

Subsidiary Legislation made under s.55.

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Directive 2005/85/EC

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In exercise of the powers conferred on it by section 55 of the Immigration, Asylum and Refugee Act, and all other enabling powers, and for the purpose of transposing into the law of Gibraltar Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, the Government has made the following Regulations—

PART I

Preliminary

Title and commencement.

1. These Regulations may be cited as the Asylum (Procedures) Regulations 2012 and come into operation on the day of publication.

Interpretation.

2. In these Regulations, unless the context otherwise requires—

“application for international protection” or “application” means a request by a person which can be understood as a request to be seeking refugee status or subsidiary protection status under these Regulations or the Asylum Regulations 2008;

“applicant” shall have the meaning assigned to it by regulation 2(1) of the Asylum Regulations 2008;

“Authority” means the authority designated under regulation 4;

“counsel” has the meaning given to it in section 2 of the Interpretation and General Clauses Act;

“final decision” means a decision—

- (a) on whether the applicant be granted refugee status by virtue of the Asylum Regulations 2008; and
- (b) which is no longer subject to any remedy by way of appeal under regulation 31 irrespective of whether that remedy has the effect of allowing the applicant to remain in Gibraltar pending its outcome;

“Geneva Convention” means the Convention of 28 July 1951 relating to the status of refugees, as amended by the New York Protocol of 31 January 1967;

“international protection” means refugee or subsidiary protection status;

“Minister” means the Minister with responsibility for personal status;

“minor” means a third country national or stateless person below the age of 18 years;

“refugee” shall have the meaning assigned to it by regulation 27 of the Asylum Regulations 2008;

“refugee status” means the status granted in Gibraltar under regulation 42 of the Asylum Regulations 2008;

“Registrar” means the Registrar of the Supreme Court;

“remain in Gibraltar” means to remain in Gibraltar including at the border or in any transit zone of Gibraltar in which the application for international protection has been made or is being examined;

“representative” means—

- (a) a person acting on behalf of an organisation representing an unaccompanied minor as legal guardian;
- (b) a person acting on behalf of the Care Agency if it is responsible for the care and well-being of an unaccompanied minor; or
- (c) any other appropriate representation appointed to ensure the best interests of that minor;

“safe country of origin” shall be construed by reference to regulation 23;

“subsequent application” means a further application for international protection made in Gibraltar or a Member State after a final decision has been taken on a previous application, including cases in which the application has been rejected as explicitly or implicitly withdrawn;

“subsidiary protection status” means the status granted in Gibraltar under regulation 43 of the Asylum Regulations 2008;

“third country national” has the same meaning as in Article 26 of the Treaty on Gibraltar and the European Union;

“Treaty on Gibraltar and the European Union” has the same meaning as in section 5 of the Treaty on Gibraltar and the European Union Act 2026;

“unaccompanied minor” means a person below the age of 18 who arrives in Gibraltar unaccompanied by an adult responsible for him whether by law or by custom, and for as long as he is not effectively taken into the care of such a person and it includes a minor who is left unaccompanied after he has entered Gibraltar;

“UNHCR” means the United Nations High Commissioner for Refugees;

“withdrawal of refugee status” means the decision by the Authority to revoke, end or refuse to renew the refugee status of a person in accordance with regulation 44 of the Asylum Regulations 2008.

PART II

General provisions

Treaty on Gibraltar and the European Union.

2A. These Regulations are subject to section 50 (Applications for International Protection) of the Treaty on Gibraltar and the European Union Act 2026.

Application of these Regulations.

3.(1) These Regulations shall—

- (a) be applied in order to establish minimum standards on procedures in Gibraltar for granting and withdrawing refugee status;
- (b) apply to an application for international protection, including at the border or in any transit zone of Gibraltar, and to the withdrawal of refugee status; and
- (c) not apply in cases of requests for diplomatic or territorial asylum submitted to representations of the United Kingdom in relation to Gibraltar.

(2) Where an application for international protection is examined both as an application on the basis of the Geneva Convention and as an application for other kinds of international protection given under the circumstances defined by regulation 37 of the Asylum Regulations 2008, the Authority must apply these Regulations throughout the procedure.

(3) The Authority may, with the approval of the Minister, apply these Regulations in respect of the procedure on applications for any kind of international protection.

The Authority.

4.(1) The Director of the Department of Immigration and Home Affairs is designated as the Authority for the purposes of these Regulations, and includes such persons to whom he delegates his authority under these Regulations.

(2) The Authority shall be responsible for appropriate examination of an application for international protection in accordance with the provisions of these Regulations.

(3) Notwithstanding subregulation (1), the Minister may appoint such person, Government Department, Agency or body to be responsible for—

- (a) processing cases in which the transfer of an applicant to a State is being considered in accordance with rules establishing criteria and mechanisms for determining which State is responsible for considering an application for international protection, until the transfer takes place or the requested State has refused to take charge of or take back the applicant;
- (b) taking a decision on the application, in the light of national security provisions, provided the Authority is consulted prior to this decision as to whether the applicant qualifies as a refugee under the Asylum Regulations 2008;
- (c) conducting a preliminary examination pursuant to regulation 26, provided it has access to the applicant's file regarding the previous application;
- (d) processing cases in the framework of the procedures provided for pursuant to Article 35(1) of the Directive;
- (e) refusing permission to enter in the framework of the procedure provided for in regulation 27(1) to (4), subject to the conditions and as set out therein;
- (f) establishing that an applicant is seeking to enter or has entered Gibraltar from a safe third country pursuant to regulation 28, subject to the conditions and as set out in that regulation.

PART III

Basic principles and guarantees

Procedure for submitting an application for international protection.

5.(1) An application for international protection shall be considered to have been made when a person, including an unaccompanied minor, expresses in person a wish to receive international protection to—

- (a) the Royal Gibraltar Police;

- (b) the Authority;
- (c) a Government Department; or
- (d) an agent acting on behalf of the Government or the Royal Gibraltar Police.

(1A) Where one of the authorities referred to in subregulation (1) has doubts as to whether a certain declaration is to be construed as an application for international protection, they shall ask the person expressly whether he wishes to receive international protection.

(1B) The applicant shall lodge the application with the Authority no later than 21 days after the application is registered in accordance with regulation 5A, provided that he is given an effective opportunity to do so.

(1C) The application shall be lodged in person at a designated date and place and, where communicated, time and the Authority shall communicate that date and place to the applicant and an application is deemed to be lodged in person when the Authority verifies that the applicant is physically present in Gibraltar at the time of registration or lodging of an application.

(2) An applicant who is an adult having legal capacity may make the application for international protection on his own behalf and on behalf of his dependants.

(3) Where an application for international protection is made under subregulation (2) on behalf of an adult dependant, that dependant must consent to the lodging of the application for international protection on his behalf, failing which he shall have an opportunity to make an application for international protection on his own behalf.

(4) The consent referred to in subregulation (3) shall be requested at the time the application for international protection is lodged or, at the latest, when the personal interview with the dependant adult is conducted.

