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Country context (optional)

Please use this field to provide any relevant contextual or background information about the country's law, policy, and practice, or the stateless population, to help contextualise the information in the survey (optional question).

The information below is up to date as of December 2021, unless otherwise stated.

A new **Census** was conducted in 2021. The 'stateless' category included a brief explanation of the concept. At the time of writing, updated figures on stateless persons were not publicly available.

The Nationality Act was amended in 2020, with [changes](#) entering into force on 11 November 2020. The revised Nationality Regulation was adopted in March 2022, entering into force in April 2022. As such, an analysis of the new provisions is not included in the current update, but will be included in the 2022 revision of the Index. All references to the Nationality Regulation included in this questionnaire relate to the version in force at the date of completion of the 2021 questionnaire (December 2021). In August 2019, the Portuguese Government approved a [National Plan for the Implementation of the Global Compact for Migration](#). The following implementation measures are listed under objective 4 ("*ensure that all migrants have proof of legal identity and adequate documentation*"): (i) "*simplify and expedite the grant of Portuguese nationality*" (measure 16), and (ii) "*create 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 as a measure of continuous implementation. During the **Global Refugee Forum** 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*".

The importance of identifying vulnerable persons, in particular stateless persons, among asylum seekers was highlighted by the **Human Rights Committee** in its [recent Concluding Observations on Portugal](#) of 2 April 2020.

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?	UN Convention Relating to the Status of Stateless Persons, 1954	Yes.	Documentation and Comparative Law Office: https://bit.ly/2Xthk71 (PT) United Nations Treaty Collection: https://bit.ly/2JRpCOP .
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: https://bit.ly/2Xthk71 (PT) United Nations Treaty Collection: https://bit.ly/2JRpCOP .
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: https://bit.ly/2Xthk71 (PT) United Nations Treaty Collection: https://bit.ly/2JRpCOP .
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 https://bit.ly/2LEUx14 (PT) https://bit.ly/3cWMIte
IOB.2.a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	UN Convention on the Reduction of Statelessness, 1961	Yes.	Documentation and Comparative Law Office: https://bit.ly/30cGi7G (PT) United Nations Treaty Collection: https://bit.ly/2MYMOZ8 .
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: https://bit.ly/30cGi7G (PT) United Nations Treaty Collection: https://bit.ly/2MYMOZ8 .
IOB.2.c		Are there reservations in place? Please list them.	As above	No.	Documentation and Comparative Law Office: https://bit.ly/30cGi7G (PT) United Nations Treaty Collection: https://bit.ly/2MYMOZ8 .
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 https://bit.ly/2LEUx14 (PT) https://bit.ly/3cWMIte
IOB.3.a	Other conventions	State party to European Convention on Nationality 1997? Please list any reservations.	European Convention on Nationality, 1997	Yes. No reservations.	Documentation and Comparative Law Office: https://bit.ly/2L2ibFj (PT) Council of Europe - <i>Chart of signatures and ratifications of Treaty 166</i> : https://bit.ly/2NJxk0a
IOB.3.b		State Party to European Convention on Human Rights 1950? Please list any relevant reservations.	European Convention on Human Rights, 1950	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: https://bit.ly/2LFqLsU (PT) Council of Europe - <i>Chart of signatures and ratifications of Treaty 005</i> : https://bit.ly/2GYQBmr .
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.	Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006	No.	Council of Europe - <i>Chart of signatures and ratifications of Treaty 200</i> : https://bit.ly/2XMJjy2
IOB.3.d		Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Return Directive)? Please list any relevant reservations.	Directive 2008/115/EC of the European Parliament and of the Council (EU Return Directive)	Yes. No reservations.	EUR-Lex: https://bit.ly/2RxG9Yx National transposition through the Immigration Act: https://bit.ly/2WJshfB (PT) and its implementing Regulation https://bit.ly/32aFpyg (PT)

IOB.3.e	State Party to Convention on the Rights of the Child 1989? Please list any relevant reservations.	Convention on the Rights of the Child, 1989	Yes. No reservations.	Documentation and Comparative Law Office: https://bit.ly/2JiA4xn (PT) United Nations Treaty Collection: https://bit.ly/32dPric .
IOB.3.f	State Party to International Covenant on Civil and Political Rights 1966? Please list any relevant reservations.	International Covenant on Civil and Political Rights, 1966	Yes. No reservations.	Documentation and Comparative Law Office: https://bit.ly/2XPRARI (PT) United Nations Treaty Collection: https://bit.ly/2x034kD .
IOB.3.g	State Party to International Covenant on Economic, Social and Cultural Rights 1966? Please list any relevant reservations.	International Covenant on Economic, Social and Cultural Rights, 1966	Yes. No reservations.	Documentation and Comparative Law Office: https://bit.ly/2S6dueo (PT) United Nations Treaty Collection: https://bit.ly/2CC6Xih .
IOB.3.h	State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Please list any relevant reservations.	Convention on the Elimination of all Forms of Discrimination Against Women, 1979 CEDAW, Gen. Rec. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness	Yes. No reservations.	Documentation and Comparative Law Office: https://bit.ly/32aFWAg (PT) United Nations Treaty Collection: https://bit.ly/2jZa8Mc
IOB.3.i	State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Please list any relevant reservations.	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984	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: https://bit.ly/2Jhu5J7 (PT) United Nations Treaty Collection: https://bit.ly/219Eo3R
IOB.3.j	State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1966? Please list any relevant reservations.	International Convention on the Elimination of All Forms of Racial Discrimination, 1965	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: https://bit.ly/2JjH6Ck (PT) United Nations Treaty Collection: https://bit.ly/2Xy6Pj4
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.	International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, 1990	No.	United Nations Treaty Collection: https://bit.ly/29bcEt0
IOB.3.l	State Party to the Convention on the Rights of Persons with Disabilities 2006? Please list any relevant reservations.	Convention on the Rights of Persons with Disabilities, 2006	Yes. No reservations.	Documentation and Comparative Law Office: https://bit.ly/32OEx4x (PT) United Nations Treaty Collection: https://bit.ly/3nzEckZ

Stateless Population Data

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
POP.1.a	Availability and sources	Does the State 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>CEDAW, Gen. Rec. 32 (2014): States parties should gather, analyse and make available sex-disaggregated statistical data and trends.</p> <p>Council of the European Union, Conclusions on Statelessness (2015): 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>UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Improve quantitative and qualitative data on stateless populations.</p> <p>ISI, The World's Stateless (2014): States should strengthen measures to count stateless persons on their territory.</p>	<p>Yes.</p> <p>The results of the 2011 census 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). The 2021 census' preliminary results do not contain disaggregated data on the population. It should be noted that the 2021 census questionnaire included a brief explanation of the concept of "stateless".</p> <p>Statistics Portugal data on resident population for 2020 indicates 30 stateless persons (16 men, 14 women); 0 persons of unknown nationality, and 72 persons recorded as "other non-classifiable" (34 men, 38 women). Data can be further disaggregated by age group.</p> <p>The <i>Immigration, Borders and Asylum Report (RIFA)</i>, 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 2020 edition, 30 persons were recorded as stateless (16 men and 14 women), while 29 (15 men and 14 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 (cfr. <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). The figures are usually quite low.</p> <p>Statistics Portugal data on nationality acquisition at birth reveals that 5 stateless persons in 2018, and less than 5 in 2019 acquired Portuguese nationality during those year. No person of unknown nationality acquired Portuguese nationality in this period. Data on acquisition of nationality after birth for 2020 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 IOM, statelessness is not a frequent issue in the context of the voluntary return programme.</p> <p>UNHCR's 2018 Mapping 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, sex, age group and nationality</i>, available at: https://bit.ly/2ULEdPm</p> <p>Statistics Portugal (INE), Data on resident population (by sex, age group and nationality), available at: https://bit.ly/3353N6v</p> <p>Immigration and Borders Service (SEF), <i>Relatório de Imigração, Fronteiras e Asilo 2020</i>, available at: https://bit.ly/3cXCcbQ (PT)</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: https://bit.ly/2lkedW4 (PT)</p> <p>CPR's casework;</p> <p>Statistics Portugal (INE), Data on nationality acquisition at birth, available at: https://bit.ly/314Jol2</p> <p>Statistics Portugal (INE), Data on nationality acquisition after birth, available at: https://bit.ly/3qoL6F8</p> <p>Information provided by IOM; UNHCR, <i>Mapping Statelessness in Portugal</i>, October 2018, available at: https://bit.ly/2wU7VFY</p>
POP.1.b		Do public 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 Immigration, Borders and Asylum Report (RIFA), published yearly by the Immigration and Borders Service (SEF), includes a separate nationality category for "Palestinians". In its 2020 edition, 86 persons are counted within this group (48 men and 38 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</i></p>	<p>Immigration and Borders Service (SEF), <i>Relatório de Imigração, Fronteiras e Asilo 2020</i>, available at: https://bit.ly/3cXCcbQ (PT)</p> <p>UNHCR, <i>Mapping Statelessness in Portugal</i>, October 2018, available at: https://bit.ly/2wU7VFY</p> <p>Statistics Portugal (INE), Data on resident population (by gender, age</p>

