

## PORTUGAL

### The applications

#### 1. The number of applications

According to the Central Authority for Portugal, they received 11 incoming return and 4 incoming access applications in 1999, making a total of 15 incoming applications. Additionally, they made 19 outgoing return and 8 outgoing access applications in that year. Altogether, therefore, the Central Authority for Portugal handled 42 new applications in 1999.

#### 2. The Contracting States which made the applications

##### (a) *Incoming return applications*

Requesting States

	Number of Applications	Percent
Switzerland	3	27
Australia	1	9
Canada	1	9
Germany	1	9
Italy	1	9
Netherlands	1	9
Norway	1	9
Spain	1	9
UK - England and Wales	1	9
<b>Total</b>	<b>11</b>	<b>100</b>

3 of the applications came from Switzerland, although interestingly, there were no applications from Portugal to Switzerland. The rest of the applications were evenly spread over 8 different Contracting States. Unusually, no applications were made by the USA.

##### (b) *Incoming access applications*

There were four access applications, each made by a different Contracting State, Canada, the Netherlands, Switzerland and Hungary. With the exception of Hungary, all of these Contracting States also made return applications to Portugal. Combining return and access, it is perhaps surprising that more applications came from Switzerland than from any other State.

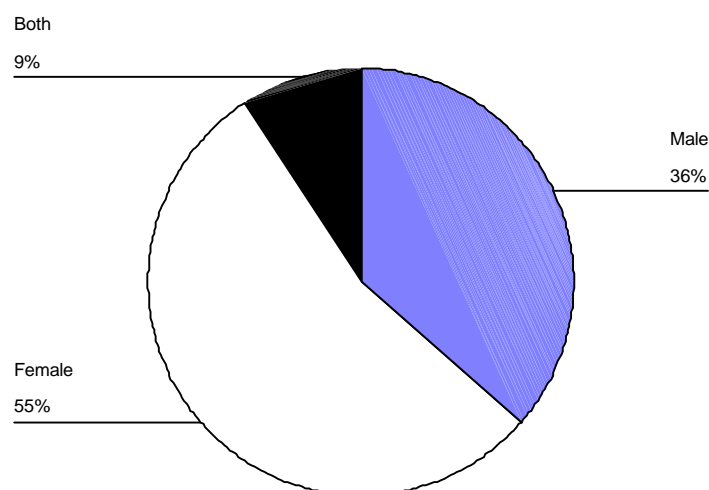
## The taking person / respondent

### 3. The gender of the taking person / respondent

#### (a) *Incoming return applications*<sup>1</sup>

Gender of the Taking Person

	Number	Percent
Male	4	36
Female	6	55
Both	1	9
<b>Total</b>	<b>11</b>	<b>100</b>



Interestingly, 55% of taking persons to Portugal were female, which was far below the global norm of 69%. This pattern was also found in some other Western European States, with 63% of taking persons to France being female, 55% of taking persons to Switzerland, and 61% to neighbouring Spain. In outgoing applications made by Portugal the percentage of female taking persons was higher at 68%.

#### (b) *Incoming access applications*

3 of the 4 respondents in access applications were female, which is proportionally lower than the global norm of 86%, but with so few cases meaningful conclusions cannot be drawn.

<sup>1</sup> In 1 application there were 2 taking persons, one male and the other female.

#### 4. The nationality of the taking person / respondent

##### (a) Incoming return applications

Taking Person Same Nationality as Requested State

	Number	Percent
Same Nationality	8	73
Different Nationality	3	27
<b>Total</b>	<b>11</b>	<b>100</b>

