 35-A(4)(a) and (b) Asylum Act.

alternatives to detention. Nevertheless, following repeated requests for the release of vulnerable asylum seekers from the border, namely unaccompanied children and families with children, CPR has witnessed a growing tendency on the part of the Criminal Court of Lisbon to invite the SEF to give due consideration to the release of families with children and to their referral to the CAR in 2017.⁴²⁴ However, these decisions fall short of conducting an individual assessment of necessity and proportionality and of issuing an order to the SEF. Many those recommendations by the court have been disregarded by the SEF, since in at least 5 cases the family with children was detained for the maximum period of 60 days.

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

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?

☒ Frequently
 ☐ Rarely
 ☐ Never
- ❖ If frequently or rarely, are they only detained in border/transit zones?

☒ Yes
 ☐ No
2. Are asylum seeking children in families detained in practice?

☒ Frequently
 ☐ Rarely
 ☐ Never

The Asylum Act defines an “applicant in need of special procedural guarantees” in terms of reduced ability to benefit from the rights and comply with the obligations stemming from the Asylum Act due to his or her individual circumstances.⁴²⁵ 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.⁴²⁶

Within these applicants, the Asylum Act identifies a sub-category of individuals whose special procedural needs result from torture, rape or other serious forms of psychological, physical or sexual violence and may therefore be exempted from border procedures and hence detention.⁴²⁷ Furthermore, the placement of unaccompanied and separated children in detention facilities at the border must abide by applicable international recommendations such as those of UNHCR, UNICEF and the International Committee of the Red Cross (ICRC).⁴²⁸

In practice, asylum seekers are systematically detained at the border. While in previous years certain categories of particularly vulnerable applicants such as unaccompanied children, families with children, pregnant women and the severely ill were generally released without conditions, the SEF has recently changed its practice in this regard.

In 2017, CPR continued to observe long waiting periods between asylum applications filed by unaccompanied children and families with children at border points, and their entry into the national territory and referral to the CACR and CAR. According to the information available to CPR, a total of 17

⁴²⁴ 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. According to the information available to CPR to date, such practice has not included unaccompanied children, however.

⁴²⁵ Article 17-A(1) Asylum Act.

⁴²⁶ *Ibid.*

⁴²⁷ Article 17-A(4) Asylum Act.

⁴²⁸ Article 26(2) Asylum Act.

unaccompanied children were detained at the border for periods ranging from 4 to 50 days (on average 14 days), while a total of 40 families were detained at the border from 3 to 60 days (on average 28 days). This practice is concerning in light of international standards that prohibit any immigration detention of children.⁴²⁹

The detention of an asylum-seeking family with children at the **Lisbon Airport** detention facility drew criticism from the Ombudsman, particularly regarding the inadequate detention conditions offered to a child with special health needs (see [Conditions in Detention Facilities](#)).⁴³⁰

4. Duration of detention

Indicators: Duration of Detention

- | | |
|--|---------|
| 1. What is the maximum detention period set in the law (incl. extensions): | 60 days |
| 2. In practice, how long in average are asylum seekers detained? | 60 days |

In accordance with the Asylum Act, an asylum seeker either at the airport or land border “who does not meet the legal requirements for entering national territory” can be detained for up to 7 days for the conduct of an admissibility procedure.⁴³¹ If the SEF takes a positive admissibility decision or if no decision has been taken within 7 working days, the applicant is released for the remainder of the asylum procedure. If the claim is deemed inadmissible or unfounded in an accelerated procedure the asylum seeker can challenge the rejection before the administrative courts with suspensive effect and remains detained for up to 60 days during the appeal proceedings. However, after 60 days, even if no decision has yet been taken on the appeal, SEF must release the individual onto the territory. The maximum detention period of 60 days is equally applicable in instances where the application is made from detention at a CIT due to a removal procedure.⁴³²

According to the information available to CPR, a total of 17 unaccompanied children were detained at the border for periods ranging from 4 to 50 days, with an average detention period of 14 days. A total of 40 families were detained at the border for periods ranging from 3 to 60 days, with an average detention period of 28 days.

Even though CPR is not aware of instances where the maximum detention duration was exceeded in the case of asylum seekers, the Ombudsman has recently raised concerns regarding isolated instances of detention of third-country nationals beyond the 60-day time limit with respect to **CIT – UHSA**; the legal status of persons detained was not specified.⁴³³

⁴²⁹ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of the Child *Joint general comment No. 4 (2017) on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return*, 16 November 2017, CMW/C/GC/4-CRC/C/GC/23, available at: <https://bit.ly/2ploRvd>.

⁴³⁰ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, 28.

⁴³¹ Article 26 and 35-A(3)(a) Asylum Act.

⁴³² Article 35-B(1) Asylum Act.

⁴³³ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, 23-24.

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? ☐ Yes ☒ No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? ☐ Yes ☒ No

Asylum seekers may be detained in Temporary Installation Centres (CIT).⁴³⁴ The legal framework of detention centres is enshrined in Law 34/94, which provides for the detention of migrants in CIT that are managed by the SEF either for security reasons e.g. aimed at enforcing a removal from national territory, or for attempted irregular entry at the border. The detention facilities at the border,⁴³⁵ while not CIT *per se*, have been qualified as such by Decree-Law 85/2000 for the purposes of detention following an entry refusal at the border. These are therefore detention centres with a strict separation between asylum seekers and other migrants refused entry at the border.⁴³⁶

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

Detention capacity for asylum seekers in border detention centres: 2017	
Detention centre	Capacity for asylum seekers
Detention facility – Lisbon airport	30
Detention facility – Porto airport	14
Detention facility – Faro airport	14
Total	58

Source: SEF.

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

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

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

2.1. Overall conditions

In the absence of legal standards for the operation of CIT, the detention facilities at the border and the **CIT – UHSA** in Porto are managed by SEF pursuant to internal regulations.

⁴³⁴ Article 35-A(2) and (3) Asylum Act.

⁴³⁵ Council of Ministers Resolution 76/97.

⁴³⁶ Council of Ministers Resolution 76/97. See also Article 35-A(3)(a) Asylum Act, according to which asylum seekers can be detained in CIT in the case of border procedures.

Regarding **Lisbon Airport** – the most relevant detention facility for asylum seekers – the reception desk and operational assistance are managed by the staff of a private security company which includes male and female employees; this is not the case in the **Porto** and **Faro** airport facilities.⁴³⁷ The staff is responsible among others for: the initial registration; collection and access to personal belongings; administration of medication; medical triage of visitors; registration and referrals of requests for medical assistance; and distribution of meals. The detention facility is regularly cleaned by staff of a cleaning company. In his latest visit, the Ombudsman considered the hygienic conditions of the facility to be good overall.⁴³⁸

The reception area includes an office for a member of SEF's staff who is present at the detention facility during office hours. Additionally, there are two offices in the reception area to conduct individual interviews, one of which is used by SEF and the other by lawyers and NGOs such as CPR. Due to space constraints, the offices are small and do not ensure adequate privacy, notably due to inadequate sound isolation.⁴³⁹

The detention facility has separate wings for asylum seekers and other passengers refused entry into the territory. Each wing has two collective dormitories with bunk beds and closets that are separate for men and women. The closets have been moved to the hallway and the doors and hooks have been removed as they are considered a security risk by SEF. Other than a few clothes and shoes detainees do not really use the closets to store belongings as these are confiscated upon arrival. Each wing also has separate bathroom and toilet facilities that include showers with hot water, toilets, hand washing facilities and urinals, and a common lounge used for meals and leisure that includes common tables with chairs, individual couches and a television.