				<p>from Palestine and Western Sahara are to be considered stateless", CPR's experience in the field of international protection reveals that applicants of Palestinian origin continue to be registered as such in many instances (in 2020, 6 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 (POP.1.a), "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 resident population for 2020 (latest available at the time of writing) indicates 86 persons from the Occupied Palestinian Territory (48 men, 38 women), and 72 persons are listed as "other non-classifiable" (34 men, 38 women).</p> <p>Data on acquisition of nationality after birth for 2020 indicate that 6 persons from the Occupied Palestinian Territory acquired Portuguese nationality during the year. According to the information provided by the Central Registry Office in previous years, within the context of naturalisation procedures, previous nationality is registered according to the statement of the person concerned.</p>	<p>group and nationality), available at: https://bit.ly/3353N6v</p> <p>Statistics Portugal (INE), Data on nationality acquisition at birth, available at: https://bit.ly/314Jol2</p> <p>Statistics Portugal (INE), Data on nationality acquisition after birth, available at: https://bit.ly/3qoL6F8</p> <p>Information provided by the Central Registry Office (2020 Update).</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: https://bit.ly/2wU7VFY
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: https://bit.ly/2wU7VFY
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: https://bit.ly/2wU7VFY
POP.1.g		Please provide any available figures for stateless refugees and/or asylum-seekers and clarify if the State 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 1000 asylum applications filed in 2020, less than 5 applicants were stateless and 5 were of unknown nationality.</p> <p>The Immigration, Borders and Asylum Report (RIFA) 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 POP.1.a. The 2020 edition of the report indicates that a total of 1002 asylum applications were filed in the country in 2020.</p> <p>As mentioned above, according to the Asylum Act (art.13), SEF must communicate all asylum applications filed in Portugal to the Portuguese Refugee Council (CPR). 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 are identified as such</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: https://bit.ly/3pdeEFR</p> <p>Immigration and Borders Service (SEF), <i>Relatório de Imigração, Fronteiras e Asilo 2020</i>, available at: https://bit.ly/3cXCcbQ (PT)</p> <p>CPR's casework</p>

				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. Within this context, in 2020, CPR recorded 6 applicants for international protection registered as Palestinians. For more information on the registration policy of applicants for international protection of Palestinian origin, see POP.1.b.	
POP.2.a	Stateless in detention data	Does the State record and publish figures on stateless people held in immigration detention? If yes, please provide.	<p>UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Improve quantitative and qualitative data on stateless populations.</p> <p>CEDAW, Gen. Rec. 32 (2014): State parties should gather, analyse and make available sex-disaggregated statistical data and trends.</p> <p>ISI, The World's Stateless (2014): States should strengthen measures to count stateless persons on their territory.</p> <p>Equal Rights Trust, Guidelines (2012): 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>Council of the European Union, Conclusions on Statelessness (2015): 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>The Immigration, Borders and Asylum Report (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 2020</i>, available at: https://bit.ly/3cXCcbQ (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: https://bit.ly/2S3CV05</p>
POP.2.b		Does the State record and publish figures on people released from immigration detention due to un-removability? If yes, please provide.	As above	<p>The Immigration, Borders and Asylum Report (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 "<i>un-returnable persons in Portugal registered by UHSA</i>" 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 2020</i>, available at: https://bit.ly/3cXCcbQ (PT)</p> <p>Information provided by IOM</p> <p>UNHCR, <i>Mapping Statelessness in Portugal</i>, October 2018, available at: https://bit.ly/2wU7VFY</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.	1954 Convention : 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 https://bit.ly/2LEUx14 (PT) https://bit.ly/3cWMIte
SDS.2.a	Training	Is there training to inform different public authorities about statelessness? If yes, please provide details (e.g. who provides training to whom/how often?)	UNHCR Executive Committee, Conclusion No. 106 (LVII) (2006) : 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.	UNHCR previously reported that, since the publication of <i>Mapping Statelessness in Portugal</i> in September 2018, the organisation conducted training sessions on statelessness targeting officers of the Immigration and Borders Service (SEF), Civil Registration officials, and judges/prosecutors of the administrative jurisdiction. 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. The report covering 2020 was not publicly available at the time of writing. According to the information provided by the Central Registry Office for the 2020 update of the Statelessness Index, the institution's training programmes include statelessness-related matters within the context of nationality.	Information provided by UNHCR SEF, <i>EMN Annual Report on Migration and Asylum 2018</i> , available at: https://bit.ly/3pei5A1 SEF, <i>EMN Annual Report on Migration and Asylum 2019</i> , available at: https://bit.ly/3E3NoQi
SDS.2.b		Is there training for judges and lawyers on statelessness? If yes, please provide details (e.g. provider, frequency).	UNHCR, Good Practices Papers – Action 6 (2020) : 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. UNHCR, Geneva Conclusions (2010) : It is recommended that States provide specialised training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations.	UNHCR conducted a training session on statelessness for judges and prosecutors of the administrative jurisdiction in 2018. The continuing training plans of the Centre for Judiciary Studies for 2020/2021 and for 2021/2022 don't include any training on statelessness. Nonetheless, the plan for 2021/2022 includes training on asylum and protection of migrants.	Information provided by UNHCR Centro de Estudos Judiciários, <i>Plano de Formação Contínua 2020-2021</i> , available at: https://bit.ly/3fEUfUS (PT) Centro de Estudos Judiciários, <i>Plano de Formação Contínua 2021-2022</i> , available at: https://bit.ly/3I3b1JV (PT)
SDS.3.a	Existence of a dedicated SDP	Which of the following best describes the situation in your country? Choose only one and then proceed to question indicated. 1. There is a dedicated statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure, leading to a dedicated stateless status (proceed to Question 4a). 2. 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	UNHCR, Handbook on Protection (2014) : It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments. UNHCR, Good Practices Papers – Action 6 (2020) : Establishing a statelessness determination procedure is the most efficient means for States Parties to identify beneficiaries of the Convention.	GROUP 2. Although stateless persons may be encountered in the context of administrative procedures, none of them amounts to formal identification, including a determination procedure, nor leads to a protection status or relevant consequences for persons concerned.	

		<p>stay and/or access their rights (proceed to Question 10a).</p> <p>3. There is a dedicated stateless status but no formal procedure for determining this (proceed to Question 15a).</p>			
SDS.10.a	Procedures in which statelessness can be identified and other routes to regularisation (Group 2)	<p>If there is no dedicated SDP leading to a stateless status, 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.)?</p>	<p>ENS (2013): For SDPs to be effective, the determination must be a specific objective of the mechanism in question, though not necessarily the only one.</p> <p>ECtHR, Hoti v. Croatia (2018): [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.</p>	<p>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.</p>	
SDS.10.b		<p>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?</p>	<p>1954 Convention UNHCR, Handbook on Protection (2014): It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments.</p>	<p>In cases where a stateless person is simultaneously eligible for international protection, 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 - 2020 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.</p> <p>Regularisation of stay of stateless persons may be possible through the general routes established by the Immigration Act. 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).</p> <p>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.</p> <p>The <i>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).</p> <p>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.</p>	<p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2020 Update</i>, May 2021, available at https://bit.ly/3pLXkle</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: https://bit.ly/2ikedW4 (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: https://bit.ly/2WJshfB (in Portuguese);</p> <p>Immigration and Borders Service (SEF), <i>Relatório de Imigração, Fronteiras e Asilo 2020</i>, available at: https://bit.ly/3cXCcbQ (PT)</p> <p>UNHCR, <i>Mapping Statelessness in Portugal</i>, October 2018, available at: https://bit.ly/2wU7VFY;</p> <p>Information provided by IOM;</p> <p>Governmental Decree n.84/2007 of 5 November (Immigration Act Regulation - consolidated version), available at: https://bit.ly/2G2yxJS (in Portuguese);</p> <p>Immigration and Borders Service (SEF), <i>Rights and duties of a Residence Permit Holder</i>, available at: https://bit.ly/2XFAQII.</p>
SDS.11.a	Access to procedures (Group 2)	<p>Please provide details on how statelessness may be identified in other procedures, which authority is competent to examine and/or</p>	<p>UNHCR, Handbook on Protection (2014): States may choose between a centralised procedure or one that is conducted by local authorities. Centralised procedures are preferable</p>	<p>In cases where a stateless person is simultaneously eligible for international protection, they will regularise their presence on the national territory through that route. Stateless applicants for international protection are entitled to the same rights as</p>	<p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2020 Update</i>, May 2021, available at https://bit.ly/3pLXkle</p>