(5) A minor, whether accompanied or not, and whether married or unmarried, may also apply for international protection and, in view of the minor's potential vulnerability, particular priority and care must be given to the handling of the case of such a minor.

(6) Where an unaccompanied minor makes an application for international protection the Authority must immediately take measures to ensure that—

- (a) a representative is appointed to represent and assist the unaccompanied minor with respect to the examination of the application for international protection; and

- (b) the representative is given the opportunity to inform the unaccompanied minor about the meaning and possible consequences of the interview and, where appropriate, how to prepare himself for the interview.
- (7) Where a disproportionate number of persons make an application for international protection within the same period of time, making it unfeasible to give each applicant an appointment within the time limit set in subregulation (1B), the applicant shall be given an appointment to lodge his application at a date no later than two months from when the application is registered.
- (8) When lodging an application, applicants are required to submit as soon as possible all the elements and documents at their disposal referred to in regulation 26 of the Asylum Regulations 2008 needed for substantiating their application and after the lodging of their application, in particular at their personal interview, applicants shall be allowed to submit any additional elements relevant for its examination, until a decision is taken on their application.
- (9) The Authority may set a deadline within that timeframe for submitting those additional elements with which the applicant shall endeavour to comply.
- (10) The Authority may organise the access to the procedure in such a way that making, registering or lodging take place at the same time and in such cases shall ensure that all applicants enjoy the guarantees provided for in regulation 9 and where making, registering or lodging take place at the same time, applicants shall be allowed to submit all the elements and documents at their disposal referred to in regulation 26 of the Asylum Regulations 2008 needed for substantiating their application during their personal interview.
- (11) Applicants shall be allowed to submit any additional elements relevant for the examination of their application until a decision is taken on their application and the Authority may set a deadline within that timeframe for submitting those additional elements with which the applicant shall endeavour to comply.

Registration of applications.

5A.(1) The Authority shall, in accordance with section 50(3) of the Treaty on Gibraltar and the European Union Act 2026, register the application.

- (2) The registration referred to in subregulation (1) shall contain the following information–
- (a) the applicant's name, date and place of birth, gender, nationalities or the fact that the applicant is stateless, family members and in the case of minors, siblings or relatives present, where applicable, and other personal details of the applicant

relevant for the procedure for international protection and for the determination of the application;

- (b) where available, the type, number and period of validity of any identity or travel document of the applicant and the country that issued that document and other documents provided by the applicant which the Authority deems relevant for the purposes of identifying him, for the procedure for international protection and for the determination of the application;
- (c) the date of the application, the place where the application was made and the authority to which the application was made;
- (d) the applicant's location or the applicant's place of residence or address and, where available, a telephone number and an email address where the applicant can be reached.

(3) Where an individual claims not to have a nationality, that fact shall be clearly registered pending the determination of whether the individual is stateless.

(4) Where the information is collected by the Authority or by another authority assisting it for the purpose of examining the application, additional data necessary for the examination of the application may also be collected at the time of registration.

(5) Without prejudice to the right of the applicant to present new elements in support of the application, in the case of a subsequent application, where the information referred to in subregulation (2)(a), (b) and (d), and subregulation (3) is already available to the Authority, it may not have to collect such data.

Documents provided to the applicant.

5B.(1) The Authority shall, upon registration of the application, provide the applicant with a document in his own name indicating that an application has been made and registered and that document shall be valid until the document referred to in subregulation (4) has been issued.

(2) The document referred to in subregulation (1) does not have to be provided if it is possible to issue the document referred to in subregulation (4) by the time of registration.

(3) The document referred to in subregulation (1) shall be withdrawn when the document referred to in subregulation (4) is issued.

(4) The Authority shall, as soon as possible after the lodging of the application, issue a document including at least the following elements, to be updated as necessary—

- (a) the applicant's name, date and place of birth, gender and nationalities or, if applicable, an indication of statelessness, a facial image of the applicant and the applicant's signature;
- (b) the issuing authority, date and place of issue and period of validity of the document;
- (c) the status of the individual as an applicant;
- (d) a statement that the applicant has the right to remain in Gibraltar for the purpose of having the application examined;
- (e) a statement that the document is not a travel document and that the applicant is not allowed to travel without authorisation to the territory of the Member States.

(5) It shall not be necessary to issue any of the documents referred to in this regulation where and for as long as the applicant is in detention or imprisonment and upon release from detention or imprisonment, the applicant shall be provided with the document referred to in subregulation (1) or (4) and where the applicant is provided with the document referred to in subregulation (1) upon release, the applicant shall receive the document referred to in subregulation (4) as soon as possible.

(6) In the case of accompanied minors, the documents referred to in this regulation issued to one of the parents of the applicant or the adult responsible for him may also cover the minor, if appropriate.

(7) The documents referred to in this regulation need not be proof of identity but shall be considered to be sufficient means for applicants to identify themselves to authorities and to access their rights for the duration of the procedure for international protection.

(8) The documents referred to in subregulation (1) and (4) shall state the date of registration of the application.

(9) The document referred to in subregulation (4) shall be valid for up to 12 months and the validity of the document shall be renewed so as to cover the period during which the applicant has a right to remain in Gibraltar and the period of validity of the document does not constitute a right to remain where that right was terminated or suspended in accordance with these Regulations or the Asylum Regulations 2008.

Access to the procedure in detention facilities and at border crossing points.

5C.(1) Where there are indications that persons held in detention facilities or present at border crossing points, including transit zones, at external borders, may wish to make an application

for international protection, the Authority shall provide them with information on the possibility to do so.

(2) Where an applicant makes an application in a detention facility, in prison or at a border crossing point, including transit zones, at external borders, the Authority shall make arrangements for interpretation services to the extent necessary to facilitate access to the procedure for international protection.

(3) Organisations and persons permitted to provide advice and counselling shall have effective access to applicants held in detention facilities or present at border crossing points, including transit zones, at external borders and such access may be subject to a prior agreement with the Authority.

(4) The Government may impose limits on access as referred to in subregulation (1) where they are objectively necessary for the security, public order or administrative management of a border crossing point, including transit zones, or detention facility, provided that access is not severely restricted or rendered impossible.

Applications on behalf of adults requiring assistance to exercise legal capacity.

5D.(1) In the case of an adult requiring assistance to exercise legal capacity in accordance with Gibraltar law (the 'dependant adult'), an adult responsible for him may make and lodge an application on behalf of the dependant adult.

(2) The dependant adult shall be present for the lodging of the application, except where there are justified reasons for which he is unable or unfit to be present or, where possible, the application is lodged by means of a form.

Applications on behalf of accompanied minors.

5E.(1) An accompanied minor shall have the right to lodge an application in his own name where he has legal capacity in accordance with Gibraltar law and where the accompanied minor does not have such capacity, a parent or another adult, such as a legal caregiver or the Care Agency, responsible for the minor shall lodge the application on the minor's behalf.

(2) In the case of an accompanied minor who does not have legal capacity and who is present at the moment the parent or another adult responsible for him makes or lodges the application for international protection, in particular if such minor does not have any other legal means of staying in Gibraltar, the making and lodging of an application by a parent or another adult responsible for him shall also be considered to be the making and lodging of an application for international protection on behalf of the minor.

