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## International and Regional Instruments

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
IOB.1.a	1954 Convention	Is your country party to the 1954 Statelessness Convention?	<a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>	Yes.	Documentation and Comparative Law Office: <a href="https://bit.ly/2Xthk71">https://bit.ly/2Xthk71</a> (PT) United Nations Treaty Collection: <a href="https://bit.ly/2JRpCOP">https://bit.ly/2JRpCOP</a> .
IOB.1.b		If yes, when was ratification/accession?		Portugal acceded to the Convention on 01/10/2012 and it entered into force in the Portuguese legal order on 30/12/2012.	Documentation and Comparative Law Office: <a href="https://bit.ly/2Xthk71">https://bit.ly/2Xthk71</a> (PT) United Nations Treaty Collection: <a href="https://bit.ly/2JRpCOP">https://bit.ly/2JRpCOP</a> .
IOB.1.c		Are there reservations in place? Please list them.	Best practice is no reservations. If there are, they should have little or no impact on the rights of stateless people.	Yes. "Under paragraph 1 of Article 38 of the Convention, the Portuguese Republic declares that in all cases where the stateless persons are accorded the most favourable treatment accorded to nationals of a foreign country, this clause shall not be interpreted as covering the regime applicable to nationals of Brazil, nationals from the European Union countries or nationals from other countries with which Portugal has established or may establish community relations, namely the Portuguese speaking States."	Documentation and Comparative Law Office: <a href="https://bit.ly/2Xthk71">https://bit.ly/2Xthk71</a> (PT) United Nations Treaty Collection: <a href="https://bit.ly/2JRpCOP">https://bit.ly/2JRpCOP</a> .
IOB.1.d		Does the Convention have direct effect?	Best practice is that the Convention has direct effect, though this may depend on the legal regime.	Yes. The Portuguese Constitution provides for the automatic incorporation of treaty norms, following duly ratification or approval and official publication for as long as they bind the State internationally.	Constitution of the Portuguese Republic - art.8(2), available at <a href="https://bit.ly/2LEUx14">https://bit.ly/2LEUx14</a> (PT) <a href="https://bit.ly/2RX9TPA">https://bit.ly/2RX9TPA</a>
IOB.2.a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a>	Yes.	Documentation and Comparative Law Office: <a href="https://bit.ly/30cGi7G">https://bit.ly/30cGi7G</a> (PT) United Nations Treaty Collection: <a href="https://bit.ly/2MYMOZ8">https://bit.ly/2MYMOZ8</a> .
IOB.2.b		If yes, when was ratification/accession?		Portugal acceded to the Convention on 01/10/2012 and it entered into force in the Portuguese legal order on 30/12/2012.	Documentation and Comparative Law Office: <a href="https://bit.ly/30cGi7G">https://bit.ly/30cGi7G</a> (PT) United Nations Treaty Collection: <a href="https://bit.ly/2MYMOZ8">https://bit.ly/2MYMOZ8</a> .
IOB.2.c		Are there reservations in place? Please list them.	As above	No.	Documentation and Comparative Law Office: <a href="https://bit.ly/30cGi7G">https://bit.ly/30cGi7G</a> (PT) United Nations Treaty Collection: <a href="https://bit.ly/2MYMOZ8">https://bit.ly/2MYMOZ8</a> .
IOB.2.d		Does the Convention have direct effect?	As above	Yes. The Portuguese Constitution provides for the automatic incorporation of treaty norms, following duly ratification or approval and official publication for as long as they bind the State internationally.	Constitution of the Portuguese Republic - art.8(2), available at <a href="https://bit.ly/2LEUx14">https://bit.ly/2LEUx14</a> (PT) <a href="https://bit.ly/2RX9TPA">https://bit.ly/2RX9TPA</a>
IOB.3.a	Other conventions	State party to European Convention on Nationality 1997? Please list any reservations.	<a href="#">European Convention on Nationality, 1997</a>	Yes. No reservations.	Documentation and Comparative Law Office: <a href="https://bit.ly/2L2ibFj">https://bit.ly/2L2ibFj</a> (PT) Council of Europe - <i>Chart of signatures and ratifications of Treaty 166</i> : <a href="https://bit.ly/2NJxk0a">https://bit.ly/2NJxk0a</a>
IOB.3.b		State Party to European Convention on Human Rights 1950? Please list any relevant reservations.	<a href="#">European Convention on Human Rights, 1950</a>	Yes. Reservations currently in force: 1. "Article 5 of the Convention will be applied subject to Articles 27 and 28 of the Military Discipline Regulations, which provide for the placing under arrest of members of the armed forces." 2. "Article 7 of the Convention will be applied subject to Article 309 of the Constitution of the Portuguese Republic, which provides for the indictment and trial of officers and personnel of the State Police Force (PIDE-DGS)." Other reservations concerning articles 4, 10 and 11 of the ECHR were made at the time of deposit of the instrument of ratification and withdrawn afterwards. None of these reservations had a specific focus on stateless persons or persons at risk of statelessness.	Documentation and Comparative Law Office: <a href="https://bit.ly/2LFqLsU">https://bit.ly/2LFqLsU</a> (PT) Council of Europe - <i>Chart of signatures and ratifications of Treaty 005</i> : <a href="https://bit.ly/2GYQBmr">https://bit.ly/2GYQBmr</a> .
IOB.3.c		State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Please list any reservations.	<a href="#">Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006</a>	No.	Council of Europe - <i>Chart of signatures and ratifications of Treaty 200</i> : <a href="https://bit.ly/2XMJjy2">https://bit.ly/2XMJjy2</a>
IOB.3.d		Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive)? Please list any relevant reservations.	<a href="#">Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive)</a>	Yes. No reservations.	EUR-Lex: <a href="https://bit.ly/2RxG9Yx">https://bit.ly/2RxG9Yx</a> National transposition through the Immigration Act: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT) and its implementing Regulation <a href="https://bit.ly/32aFpyg">https://bit.ly/32aFpyg</a> (PT)

IOB.3.e	State Party to Convention on the Rights of the Child 1989? Please list any relevant reservations.	<a href="#">Convention on the Rights of the Child 1989</a>	Yes. No reservations.	Documentation and Comparative Law Office: <a href="https://bit.ly/2JiA4xn">https://bit.ly/2JiA4xn</a> (PT) United Nations Treaty Collection: <a href="https://bit.ly/32dPric">https://bit.ly/32dPric</a> .
IOB.3.f	State Party to International Covenant on Civil and Political Rights 1966? Please list any relevant reservations.	<a href="#">International Covenant on Civil and Political Rights 1966</a>	Yes. No reservations.	Documentation and Comparative Law Office: <a href="https://bit.ly/2XPRARI">https://bit.ly/2XPRARI</a> (PT) United Nations Treaty Collection: <a href="https://bit.ly/2x034kD">https://bit.ly/2x034kD</a> .
IOB.3.g	State Party to International Covenant on Economic, Social and Cultural Rights 1966? Please list any relevant reservations.	<a href="#">International Covenant on Economic, Social and Cultural Rights 1966</a>	Yes. No reservations.	Documentation and Comparative Law Office: <a href="https://bit.ly/2S6dueo">https://bit.ly/2S6dueo</a> (PT) United Nations Treaty Collection: <a href="https://bit.ly/2CC6Xih">https://bit.ly/2CC6Xih</a> .
IOB.3.h	State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Please list any relevant reservations.	<a href="#">Convention on the Elimination of all Forms of Discrimination Against Women 1979</a> <a href="#">Gen. Rec. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness.</a>	Yes. No reservations.	Documentation and Comparative Law Office: <a href="https://bit.ly/32aFWAg">https://bit.ly/32aFWAg</a> (PT) United Nations Treaty Collection: <a href="https://bit.ly/2jZa8Mc">https://bit.ly/2jZa8Mc</a>
IOB.3.i	State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Please list any relevant reservations.	<a href="#">Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984</a>	Yes. No reservations. Portugal made a declaration at the time of deposit of the instrument of ratification recognising the competence of the Committee Against Torture.	Documentation and Comparative Law Office: <a href="https://bit.ly/2Jhu5J7">https://bit.ly/2Jhu5J7</a> (PT) United Nations Treaty Collection: <a href="https://bit.ly/2I9Eo3R">https://bit.ly/2I9Eo3R</a>
IOB.3.j	State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1966? Please list any relevant reservations.	<a href="#">International Convention on the Elimination of All Forms of Racial Discrimination 1965</a>	Yes. No reservations. Portugal made a declaration recognising the competence of the Committee on the Elimination of Racial Discrimination on 02/03/2000.	Documentation and Comparative Law Office: <a href="https://bit.ly/2JjH6Ck">https://bit.ly/2JjH6Ck</a> (PT) United Nations Treaty Collection: <a href="https://bit.ly/2Xy6Pj4">https://bit.ly/2Xy6Pj4</a>
IOB.3.k	State Party to the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990? Please list any relevant reservations.	<a href="#">International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990</a>	No.	United Nations Treaty Collection: <a href="https://bit.ly/29bcEt0">https://bit.ly/29bcEt0</a>
IOB.3.l	State Party to the Convention on the Rights of Persons with Disabilities 2006? Please list any relevant reservations.	<a href="#">Convention on the Rights of Persons with Disabilities</a>	Yes. No reservations.	Documentation and Comparative Law Office: <a href="https://bit.ly/32OEx4x">https://bit.ly/32OEx4x</a> (PT) United Nations Treaty Collection: <a href="https://bit.ly/3nzEcKZ">https://bit.ly/3nzEcKZ</a>

## Stateless Population Data

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
POP.1.a	Availability and sources	Does the Government have a 'stateless' category in its data collection systems (e.g. census)? Please list available figures for the total stateless population on the territory and describe how data is disaggregated (e.g. by sex, age, residence).	<p><a href="#">Gen. Rec. 32, CEDAW</a>: States parties should gather, analyse and make available sex-disaggregated statistical data and trends.</p> <p><a href="#">Council of the European Union (2015)</a>: Recognise the importance of exchanging good practices among Member States concerning the collection of reliable data on stateless persons as well as the procedures for determining statelessness.</p> <p><a href="#">UNHCR (2014)</a>: Improve quantitative and qualitative data on stateless populations.</p> <p><a href="#">Institute on Statelessness and Inclusion (2014)</a>: States should strengthen measures to count stateless persons on their territory.</p>	<p>Yes.</p> <p>The results of the latest census (2011) indicate an overall population of 553 stateless persons (284 men, 269 women). The highest numbers of stateless persons can be encountered in the following age groups: 30 to 34 years old (76 persons), 35 to 39 years old (100 persons), and 40 to 44 years old (56 persons).</p> <p>Statistics Portugal data on <b>resident population</b> for 2019 indicates 33 stateless persons (19 men, 14 women); 0 persons of unknown nationality, and 56 persons recorded as "other non-classifiable" (28 men, 28 women). Data can be further disaggregated by age group.</p> <p>The <i>Immigration, Borders and Asylum Report</i> (RIFA), published yearly by the Immigration and Borders Service (SEF), includes information on the resident population (stock and flow) disaggregated by nationality and gender. According to its 2019 edition, 33 persons were recorded as stateless (19 men and 14 women), while 11 (7 men and 4 women) were recorded as having unknown nationality. The report does not provide clear information on the way these numbers are gathered. In previous contacts unrelated to this project, CPR was informed that the numbers correspond to the number of residence permits issued/valid in a certain year. This information seems to be confirmed by UNHCR's mapping (cf. <i>Mapping Statelessness in Portugal</i>, p.52). Critically, the data contained in the report only covers non-nationals regularly present in Portugal.</p> <p>According to the Asylum Act (art.13), SEF must communicate all asylum applications filed in Portugal to the Portuguese Refugee Council (CPR). Within this context, in 2019, CPR recorded a total of 6 <b>applicants for international protection</b> registered as stateless.</p> <p>Statistics Portugal data on <b>nationality acquisition</b> at birth for 2017 (most recent year available at time of writing) reveals that no stateless person or person of unknown nationality acquired Portuguese nationality during the year. Data on acquisition of nationality after birth for 2019 indicates that no stateless persons, persons of unknown nationality nor non-classifiable nationality acquired Portuguese nationality during the year.</p> <p>According to the information provided by <b>IOM</b>, statelessness is not a frequent issue in the context of the voluntary return programme.</p> <p>UNHCR's 2018 <b>Mapping</b> includes an overview of other statistics that can include stateless persons.</p>	<p>Statistics Portugal (INE), Census 2011, <i>Data on resident population by place of residence, gender, age group and nationality</i>, available at: <a href="https://bit.ly/2ULEdPm">https://bit.ly/2ULEdPm</a></p> <p>Statistics Portugal (INE), Data on resident population (by gender, age group and nationality), available at: <a href="https://bit.ly/3353N6v">https://bit.ly/3353N6v</a></p> <p>Immigration and Borders Service (SEF), <i>Relatório de Imigração, Fronteiras e Asilo 2019</i>, available at: <a href="https://bit.ly/2HkCJbV">https://bit.ly/2HkCJbV</a> (PT)</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2lkedW4">https://bit.ly/2lkedW4</a> (PT)</p> <p>CPR's casework;</p> <p>Statistics Portugal (INE), Data on nationality acquisition at birth, available at: <a href="https://bit.ly/39znM17">https://bit.ly/39znM17</a></p> <p>Statistics Portugal (INE), Data on nationality acquisition after birth, available at: <a href="https://bit.ly/3qoL6F8">https://bit.ly/3qoL6F8</a></p> <p>Information provided by IOM;</p> <p>UNHCR, <i>Mapping Statelessness in Portugal</i>, October 2018, available at: <a href="https://bit.ly/2wU7VFY">https://bit.ly/2wU7VFY</a></p>
POP.1.b		Do government authorities define data categories that may overlap (e.g. unknown nationality) or where stateless people might be more highly represented (e.g. Palestinian)? Please explain and provide any available figures.	As above	<p>Yes.</p> <p>The <b>Immigration, Borders and Asylum Report</b> (RIFA), published yearly by the Immigration and Borders Service (SEF), includes a separate nationality category for "Palestinians". In its 2019 edition, 79 persons are counted within this group (43 men and 36 women). It is worth mentioning that, while according to UNHCR (<i>Mapping Statelessness in Portugal</i>) the Immigration and Borders Service "<i>clarified internally that all applicants from Palestine and Western Sahara are to be considered stateless</i>", CPR's experience in the</p>	<p>Immigration and Borders Service (SEF), <i>Relatório de Imigração, Fronteiras e Asilo 2019</i>, available at: <a href="https://bit.ly/2HkCJbV">https://bit.ly/2HkCJbV</a> (PT)</p> <p>UNHCR, <i>Mapping Statelessness in Portugal</i>, October 2018, available at: <a href="https://bit.ly/2wU7VFY">https://bit.ly/2wU7VFY</a></p> <p>Statistics Portugal (INE), Data on resident population (by gender, age group and nationality), available at: <a href="https://bit.ly/3353N6v">https://bit.ly/3353N6v</a></p>

				<p>field of international protection reveals that applicants of Palestinian origin continue to be registered as such in many instances (in 2019, 5 applications communicated to CPR according to the law were registered as such). Additionally, as mentioned, this continues to be listed as a distinct category in SEF's statistical reports.</p> <p>As mentioned above (POP1a), "unknown" nationality is also listed as a distinct category.</p> <p>Statistics Portugal data on resident population and nationality acquisition includes the following categories: Unknown, "Other non-classifiable", "Occupied Palestinian Territory".</p> <p>Statistics Portugal data on <b>resident population</b> for 2019 (latest available at the time of writing) indicates 79 persons from the Occupied Palestinian Territory (43 men, 36 women), and 56 persons are listed as "other non-classifiable" (28 men, 28 women).</p> <p>Data on <b>acquisition of nationality after birth</b> for 2019 indicate that 3 persons from the Occupied Palestinian Territory acquired Portuguese nationality during the year. According to the information provided by the Central Registry Office, within the context of naturalisation procedures, previous nationality is registered according to the statement of the person concerned.</p>	<p>Statistics Portugal (INE), Data on nationality acquisition at birth, available at: <a href="https://bit.ly/39znM17">https://bit.ly/39znM17</a></p> <p>Statistics Portugal (INE), Data on nationality acquisition after birth, available at: <a href="https://bit.ly/3qoL6F8">https://bit.ly/3qoL6F8</a></p> <p>Information provided by the Central Registry Office.</p>
POP.1.c		What is UNHCR's estimate for the stateless/at risk of statelessness population and what is the source for this estimate?	As above	In its 2018 mapping, UNHCR notes that quantitative data on stateless and at risk of stateless populations in Portugal is limited. The study does not include quantitative estimates for stateless or at risk of statelessness populations.	UNHCR, <i>Mapping Statelessness in Portugal</i> , October 2018, available at: <a href="https://bit.ly/2wU7VFY">https://bit.ly/2wU7VFY</a>
POP.1.d		Have there been any surveys or mapping studies to estimate the stateless population in the country?	As above	Yes. In 2018, UNHCR published a mapping study on statelessness in Portugal.	UNHCR, <i>Mapping Statelessness in Portugal</i> , October 2018, available at: <a href="https://bit.ly/2wU7VFY">https://bit.ly/2wU7VFY</a>
POP.1.e		Are there any other sources of estimates for the stateless population not covered by the above? Please list sources and figures.	As above	Not to our knowledge.	
POP.1.f		Are there issues with the reliability of data or indications that the stateless population may be over/under reported? If yes, please describe.	As above	The absence of a statelessness determination procedure (and/or other mechanisms for formal identification) and inconsistencies in registration practices may hamper the reliability of data. Additionally, the knowledge gap on statelessness may have a negative impact on the reliability of data.	CPR's casework  UNHCR, <i>Mapping Statelessness in Portugal</i> , October 2018, available at: <a href="https://bit.ly/2wU7VFY">https://bit.ly/2wU7VFY</a>
POP.1.g		Please provide any available figures for stateless refugees and/or asylum-seekers and clarify if the Government also counts these groups in figures for the stateless population (i.e. to avoid under/over-reporting).	As above	<p>According to EUROSTAT data, out of 1820 asylum applications filed in 2019, 5 applicants were stateless and 5 were of unknown nationality.</p> <p>The <b>Immigration, Borders and Asylum Report (RIFA)</b> does not include a nationality breakdown of the applicants and beneficiaries of international protection. For issues regarding the methodology of SEF's reporting, see question POP1a. The 2019 edition of the report indicates that a total of 1849 asylum applications were filed in the country in 2019.</p> <p>As mentioned above, according to the Asylum Act (Article 13), SEF must communicate all asylum applications filed in Portugal to the Portuguese Refugee Council (CPR). Within this context, in 2019, CPR recorded a total of 6 <b>applicants for international protection</b> registered as stateless and 5 registered as Palestinians. According to CPR's experience, while there is not usually a significant number of stateless asylum seekers, there may be instances of underreporting as, at least in some instances, Palestinian applicants for/beneficiaries of international protection</p>	<p>EUROSTAT, Asylum and first time asylum applicants by citizenship, age and sex - annual aggregated data (rounded), last updated 01/09/2020, available at: <a href="https://bit.ly/3ojJ2vU">https://bit.ly/3ojJ2vU</a></p> <p>Immigration and Borders Service (SEF), <i>Relatório de Imigração, Fronteiras e Asilo 2019</i>, available at: <a href="https://bit.ly/2HkCJbV">https://bit.ly/2HkCJbV</a> (PT)</p> <p>CPR's casework</p>