		identify statelessness and evaluate appropriateness to the national context.	as they are more likely to develop the necessary expertise. UNHCR, Good Practices Papers – Action 6 (2020) : It is important that examiners develop expertise while ensuring that the procedures are accessible. 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.	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 Immigration Act . 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.	Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: https://bit.ly/2lkedW4 (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: https://bit.ly/2WJshfB (in Portuguese); Information provided by IOM; Governmental Decree n.84/2007 of 5 November (Immigration Act Regulation - consolidated version), available at: https://bit.ly/2G2yxJS (in Portuguese); Immigration and Borders Service (SEF), <i>Rights and duties of a Residence Permit Holder</i> , available at: https://bit.ly/2XFAQII .
SDS.11.b		Are there obligations in law on authorities to consider a claim of statelessness?	UNHCR, Good Practices Papers – Action 6 (2020) : 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?	1954 Convention UNHCR, Handbook on Protection (2014) : For procedures to be fair and efficient, access must be ensured (dissemination of info, targeted info campaigns, counselling on the procedures, etc.). UNHCR, Good Practices Papers – Action 6 (2020) : Information on the procedure and counselling services must be available to potential applicants in a language they understand.	Statelessness is not identified or determined in any procedures.	
SDS.11.d		Is there cooperation between agencies that may have contact with stateless people?	UNHCR, Good Practices Papers – Action 6 (2020) : 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)?	UNHCR, Handbook on Protection (2014) : The burden of proof is in principle shared (both applicant and examiner must cooperate to obtain evidence and establish the facts). UNHCR, Good Practices Papers – Action 6 (2020) : SDPs must take into consideration the difficulties inherent in proving statelessness. UNHCR, Geneva Conclusions (2010) : In statelessness determination procedures, the burden of proof should therefore be shared between the applicant and the authorities responsible for making the determination. 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. ECtHR, Hoti v. Croatia (2018) : 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?	UNHCR, Handbook on Protection (2014) : States are advised to adopt the same standard of proof as in refugee status determination ('reasonable degree'). UNHCR, Good practices in nationality laws (2018) : 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.	Statelessness is not identified or determined in any procedures.	

			ECtHR, Hoti v. Croatia (2018) : 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.		
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.)?	ENS (2013) : Determining authorities can benefit from concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances.	Information not available.	
SDS.13.a	Procedural safeguards (Group 2)	Is free legal aid available to stateless people generally?	UNHCR, Handbook on Protection (2014) : Applicants should have access to legal counsel; where free legal assistance is available, it should be offered to applicants without financial means. ENS (2013) : 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.	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)). 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). 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 (art.150(3)).	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: https://bit.ly/3qiO64r (in Portuguese); Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: https://bit.ly/2ikedW4 (in Portuguese); Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: https://bit.ly/2WJshfB (in Portuguese).
SDS.13.b		Is free interpreting available to stateless people?	UNHCR, Handbook on Protection (2014) : The right to assistance with interpretation/translation [is] essential. ENS (2013) : Assistance should be available for translation and interpretation.	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). 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 (art.150(4)).	Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: https://bit.ly/2ikedW4 (in Portuguese); Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: https://bit.ly/2WJshfB (in Portuguese).
SDS.13.c		Are there other procedural safeguards in place in procedures through which stateless people may have their statelessness identified or determined, or regularise their stay (e.g., decisions given in writing with reasons, right to an interview, time limit, right of appeal, audits in decision-making, etc.)?	UNHCR, Handbook on Protection (2014) : States are encouraged to incorporate the safeguard that decisions are made in writing with reasons. It is undesirable for a first instance decision to be issued more than six months from submission of an application. In exceptional circumstances it may be appropriate to allow the proceedings to last up to 12 months. An effective right to appeal against a negative first instance decision is an essential safeguard in an SDP.	The procedural safeguards in place in the above-mentioned procedures are not specifically meant to ensure that statelessness is addressed in such procedures. A full overview of procedural safeguards in each procedure is available in the relevant legislative frameworks. Notably, according to the Administrative Procedure Code, the general rule is that administrative decisions must be delivered in writing (art.150(1)). Also, reasons must be given for certain administrative acts (including for negative decisions) (arts.152 and 153 Administrative Procedure Code). Both the Asylum Act and the Immigration Act contain specific obligations for the Immigration and Borders Service (SEF) regarding this matter.	Decree-Law n. 4/2015, of 07 January, last amended by Law n. 72/2020, of 16 November (Administrative Procedure Code), available at: https://bit.ly/2KSQwYR (in Portuguese); Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: https://bit.ly/2ikedW4 (in Portuguese); Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: https://bit.ly/2WJshfB (in Portuguese).
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.	UNHCR, Handbook on Protection (2014) : 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 permission would fulfil the object and purpose of the treaty.	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 residence permit on general or humanitarian grounds under the Immigration Act).	CPR's casework.
SDS.14.b		Are stateless people otherwise able to access their rights under the 1954 Convention? Please state whether stateless people can access: - right to reside - travel document	1954 Convention UNHCR, Handbook on Protection (2014) : 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	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. Stateless applicants and beneficiaries of international protection are entitled to the	Ministry of Health, Manual De Acolhimento no Acesso ao Sistema de Saúde de Cidadãos Estrangeiros, available at: https://bit.ly/3ciF9TJ (in Portuguese);

		<ul style="list-style-type: none"> - work - healthcare - social security - education - housing - family reunification - right to vote. <p>[Section complete, proceed to DET]</p>	<p>years, although longer permits, such as five years, are preferable in the interests of stability. Permits should be renewable. States parties are encouraged to facilitate the reunification of those with recognised stateless status with their spouses and dependents. The right to work, access to healthcare and social assistance, as well as a travel document must accompany a residence permit.</p>	<p>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>Decree-Law n. 67/2004, of 25 March, available at: https://bit.ly/3sTJDLY (in Portuguese);</p> <p>ACM, My children have the right to access to school?, available at: https://bit.ly/2OvcgeQ;</p> <p>ACM, When sick, what are the rights and duties?, available at: https://bit.ly/3eisUcm;</p> <p>Asylum Information Database (AIDA) - Country Report - Portugal - 2020 Update, May 2021, available at: https://bit.ly/3pLXkle;</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: https://bit.ly/2ikedW4 (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: https://bit.ly/2WJshfB (in Portuguese);</p> <p>Immigration and Borders Service (SEF), Rights and duties of a Residence Permit Holder, available at: https://bit.ly/2XFAQII.</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: https://bit.ly/2YDklyf (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: https://bit.ly/2LiZU8u (in Portuguese).</p> <p>Treaty of Friendship, Cooperation and Consultation between the Portuguese Republic and the Federative Republic of Brazil, available at: https://bit.ly/3arfEik (in Portuguese)</p> <p>National Election Commission, http://www.cne.pt/</p>
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Detention