(3) The Authority may decide to apply subregulation (2) also in the case of an accompanied minor who is born or who is present during the administrative procedure.

(4) Where the parent or adult responsible for the accompanied minor referred to in subregulation (2) or (3) lodges the application on behalf of the minor, the minor shall be present for the lodging of the application, except where there are justified reasons for which the minor is unable or unfit to be present or, where possible, the application on behalf of the minor is lodged by means of a form.

Applications of unaccompanied minors.

5F.(1) An unaccompanied minor shall have the right to lodge an application in his own name if he has legal capacity in accordance with Gibraltar law and to that effect, the unaccompanied minor shall be informed of the age of legal capacity and where the unaccompanied minor does not have legal capacity a representative or a person as referred to in regulation 15(2) shall lodge the application on his behalf.

(2) Subregulation (1) shall apply without prejudice to an unaccompanied minor's right to legal counselling and to legal assistance and representation in accordance with regulations 14 and 14A.

(3) In the case of an unaccompanied minor who does not have legal capacity the application shall be lodged within the time limit set out in regulation 5(1B), taking into account the best interests of the child.

(4) Where the representative of an unaccompanied minor or a person as referred to in regulation 15(2) lodges the application on behalf of the minor, the minor shall be present for the lodging of the application, except where there are justified reasons for which the minor is unable or unfit to be present or, where possible, the application is lodged by means of a form.

Right to remain in Gibraltar pending the examination of the application for international protection.

6.(1) A person who has lodged an application for international protection must be allowed to remain in Gibraltar, for the sole purpose of the procedure, until the Authority has made a decision in accordance with the procedures at first instance set out in Part IV but this right to remain shall not constitute an entitlement to a residence permit and shall not give the applicant the right to travel to the territory of Member States.

(2) Subregulation (1) may not apply where the Authority has decided—

- (a) not to further examine a subsequent application for international protection in accordance with regulation 26; or

- (b) to surrender, extradite or transfer the applicant–
 - (i) in accordance with a European arrest warrant,
 - (ii) to a third country, or
 - (iii) to an international criminal court or tribunal.

Examination of applications for international protection.

7.(1) No application for international protection shall be rejected or excluded from examination on the sole ground that it has not been made as soon as possible.

(2) No decision shall be made by the Authority on any application for international protection without an appropriate examination.

(3) The Authority must–

- (a) examine the application for international protection and take the decision on the application individually, objectively and impartially, taking into account; -
 - (i) the relevant statements and documentation presented by the applicant in accordance with regulation 26 of the Asylum Regulations 2008;
 - (ii) where applying the concepts of first country of asylum or safe third country, relevant, precise and up-to-date information relating to the situation prevailing in the third country being considered as a first country of asylum or a safe third country at the time of taking a decision on the application;
 - (iii) the individual position and personal circumstances of the applicant, including factors such as the applicant's background, age, gender, gender identity and sexual orientation, so as to assess whether, on the basis of the applicant's personal circumstances, the acts to which the applicant has been or could be exposed would amount to persecution or serious harm;
 - (iv) whether the activities that the applicant was engaged in since leaving the country of origin were carried out by the applicant for the sole or main purpose of creating the necessary conditions for applying for international protection, so as to assess whether those activities would expose the applicant to persecution or serious harm, as referred to in regulation 28 or

36, as the case may be, of the Asylum Regulations 2008 if returned to that country;

- (v) whether the applicant could reasonably be expected to avail himself of the protection of another country where he could assert citizenship;
 - (vi) provided that the State or agents of the State are not the actors of persecution or serious harm, whether the internal protection alternative referred to in regulation 26A of the Asylum Regulations 2008 applies.
- (b) obtain precise and up-to-date information from various sources, such as the UNHCR and other available international sources, as to the general situation prevailing in the countries of origin of the applicant for international protection, including laws and regulations of the country of origin and the manner in which they are applied and, where necessary, in countries through which the applicant has transited;
- (c) make available the information obtained under paragraph (b) to the person responsible for examining applications for international protection and taking decisions; and
- (d) ensure that the persons examining applications for international protection and taking decisions have the knowledge with respect to relevant standards applicable in the field of asylum and refugee law and shall have the possibility to seek advice, whenever necessary, from experts on particular issues, such as medical, cultural, religious, mental health, and child-related or gender issues.

(3A) Documents assessed by the Authority as relevant for the examination of applications shall be translated, where necessary, for such examination and the translation of those relevant documents or parts thereof may be provided by other entities and paid for from public funds.

(3B) The applicant may, at his own cost, ensure the translation of other documents and for subsequent applications, the applicant may be made responsible for the translation of documents.

(3C) The Authority may prioritise the examination of an application for international protection in particular where—

- (a) it considers that the application is likely to be well-founded;
- (b) the applicant has special reception needs within the meaning of regulation 20A of the Asylum Regulations 2008 or is in need of special procedural guarantees as

referred to in regulation 14B or 15, in particular where he is an unaccompanied minor;

- (c) there are reasonable grounds to consider the applicant as a danger to national security or public order;
- (d) the application is a subsequent application;
- (e) the applicant has been subject to a decision in accordance with regulation 21(1)(a)(v) of the Asylum Regulations 2008.

(4) The Authority shall ensure that the Supreme Court is provided with the information referred to in subregulation (3)(b) when hearing an appeal under these Regulations.

Duration of the examination procedure.

7A.(1) The examination to determine whether an application is inadmissible in accordance with regulation 21(2)(a) to (g) and subregulation (3) shall be concluded as soon as possible and no later than two months from the date on which the application is lodged and in the case referred to in regulation 21(2)(h), the Authority shall conclude the examination within ten working days.

(2) The application shall not be deemed to be admissible solely by reason of the fact that no decision on inadmissibility is taken within the time limits set out in subregulation (1) and in subregulation (3).

(3) The Authority may extend the time limits provided for in subregulation (1) by no more than two months where—

- (a) a disproportionate number of persons make an application for international protection within the same period of time, making it unfeasible to conclude the admissibility procedure within the set time limits;
- (b) complex issues of fact or law are involved;
- (c) the delay can be attributed clearly and solely to the failure of the applicant to comply with his obligations under regulation 10.

(4) The Authority shall conclude the accelerated examination procedure as soon as possible and no later than three months from the date on which the application is lodged.

(5) The Authority shall ensure that an examination procedure on the merits, provided that it is not an accelerated examination procedure, is concluded as soon as possible and no later

than six months from the date on which the application is lodged, without prejudice to an adequate and complete examination.

(6) The Authority may extend the time limit of six months referred to in subregulation (5) by a period of not more than six months where—

- (a) a disproportionate number of persons make an application for international protection within the same period of time, making it unfeasible to conclude the procedure within the six-month time limit;
- (b) complex issues of fact or law are involved;
- (c) the delay can be attributed clearly and solely to the failure of the applicant to comply with his obligations under regulation 10.