The Ombudsman recalled the risks of mixed detention facilities such as those of the **Lisbon Airport** – as opposed to **CIT – UHSA** where men and women are accommodated on different floors – and the need to adopt adequate measures to tackle potential risks of sexual violence and exploitation against female detainees. Similar risks exist in **Faro Airport**. The Ombudsman further noted that the specific needs of pregnant women and young mothers should be better accommodated, namely through the accessibility of hygienic items without the need for intervention of the supporting staff.⁴⁴⁰ CPR has received complaints from detainees due to difficulties in accessing luggage.

The detainees at **Lisbon Airport** are served meals provided by the air companies that are similar to those served on airplanes. At times CPR receives complains from detainees because of insufficient or poor quality food; such complaints have also been addressed to the Ombudsman.⁴⁴¹ With the exception of Lisbon Airport, the Ombudsman has raised concerns regarding the quantity of food during events in detention facilities at the border, and pointed to the need for better adapted food for younger children, pregnant women and mothers.⁴⁴² If needed due to religion, health or other reasons, the air company is informed in advance to provide for special diet meals and the CPR has not received relevant complaints in this regard.

According to information collected by CPR, including in the framework of the project “Time for Needs: Listening, Healing, Protecting”,⁴⁴³ the staff from SEF at the border receives general in-house training on international protection. CPR is unaware of any training provided to other staff working at the airport detention facility regarding human rights and international protection. On the other hand, the Ombudsman has raised concerns about the lack of specific training and language skills of supporting staff from security

⁴³⁷ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, 22-23.

⁴³⁸ *Ibid*, 30.

⁴³⁹ *Ibid*, 41.

⁴⁴⁰ *Ibid*, 34-35.

⁴⁴¹ *Ibid*, 30. Food provision was found adequate in **CIT – UHSA**, however.

⁴⁴² *Ibid*, 30-31.

⁴⁴³ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <http://bit.ly/2xZqCGh>.

companies to perform their duties and the impact it could have on detainees in terms of isolation and access to services such as health care. He also reported a complaint of physical abuse from staff during his visit to the **Lisbon Airport** facility, corroborated by other detainees.⁴⁴⁴

CPR has received rare but recurrent allegations over the years from asylum seekers regarding physical abuse by SEF inspectors mainly at the border support unit (as opposed to the detention facility, CIT). In 2017, the CPR has demanded a formal investigation into these allegations and SEF has conducted internal inquiries. According to the information provided to CPR, the procedures did not lead to any proof of wrongdoing and were therefore classified. No physical abuse from SEF inspectors is reported by the Ombudsman in his latest report.

2.2. Activities

In accordance with the law, detainees in each wing of the detention facility at the Lisbon airport have unrestricted access to a courtyard of 70m² with table and chairs during a reasonable period of time in the mornings and afternoons.⁴⁴⁵ However, the courtyards in the border detention facilities have been criticised (again) by the Ombudsman for being too small, surrounded by walls and lacking natural lighting.⁴⁴⁶ The absence of reading materials in different language, the television and some toys for children⁴⁴⁷ are the only leisure proposed to detainees,⁴⁴⁸ whose mobile phones along with other personal belongings are generally confiscated upon arrival at the detention facility.⁴⁴⁹

While the law provides for access to education of children asylum seekers under the same conditions as nationals,⁴⁵⁰ and the rules governing CIT provide for the access of detained accompanied children to education depending on the duration of their detention,⁴⁵¹ children in detention do not have access to education in practice either at the detention facility or by accessing normal schools. This situation needs to be considered in light of the periods of detention of asylum-seeking children in detention facilities at the border.

2.3. Health care and special needs in detention

The responsibility for providing health care to asylum seekers at the border lies with the Ministry of Internal Administration that can however rely on public or private service providers for that purpose on the basis of Memoranda of Understanding (MoU).⁴⁵²

The Aliens Act provides for the right of asylum seekers and their relatives to adequate health care at the border (i.e. in detention),⁴⁵³ and for the right of vulnerable asylum seekers in detention to regular health care that meets their particular needs.⁴⁵⁴ The Asylum Act does not, however, specify this particular

⁴⁴⁴ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, 21-22.

⁴⁴⁵ Article 35-B(9) Asylum Act.

⁴⁴⁶ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, 33.

⁴⁴⁷ Article 146-A(7) Aliens Act governing CIT states that accompanied children in detention must be offered leisure activities, including age appropriate games and recreational activities.

⁴⁴⁸ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, 33-34.

⁴⁴⁹ *Ibid*, 42.

⁴⁵⁰ Article 53 Asylum Act.

⁴⁵¹ Article 146-A(7) Aliens Act.

⁴⁵² Article 61(1) Aliens Act.

⁴⁵³ Article 56(2) Aliens Act.

⁴⁵⁴ Article 35(b)(8) Aliens Act.

standard⁴⁵⁵ and/or whether it differs from the general standard of health care provision in the asylum procedure.⁴⁵⁶

According to recent research there is no mechanism in place to identify special reception needs and the SEF was not able to provide statistical data on the total number of persons with such needs detained throughout the year.

In practice there seems to be varying levels of service provision depending on the location of detention.⁴⁵⁷ Detainees at the **Lisbon Airport**'s detention facility have access to basic medical screenings conducted by nurses of the Portuguese Red Cross (*Cruz Vermelha Portuguesa*, CVP) following an initial triage conducted by the security staff without any specific training or protocol.⁴⁵⁸ In case of need, asylum seekers are referred to emergency care, including emergency mental health care in hospitals, but there is no psychological counselling / mental health care available in the detention facility and the current triage system has generated complaints regarding effective and/or timely access to health care.⁴⁵⁹ Indeed, throughout the year CPR received sporadic complaints by asylum seekers detained at the **Lisbon Airport** of difficulties in accessing medical assistance despite requests. Unless and until the person is released from detention at the border, the individual is allowed to leave as often as necessary the border detention facility escorted by the SEF to receive emergency care or medication but will not benefit from a regular medical follow-up.