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
DET.1.a	Immigration detention	Please provide a brief overview of whether immigration detention powers are provided for in law and applied in practice, and whether alternatives to detention are considered. Please provide the legal source(s) and, if available, refer to other publications and sources of information about the law, policy, and practice on immigration detention.	<p>ICCPR: Article 9 ECHR: Article 5 EU Return Directive: Article 15 UNHCR, Handbook on Protection (2014): 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. UN General Assembly (2009): Calls upon all States to adopt alternative measures to detention. HRC, Report of the Special Rapporteur (2012): The obligation to always consider alternatives before resorting to detention should be established by law. International Detention Coalition (2015): 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>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 constitutional provision regarding immigration detention (cfr. supra) is in line with the relevant ECHR norm. Its implementation is operated by ordinary legislation.</p> <p>The Immigration Act establishes the framework for administrative detention following refusal of entry into national territory (arts.32 <i>et seq</i>), and in case of removal procedures (arts.142 and 146).</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>With regards to refusal of entry when re-embarkment 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 absconding, 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>As underlined by IOM, the Immigration Act does not include criteria to evaluate the risk of absconding. According to the information gathered by the IOM, 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>Constitution of the Portuguese Republic - art.27, available at https://bit.ly/2LEUx14 (PT) https://bit.ly/3cWMIte</p> <p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: https://bit.ly/2WJshfB (PT)</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: https://bit.ly/2lkedW4 (PT)</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2020 Update</i>, May 2021, available at https://bit.ly/3pLXkle</p> <p>Information provided by IOM</p> <p>Immigration and Borders Service (SEF), <i>Relatório de Imigração, Fronteiras e Asilo 2020</i>, available at: https://bit.ly/3cXCcbQ (PT)</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 absconding but on the lack of accommodation for the person concerned.</p> <p>It should be mentioned that the Portuguese removal regime has a clear preference for 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 2020, the Immigration and Borders Service (SEF) opened 478 (coercive) removal procedures, while notifying 2,182 persons irregularly present in the national territory to (voluntary) leave the country. SEF also reports that a total of 681 removal procedures were concluded in 2020, of which 208 resulted in removal decisions and 473 were dismissed.</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>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).</p> <p>The Asylum Act further establishes that detention must be applied only if less burdensome alternative measures cannot be effectively implemented (arts.35-A and 35-B).</p> <p>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).</p> <p>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).</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>In practice, detention of asylum seekers is limited to applicants at the border, where it was routinely applied until March 2020. 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</p>	
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				<p>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 AIDA Country Report - Portugal - 2020 Update.</p>	
DET.1.b		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>ICCPR: Repeated attempts to expel a person to a country that refuses to admit them could amount to inhuman or degrading treatment (Article 7). ECtHR, Auad v. Bulgaria (2011): In cases detention with a view to deportation, lack of clarity as to the destination country could hamper effective control of the authorities' diligence in handling the deportation. EU Return Directive: 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: https://bit.ly/2WJshfB (PT)</p> <p>Information provided by IOM</p>
DET.1.c		Is there a clear obligation on authorities to release a person when there is no reasonable prospect of removal?	<p>EU Return Directive: When it appears that a reasonable prospect of removal no longer exists, detention ceases to be justified and the person concerned shall be released immediately. UN Working Group on Arbitrary Detention (2018): When the obstacle for identifying or removal of persons in an irregular situation from the territory is not attributable to them, the detainee must be released to avoid potentially indefinite detention from occurring, which would be arbitrary. ECtHR, Auad v. Bulgaria (2011) ECtHR, Mikolenko v. Estonia (2009)</p>	<p>No. The Immigration Act does not contain a specific obligation to release a person when there is no reasonable prospect of removal.</p>	<p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: https://bit.ly/2WJshfB (PT)</p>
DET.2.a	Identification of statelessness	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>ECtHR, Auad v. Bulgaria (2011) ECtHR, Mikolenko v. Estonia (2009): Detention may only be justified as long as deportation proceedings are being conducted with due diligence. UNHCR, Handbook on Protection (2014): Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary. Equal Rights Trust, Guidelines (2012): 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. ICJ, Migration and International Human Rights Law (2014): 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: https://bit.ly/2WJshfB (PT)</p> <p>Information provided by IOM</p>
DET.2.b		Is there a definition of vulnerability in law? If yes, does it explicitly include statelessness? If not, please note whether statelessness is considered to be a factor increasing vulnerability.	<p>PICUM, Preventing and Addressing Vulnerabilities in Immigration Enforcement Policies (2021): Statelessness should be explicitly included in the definition of vulnerability. Vulnerability should always be determined and assessed on an individual basis.</p>	<p>The Immigration Act does not explicitly contain a definition of vulnerability. However, the Law contains examples of vulnerable persons. Stateless persons are not included.</p> <p>The Asylum Act does not contain an autonomous definition of particularly vulnerable persons, equating it to persons with special needs (art.2(1)(y)). It lists a number of situations where the existence of such needs is presumed. Statelessness is not included (see also art.17(1)).</p>	<p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: https://bit.ly/2WJshfB (PT)</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: https://bit.ly/2ikedW4 (PT)</p>
DET.2.c		Are individual vulnerability assessments carried out before a decision to detain (or soon after)?	<p>ENS, Protecting Stateless Persons From Arbitrary Detention (2015): Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless people are not addressed. EU Return Directive: Article 16(3)</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).</p> <p>There is no specific reference to vulnerability assessments within the context of a decision</p>	<p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: https://bit.ly/2WJshfB (PT)</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: https://bit.ly/2ikedW4 (PT)</p>

			<p>EU Return Handbook (2017): Attention should be paid to the specific situation of stateless persons.</p> <p>Council of the European Union, Guidelines to promote and protect the enjoyment of all human rights by LGBTI persons (2013): European entities should assess the situation of LGBTI persons in detention.</p> <p>PICUM, Preventing and Addressing Vulnerabilities in Immigration Enforcement Policies (2021): There should be a clear legal obligation to screen and assess individuals' vulnerability before a decision to detain is taken and before individuals are placed into situations of deprivation or restriction of liberty.</p>	<p>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.</p> <p>Notwithstanding, IOM highlighted that there seems to exist an effort from the Courts in this realm.</p> <p>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>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 (arts.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>In 2020, the Human Rights Committee 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 - 2020 Update</i>.</p>	<p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2020 Update</i>, May 2021, available at https://bit.ly/3pLXkle</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: https://bit.ly/32dwkqL</p>
DET.2.d		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>	CPR
DET.3.a	Procedural safeguards	Are there adequate procedural safeguards in place for individuals in immigration detention (e.g. maximum period of detention, decisions in writing, regular periodic reviews, judicial oversight, legal aid, etc.)?	<p>ICCPR: Article 9(4)</p> <p>ECHR: Article 5(4)</p> <p>EU Return Directive: Articles 12, 13 and 15(5)</p> <p>HRC, Report of the Working Group on Arbitrary Detention (2010): A maximum period of detention must be established by law and upon expiry the detainee must be automatically released.</p> <p>UNHCR, Detention Guidelines (2012): To guard against arbitrariness, maximum periods of detention should be set in national law.</p> <p>UNHCR, Handbook on Protection (2014): 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>UNGA, Body of Principles (1988): Anyone who is arrested shall be informed at the time of the reason for his arrest.</p> <p>Equal Rights Trust, Guidelines (2012): Stateless detainees shall receive their order of detention in writing and in a language they understand. 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</p>	<p>According to article 146(3) of the Immigration Act, if detention (<i>placement in a temporary installation centre or in another facility classified as such</i>) 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 two reports of the National Preventive Mechanism published in 2017 and in 2021, while the 60 days limit are generally respected, some cases were identified where such limits were exceeded.</p> <p>Within the context of asylum, article 35-B of the Asylum Act also establishes a maximum detention period of 60 days (art.35-B(1) Asylum Act).</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>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: https://bit.ly/2WJshfB (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: https://bit.ly/2S3CV05 (PT)</p> <p>Ombudsperson - <i>National Preventive Mechanism, Report to the Parliament 2019</i>, available at: https://bit.ly/396ANiv (PT)</p> <p>Ombudsperson - <i>National Preventive Mechanism, Report to the Parliament 2020</i>, available at: https://bit.ly/3rG244W (PT)</p> <p>Constitution of the Portuguese Republic - art.27(4), available at https://bit.ly/2LEUx14 (in Portuguese); https://bit.ly/3cWMitE (in English).</p> <p>Ombudsperson, <i>National Preventive Mechanism, Report to the Parliament</i></p>