(7) The Authority may postpone concluding the examination procedure where it cannot reasonably be expected to decide within the time limits laid down in subregulation (5) due to an uncertain situation in the country of origin which is expected to be temporary and in such cases, the Authority shall—

- (a) conduct reviews of the situation in that country of origin at least every four months;
- (b) where available, take into account reviews of the situation in that country of origin carried out by international sources;
- (c) inform the applicants concerned, in a language which they understand or are reasonably supposed to understand and as soon as possible, of the reasons for the postponement.

(8) The Government shall lay down time limits for the conclusion of the examination procedure in cases where a court or tribunal annuls the decision of the Authority and refers the case back and those time limits shall be shorter than the time limits set out in this regulation.

Decision of the Authority.

8.(1) The Authority must—

- (a) on any application for international protection, give its decision in writing to the applicant or, where a representative or legal advisor legally represents the applicant, to the representative or legal advisor;
- (b) ensure that—

- (i) where an application for international protection is rejected as inadmissible, unfounded or manifestly unfounded, as explicitly withdrawn or as implicitly withdrawn, the reasons in fact and in law are stated in the decision, and

- (ii) information on how to challenge a decision rejecting the application for international protection is given in writing,

and, unless the applicant is assisted by a legal advisor, the information shall be provided in a language that the applicant understands or is reasonably supposed to understand.

(1A) Where the applicant is assisted by a legal adviser who legally represents the applicant, the information referred to in subregulation (1) may be provided solely to that legal adviser without being translated into a language which the applicant understands or is reasonably supposed to understand and in such a case, the fact of whether or not international protection is granted shall be communicated, in writing, for information to the applicant in a language which he understands or is reasonably supposed to understand, together with general information on how to challenge the decision.

(1B) In the case of applications on behalf of minors or dependant adults and where the applications are all based on the exact same grounds as the application of the adult responsible for that minor or dependant adult, the Authority may, following an individual assessment for each applicant, take a single decision covering all applicants, unless to do so would lead to the disclosure of particular circumstances of an applicant which could jeopardise his interests, in particular in cases involving gender-based violence, trafficking in human beings, and persecution based on gender, sexual orientation, gender identity or age and in such cases, a separate decision shall be issued and notified to the person concerned in accordance with subregulation (1).

(2) Subregulation (1)(b)(i) shall not apply if the applicant is granted a status that offers the same rights and benefits under the law of Gibraltar law as refugee status offers under the Asylum Regulations 2008.

(3) In a case covered by subregulation (2)–

- (a) the reasons for not granting refugee status must be stated in the applicant's file; and
- (b) the applicant must have, upon request, access to that file.

(4) Subregulation (1)(b)(ii) shall not apply if the applicant has been provided with the information at an earlier stage either in writing or by electronic means accessible to the applicant.

(5) Where an application for international protection is lodged on behalf of any one or more adult dependants and the applicant also lodged his application for international protection on the same grounds under regulation 5(3), the Authority may take one single decision on the applications for international protection covering all dependants.

(6) An application shall not be examined on the merits where –

- (a) another State is responsible;
- (b) an application is rejected as inadmissible in accordance with regulation 21 or;
- (c) an application is explicitly or implicitly withdrawn in accordance with regulation 17.

(7) When examining an application on the merits, the Authority shall take a decision on whether the applicant qualifies as a refugee and, if not, it shall determine whether the applicant is eligible for subsidiary protection in accordance with the Asylum Regulations 2008.

Rejection of an application and issuance of a return decision.

8A.(1) Where an application is rejected as inadmissible, unfounded or manifestly unfounded with regard to both refugee status and subsidiary protection status, or as implicitly or explicitly withdrawn, the Authority shall issue a return decision that respects Part VA and that is in accordance with the principle of non-refoulement.

(2) Where a return decision or another decision imposing the obligation to return has already been issued prior to the making of an application for international protection, the return decision under this regulation is not required.

(3) The return decision shall be issued as part of the decision rejecting the application for international protection or in a separate act and where the return decision is issued as a separate act, it shall be issued at the same time and together with the decision rejecting the application for international protection or without undue delay thereafter.

Guarantees for applicants.

9.(1) The Authority must inform an applicant, in a language that he may reasonably be supposed to understand, of–

- (a) the right to lodge an individual application the procedure to be followed;
- (b) his rights and obligations during the procedure;
- (c) the possible consequences of not complying with his obligations and not cooperating with the authorities;
- (d) the time-frame, as well as the means at his disposal, for fulfilling the obligation to submit the elements as referred to in regulation 26 of the Asylum Regulations 2008, and
- (e) the right to free legal counselling for the lodging of the individual application and to legal assistance and representation at all stages of the procedure,

in time to enable him to exercise the rights guaranteed in these Regulations and to comply with the obligations described in regulation 10.

(2) The Authority must–

- (a) provide the applicant with the services of an interpreter for submitting his case to the Authority whenever necessary;
- (b) not deny the applicant the opportunity to communicate with the UNHCR or with any other organisation working on behalf of the UNHCR in Gibraltar pursuant to an agreement before the deadline for lodging an application;
- (c) give the applicant directly or through his counsel, notice in reasonable time of the determination of his application for international protection; and
- (d) provide the applicant with the information under paragraph (c), including information on how to challenge the rejection of an application for international protection, in a language that he may reasonably be supposed to understand if he is not represented by counsel or where free legal assistance is not available.

(3) The services referred to in subregulation (2)(a) must be provided to the applicant if the applicant is called upon for interviews under regulations 11 and 12 and appropriate communication cannot be ensured without such services.

(4) In a case to which subregulation (3) applies, and in any other case where the Authority calls upon the applicant, the services referred to in subregulation (2)(a) shall be paid for out of public funds.

(5) All the information referred to in this regulation shall be provided as soon as possible to enable applicants to exercise the rights guaranteed and to enable them to adequately comply with their obligations under regulation 10 and the information referred to in subregulation (1) shall be provided to the applicant at the latest when the application is registered.

(6) The information referred to in subregulation (1) shall be provided by means of a leaflet, either physically or electronically and if necessary, orally and information shall be provided to minors in a child-friendly manner and with the involvement of the representative or the person referred to in regulation 15(2)(a).

(7) The applicant shall be given the opportunity to confirm that he has received the information and such confirmation shall be documented in the applicant's file and if the applicant refuses to confirm that he has received the information, a note of that fact shall be entered in his file.

(8) The Authority shall ensure that applicants and, where applicable, their representatives or legal advisors or other counsellors admitted or permitted to provide advice under Gibraltar law have access to the information referred to in regulation 7(3)(a)(ii) and (b), that is required for the examination of applications and to the information provided by the experts referred to in regulation 7(3)(d), where the Authority has taken that information into consideration for the purpose of taking a decision on their application.

(9) The Authority shall give applicants notice in writing as soon as possible of the decision taken on their application and where a representative or legal advisor legally represents the applicant, the Authority may give notice of the decision to that representative or legal advisor instead of the applicant.

Obligations of an applicant.

