

EMN FOCUSED STUDY 2012

Establishing Identity for International Protection in Portugal

National Contribution from PORTUGAL

**The Immigration and Borders Service
National Contact Point of the European Migration Network**

Objective and methodology

The prime objective of this focused study is to provide information to decision makers in Member-States and to the European Commission regarding common challenges in terms of identifying individuals applying for international protection who do not have suitable documents for the purpose.

With a view to responding to the common specifications, established beforehand by the EMN, the methodology adopted was essentially based on identifying and analysing legislative sources and statistics, policies and procedures adopted in this field. The collaboration of SEF experts in the area of international protection, removal and document security proved invaluable in order to understand this extremely specific reality and consolidate the respective approach, namely Ana Cristina Barateiro, Elsa Seixas, Isabel Baltazar and Ema Pacheco.

This study was prepared by the Portuguese Contact Point (NCP) of the European Migration Network (EMN), created by Council Decision 2008/31/EC, of 14 May 2008, ensured by the Immigration and Borders Service (SEF). This study was written by João Ataíde and revised by Ana Cristina Barateiro. Pedro Dias and Maria Alexandra Bento assisted with the tasks.

Note: The approach adopted in this study aims, primarily, to contribute towards the European Synthesis Report of the aforementioned study by the European Migration Network (EMN). In this context, the EMN's National Contact Points provide information, which to the best of their knowledge is updated, objective and reliable, within the scope and limits of this study. Hence, the information might not comprise an integral description and may not represent the overall official policy of the respective Member-State in this area.

Top-line 'Factsheet'

Portugal

[Executive Summary

(Synthesis Report)]

Overview

The issue of identifying individuals applying for international protection in Portugal must be approached keeping in mind the number of applicants and the diversity of applicants' nationalities over the course of time.

Estimates indicate that the volume of individuals applying for international protection without documents has been increasing in recent years in proportion to the growth in the number of applications for international protection in the country. The greatest difficulties are associated with claimed nationals of Guinea-Conakry, the Democratic Republic of the Congo and Somalia. On the other hand, the removal of rejected applicants for international protection is negligible in numerical terms in Portugal.

The Immigration and Borders Service (SEF) is the national entity responsible for the processes analysed herein.

As a rule, individuals applying for international protection without suitable documents enter Portugal by air, from a third country, different from that of their nationality. It has been seen that the use, falsification, destruction, concealment or deprivation of identity documents is often a result of the actions of document facilitation networks. It is not common for other documents to be presented during the course of the asylum procedure.

Documents accepted in order to determine the identity of individuals applying for international protection include a passport, identity card and birth certificate, while the probative value of other documents is assessed on a case by case basis.

Interviews, fingerprints and consultations of relevant databases are used to identify applicants, combined with diverse other identification tools and methodologies, flexibly and in accordance with the circumstances of the specific case, especially with regard to questionnaires about the claimed countries of origin. The results obtained are assessed from the perspective of the level of confirmation of the information which the diverse methods together make it possible to compile.

The element of identity that is decisive for the decision to grant international protection is nationality. Cases can have a favourable outcome if, notwithstanding the absence of documentation, the consistency and coherence of the elements compiled are sufficient to ensure duly justified certainty regarding the applicant's identity.

Executive Summary

Despite the low number of applications for international protection submitted in Portugal, the documental identification of the respective applicants is a very relevant issue, since a significant percentage of such individuals do not present identification documents.

At the level of removal, this issue does not have particular characteristics with regard to erstwhile seekers of international protection, considering the high incidence of cases in which individuals lack the necessary documentation for carrying out removals. This could be due to the fact that there is no mechanism specifically for removing individuals whose applications for international protection have been rejected, since, prior to removal, they are duty-bound to voluntarily abandon the country, if another solution is not found. Notwithstanding the absence of concrete data, the removal of rejected asylum seekers is negligible in numerical terms, as is corroborated by the lists of nations which are more problematic for the purpose of identifying their alleged citizens at the level of international protection and removal.