In 2017, CPR was informed by the DGS of an ongoing risk of a chickenpox contagion at the **Lisbon Airport** detention facility and of the need to temporarily suspend the admission to CPR's reception centres of asylum seekers released from that detention facility. In the framework of the legal information and assistance provided to asylum seekers detained at the Lisbon Airport, CPR also became aware of episodes of a contagion risk of scabies that required stringent containment measures. It should be noted that the absence of arrangements for the washing of the detainees' clothes in all airport detention facilities was criticised by the Ombudsman as posing a risk to the health of both detainees, SEF inspectors and supporting staff.⁴⁶⁰

In the case of asylum seekers detained in the **CIT – UHSA** due to removal procedures, the medical care is provided twice a week by doctors, nurses and psychiatrists and includes basic medical care, including dental care and medical screenings of diseases such as hepatitis and HIV. These volunteer health workers from the Doctors of the World (*Médicos do Mundo*, MdM) are in a position to identify the needs and make referrals to the National Health Service (SNS) and also provide training to the remaining staff of the detention centre, in what was described as a good practice by the Ombudsman.⁴⁶¹

The detention facilities have separate wings for asylum seekers and other passengers refused entry into the territory, and separate dormitories for men and women. There are no specific mechanisms or standard

⁴⁵⁵ However, Article 146-A(3) Aliens Act states that an alien detained at a CIT or an equivalent detaining facility (i.e. at the border) is entitled to emergency and basic health care only and that special attention should be provided to vulnerable individuals, particularly to minors, unaccompanied minors, handicapped persons, elderly persons, pregnant women, families with children and survivors of torture, rape and other forms of serious psychological, physical or sexual violence.

⁴⁵⁶ 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.

⁴⁵⁷ See Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <http://bit.ly/2xZqCGh>.

⁴⁵⁸ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, 27. This is also used in the other detention facilities at the border.

⁴⁵⁹ *Ibid.*

⁴⁶⁰ *Ibid.*, 28-29.

⁴⁶¹ *Ibid.*, 28.

operational procedures for the early identification of vulnerable asylum seekers and their special reception needs at the border or in pre-removal detention.

When kept in detention (see [Detention of Vulnerable Applicants](#)) vulnerable applicants are granted access to services and medical treatment under the same standards described above that are applicable to all detainees. This has drawn criticism from the Ombudsman in the case of a family with a child whose special health needs were not appropriately met during detention.⁴⁶²

3. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to

- | | | | |
|-------------------|---|----------------------------------|-----------------------------|
| ❖ Lawyers: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ NGOs: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ UNHCR: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |
| ❖ Family members: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited | <input type="checkbox"/> No |

The Asylum Act and the internal regulation of the detention facility at **Lisbon Airport** provide for the right of detainees to receive visits from legal representatives, embassy representatives, relatives and national and international human rights organisations.⁴⁶³ In the particular case of legal assistance, asylum seekers in detention are entitled to receive visits from lawyers, UNHCR and CPR.⁴⁶⁴ Restrictions to access to the detention facilities can only be based on grounds of security, public order or operational reasons and only to the extent these do not restrict access in a significant or absolute manner.⁴⁶⁵

The visiting hours during the morning and afternoon are reasonable but visits need to be preapproved by SEF depending e.g. on the expected duration of detention. Detainees are entitled to a maximum of three visitors at the same time and the duration of the visit cannot exceed one hour. In accordance to CPR's experience, the access procedures are cumbersome, bureaucratic and involve obtaining access cards for interpreters in advance. CPR has unrestricted access to asylum seekers detained at the border or in pre-removal detention but only following the refugee status determination interview conducted by SEF, as opposed to lawyers who have unrestricted access to detainees prior to and during the refugee status determination interview. CPR has not received significant complaints from asylum-seeking detainees regarding refused visits from lawyers or relatives. With the exception of language barriers in the communication with lawyers, the Ombudsman has also concluded that the visiting system works well.⁴⁶⁶

In accordance with the internal regulation of the detention facilities at the border, the detainees are not allowed to keep their mobile phones but are entitled to use public phones that are freely accessible in each wing of the detention facility using coins, prepaid cards or collect calls. Furthermore, each detainee is entitled upon arrival to 5 minutes of national and international calls using the telephones of the facility. According to the information available to CPR, the SEF also provides for phone calls to lawyers and organisations such as CPR for purposes of legal assistance in case the detainee has exhausted 5 minutes for calls. However, the Ombudsman has recently denied this being the case regarding the ACM, the Portuguese Bar Association, CPR and other NGOs and made no reference to such an exception regarding contacts with lawyers.⁴⁶⁷ He also criticised the prepaid card system as being inconsistently applied across the different detention facility and as not taking into consideration the duration of detention.⁴⁶⁸ According to the Ombudsman, the contacts of relevant support organisations are only available in the administrative support services.⁴⁶⁹ At times CPR receives complaints from detainees regarding the limited time for calls and having to choose between contacting family or lawyers.

⁴⁶² *Ibid*, 28.

⁴⁶³ Article 35-B(3) Asylum Act.

⁴⁶⁴ Article 49(6) Asylum Act.

⁴⁶⁵ Article 35-B(4) Asylum Act.

⁴⁶⁶ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, 42.

⁴⁶⁷ *Ibid*, 43-44.

⁴⁶⁸ *Ibid*, 42-43.

⁴⁶⁹ *Ibid*, 42-44.

In accordance with the law, UNHCR and CPR as the non-governmental organisation acting on its behalf, have the right to be informed of all asylum claims presented in Portugal and to personally contact asylum seekers irrespective of the place of application in order to provide information on the asylum procedure, as well as regarding their intervention throughout the process.⁴⁷⁰ In this framework, CPR is regularly present (i.e. generally every week) at the **Lisbon Airport** detention facility to provide free legal information and assistance,⁴⁷¹ in particular regarding: the asylum procedure; promoting access to free legal aid at appeal stage; promoting the release without conditions of particularly vulnerable asylum seekers either by SEF *ex officio* or by means of review from the Criminal Courts; and at times and depending on its capacity the review of the refugee status determination interview report produced by SEF.

CPR is not aware of any organisations that provide social assistance, leisure or other occupational activities at the **Lisbon Airport** detention facility. In the case of the **CIT– UHSA** in Porto, the law provides for an MoU with the International Organisation for Migration (IOM) and the Jesuit Refugee Service (JRS) Portugal,⁴⁷² that are responsible for training of staff at the CIT– UHSA and the provision of social, psychological and legal assistance to detainees. According to CPR’s experience regarding asylum seekers who have applied from detention at CIT – UHSA, JRS Portugal has a social worker in the detention facility that provides in-house psychosocial assistance while the provision of in-house medical and psychological assistance is provided by volunteer organisations such as Mdm.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention

- | | | |
|---|---|-----------------------------|
| 1. Is there an automatic review of the lawfulness of detention? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. If yes, at what interval is the detention order reviewed? | 7 days | |

The law provides for the right of asylum seekers to 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.⁴⁷³

In practice, the declaration issued by SEF to asylum seekers at the border for the purposes of certifying the registration of the asylum application contains a brief reference to the norm of the Asylum Act that provides for the systematic detention of asylum seekers at the border.⁴⁷⁴ CPR is unaware of the provision of information in writing pertaining to the grounds, the right to access free legal aid and legal challenges for the purposes of detention review.⁴⁷⁵ That being said, asylum seekers benefit from legal information and assistance from CPR at the border, which also includes free legal assistance for purposes of detention review, albeit limited to vulnerable asylum seekers due to capacity constraints.

The competent authority to impose and review the detention of an asylum seeker in a CIT,⁴⁷⁶ or in detention facilities at the border,⁴⁷⁷ is the Criminal Court which has territorial jurisdiction over the place where detention is practiced. In the case of detention at the border, the SEF is required to inform the Criminal Court of the detention within 48 hours of arrival at the border for purposes of maintaining the

⁴⁷⁰ Article 13(3) Asylum Act.