10.(1) An applicant for international protection may be required to—

- (a) report to the Authority or appear before it in person without delay or at a time specified by the Authority;
- (b) hand over his passport and other documents in his possession that are relevant to the examination of the application;
- (c) inform the Authority of his current place of residence or address, telephone number and email address and of any changes thereof as soon as possible;
- (d) cooperate with and as directed by the Authority;

- (e) provide data relating to his name, date and place of birth, gender, nationalities (or the fact they are stateless), family members (including minors, siblings and relatives) present in Gibraltar and type, number and validity of any identity or travel document;
- (f) provide an explanation where he is not in possession of an identity or travel document;
- (g) provide biometric data;
- (h) lodge his application in accordance with regulation 5 and remain available throughout the procedure;
- (i) attend the personal interview.

in so far as this is necessary for processing the application.

(2) After receiving the application for international protection, the Authority may—

- (a) search the applicant and the items he carries with him;
- (b) take a photograph of the applicant; and
- (b) record the applicant's oral statements, if he has previously been informed that they will be recorded.

(3) Where the Authority decides to retain any document as referred to in subregulation (1)(b), it shall ensure that the applicant immediately receives copies of the originals.

(4) The applicant shall accept any communication from the Authority at the most recent place of residence or address, by telephone number or email address indicated by himself to the Authority.

(5) An applicant shall comply with obligations to report to the Authority at a specified time or at reasonable intervals.

(6) Without prejudice to any search carried out for security reasons, where it is necessary and duly justified for the examination of an applicant, the Authority may require that the applicant be searched or that his items be searched in accordance with Gibraltar law and the Authority shall provide the applicant with the reasons for the search and include them in the applicant's file.

(7) Any search carried out of the applicant's person under these Regulations shall be carried out by a person of the same sex with full respect for the principles of human dignity and of physical and psychological integrity.

Personal interview.

11.(1) No decision shall be taken on any application for international protection unless the applicant is given the opportunity of a personal interview on the application for international protection with a person authorised by the Authority to conduct the interview and before a decision on the admissibility of an application, the applicant shall be also be given the opportunity of a personal interview on admissibility and both interviews can be held at the same time provided the applicant has been informed of such a possibility in advance and has been able to consult with his legal advisor or with a person entrusted with providing legal counsel.

(1A) In an interview on admissibility, the applicant shall be given an opportunity to provide reasons as to why the inadmissibility grounds provided would not be applicable to him.

(1B) In the personal interview, the applicant shall be given the opportunity to present the elements needed to substantiate his application in accordance with the Asylum Regulations 2008 as completely as possible and the applicant shall be given the opportunity to provide an explanation regarding elements which might be missing or any inconsistencies or contradictions in his statements.

(2) The Authority may also give the opportunity of a personal interview to a dependant falling under regulation 5(2), to be conducted by a duly authorised person.

(3) The personal interview of a minor shall be conducted in accordance with regulation 15.

(4) The personal interviews referred to in subregulations (1) to (3) may be omitted if the Authority—

- (a) is able to take a positive decision on the basis of the evidence available; or
- (b) has already had a meeting with the applicant for the purpose of assisting him with completing his application for international protection and submitting the essential information regarding the application for international protection, in terms of regulation 25 of the Asylum Regulations 2008;
- (c) on the basis of a complete examination of information provided by the applicant, considers the application for international protection to be unfounded in cases where the circumstances mentioned in regulation 20(5)(a), (c), (g), (h) and (j) apply;

- (d) considers that the application is not inadmissible on the basis of the evidence provided;
- (e) in the case of a subsequent application, the preliminary examination is carried out on the basis of a written statement;
- (f) considers the application inadmissible.

(5) The personal interviews referred to in this regulation may also be omitted where it is not reasonably practicable, in particular where the Authority is of the view that the applicant or a dependant, as the case may be, is unfit or unable to be interviewed owing to enduring circumstances beyond his control, and in such a case the Authority may require a medical or psychological certificate.

(6) Where subregulation (5) applies the omission of a personal interview shall not adversely affect the decision of the Authority and the Authority shall take reasonable steps to allow the applicant or the dependant to submit further information.

(6A) When in doubt as to the fitness or ability of the applicant to be interviewed, the Authority shall consult a medical professional to establish whether the applicant is temporarily unfit or unable to be interviewed or whether his situation is of an enduring nature and where, following consultation of that medical professional, it is clear that the condition making the applicant unfit or unable to be interviewed is of a temporary nature, the Authority shall postpone the personal interview until such time as the applicant is fit or able to be interviewed.

(6B) Where the applicant is unable to attend the personal interview owing to specific circumstances beyond his control, the Authority shall reschedule the personal interview.

(6C) Applicants shall be present at the personal interview and shall be required to respond in person to the questions asked and shall be allowed to be assisted by a legal adviser in the personal interview, including when it is held by video conference.

(7) The absence of a personal interview in accordance with the provisions of this regulation shall not prevent the Authority from taking a decision on the application.

(8) The absence of a personal interview by reason of the matters set out in subregulation (4)(b), (4)(c), (5) and (6) shall not adversely affect the decision of the Authority.

(9) Notwithstanding regulation 17(3), the Authority may, at the time of deciding on the application for international protection, take into account the applicant's failure to appear for the personal interview, unless the applicant had good reasons for the failure to appear.

(10) Where an applicant is represented by counsel, the absence of counsel shall not prevent the Authority from conducting the personal interview.

Requirements for a personal interview.

12.(1) A personal interview must take place—

- (a) under conditions that ensure appropriate privacy and confidentiality which allow applicants to present the grounds for their applications in a comprehensive manner;
- (b) without the presence of the members of the applicant's family unless the Authority considers it necessary for an appropriate examination to have other family members present; and
- (c) in the presence of the applicant's legal advisor where the applicant has decided to avail himself of legal assistance.

(2) To ensure that the personal interview is conducted under conditions that allow the applicant to present the grounds for his application for international protection in a comprehensive manner, the Authority must take steps to—

- (a) ensure that the person who conducts the interview is sufficiently competent to take account of the personal or general circumstances surrounding the application for international protection, including the applicant's cultural origin or vulnerability, insofar as it is possible to do so;
- (b) select an interpreter, where necessary, who is able to ensure appropriate communication between the applicant and the person conducting the interview; and
- (c) ensure the presence of a cultural mediator, if deemed necessary by the Authority.

(2A) For the purposes of subregulation (2)(b) and (c), the Authority shall give preference to interpreters and cultural mediators that have received appropriate training and the Authority shall ensure that such interpreters and cultural mediators are made aware of the key concepts and terminology relevant to the assessment of applications for international protection and communication shall take place in the language preferred by the applicant unless there is another language which he understands and in which he is able to communicate clearly.

(3) For the purposes of subregulation (2)(b) the communication need not necessarily take place in the language preferred by the applicant if there is another language which the applicant may reasonably be supposed to understand and in which the applicant is able to communicate.