				are identified as such and not as stateless. There are other instances where, given the applicant's statements, doubts exist regarding their nationality and the authorities register them as a national of a given country. For more information on the registration policy of applicants for international protection of Palestinian origin, see POP1b.	
POP.2.a	Stateless in detention data	Does the Government record and publish figures on stateless people held in immigration detention? If yes, please provide.	As above and see also norms in Detention section.	<p>The <b>Immigration, Borders and Asylum Report</b> (RIFA), published by the Immigration and Borders Service, does not include figures on people held in detention.</p> <p>IOM reported that the organisation does not have reliable data regarding stateless people held in detention.</p> <p>In its 2017 report on Temporary Installation Centres and spaces classified as such (report of the National Preventive Mechanism), the Ombudsperson includes a breakdown of persons detained during the second semester of 2016 by region of origin but not by nationality/statelessness. 35 persons were registered under the category "unknown nationality". Subsequent reports do not include similar information.</p>	<p>Immigration and Borders Service (SEF), <i>Relatório de Imigração, Fronteiras e Asilo 2019</i>, available at: <a href="https://bit.ly/2HkCJbV">https://bit.ly/2HkCJbV</a> (PT)</p> <p>Information provided by IOM</p> <p>Ombudsperson - National Preventive Mechanism, <i>Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados</i>, September 2017, available at: <a href="https://bit.ly/2S3CV05">https://bit.ly/2S3CV05</a></p>
POP.2.b		Does the Government record and publish figures on people released from immigration detention due to un-removability? If yes, please provide.	As above	<p>The <b>Immigration, Borders and Asylum Report</b> (RIFA), published by the Immigration and Borders Service, does not include figures on people released from immigration detention due to un-removability.</p> <p>IOM receives information regarding people released from detention at Unidade Habitacional de Santo António (UHSA)* daily. However, when people are released due to the expiry of the maximum detention period, it is not specified if it was due to un-removability.</p> <p>UNHCR's Mapping includes data on "un-returnable persons in Portugal registered by UHSA" for 2016 and 2017. According to the document, in 2016, out of 184 detainees, 50 were "un-returnable", while in 2017, out of 196 detainees, 66 were "un-returnable" (UNHCR, <i>Mapping Statelessness in Portugal</i>, p.62).</p> <p>*UHSA is the only temporary installation centre in Portugal. There are three other detention facilities (at Lisbon, Porto and Faro Airports) that have been classified as such by the Law for the purposes of detention following refusal of entry into national territory.</p>	<p>Immigration and Borders Service (SEF), <i>Relatório de Imigração, Fronteiras e Asilo 2019</i>, available at: <a href="https://bit.ly/2HkCJbV">https://bit.ly/2HkCJbV</a> (PT)</p> <p>Information provided by IOM</p> <p>UNHCR, <i>Mapping Statelessness in Portugal</i>, October 2018, available at: <a href="https://bit.ly/2wU7VFY">https://bit.ly/2wU7VFY</a></p>

## Statelessness Determination and Status

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
SDS.1.a	Definition of a stateless person	Is there a definition of a stateless person in national law? Do the definition and exclusion provisions align with the 1954 Convention? Please provide details.	<a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a> : Articles 1(1) & 1(2).	There is no definition of "stateless person" in ordinary legislation. Notwithstanding, the Portuguese Constitution establishes the automatic incorporation of general rules of international law in the Portuguese legal system (art.8(1) Constitution). It also provides for the automatic incorporation of treaty norms, following duly ratification or approval and official publication for as long as they bind the State internationally (art.8(2) Constitution).	Constitution of the Portuguese Republic - Article 8, available at <a href="https://bit.ly/2LEUx14">https://bit.ly/2LEUx14</a> (PT) <a href="https://bit.ly/2RX9TPA">https://bit.ly/2RX9TPA</a>
SDS.1.b	Training	Is there training to inform different government bodies about statelessness? If yes, please provide details (e.g. who provides training to whom/how often?)	<a href="#">UNHCR Executive Committee (2006)</a> : Requests UNHCR to actively disseminate information and, where appropriate, train government counterparts on appropriate mechanisms for identifying, recording, and granting a status to stateless persons.	<p>Since the publication of <i>Mapping Statelessness in Portugal</i> in September 2018, UNHCR conducted training sessions on statelessness targeting officers of the Immigration and Borders Service (SEF), Civil Registration officials, and judges/prosecutors of the administrative jurisdiction. The trainings had a duration of 2 to 3 hours (except the one for judges which lasted 1 hour).</p> <p>According to the Annual Report on Migration and Asylum 2018, submitted by SEF to the European Migration Network, 43 of its officers participated in the above-mentioned sessions. The 2019 edition of the report does not include any reference to training on statelessness.</p> <p>According to the information provided by the Central Registry Office, the institution's training programmes include statelessness-related matters within the context of nationality.</p>	<p>Information provided by UNHCR</p> <p>SEF, <i>EMN Annual Report on Migration and Asylum 2018</i>, available at: <a href="https://bit.ly/2L66CwC">https://bit.ly/2L66CwC</a></p> <p>SEF, <i>EMN Annual Report on Migration and Asylum 2019</i>, available at: <a href="https://bit.ly/3mdrz7Z">https://bit.ly/3mdrz7Z</a></p>
SDS.1.c		Is there training for judges and lawyers on statelessness? If yes, please provide details (e.g. provider, frequency).	<a href="#">UNHCR (2016)</a> : Officials who may be in contact with stateless persons need to be trained to identify potential applicants for stateless status and refer them to appropriate channels. <a href="#">UNHCR (2010)</a> : It is recommended that States provide specialised training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations.	<p>UNHCR conducted a training session on statelessness for judges and prosecutors of the administrative jurisdiction in 2018.</p> <p>The continuing training plan of the Centre for Judiciary Studies for 2020/2021 does not include any training on statelessness or related topics.</p>	<p>Information provided by UNHCR</p> <p>Centro de Estudos Judiciários, <i>Plano de Formação Contínua 2020-2021</i>, available at: <a href="https://bit.ly/3fEUfUS">https://bit.ly/3fEUfUS</a> (PT)</p>
SDS.1.d	Existence of a dedicated SDP	<p>Which of the following best describes the situation in your country? <b>Choose only one and then proceed to question indicated.</b></p> <p><b>1.</b> There is a dedicated statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure, leading to a dedicated stateless status (<b>proceed to Question 2a</b>).</p> <p><b>2.</b> There is no dedicated SDP leading to a dedicated stateless status, but there are other procedures in which statelessness can be identified (e.g. partial SDPs with no status/rights attached, residence permit or naturalisation applications, refugee status determination, ad hoc procedures, etc.), or other routes through which stateless people could regularise their stay and/or access their</p>	<a href="#">UNHCR (2014)</a> : It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments. <a href="#">UNHCR (2016)</a> : Establishing a statelessness determination procedure is the most efficient means for States Parties to identify beneficiaries of the Convention.	<p><b>GROUP 2.</b> Although stateless persons may be encountered in the context of administrative procedures, none of them amounts to formal identification, including a determination procedure and conducive to a protection status or relevant consequences for persons of concern.</p> <p><b>Relevant related developments:</b> In August 2019, the Portuguese Government approved a <b>National Plan for the Implementation of the Global Compact for Migration</b>. The following implementation measures are listed under objective 4 ("[e]nsure that all migrants have proof of legal identity and adequate documentation"): (i) "[s]implify and expedite the grant of Portuguese nationality" (measure 16), and (ii) "[c]reate and reinforce legal and institutional mechanisms to identify, protect and find suitable solutions for reception and integration of stateless citizens" [sic] (measure 17). [unofficial translations] According to the Plan, measure 17 is under the responsibility of the Ministry of Presidency and its implementation also involves the Ministry of Interior. The Plan lists it a measure of continuous implementation. At the time of writing, no further details were available.</p> <p>During the <b>Global Refugee Forum</b> in December 2019, the Portuguese Government committed "to establish mechanisms to identify, protect, prevent and reduce statelessness in Portugal" and to "provide the</p>	<p>National Plan for the Implementation of the Global Compact for Migration (Resolução do Conselho de Ministros n.º 141/2019, de 20 de Agosto), available at: <a href="https://bit.ly/3g6OFL3">https://bit.ly/3g6OFL3</a> (in Portuguese);</p> <p>Statement from Portugal at the Global Refugee Forum, 17 December 2019, available at: <a href="https://bit.ly/38OHMdm">https://bit.ly/38OHMdm</a>;</p> <p>Human Rights Committee, <i>Concluding observations on the fifth periodic report of Portugal</i>, CCPR/C/PRT/CO/5, 2 April 2020, available at: <a href="https://digitallibrary.un.org/record/3861506?ln=en">https://digitallibrary.un.org/record/3861506?ln=en</a></p>

		rights ( <b>proceed to Question 10a</b> ).  3. There is a dedicated stateless status but no formal procedure for determining this ( <b>proceed to Question 16a</b> ).		<i>issuance of Convention travel documents for refugees and stateless persons according with international standards".</i>  The importance of identifying vulnerable persons, in particular stateless persons, among asylum seekers has been highlighted by the <b>Human Rights Committee</b> in its recent Concluding Observations on Portugal.	
SDS.10.a	Procedures in which statelessness can be identified and other routes to regularisation (Group 2)	<b>If there is no dedicated SDP leading to a stateless status</b> , are there any procedures in which statelessness can be identified (e.g. partial SDPs with no status/rights attached, residence permit or naturalisation applications, refugee status determination, ad hoc procedures, etc.)? <b>If yes, please state the relevant procedures and then proceed to question 11a. If no, proceed to question 10b.</b>	<a href="#">ENS (2013)</a> : For SDPs to be effective, the determination must be a specific objective of the mechanism in question, though not necessarily the only one. <a href="#">Hoti v. Croatia ECtHR (2018)</a> : [the State has a] positive obligation to provide an effective and accessible procedure or a combination of procedures enabling the applicant to have the issues of [their] further stay and status determined.	No. While stateless persons and persons at risk of statelessness may be encountered in the context of administrative procedures, such as international protection procedures or general procedures to apply for a residence permit under the Immigration Act, none of these amounts to formal identification nor leads to a protection status or relevant consequences for persons of concern.	
SDS.10.b		Are there any other routes through which stateless people could regularise their stay and/or access their rights without their statelessness being identified or determined? <b>If yes, please describe these and then proceed to question 14a. If no, proceed to question 15a.</b>	<a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a> <a href="#">UNHCR (2014)</a> : It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments.	In cases where a stateless person is <b>simultaneously eligible for international protection</b> , they will regularise their presence on the national territory through that route. Stateless applicants for international protection are entitled to the same rights as other applicants (for more information, see <i>AIDA Country Report - Portugal - 2019 Update</i> ). According to CPR's experience, and while the number of applicants registered as stateless is low, there is no record of challenges faced by this group when compared to applicants with a nationality.  Regularisation of stay of stateless persons may be possible through the general routes established by the <b>Immigration Act</b> . However, stateless persons who have not been previously identified as such (i.e., by another State) will likely face significant obstacles in accessing such routes (for instance, due to the need to present a valid travel document). The Immigration Act includes an exceptional regularisation regime that may allow for some flexibility (Art.123). This regime is meant to address "extraordinary situations" not covered by other special provisions where there are reasons of national interest, humanitarian or public interest grounds. This is a discretionary regime that does not lead to a specific protection status.  <i>The Immigration, Borders and Asylum Report (RIFA)</i> , does not include disaggregated information on the ground of residence permit granted during the year. In its mapping study, UNHCR refers to data provided by SEF regarding the number of applications for and residence permits granted for humanitarian reasons within the context of this exceptional regime (e.g. in 2016, out of 388 applications, 267 residence permits were granted). There is no breakdown by nationality/statelessness of the beneficiaries (UNHCR, <i>Mapping Statelessness in Portugal</i> , p.41).  According to the information provided by IOM, which is confirmed by CPR, in the absence of a statelessness determination procedure, it is often difficult for entities providing legal assistance to refer persons of concern who have not been previously determined as stateless to adequate legal routes and assess their viability.	Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2019 Update</i> , May 2020, available at <a href="http://www.asylumineurope.org">www.asylumineurope.org</a> ;  Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2ikedW4">https://bit.ly/2ikedW4</a> (in Portuguese);  CPR's casework;  Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (in Portuguese);  Immigration and Borders Service (SEF), <i>Relatório de Imigração, Fronteiras e Asilo 2019</i> , available at: <a href="https://bit.ly/2HkCJbV">https://bit.ly/2HkCJbV</a> (in Portuguese);  UNHCR, <i>Mapping Statelessness in Portugal</i> , October 2018, available at: <a href="https://bit.ly/2wU7VFY">https://bit.ly/2wU7VFY</a> ;  Information provided by IOM;  Governmental Decree n.84/2007 of 5 November (Immigration Act Regulation - consolidated version), available at: <a href="https://bit.ly/2G2yxJS">https://bit.ly/2G2yxJS</a> (in Portuguese);  Immigration and Borders Service (SEF), <i>Rights and duties of a Residence Permit Holder</i> , available at: <a href="https://bit.ly/2XFAQII">https://bit.ly/2XFAQII</a> .



SDS.11.a	Access to procedures (Group 2)	Please provide details on how statelessness may be identified in other procedures.	<a href="#">UNHCR (2016)</a> : Efficient referral mechanisms should be established, while officials who may be in contact with stateless persons need to be trained to identify potential applicants for statelessness status and refer them to appropriate channels.	In cases where a stateless person is <b>simultaneously eligible for international protection</b> , they will regularise their presence on the national territory through that route. Stateless applicants for international protection are entitled to the same rights as other applicants. According to CPR's experience, and while the number of applicants registered as stateless is usually low, there is no record of challenges faced by this group when compared to applicants with a nationality.  Regularisation of stay of stateless persons may be possible through the general routes established by the <b>Immigration Act</b> . However, stateless persons who have not been previously identified as such (e.g. by a different State) will likely face significant obstacles in accessing such routes (for instance, due to the need to present a valid travel document).  According to information provided by IOM, which is confirmed by CPR, in the absence of a statelessness determination procedure, it is often difficult for entities providing legal assistance to refer persons of concern who have not been previously determined as stateless to adequate legal routes and assess their viability.	Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2019 Update</i> , May 2020, available at <a href="http://www.asylumineurope.org">www.asylumineurope.org</a> ;  Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2ikedW4">https://bit.ly/2ikedW4</a> (in Portuguese);  CPR's casework;  Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (in Portuguese);  Information provided by IOM;  Governmental Decree n.84/2007 of 5 November (Immigration Act Regulation - consolidated version), available at: <a href="https://bit.ly/2G2yxJS">https://bit.ly/2G2yxJS</a> (in Portuguese);  Immigration and Borders Service (SEF), <i>Rights and duties of a Residence Permit Holder</i> , available at: <a href="https://bit.ly/2XFAQII">https://bit.ly/2XFAQII</a> .
SDS.11.b		Are there obligations in law on authorities to consider a claim of statelessness made within another procedure?	<a href="#">UNHCR (2016)</a> : Access to the procedure must be guaranteed.	No.	
SDS.11.c		Are there clear, accessible instructions for stateless people on how to claim their rights under the 1954 Convention and/or be identified as stateless?	<a href="#">UNHCR (2014)</a> : For procedures to be fair and efficient, access must be ensured (dissemination of info, targeted info campaigns, counselling on the procedures, etc.). <a href="#">UNHCR (2016)</a> : Information on the procedure and counselling services must be available to potential applicants in a language they understand. <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>	Statelessness is not identified or examined in any procedures.	
SDS.11.d		Is the examination and/or identification of statelessness conducted by a centralised body with relevant expertise? Please note the competent authority and evaluate appropriateness to national context.	<a href="#">UNHCR (2014)</a> : States may choose between a centralised procedure or one that is conducted by local authorities. Centralised procedures are preferable as they are more likely to develop the necessary expertise. <a href="#">UNHCR (2016)</a> : It is important that examiners develop expertise while ensuring that the procedures are accessible.	Statelessness is not identified or examined in any procedures.	
SDS.11.e		Is there cooperation between agencies that may have contact with stateless people?	<a href="#">UNHCR (2016)</a> : Cooperation between actors working on statelessness and the various government agencies involved in determining statelessness is good practice.	Information not available.	
SDS.12.a	Assessment (Group 2)	Who has the burden of proof when determining or identifying statelessness (in law and practice)?	<a href="#">UNHCR (2014)</a> : The burden of proof is in principle shared (both applicant and examiner must cooperate to obtain evidence and establish the facts). <a href="#">UNHCR (2016)</a> : SDPs must take into consideration the difficulties inherent in proving statelessness. <a href="#">UNHCR Expert Meeting (2010)</a> : Individuals must cooperate to establish relevant facts. The burden should shift to the State if an individual can demonstrate they are not a national, on the basis of reasonably available evidence. <a href="#">Hoti v. Croatia ECtHR (2018)</a> : State has responsibility to at least share the burden of proof with the applicant when establishing the fact of statelessness.	Statelessness is not identified or determined in any procedures.	
SDS.12.b		What is the standard of proof to evidence statelessness?	<a href="#">UNHCR (2014)</a> : States are advised to adopt the same standard of proof as in refugee status determination ('reasonable degree').	Statelessness is not identified or determined in any procedures.	