Many of the individuals applying for international protection who do not have suitable identification come from Africa, especially from Guinea-Conakry and the Democratic Republic of the Congo, entering the national territory by air, from a third country, different from that of their nationality. They travel with falsified documents or with valid documents, which are destroyed or concealed when they enter, before presenting themselves to the Portuguese authorities. It is not common for any other identification documents to be presented during the asylum procedure. In this context it is important to keep in mind the role of organised documentation facilitation networks, to exit from the third countries of origin, admission into Portugal or instances where applicants are deprived of documents after having entered the country legally.

Notwithstanding the dearth of consolidated statistical data in this regard, an analysis of estimates reveals that this phenomenon has tended to grow in recent years, proportionally to the rise in applications for international protection.

The Immigration and Borders Service (SEF) is the national entity responsible for the processes analysed herein. Thus, the assessment of applications for international protection and the respective processing (including identifying the applicants) are centralised in the SEF's Asylum and Refugees Office. Within the scope of their competences in the area of removal, the SEF's Regional Directorates are responsible for returning individuals whose applications for international protection have been refused and the respective efforts to ascertain their identity. The SEF's Identification and Documental Expertise Department (DIPD) is responsible for expert technical analyses of documents, irrespective of the nature of the processes to which they pertain. These units can access relevant databases, according to their functions and needs.

Documents accepted in order to determine the identity of individuals applying for international protection include a passport, identity card and birth certificate. Other documents are admitted but their probative value is assessed on a case by case basis.

In the context of removal, a precondition for the recognition of identity and/or travel documents is their acceptance by the authorities of the destination third country and prior contacts are often implemented to this end.

National legislation does not stipulate the obligatory use of any methodology to identify such individuals. The methods used to identify the third country nationals in question do not follow pre-defined criteria but are instead adopted in a flexible manner, in conformance with the circumstances of the specific case. In the absence of identification documents, preferred tools include interviews, questionnaires about the claimed country of origin, fingerprints and consultations of relevant databases, complemented by other measures and methodologies, depending on the specific case, without formal criteria for use.

The results obtained by means of the identification procedures are assessed at the level of confirming identity, in an overall manner, without a pre-defined hierarchy of values. In the ultimate instance, the identification can be based on convincing evidence of nationality and other personal data pertaining to the applicant, keeping in mind the consistency of their statements and coherence with other elements compiled while processing the case. As a general principle, the absence of identification documents is not a negative factor, namely for the purposes of a final decision, without prejudice to the fact that an absolute absence of proof of identity and nationality could lead to an application being rejected, in the ultimate instance, since it is objectively impossible to establish a causal link between the motives cited and a context in a specific country of origin.

Unlike the process of applications for international protection, the process of removal can benefit from the admissibility of contacts with the consular representatives of the nations in question, with a view to the documentation of third country nationals.

Section 1

The National Framework

1.1 The Challenges and Scope of the issue

a) Context

The absence of identification documents for individuals seeking international protection is a problematic issue for Portugal. In truth, numerous individuals seeking international protection in Portuguese territory do not have documents or have false or forged documents. In the Portuguese case, this issue pertains, predominantly, to individuals seeking international protection, to the detriment of the forced return of applicants whose applications are denied. In fact, it has been estimated that about 80% of third country nationals applying for international protection in Portugal do not have documents.

On the other hand, it would not be incorrect to affirm that the forced removal of former applicants for international protection in Portugal is negligible. A comparison of the more problematic nations in terms of identification documents at the level of international protection and removal reveals that different (claimed) nationalities are involved. The former includes nations from sub-Saharan Africa (Guinea-Conakry, Democratic Republic of the Congo and Somalia) while the latter encompasses North Africa (Algeria and Morocco).

This could be due to the fact that, in cases where an application is rejected, the third country nationals whose protection applications were rejected are notified to voluntarily abandon the country within a period of 30 days. In case they do not comply with this voluntary departure, and when detected, these former applicants for international protection are once again notified to voluntarily abandon the country within 20 days, within the general process for removal from the national territory (Article 138(1) of Law 23/2007, of 4 July). The respective process for forced removal is organised only if they fail to comply with this notification.

Moreover, in this context, it is also important to note cases where residence documents are granted for humanitarian reasons (apart from cases where subsidiary protection is granted) or the possibility that some individuals might benefit from the exceptional process for regularising immigrants, within the scope of the Foreigners' Law.

It is thus possible to affirm that there is no reference or predefined way of processing erstwhile applicants for international protection for the purposes of removal. Hence, with regard to the removal process, there is no specific approach which distinguishes this category of individuals from the other third country nationals who are subject to a process of forced removal from the country.