- (4) This regulation also applies to the meeting referred to in regulation 11(4)(b).
- (5) The person conducting the interview shall–
- (a) be competent to take account of the personal and general circumstances surrounding the application, including the situation prevailing in the applicant's country of origin, and the applicant's cultural origin, age, gender, gender identity, sexual orientation, vulnerability and special procedural needs;
 - (b) not wear a military or law enforcement uniform;
 - (c) have acquired knowledge of factors which could adversely affect the applicant's ability to be interviewed, such as indications that the person may have been tortured in the past or have been a victim of trafficking in human beings;
 - (d) have received advance appropriate training.
- (6) Where requested by the applicant and where possible, the Authority shall ensure that the interviewers and interpreters are of the sex that the applicant prefers, unless it has reasons to consider that such a request does not relate to difficulties on the part of the applicant to present the grounds of his application in a comprehensive manner.
- (7) By way of derogation, the Authority may hold the personal interview by video conference where duly justified by the circumstances and in such a case shall ensure the necessary arrangements for the appropriate facilities, procedural and technical standards, legal assistance and interpretation.

Status of the report of a personal interview in the procedure.

13.(1) The Authority must ensure that–

- (a) a written report is made of every personal interview, containing at least the essential information regarding the application for international protection, or a transcript of the interview or a transcript of the recording of the interview, as presented by the applicant, in terms of regulation 25 of the Asylum Regulations 2008; and
 - (b) the applicant has timely access to the report of the personal interview.
- (1A) The personal interviews shall be recorded using audio means of recording and the applicant shall be informed in advance of the fact that such a recording is being made and the purpose thereof and particular attention shall be paid to the requirements of applicants in need of special procedural guarantees.

(1B) The Authority shall include the recording in the applicant's file.

(1C) The applicant shall be given the opportunity to make comments or provide clarification orally or in writing with regard to any incorrect translations or misunderstandings or other factual mistakes appearing in the report, the transcript of the interview or the transcript of the recording, at the end of the personal interview or within a specified time limit before the Authority takes a decision and to that end, the applicant shall be informed of the entire content of the report, of the transcript of the interview or of the transcript of the recording, with the assistance of an interpreter, where necessary.

(1D) The applicant shall be requested to confirm that the content of the report or the transcript of the interview correctly reflects the personal interview and where the applicant refuses to confirm the content, the reasons for that refusal shall be entered in the applicant's file and that refusal shall not prevent the Authority from taking a decision on the application.

(1E) Where there is doubt as to the statements made by the applicant during the personal interview, the audio recording shall prevail.

(1F) The applicant does not have to be requested to make comments or to provide clarifications on the report or the transcript of the interview, nor to confirm that the content of the report or the transcript of the interview correctly reflects the interview where –

- (a) under Gibraltar law, the recording or a transcript thereof may be admitted as evidence in the appeal procedure; or
- (b) it is clear to the Authority that the applicant will be granted refugee status or subsidiary protection status provided that the subsidiary protection status offers the same rights and benefits as refugee status under Gibraltar law.

(1G) Applicants and, where they have been appointed, their representatives and their legal advisers shall have access to the report or transcripts referred to in subregulation (1) as soon as possible after the interview and in any case in due time before the Authority takes a decision and access to the recording shall also be provided in the appeal procedure.

(2) If the access to the report of the personal interview is only granted after the decision of the Authority, the Authority must ensure that access to the report is possible as soon as necessary for allowing an appeal to be prepared and lodged in due time.

(3) On finishing the personal interview, the authorised person referred to in regulation 11(1) may request the applicant's approval of the contents of the report of the personal interview.

(4) Where the applicant refuses to approve the contents of the report–

- (a) the reasons for this refusal must be entered in the applicant's file; and
 - (b) such refusal shall not prevent the Authority from taking a decision on his application.
- (5) This regulation also applies to the meeting referred to in regulation 11(2)(b).

Scope of legal assistance and representation.

14.(1) An applicant for international protection must have the opportunity, at his own cost, to consult counsel in an effective manner on matters relating to his application for international protection.

(1A) The applicant shall be informed as soon as possible and at the latest when registering the application of his right to request free legal counselling or free legal assistance and representation.

(2) Where under Part I, paragraph 1C of the Schedule to the Legal Aid and Assistance Act an applicant for international protection seeks free legal assistance or representation or both, he shall be considered to be ordinarily resident in Gibraltar for the purposes of rule 6(2) of the Legal Aid and Assistance Rules.

(3) Subregulation (2) shall not entitle the applicant to legal assistance for any other onward appeal.

(3A) The provision of free legal assistance or representation or both, may be excluded where—

- (a) the applicant, who shall disclose his financial situation, is considered to have sufficient resources to afford legal assistance or representation or both, at his own cost;
- (b) it is considered that the appeal has no tangible prospect of success or is abusive;
- (c) the applicant is already assisted or represented by a legal adviser.

(3B) Where a decision not to grant free legal assistance or representation or both is taken under subregulation (3A)(b), the applicant shall have a right to appeal that decision before the Magistrates' Court and for that purpose, the applicant shall be entitled to request free legal assistance or representation, or both.

(4) Where an application for legal assistance is being considered on the basis of the merits of the case, the Registrar shall ensure that such an application is not arbitrarily restricted.

(5) The Authority shall allow an applicant's counsel access to such information in the applicant's file as is liable to be examined by the Supreme Court pursuant to Part VI, insofar as the information is relevant to the examination of the application for international protection.

(6) Notwithstanding subregulation (5), the Authority may refuse any access to information by counsel if the disclosure of information or sources—

(a) would jeopardise—

- (i) the security of Gibraltar,
- (ii) the security of the international organisation or any person providing the information, or
- (iii) the security of any person to whom the information relates, or

(b) where—

- (i) the investigative interests relating to the examination of applications for international protection by the Authority, or
- (ii) the international relations of Gibraltar,

would be compromised.

(7) Where access has been denied due to any reason under subregulation (6), access to the information or sources in question must be available to the Supreme Court, except where such access is precluded in cases concerning the security of Gibraltar.

(8) Counsel for an applicant shall have access to closed areas, such as detention facilities and transit zones, for the purpose of consulting the applicant.

(9) Access referred to in subregulation (8) shall only be limited where it is objectively necessary for the security, public order or administrative management of an area, or in order to ensure an efficient examination of the application for international protection, provided that access by counsel is not thereby severely limited or rendered impossible.

Free legal counselling during application procedure.

14A.(1) The Government shall, at the request of an applicant, provide free legal counselling during the application procedure until such time as a decision is made by the Authority under regulation 8.

(2) Access to free legal counselling may be assured by entrusting a person with the provision of legal counselling to several applicants at the same time.

(3) For the purposes of this regulation, free legal counselling shall include the provision of—

- (a) guidance on and an explanation of the application procedure including information on rights and obligations during that procedure;
- (b) assistance on the lodging of the application and guidance on—
 - (i) the different procedures under which the application may be examined and the reasons for the application of those procedures;
 - (ii) the rules related to the admissibility of an application;
 - (iii) legal issues arising in the course of the procedure, including information on how to challenge a decision rejecting an application.