⁴⁷¹ Article 49(1)(e) and (6) Asylum Act.

⁴⁷² Article 3 Decree-Law 44/2006.

⁴⁷³ Article 35-B(2) Asylum Act.

⁴⁷⁴ Article 26 Asylum Act.

⁴⁷⁵ Even though the declaration issued by the SEF to asylum seekers at the border for the purposes of certifying the registration of the asylum application contains a brief reference to their right to legal aid, it does not specify that such legal aid also encompasses Criminal Court procedures pertaining to their detention at the border.

⁴⁷⁶ Article 35-A(5) Asylum Act.

⁴⁷⁷ Article 35-A(6) Asylum Act.

asylum seeker in detention beyond that period.⁴⁷⁸ 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.⁴⁷⁹

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

To CPR's understanding, once the SEF informs the Criminal Court that the asylum application at the border was rejected, there are no additional *ex officio* reviews prior to release even in cases where the court invites the SEF to consider the release of vulnerable applicants (see [Alternatives to Detention](#)). Where the applicant appeals the rejection of the asylum application and is therefore not removed from the border, release usually takes place at the end of the maximum detention time limit of 60 days (see [Duration of Detention](#)).

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,⁴⁸⁰ and such right must be understood to encompass Criminal Court procedures pertaining to their detention at the border. Access to legal aid is processed under the same conditions as nationals, which include a "means test".⁴⁸¹ While in the case of legal aid for the purposes of appealing the rejection of the asylum application, this test is generally applied in a flexible manner. CPR has no experience of legal aid applications for the purposes of detention review, however.

Given that legal aid procedures usually exceed 60 days, their duration renders assistance inefficient in the context of detention review, as more often than not asylum seekers would be released from detention before the free legal aid lawyer is appointed by the Portuguese Bar Association (*Ordem dos Advogados*). The law provides for an accelerated free legal aid procedure at the border, albeit for asylum-related decisions only, on the basis of an MoU between the Ministry of Internal Administration and the Bar Association,⁴⁸² but such procedures remain to be implemented to date.

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

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.

⁴⁷⁸ *Ibid.*

⁴⁷⁹ Article 35-A(6) Asylum Act.

⁴⁸⁰ Article 49(1)(f) Asylum Act.

⁴⁸¹ Act 34/2004.

⁴⁸² Article 25(4) Asylum Act.

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.⁴⁸³ The duration of residence permits is dependent upon the type of international protection granted: the residence permit for **refugees** is valid for 5 years,⁴⁸⁴ while the residence permit for **subsidiary protection** beneficiaries is valid for 3 years.⁴⁸⁵ According to the statistics provided by the SEF, in 2017 there was a total of 159 residence permits issued to refugees and 321 residence permits issued to beneficiaries of subsidiary protection.

On the basis of CPR's experience of providing legal information and assistance to asylum seekers and beneficiaries of international protection at all stages of the asylum procedure (see [Regular Procedure: Legal Assistance](#)), the average length of the procedure for issuing a residence permit following a decision granting international protection can be considered reasonable, ranging from a few weeks to a month and a half during which asylum seekers are issued a declaration from SEF certifying their application for a residence permit. It should be noted that asylum seekers admitted to the regular procedure are also 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](#)).⁴⁸⁶

In late 2014 and 2015, the launch of a cessation procedure by the SEF regarding Guinean nationals, the first ever to target citizens of a specific nationality in a collective manner, has been characterised by significant shortcomings, including a curtailment of the residence rights of those concerned by failing to renew or by delaying the renewal of expired residence permits during the procedures (see [Cessation](#)).

2. Civil registration

2.1. Registration of child birth

According to the law, civil registration acts of foreign authorities such as child birth certificates regarding aliens can only be transcribed into the Portuguese civil registry if the applicant demonstrates a legitimate interest in the transcription,⁴⁸⁷ and if the act is: duly translated;⁴⁸⁸ and legalised or does not raise well-founded doubts regarding its authenticity.⁴⁸⁹

In practice, the need of beneficiaries of international protection to transcribe foreign child birth certificates normally arises in the framework of naturalisation procedures that require the registration of their birth by the Central Registrations Service (*Conservatória dos Registos Centrais*, CRC) based on a duly legalised

⁴⁸³ Article 67 Asylum Act. This provision is generally in line with Article 24 recast Qualification Directive.

⁴⁸⁴ Article 67(1) Asylum Act.

⁴⁸⁵ Article 67(2) Asylum Act.

⁴⁸⁶ Article 27(1) Asylum Act.

⁴⁸⁷ Article 6(4) Civil Registration Code.

⁴⁸⁸ Article 49(8) Civil Registration Code.

⁴⁸⁹ 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.

birth certificate prior to the registration of the acquisition of Portuguese nationality.⁴⁹⁰ Furthermore, it also arises in the case of marriage (transcription of foreign marriages and registration of marriages contracted in Portugal) and the regulation of parental authority as both are added to the birth registry of the grooms⁴⁹¹ However, in the case of [Naturalisation](#) procedures and registration of marriages the law provides for alternative avenues in case the applicant is unable to produce a duly legalised birth certificate.

According to the experience of CPR, there are no other recurring instances where the need for the registration of child birth arises given that the SEF does not require such registration for identification and issuance of international protection residence permits, given the specific standards of proof applicable, and that these in turn replace identification documents for all legal purposes.⁴⁹²

The registration of birth of a child on the Portuguese territory is mandatory, on the other hand, regardless of nationality.⁴⁹³ It must be declared to the civil registry authorities of the Ministry of Justice either by (1) the parents, another legal representative of the child or a person assigned that responsibility in writing by the parents, (2) the next closest relative of the child, or (3) an official of the maternity institution where the birth took place or to which the birth was orally reported.⁴⁹⁴ The time limit and the place for reporting the birth varies depending on the place of birth.⁴⁹⁵

The actual registration of birth that follows the declaration can either take place at the maternity, which is usually the case, or at a civil registry office. Following the registration of birth, the information is also automatically transferred to the Ministry of Health, the ISS and, upon request, to the Ministry of Finances for purposes of registration of the child with its services.⁴⁹⁶

The registration of birth requires that identification documents of the parents be produced “whenever possible”.⁴⁹⁷ According to the Aliens Act the residence permit replaces the identification document for all legal purposes.⁴⁹⁸ 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.⁴⁹⁹

In the case of the child or his or her parent(s) being an alien, born abroad or having an additional nationality, the law allows for their registration under an alien first name.⁵⁰⁰

According to CPR’s experience, beneficiaries of international protection whose children are born in Portugal do not face significant or systematic challenges in the registration of their birth as they are in possession of a valid [Residence Permit](#) that is considered an adequate identification document by civil registry offices. However, some problems arise with the registration of paternity where the father cannot personally declare his willingness to be registered as such before a Portuguese civil registry office and the marriage contracted abroad is not previously registered in Portugal, as is generally the case. In these cases, a paternity investigation is usually conducted by the Family court with uncertain results given the potential difficulties of beneficiaries of international protection to meet evidentiary requirements.⁵⁰¹

⁴⁹⁰ Article 50(1) Portuguese Nationality Regulation.

⁴⁹¹ Article 69(1)(a) and (e) Civil Registration Code.