			<p>authorities. Detention should always be for the shortest time possible. ECtHR, Kim v. Russia (2014): 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>With regards to persons detained in airport facilities, specifically 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 been 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 and 2020 reports do 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 the pandemic, IOM and Doctors of the World developed specific information materials regarding Covid-19 and the State of Emergency to detained migrants.</p> <p>With regards to asylum, article 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 - 2020 Update</i>).</p> <p>The detention is reviewed ex officio by the competent court every 8 days.</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, within the context of the application of the Immigration Act, detainees are heard by the judge.</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, according to CPR’s experience, applicants detained at the border were not usually heard by a judge for the purposes of judicial validation of detention. 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 - 2020 Update</i>).</p> <p>According to the Immigration Act, persons whose entry into national territory was</p>	<p>2018, available at: https://bit.ly/2S7tdcW</p> <p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: https://bit.ly/2lkedW4 (PT)</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2020 Update</i>, May 2021, available at https://bit.ly/3pLXkle</p> <p>CPR’s casework</p> <p>Act n.34/94 of 14 September, available at: https://bit.ly/339XA9s (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: https://bit.ly/3muCsST (PT)</p> <p>Assembleia da República, <i>Audição do Ministro da Administração Interna</i>, 15 December 2020, video recording available at: https://bit.ly/39WClfc (PT)</p> <p>Assembleia da República, <i>Audição do Mecanismo Nacional de Prevenção</i>, 22 December 2020, video recording available at: https://bit.ly/3tFzQpd (PT)</p>
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				<p>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 article 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, as mentioned, 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. Article150(4) of the Immigration Act 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, during 2020, the previously existing accreditation procedure for visitors (including legal aid lawyers) and the payment of an entrance fee in the airport's restricted area were eliminated (for more, see Ombudsperson, <i>National Preventive Mechanism, Report to the Parliament 2020</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 by a lawyer present at SEF premises - through the creation of on-site shifts of lawyers. The Ombudsperson noted that there were delays in the practical implementation of the protocol, and that the procedural rules on its implementation entered in force on 8 March 2021.</p>	
DET.3.b		Are detainees provided with information on their rights, contact details of legal advice and support providers, and guidance on how to access an SDP?	Equal Rights Trust, Guidelines (2012) : 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	Article146-A(5) of the 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	Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: https://bit.ly/2WJshfB (PT) Information provided by IOM

			<p>protect them, NGOs and visiting groups and advice on how to challenge the legality of their detention and their treatment as detainees.</p>	<p>(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>Within the context of the pandemic, IOM and Doctors of the World developed specific information materials regarding Covid-19 and the State of Emergency to detained migrants</p> <p>According to the Ombudsperson, upon arrival at the Lisbon airport facility, information leaflets are made available - with the telephone numbers of the Ombudsman and the Bar Association - in Portuguese, English and French. Nonetheless, the Internal Regulations of this facility also provide for the existence of leaflets in Spanish, Arabic, Hindi, Urdu, Mandarin and Russian, as well as for translation into a language known to foreign citizens, in the event that they do not understand any of the existing languages. As mentioned above, there is no SDP in place in Portugal.</p> <p>For more on access to information in case of detention within the context of asylum procedures, see <i>AIDA Country Report - Portugal - 2020 Update</i>.</p>	<p>Ombudsperson - <i>National Preventive Mechanism, Report to the Parliament 2020</i>, available at: https://bit.ly/3rG244W (PT)</p>
DET.3.c		<p>Are there guidelines in place governing the process of re-documentation and ascertaining entitlement to nationality for the purpose of removal?</p>	<p>Equal Rights Trust, Guidelines (2012): The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation.</p> <p>ENS, Protecting Stateless Persons From Arbitrary Detention (2015): The detaining state should have rules in place that govern the process of re-documentation and/ or ascertaining entitlement to nationality.</p>	<p>Information not available</p>	<p>CPR's casework</p> <p>Information provided by IOM</p>
DET.4.a	<p>Protections on release</p>	<p>Are people released from detention issued with identification documents (including confirmation of their stateless status) and protected from re-detention?</p>	<p>1954 Convention: Article 27</p> <p>UNHCR, Handbook on Protection (2014): Being undocumented cannot be used as a general justification for detention.</p> <p>ENS, Protecting Stateless Persons From Arbitrary Detention (2015): State parties to the 1954 Convention have an obligation to provide stay rights to stateless people who have been released from detention.</p> <p>Equal Rights Trust, Guidelines (2012): 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>	<p>Information provided by IOM</p>
DET.4.b		<p>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>	<p>CJEU, Kadzoev, C-357/09 PPU (2009): 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>Equal Rights Trust, Guidelines (2012): 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 - 2020 Update</i>).</p>	<p>Act n. 27/2008 of 30 of June, amended by Act n. 26/2014 (Asylum Act), available at: https://bit.ly/2lkedW4 (PT)</p> <p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: https://bit.ly/2WJshfB (PT)</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2020 Update</i>, May 2021, available at https://bit.ly/3pLXkle</p>
DET.5.a	<p>Return and readmission agreements</p>	<p>Is statelessness considered a juridically relevant fact in any bilateral readmission and/or return agreements?</p>	<p>UNHCR, Handbook on Protection (2014): 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</p>	<p>Ministry of Home Affairs, Bilateral Agreements, available at: https://bit.ly/2Ya8udW (PT)</p>

				<p>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>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 2020, there were 88 readmissions, of which 69 passive (requested by the authorities of France, Hungary and Spain) and 19 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>Office of the Public Prosecutor Office, Agreements, available at: https://bit.ly/36wGKDN (PT)</p> <p>Act n. 23/2007 of 4 July, last amended by Act n. 28/2019, of 29 March (Immigration Act), available at: https://bit.ly/2WJshfB (PT)</p> <p>Immigration and Borders Service (SEF), <i>Relatório de Imigração, Fronteiras e Asilo 2020</i>, available at: https://bit.ly/3cXCcbQ (PT)</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: https://bit.ly/3g6OFL3</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	Naturalisation	In what timeframe do stateless people who are residing on the territory acquire the right to apply for naturalisation, and how does this compare to others with a foreign nationality?	<p>1954 Convention: Article 32</p> <p>UNHCR, Good Practices Papers – Action 6 (2020): It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons.</p> <p>CoE Committee of Ministers, Recommendation No. R (99) 18 (1999): Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory.</p> <p>ENS (2013): 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>	While there is no specific naturalisation regime for stateless people, in theory, they have access to nationality through the general naturalisation regime.	<p>UNHCR, <i>Mapping Statelessness in Portugal</i>, October 2018, available at: https://bit.ly/2wU7VfY;</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2020 Update</i>, May 2021, available at https://bit.ly/3pLXkle</p> <p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (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: https://bit.ly/2LeI59X (in Portuguese);</p> <p>Ombudsperson, <i>Statelessness: A Minorities Issue Questionnaire to the Special Rapporteur on Minority Issues</i>, May 2018, available at: https://bit.ly/37xtDkV.</p>
PRS.1.b		Are there requirements relating to ‘good character’ or previous criminal convictions that could prevent some stateless people from naturalising? If yes, please describe.	<p>CoE Committee of Ministers, Recommendation No. R (99) 18 (1999): 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).</p> <p>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).</p> <p>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 Ruling 106/2016 of 24 February and Ruling 497/2019, of 26 September 2019, both from the Constitutional Court), see question RES.1.a.</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>	<p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (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: https://bit.ly/2LeI59X (in Portuguese).</p>
PRS.1.c		Are there exemptions for stateless people from any nationality or integration test, language, income or fee requirements for naturalisation? Please describe the requirements and cost of the procedure for stateless adults and children.	<p>1954 Convention: Article 32</p> <p>UNHCR, Good Practices Papers – Action 6 (2020): It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons.</p> <p>CoE Committee of Ministers, Recommendation No. R (99) 18 (1999): Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory.</p>	<p>No, there are no specific exemptions for stateless people.</p> <p>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"> - Is an adult or emancipated person according to national law; - Legally resides in the country for at least 5 years; - Has sufficient knowledge of Portuguese language (according to the Nationality Regulation, A2 level CEFR); - 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; - Does not represent a danger or threat to national security/defence due to engagement in terrorism-related activities. <p>Notwithstanding the relative flexibility of the nationality regime, substantive (e.g., regular</p>	<p>UNHCR, <i>Mapping Statelessness in Portugal</i>, October 2018, available at: https://bit.ly/2wU7VfY;</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2020 Update</i>, May 2021, available at https://bit.ly/3pLXkle</p> <p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (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: https://bit.ly/2LeI59X (in Portuguese);</p> <p>Ombudsperson, <i>Statelessness: A Minorities Issue Questionnaire to the Special Rapporteur on Minority Issues</i>,</p>