(4) Without prejudice to subregulation (1), the provision of free legal counselling in the application procedure may be excluded where—

- (a) the application is a first subsequent application considered to have been lodged merely in order to delay or frustrate the enforcement of a return decision which would result in the applicant's imminent removal from Gibraltar;
- (b) the application is a second or further subsequent application;
- (c) the applicant is already assisted and represented by a legal adviser.

Assessment of the need for special procedural guarantees.

14B.(1) The Authority shall individually assess whether the applicant is in need of special procedural guarantees, with the assistance of an interpreter, where needed and that assessment may be integrated into existing procedures or into the assessment referred to in regulation 20B of the Asylum Regulations 2008 and need not take the form of an administrative procedure.

(2) The assessment may be made available, and the results of the assessment may be transmitted, to the Authority, subject to the applicant's consent.

(3) The assessment referred to in subregulation (1) shall be initiated as early as possible after an application is made by identifying whether an applicant presents first indications that he might require special procedural guarantees and that identification shall be based on visible signs, the applicant's statements or behaviour, or any relevant documents.

(4) In the case of minors, statements of the parents, of the adult responsible for him or of the representative of the applicant shall also be taken into account and the Authority shall, when registering the application, include information on any such first indications in the applicant's file.

(5) The assessment referred to in subregulation (1) shall be continued after the application is lodged, taking into account any information in the applicant's file and shall be concluded as soon as possible and, in any event, within 30 days and it shall be reviewed in the event of any relevant changes in the applicant's circumstances or where the need for special procedural guarantees becomes apparent after the assessment has been completed.

(6) The Authority may refer the applicant, subject to his prior consent, to the appropriate medical practitioner or psychologist or to another professional for advice on the applicant's need for special procedural guarantees, prioritising cases where there are indications that applicants might have been victims of torture, rape or another serious form of psychological, physical, sexual or gender-based violence and that that could adversely affect their ability to participate effectively in the procedure.

(7) Where the applicant consents to be referred in accordance with subregulation (6), such consent shall be deemed to include consent to the transmission of the results of the referral to the Authority and the advice provided shall be taken into account by the Authority when deciding on the type of special procedural guarantees which can be provided to the applicant.

(8) Where applicable and without prejudice to the medical examination, the assessment referred to in subregulation (1) may be integrated with the medical examinations referred to in regulations 15A and 15B.

(9) The relevant staff of the Authority and any medical practitioner, psychologist or other professional giving advice on the need for special procedural guarantees shall receive training to enable them to detect signs of vulnerability on the part of an applicant who might need special procedural guarantees and address those needs when identified.

Applicants in need of special procedural guarantees.

14C.(1) Where applicants have been identified as being in need of special procedural guarantees, they shall be provided with the necessary support allowing them to benefit from

the rights and comply with the obligations under these Regulations throughout the duration of the procedure for international protection.

(2) Where the Authority, including on the basis of the assessment of another relevant authority, considers that the necessary support referred to in subregulation (1) cannot be provided within the framework of the prioritised or accelerated examination procedure referred to in regulation 20(5), paying particular attention to victims of torture, rape or other serious forms of psychological, physical, sexual violence or gender-based violence, the Authority shall not apply or shall cease to apply those procedures to the applicant.

Guarantees for minors.

14D.(1) The best interests of the child shall be a primary consideration for the Authority when applying these Regulations.

(2) The Authority shall assess the best interests of the child in accordance with regulation 19 of the Asylum Regulations 2008.

(3) The Authority shall give a minor the opportunity of a personal interview, including where an application is made on his own behalf, unless this is not in the best interests of the child and in that case, the Authority shall give reasons for the decision not to give a minor the opportunity of a personal interview.

(4) The personal interview of a minor shall be conducted by a person who has the necessary knowledge of the rights and special needs of minors and it shall be conducted in a child-sensitive and context-appropriate manner, taking into consideration the age and maturity of the child.

(5) Where a minor is accompanied, the personal interview shall be conducted in the presence of an adult responsible for him and, where one has been appointed, of a legal adviser and may also, where necessary and when it is in the best interests of the child, conduct the personal interview with that minor in the presence of a person with necessary skills and expertise and on justified grounds and only where it is in the best interests of the child, the Authority may interview the minor without the presence of an adult responsible, provided that it ensures that the minor is assisted during the interview by a person with necessary skills and expertise in order to safeguard his best interests.

(6) The decision on the application of a minor shall be prepared by the relevant staff of the Authority and those relevant staff shall have the necessary knowledge and have received the appropriate training on the rights and special needs of minors.

Guarantees for unaccompanied minors.

15.(1) The Authority shall ensure that unaccompanied minors are represented and assisted in such a way so as to enable them to benefit from the rights and comply with the obligations under these Regulations and the Asylum Regulations 2008.

(2) Where an application is made by a person who claims to be a minor, or in relation to whom there are objective grounds to believe that he is a minor, who is unaccompanied, the Authority shall—

(a) designate as soon as possible and in any case in a timely manner for the purposes of subregulation (10) and, where applicable, subregulation (11), a person with the necessary skills and expertise to provisionally assist the minor in order to safeguard his best interests and general well-being which enables the minor to benefit from the rights under these Regulations and, where applicable, act as a representative until a representative has been appointed;

(b) appoint a representative as soon as possible and no later than 15 working days from the date on which the application is made.

(3) The representative in subregulation (2)(a) may be the representative referred to in regulation 20 of the Asylum Regulations 2008 and he shall meet with the unaccompanied minor and take into account the minor's own views about his needs in accordance with the age and maturity of the minor.

(4) Where the Authority has concluded that an applicant who claims to be a minor is without any doubt above the age of 18 years, it need not appoint a representative in accordance with this regulation.

(5) The duties of the representative or the person referred to in subregulation (2)(a) shall cease where the Authority, following the age assessment referred to in regulation 15B, do not assume that the applicant is a minor or consider that the applicant is not a minor or where the applicant is no longer an unaccompanied minor.

(6) In the event of a disproportionate number of applications made by unaccompanied minors or in other exceptional situations, the time limit for appointing a representative as referred to in subregulation (2)(b) may be extended by ten working days, without prejudice to subregulation (3).

(7) Where an organisation is designated under subregulation (2), it shall appoint a natural person to carry out the tasks referred to in this regulation in respect of the unaccompanied minor.