⁴⁹² Article 84 Aliens Act.

⁴⁹³ Article 1(1) and (2) Civil Registration Code.

⁴⁹⁴ Article 97(1) Civil Registration Code.

⁴⁹⁵ Articles 96 and 96-A Civil Registration Code. This can either be at the maternity up to the moment the mother leaves the premises; or at any civil registry office (*conservatória de registo civil*) within 20 days from the date of birth.

⁴⁹⁶ Articles 101, 101-A and 101-B Civil Registration Code.

⁴⁹⁷ Article 102 Civil Registration Code.

⁴⁹⁸ Article 84 Aliens Act.

⁴⁹⁹ Article 42 Civil Registration Code.

⁵⁰⁰ Article 103 Civil Registration Code.

⁵⁰¹ Article 120 Civil Registration Code and Articles 1847, 1853(a), 1864 and 1865 Civil Code.

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 the SEF does not require such registration for purposes of derivative international protection / family reunification of a relative who is in a third country (see [Family Reunification](#)).

The marriage between foreigners in Portugal, on the other hand, requires the presentation of the spouses' residence permits,⁵⁰² birth certificates⁵⁰³ and certificates of no impediment⁵⁰⁴ that must either be duly legalised or not raise well-founded doubts regarding their authenticity.⁵⁰⁵ Where the spouses are unable to produce a duly legalised 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,⁵⁰⁶ or justify the absence of the certificate of no impediment,⁵⁰⁷ where there are adequate reasons. To that end, the civil registry officer may choose to conduct the investigations deemed appropriate,⁵⁰⁸ and consider alternative evidence such as witness statements.⁵⁰⁹

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 justify the absence of the certificate of no impediment where relevant reasons pertaining the international protection needs of the applicants were ascertained.

3. Long-term residence

Indicators: Long-Term Residence

1. Number of long-term residence permits issued to beneficiaries in 2017: Not available

Competence for issuing a long-term residence lies with the National Director of the SEF,⁵¹⁰ that must issue a decision within 6 months of application.⁵¹¹ The residence permit is valid for 5 years and is automatically renewed at the request of the beneficiary.⁵¹² The following criteria must be met to obtain a long-term resident status regardless of the type of international protection held by the beneficiary:⁵¹³

- ❖ Legal and continuous residence in the national territory for 5 years following the date of the application for international protection (no difference being drawn between refugee status and subsidiary protection);
- ❖ Stable and regular resources to ensure his or her survival and its of his or her family members, without having to resort to the social assistance system;
- ❖ Health insurance;
- ❖ Accommodation;
- ❖ Fluency in basic Portuguese.

⁵⁰² Article 137(1) Civil Registration Code.

⁵⁰³ Article 137(2) Civil Registration Code.

⁵⁰⁴ Article 166(1) Civil Registration Code.

⁵⁰⁵ Article 49(1) Civil Registration Code.

⁵⁰⁶ Articles 135(5), 137(5) and 266 to 269 Civil Registration Code.

⁵⁰⁷ Article 166(2) Civil Registration Code.

⁵⁰⁸ Article 268(1) Civil Registration Code.

⁵⁰⁹ Articles 143(1) and 166(3) Civil Registration Code.

⁵¹⁰ Article 128 Aliens Act.

⁵¹¹ Article 129(4) Aliens Act. The time limit can be extended by 3 months in particularly complex cases but the applicant must be informed of the extension of the time limit (Article 129(5) Aliens Act) and the application is automatically accepted in the absence of a decision at the end of the 3-month time limit extension (Article 129(6) Aliens Act).

⁵¹² Article 130(2) Aliens Act.

⁵¹³ Article 126 Aliens Act.

A former beneficiary of international protection whose refugee status has ceased because he or she has voluntarily re-availed him or herself of the protection of the country of nationality or, having lost his or her nationality, has voluntarily re-acquired it, can be refused long term residence status (see [Cessation](#)).⁵¹⁴

The SEF is not in possession of statistics regarding the number of long-term residence status attributed to beneficiaries of international protection. As the main provider of legal information and assistance to asylum seekers and beneficiaries of international protection, CPR is not aware of any issuance of long-term residence status to beneficiaries of international protection in 2017 and has provided legal assistance in a very limited number of cases for that purpose. According to its experience, access to such status by beneficiaries of international protection is very rare for reasons mostly related to lack of information and awareness, adequate financial resources, 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	6 years
❖ Subsidiary protection	6 years
2. Number of citizenship grants to beneficiaries in 2017:	47

Competence for obtaining Portuguese nationality lies either with the Minister of Justice regarding naturalisation,⁵¹⁵ or the Central Registrations Service (*Conservatória dos Registos Centrais*, CRC) of the Ministry of Justice regarding other modalities for obtaining Portuguese nationality.⁵¹⁶ 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,⁵¹⁷ and 3 months in the remaining cases.⁵¹⁸

Some of the modalities for obtaining Portuguese nationality are of particular relevance to beneficiaries of international protection. According to these, foreign citizens, including refugees and beneficiaries of subsidiary protection, are eligible for naturalisation under the following conditions:⁵¹⁹

- ❖ 18 years of age or emancipation in accordance with Portuguese law;
- ❖ Minimum legal residence of 6 years in Portugal;
- ❖ Proof of proficiency in Portuguese (A2);
- ❖ No conviction of a crime punishable with a prison sentence of at least 3 years.
- ❖ Not being a danger or a threat to national security or defence due to their involvement in activities related to the practice of terrorism, in accordance to the law that governs terrorism.

Furthermore, children of foreign nationals born on national territory are eligible for naturalisation under the following conditions:⁵²⁰

- ❖ Proof of proficiency in Portuguese (A2);
- ❖ No conviction of a crime punishable with a prison sentence of at least 3 years;
- ❖ At least one parent legally residing in the country for the past 5 years at the time of application; or completion of the first level of basic education in Portugal (4 years).

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.⁵²¹ The law also

⁵¹⁴ Article 123(3) Aliens Act.

⁵¹⁵ Article 27 Portuguese Nationality Regulation.

⁵¹⁶ Article 41 Portuguese Nationality Regulation.

⁵¹⁷ Article 27 Portuguese Nationality Regulation.

⁵¹⁸ Article 41(1) and (2) Portuguese Nationality Regulation.

⁵¹⁹ Article 6(1) Nationality Act; Article 19 Portuguese Nationality Regulation.

⁵²⁰ Article 6(2) Nationality Act; Article 20 Portuguese Nationality Regulation.

⁵²¹ Article 26 Portuguese Nationality Regulation.

provides in detail for the specific modalities regarding supporting evidence of proficiency in Portuguese,⁵²² notably regarding assessment tests that are of particular relevance to beneficiaries of international protection.⁵²³

Finally, foreign citizens, including refugees and beneficiaries of subsidiary protection, can (i) acquire Portuguese citizenship if they have been married or have been in a civil union with a Portuguese citizen for at least 3 years;⁵²⁴ or (ii) upon request be entitled to Portuguese nationality at birth regarding children born on national territory where least one foreign parent has been a legal resident in the country for the past 5 years at the time of birth.⁵²⁵

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

A total of 47 beneficiaries of international protection were granted Portuguese nationality in 2017.