				<p>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.7.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.2.i.</p> <p>The costs of procedures for nationality acquisition vary according to the applicable legal provision. For naturalisation, for instance, the procedure can be free of charge or have a cost of up to 250€.</p>	<p>May 2018, available at: https://bit.ly/37xtDkV.</p> <p>Decree-Law no.322-A/2001, of 14 December (Registry and Notary Fees Regulation), available at https://bit.ly/3GzD9Um (in Portuguese).</p>
PRS.2.a	Stateless born on territory	<p>Is there a provision in law for stateless children born on the territory to acquire nationality? [If yes, continue to PRS2b. If no, proceed to PRS2i]</p>	<p>1961 Convention: Article 1 ECN: Article 2 CRC: Article 7 Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC: States should strengthen measures to grant nationality to children born in their territory in situations where they would otherwise be stateless.</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: https://bit.ly/2jukiBm (PT)</p>

			<p>HRC, CCPR General comment No. 17 (1989): States are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he is born.</p> <p>European Parliament resolution (2018): The EU and its MS should ensure that childhood statelessness is adequately addressed in national laws in full compliance with Article 7 CRC.</p>		
PRS.2.b	Is the provision for otherwise stateless children to acquire nationality automatic or non-automatic (i.e. by application)?	<p>UNHCR, Guidelines on Statelessness No. 4 (2012): 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>ENS, No Child Should Be Stateless (2015): The 1961 Convention and the European Convention on Nationality 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>According to article 6 of the Nationality Act, such registration must be done 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 14/12/2021).</p> <p>It is also worth mentioning that the 2020 amendment to the Nationality Act widened the scope of acquisition of nationality at birth 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). Following an opinion from the Advisory Board of the Institute of Registration and Notary Affairs (Conselho Consultivo do Instituto de Registos</p>	<p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (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: https://bit.ly/2Lel59X (PT)</p> <p>Information provided by the Central Registry Office (2020 Update)</p> <p>Conselho Consultivo do Instituto de Registos e Notariado, Parecer n.º 1/CC/2021, 21 February 2021, available at: https://bit.ly/33jFXH3 (PT)</p>	

				e Notariado) issued in February 2021, the changes introduced to the provision (2018 and 2020), apply retroactively.	
PRS.2.c		Are parents provided with information about their child's nationality rights and relevant procedures, including where the child would otherwise be stateless or has undetermined nationality?	UNHCR, Guidelines on Statelessness No. 4 (2012) : Contracting States are obliged to provide detailed information to parents of children who would otherwise be stateless or of undetermined nationality about the possibility of acquiring the nationality, how to apply and about the conditions which must be fulfilled. If the child concerned can acquire the nationality of a parent immediately after birth, States that opt to not grant nationality to children in these circumstances must assist parents in initiating the relevant procedure with the authorities of their State or States of nationality.	Official information in this regard is not available. According to the experience of CPR, the information provided to parents at the time of birth registration is often quite limited and varies according to the location. Within the same context, CPR has witnessed knowledge gaps regarding the conditions for acquisition at birth when the parents are not Portuguese.	CPR's casework
PRS.2.d		Is it a requirement that the parents are also stateless for the otherwise stateless child to acquire nationality?	UNHCR, Guidelines on Statelessness No. 4 (2012) : The test is not an inquiry into whether a child's parents are stateless. ENS, No Child Should Be Stateless (2015) : 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: https://bit.ly/2jukiBm (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: https://bit.ly/2LeI59X (PT) Information provided by the Central Registry Office (2020 Update)
PRS.2.e		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.	UNHCR, Guidelines on Statelessness No. 4 (2012) : 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, but in the case of children the State assumes a greater share of the burden of proof. 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: https://bit.ly/2jukiBm (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: https://bit.ly/2LeI59X (PT) Information provided by the Central Registry Office (2020 Update)
PRS.2.f		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.	1961 Convention : Article 1(2) UNHCR, Guidelines on Statelessness No. 4 (2012) : 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. CRC : Articles 3 & 7 Committee on the Rights of the Child, Concluding observations on the Netherlands (2015) : Recommends the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to nationality without any conditions. ECN : 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: https://bit.ly/2jukiBm (PT)
PRS.2.g		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.	Committee on the Rights of the Child, Concluding observations on Czech Republic (2011) : 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. ENS, No Child Should Be Stateless (2015) : 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: https://bit.ly/2jukiBm (PT)

PRS.2.h		What are the age limits (if any) for making an application for nationality for a stateless person born on the territory?	<p>1961 Convention: Article 1(2)</p> <p>UNHCR, Guidelines on Statelessness No. 4 (2012): 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.</p> <p>ENS, No Child Should Be Stateless (2015): 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.</p>	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.	<p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (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: https://bit.ly/2LeI59X (PT)</p> <p>Information provided by the Central Registry Office (2020 Update)</p>
PRS.2.i		Are there specific provisions to protect the right to a nationality of children born to refugees?	<p>UNHCR, Guidelines on Statelessness No. 4 (2012): 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 - 2020 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: https://bit.ly/2jukiBm (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: https://bit.ly/2LeI59X (PT)</p> <p>Asylum Information Database (AIDA) - <i>Country Report - Portugal - 2020 Update</i>, May 2021, available at www.asylumineurope.org</p>

PRS.3.a	Foundlings	Are foundlings granted nationality automatically by law? If not automatic, please describe the procedure.	1961 Convention : Article 2 ECN : Article 6(1)(b)	The Nationality Law establishes in article 1(2) that new-born foundlings are presumed to have been born in Portugal, unless proven otherwise. 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.	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (PT) Information provided by the Central Registry Office (2020 Update)
PRS.3.b		Is there an age limit (e.g. 'new-born' or 'infant') in law or practice specifying when a foundling would qualify for nationality?	UNHCR, Guidelines on Statelessness No. 4 (2012) : At a minimum, the safeguard should apply to all young children who are not yet able to communicate information about the identity of their parents or their place of birth.	Article 1(2) of the Nationality Act only refers to new-born foundlings. According to the information priorly provided by the Central Registry Office, the same procedure is 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).	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (PT) Civil Registration Code, available at: https://bit.ly/2LS5xIw (PT) Information provided by the Central Registry Office (2020 Update)
PRS.3.c		Can nationality be withdrawn from foundlings if this leads to statelessness?	UNHCR, Guidelines on Statelessness No. 4 (2012) : 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..8.a and PRS.8.d). As such, in principle nationality cannot be withdrawn from foundlings. This information was confirmed by the Central Registry Office for prior updates.	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (PT) Information provided by the Central Registry Office (2020 Update)
PRS.4.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?	1961 Convention : Article 5 ENS, No Child Should Be Stateless (2015) : 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 for prior updates.	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (PT) Information provided by the Central Registry Office (2020 Update)
PRS.4.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.	ECN : Article 6(4)(d) Committee on the Rights of the Child, Concluding Observations on Switzerland (2015) : 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 (arts.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.	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (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: https://bit.ly/2LeI59X (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: https://bit.ly/2XGCsHf (PT) Act no.143/2015 of 8 September (establishing the Legal Framework for Adoption): https://bit.ly/2XOa5Sr (PT) Civil Procedure Code, available at: https://bit.ly/2LSXmM5 (PT) Information provided by the Central Registry Office (2020 Update)