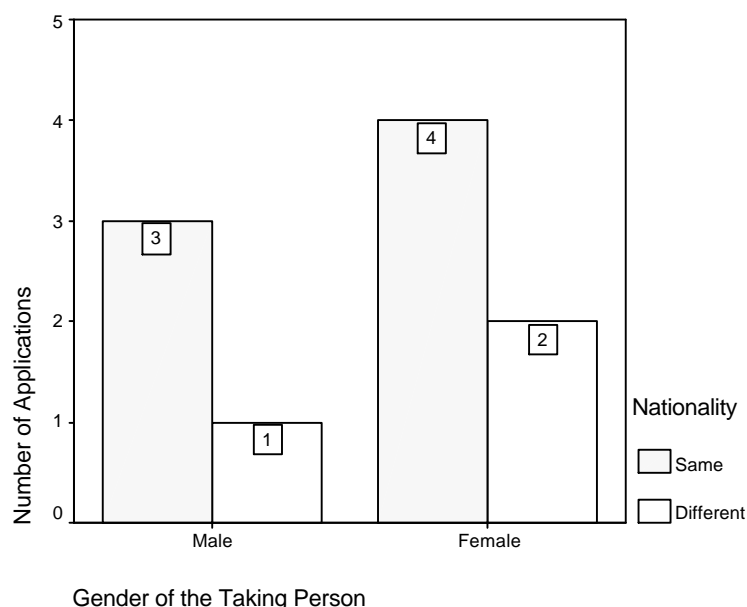
The above table and chart show that 73% of taking persons had the nationality of the requested State, in this case Portugal. This is markedly different to the global norm of 52% of taking persons having the nationality of the requested State, and strikingly different to neighbouring Spain where only 43% of taking persons were Spanish nationals.

##### (b) Incoming access applications

Unlike the return applications, no respondents in the access applications had Portuguese nationality. This is different from the global norm of 40% of respondents having the nationality of the requested State.

#### 5. The gender and nationality of the taking person combined

##### (a) Incoming return applications



The above chart shows that both male and female taking persons bringing children to Portugal were more likely to have Portuguese nationality. Globally, 53% of male and 52% of female taking persons had the nationality of the requested State.

## The children

### 6. The total number of children

There were 12 children involved in the 11 return applications and 4 children involved in the 4 access applications. Altogether, therefore, 16 children were involved in new incoming applications received by Portugal in 1999.

### 7. Single children and sibling groups

#### (a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	10	91
Sibling Group	1	9
<b>Total</b>	<b>11</b>	<b>100</b>

Number of Children

	Number	Percent
1 Child	10	91
2 Children	1	9
<b>Total</b>	<b>11</b>	<b>100</b>

91% of applications involved a single child, which is significantly higher than the global norm of 63%. Only 1 application involved a sibling group.

#### (b) Incoming access applications

All 4 access applications involved a single child, whereas globally, 69% of access applications involved single children.

### 8. The age of the children

#### (a) Incoming return applications

Age of the Children

	Number	Percent
0-4 years	8	67
5-9 years	2	17
10-16 years	2	17
<b>Total</b>	<b>12</b>	<b>100</b>

It is immediately noticeable that 67% of the children were aged between 0 and 4 years old. This is different from the global norm where only 38% of children were in this age category. Globally, the largest proportion of children, 42% were aged between 5 and 9 years old.

**(b) Incoming access applications**

The four access applications involved 1 child who was aged between 0 and 4 years old, another child who was aged between 5 and 9 years old and 2 children who were aged between 10 and 16 years old. As the figures are small it is difficult to draw meaningful conclusions, however, it is interesting that this is a different pattern from the return applications.

**9. The gender of the children****(a) Incoming return applications****Gender of the Children**

	Number	Percent
Male	9	75
Female	3	25
<b>Total</b>	<b>12</b>	<b>100</b>

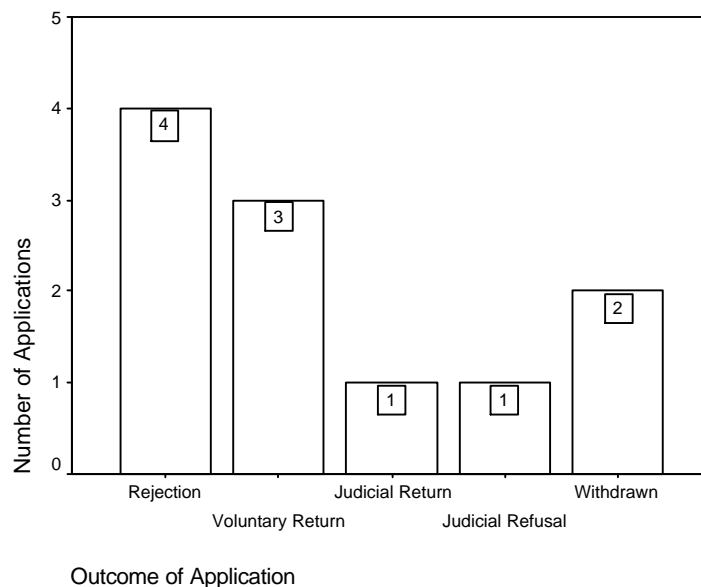
75% of children were male which is higher than the global norm of 53%.