			<p><a href="#">Inter-Parliamentary Union (2018)</a> The standard of proof should be in keeping with the humanitarian objectives of statelessness status determination and the inherent difficulties of proving statelessness in the likely absence of documentary evidence.</p> <p><a href="#">Hoti v. Croatia ECtHR (2018)</a>: If statelessness is a relevant factor in the context of access to human rights, the standard of proof when determining the status of statelessness cannot be too high.</p>		
SDS.12.c		Is there clear guidance for decision makers on how to identify or determine statelessness (including e.g. sources of evidence and procedures for evidence gathering, etc.)?	<p><a href="#">ENS (2013)</a>: Determining authorities can benefit from concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances.</p>	Information not available.	
SDS.13.a	Procedural safeguards (Group 2)	Is free legal aid available to stateless people?	<p><a href="#">UNHCR (2014)</a>: Applicants should have access to legal counsel; where free legal assistance is available, it should be offered to applicants without financial means.</p> <p><a href="#">ENS (2013)</a>: If state funded legal aid is available, it should be provided to stateless claimants. If there is no state funded legal aid but asylum claimants can access free legal aid free of charge, the same level of access should be provided to stateless people.</p>	<p>According to the Access to Law and to Courts Act, stateless people are entitled to free legal aid if they have a valid residence permit (in an EU Member State) and prove not to hold sufficient income (art.. 7(1)).</p> <p>Stateless applicants for international protection are entitled to the right to free legal aid, in accordance with the law (art. 49(1)(f) Asylum Act).</p> <p>The Immigration Act also expressly grants the right to free legal aid to i) foreigners not admitted into national territory (art. 40(2)); ii) victims of human trafficking or of actions to facilitate illegal immigration (art. 112(4)); iii) long term residents who have been subject to a judicial expulsion decision (art. 136(4)); iv) those intending to challenge a coercive removal decision in court (150(3)).</p>	<p>Act n. 34/2004 of 29 July, last amended by Act n. 2/2020, of 31 March (Access to Law and to Courts Act), available at: <a href="https://bit.ly/3qiO64r">https://bit.ly/3qiO64r</a> (in Portuguese);</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2lkedW4">https://bit.ly/2lkedW4</a> (in Portuguese);</p> <p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (in Portuguese).</p>
SDS.13.b		Do stateless people always have an opportunity to claim their statelessness in an interview (whether the purpose of the interview is to identify statelessness or not?)	<p><a href="#">UNHCR (2014)</a>: The right to an individual interview [is] essential.</p>	Information not available.	
SDS.13.c		Is free interpreting available to stateless people?	<p><a href="#">UNHCR (2014)</a>: The right to assistance with interpretation/translation [is] essential.</p> <p><a href="#">ENS (2013)</a>: Assistance should be available for translation and interpretation.</p>	<p>Applicants for international protection are entitled to benefit from the services of an interpreter when formalising the application for international protection and during the procedure (art. 49(1)(d) Asylum Act).</p> <p>The Immigration Act expressly grants the right to an interpreter to: i) foreigners not admitted into national territory (art. 40(1)); ii) victims of human trafficking or of actions to facilitate illegal immigration (art. 112(4)); iii) those intending to challenge a coercive removal decision in court (150(4)).</p>	<p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2lkedW4">https://bit.ly/2lkedW4</a> (in Portuguese);</p> <p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (in Portuguese).</p>
SDS.13.d		Are decisions (refusals and grants) given in writing with reasons?	<p><a href="#">UNHCR (2014)</a>: States are encouraged to incorporate the safeguard that decisions are made in writing with reasons.</p>	<p>According to the Administrative Procedure Code, the general rule is that administrative decisions must be delivered in writing (art. 150(1)).</p> <p>Also, reasons must be given for certain administrative acts (including for negative decisions) (arts. 152 and 153 Administrative Procedure Code).</p> <p>Both the Asylum Act and the Immigration Act contain specific obligations for the Immigration and Borders Service (SEF) regarding this matter.</p>	<p>Decree-Law n. 4/2015, of 07 January, last amended by Law n. 72/2020, of 16 November (Administrative Procedure Code), available at: <a href="https://bit.ly/2KSQwYR">https://bit.ly/2KSQwYR</a> (in Portuguese);</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2lkedW4">https://bit.ly/2lkedW4</a> (in Portuguese);</p> <p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (in Portuguese).</p>
SDS.14.a	Protection (Group 2)	Are there any rights granted to stateless people on the basis of their statelessness? If yes, please provide details.	<p><a href="#">UNHCR (2014)</a>: The status granted to a stateless person in a State Party must reflect international standards. Although the 1954 Convention does not explicitly require States to grant a person determined to be stateless a right of residence, granting such</p>	<p>No. The law does not provide for a specific status nor any rights to be granted to stateless people on the basis of their statelessness. As such, according to the available information, stateless persons are entitled to the rights attached to their specific status (i.e. international protection status or</p>	CPR's casework.

			permission would fulfil the object and purpose of the treaty.	residence permit on general or humanitarian grounds under the Immigration Act).	
SDS.14.b		Are stateless people otherwise able to access their rights under the 1954 Convention? (e.g. right to reside, travel document, work, healthcare, social security, education, housing, family reunification, right to vote, etc.)? Please provide details.	<p><a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>  <a href="#">UNHCR (2014)</a>: The status granted to a stateless person in a State Party must reflect international standards. It is recommended that States grant recognised stateless people a residence permit valid for at least two years, although longer permits, such as five years, are preferable in the interests of stability. Permits should be renewable.</p>	<p>While access to healthcare is provided to all persons, regardless of their residence or documentation status, legal status may have an impact on applicable fees. Also, the right to education is guaranteed to all children.</p> <p>Stateless applicants and beneficiaries of international protection are entitled to the same rights as others in similar circumstances. The rights granted to beneficiaries of international protection include the right to reside, work, healthcare, education, social security, housing, and family reunification.</p> <p>In principle, stateless persons holding a residence permit under the Immigration Act will broadly be entitled to access to healthcare, education, work and vocational training, access to justice and to the courts, access to family reunification and to social security, according to the Law.</p> <p>Only nationals of certain States residing in Portugal are entitled to vote in local elections, provided that they are duly registered as voters. In certain cases, a residency period is also required. In the elections for the Parliament, the President, and the Legislative Assemblies of the Autonomous Regions, Brazilian nationals resident in Portugal may also vote if registered in the national territory and if they have the status of equal political rights. This link between the right to vote of non-Portuguese people and their nationality renders the right to vote of stateless people in Portugal unclear.</p>	<p>Ministry of Health, Manual De Acolhimento no Acesso ao Sistema de Saúde de Cidadãos Estrangeiros, available at: <a href="https://bit.ly/3ciF9TJ">https://bit.ly/3ciF9TJ</a> (in Portuguese);</p> <p>Decree-Law n. 67/2004, of 25 March, available at: <a href="https://bit.ly/3sTJDLY">https://bit.ly/3sTJDLY</a> (in Portuguese);</p> <p>ACM, My children have the right to access to school?, available at: <a href="https://bit.ly/2OvcgeQ">https://bit.ly/2OvcgeQ</a>;</p> <p>ACM, When sick, what are the rights and duties?, available at: <a href="https://bit.ly/3eisUcm">https://bit.ly/3eisUcm</a>;</p> <p>Asylum Information Database (AIDA) - Country Report - Portugal - 2019 Update, May 2020, available at: <a href="http://www.asylumineurope.org">www.asylumineurope.org</a>;</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2lkedW4">https://bit.ly/2lkedW4</a> (in Portuguese);</p> <p>CPR's casework;</p> <p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (in Portuguese);</p> <p>Immigration and Borders Service (SEF), Rights and duties of a Residence Permit Holder, available at: <a href="https://bit.ly/2XFAQII">https://bit.ly/2XFAQII</a>.</p> <p>Organic Law no. 1/2001, of 14 August, last amended by Organic Law n. 4/2020, of 11 November (Election of Local Authority Members), available at: <a href="https://bit.ly/2YDklyf">https://bit.ly/2YDklyf</a> (in Portuguese).</p> <p>Declaration n. 30/2017 of 3 May of the Ministry of Foreign Affairs and the Ministry of Internal Administration, available at: <a href="https://bit.ly/2LiZU8u">https://bit.ly/2LiZU8u</a> (in Portuguese).</p> <p>Treaty of Friendship, Cooperation and Consultation between the Portuguese Republic and the Federative Republic of Brazil, available at: <a href="https://bit.ly/3arfEik">https://bit.ly/3arfEik</a> (in Portuguese)</p> <p>National Election Commission, <a href="http://www.cne.pt/">http://www.cne.pt/</a></p>
SDS.15.a	Access to nationality (Group 2)	In what timeframe do stateless people acquire the right to apply for naturalisation and how does this compare to others with a foreign nationality? Please describe the procedure and note whether this is facilitated for stateless people (e.g. exemption from nationality/language tests, fee waiver).	<p><a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>: Article 32  <a href="#">UNHCR (2016)</a>: It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons.</p> <p><a href="#">Council of Europe Committee of Ministers (1999)</a>: Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory.</p> <p><a href="#">ENS (2013)</a>: The main benchmark is if there is any preferential treatment for stateless people compared to the general rules applied to those with a foreign nationality.</p>	<p>While there is no specific naturalisation regime for stateless people, in theory, they have access to nationality through the general naturalisation regime. According to the current naturalisation regime, the Government grants Portuguese nationality through naturalisation to a foreigner who fulfils the following requirements (art.6(1) Nationality Act):</p> <ul style="list-style-type: none"> <li>- Is an adult or emancipated person according to national law;</li> <li>- Legally resides in the country for at least 5 years;</li> <li>- Has sufficient knowledge of Portuguese language (according to the Nationality Regulation, A2 level CEFRL);</li> <li>- Has not been condemned by a final judgment to a prison sentence of 3 or more years, for a crime punishable according to Portuguese law;</li> <li>- Does not represent a danger or threat to national security/defence due to engagement in terrorism-related activities.</li> </ul>	<p>UNHCR, <i>Mapping Statelessness in Portugal</i>, October 2018, available at: <a href="https://bit.ly/2wU7VfY">https://bit.ly/2wU7VfY</a>;</p> <p>Asylum Information Database (AIDA) - Country Report - Portugal - 2019 Update, May 2020, available at <a href="http://www.asylumineurope.org">www.asylumineurope.org</a>;</p> <p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (in Portuguese);</p> <p>Decree-Law n.237-A/2006, of 14 December, last amended by Decree-Law n.71/2017, of 21 June (Nationality Regulation), available at: <a href="https://bit.ly/2Lel59X">https://bit.ly/2Lel59X</a> (in Portuguese);</p> <p>Ombudsperson, <i>Statelessness: A Minorities Issue Questionnaire to the Special Rapporteur on Minority Issues</i>,</p>

				<p>Notwithstanding the relative flexibility of the nationality regime, substantive (e.g., regular residence requirements in some instances) and procedural (e.g., documentary evidence of identity) requirements may hamper access to nationality in practice for stateless people.</p> <p>The Nationality Act also includes eight facilitated naturalisation provisions, which exempt applicants from certain requirements (art.6(2-9) Nationality Act). Among these, article 6(4) Nationality Act entitles people who lost Portuguese nationality and never acquired another nationality to facilitated naturalisation (exemption from legal residence and language requirements). Furthermore, the 2020 amendment to the Nationality Act introduced a new provision entitling people who lost Portuguese nationality following the 1975 Nationality Act (post-decolonisation) on the grounds that they were living in Portugal for less than 5 years on 25 April 1974 to facilitated naturalisation, as long as, since the loss of Portuguese nationality, they have not been at the Service of the other relevant State, and have remained and remain on national territory (art.6(9) Nationality Act). The provision is also applicable to their children born on Portuguese territory and who have not acquired Portuguese nationality at birth. In such cases, naturalisation is facilitated through exemption from age, legal residence, and language requirements. Additionally, the naturalisation procedure is free of charge (art. 6(12) Nationality Act). Since the impact of decolonisation has been previously identified as a potential ground of statelessness in Portugal (see question PRS.6.b) this amendment may have an impact in terms of reduction of statelessness in the country.</p> <p>In both cases, people fulfilling the applicable criteria have a subjective right to naturalisation.</p> <p>With regards to naturalisation procedures, article 26 of the Nationality Regulation establishes that in special cases, and upon reasoned request, the Ministry of Justice may exempt an applicant of the obligation to present supporting evidence as long as there are no doubts about the requirements to be proved.</p> <p>According to input provided by the Ombudsperson to a questionnaire of the Special Rapporteur on Minority Issues in 2018, the two main obstacles to acquisition of nationality by stateless people in Portugal were connected to the need to prove legal residence of the parents in the country in the 5 years prior to the birth of a child (for acquisition at birth), and, in the case of individuals born abroad, to obtain the necessary documents to apply for naturalisation. Note that, as mentioned, the Nationality Act has been amended twice (2018 and 2020) since. For more on the current regime for acquisition at birth, see question PRS.1.h.</p>	<p>May 2018, available at: <a href="https://bit.ly/37xDkV">https://bit.ly/37xDkV</a>.</p>
SDS.15.b		<p>Are there requirements relating to ‘good character’ or previous criminal convictions that could prevent some stateless people from accessing nationality? If yes, please describe.</p>	<p><a href="#">Council of Europe Committee of Ministers (1999)</a>: States should ensure that offences, when relevant for the decision concerning the acquisition of nationality, do not unreasonably prevent stateless persons seeking the nationality of a state.</p>	<p>Yes, the absence of a criminal conviction of a prison sentence of 3 or more years for a crime punishable according to Portuguese law is a requirement for naturalisation. It is applicable to all naturalisation regimes (art.6 Nationality Act). The absence of such a criminal conviction is also required to prove the existence of effective ties to the national community in order to acquire nationality by birth in the case of grandchildren of Portuguese nationals by birth (art.1(1)(d) Nationality Act). Any such conviction is also a ground to oppose acquisition of nationality by the Public Prosecutor's Office (Ministério Público) (art.9(1)(b) Nationality Act). For more on relevant jurisprudence, (in particular</p>	<p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (in Portuguese);</p> <p>Decree-Law n.237-A/2006, of 14 December, last amended by Decree-Law n.71/2017, of 21 June (Nationality Regulation), available at: <a href="https://bit.ly/2Lel59X">https://bit.ly/2Lel59X</a> (in Portuguese).</p>

				<p>Ruling 106/2016 of 24 February and Ruling 497/2019, of 26 September 2019, both from the Constitutional Court), see question RES.1.b.</p> <p>Article 13(1) of the Nationality Act determines that acquisition of Portuguese nationality after birth (arts.2, 3, 5 and 6 Nationality Act) is suspended for 5 years after a conviction of a prison sentence(s) of over one year for a crime(s) punishable according to Portuguese law becomes final.</p>	
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Detention