Nevertheless, while processing the expulsion, consultations of the relevant databases make it possible to identify such situations and, if applicable, enable the use of pertinent information compiled within the scope of processing the asylum application.

On the other hand, one must emphasise that, as per the terms of the Foreigners' Law, individuals cannot be expelled to a country where the foreign national can be persecuted for reasons that, under the terms of legislation, would justify the right to asylum being granted or where the foreign national could suffer torture, inhuman or degrading treatment in the sense of Article 3 of the European Convention on Human Rights. To this end, the concerned party must invoke the fear of persecution and present the respective proof within the stipulated period. In such cases, the individual being removed must be sent to another

country willing to accept him or her.

b) Characterisation

Most of the applicants without identification documents come from Africa, having entered the national territory from a third country, different from the country of their nationality. They travel with forged documents or with valid documents, which are destroyed or hidden, at the time of their entry, before applying to the Portuguese authorities. This situation is particularly common with claimed nationals of Guinea-Conakry, the Democratic Republic of the Congo and Somalia, as a rule, coming from Guinea-Bissau by air.

During the course of the asylum process no other identification documents are usually presented. On the other hand, situations of multiple identities are negligible in Portugal.

This phenomenon is linked to the actions of organised networks to facilitate documentation to exit from the third countries of origin and to enter Portugal. There are likewise also cases in which third country nationals are admitted into the national territory in regular circumstances and the respective documentation is later taken from them by the said networks.

In general, it can be said that with regard to international protection, the confirmation of applicants' identities primarily concerns their nationality, so as to ascertain the validity of the reasons cited for invoking international protection. On the other hand, as a general principle, it must be noted that the absence of identification documents is relevant while analysing an application, but is not a negative factor, namely for the purposes of the final decision.

The national entity responsible for analysing and deciding upon the admissibility of applications for international protection, as well as any possible repatriation of former asylum seekers, is the Immigration and Borders Service (SEF).

The specific nature of the issue and the few instances of individuals seeking international protection in Portugal are factors responsible for limited attention on the part of the media and public opinion, in general, with regard to this question.

c) Specific aspects

➤ *Evolution of the volume of cases where no credible documentation is available*

The national authorities estimate that the phenomenon has been growing in recent years. In 2011 applications for international protection in Portugal rose to 275, a figure which represents a 71% increase as compared to 2010 (160). In 2010 an increase of 15% had been recorded as compared to the previous year. Nevertheless, it is necessary to go back to 2002 to find figures close to those recorded in 2011. Keeping this in mind, it is possible to conclude that the fact that few asylum applications are submitted in Portugal, both in absolute terms as well as when compared to the European context, makes it difficult to identify clear trends or patterns over the course of the past decade.

In the context of applications for international protection without credible documentation, despite the absence of consolidated statistical data in this regard, an analysis of the estimated figures reveals that this phenomenon has been evidencing a tendency to increase, in keeping with the increase in applications for international protection in the past three years. In general, it has been estimated that approximately 80% of applicants in Portugal present themselves to the national authorities without credible identification documents. Hence, the estimate indicates that there were 110 asylum seekers without documents in 2009, 130 in 2010 and 220 in 2011 (Cf. the table in point 1.2).

Notwithstanding the absence of concrete data, instances of the removal of former asylum seekers are negligible in numerical terms in Portugal.

➤ ***Characterization of the measures used to establish an applicant's identity in the absence of credible documentation.***

In the absence of credible documents the authorities do not use uniform standard procedures for establishing the identity of applicants, instead resorting to measures and tools considered to be most suitable in the specific case.

The efforts made to establish an individual's identity comprise a significant component of processing applications for international protection, being estimated to represent about 50% of the time spent processing such applications.

➤ ***Decision-making on applications for international protection due to difficulties on establishing identity***

In the absence of credible identification documents, namely pertaining to nationality, questionnaires about the claimed country of origin are preferably used, so as to try and confirm the cited nationality.

Despite the level of uncertainty underlying this process, it is felt that this method is successful in most cases, namely with regard to the context of the applicant's nationality, a key aspect of a well-founded appraisal of the application.