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 deciding the cessation of international protection lies with the Ministry of Internal Administration on the basis of a proposal put forward by the national director of the SEF.⁵²⁶ The representative of UNHCR or the CPR, as the non-governmental organisation acting on the UNHCR's behalf, shall be informed of the declaration of the loss of the right to international protection.⁵²⁷

The Asylum Act establishes the grounds for cessation of international protection.⁵²⁸ Regarding **refugee status**, the right to asylum ceases when the foreign national or stateless person:⁵²⁹

- a. Decides voluntarily to re-avail him or herself of the protection of the country of his or her nationality;
- b. Voluntarily reacquires his or her nationality after having lost it;
- c. Acquires a new nationality and enjoys the protection of the country of the newly acquired nationality;

⁵²² Article 26(2)-(9) Portuguese Nationality Regulation.

⁵²³ Ministerial Order 176/2014.

⁵²⁴ Article 3 Nationality Act; Article 14 Portuguese Nationality Regulation.

⁵²⁵ Article 1(1)(f) Nationality Act; Article 10(1) Portuguese Nationality Regulation.

⁵²⁶ Article 43(1) Asylum Act.

⁵²⁷ Article 43(3) Asylum Act.

⁵²⁸ Article 41 Asylum Act.

⁵²⁹ Article 41(1) Asylum Act.

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

Regarding **subsidiary protection**, the right ceases when the circumstances resulting in said protection no longer exist or have changed to such an extent that the protection is no longer necessary.⁵³⁰

The ground pertaining to a change in circumstances warranting cessation of refugee status or subsidiary protection can only be applied if the SEF concludes that the change in circumstances in the country of origin or habitual residence is sufficiently significant and durable to exclude a well-founded fear of persecution or a risk of serious harm.⁵³¹ Furthermore, this cessation ground is without prejudice to the principle of *non-refoulement*,⁵³² 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.⁵³³

The SEF is required to notify the beneficiary of the intended cessation for purposes of allowing the beneficiary of international protection to exercise his or her right to an adversarial hearing in writing within 8 days.⁵³⁴ A decision on cessation is subject to a judicial appeal with suspensive effect,⁵³⁵ and in the absence of specific provisions it should be understood that beneficiaries of international protection are entitled to apply for free legal aid at appeal stage under the same conditions as nationals as legal aid is an integral part of the social security system (see [Regular Procedure: Legal Assistance](#)).⁵³⁶

Finally, the cessation of international protection results in the applicability of the Aliens Act to former beneficiaries,⁵³⁷ 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,⁵³⁸ even though other requirements such as a travel document, accommodation, income, etc. still apply.

CPR is not aware of a systematic review of protection status in Portugal in practice. Nonetheless, according to the statistics provided by the SEF there were 14 cessation decisions of subsidiary protection regarding Guinean nationals in 2016 but none in 2017. In the framework of the legal assistance provided to some of those concerned in 2016, CPR identified several shortcomings in these cessation proceedings including the lack of renewal of the residence permits while the cessation process was pending and the poor quality of the assessment conducted into the change in circumstances in the country of nationality. Indeed, the assessment conducted did not take into consideration the specific / individual circumstances of each individual concerned as the same information was used for all persons meaning that it lacked an actual assessment of whether there was a significant and durable change in circumstances for each individual concerned.

⁵³⁰ Article 41(2) Asylum Act.
⁵³¹ Article 41(3) Asylum Act.
⁵³² Article 47 Asylum Act.
⁵³³ Article 41(4) Asylum Act.
⁵³⁴ Article 41(6) Asylum Act.
⁵³⁵ Article 44 Asylum Act.
⁵³⁶ Article 72 asylum Act.
⁵³⁷ Article 42(2) Asylum Act.
⁵³⁸ Article 122(1)(f) Aliens Act.

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 of, ending or refusal to renew international protection that are assessed pursuant to the same procedural rules applicable to [Cessation](#).

These include the cases where the beneficiary of international protection:⁵³⁹

- (a) Should have been or can be excluded from the right to asylum or subsidiary protection, pursuant to the exclusion clauses;
- (b) Has distorted or omitted facts, including through the use of false documents, that proved decisive for benefitting from the right to asylum or subsidiary protection;
- (c) Represents a danger for national security;
- (d) Having been sentenced by a final judgment for an intentional common law crime punishable with a prison term of more than three years, represents a danger for national security or for public order.

According to the statistics shared by the SEF there was one decision to revoke, end or refuse to renew international protection status of a Guinean national in 2017.

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.⁵⁴⁰ 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 Aliens Act.⁵⁴¹

1.1. Eligible family members

A person granted international protection in Portugal can reunite with the following family members:⁵⁴²

⁵³⁹ Article 41(5) Asylum Act.

⁵⁴⁰ Article 68(1) Asylum Act.

⁵⁴¹ *Ibid.*

⁵⁴² Articles 68 and 2(1)(k) Asylum Act.

- Spouse or unmarried partner,⁵⁴³ including same-sex partner, if the relationship is regarded as a sustainable relationship i.e. at least 2 years of living together in conditions analogous to marriage;⁵⁴⁴
- Minor children if dependent on the sponsor and/or on his or her spouse / unmarried partner and regardless of their marital status. The right to family reunification also includes minor children and adopted minor children of the sponsor or of his or her spouse / unmarried partner. Adult children who lack legal capacity (e.g. for reasons of mental health) and are dependent on the sponsor and/or on his spouse / unmarried partner are also included;
- Parents, if the sponsor is under 18 years old.

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

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

The list of eligible family members in the case of beneficiaries of international protection is more restrictive than that enshrined in the Aliens 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) minor siblings, as long as the resident is their guardian, according to a decision issued by the competent authority of the country of origin, recognised in Portugal.⁵⁴⁵ While in the past it was common for the SEF to extend the more favourable regime to beneficiaries of international protection, information gathered by CPR shows this is no longer the case as the authorities now tend to restrict family reunification to eligible relatives included in the Asylum Act.

1.2. Family reunification procedure

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

The sponsor in Portugal must apply for family reunification at the SEF regional office in his or her residence area if the family member is living abroad at the time of application. If the family member is in Portugal at the time of application, the sponsor must apply for family reunification at SEF/GAR in Lisbon. Applications are *not* accepted at Portuguese embassies.

The following official documents need to be presented with the application:⁵⁴⁶

- a. Copy of the travel document of the family member;
- b. Criminal record of the family member, including country of nationality and any country of residence where the family member has lived for over 1 year;
- c. Statement of parental authorisation from the other parent if not travelling with the child, where applicable;
- d. Death certificate of other parent of the child or evidence of sole legal guardianship if original death certificate is not obtainable, where applicable.

The following official documents are required to prove family relations:

1. Spouses: marriage certificate;
2. Children: birth certificate, decision of adoption duly recognised by a national authority (if applicable); proof of legal incapacity of adult child (if applicable);
3. Other adults in charge of an unaccompanied minor: decision of guardianship duly recognised by a national authority.

⁵⁴³ Both the sponsor and the spouse/unmarried partner must be at least 18 years old.

⁵⁴⁴ 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.

⁵⁴⁵ Article 99 Aliens Act.