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
DET.1.a	Detention screening	Are immigration detention powers provided for in law? Please provide the legal source(s).	<p><a href="#">ICCPR</a> Article 9(1)  <a href="#">ECHR</a> Article 5 (1)</p>	<p>Yes.</p> <p>Article 27 of the Portuguese Constitution establishes the right to freedom and security. It also establishes exceptions to the principle, that must be implemented "for the period and under the conditions laid down by law". Among such exceptions is article 27(3)(c) which reads as follows: "<i>The imprisonment or detention of, or the imposition of any other coercive measure subject to judicial control on, a person who improperly entered or improperly remains in Portuguese territory, or who is currently the object of extradition or deportation proceedings</i>".</p> <p>The Immigration Act establishes the framework for administrative detention following refusal of entry into national territory (art.32 <i>et seq</i>), and in case of removal procedures (arts.142 and 146).</p> <p>The Asylum Act establishes the circumstances in which applicants for international protection may be placed in administrative detention (arts.26, 35-A and 35-B).</p>	<p>Constitution of the Portuguese Republic - art.27, available at <a href="https://bit.ly/2LEUx14">https://bit.ly/2LEUx14</a> (PT)  <a href="https://bit.ly/2RX9TPA">https://bit.ly/2RX9TPA</a></p> <p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT)</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2lkedW4">https://bit.ly/2lkedW4</a> (PT)</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2019 Update</i>, May 2020, available at <a href="http://www.asylumineurope.org">www.asylumineurope.org</a></p>
DET.1.b		Does domestic law allow immigration detention for purposes other than those listed under ECHR 5(1)(f)?	<p><a href="#">ECHR</a> Article 5(1)(f)</p>	<p>The constitutional provision regarding immigration detention (cfr. supra) is in line with the relevant ECHR norm. Its implementation is operated by ordinary legislation.</p> <p>According to the Immigration Act, administrative detention can be determined following a refusal of entry into national territory. As such, when re-embarkation within 48 hours is not possible, that must be communicated to the competent Court for it to determine that the person must be held in detention (art.38 Immigration Act).</p> <p>The Immigration Act also establishes the framework for detention within the context of removal procedures (art.142 Immigration Act). According to the law, persons undergoing a removal procedure can be subject to restrictive measures, among which permanence (detention) in a temporary installation centre or in another facility classified as such by law. The Criminal Court which has territorial jurisdiction over the place where the person was encountered is responsible for the application of such measures.</p> <p>The Asylum Act establishes the legal framework for detention of asylum seekers. An applicant for international protection cannot be placed in detention solely on the basis of such application. Notwithstanding, article 35-A(1) provides that detention can occur for reasons of (i) national security, (ii) public order, (iii) public health or (iv) risk of abscondment. The analysis must be individual, and detention must be applied only if less severe alternative measures cannot be effectively implemented. Additionally, applicants for international protection can be detained (i) when applying for asylum at the border; (ii) when applying for asylum following a decision of removal from national territory; (iii) during Dublin procedures, if less burdensome alternative measures cannot be effectively implemented (art.35-A(2) Asylum Act). Although article 26(1) of the Asylum Act seems to provide for the general detention of asylum seekers within the context of border procedures, it must be applied with due regard for the rules established in article 35-A (art.35-A(6) Asylum Act). In practice, detention of asylum seekers is limited to applicants at the border, where it</p>	<p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2lkedW4">https://bit.ly/2lkedW4</a> (PT)</p> <p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT)</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2019 Update</i>, May 2020, available at <a href="http://www.asylumineurope.org">www.asylumineurope.org</a>;</p> <p>OLIVEIRA, A. Sofia Pinto, RUSSO, Anabela (coord.), <i>Lei do Asilo Anotada e Comentada</i>, Petrony, 2019;</p> <p>GIL, Ana Rita, "A detenção de imigrantes na jurisprudência nacional e internacional", in <i>O Contencioso de Direito Administrativo relativo a cidadãos estrangeiros e ao regime de entrada, permanência, saída e afastamento do território português, bem como do estatuto do residente de longa duração</i>, Lisboa, Centro de Estudos Judiciários, 2017, available at: <a href="https://bit.ly/2RLadB7">https://bit.ly/2RLadB7</a> (PT)</p>

				<p>is routinely applied. Moreover, persons who apply for international protection while in detention due to a removal procedure, usually remain in detention at least until their application is admitted.</p> <p>Within the context of the Covid-19 pandemic, and according to the information available to CPR, applicants for international protection that were previously detained at the border were released. At the time of writing, individuals applying for international protection at the border were being referred to the regular asylum procedure and, accordingly, not subject to detention at the border.</p> <p>For more information on the circumstances and periods of detention of asylum seekers in law and practice, see <i>AIDA Country Report - Portugal - 2019 Update</i>.</p>	
DET.1.c	Does a proposed country of removal need to be identified before a person is detained for removal? Please describe the situation in law and in practice.	<p><a href="#">ICCPR Article 7</a>: Repeated attempts to expel a person to a country that refuses to admit them could amount to inhuman or degrading treatment.</p> <p><a href="#">Auad v Bulgaria ECtHR (2011)</a>: The only issue is whether the authorities were sufficiently diligent in their efforts to deport the applicant.</p> <p><a href="#">EU Returns Directive</a>: Any detention shall only be maintained as long as removal arrangements are in progress and executed with due diligence.</p>	<p>The Immigration Act does not contain a specific obligation to identify a country of removal before detention.</p> <p>It was not possible to gather clear and conclusive information on the relevance of this element in practice.</p>	<p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT)</p> <p>Information provided by IOM</p>	
DET.1.d	Is statelessness juridically relevant in decisions to detain? Please describe how (risk of) statelessness is identified and whether referral to an SDP is possible from detention.	<p><a href="#">Auad v Bulgaria ECtHR (2011)</a></p> <p><a href="#">Mikolenko v. Estonia ECtHR (2009)</a>: Detention may only be justified as long as deportation proceedings are being conducted with due diligence.</p> <p><a href="#">UNHCR (2014)</a>: Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary.</p> <p><a href="#">Equal Rights Trust (2012)</a>: States must identify stateless persons within their territory or subject to their jurisdiction as a first step towards ensuring the protection of their human rights.</p> <p><a href="#">International Commission of Jurists (2014)</a>: The detention of stateless persons can never be justified when there is no active or realistic progress towards transfer to another State.</p>	<p>The Immigration Act does not contain a specific obligation to consider statelessness in decisions to detain.</p> <p>While it was not possible to gather clear and conclusive information on the relevance of this element in practice, according to IOM there is a knowledge gap regarding statelessness, its specificities, and adequate solutions for stateless persons. Apparently, there is a tendency in practice to consider that no one is stateless until proven otherwise. There is no information available on identification of risk of statelessness by the authorities involved in decisions to detain. As there is no SDP, referral is not possible.</p>	<p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT)</p> <p>Information provided by IOM</p>	
DET.1.e	Are stateless people detained in practice?		<p>While official data regarding the administrative detention of stateless persons is not available, the lack of a statelessness determination procedure or other formal identification mechanisms makes it at least likely that stateless/at risk of statelessness persons are detained in practice. This risk is likely heightened by the lack of knowledge about statelessness.</p>		
DET.1.f	Does law (and/or policy) provide that immigration detention should be used only as a last resort, after all alternatives have been exhausted in each individual case?	<p><a href="#">UNHCR (2014)</a>: Detention is a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient.</p> <p><a href="#">EU Returns Directive</a>: Article 15(1)</p>	<p>The provisions of the Immigration Act regarding refusal of entry bear no reference to the exhaustion of alternatives to detention (Art.38(4) Immigration Act). Within the context of removal procedures, provisions regarding restrictive measures establish that when there is a risk of abscondment, persons undergoing such a procedure can be subject to the restrictive measures included in the Criminal Procedure Code and to: (i) mandatory reporting to the Immigration and Borders Service; (ii) residential detention with electronic surveillance; (iii) permanence (detention) in a temporary installation centre or in another facility classified as such (Art.142 Immigration Act). While the norm does not refer to detention as a measure of last resort, its structure seems to indicate that, the least restrictive effective measure should be applied.</p> <p>The Portuguese removal regime has a clear preference for the voluntary removal (provided for in Art.138 Immigration Act). This feature has been noted by IOM and can also be drawn from the analysis of statistical data regarding removal. According to the <i>Immigration, Borders and Asylum Report</i>, in</p>	<p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT)</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2lkedW4">https://bit.ly/2lkedW4</a> (PT)</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2019 Update</i>, May 2020, available at <a href="http://www.asylumineurope.org">www.asylumineurope.org</a></p> <p>Immigration and Borders Service (SEF), <i>Relatório de Imigração, Fronteiras e Asilo 2019</i>, available at: <a href="https://bit.ly/2HkCJbV">https://bit.ly/2HkCJbV</a> (PT)</p> <p>Information provided by IOM</p> <p>CPR's casework</p>	

				<p>2019, the Immigration and Borders Service (SEF) opened 695 (coercive) removal procedures, while notifying 4,834 persons irregularly present in the national territory to (voluntary) leave the country. SEF also reports that a total of 1,003 removal procedures were concluded in 2019, of which 309 resulted in removal decisions and 694 were dismissed.</p> <p>As underlined by IOM, the Immigration Act does not include criteria to evaluate the risk of abscondment. According to the information gathered by the organisation, in practice judges consider the necessity and proportionality of detention, similarly to the process followed in Criminal Law. This requirement also arises from the constitutional provisions.</p> <p>While an analysis of judicial decisions determining restrictive measures is not available, IOM has observed a residual but nonetheless relevant phenomenon: the existence of cases where the decision to detain seems to be based not on the risk of abscondment but on the lack of accommodation for the person concerned</p> <p>The Asylum Act establishes that detention must be applied only if less burdensome alternative measures cannot be effectively implemented (Art.35-A and 35-B). Within the scope of application of the Asylum Act, there are two alternatives to detention: (i) periodic reporting to the Immigration and Borders Service; (ii) residential detention with electronic surveillance (Art.35-A(4) Asylum Act). Although Art.26(1) of the Asylum Act seems to provide for the general detention of asylum seekers within the context of border procedures, it must be applied with due regard for the rules established in Art.35-A (Art.35-A(6) Asylum Act). In practice, detention of asylum seekers is limited to applicants at the border, where it is routinely applied. Moreover, persons who apply for international protection while in detention due to a removal procedure, usually remain in detention at least until their application is admitted.</p> <p>Within the context of the Covid-19 pandemic, and according to the information available to CPR, applicants for international protection that were previously detained at the border were released. At the time of writing, individuals applying for international protection at the border were being referred to the regular asylum procedure and, accordingly, not subject to detention at the border.</p>	
DET.1.g		<p>Are individual vulnerability assessments carried out before a decision to detain (or soon after)? Please note whether statelessness is considered to be a factor increasing vulnerability.</p>	<p><a href="#">ENS (2015)</a>: Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless people are not addressed.  <a href="#">EU Returns Directive</a>: Article 16(3)  <a href="#">EU Returns Handbook (2017)</a>: Attention should be paid to the specific situation of stateless persons.  <a href="#">Council of the European Union (2013)</a>: European entities should assess the situation of LGBTI persons in detention.</p>	<p>References to vulnerability contained in the Immigration Act are mostly connected to detention conditions (Art.146-A(3) Immigration Act) and to the procedure of implementation of a removal decision (Art.160(4) Immigration Act). There is no specific reference to vulnerability assessments within the context of a decision to detain. CPR is not aware of the existence of internal guidance on vulnerability criteria to be considered in such decisions. IOM noted that the limited time limits applicable (the person subject to a removal procedure must be presented to a judge in 48 hours) are an element to consider in this regard as it can be difficult to conduct effective vulnerability assessments within such timeframe. Notwithstanding, IOM highlighted that there seems to exist an effort from the Courts in this realm. IOM also noted that, according to its experience in Unidade Habitacional de Santo António (UHSA), cases where children are detained are very limited.</p>	<p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT)</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2lkedW4">https://bit.ly/2lkedW4</a> (PT)</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2019 Update</i>, May 2020, available at <a href="http://www.asylumineurope.org">www.asylumineurope.org</a></p> <p>Information provided by IOM</p> <p>CPR's casework</p> <p>Human Rights Committee, <i>Concluding observations on the fifth periodic report of Portugal</i>, CCPR/C/PRT/CO/5, 2 April 2020, available at: <a href="https://bit.ly/32dwkqL">https://bit.ly/32dwkqL</a></p>



				<p>With regards to applicants for international protection, the Asylum Act contains the definition of an "applicant in need of special procedural guarantees". While the Asylum Act provides for the need to identify such persons and the nature of their special needs (articles 17-A and 77 Asylum Act), no specific systematic mechanism is currently in place to do so.</p> <p>Nonetheless, according to CPR's experience, within the context of asylum, statelessness is not considered in practice as a factor increasing vulnerability.</p> <p>The Human Rights Committee recently recommended that Portugal "[e]stablish an effective mechanism for the identification of vulnerable applicants, in particular stateless persons".</p> <p>For more information on the detention of vulnerable applicants in this context, see <i>AIDA Country Report - Portugal - 2019 Update</i>.</p>	
DET.2.a	Alternatives to immigration detention	<p>Are alternatives to detention established in law and considered prior to any decision to detain?</p>	<p><a href="#">ICCPR Article 9</a>  <a href="#">FKAG v Australia HRC (2013)</a>: Any decision relating to detention must consider less invasive means of achieving the same ends.  <a href="#">UN General Assembly (2009)</a>: Calls upon all States to adopt alternative measures to detention.  <a href="#">UNHCR (2014)</a>: Detention can only be justified where other less invasive or coercive measures have been considered and found insufficient.  <a href="#">Human Rights Council (2012)</a>: The obligation to always consider alternatives before resorting to detention should be established by law.  <a href="#">EU Returns Directive</a>: Article 15(1)  <a href="#">Equal Rights Trust (2012)</a>: States have an obligation to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive.  <a href="#">International Detention Coalition (2015)</a>: Immigration detention should be used only as a last resort in exceptional cases after all other options have been shown to be inadequate in the individual case.</p>	<p>With regards to refusal of entry when re-embarkation within 48 hours is not possible, the Immigration Act has no reference to alternatives to detention (Art.38(4) Immigration Act).</p> <p>Within the context of removal procedures, provisions regarding restrictive measures establish that when there is a risk of abscondment, persons undergoing such a procedure can be subject to the restrictive measures included in the Criminal Procedure Code and to: (i) mandatory reporting to the Immigration and Borders Service; (ii) residential detention with electronic surveillance; (iii) permanence (detention) in a temporary installation centre or in another facility classified as such (Art.142 Immigration Act). While the provision does not refer to detention as a measure of last resort, its structure seems to indicate that, the least restrictive effective measure should be applied.</p> <p>The Portuguese removal regime has a clear preference for the voluntary removal (provided for in Art.138 Immigration Act). This feature has been noted by IOM and can also be drawn from the analysis of statistical data on removal. According to the <i>Immigration, Borders and Asylum Report</i>, in 2019, the Immigration and Borders Service (SEF) opened 695 (coercive) removal procedures, while notifying 4.834 persons irregularly present in the national territory to (voluntary) leave the country. SEF also reports that a total of 1.003 removal procedures were concluded in 2019, of which 309 resulted in removal decisions and 694 were dismissed.</p> <p>As underlined by IOM, the Immigration Act does not include criteria to evaluate the risk of abscondment. According to the information gathered by the organisation, in practice judges consider the necessity and proportionality of detention, similarly to the process followed in Criminal Law. This requirement also arises from the constitutional provisions.</p> <p>While an analysis of judicial decisions determining restrictive measures is not available, IOM has observed a residual but nonetheless relevant phenomenon: the existence of cases where the decision to detain seems to be based not on the risk of abscondment but on the lack of accommodation for the person concerned.</p> <p>The Asylum Act establishes that detention must be applied only if less burdensome</p>	<p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT)</p> <p>Information provided by IOM</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2lkedW4">https://bit.ly/2lkedW4</a> (PT)</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2019 Update</i>, May 2020, available at <a href="http://www.asylumineurope.org">www.asylumineurope.org</a></p>

				<p>alternative measures cannot be effectively implemented (Art.35-A and 35-B). Within the scope of application of the Asylum Act, there are two alternatives to detention: (i) periodic reporting to the Immigration and Borders Service; (ii) residential detention with electronic surveillance (Art.35-A(4) Asylum Act). Although Art.26(1) of the Asylum Act seems to provide for the general detention of asylum seekers within the context of border procedures, it must be applied with due regard for the rules established in Art.35-A (Art.35-A(6) Asylum Act). In practice, detention of asylum seekers is limited to applicants at the border, where it is routinely applied. Moreover, persons who apply for international protection while in detention due to a removal procedure, usually remain in detention at least until their application is admitted.</p> <p>According to the information provided by SEF to the AIDA Country Report (2019), the competent courts never applied alternatives to detention within the context of border applications.</p> <p>Within the context of the Covid-19 pandemic, and according to the information available to CPR, applicants for international protection that were previously detained at the border were released. At the time of writing, individuals applying for international protection at the border were being referred to the regular asylum procedure and, accordingly, not being subject to detention at the border.</p> <p>For more information on the circumstances and periods of detention of asylum seekers, see <i>AIDA Country Report - Portugal - 2019 Update</i>.</p>	
DET.2.b		Is there evidence that immigration detention is used in practice prior to all alternatives being considered?	As above.	<p>Conclusive information is not available. Please see DET2a.</p> <p>According to information previously provided to IOM by the Immigration and Borders Service (SEF), mandatory reporting to SEF is the alternative measure applied more often.</p>	<p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2019 Update</i>, May 2020, available at <a href="http://www.asylumineurope.org">www.asylumineurope.org</a></p> <p>Information provided by IOM</p>
DET.3.a	Procedural safeguards	Is there a maximum time period for immigration detention set in law? What is it?	<p><a href="#">UN Human Rights Council (2010)</a> : A maximum period of detention must be established by law and upon expiry the detainee must be automatically released.</p> <p><a href="#">UNHCR (2012)</a> : To guard against arbitrariness, maximum periods of detention should be set in national law.</p> <p><a href="#">EU Returns Directive</a>: Article 15(5)</p> <p><a href="#">Equal Rights Trust (2012)</a> : Detention should always be for the shortest time possible.</p>	<p>According to Art.146(3) of the Immigration Act, if detention (placement in a temporary installation centre or in another facility classified as such) is applied, it can only be maintained for the time needed to execute the coercive removal decision. In any case, detention cannot exceed 60 days.</p> <p>Released persons can be subject to an additional detention period of 30 days (Art.160 Immigration Act). According to IOM's experience in Unidade Habitacional de Santo António (UHSA), the time limits established are respected in practice. According to a report of the National Preventive Mechanism published in 2017, while the 60 days limit are generally respected, some cases were identified where such limits were exceeded. Subsequent reports bear no similar references.</p> <p>Within the context of asylum, Art.35-B of the Asylum Act also establishes a maximum detention period of 60 days (Art.35-B(1)Immigration Act).</p>	<p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT)</p> <p>Information provided by IOM</p> <p>Ombudsperson - National Preventive Mechanism, <i>Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados</i>, September 2017, available at: <a href="https://bit.ly/2S3CV05">https://bit.ly/2S3CV05</a> (PT)</p> <p>Ombudsperson - <i>National Preventive Mechanism, Report to the Parliament 2019</i>, available at: <a href="https://bit.ly/396ANiv">https://bit.ly/396ANiv</a> (PT)</p>
DET.3.b		Does law/policy provide that individuals must be informed in writing of the reasons for their immigration detention?	<p><a href="#">UN General Assembly (1988)</a> : Anyone who is arrested shall be informed at the time of the reason for his arrest.</p> <p><a href="#">EU Returns Directive</a>: Detention shall be ordered in writing with reasons being given in fact and in law.</p> <p><a href="#">Equal Rights Trust (2012)</a> : Stateless detainees shall receive their order of detention in writing and in a language they understand.</p> <p><a href="#">International Commission of Jurists (2014)</a>: The authorities shall ensure that sufficient information is available to detained persons in a language they understand on the nature of their detention and reasons for it.</p>	<p>The Immigration Act does not contain specific provisions on the need to inform detainees of the reasons for their detention. Nonetheless, such obligation results from the Constitution which states that "[e]very person who is deprived of his freedom must immediately be informed in an understandable manner of the reasons for his arrest, imprisonment or detention and of his rights" (art. 27(4)).</p> <p>With regards to persons detained in airport facilities, in particular, in the facility at the Lisbon Airport, according to the Ombudsperson, during the visits conducted by the National Preventive Mechanism in 2018, several detainees reported not having</p>	<p>Constitution of the Portuguese Republic - art.27(4), available at <a href="https://bit.ly/2LEUx14">https://bit.ly/2LEUx14</a> (in Portuguese); <a href="https://bit.ly/2RX9TPA">https://bit.ly/2RX9TPA</a> (in English).</p> <p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT)</p> <p>Ombudsperson, <i>National Preventive Mechanism, Report to the Parliament 2018</i>, available at: <a href="https://bit.ly/2S7tdcW">https://bit.ly/2S7tdcW</a></p>