In cases where there is an absolute absence of documentation and measures used to determine the nationality/identity of the individual prove to be unsuccessful, there are two possible outcomes. Either one ascertains whether the applicant is a national of the third country invoked on the basis of other elements in the dossier or the granting of this status can be jeopardised, essentially because it is impossible to establish a link between the applicant and the issues cited with the claimed third country, vital to provide the context for the reasons presented by the applicant.

As has been mentioned, with regard to identity, identifying/convincingly establishing the nationality of applicants in terms of documental confirmation of their personal data is a priority while processing applications for international protection, for reasons concerning the nature and purpose of this process. Once an applicant's nationality and identity (personal data) are convincingly established, if the application is approved, the respective document can be issued on the basis of the applicant's statement without there being official documental confirmation supporting all the relevant data.

➤ ***Rejected applicants for international protection unable to return to their country of origin due to the lack of credible identity determination.***

A total absence of documentation proving identity could effectively endanger the return of rejected asylum seekers, irrespective of whether the departure is voluntary or forced.

In cases in which the application has been rejected, the option of requesting the collaboration of the consular authorities of the countries of origin is considered, with a view to establishing the identity and the subsequent issuing of travel documents. Naturally such efforts must be promoted without prejudice to safeguarding the principle of the inadmissibility of removals to countries where the expelled individual could be persecuted, as has been mentioned. Efforts through the applicant's family or personal contacts in the country of origin can also be contemplated. In any case, as has been stated, in Portugal, the number of cases of rejected asylum seekers in which their removal is definitively impossible due to an absolute absence of identification documents is negligible. On the other hand, one cannot neglect the possibility that, outside the processes of applying for international protection and removal, some third country nationals could possibly, on their own initiative, obtain identity documents from the countries of origin. Similarly, the temporary concealment of identity documents is a possibility which cannot be entirely overlooked in this context.

Countries of (claimed) origin for which establishing identity is particularly difficult

Keeping in mind the diversity of the nationalities of asylum seekers and the overall figures for international protection in Portugal, it is hard to establish a list of countries with regard to which it is difficult to establish identities. However, it can be said that this is particularly evident in the case of individuals claiming to be nationals of Guinea-Conakry, the Democratic Republic of the Congo and Somalia, in the context of international protection.

In the context of removal, the most problematic nationalities in terms of identification are Algeria and Morocco.

As has been mentioned, the discrepancy between the most problematic nations in terms of documental identification is a relevant indicator of the limited instances of the removal of rejected asylum seekers in Portugal.

➤ ***Other (Member) State specific factors***

The development and consolidation of identification mechanisms imply the allocation of significant additional human and financial resources, whereby it is necessary to ponder the cost/benefit ratio.

1.2 Statistics

	2007	2008	2009	2010	2011	Additional Information
<u>Total Number</u> of applicants for international protection	224	163	141	162	277	Main nationalities 2011: Guinea, Somalia, Nigeria, Ivory Coast, Democratic Republic of the Congo 2010: Guinea, Colombia, Angola, Guinea-Bissau, Democratic Republic of the Congo Source: SEF/Eurostat
Number of applicants for whom <u>identity</u> was not documented at the time of application	180	130	110	130	220	Estimated data
Number of applicants for whom <u>identity was wholly or partially established</u> during the asylum process thereby allowing the relevant authorities to reach a particular decision on international application (e.g. grant, refuse, defer)	45	35	30	30	55	Applicants identified in documental terms during the process Estimated data
<u>Total Number of Positive Decisions</u>	23	84	53	55	65	Main nationalities 2011: Democratic Republic of the Congo, Colombia, Somalia, Bosnia - Herzegovina, Russian Federation. 2010: Guinea, Colombia, Eritrea, Cameroons, Democratic Republic of the Congo. Source: SEF/Eurostat
Total Number of Positive Decisions for applicants whose identity was not documented at the time of application	15	50	30	35	40	Estimated data
Total Number of Positive Decisions for applicants whose identity was considered sufficiently established by the decision-making authorities	5	15	10	11	15	Applicants identified in documental terms during the process Estimated data
<u>Total Number of Negative Decisions</u>	86	33	46	77	50	Main nationalities 2011: Guinea, Ivory Coast, Guinea-Bissau, Nigeria, Ukraine. 2010: Guinea, Angola, Nigeria, Democratic Republic of the Congo, Guinea-Bissau Source: SEF/Eurostat