				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.	
PRS.5.a	ius sanguinis	Can children born to nationals abroad acquire nationality by descent (<i>ius sanguinis</i>) in general and/or if they would otherwise be stateless?	<p>1961 Convention: Article 4</p> <p>UNHCR, Guidelines on Statelessness No. 4 (2012): 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.</p>	<p>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).</p> <p>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).</p> <p>Acquisition in the former situation is regulated in detail by articles 8 and 9 of the Nationality Regulation.</p> <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 for prior updates, 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 in previous years, 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>According to the available information, since 2021, this procedure can be performed online for children born in EU Member States or in the UK. It was not possible to gather further information on the implementation of the online registration system.</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 "<i>situation of 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. According to the 2020 report, the recommendation was accepted by the Institute of Registration and Notary Affairs (IRN).</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>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (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: https://bit.ly/2LeI59X (PT)</p> <p>Information provided by the Central Registry Office (2020 Update)</p> <p>Portal das Comunidades Portuguesas, <i>Registos de Nascimento online</i>, available at: https://bit.ly/3oRo9ve (PT)</p> <p>Instituto dos Registos e Notariado, <i>Pedir online o registo de nascimento e a nacionalidade</i>, available at: https://bit.ly/3m2QXzn (PT)</p> <p>Ombudsperson, Relatório à Assembleia da República – 2019, p.124, available at: https://bit.ly/3oOycBj</p> <p>Ombudsperson, Relatório à Assembleia da República – 2020, p.137, available at: https://bit.ly/31WPJyH</p>
PRS.5.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>EctHR, Genovese v. Malta (2011): The state must ensure that the right to nationality is secured without discrimination.</p> <p>CEDAW, Gen. Rec. 32 (2014): 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>UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): 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: https://bit.ly/2jukiBm (PT)

PRS.6.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>CRC: Article 7 ICCPR: Article 24(2) CoE Recommendation CM/Rec(2009)13 (2009): 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. UNHCR, Guidelines on Statelessness No. 4 (2012): Article 7 CRC applies irrespective of the nationality, statelessness or residence status of the parents. UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Action 7 UN Sustainable Development Goal 16.9</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 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. 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 (arts.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>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>Within the context of the COVID-19 pandemic all of the <i>Nascer Cidadão</i> registration desks were temporarily closed. During that period, birth registration continued to be performed in civil registry offices in urgent cases upon appointment. Since 13 April 2020, it is possible to perform the birth registration online. According to media reports revealed in 2021, the closure of the <i>Nascer Cidadão</i> registration desks caused significant gaps in the registration of new-borns, notably those born to foreign parents.</p>	<p>Civil Registration Code, available at: https://bit.ly/2LS5xIw (PT)</p> <p>Information provided by the Central Registry Office (2020 Update)</p> <p>Ministry of Justice, <i>Registar Nascimento</i>, available at: https://bit.ly/2XG6Rp0 (PT)</p> <p>Ministry of Justice, Nota à comunicação social - Registo de nascimento pela internet a partir de hoje, 13 April 2020, available at: https://bit.ly/33BgeHw (PT)</p> <p>Institute of Registration and Notary Affairs, <i>Guia: Como pedir online o registo de nascimento</i>, available at: https://bit.ly/3g10DpC (PT)</p> <p>Law 1-A/2020, of 19 March, available at: https://bit.ly/36txJLO (PT)</p> <p>Law 4-A/2020, of 6 April, available at: https://bit.ly/39BJ11k (PT)</p> <p>TSF, <i>Pandemia deixa dezenas de bebés por registar em Portugal: "É perigoso, mesmo a nível de tráfico"</i>, 18 June 2021, available at: https://bit.ly/33xBNf7 (PT)</p>
PRS.6.b		Are all children issued with birth certificates upon registration? If no, please describe legal status of documentation issued.	<p>HRC, Resolution A/HRC/RES/20/4 (2012): 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. Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC: 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: https://bit.ly/2xQ3soq (PT)</p>

PRS.6.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.)	CRC : Articles 3 & 7	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. With regards to proof of nationality, Portuguese nationality acquired at birth is proved through the birth certificate and registrations therein (art.21 Nationality Act).	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2iukiBm (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: https://bit.ly/2Lel59X (PT)
PRS.6.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.	CRC : Articles 3 & 7 1961 Convention : Articles 1 & 4 UNHCR, Guidelines on Statelessness No. 4 (2012) : 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. HRC, CCPR General comment No. 17 (1989) : States are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he is born. HRC, D.Z. v. Netherlands (2021)	No.	
PRS.6.e	Are there credible reports to suggest that children are prevented from registering in practice because of parents' migration or residence status, sexual orientation or gender identity, or other reasons (please specify)?	Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC : 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. Global Compact for Safe, Orderly and Regular Migration : 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. Global Compact on Refugees : States commit to fulfil the right of all individuals to a legal identity and ensure that migrants are issued documentation and civil registry documents. European Parliament Resolution (2018) : Calls on Member States to take immediate corrective measures to stop discriminatory birth registration.	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 has been confirmed by the Central Registry Office in previous years 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 (2020 Update) CPR's casework Civil Registration Code, available at: https://bit.ly/2LS5xIw (PT)
PRS.6.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)? If not, is there a clear firewall to prohibit the sharing of information by other entities with immigration authorities?	Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC and Joint General Comment No. 3 (2017) CMW and No. 22 (2017) CRC : 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. CoE, ECRI General Policy Recommendation No. 16(2016) : 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.	The Law does not establish such reporting requirements. This information was confirmed by the Central Registry Office for prior updates. The law does not establish a clear firewall prohibiting the sharing of information with immigration authorities either. 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: https://bit.ly/2LS5xIw (PT) Information provided by the Central Registry Office (2020 Update)

PRS.6.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.	Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC : Measures should also be taken to facilitate late registration of birth and to avoid financial penalties for late registration. HRC, Resolution A/HRC/RES/20/4 (2012) : Calls upon States to ensure free birth registration, including free or low-fee late birth registration, for every child.	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: https://bit.ly/2LS5xIw (PT) Information provided by the Central Registry Office (2020 Update)
PRS.6.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: https://bit.ly/2LS5xIw (PT) Information provided by the Central Registry Office (2020 Update)
PRS.7.a	Reducing <i>in situ</i> statelessness	Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.	UNHCR, Global Action Plan to End Statelessness 2014-24 (2014) : Action 7	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. The program is a joint endeavour of the Ministry of Justice, the Ministry of Solidarity and Social Security and the Ministry of Health. Within the context of the COVID-19 pandemic all of the <i>Nascer Cidadão</i> registration desks were temporarily closed. During that period, birth registration continued to be performed in civil registry offices in urgent cases upon appointment. Since 13 April 2020, it is possible to perform the birth registration online. According to media reports revealed in 2021, the closure of the <i>Nascer Cidadão</i> registration desks caused significant gaps in the registration of new-borns, notably those born to foreign parents.	Ministry of Justice, <i>Registar Nascimento</i> , available at: https://bit.ly/2XG6Rp0 (PT) Information provided by the Central Registry Office (2020 Update) Ministry of Justice, Nota à comunicação social - Registo de nascimento pela internet a partir de hoje, 13 April 2020, available at: https://bit.ly/33BgeHw (PT) Institute of Registration and Notary Affairs, <i>Guia: Como pedir online o registo de nascimento</i> , available at: https://bit.ly/3g10DpC (PT) TSF, <i>Pandemia deixa dezenas de bebés por registar em Portugal: "É perigoso, mesmo a nível de tráfico"</i> , 18 June 2021, available at: https://bit.ly/33xBNf7 (PT)
PRS.7.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.	1961 Convention : Article 9 UNHCR, Global Action Plan to End Statelessness 2014-24 (2014) : Action 4 HRC, Recommendations of the Forum on Minority Issues (2019) : States should take legislative, administrative and policy measures aimed at eliminating statelessness affecting minorities.	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.	UNHCR, <i>Mapping Statelessness in Portugal</i> , October 2018, available at: https://bit.ly/2wU7VFY CPR's casework
PRS.7.c		Has the State 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.)	1961 Convention UNHCR, Global Action Plan to End Statelessness 2014-24 (2014) : Actions 1 & 8 UNHCR, Good Practices Paper - Action 1 (2015) : States parties to the 1954 Convention are required to help stateless persons become naturalised nationals.	Portugal acceded to the 1954 and to the 1961 Conventions on 01/10/2012. 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. 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. 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).	Information on accession to the 1954 Convention: Documentation and Comparative Law Office: https://bit.ly/2Xthk71 (PT) United Nations Treaty Collection - https://bit.ly/2JRpCOP Information on accession to the 1961 Convention: Documentation and Comparative Law Office: https://bit.ly/30cGi7G (PT) United Nations Treaty Collection - https://bit.ly/2MYMOZ8 Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (PT) GIL, Ana Rita, <i>Amendments to the Portuguese Nationality Law – towards</i>