				<p>being informed of the status of their process in a language they understand. (for more, see National Preventive Mechanism, <i>Report to the Parliament 2018</i>.) The 2019 report does not include information on this topic.</p> <p>According to IOM’s experience in Unidade Habitacional de Santo António (UHSA), in practice, detainees are informed about the reasons for their detention and the notification contains all the relevant legal information. Despite this, detainees may not be able to fully understand the reasons for their detention due to: (i) the language used (detainees have stated that sometimes the notification is not written in a language they understand); or (ii) the fact that the information contained in the document is of a technical nature.</p> <p>Within the context of asylum, Art. 35-B of the Asylum Act establishes that a detained asylum seeker must be immediately informed, in writing and in a language they understand or are reasonably expected to understand, of the grounds of detention, possibility to appeal and the right to access legal aid in order to do so (Art.35-B(2) Asylum Act). Although the documents pertaining to the asylum application include a reference to the legal framework of detention of asylum seekers within border procedures, CPR is not aware of the specific provision of detailed information regarding detention (for more, see <i>AIDA Country Report - Portugal - 2019 Update</i>).</p>	<p>Ombudsperson, <i>National Preventive Mechanism, Report to the Parliament 2019</i>, available at: <a href="https://bit.ly/396ANiv">https://bit.ly/396ANiv</a> (PT)</p> <p>Information provided by IOM</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2lkedW4">https://bit.ly/2lkedW4</a> (PT)</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2019 Update</i>, May 2020, available at <a href="http://www.asylumineurope.org">www.asylumineurope.org</a></p> <p>CPR’s casework</p>
DET.3.c	Are detainees provided with information on their rights, contact details of legal advice and support providers, and guidance on how to access an SDP?	<p><a href="#">Equal Rights Trust (2012)</a> : Detaining authorities are urged to provide stateless detainees with a handbook in a language and terms they understand, containing information on all their rights and entitlements, contact details of organisations which are mandated to protect them, NGOs and visiting groups and advice on how to challenge the legality of their detention and their treatment as detainees.</p>	<p>Art.146-A(5) Immigration Act establishes that detainees must be provided with a document with the rules of the detention facility, as well as their rights and duties. According to IOM, persons detained in Unidade Habitacional de Santo António (UHSA) receive a summary of the facility’s regulation upon admission. This document does not include information of individual rights and duties. In addition to the document, oral information is provided. IOM and JRS provide information on rights and duties and IOM prepared a brief leaflet with relevant information. Copies are available to the Immigration and Borders Service (SEF), which is responsible for distribution. Information provision by IOM can take place in group sessions and/or individual interviews.</p> <p>As mentioned above, there is no SDP in place in Portugal. For more on access to information in case of detention within the context of asylum procedures, see <i>AIDA Country Report - Portugal - 2019 Update</i>.</p>	<p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT)</p> <p>Information provided by IOM</p>	
DET.3.d	Are there regular periodic reviews of detention before a court or independent body, which can order release?	<p><a href="#">Kim v Russia ECtHR (2014)</a> : The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure.</p> <p><a href="#">Equal Rights Trust (ERT) (2012)</a> : To avoid arbitrariness, detention should be subject to automatic, regular and periodic review throughout the period of detention, before a judicial body independent of the detaining authorities.</p>	<p>The detention is reviewed ex officio by the competent court every 8 days.</p>	<p>Act n.34/94 of 14 September, available at: <a href="https://bit.ly/339XA9s">https://bit.ly/339XA9s</a> (PT)</p> <p>Information provided by IOM</p>	
DET.3.e	What remedies are available to challenge detention? Please mention any obstacles to accessing effective remedies in practice.	<p><a href="#">ICCPR Article 9(4)</a> <a href="#">ECHR: Article 5(4)</a> <a href="#">Kim v Russia ECtHR (2014)</a> : The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure.</p> <p><a href="#">Alimuradov v. Russia ECtHR (2019)</a>: The individual must have at their disposal a procedure for judicial review of the lawfulness of detention capable of leading to release.</p>	<p>While detention is enforced by a police authority, a person detained for irregular entry/presence within national territory must be brought before a judge within 48 hours (Art.146(1) Immigration Act). The judge is competent to validate the detention and to apply restrictive measures according to the provisions of the Immigration Act. IOM is not aware of cases where this deadline has been exceeded. In general, the detainee is heard by the judge.</p>	<p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2lkedW4">https://bit.ly/2lkedW4</a> (in Portuguese);</p> <p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT)</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2019</i></p>	

				<p>The Immigration Act does not contain specific provisions on the revocation or replacement of coercive measures. Article 212(4) of the Criminal Procedure Code provides for the possibility of the person concerned to request the revocation/replacement of the coercive measure applied to the court.</p> <p>Within the context of asylum, Art. 35-B of the Asylum Act establishes that a detained asylum seeker must be immediately informed, in written and in a language they understand or are reasonably expected to understand, of the grounds of detention, possibility to appeal and the right to access legal aid in order to do so (Art.35-B(2) Asylum Act). Although the documents pertaining to the asylum application include a reference to the legal framework of detention of asylum seekers within border procedures, CPR is not aware of the specific provision of this sort of detailed information (for more, see <i>AIDA Country Report - Portugal - 2019 Update</i>). CPR has no experience on judicial challenges to detention or of legal aid applications for the purpose thereof (for more, see <i>AIDA Country Report - Portugal - 2019 Update</i>).</p>	<p><i>Update</i>, May 2020, available at <a href="http://www.asylumineurope.org">www.asylumineurope.org</a></p> <p>CPR's casework</p> <p>Information provided by IOM</p>
DET.3.f	Are there guidelines in place governing the process of re-documentation and ascertaining entitlement to nationality for the purpose of removal?	<p><a href="#">Equal Rights Trust (2012)</a> : The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation.</p> <p><a href="#">ENS (2015)</a> : The detaining state should have rules in place that govern the process of re-documentation and/or ascertaining entitlement to nationality.</p>	Information not available	<p>CPR's casework</p> <p>Information provided by IOM</p>	
DET.3.g	Is free legal aid available to challenge detention? Please describe any barriers to accessing legal aid in practice.	<p><a href="#">UNHCR (2014)</a>: Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means.</p> <p><a href="#">EU Returns Directive</a>: Article 13(3)</p>	<p>According to the Immigration Act, persons whose entry into national territory was refused have the right to legal aid (Art.40(2)). Also, those subject to a removal decision have the right to legal aid as provided in Art.150(3) Immigration Act. Access to legal aid is subject, with the necessary adaptations, to the same conditions as nationals, including a 'means test'.</p> <p>In principle, there is no barrier in using the legal aid provided within this context to challenge the detention. However, CPR has no direct practice in this regard, and it was not possible to gather additional conclusive information on the scope of the legal assistance provided by legal aid lawyers in such cases.</p> <p>With regards to persons detained at UHSA, according to IOM access to legal aid within the context of removal procedures is generally fast and simple.</p> <p>Language barriers and difficulties in accessing funds to cover the cost of interpretation were flagged by IOM as potential obstacles to the quality of assistance. Art.150(4) establishes that upon request, translation and interpretation services can be provided for the purposes of appealing the removal decision but it was not possible to assess the practical implementation of this provision.</p> <p>IOM also noted that, while persons in an irregular situation are generally detained at UHSA (in Porto), the original files remain in the place where the person was intercepted, and the removal procedure was initiated. As the legal aid lawyer will be appointed within the area of residence of the applicant, there may be difficulties for the lawyer to access the complete files. According to information provided to IOM by the Immigration and Borders Service (SEF), the files can be consulted online upon request. IOM does not have additional information on the implementation of such measure.</p> <p>With regards to persons detained in the facility at Lisbon Airport, one additional</p>	<p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT)</p> <p>Information provided by IOM</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2lkedW4">https://bit.ly/2lkedW4</a> (PT)</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2019 Update</i>, May 2020, available at <a href="http://www.asylumineurope.org">www.asylumineurope.org</a></p> <p>CPR's casework</p> <p>Ombudsperson, <i>National Preventive Mechanism, Report to the Parliament 2019</i>, available at: <a href="https://bit.ly/396ANiv">https://bit.ly/396ANiv</a> (PT)</p> <p>Ordem dos Advogados, <i>Ordem dos Advogados estabelece protocolo de cooperação com Ministérios da Administração Interna e da Justiça</i>, 4 November 2020, available at: <a href="https://bit.ly/3muCsST">https://bit.ly/3muCsST</a> (PT)</p> <p>Assembleia da República, <i>Audição do Ministro da Administração Interna</i>, 15 December 2020, video recording available at: <a href="https://bit.ly/39WC1fc">https://bit.ly/39WC1fc</a> (PT)</p> <p>Assembleia da República, <i>Audição do Mecanismo Nacional de Prevenção</i>, 22 December 2020, video recording available at: <a href="https://bit.ly/3tFzQpd">https://bit.ly/3tFzQpd</a> (PT)</p>	

				<p>hurdle is the fact that visitors (including legal aid lawyers) were subject to an accreditation procedure, and charged an entrance fee in the airport's restricted area (for more, see Ombudsperson, <i>National Preventive Mechanism, Report to the Parliament 2019</i>). According to the latest available information at the time of writing, in the course of 2020, this accreditation procedure was eliminated.</p> <p>The Ombudsperson also pointed out gaps in access to legal assistance in detention facilities at the border (for more, see Ombudsperson, <i>National Preventive Mechanism, Report to the Parliament 2019</i>).</p> <p>With regards to detained asylum seekers, CPR has no experience of legal aid applications for the purposes of detention review. In practice, asylum seekers receive legal information and assistance provided by the organisation at the border. Such assistance includes assistance for the purposes of detention review in the case of vulnerable applicants.</p> <p>In November 2020, the Ministry of Interior, the Ministry of Justice, and the Bar Association signed a cooperation protocol to ensure provision of legal assistance to persons refused entry into national territory at border points. No further information on the nature and scope of such assistance was available at the time of writing.</p>	
DET.4.a	Protections on release	Are people released from detention issued with identification documents (including confirmation of their stateless status) and protected from re-detention?	<p><a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>: Article 27 <a href="#">UNHCR (2014)</a> : Being undocumented cannot be used as a general justification for detention.</p> <p><a href="#">ENS (2015)</a> : State parties to the 1954 Convention have an obligation to provide stay rights to stateless people who have been released from detention.</p> <p><a href="#">Equal Rights Trust (2012)</a>: Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</p>	<p>Conclusive information is not available. According to IOM, persons released following the expiration of the maximum detention period are issued a document that proves that they have already been detained. It is not clear for what purposes such document can be used.</p>	Information provided by IOM
DET.4.b		If the purpose of detention cannot be fulfilled and the person is released, what legal status and rights are provided to them in law?	<p><a href="#">Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vatreshnite raboti ECJ (2009)</a>: After the maximum period of detention has expired, the person must be released immediately. A lack of valid documentation or inability to support themselves should not be a deterrent to release.</p> <p><a href="#">Equal Rights Trust (2012)</a>: Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</p>	<p>Information not available.</p> <p>The law does not establish a legal status for persons released in such circumstances.</p> <p>In the case of applicants for international protection, status will depend on the outcome of the asylum procedure (see <i>AIDA Country Report - Portugal - 2019 Update</i>).</p>	<p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: <a href="https://bit.ly/2ikedW4">https://bit.ly/2ikedW4</a> (PT)</p> <p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT)</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2019 Update</i>, May 2020, available at <a href="http://www.asylumineurope.org">www.asylumineurope.org</a></p>
DET.4.c		If re-detention occurs, is the cumulative time spent in detention counted towards any maximum time limits?	<p><a href="#">Equal Rights Trust (2012)</a>: When calculating the total time spent by an individual in detention, it is highly desirable that time spent in detention on previous occasions is taken into consideration.</p>	Yes. See also DET3a.	<p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT)</p> <p>Information provided by IOM</p>
DET.5.a	Return and readmission agreements	Is statelessness considered a juridically relevant fact in any bilateral readmission and/or return agreements?	<p><a href="#">UNHCR (2014)</a> : Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness.</p>	<p>According to the information available on the web page of the Ministry of Home Affairs, Portugal has 7 readmission agreements (with Bulgaria, Spain, Estonia, France, Hungary, Lithuania, Romania) and protocols with Russia and Serbia within the context of the corresponding EU agreements. According to the information available on the web page of the Office of the Public Prosecutor Office, Portugal has also a protocol with Albania on the application of the EU readmission agreement.</p> <p>In general, the agreements provide for the readmission of nationals of a contracting party and persons regarding whom there are strong indications of being nationals/can be clearly presumed to be nationals.</p>	<p>Ministry of Home Affairs, Bilateral Agreements, available at: <a href="https://bit.ly/2Ya8udW">https://bit.ly/2Ya8udW</a> (PT)</p> <p>Office of the Public Prosecutor Office, Agreements, available at: <a href="https://bit.ly/36wGKDN">https://bit.ly/36wGKDN</a> (PT)</p> <p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: <a href="https://bit.ly/2WJshfB">https://bit.ly/2WJshfB</a> (PT)</p> <p>Immigration and Borders Service (SEF), <i>Relatório de Imigração, Fronteiras e Asilo 2019</i>, available at: <a href="https://bit.ly/2HkCJbV">https://bit.ly/2HkCJbV</a> (PT)</p>

				<p>The agreement with Hungary clearly establishes that there is no obligation on the contracting parties to readmit stateless persons as defined in the 1954 Convention (art.4(e)).</p> <p>The agreement with Lithuania establishes that upon request, a contracting party must readmit a stateless person who has entered the territory of the requesting party with a travel document issued by the requested State or that immediately before entry into the territory of the requesting State remained in the territory of the requested State (having arrived after the entry into force of the agreement) (art.4(3)).</p> <p>Article 163 <i>et seq</i> of the Immigration Act establish the legal framework for readmission.</p> <p>According to the Immigration and Borders Service, in 2019, there were 119 readmissions, of which 80 passive (requested by the authorities of Guinea-Bissau, Bulgaria, France, Hungary and Spain) and 39 active (to Spain and France).</p> <p>The National Plan for the Implementation of the Global Compact for Migration includes among its implementation measures the “[c]onclusion of bilateral agreements with the countries of origin of the majority of migrants in an irregular situation, in order to improve information sharing and return and readmission procedures”. [unofficial translation]</p>	<p>National Plan for the Implementation of the Global Compact for Migration (Resolução do Conselho de Ministros n.º 141/2019, de 20 de Agosto), available at: <a href="https://bit.ly/3g6OFL3">https://bit.ly/3g6OFL3</a></p>
DET.5.b		Are you aware of cases of cases of stateless people being returned under such agreements?		Information not available.	