**(b) Incoming access applications**

The applications for access involved 3 female children and 1 male child.

**The outcomes****10. Overall outcomes****(a) Incoming return applications****Outcome of Application**

	Number	Percent
Rejection	4	36
Voluntary Return	3	27
Judicial Return	1	9
Judicial Refusal	1	9
Withdrawn	2	18
Pending	0	0
Other	0	0
<b>Total</b>	<b>11</b>	<b>100</b>



There was a high proportion of voluntary returns at 27% compared with a global norm of 18%. Conversely, only 1 application resulted in a judicial return. Overall, the return rate was 36%, which is below the global norm of 50%. Only 2 applications went to court one of which was judicially refused and the other resulted in return. Globally, 74% of applications, which went to court, resulted in a return order. Proportionally, there was a high number of rejections (36%) compared with the global norm of 11%. Aside from Colombia which rejected 3 of the 4 cases they received, and Romania which rejected 6 of the 9 cases received, this is the highest proportion of rejections in any of the Contracting States analysed. Nevertheless, as the numbers are small it is difficult to draw meaningful conclusions from this data. Notably, there were no pending cases.

### ***(b) Incoming access applications***

In 3 applications access was judicially granted, in the other access was judicially refused. Interestingly, all applications went to court, while only 2 of the 11 return applications reached the courts.

## **11. The reasons for rejection**

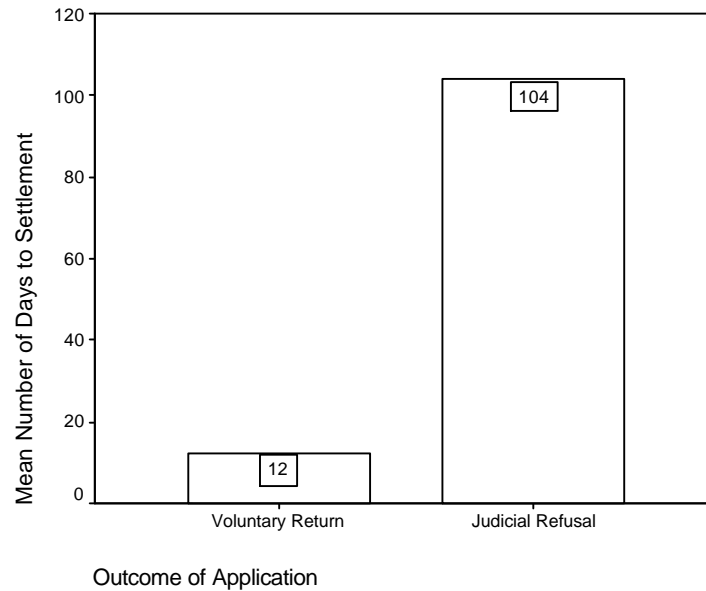
### ***(a) Incoming return applications***

Two applications were rejected because the child was not located, another because the applicant had no rights of custody and the final rejection was due to Article 9 (the Central Authority believed the child was in another Contracting State).

## Speed

### 12. The time between application and outcome

#### (a) *Incoming return applications*



The mean length of time for the 3 voluntary returns to reach a conclusion was 12 days, which was the fastest of all the jurisdictions in this analysis, aside from Finland, where the one voluntary return was concluded within 10 days. The one judicial refusal took 104 days as compared with the global mean of 147 days. Timing was not available for the one case which resulted in a judicial return.

#### (b) *Incoming access applications*

The 3 cases where access was judicially granted all took different lengths of time to reach that conclusion, one application was concluded in less than 6 weeks, another between 6 and 12 weeks, and the third decision took over 6 months. The case where access was judicially refused took over 6 months to reach that conclusion.

## 13. Appeals

#### (a) *Incoming return applications*

No judicial decisions were appealed.