Total Number of Negative Decisions for applicants whose identity was not documented at the time of application	35	15	20	30	20	Estimated data
Total Number of Negative Decisions for applicants whose identity was not considered by sufficiently established by the decision-making authorities	70	25	35	60	40	Estimated data
Total number of (Forced) Returns undertaken of all rejected applicants	n.a.	n.a.	n.a.	n.a.	n.a.	
Number of (Forced) Returns of rejected applicants whose identity had to be established at the time of return	n.a.	n.a.	n.a.	n.a.	n.a.	
Number of (Forced) Returns of rejected applicants whose return could not be executed as their identity was not considered to be sufficiently established by the authorities of the (presumed) country of origin	n.a.	n.a.	n.a.	n.a.	n.a.	

1.3 Relevant EU and National Legislation

Legal framework of the identity process within the procedure for international protection

The asylum law (Law No. 27/2008, of 30 June) does not stipulate rules about the procedure to adopt to identify applicants for international protection who do not have documents. This does not mean that the measures and procedures applied are not implemented in keeping with the set of legal principles and rules applicable to international protection, namely with regard to contacts with representatives of the official authorities of the third countries of which nationality is claimed.

Legal framework of the identity process within the procedure for the forced return of rejected applicants.

Similarly, the legal framework applicable to removals does not stipulate rules regarding the processes of identifying any third country nationals subject to removal. However, in the case of rejected asylum-seekers it is deemed admissible to resort, with due care, to the consular representatives of the country of claimed nationality for the purposes of identification.

1.4 The institutional framework at national level

The Immigration and Borders Service (SEF) is the competent national entity for analysing and determining the admissibility of applications for international protection, as well as the removal of third country nationals from Portuguese territory, including carrying out the relevant procedural measures for the respective processes.

In this context, with a view to establishing or confirming the identity of foreign citizens, Article 212(1) of the foreigners' law grants SEF legitimate authority to use the means of civil identification stipulated in Community legislation and regulations applicable for issuing identification cards and visas, namely obtaining facial images and fingerprints, resorting, whenever possible, to biometrics as well as expert evaluations.

National authorities operationally responsible for establishing the identity of applicants for international protection

More specifically, the Asylum and Refugees Office of the Immigration and Borders Service is responsible for processing applications for international protection, including taking suitable steps to identify the applicants. The Asylum and Refugees Office is also responsible for issuing residence documents on the basis of refugee status and for humanitarian reasons (subsidiary status).

National authorities operationally responsible for establishing the identity of applicants for international protection who have to (be) forcibly return(ed) to their (presumed) country of origin

For the purposes of removal, all the identification measures are carried out by the Regional Directorate of the Immigration and Borders Service responsible for the respective removal process, according to geographic criteria. The efforts to determine an individual's identity during cases of removal are carried out without prejudice to (or complementing) the results achieved during the course of processing the application for international protection, if necessary.

Competence for issues related to the determination of identity and/or verification of documents

Even though the Asylum and Refugees Office is responsible for identifying applicants for international protection, the Identification and Documental Expertise Department (DIPD) is the SEF unit which centralises expert technical analyses for documents, irrespective of the nature of the procedures to which the documents pertain.

To this end, the databases regarding documents are centralised in this Identification and Documental Expertise Department. As per the terms of Doc 15590/07 LIMITE FAUXDOC 19 COMIX 991, the Documental Expert Unit (DEU) functions as a third line support unit for verifying the authenticity of identity, travel or residence documents and establishing identities. To this end, the DEU has its own database of genuine and false documents.

In the course of its regular activity SEF uses the three platforms of the FADO database (FADO\ iFADO\ PRADO); in the role of a source of information for FADO, as the border service, in the case of iFADO and PRADO, a platform for online public access, whenever necessary. It also regularly uses the EDISON system¹.

This unit's activities encompass support and advice in complex cases and imply developing and consolidating specific methodologies. In addition, it also promotes internal training in this area for frontline staff, as well as specialised technical training at a national and international level, namely to counterpart entities.

However, as an Immigration Service, SEF does not have a Documental Forensic Unit or Forensic Laboratory and does not conduct, for example, physical-chemical analyses of documents.