⁵⁴⁶ Article 103 Asylum 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 a Portuguese embassy prior to their submission to the SEF.

Regarding refugees, in the absence of official documents to demonstrate family relations, other types of proof should be taken into consideration. The application for family reunification cannot be denied on the sole basis of lack of documentary evidence. Other types of proof can consist of interviews of the sponsor and family members, copies of original documents, witness testimonies, or common children in the case of unmarried partnerships. Portuguese authorities do not conduct DNA testing in the framework of family reunification applications. Even though not formally required, the law does not exclude DNA testing as means of proof of family relations.

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

Furthermore, refugees are exempted from the general obligation to present proof of accommodation and income in family reunification procedures.⁵⁴⁷ This legal provision has also been applied to beneficiaries of subsidiary protection.

The application may be refused on the following grounds: misrepresentation or omission of facts; non-fulfilment of legal requirements; where the potential beneficiary family member would be excluded from refugee status or subsidiary protection; where the potential beneficiary is barred from entrance into Portugal; and/or where the potential beneficiary poses a risk to public order, public security or public health. Non-fulfilment of legal requirements may involve: lack of adequate travel documents; lack of criminal records of the potential beneficiary family member; when a parent other than the sponsor has not authorised the family reunification of his/her child with the sponsor; or non-eligibility of the family member.⁵⁴⁸

The application should be decided within 3 months, with a possible extension for an additional 3 months if the delay is duly justified by the complexity of the case. In case of extension of the deadline, the applicant should be informed of the reason.⁵⁴⁹

In the absence of a decision within 6 months, counting from the date of the application and unless the applicant bears responsibility for the delay (e.g. unanswered request for additional information and/or documents), the application is deemed automatically accepted. According to CPR's experience, family reunification applications made with CPR support in 2015 were processed in 3.5 months on average, ranging from 1 month to 11 months. The duration of family reunification procedures remained the same in 2016 and 2017.

The SEF was unable to share statistics on applications for family reunification with beneficiaries of international protection.

2. Status and rights of family members

In accordance with the law, family members receive the same legal status as the sponsor and have the same status and rights as the sponsor.⁵⁵⁰ This is generally the case in practice.

However, in 2017 CPR received reports of a few instances where family members whose reunification was accepted in accordance to the extended list of eligible family members of the Aliens Act (see [Criteria and Conditions](#)) who upon arrival in Portugal were refused the extension of the status of the sponsor. After long waiting periods, during which the relatives were undocumented and therefore faced obstacles

⁵⁴⁷ Article 101(2) Aliens Act.

⁵⁴⁸ Article 106 Aliens Act.

⁵⁴⁹ Article 105 Aliens Act.

⁵⁵⁰ Article 68(2) Asylum Act.

to access services, the SEF issued them residence permits on exceptional grounds in the framework of the Aliens Act.⁵⁵¹

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.⁵⁵² CPR is not aware of any limitations in this regard in practice, with the exception of those arising from the existing dispersal in policy implemented by the GTO that may result in limitations for reasons of access to material support (see [Reception Conditions: Freedom of Movement](#)).

2. Travel documents

The Portuguese authorities are bound by a duty to issue travel documents to refugees and beneficiaries of subsidiary protection.⁵⁵³

The refugee travel document consists of an electronic travel document,⁵⁵⁴ following the Refugee Convention format,⁵⁵⁵ which is valid for an initial one-year period and is renewable for identical periods.⁵⁵⁶ The authorities competent for granting refugee travel documents consist of the National Director of the SEF for applications made on the national territory, and consulates for applications made abroad.⁵⁵⁷

In the case of beneficiaries of **subsidiary protection**, however, the issuance of travel documents is left to the discretion of national authorities,⁵⁵⁸ at odds with Article 25(2) of the recast Qualification Directive. The Asylum Act states that “a Portuguese passport for foreigners may be issued to beneficiaries of subsidiary protection...”

As regards the Portuguese passport for foreigners, beneficiaries of subsidiary protection are required to present a valid residence permit and to demonstrate their inability to obtain a national passport, notably on the basis of relevant proof or credible statements showing a potential risk to their own safety or the refusal of their country's consular representation to issue such a passport.⁵⁵⁹ The Portuguese passport for foreigners is valid for a period of up to two years,⁵⁶⁰ and in 2017 it had a cost of 109.60 €. ⁵⁶¹

On the basis of CPR's experience, refugee travel documents issued as of early 2018 were still not electronic. The length of the procedure for issuing a travel document can be considered reasonable overall and does not exceed a couple of months.

Throughout 2017, CPR recorded multiple instances of refusal of requests of a Portuguese passport for foreigners by beneficiaries of international protection from Ukraine. The SEF considered that they could contact the Ukrainian authorities for the issuance of travel documents or use passports previously issued by them and that were still valid, despite the beneficiaries' claims.

⁵⁵¹ Article 123 Aliens Act.

⁵⁵² Article 75 Asylum Act.

⁵⁵³ Article 69 Asylum Act; Article 19 Aliens Act.

⁵⁵⁴ Ministerial Order 302/2015 of 22 September 2015 and Ministerial Order 412/2015 of 27 November 2015.

⁵⁵⁵ Article 69(1) Asylum Act.

⁵⁵⁶ Article 19 Aliens Act.

⁵⁵⁷ Article 20 Aliens Act.

⁵⁵⁸ Article 69(2) Asylum Act.

⁵⁵⁹ Decree-Law 83/2000 of 11 May 2000, as amended by Decree-Law 138/2006 of 26 July 2006.

⁵⁶⁰ Article 38 Decree-Law 83/2000 of 11 May 2000.

⁵⁶¹ Ministerial Order n. 1334-E/2010 of 31 December 2010.

D. Housing

Indicators: Housing

- | | |
|--|-----|
| 1. For how long are beneficiaries entitled to stay in reception centres? | N/A |
| 2. Number of beneficiaries staying in reception centres as of 31 December 2017 | N/A |

The law provides for the right of refugees and beneficiaries of subsidiary protection to housing under the same conditions of foreign nationals legally residing in Portugal.⁵⁶² Therefore this encompasses public housing.⁵⁶³

In practice, the financial assistance provided to asylum seekers admitted to the regular procedure in the framework of the dispersal policy managed by the GTO for renting private housing (see [Forms and Levels of Material Reception Conditions](#)) will usually be maintained beyond a final decision in the asylum procedure. This typically means that beneficiaries of international protection will generally retain the private housing they have rented throughout the regular procedure. Access of beneficiaries of international protection to public housing remains extremely limited for reasons that according to CPR's experience have traditionally been linked to legal constraints under previous rules, limited stock of available public housing and lack of prioritisation of beneficiaries of international protection in public housing policy.