				<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 (art.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.7.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>In August 2019, the Portuguese Government approved a National Plan for the Implementation of the Global Compact for Migration. 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 we available.</p> <p>During the Global Refugee Forum 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>	<p>an (even) more inclusive citizenship, 1 August 2018, available at: https://bit.ly/2xOg7la</p> <p>Migration Policy Index (MIPEX) - Portugal, available at: https://bit.ly/30B49hl (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: https://bit.ly/2xN4G3A (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: https://bit.ly/3g6OFL3 (PT)</p> <p>Statement from Portugal at the Global Refugee Forum, 17 December 2019, available at: https://bit.ly/38OHmDM</p>
PRS.8.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>1961 Convention: Article 8 & 9 ECN: Article 7(3) UDHR: Article 15(2) Principles on Deprivation of Nationality and the Draft Commentary: 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 & 6 HRC, Report of the Secretary-General on Human Rights and Arbitrary Deprivation of Nationality (2009): para. 23 UNHCR Guidelines on Statelessness No.5 (2020): 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</p>	<p>No. The Portuguese Nationality regime only envisages loss of nationality in two cases: (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>Fraudulent acquisition (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</p>	<p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (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: https://bit.ly/2LeI59X (PT)</p> <p>Information provided by the Central Registry Office (2020 Update)</p> <p>UNHCR, <i>Mapping Statelessness in Portugal</i>, October 2018, available at: https://bit.ly/2wU7VFY</p>

			<p>as national(s) (e.g. where authorities persistently refuse to issue or renew documents without providing an explanation or justification).</p> <p>ILEC Guidelines (2015): Deprivation of nationality must have a firm legal basis, should not be interpreted extensively or applied by analogy and deprivation-provisions must be predictable.</p>	<p>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>According to the information previously 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.8.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, decision in writing with reasoning, judicial oversight, appeal, time limit, subject to prior sentencing)?	<p>1961 Convention: Article 8(4)</p> <p>ECN: Articles 10 to 13</p> <p>Principles on Deprivation of Nationality: 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>ILEC Guidelines (2015): The consequences of a decision to deprive somebody of his nationality must be assessed against the principle of proportionality. Adequate procedural safeguards are essential. Decisions should only take effect when the (judicial) decision cannot be challenged anymore.</p>	<p>In the absence of a specific regime under the Nationality Regulation, the nullification of the act that determined the acquisition or deprivation of nationality follows the general rules contained in the Administrative Procedure Code.</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 (art.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</p>	<p>Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (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: https://bit.ly/2LeI59X (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: https://bit.ly/2KSQwYR (PT)</p> <p>Information provided by the Central Registry Office (2020 Update)</p>	

				nullification of the act is declared by the administrative courts or by the competent administrative body (art.162(2) of the Administrative Procedure Code).	
PRS.8.c		Are provisions on deprivation of nationality applied in practice? Have they been applied even where it results in (risk of) statelessness? If available, please provide any sources of data or information on cases that resulted in statelessness.		The provisions on deprivation are applicable in practice. With regards to related risks of statelessness, see question PRS.8.a.	Partilha Justiça, Government of Portugal, Statistics: https://partilha.justica.gov.pt/Transparencia/Dados-e-Estatisticas/-Nacionalidade-Perdas
PRS.8.d		Are there safeguards in law and practice to prevent renunciation or other forms of voluntary loss of nationality from resulting in statelessness?	1961 Convention : Article 7 ECN : Articles 7 and 8	As per article 8 of the Nationality Act, a person must have another nationality in order to be able to renounce Portuguese nationality. 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). 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. 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 (arts.16 and 18 Nationality Act, art.41 Nationality Regulation, arts.87-90 Civil Registration Code).	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (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: https://bit.ly/2LeI59X (PT)
PRS.8.e		Are there any provisions on deprivation of nationality in a national security context (regardless of whether they could render a person stateless)? Please describe these provisions and if/how they are applied in practice.	Principles on Deprivation of Nationality 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. UNHCR Guidelines on Statelessness No.5 (2020) : Laws that permit deprivation of nationality on the grounds of terrorism should be publicly available and precise enough to enable individuals to understand the scope of impermissible conduct.	No. Notwithstanding, certain modes of acquisition of nationality include among its conditions national security-related requirements (see questions PRS.1.a and PRS.1.B).	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (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: https://bit.ly/2LeI59X (PT)
PRS.8.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.	ICCPR : Article 26 1961 Convention : Article 9 ECN : Article 5 Principles on Deprivation of Nationality : 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 https://bit.ly/2LEUx14 (PT) https://bit.ly/3cWMitE Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (PT)
PRS.8.g		Are there safeguards to prevent derivative loss of nationality (i.e., loss of nationality on the basis that a parent or a spouse has been deprived of that nationality)? Please describe the potential impact of deprivation on children and spouses.	CRC : Articles 2(2), 7 and 8 CEDAW : Article 9(1) Principles on Deprivation of Nationality : States must take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members (Principle 9.7). The derivative loss of nationality is prohibited (Principle 9.8).	There are no specific provisions on derivative loss of nationality. The 2018 amendment of the Nationality Act led to the inclusion of a regime of corroboration of nationality that may be relevant within this context. 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	Act n. 37/81, of 3 October, last amended by Organic Law n. 2/2020, of 10 November (Nationality Act), available at: https://bit.ly/2jukiBm (PT) Global Citizenship Observatory, GLOBALCIT Citizenship Law Dataset, v1.0, Country-Year-Mode Data (Loss), 2021, available at: https://bit.ly/3saISwp

				<p>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. Information on the practical relevance of the provision in cases of derivative loss was not available at the time of writing.</p>	
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Resources

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
RES.1.a	Published judgments	Please list the most relevant judgments relating to statelessness and include links to the cases (where available).		<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 http://www.dgsi.pt/.</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>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"> - 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); - 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); - Constitutional Court, Ruling 225/2018, of 24 April 2018 (preventive control of constitutionality of the Law on Medically Assisted Reproduction); - 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); - 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); - 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); - 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). 	<p>Jurisprudence database: http://www.dgsi.pt/</p> <p>Constitutional Court, Ruling no.106/2016 of 24 February 2016, available at: https://bit.ly/2xMYiJH (PT)</p> <p>Constitutional Court, Ruling no.331/2016, of 19 May 2016, available at: https://bit.ly/37yhAUx (PT)</p> <p>Constitutional Court, Ruling 225/2018, of 24 April 2018, available at: https://bit.ly/2LUISfL (PT)</p> <p>Constitutional Court, Ruling 497/2019, of 26 September 2019, available at: https://bit.ly/2pClfOl (PT)</p> <p>Supreme Administrative Court, Process 0201/16, of 16 June 2016, available at: https://bit.ly/32tXyY5 (PT)</p> <p>Supreme Administrative Court, Process 1264/15, of 7 July 2016, available at: https://bit.ly/33Jb8ck (PT)</p> <p>Supreme Administrative Court, Process 567/17, of 21 September 2017, available at: https://bit.ly/3IKQpe9 (PT)</p> <p>Supreme Administrative Court, Process 0219/10.6BEPRT, of 14 February 2019, available at: https://bit.ly/3gbZxHy (PT)</p> <p>Information provided by the Central Registry Office (2020 Update)</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.	UNHCR, Handbook on Protection (2014) : 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 - www.cpr.pt</p> <p>High Commissioner for Migration - www.acm.gov.pt</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>The 2020 Amendments to the Portuguese Nationality Act: a big step further towards pure ius soli... and some more inclusive measures</i>, 12 January 2021, available at: https://bit.ly/33jh6mM</p> <p>- GIL, Ana Rita, <i>Amendments to the Portuguese Nationality Law – towards an (even) more inclusive citizenship</i>, 1 August 2018, available at: https://bit.ly/2xOg7la</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: https://bit.ly/3l6isEw</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: https://bit.ly/2ZPA7WZ (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: https://bit.ly/2JFjh6M (PT)</p> <p>- Migration Policy Group, <i>Access to citizenship and its impact on immigrant integration: ACIT handbook for Portugal</i>, 2013, available at: https://bit.ly/2xN4G3A (the Nationality Act has been amended multiple times since publication)</p>