Access EU databases holding identity information about third-country nationals for determining the identity of applicants for international protection

Irrespective of the technical-expert activities of the Identification and Documental Expertise Department (DIPD), consulting the relevant national and EU databases (viz. EURODAC, SIS II and VIS) is an essential element during procedures to determine the identity of individuals applying for international protection. To this end staff have access to these databases.

In the context of the process of removal, the identification process includes direct consultations of relevant national databases and SIS II as well as requests for information through EURODAC (via the Asylum and Refugees Office) and Interpol.

¹ EDISON Travel Documents System.

Section 2

Methods for Establishing Identity

2.1 Definition and Documents required for establishing identity

Definition of identity used with regard to applicants for international protection and for the return process.

There is no legal definition of identity for the purposes of processes to grant international protection or within the scope of return processes.

In any case, it can be said that the identity of an individual applying for international protection, or within the scope of return processes, requires, as minimum elements, determining the name, date of birth and nationality of the individual in question, by means of official documentation.

Types of documents and other information accepted as (contributing to) establishing the identity for applicants of international protection.

The following documents are accepted for the purposes of determining the identity of individuals applying for international protection:

Passport;

Identity Card;

Birth Certificate.

Their relevance, particularly in the case of the first two documents, is due to the fact that they are official nominal documents, issued for the specific purpose of identifying the holder, respectively, in the territory of other States and in the territory of the issuing nation. Moreover, in general, these documents are issued on the principle of the legality, authenticity, veracity and security of the data contained therein.

All other documents (for example, birth or marriage certificates, diplomas or certificates) are admitted, but their probative value is assessed on a case by case basis, namely with regard to the way they complement the applicant's story and/or the information contained in other documents included in the process. Keeping in mind the diversity of official documents likely to be presented (licences, certificates, cards, diplomas etc.), it is also relevant to consider the purpose for which each such document was issued.

The validity of copies of any documents is also analysed on a case by case basis, although they do not have a full probative value in formal terms.

Types of documents accepted by national authorities in the (presumed) countries of origin if those applicants for international protection have to be returned, because they have

received a negative decision, exhausted or abandoned the procedure.

A basic element of the recognition of documents in the context of a process of removal, for the purpose of establishing the identity of the individual to be removed, is whether they will be accepted by authorities in the destination third country, naturally varying from country to country and, sometimes, from case to case.

It is important to note that with regard to the return process there are no substantial differences in procedures for individuals being expelled after the rejection of an application for international protection.

In general terms, documents accepted as being valid for the purposes of removal are those which attest an individual's nationality and identity. These include travel certificates issued by the respective diplomatic or consular missions accredited in Portugal or in other European Union nations. Passports and other photo-ID documents, as long as they are accompanied by an EU safe-conduct (issued under the terms of Article 27 of Law 23/07 of 04/07), can resolve the absence of travel documents. There are also cases in which the authorities of the destination/nationality country accept individuals with a safe-conduct, issued on the aforesaid terms, along with a legible and authenticated copy of a document (passport or identity card).

As a rule, whether existing documents in a specific case are accepted by the authorities of the destination third country is always verified/confirmed with the said authorities before carrying out a removal.

2.2 Methods used in the absence of documentary evidence of identity

a) Methods used:

i) Language analysis

- Applicants for international protection:
Yes. Optional
- Return of rejected applicants for international protection:
Yes. Optional

ii) Age assessment

- Applicants for international protection:

Yes. Optional. In the context of applications for international protection, in the case of minors determining their age is a preferred method.

- Return of rejected applicants for international protection:

Yes. Optional. The forced return of minors is forbidden by national legislation.

It must be noted that this method is essentially aimed at clarifying whether individuals are

minors (by defining an age interval), with a view to applying the corresponding status, to the detriment of their objective identification. To this end, the authorities can avail of the National Institute of Legal Medicine, an independent entity which estimates the age of minors by means of dental x-rays and wrist bone density.

iii) Fingerprints for comparison with National and European databases

National Database

- Applicants for international protection:
Yes. Obligatory.
- Return of rejected applicants for international protection:
Yes. Part of the standard procedure.