E. Employment and education

1. Access to the labour market

The law provides for the right of refugees and beneficiaries of subsidiary protection to access to the labour market pursuant to general rules.⁵⁶⁴

As in the case of asylum seekers (see [Reception Conditions: Access to the Labour Market](#)) there are no limitations attached to the right of beneficiaries of international protection to employment such as labour market tests or prioritisation of nationals and third-country nationals. The issuance and renewal of residence permits by the SEF is free of charge.⁵⁶⁵ The only restriction on employment enshrined in the law consists in limited access for all third-country nationals to certain categories of employment in the public sector.⁵⁶⁶ Furthermore, beneficiaries of international protection benefit from the same conditions of employment of nationals, including those pertaining to salaries and working hours.⁵⁶⁷ 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).⁵⁶⁸

Furthermore, beneficiaries of international protection are equally entitled to access work related training opportunities for adults, vocational training and workplace practical experience opportunities under the same conditions as nationals.⁵⁶⁹

With the exception of the submission of beneficiaries of international protection to the conditions applicable to nationals of the same country,⁵⁷⁰ there are no specific rules regarding the recognition of

⁵⁶² Article 74 Asylum Act.

⁵⁶³ Article 5 Public Leasing Act.

⁵⁶⁴ Article 71(1) Asylum Act.

⁵⁶⁵ Article 67(4) Asylum Act.

⁵⁶⁶ Article 15(2) Constitution; Article 17(1)(a) and (2) Act 35/2014.

⁵⁶⁷ Article 71(3) Asylum Act; Article 4 Labour Code.

⁵⁶⁸ Article 5 Labour Code.

⁵⁶⁹ 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.

⁵⁷⁰ Article 70(3) Asylum Act.

diplomas and academic qualifications in the Asylum Act and the general rules and practical challenges facing asylum seekers apply.

There are no statistics available on the number of beneficiaries of international protection in employment at the end of 2017. According to CPR's experience, despite existing support mechanisms pertaining to language training and employment assistance, asylum seekers and beneficiaries of international protection face many challenges in securing employment that are both general and specific in nature (see [Reception Conditions: Access to the Labour Market](#)).

2. Access to education

The Asylum Act provides for the right of children who are refugees or beneficiaries of subsidiary protection to education under the same conditions as national citizens.⁵⁷¹ The right to education under the same conditions as nationals is extended to adult beneficiaries of international protection.⁵⁷² The access of children who are beneficiaries of international protection to public education and equivalence procedures bares no relevant distinction to asylum seeking children and has already been described in detail. The same holds true for access of adult beneficiaries of international protection to professional training (see [Reception Conditions: Access to Education](#)).

F. Social welfare

According to the Asylum Act, the general rules governing the social welfare system are applicable to refugees and beneficiaries of subsidiary protection.⁵⁷³ Refugees and beneficiaries of subsidiary protection are entitled to the same rights and access social welfare under the same conditions as nationals.

The Social Insertion Revenue (*Rendimento Social de Inserção*, RSI), a social protection measure that aims to support people in serious economic need and risking social exclusion, is one of the social allowances to which beneficiaries of subsidiary protection usually resort (see [Forms and Levels of Material Reception Conditions](#)).

In addition to the financial allowance, RSI comprises an inclusion programme, based by a contract established with the household. Access to the measure by beneficiaries of international protection is subject to the fulfilment of the general conditions proscribed by law, namely:

- If the applicant lives alone – his or her monthly income cannot exceed the amount of the allowance; if the applicant lives with family members – the combined monthly income cannot exceed the amount of the total 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 level of the RSI is as follows:

<i>Rendimento Social de Inserção: 2017</i>	
Category of applicant	Amount
Head of household	183.84 €
Other adult in household	128.69 €
Child	91.92 €

⁵⁷¹ Article 70(1) Asylum Act.

⁵⁷² *Ibid.*

⁵⁷³ Article 72 Asylum Act.

A legislative amendment introduced in 2017 removed the requisite of one year of regular residence in the country to access the RSI. Therefore, beneficiaries of international protection are immediately directed to this allowance upon recognition of the refugee status or conferral of subsidiary protection and 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 / family allowances,⁵⁷⁴ unemployment benefits,⁵⁷⁵ and other benefits, under the same conditions as nationals and as long as they meet the applicable conditions.

In practice, the follow up of social welfare matters is provided by ISS and SCML,⁵⁷⁶ 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.

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.⁵⁷⁷ 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.⁵⁷⁸ The special needs of particularly vulnerable persons including beneficiaries of international protection must be taken into consideration in the provision of health care,⁵⁷⁹ notably through rehabilitation and psychological support to children who have been subjected to various forms of violence,⁵⁸⁰ and adequate treatment to survivors of torture and serious violence.⁵⁸¹ Responsibility for special treatment required by survivors of torture and serious violence lies with the ISS.⁵⁸²

Asylum seekers and refugees are exempt from any fees to access the National Health System.⁵⁸³ Additionally, all minors i.e. persons under the age of 18 are also exempt from such fees.⁵⁸⁴

In practice, beneficiaries of international protection have effective access to free health care in the SNS in line with applicable legal provisions. However, as with asylum seekers (see [Reception Conditions: Health Care](#)) persisting challenges have a significant impact on the quality of the care available. According to recent research and information available to CPR, these include language and cultural barriers due to the reluctance of health care services to use available interpretation services such as ACM's translation hotline; restricted access to diagnosis procedures and medication paid by the SNS due to bureaucratic constraints; or very limited access to mental health care and other categories of specialised medical care (e.g. dentists) in the SNS.⁵⁸⁵

⁵⁷⁴ Decree-Law 176/2003.

⁵⁷⁵ Act 220/2006.

⁵⁷⁶ 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.

⁵⁷⁷ Article 73(1) Asylum Act.

⁵⁷⁸ Article 73(2) Asylum Act.

⁵⁷⁹ Article 77(1) Asylum Act.

⁵⁸⁰ Article 78 (3)-(4) Asylum Act.

⁵⁸¹ Article 80 Asylum Act.

⁵⁸² *Ibid.*

⁵⁸³ Article 4(1)(n) Decree-Law 113/2011 of 29 November 2011.

⁵⁸⁴ Article 4(1)(b) Decree-Law 113/2011 of 29 November 2011.

⁵⁸⁵ Italian Council for Refugees *et al.*, *Time for Needs: Listening, Healing, Protecting*, October 2017, available at: <http://bit.ly/2xZqCGh>.

ANNEX I – Transposition of the CEAS in national legislation

Directives and other CEAS measures transposed into national legislation

Directive / Regulation	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	5 May 2014	Act n. 26/2014 of 5 May 2014 amending Act n. 27/2008, transposing Directives 2011/95, 2013/32/EU and 2013/33/EU	http://bit.ly/1jd3hcG (PT) http://bit.ly/2AfJ7sS (EN)
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	5 May 2014	Act n. 26/2014 of 5 May 2014 amending Act n. 27/2008, transposing Directives 2011/95, 2013/32/EU and 2013/33/EU	http://bit.ly/1jd3hcG (PT) http://bit.ly/2AfJ7sS (EN)
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015	5 May 2014	Act n. 26/2014 of 5 May 2014 amending Act n. 27/2008, transposing Directives 2011/95, 2013/32/EU and 2013/33/EU	http://bit.ly/1jd3hcG (PT) http://bit.ly/2AfJ7sS (EN)
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013	5 May 2014	Act n. 26/2014 of 5 May 2014 amending Act n. 27/2008, transposing Directives 2011/95, 2013/32/EU and 2013/33/EU	http://bit.ly/1jd3hcG (PT) http://bit.ly/2AfJ7sS (EN)