## Prevention and Reduction

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
PRS.1.a	Stateless born on territory	Is there a provision in law for stateless children born on the territory to be granted nationality? <b>[If yes, continue to PRS1b. If no, proceed to PRS1h]</b>	<p><a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Article 1</p> <p><a href="#">European Convention on Nationality, 1997</a>: Article 2</p> <p><a href="#">Convention on the Rights of the Child 1989</a>: Article 7</p> <p><a href="#">Committee on the Rights of Migrant Workers and Members of their Families &amp; Committee on the Rights of the Child (2017)</a>: States should strengthen measures to grant nationality to children born in their territory in situations where they would otherwise be stateless.</p> <p><a href="#">European Parliament (2018)</a>: The EU and its MS should ensure that childhood statelessness is adequately addressed in national laws in full compliance with Article 7 CRC.</p>	<p>Yes. According to Article 1(1)(g) of the Nationality Act, "<i>individuals born in Portuguese territory who do not have another nationality</i>" are Portuguese by birth (unofficial translation).</p>	<p>Article 1(1)(g) of the Nationality Act (Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)</p>
PRS.1.b		Is the provision for otherwise stateless children to acquire nationality automatic or non-automatic (i.e. by application)?	<p><a href="#">UNHCR (2012)</a>: The 1961 Convention provides Contracting States with two alternatives for granting nationality to otherwise stateless children born in their territory: either automatic acquisition upon birth or upon application.</p> <p><a href="#">ENS (2015)</a>: The 1961 Convention and the ECN oblige the conferral of nationality to otherwise stateless children born on the territory. The optimal method is to grant nationality automatically at birth.</p>	<p>The law provides for the automatic acquisition of nationality by children born on the territory who do not have another nationality (Art.1(1)(g) Nationality Act).</p> <p>Article 3(c) of the Nationality Regulation establishes that acquisition of Portuguese nationality is automatic if a person is born on national territory and it is registered in their birth certificate that they do not hold another nationality.</p> <p>Such registration must be done, according to Art.6 of the Nationality Regulation, if it is proven that the person does not hold another nationality. Proof of statelessness and the individual's birth certificate are submitted by the registration official to the "Conservador dos Registos Centrais" (Registrar of the Central Registry Office), who is the competent entity to analyse it and decide if the above-mentioned registration is authorised. In practice, if the parents are not previously registered as stateless (i.e. hold a document identifying them as such), statelessness must be proved.</p> <p>Article 36 of the Nationality Regulation establishes the regime of proof of statelessness (applicable to all forms of acquisition/ withdrawal of nationality). It establishes that proof of statelessness must be adduced through the "<i>means outlined in international convention or, in the absence thereof, by documents issued by the authorities of countries with which the person has relevant links, namely countries of origin and former nationality or countries of nationality of his/her parents</i>" (non-official translation).</p> <p>This means that, in practice, parents are required to provide statements from relevant Embassies/Consulates ascertaining that the child does not hold the nationality of the corresponding State.</p> <p>While according to the information gathered, in certain circumstances, the Central Registry Office may conduct direct contacts with relevant Embassies/Consulates, the burden of proof lies solely on the applicant (or his/her representatives).</p> <p>The Nationality Regulation has not yet been amended following the 2018 and 2020 amendments to the Nationality Act (as of 30/11/2020).</p> <p>It is also worth mentioning that the 2020 amendment to the Nationality Act widened the scope of acquisition of nationality at birth</p>	<p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)</p> <p>Decree-Law n.237-A/2006, of 14 December, last amended by Decree-Law n.71/2017, of 21 June (Nationality Regulation), available at: <a href="https://bit.ly/2LeI59X">https://bit.ly/2LeI59X</a> (PT)</p> <p>Information provided by the Central Registry Office</p>

				for children born in Portugal to foreigners who are not at the service of their State of nationality (art.1(1)(f) Nationality Act). According to the current legal regime, in such cases the child acquires Portuguese nationality at birth as long as at least one of the parents legally resides in the country at the time of birth or one of the parents resides in Portugal for at least one year at the time of birth (regardless of legal status).	
PRS.1.c		Is it a requirement that the parents are also stateless for the otherwise stateless child to acquire nationality?	<a href="#">UNHCR (2012)</a> : The test is not an inquiry into whether a child's parents are stateless. <a href="#">ENS (2015)</a> : Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the parents hold a nationality but are unable to pass this on.	The law does not require the parents to be stateless for the child to acquire Portuguese nationality in case they would otherwise be stateless. Nevertheless, according to the information gathered, the application of the safeguard clause seems to be much more straightforward where the parents are already determined to be stateless, as they are not required to produce further proof.	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)  Decree-Law n.237-A/2006, of 14 December, last amended by Decree-Law n.71/2017, of 21 June (Nationality Regulation), available at: <a href="https://bit.ly/2LeI59X">https://bit.ly/2LeI59X</a> (PT)  Information provided by the Central Registry Office
PRS.1.d		Are stateless children required to prove they cannot access another nationality to acquire the nationality of the country of birth? If yes, please describe how this is determined in practice.	<a href="#">UNHCR (2012)</a> : A Contracting State cannot avoid the obligations to grant its nationality to a person who would otherwise be stateless based on its own interpretation of another State's nationality laws. The burden of proof must be shared between the claimant and the authorities. Decision-makers must consider Articles 3 & 7 CRC and adopt an appropriate standard of proof. Special procedural considerations to address the acute challenges faced by children in communicating basic facts about their nationality should be respected.	When the parents are not already identified as stateless, proof of absence of another nationality must be presented. The burden of proof lies solely on the applicant or their representatives. According to the available information, in practice, the applicant must present documents issued by the Embassies/Consulates of the States with which there are relevant links, attesting that the child is not a national to that State.	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)  Decree-Law n.237-A/2006, of 14 December, last amended by Decree-Law n.71/2017, of 21 June (Nationality Regulation), available at: <a href="https://bit.ly/2LeI59X">https://bit.ly/2LeI59X</a> (PT)  Information provided by the Central Registry Office
PRS.1.e		Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality? If yes, please specify length and if this must be legal residence.	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a> : Article 1(2) <a href="#">UNHCR (2012)</a> : States may stipulate that an otherwise stateless individual born in its territory fulfils a period of 'habitual residence' (understood as stable, factual residence, not legal or formal residence) not exceeding five years preceding an application nor ten years in all. <a href="#">Convention on the Rights of the Child, 1989</a> : Articles 3 & 7 <a href="#">Committee on the Rights of the Child (2015)</a> : Recommends the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to nationality without any conditions. <a href="#">European Convention on Nationality, 1997</a> : Article 6(2)(b)	No.	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)
PRS.1.f		Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, please specify length and if this must be legal residence.	<a href="#">Committee on the Rights of the Child (2011)</a> : The outcome of an application by the parents of a child born on the territory should not prejudice the right of the child to acquire the nationality of the State. <a href="#">ENS (2015)</a> : Demanding that the child or their parents reside lawfully on the territory is prohibited by the 1961 Convention.	No.	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)
PRS.1.g		What are the age limits (if any) for making an application for nationality for a stateless person born on the territory?	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a> : Article 1(2) <a href="#">UNHCR (2012)</a> : Contracting States need to accept applications lodged at a time beginning not later than the age of 18 and ending not earlier than the age of 21. <a href="#">ENS (2015)</a> : Closing the window of opportunity to apply for a nationality has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child.	The law does not establish an age limit for the acquisition of nationality by a stateless person born on the territory. According to information gathered, while in general the provision granting Portuguese nationality at birth to persons born stateless on the territory operates immediately after birth registration, there are no time limits for its application.	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)  Decree-Law n.237-A/2006, of 14 December, last amended by Decree-Law n.71/2017, of 21 June (Nationality Regulation), available at: <a href="https://bit.ly/2LeI59X">https://bit.ly/2LeI59X</a> (PT)  Information provided by the Central Registry Office



PRS.1.h		Are there specific provisions to protect the right to a nationality of children born to refugees?	<p><a href="#">UNHCR (2012)</a>: Where the nationality of the parents can be acquired through a registration or other procedure, this will be impossible owing to the very nature of refugee status which precludes refugee parents from contacting their consular authorities.</p>	<p>There are no specific provisions on nationality acquisition by refugees or children born to refugees.</p> <p>Following the 2020 amendment to the Nationality Act, children born in Portugal to foreigners who are not at the service of their State of nationality are Portuguese by birth if one of the parents legally resides in the country at the time of birth or one of the parents resides in Portugal for at least one year at the time of birth (regardless of legal status) and as long as they or their representative do not state that they do not want to be Portuguese (art.1(1)(f) Nationality Act).</p> <p>The 2018 amendment to this provision of acquisition at birth led to a reduction of the residency period required (previously 5 years) and to a truly automatic form of acquisition (previously, acquisition was dependent upon a declaration of will from the person concerned or their representative). The 2020 amendment further widened the scope of this mode of acquisition by removing the time period requirement for legally residing parents, and foreseeing acquisition for children born to parents without legal residence (1 year).</p> <p>With regards to acquisition after birth, article 6(2) of the Nationality Act provides for facilitated naturalisation of children born in the country to foreign parents.</p> <p>Furthermore article 26 of the Nationality Regulation establishes that in special cases, and upon reasoned request, the Ministry of Justice may exempt an applicant of the obligation to present supporting evidence as long as there are no doubts about the requirements to be proved.</p> <p>While there is no special naturalisation regime for beneficiaries of international protection, according to CPR's experience, the authorities are generally flexible regarding the presentation of supporting evidence issued by the authorities of the countries of origin of refugees/beneficiaries of international protection. CPR usually provides assistance in clarifying the international legal standards applicable to administrative assistance in such instances. For more on this, see <i>AIDA Country Report - Portugal - 2019 Update</i>.</p> <p>The above-mentioned regime of proof of statelessness likely imposes additional burdens and barriers on beneficiaries of international protection as they will be barred from requesting documents from the Embassies/Consulates of their country of origin. However, practice in this regard is limited and conclusive data is not available.</p>	<p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)</p> <p>Decree-Law n.237-A/2006, of 14 December, last amended by Decree-Law n.71/2017, of 21 June (Nationality Regulation), available at: <a href="https://bit.ly/2LeI59X">https://bit.ly/2LeI59X</a> (PT)</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2019 Update</i>, May 2020, available at <a href="http://www.asylumineurope.org">www.asylumineurope.org</a></p>
PRS.2.a	Foundlings	Are foundlings granted nationality automatically by law? If not automatic, please describe the procedure.	<p><a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Article 2</p> <p><a href="#">European Convention on Nationality, 1997</a>: Article 6(1)(b)</p>	<p>The Nationality Law establishes in article 1(2) that new-born foundlings are presumed to have been born in Portugal, unless proven otherwise.</p> <p>While, apparently, this provision would need to be applied within the context of one of the grounds for acquisition of nationality contained in paragraph 1 of the same provision, according to the Central Registry Office, it is applied as a standalone provision for nationality acquisition - direct application of <i>ius soli</i>. As such, and according to the same source, in these cases, nationality is established at birth registration.</p>	<p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)</p> <p>Information provided by the Central Registry Office</p>
PRS.2.b		Is there an age limit (e.g. 'new-born' or 'infant') in law or practice	<p><a href="#">UNHCR (2012)</a>: At a minimum, the safeguard should apply to all young children who are not yet able to</p>	<p>Article 1(2) of the Nationality Act only refers to new-born foundlings. According to the Central Registry Office, the same procedure is</p>	<p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of</p>

		specifying when a foundling would qualify for nationality?	communicate information about the identity of their parents or their place of birth.	adopted in case of older children (not new-borns). This is done through the analogic application of the provision of the Civil Registration Code that regulates birth registration of foundlings (art.105 Civil Registration Code): " <i>for the purposes of birth registration, new-born infants of unknown parentage as well as individuals whose apparent age is of under 14 years old or mentally ill persons whose parents, known or unknown, are absent and whose whereabouts are unknown, leaving them abandoned, are deemed to be foundlings</i> " (unofficial translation).	10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)  Civil Registration Code, available at: <a href="https://bit.ly/2LS5xlw">https://bit.ly/2LS5xlw</a> (PT)  Information provided by the Central Registry Office
PRS.2.c		Can nationality be withdrawn from foundlings if this leads to statelessness?	<a href="#">UNHCR (2012)</a> : Nationality acquired by foundlings may only be lost if it is proven that the child possesses another nationality.	The Portuguese Nationality Regime only provides for the withdrawal of nationality in two cases: (i) Renunciation (art.8 Nationality Act) and (ii) Fraudulent acquisition (art.12-A Nationality Act). Both regimes contain safeguards against statelessness (see questions PRS.7.a and PRS.7.d). As such, in principle nationality cannot be withdrawn from foundlings. This information was confirmed by the Central Registry Office	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)  Information provided by the Central Registry Office
PRS.3.a	Adoption	Where a child national is adopted by foreign parent(s), does the child lose their original nationality before the new nationality is acquired?	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a> : Article 5 <a href="#">ENS (2015)</a> : Children may be exposed to a (temporary) risk of statelessness during the adoption process due to the nationality law of the child's country of origin.	No. The Portuguese Nationality regime only provides for the withdrawal of nationality in two cases: (i) Renunciation (art.8 Nationality Act), and (ii) Fraudulent acquisition (art.12-A Nationality Act). As such, adoption by foreign parents <i>per se</i> does not affect the Portuguese nationality of the child. This information was confirmed by the Central Registry Office.	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)  Information provided by the Central Registry Office
PRS.3.b		Does a foreign child adopted by national parents acquire nationality? Please specify any age limits and/or risk of statelessness during the adoption process.	<a href="#">European Convention on Nationality, 1997</a> : Article 6(4)(d) <a href="#">Committee on the Rights of the Child (2015)</a> : Ensure that the child is not stateless or discriminated against during the waiting period between arrival and formal adoption.	Acquisition of nationality by a child adopted by Portuguese parents is automatic (art.5 Nationality Act). Persons adopted by nationals before the entry into force of the recast provision, may acquire nationality through a declaration of will (art.29 Nationality Act).  In the case of international adoptions under the provisions of the Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption, the Institute of Social Security (ISS) as the designated Central Authority, is responsible for the communication for the purposes of nationality acquisition.  If the adoption was otherwise determined by a foreign court, the final adoption decision must be reviewed and confirmed by the competent national court. The process is regulated by the Civil Procedure Code (art.978 <i>et seq</i> ).  In order to be relevant for nationality acquisition, adoption must have the effects of a full adoption (i.e. cease all ties with the biological family). While Portuguese Law does not allow for restricted adoption since 2015, if the full effect of the adoption is not mentioned in the original (foreign) decision, additional judicial steps may be required.  There is no age limit for acquisition of nationality through this avenue. The adoptee can acquire Portuguese nationality as an adult as long as the adoption decision was taken while they were under 18 years old.	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)  Decree-Law n.237-A/2006, of 14 December, last amended by Decree-Law n.71/2017, of 21 June (Nationality Regulation), available at: <a href="https://bit.ly/2LeI59X">https://bit.ly/2LeI59X</a> (PT)  Documentation and Comparative Law Office- Information on accession to the Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption and designation of the Central Authority: <a href="https://bit.ly/2XGCsHf">https://bit.ly/2XGCsHf</a> (PT)  Act no.143/2015 of 8 September (establishing the Legal Framework for Adoption): <a href="https://bit.ly/2XOa5Sr">https://bit.ly/2XOa5Sr</a> (PT)  Civil Procedure Code, available at: <a href="https://bit.ly/2LSXmM5">https://bit.ly/2LSXmM5</a> (PT)  Information provided by the Central Registry Office
PRS.4.a	<i>Ius sanguinis</i>	Can children born to nationals abroad acquire nationality by descent ( <i>ius sanguinis</i> ) in general and/or if they would otherwise be stateless?	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a> : Article 4 <a href="#">UNHCR (2012)</a> : Where a child who would otherwise be stateless is born to parents of another Contracting State but does not acquire the nationality of the State of birth responsibility falls to the Contracting State of the parents to grant its nationality to the child.	A child born to nationals abroad is Portuguese if the parents are abroad at the Service of the Portuguese Republic (art.1(1)(b) Nationality Act).  In other cases, the child is Portuguese if their birth is registered in the Portuguese Civil Registration or if they (or their representative) declare willingness to be Portuguese (Art.1(1)(c) Nationality Act).  Acquisition in the former situation is regulated in detail by articles 8 and 9 of the Nationality Regulation.	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)  Decree-Law n.237-A/2006, of 14 December, last amended by Decree-Law n.71/2017, of 21 June (Nationality Regulation), available at: <a href="https://bit.ly/2LeI59X">https://bit.ly/2LeI59X</a> (PT)  Information provided by the Central Registry Office

				<p>According to article 8(2) of the Nationality Regulation, the declaration of will/request for registration is filed with proof of Portuguese nationality of one of the parents. The registration must be made at the Central Registry Office or at the Consulate (art.9(1) Nationality Regulation).</p> <p>In practice, within the context of application of article 1(1)(c) of the Nationality Act, the most common situation is of registration through the competent Portuguese Consulate. In such cases, according to the information provided by the Central Registry Office, the Consulate registers the case in an electronic system and the process is automatically referred to the Central Registry Office for validation. According to the information shared by the Central Registry Office, such procedure usually takes a maximum of 1 month to be concluded (usually less). If the relevant Consulate cannot refer the case through the electronic system, the process is longer as correspondence will be processed through diplomatic pouch.</p> <p>The Nationality Regulation contains special rules regarding the processes of persons over 14 years old that do not provide an identification document and a foreign birth certificate (art.9(2) Nationality Regulation).</p> <p>According to the available information, within the pandemic context, this procedure can be made by email (art.10 Decree-Law n.16/2020, of 15 April).It is expected to be conducted entirely online in the near future.</p> <p>In 2019, the Ombudsperson proposed that requests concerning children born abroad to Portuguese parents who are not entitled to other nationality are prioritised given that they are in a "situation of <i>de facto statelessness</i>" and their rights to personal identity, freedom of movement and access to services such as healthcare in countries of residence may be jeopardised due to the lack of nationality.</p>	<p>Decree-Law n.16/2020, of 15 April, available at: <a href="https://bit.ly/36tgJFu">https://bit.ly/36tgJFu</a> (PT)</p> <p>Institute of Registration and Notary Affairs (Instituto dos Registos e Notariado, IRN), <i>COVID-19: Serviços de Registo</i>, available at: <a href="https://bit.ly/33C3Nv5">https://bit.ly/33C3Nv5</a> (PT)</p> <p>Ombudsperson, Relatório à Assembleia da República – 2019, p.124, available at: <a href="https://bit.ly/3o0tKwc">https://bit.ly/3o0tKwc</a></p>
PRS.4.b		Are there any discriminatory conditions in law and/or practice for the acquisition of nationality by descent (e.g. differential treatment of children born out of wedlock, rights of father/mother/same-sex parents to confer nationality, etc.)?	<p><a href="#">Genovese v. Malta ECtHR (2011)</a>: The state must ensure that the right to nationality is secured without discrimination.</p> <p><a href="#">CEDAW Gen. rec. No. 32, 2014</a>: Requires States parties to ensure that women and men have equal rights to confer their nationality to their children and that any obstacles to practical implementation of such laws are removed.</p> <p><a href="#">UNHCR (2014)</a>: Action 4</p>	No.	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)
PRS.5.a	Birth registration	Does the law provide that all children are registered immediately upon birth regardless of the legal status and/or documentation of parents?	<p><a href="#">Convention on the Rights of the Child, 1989</a>: Article 7</p> <p><a href="#">International Covenant on Civil and Political Rights, 1966</a>: Article 24(2)</p> <p><a href="#">Council of Europe (2009)</a>: Member states should register the birth of all children born on their territory even if they are born to a foreign parent with an irregular immigration status or the parents are unknown.</p> <p><a href="#">UNHCR (2012)</a>: Article 7 CRC applies irrespective of the nationality, statelessness or residence status of the parents.</p> <p><a href="#">UNHCR (2014)</a>: Action 7</p> <p><a href="#">UN Sustainable Development Goal 16.9</a></p>	<p>The Civil Registration Code establishes that birth registration is mandatory (art.1(1)(a)).</p> <p>A birth occurred in Portuguese territory must be declared in a civil registry office within 20 days or, if it took place in a medical facility where declaration is possible, before medical discharge of the mother (art.96 Civil Registration Code).</p> <p>The duty to report the birth applies successively to: (i) the parents or other legal representative of the child or person empowered to do so, (ii) the closest relative who is aware of the birth, (iii) the director/administrator or other official of the medical facility where the birth took place/was declared (art.97 Civil Registration Code).</p> <p>Within the framework of the project <i>Nascer Cidadão</i> ("Born a Citizen"), it is possible to register the birth of a child in all public hospitals and maternities as well as in some private hospitals. When applicable, it is also</p>	<p>Civil Registration Code, available at: <a href="https://bit.ly/2LS5xIw">https://bit.ly/2LS5xIw</a> (PT)</p> <p>Information provided by the Central Registry Office</p> <p>Ministry of Justice, <i>Registar Nascimento</i>, available at: <a href="https://bit.ly/2XG6Rp0">https://bit.ly/2XG6Rp0</a> (PT)</p> <p>Ministry of Justice, Nota à comunicação social - Registo de nascimento pela internet a partir de hoje, 13 April 2020, available at: <a href="https://bit.ly/33BgeHw">https://bit.ly/33BgeHw</a> (PT)</p> <p>Institute of Registration and Notary Affairs, <i>Guia: Como pedir online o registo de nascimento</i>, available at: <a href="https://bit.ly/3g10DpC">https://bit.ly/3g10DpC</a> (PT)</p> <p>Law 1-A/2020, of 19 March, available at: <a href="https://bit.ly/36txJLO">https://bit.ly/36txJLO</a> (PT)</p>