European databases

- Applicants for international protection:
Yes. Obligatory.
- Return of rejected applicants for international protection:
Yes. Obligatory.

iv) Photograph for comparison with National and European databases

National Database

- Applicants for international protection:
Yes. Optional.
- Return of rejected applicants for international protection:
Yes. Optional.

European databases

- Applicants for international protection:
Yes. Optional.
- Return of rejected applicants for international protection:
Yes. Optional.

v) Iris scans for comparison with National and European databases

National Database

- Applicants for international protection:
No. There are no national databases using iris data.
- Return of rejected applicants for international protection:
No.

European databases

- Applicants for international protection:
No.
- Return of rejected applicants for international protection:
No.

vi) DNA analysis

- Applicants for international protection:
Yes. Optional.
- Return of rejected applicants for international protection:
No.

vii) Interviews

- Applicants for international protection:
Yes. Interviews are part of the standard procedure and are a central element for a suitable assessment and pondering of the entire process, including aspects related to identity. Apart from interviews, questionnaires are used regarding the claimed country of origin, capable of ascertaining relevant complementary identity elements.
- Return of rejected applicants for international protection:
Yes. Part of the standard procedure.

viii) Other

It is also possible to resort to other channels or measures with a view to helping identify the third country nationals in question.

a) Questionnaires regarding the claimed country of origin

The use of questionnaires regarding the claimed country of origin is also an important tool in helping to identify asylum-seekers, especially in terms of confirming complementary identity elements, namely with regard to the country, area, region, culture, religion, etc.

b) Contacts with the authorities of the claimed States of origin /nationality

It is important to note that contacts with the authorities of the claimed States of origin/nationality are substantially limited in the context of processing applications for international protection, particularly in cases where persecution by the authorities of the said State is invoked. However, the use of this resource is admissible² in the context of removal and can include interviews with the consular authorities of the country of nationality, either

² Without prejudice to the principle that individuals cannot be expelled to a country where the foreign national can be persecuted for reasons which, under the terms of the law, justify granting the right to asylum or where the foreign citizen could suffer torture, inhuman or degrading treatment as per Article 3 of the European Convention on Human Rights.

in person or by phone. In this context the collaboration of the consular authorities of third countries is especially important, namely for the purposes of issuing the travel documents necessary for an expelled individual to be accepted in the destination country.

c) Liaison officials

The use of liaison officials stationed in the countries of origin can be an important element in this regard, keeping in mind that they are on the ground and are prepared for and equipped to assist with questions pertaining to international protection.

d) Other measures in the country of origin

Other measures could possibly be implemented in the countries of origin, such as contact with relatives of the third country nationals in question, especially when indicated and if authorised by the individual in question, both within the scope of the process of international protection as well as within the scope of the process of expulsion.

e) Collaboration with other entities

Contacts with other entities can also be initiated, namely with relevant NGOs or international organisations, if this proves pertinent for the specific case. Information can also be requested from Interpol, sometimes obtaining responses from the local office (country of origin). This is a generic procedure and is not aimed at former asylum-seekers.

f) Dissemination of information

The Identification and Documental Expertise Department (DIPD) has a website within the SEF intranet with relevant information about documental fraud. SEF staff can access this page, which contains diverse information about genuine, false, forged and fictional documents and also allows consultations regarding technical information pertaining to diverse documents, movement stamps and authentication tools, such as facsimile images of the signatures of consular staff or staff at SEF regional services, amongst others.

Rationale behind the method(s) indicated

National legislation does not stipulate the obligatory use of any methodology to identify individuals applying for international protection. Nevertheless, as has been mentioned, for the purposes of establishing or confirming the identity of foreign citizens, Article 212(1) of the foreigners' law allows the SEF the legitimate authority to use means of civil identification stipulated in applicable Community legislation and regulations, namely obtaining facial images and fingerprints, using biometrics whenever possible, as well as expert advice.

Interviews are a starting point for identifying third country nationals without documentation, due to the wealth of information which can result from such interviews, generally complemented by questionnaires about the countries of origin. Using fingerprints is also a favoured method, especially for the purposes of comparing with relevant documents or databases. There is no doubt that fingerprints are the biometric element most commonly

adopted for the purposes of identification. Naturally, consultations of relevant databases are also an invariably used procedure.

The methods used to identify the third country nationals in question do not follow pre-defined criteria and are instead used in a flexible manner, according to the circumstances of the specific case, using complementary criteria.