				<p>possible to request the national identity document for the child immediately. The program is a joint action of the Ministry of Justice, the Ministry of Solidarity and Social Security and the Ministry of Health.</p> <p>If birth registration was not performed at a medical facility, it can also be done at a civil registry office.</p> <p>The law provides for the application of fines in case of non-registration within the 20-day time limit (articles 98 and 295 Civil Registration Code). An individual that does not comply with the obligation to declare a birth can be fined between 50 and 150 EUR (art.295(1) Civil Registration Code). A legal person that does not comply with the obligation to declare a birth can be fined between 150 and 400 EUR (art.295(2) Civil Registration Code). If the declaration is voluntarily performed before the corresponding process begins, the fine is not applied. According to the information gathered, fines are not enforced in practice.</p> <p>The law does not establish any limitation to birth registration connected to the legal status/documentation of parents.</p> <p>Within the context of the COVID-19 pandemic all of the <i>Nascer Cidadão</i> registration desks are (temporarily) closed since 23 March 2020. Birth registration continued to be performed in civil registry offices in urgent cases upon appointment. Since 13 April 2020, birth registration can be performed online.</p> <p>According to article 7(9) of Law 1-A/2020, of 19 March, as amended by Law 4-A/2020, of 6 April, the deadline for birth registration was suspended due to the pandemic.</p>	<p>Law 4-A/2020, of 6 April, available at: <a href="https://bit.ly/39BJ11k">https://bit.ly/39BJ11k</a> (PT)</p>
PRS.5.b	Are all children issued with birth certificates upon registration? If no, please describe legal status of documentation issued.	<p><a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a>: Underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of immigration status and that of parents or family members.</p> <p><a href="#">Committee on the Rights of Migrant Workers and Members of their Families &amp; Committee on the Rights of the Child (2017)</a>: Take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents.</p>	<p>Yes. Upon registration of birth, a free birth certificate (digital or paper) is provided.</p>	<p>Ministry of Justice, <i>Nascimento</i>, available at: <a href="https://bit.ly/2xQ3soq">https://bit.ly/2xQ3soq</a> (PT)</p>	
PRS.5.c	Is the child's nationality determined or recorded upon birth registration? If yes, please describe how and by whom (e.g. if the mother/father's nationality is recorded and/or automatically attributed to the child, if there's a formal procedure, if information on both parents is recorded etc.)	<p><a href="#">Convention on the Rights of the Child, 1989</a>: Articles 3 &amp; 7</p>	<p>Nationality is not recorded in the birth certificate. The law does not provide for a nationality determination procedure. According to article 4(1) of the Nationality Regulation, the birth registration of a child born to non-Portuguese parents must indicate the nationality of the parents or the fact that their nationality is unknown.</p> <p>With regards to proof of nationality, Portuguese nationality acquired at birth is proved through the birth certificate and registrations therein (art.21 Nationality Act).</p>	<p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)</p> <p>Decree-Law n.237-A/2006, of 14 December, last amended by Decree-Law n.71/2017, of 21 June (Nationality Regulation), available at: <a href="https://bit.ly/2LeI59X">https://bit.ly/2LeI59X</a> (PT)</p>	
PRS.5.d	If a child's nationality is not determined or recorded upon birth registration, is there a legal framework to determine the child's nationality later? If yes, please describe the procedure, including the legal grounds, deadlines and competent authority.	<p><a href="#">Convention on the Rights of the Child, 1989</a>: Articles 3 &amp; 7</p> <p><a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Articles 1 &amp; 4</p> <p><a href="#">UNHCR (2012)</a>: States need to determine whether a child would otherwise be stateless as soon as possible so as not to prolong a child's status of undetermined nationality. Such a period should not exceed five years.</p>	<p>No.</p>		

PRS.5.e	Are there credible reports to suggest that children are prevented from registering in practice because of parents' legal status or other reasons (please specify)?	<p><a href="#">Committee on the Rights of Migrant Workers and Members of their Families &amp; Committee on the Rights of the Child (2017)</a>: Urge States parties to take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents. Legal and practical obstacles to birth registration should be removed.</p> <p><a href="#">Global Compact for Safe, Orderly and Regular Migration</a>: States will contribute resources and expertise to strengthen the capacity of national civil registries to facilitate timely access by refugees and stateless persons to civil and birth registration.</p> <p><a href="#">Global Compact on Refugees</a>: States commit to fulfil the right of all individuals to a legal identity and ensure that migrants are issued documentation and civil registry documents.</p> <p><a href="#">European Parliament Resolution (2019)</a>: Calls on Member States to take immediate corrective measures to stop discriminatory birth registration.</p>	No instances of such situation were acknowledged during the research. It was not possible to obtain statistics on birth registration coverage in the country. CPR's experience in this regard (children of applicants and beneficiaries of international protection) does not reveal major issues in accessing birth registration. This information was confirmed by the Central Registry Office that explained that registering the birth is the priority, regardless of the legal status of parents. If the parents cannot provide an identification document, such requirement can be replaced by the testimony of two witnesses (art.45 Civil Registration Code).	Information provided by the Central Registry Office  CPR's casework  Civil Registration Code, available at: <a href="https://bit.ly/2LS5x1w">https://bit.ly/2LS5x1w</a> (PT)
PRS.5.f	Are there mandatory reporting requirements that would deter undocumented parents from coming forward to register their children (e.g. health or civil registry authorities required to report undocumented migrants)?	<p><a href="#">Committee on the Rights of Migrant Workers and Members of their Families &amp; Committee on the Rights of the Child, JGC No. 4 (2017)</a> and <a href="#">JGC No. 3 (2017)</a>: Legal and practical obstacles to birth registration should be removed, including by prohibiting data sharing between health providers or civil servants responsible for registration with immigration enforcement authorities; and not requiring parents to produce documentation regarding their migration status. Children's personal data, in particular biometric data, should only be used for child protection purposes.</p> <p><a href="#">Council of Europe: ECRI General Policy Recommendation No. 16(2016) on safeguarding irregularly present migrants from discrimination</a>: States should clearly prohibit the sharing of information about migrants suspected of irregular presence with immigration authorities. These firewalls must be binding on state authorities and the private sector.</p>	The Law does not establish such reporting requirements. This information was confirmed by the Central Registry Office. According to article 101-A of the Civil Registration Code, the medical facility where the birth occurred must insert data concerning the birth in a software that can only be accessed by health facilities, the Institute of Registration and Notary Affairs and the Institute of Social Security. This information will be used as proof of birth. It is specifically provided in the law that the technical and security features of the above-mentioned system must be communicated to the National Commission on Data Protection (art.101-C). Once the birth is registered, the relevant data of the child is communicated to the Social Security and Health Services for the purposes of registration in such services (art.102-A Civil Registration Code). If requested by the child's representative, data may also be communicated to the tax office.	Civil Registration Code, available at: <a href="https://bit.ly/2LS5x1w">https://bit.ly/2LS5x1w</a> (PT)  Information provided by the Central Registry Office
PRS.5.g	Is there a statutory deadline for birth registration? If yes, please state the deadline and whether late birth registration is possible in law and practice.	<p><a href="#">Committee on the Rights of Migrant Workers and Members of their Families &amp; Committee on the Rights of the Child (2017)</a>: Measures should also be taken to facilitate late registration of birth and to avoid financial penalties for late registration.</p> <p><a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a>: Calls upon States to ensure free birth registration, including free or low-fee late birth registration, for every child.</p>	According to the Civil Registration Code, a birth that occurred in Portuguese territory must be declared in a civil registry office within 20 days or, if it took place in a health facility where declaration is possible, before medical discharge of the mother (art.96). Late birth registration is provided for in article 99 of the Civil Registration Code. According to the available information, it is also possible in practice.	Civil Registration Code, available at: <a href="https://bit.ly/2LS5x1w">https://bit.ly/2LS5x1w</a> (PT)  Information provided by the Central Registry Office
PRS.5.h	Are there additional requirements for late birth registration (e.g. fees, documents, court procedure)? Please describe the procedure including the competent authority and procedural deadlines.	As above	Article 99 of the Civil Registration Code establishes that: -When the birth occurred more than a year ago, it can only be voluntarily reported by one of the parents, by the person responsible for the child or by the person concerned if they are over 14 years old. If possible, the parents must be heard even if they are not the ones reporting the birth. -If the birth occurred more than 14 years ago, two witness are required for late birth registration. If possible, a document confirming the truthfulness of the declaration must be presented. The official performing the registration may require/perform additional inquiries.	Civil Registration Code, available at: <a href="https://bit.ly/2LS5x1w">https://bit.ly/2LS5x1w</a> (PT)  Information provided by the Central Registry Office

PRS.6.a	Reduction	Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.	<a href="#">UNHCR (2014): Action 7</a>	<p>Within the framework of the project <i>Nascer Cidadão</i> ("Born a Citizen"), it is possible to register the birth of a child in all public hospitals and maternities as well as in some private hospitals. When applicable, it is also possible to request the national identity document for the child immediately.</p> <p>The program is a joint endeavour of the Ministry of Justice, the Ministry of Solidarity and Social Security and the Ministry of Health.</p> <p>Within the context of the COVID-19 pandemic all of the <i>Nascer Cidadão</i> registration desks are (temporarily) closed since 23 March 2020. Birth registration continued to be performed in civil registry offices in urgent cases upon appointment. Since 13 April 2020, birth registration can be performed online.</p>	<p>Ministry of Justice, <i>Registar Nascimento</i>, available at: <a href="https://bit.ly/2XG6Rp0">https://bit.ly/2XG6Rp0</a> (PT)</p> <p>Information provided by the Central Registry Office</p> <p>Ministry of Justice, Nota à comunicação social - Registo de nascimento pela internet a partir de hoje, 13 April 2020, available at: <a href="https://bit.ly/33BgeHw">https://bit.ly/33BgeHw</a> (PT)</p> <p>Institute of Registration and Notary Affairs, <i>Guia: Como pedir online o registo de nascimento</i>, available at: <a href="https://bit.ly/3g10DpC">https://bit.ly/3g10DpC</a> (PT)</p>
PRS.6.b		Are there particular sections of the population - such as minority groups or people affected by conflict - believed to be stateless/at risk of statelessness? Please provide details and source of information.	<p><a href="#">UN Convention on the Reduction of Statelessness, 1961: Article 9</a>  <a href="#">UNHCR (2014): Action 4</a>  <a href="#">UN Human Rights Council (2019):</a>  States should take legislative, administrative and policy measures aimed at eliminating statelessness affecting minorities.</p>	<p>UNHCR's 2018 Mapping identified 9 main types and causes of statelessness or potential statelessness in Portugal. Among them, the impacts of decolonisation in terms of nationality of persons born in the former colonies seem to be particularly relevant. Additionally, the nexus between forced displacement and statelessness may be particularly relevant in the near future given the increasing number of applications for international protection in recent years.</p>	<p>UNHCR, <i>Mapping Statelessness in Portugal</i>, October 2018, available at: <a href="https://bit.ly/2wU7VfY">https://bit.ly/2wU7VfY</a></p> <p>CPR's casework</p>
PRS.6.c		Has the Government implemented any other measures specifically aimed at reducing (risk of) statelessness? (e.g. identification, registration or naturalisation campaigns, removal of treaty reservations, reform of discriminatory laws, etc.)	<p><a href="#">UN Convention on the Reduction of Statelessness, 1961</a>  <a href="#">UNHCR (2014): Actions 1 &amp; 8</a>  <a href="#">UNHCR (2015):</a> States parties to the 1954 Convention are required to help stateless persons become naturalised nationals.</p>	<p>Portugal acceded to the 1954 and to the 1961 Conventions on 01/10/2012.</p> <p>Overall, the successive amendments to the Nationality Act (initially enacted in 1981) have been generally positive in terms of modes of acquisition of Portuguese nationality.</p> <p>The Nationality Act also includes eight facilitated naturalisation provisions that exempt applicants of certain requirements (art.6(2-9) Nationality Act). Some of this regimes may be particularly relevant in terms of reduction of statelessness.</p> <p>Among such provisions, article 6(4) Nationality Act entitles people who lost Portuguese nationality and never acquired another nationality to facilitated naturalisation (through the exemption from legal residence and language requirements).</p> <p>Furthermore, the 2020 amendment to the Nationality Act introduced a new provision entitling people who lost Portuguese nationality following the 1975 Nationality Act (post-decolonisation) on the grounds that they were living in Portugal for less than 5 years on 25/04/1974 to facilitated naturalisation, as long as, since the loss of the Portuguese nationality, they have not been at the Service of the other relevant State, and have remained and remain in national territory (art.6(9) Nationality Act). The provision is also applicable to their children born in Portuguese territory and who have not acquired Portuguese nationality at birth. In such cases, naturalisation is facilitated through exemption from age, legal residence, and language requirements. Additionally, the naturalisation procedure is free of charge (article 6(12) Nationality Act).</p> <p>Since the impact of decolonisation has been previously identified as a potential ground of statelessness in Portugal (see question PRS.6.b) this amendment may have an impact in terms of reduction of statelessness in the country. The enactment of the new Nationality Regulation (following the 2018 and the 2020 amendments of the Nationality Act) will be an important element to determine the full extent of the new or recast provisions of the Nationality Act.</p>	<p>Information on accession to the 1954 Convention: Documentation and Comparative Law Office: <a href="https://bit.ly/2Xthk71">https://bit.ly/2Xthk71</a> (P)  United Nations Treaty Collection - <a href="https://bit.ly/2JRpCOP">https://bit.ly/2JRpCOP</a></p> <p>Information on accession to the 1961 Convention: Documentation and Comparative Law Office: <a href="https://bit.ly/30cGi7G">https://bit.ly/30cGi7G</a> (PT)  United Nations Treaty Collection - <a href="https://bit.ly/2MYMOZ8">https://bit.ly/2MYMOZ8</a></p> <p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)</p> <p>GIL, Ana Rita, <i>Amendments to the Portuguese Nationality Law – towards an (even) more inclusive citizenship</i>, 1 August 2018, available at: <a href="https://bit.ly/2xOg7la">https://bit.ly/2xOg7la</a></p> <p>Migration Policy Index (MIPEX) - Portugal, available at: <a href="https://bit.ly/30B49hl">https://bit.ly/30B49hl</a> (2019 evaluation - prior to the 2020 amendment to the Nationality Act)</p> <p>Migration Policy Group, <i>Access to citizenship and its impact on immigrant integration: ACIT handbook for Portugal</i>, 2013, available at: <a href="https://bit.ly/2xN4G3A">https://bit.ly/2xN4G3A</a> (published in 2013, the Nationality Act has been amended since)</p> <p>National Plan for the Implementation of the Global Compact for Migration (Resolução do Conselho de Ministros n.º 141/2019, de 20 de Agosto), available at: <a href="https://bit.ly/3g6OFL3">https://bit.ly/3g6OFL3</a> (PT)</p> <p>Statement from Portugal at the Global Refugee Forum, 17 December 2019, available at: <a href="https://bit.ly/38OHMdm">https://bit.ly/38OHMdm</a></p>

				<p>In August 2019, the Portuguese Government approved a <b>National Plan for the Implementation of the Global Compact for Migration</b>. The following implementation measures are listed under objective 4 (“[e]nsure that all migrants have proof of legal identity and adequate documentation”): (i) “[s]implify and expedite the grant of Portuguese nationality” (measure 16), and (ii) “[c]reate and reinforce legal and institutional mechanisms to identify, protect and find suitable solutions for reception and integration of stateless citizens” [sic] (measure 17). [unofficial translations]</p> <p>According to the Plan, measure 17 is under the responsibility of the Ministry of Presidency and its implementation also involves the Ministry of Interior. The Plan lists it a measure of continuous implementation. At the time of writing, no further details we available.</p> <p>During the <b>Global Refugee Forum</b> in December 2019, the Portuguese Government committed “to establish mechanisms to identify, protect, prevent and reduce statelessness in Portugal” and to “provide the issuance of Convention travel documents for refugees and stateless persons according with international standards”.</p>	
PRS.7.a	Deprivation of nationality	<p>Are there any provisions on deprivation of nationality that could render a person stateless? Please state whether there is a safeguard against statelessness established in law and on what grounds deprivation of nationality may result in statelessness (e.g. national security, fraud, etc.).</p>	<p><a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Article 8 &amp; 9  <a href="#">European Convention on Nationality, 1997</a>: Article 7(3)  <a href="#">Universal Declaration of Human Rights</a>: Article 15(2)  <a href="#">Principles on Deprivation of Nationality</a> and the <a href="#">Draft Commentary</a>: Principle 2.2: Deprivation of nationality refers to any loss, withdrawal or denial of nationality that was not voluntarily requested by the individual; Principles 4, 5 &amp; 6  <a href="#">Report of the Secretary-General on Human Rights and Arbitrary Deprivation of Nationality (2009)</a>: para. 23  <a href="#">UNHCR Guidelines on Statelessness No.5 (2020)</a>: the prohibition of arbitrary deprivation of nationality also includes situations where there is no formal act by a State but where the practice of its competent authorities clearly shows that they have ceased to consider a particular individual/group as national(s) (e.g. where authorities persistently refuse to issue or renew documents without providing an explanation or justification).</p>	<p>No. The only two relevant provisions in the Portuguese Nationality regime are: (i) Renunciation (art.8 Nationality Act) and (ii) Fraudulent acquisition (art.12-A Nationality Act). There are safeguards against statelessness in both cases.</p> <p><b>Fraudulent acquisition</b> (art.12-A Nationality Act): The Nationality Act establishes that an act determining acquisition or withdrawal of nationality is null and void if it was grounded (i) on false documents; (ii) on documents certifying false or non-existent facts; (iii) on false statements. (art.12-A(1)). Nullification is not applicable if it results in statelessness of the person concerned (art.12-A(2)).</p> <p>The 2018 amendment of the Nationality Act led to the inclusion of a regime of corroboration of nationality. According to this regime (art.12-B), the Portuguese nationality of a person who held it in good faith for at least 10 years is crystallised. The 2020 amendment introduced a new provision determining a deadline of 18 months in the case of children whose births are registered in the Portuguese Civil Registry (art.12-B(2) Nationality Act). The detailed implementation of this provision is still not clear as the corresponding Nationality Regulation has not been published at the time of writing. Nevertheless, according to the information gathered, the regime of corroboration has already been applied in practice where it was clear that the situation was exclusively due to an error of the administration.</p> <p>While not a safeguard against statelessness per se, there is a special naturalisation regime applicable to persons who held Portuguese nationality in the past, lost it and never acquired another nationality (art.6(4) Nationality Act). According to the available information, this provision may be of particular relevance to persons originally from the former colonies who lost Portuguese nationality due to the regime put in place at the time. Persons falling within the scope of application of this provision are exempted from the requirements of legal residency and language knowledge applicable to general naturalisation procedures. According to UNHCR, there is not widespread awareness about this provision, and it is not frequently used (see <i>Mapping Statelessness in Portugal</i>).</p>	<p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)</p> <p>Decree-Law n.237-A/2006, of 14 December, last amended by Decree-Law n.71/2017, of 21 June (Nationality Regulation), available at: <a href="https://bit.ly/2LeI59X">https://bit.ly/2LeI59X</a> (PT)</p> <p>Information provided by the Central Registry Office</p> <p>UNHCR, <i>Mapping Statelessness in Portugal</i>, October 2018, available at: <a href="https://bit.ly/2wU7VFY">https://bit.ly/2wU7VFY</a></p>

				<p>According to the information provided by the Central Registry Office, proof of non-acquisition of another nationality must be made by the person concerned by demonstrating that they do not hold the nationality of another country with which they have relevant links. In practice this can be done by providing statements from relevant Embassies/Consulates ascertaining that they do not hold the nationality of the corresponding State.</p> <p>The 2020 amendment to the Nationality Act introduced a new provision entitling people who lost Portuguese nationality following the 1975 Nationality Act (post-decolonisation) on the grounds that they were living in Portugal for less than 5 years on 25 April 1974 to facilitated naturalisation, as long as, since the loss of the Portuguese nationality, they have not been at the Service of the other relevant State, and have remained and remain in national territory (art.6(9) Nationality Act). The provision is also applicable to their children born in Portuguese territory and who have not acquired Portuguese nationality at birth. In such cases, naturalisation is facilitated through exemption from age, legal residence, and language requirements. Additionally, the naturalisation procedure is free of charge (art.6(12) Nationality Act).</p>	
PRS.7.b		Who is the competent authority for deprivation of nationality and what procedural safeguards are in place (e.g. due process, fair trial, participation in the proceedings, legal aid, judicial oversight, appeal, time limit, subject to prior sentencing)?	<p><a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Article 8(4)  <a href="#">European Convention on Nationality, 1997</a>: Article 11  <a href="#">Principles on Deprivation of Nationality</a>: Principle 7. Deprivation of nationality must be carried out in pursuance of a legitimate purpose, provided for by law, necessary, proportionate and in accordance with procedural safeguards; Principle 8: Everyone has the right to a fair trial or hearing and to an effective remedy and reparation.</p>	<p>The nullification of the act that determined the acquisition or deprivation of nationality follows the general rules contained in the Administrative Procedure Code, in the absence of a specific regime under the Nationality Regulation.</p> <p>The individual is informed of the probable content of the decision to be taken in the case (the decision to declare the act null) and has the right to be heard in the procedure, before the final decision is taken. In this context, the individual may send any relevant documents (article 121 of the Administrative Procedure Code).</p> <p>It should be noted that nullity of the act that determined the acquisition or deprivation of nationality may be invoked at any time by any interested person. Also, the issue may be raised at any time by any authority. The nullification of the act is declared by the administrative courts or by the competent administrative body (article 162 (2) of the Administrative Procedure Code).</p>	<p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)</p> <p>Decree-Law n.237-A/2006, of 14 December, last amended by Decree-Law n.71/2017, of 21 June (Nationality Regulation), available at: <a href="https://bit.ly/2LeI59X">https://bit.ly/2LeI59X</a> (PT)</p> <p>Decree-Law n. 4/2015, of 07 January, last amended by Law n. 72/2020, of 16 November (Administrative Procedure Code), available at: <a href="https://bit.ly/2KSQwYR">https://bit.ly/2KSQwYR</a> (PT)</p> <p>Information provided by the Central Registry Office.</p>
PRS.7.c		Are provisions on deprivation of nationality that may render a person stateless applied in practice?		Not applicable. See question PRS.7.a.	
PRS.7.d		Are there safeguards in law and practice to prevent renunciation or other forms of voluntary loss of nationality from resulting in statelessness?	<p><a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Article 7  <a href="#">European Convention on Nationality, 1997</a>: Article 8</p>	<p>As per article 8 of the Nationality Act, a person must have another nationality in order to be able to renounce Portuguese nationality.</p> <p>The person concerned or their representative must state their will not to be Portuguese in writing (to be submitted to the Central Registration Office or to a <i>Nationality Desk</i>) or through an oral statement in the Civil Registration Office or in other competent services, such as consulates (arts. 31 and 32 Nationality Regulation).</p> <p>Article 30(3) of the Nationality Regulation states that the declaration of will to renounce Portuguese nationality must be accompanied by a document proving the foreign nationality.</p> <p>The Central Registry Office is competent to analyse, make decisions and perform the registration of declarations for the effects of acquisition or deprivation of nationality</p>	<p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)</p> <p>Decree-Law n.237-A/2006, of 14 December, last amended by Decree-Law n.71/2017, of 21 June (Nationality Regulation), available at: <a href="https://bit.ly/2LeI59X">https://bit.ly/2LeI59X</a> (PT)</p>



				(arts.16 and 18 Nationality Act, art.41 Nationality Regulation, arts.87-90 Civil Registration Code).	
PRS.7.e		Are there any provisions on deprivation of nationality in a nationality security context (regardless of whether they could render a person stateless)? Please describe these provisions and if/how they are applied in practice.	<a href="#">Principles on Deprivation of Nationality</a> Principle 4: States shall not deprive persons of nationality for the purpose of safeguarding national security. Where provisions exist, these should be interpreted narrowly and in accordance with international law standards.	No. Notwithstanding, certain modes of acquisition of nationality include among its conditions national security-related requirements (see questions SDS.15.a and SDS.15.b).	
PRS.7.f		Are there any provisions on deprivation of nationality that directly or indirectly discriminate a person or group of persons on any ground prohibited under international law or that discriminate between nationals? Please describe these provisions and if/how they are applied in practice.	<a href="#">ICCPR</a> : Article 26 <a href="#">UN Convention on the Reduction of Statelessness, 1961</a> : Article 9 <a href="#">European Convention on Nationality, 1997</a> : Article 5 <a href="#">Principles on Deprivation of Nationality</a> : Principle 6. Prohibited grounds for discrimination include race, colour, sex, language, religion, political or other opinion, national or social origin, ethnicity, property, birth or inheritance, disability, sexual orientation or gender identity, or other real or perceived status, characteristic or affiliation. Each State is also bound by the principle of non-discrimination between its nationals.	No. The Portuguese Constitution explicitly prohibits deprivation of nationality on political grounds (art.26(4)).	Constitution of the Portuguese Republic - Art.8, available at <a href="https://bit.ly/2LEUx14">https://bit.ly/2LEUx14</a> (PT) <a href="https://bit.ly/2RX9TPA">https://bit.ly/2RX9TPA</a>  Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: <a href="https://bit.ly/2jukiBm">https://bit.ly/2jukiBm</a> (PT)

## Resources

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
RES.1.a	Published judgments	Number of published judgments adjudicating statelessness (broken down by level of jurisdiction). Please list the most relevant ones.		<p>Until 2006, judicial appeals regarding nationality matters fell within the jurisdiction of the civil Courts of Appeal. Since then, it falls within the jurisdiction of the administrative courts.</p> <p>In Portugal, the rulings of first instance courts are not systematically published. Decisions from Appeal Courts, Supreme Courts and the Constitutional Court can be accessed through <a href="http://www.dgsi.pt/">http://www.dgsi.pt/</a>.</p> <p>A search on this database with the Portuguese words for "stateless" (apátrida) and "statelessness" (apatridia) leads to multiple results. At the time of research, most of them were connected to international protection procedures where such words were quoted without being directly relevant to the case.</p> <p>In other cases, the fact that the person concerned is not stateless is mentioned within the context of processes of opposition to their naturalisation by the Public Prosecutor.</p>	<p>Jurisprudence database: <a href="http://www.dgsi.pt/">http://www.dgsi.pt/</a></p>
RES.1.b		Number of published judgments mentioning statelessness (broken down by level of jurisdiction). Please list the most relevant ones.		<p>While not addressing statelessness <i>per se</i>, the following judicial decisions were identified as particularly relevant for nationality matters:</p> <ul style="list-style-type: none"> <li>- Constitutional Court, Ruling no.106/2016, of 24 February 2016, and Ruling no.331/2016, of 19 May 2016 (on the interpretation of the Nationality Act provision regarding limits to acquisition due to previous criminal conviction);</li> <li>- Constitutional Court, Ruling no.106/2016 of 24 February 2016 (on the interpretation of the Nationality Act provision regarding limits to naturalisation due to previous criminal conviction);</li> <li>- Constitutional Court, Ruling 225/2018, of 24 April 2018 (preventive control of constitutionality of the Law on Medically Assisted Reproduction);</li> <li>- Constitutional Court, Ruling no.497/2019 of 26 September 2019 (on the interpretation of the Nationality Act provision regarding limits to naturalisation due to previous criminal conviction - concrete sentencing vs. maximum jail time prescribed by law for the crime);</li> <li>- Supreme Administrative Court, Process 0201/16, of 16 June 2016 and Process 1264/15, of 7 July 2016 (on the burden of proof of "effective links to the national community" when the Public Prosecutor opposes to nationality acquisition);</li> <li>- Supreme Administrative Court, Process 567/17, of 21 September 2017 (determining that only a final criminal conviction, and not the possibility of such conviction, is a ground to opposition to acquisition of nationality by the Public Prosecutor's Office);</li> <li>- Supreme Administrative Court, Process 0219/10.6BEPRT, of 14 February 2019 (on the margin of discretion of the authorities within the application of article 6(6) of the Nationality Act).</li> </ul>	<p>Constitutional Court, Ruling no.106/2016 of 24 February 2016, available at: <a href="https://bit.ly/2xMYiJH">https://bit.ly/2xMYiJH</a> (PT)</p> <p>Constitutional Court, Ruling no.331/2016, of 19 May 2016, available at: <a href="https://bit.ly/37yhAUx">https://bit.ly/37yhAUx</a> (PT)</p> <p>Constitutional Court, Ruling 225/2018, of 24 April 2018, available at: <a href="https://bit.ly/2LUIsFL">https://bit.ly/2LUIsFL</a> (PT)</p> <p>Constitutional Court, Ruling 497/2019, of 26 September 2019, available at: <a href="https://bit.ly/2pClfOI">https://bit.ly/2pClfOI</a> (PT)</p> <p>Supreme Administrative Court, Process 0201/16, of 16 June 2016, available at: <a href="https://bit.ly/32tXyY5">https://bit.ly/32tXyY5</a> (PT)</p> <p>Supreme Administrative Court, Process 1264/15, of 7 July 2016, available at: <a href="https://bit.ly/33Jb8ck">https://bit.ly/33Jb8ck</a> (PT)</p> <p>Supreme Administrative Court, Process 567/17, of 21 September 2017, available at: <a href="https://bit.ly/3IKQpe9">https://bit.ly/3IKQpe9</a> (PT)</p> <p>Supreme Administrative Court, Process 0219/10.6BEPRT, of 14 February 2019, available at: <a href="https://bit.ly/3gbZxHy">https://bit.ly/3gbZxHy</a> (PT)</p> <p>Information provided by the Central Registry Office</p>

RES.2.a	Pro Bono	Are there specialised lawyers or organisations providing free advice to stateless people or those at risk of statelessness? If yes, please describe.	<a href="#">UNHCR (2014)</a> : Applicants must have access to legal counsel.	<p>The Portuguese Refugee Council (CPR) provides legal assistance to applicants and beneficiaries of international protection. Within its mandate, CPR also develops statelessness activities, namely as an ENS member. In the absence of a statelessness determination procedure or formal referral mechanisms, advice on statelessness-related matters usually focuses on guidance on the use of services that allow access to rights, and acquisition/recognition of Portuguese nationality.</p> <p>The High Commissioner for Migration provides legal assistance to migrants through its National Centres for Migrants' Integration (CNAI) and Local Support Centres for Migrants Integration (Centro Local de Apoio à Integração de Migrantes, CLAIM) spread throughout the country.</p> <p>Other NGOs are involved in the provision of assistance to migrants. To the extent of our knowledge, there is no specific specialisation on statelessness.</p>	<p>Portuguese Refugee Council - <a href="http://www.cpr.pt">www.cpr.pt</a></p> <p>High Commissioner for Migration - <a href="http://www.acm.gov.pt">www.acm.gov.pt</a></p>
RES.3.a	Literature	Is there domestic academic literature on statelessness? Please list and provide references and hyperlinks (where available).		<p>Statelessness is not a frequent topic within domestic literature. Notwithstanding, the following sources may be relevant (directly or indirectly).</p>	<p>- GIL, Ana Rita, <i>Amendments to the Portuguese Nationality Law – towards an (even) more inclusive citizenship</i>, 1 August 2018, available at: <a href="https://bit.ly/2xOg7la">https://bit.ly/2xOg7la</a></p> <p>-GIL, Ana Rita; PIÇARRA, Nuno, <i>Report on Citizenship Law: Portugal</i>, European University Institute, Robert Schuman Centre for Advanced Studies, GLOBALCIT, February 2020, available at: <a href="https://bit.ly/3l6isEw">https://bit.ly/3l6isEw</a></p> <p>- RAMOS, Rui Moura, <i>Estudos de Direito Português da Nacionalidade</i>, 2nd Edition, 2019</p> <p>- Multiple authors, <i>Contencioso da Nacionalidade</i>, Lisboa, 2nd Edition, Centro de Estudos Judiciários, November 2017, available at: <a href="https://bit.ly/2ZPA7WZ">https://bit.ly/2ZPA7WZ</a> (PT)</p> <p>-OLIVEIRA, C. R.; GOMES, N.; SANTOS, T., <i>Acesso à Nacionalidade Portuguesa: 10 anos da Lei em Números, Caderno Estatístico Temático # 1</i>, 2017, Coleção Imigração em Números do Observatório das Migrações (coord. C. R. Oliveira), Lisboa: ACM, available at: <a href="https://bit.ly/2JFjh6M">https://bit.ly/2JFjh6M</a> (PT)</p> <p>- Migration Policy Group, <i>Access to citizenship and its impact on immigrant integration: ACIT handbook for Portugal</i>, 2013, available at: <a href="https://bit.ly/2xN4G3A">https://bit.ly/2xN4G3A</a> (the Nationality Act has been amended multiple times since)</p>