Section 3

Decision-making Process

3.1 Status and weight of different methods to determine identity

a) As has been mentioned, without prejudice to the applicable rules of the EURODAC Regulation, identification processes are not stipulated in the national asylum law and are instead the result of consolidated procedures at the level of the Asylum and Refugees Office.

In this context, the methods preferably used (interviews and fingerprint matching) are those which are the most relevant and even the most credible. In the case of interviews, due to the inherent potential of the variety of information compiled directly from the applicant, which makes it possible to explore or indicate alternative opportunities for collecting/confirming information. In the case of fingerprints, this is a reliable, objective and quick method of confirming information tending to identify the applicant, being one of the most commonly used elements of identification in any country.

On the other hand, it can be said that these methods have, in abstract terms, some complementary aspects. The complementary relationship is basically defined according to the specific case.

b) Use of a “grading” structure or spectrum used to denote the degree of identity determination.

In Portugal there is no rigid grading or hierarchy with regard to the level of identification. The results obtained are assessed from the perspective of the level of confirmation of identity which they together provide.

c) Future measures considered with regard to setting up or further elaborating a “grading” structure.

No changes in the methodologies or approaches used are envisaged in Portugal in the short term.

3.2 Decisions taken by competent authorities on basis of outcomes of identity establishment

3.2.1 For the consideration of the application for international protection

a) Potential decisions that can be taken by the competent authorities where identity has been established (even partially) to inform the overall decision taken

Nationality is the identity element that is decisive for the outcome of decisions regarding whether to grant international protection. The formal confirmation of the other elements for personal identification (viz. name and date of birth) is relevant, but these elements are not

absolutely decisive in terms of the decision to grant or refuse international protection.

b) Importance of establishing identity relative to other factors used in making an overall decision

In principle, in cases where it is absolutely impossible to define the individual's nationality, the application will be rejected, given the obstacle of establishing a causal link between the motives cited by the applicant and the country where the said facts ostensibly occurred, which would provide the context for the acts and actions of persecution.

However, applications can be approved in cases where applicants are unable to prove their statements regarding nationality (owing to an absence of probative elements), but all their testimonies are credible, coherent and consistent, in the context of all the elements compiled during the processing of the application.

As has been mentioned, if there is convincing evidence supporting the applicant's claimed nationality and other personal data, if the protection is approved, the respective document will be issued on the basis of the applicant's statements, without there being official documental confirmation supporting this information. Henceforth, the identity of the third country national will be proved by means of the documents issued by the Portuguese State in this context.

It is important to note that outside the context of international protection and removal, namely with regard to the admission and stay of third country nationals, the identity of individuals must be fully proved by means of pertinent identification and travel documents.

Other factors, namely gender or age, are not preponderant factors with regard to the decision concerning international protection, although they play a role in cases of granting subsidiary protection or residence documents on the basis of humanitarian reasons. Naturally, this does not prejudice the special consideration and tutelage granted to minors.

Section 4

Conclusions

Relevant conclusions to national and/or EU policymakers

- The issue of identifying individuals applying for international protection in Portugal must be examined keeping in mind the number of applicants and the diversity of applicants' nationalities over the course of time.
- Estimates indicate that the volume of individuals applying for international protection without suitable documents has increased proportionally to the rise in applications for international protection in Portugal.
- The most problematic claimed nationalities of origin in this context are from sub-Saharan Africa, viz. Guinea-Conakry, the Democratic Republic of the Congo and Somalia, and this more or less coincides with the main nationalities of the applicants.
- In the context of international protection, one should not overlook the intervention of organised documentation facilitation networks, to enable exits from the third countries of origin, admission at the destination or the removal of documents from applicants, in cases where they have been legitimately admitted. Without prejudice to the tutelage underlying international protection, attention must be paid to situations which aim to defraud host states and undermine the purposes of this protection.
- As has been explained in this study, instances of the removal of former applicants for international protection are negligible in numerical terms in Portugal.
- The combined use of diverse identification tools and methodologies, in a flexible manner and according to the circumstances of the specific case, can have positive results.
- The centralisation of competences pertaining to immigration and international protection into a single entity (in this case the Immigration and Borders Service) helps streamline actions at the level of the process of identifying third country nationals without documents.