(8) The Authority shall immediately inform—

- (a) the unaccompanied minor, in a child-friendly manner and in a language he can understand, of the designation of the person referred to in subregulation (2)(a) and of his representative and about how to lodge a complaint against the person referred to in subregulation (2)(a) or (b) in confidence and safety;
 - (b) the person referred to in subregulation (2)(a) and the representative of the relevant facts, procedural steps and time limits pertaining to the application of the unaccompanied minor.
- (9) The representative and the person referred to in subregulation (2)(a) shall have access to the content of the relevant documents in the minor's file including the specific information material for unaccompanied minors.
- (10) The person referred to in subregulation (2)(a) shall meet with the unaccompanied minor and carry out, inter alia, the following tasks, where appropriate together with the legal adviser–
- (a) provide the unaccompanied minor with relevant information in relation to the procedures provided for in these Regulations;
 - (b) where applicable, assist the unaccompanied minor in relation to the age-assessment procedure referred to in regulation 15B;
 - (c) where applicable, provide the unaccompanied minor with the relevant information and assist him in relation to the procedures provided for in these Regulations and the Asylum Regulations 2008.
- (11) For as long as a representative has not been appointed, the Authority may authorise the person referred to in subregulation (2) to assist the minor with the registration and lodging of the application or lodge the application on behalf of the minor in accordance with regulation 5F.
- (12) The representative shall meet with the unaccompanied minor and shall carry out, inter alia, the following tasks, where appropriate together with the legal adviser–
- (a) where applicable, provide the unaccompanied minor with relevant information in relation to the procedures provided for in this regulation;
 - (b) where applicable, assist with the age-assessment procedure referred to in regulation 15B;
 - (c) where applicable, assist with the registration of the application;

- (d) where applicable, assist with the lodging of the application or lodge the application on behalf of the unaccompanied minor in accordance with regulation 5F;
- (e) where applicable, assist with the preparation of and be present for the personal interview and inform the unaccompanied minor about the purpose and possible consequences of the personal interview and about how to prepare for that interview;
- (f) where applicable, provide the unaccompanied minor with the relevant information and assist the unaccompanied minor in relation to the procedures provided for in these Regulations and the Asylum Regulations 2008.

(13) In the personal interview, the representative and the legal adviser shall have an opportunity to ask questions or make comments within the framework set by the person conducting the interview.

(14) The Authority may require that the unaccompanied minor be present at the personal interview, even if the representative or legal adviser is present.

(15) The representative shall perform his duties in accordance with the principle of the best interests of the child and shall have the necessary qualifications, training and expertise.

(16) Representatives shall receive regular training for the performance of their tasks and shall not have a criminal record, in particular as regards any child-related crimes or offences and the representative shall be changed only if the Authority considers that the tasks of that representative or person have not been performed adequately and organisations or natural persons whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be appointed as representative.

(17) The Authority shall place a natural person acting as representative or a person suitable to provisionally act as a representative in charge of a proportionate and limited number of unaccompanied minors, and under normal circumstances, of no more than 30 unaccompanied minors at the same time, in order to ensure that he is able to perform his tasks effectively and in the event of a disproportionate number of applications made by unaccompanied minors or in other exceptional situations, the number of unaccompanied minors per representative may be increased up to a maximum of 50 unaccompanied minors.

(18) The Government shall ensure that there are administrative or judicial authorities or other entities responsible to supervise, on a regular basis, the proper performance of tasks by the representatives and persons designated under subregulation (2)(a), including by reviewing the criminal records of those appointed representatives and designated persons at regular intervals in order to identify potential incompatibilities with their role and those administrative

or judicial authorities or other entities shall review complaints lodged by unaccompanied minors against appointed representatives or persons designated under subregulation (2)(a).

Medical examination.

15A.(1) Where the Authority deems it relevant for the examination of an application for international protection, it shall, subject to the applicant's consent, request a medical examination of the applicant concerning signs and symptoms that might indicate past persecution or serious harm and be informed of results thereof.

(2) In the case of a minor, the medical examination shall only be carried out where the parent, the adult responsible for him, the representative or the person referred to in regulation 15(2)(a) and, where provided for by Gibraltar law, the applicant, consent and the medical examination shall be free of charge for the applicant and be paid for from public funds.

(3) Where no medical examination is carried out in accordance with subregulation (1), the Authority shall inform applicants that they may, on their own initiative and at their own cost, arrange for a medical examination concerning signs and symptoms that might indicate past persecution or serious harm.

(4) The results of the medical examinations referred to in this regulation shall be submitted to the Authority and to the applicant as soon as possible and shall be assessed by the Authority along with the other elements of the application.

(5) The medical examination shall be the least invasive possible and be performed only by qualified medical professionals and it shall be performed in a way that respects the individual's dignity.

(6) An applicant's refusal to undergo a medical examination or a decision to undergo a medical examination on his own initiative, where such an examination does not take place within a suitable timeframe taking into account the availability of appointments for medical examinations, shall not prevent the Authority from taking a decision on the application for international protection.

Age assessments of minors.

15B.(1) Where, as a result of statements by the applicant, available documentary evidence or other relevant indications, there are doubts as to whether or not an applicant is a minor, the Authority may undertake a multi-disciplinary assessment, including a psychosocial assessment, which shall be carried out by qualified professionals, to determine the applicant's age within the framework of the examination of an application and the assessment of the age shall not be based solely on the applicant's physical appearance or behaviour.

(2) For the purposes of the age assessment, documents that are available shall be considered genuine, unless there is evidence to the contrary, and statements by minors shall be taken into consideration.

(3) Where there are still doubts as to the age of an applicant following the multi-disciplinary assessment, medical examinations may be used as a measure of last resort to determine the applicant's age within the framework of the examination of an application and where the result of the age assessment referred to in this regulation is not conclusive with regard to the applicant's age or includes an age-range below 18 years, the Authority shall assume that the applicant is a minor.

(4) Any medical examination carried out for the purposes set out in this regulation shall be the least invasive possible and be performed with full respect for the individual's dignity and shall be carried out by medical professionals with experience and expertise in age estimation and where this subregulation applies, the results from the medical examination and the multi-disciplinary assessment shall be analysed together, thereby allowing for the most reliable result possible.

(5) Where medical examinations are used to assess the age of an applicant, the Authority shall ensure that applicants, their parents, the adult responsible for him, their representatives or the person referred to in regulation 15(2)(a) are informed, prior to the examination of their application for international protection, and in a language that they understand and in a child-friendly and age appropriate manner, of the possibility that their age might be assessed by means of a medical examination and that shall include information –

- (a) on the method of examination;
- (b) on possible consequences which the result of the medical examination might have for the examination of the application; and
- (c) on the possibility and consequences of a refusal on the part of the applicant to undergo the medical examination,

and all documents relating to the medical examination shall be included in the applicant's file.

(6) A medical examination to assess the age of applicants shall only be carried out where the applicants, their parents, the adult responsible referred to in subregulation (5), their representative or the person referred to in regulation 15(2)(a) consent after having received the information provided for in subregulation (5).

(7) The refusal by the applicants, their parents, the adult responsible referred to in subregulation (5), their representative or the person referred to in regulation 15(2)(a), to have a medical examination carried out for the purposes of the age assessment shall not prevent the

Authority from taking a decision on the application for international protection and such refusal may only be considered to be a rebuttable presumption that the applicant is not a minor.

Detention.

16.(1) No person shall be held in detention for the sole reason that the person is an applicant for international protection.

(2) Where an applicant for international protection is held in detention, the Registrar shall ensure that any applications to the Supreme Court are dealt with as soon as is reasonably practicable.

Procedure in case of withdrawal or abandonment of the application for international protection.

17.(1) If the applicant explicitly and in writing withdraws the application for international protection, the Authority must either—

- (a) decide to discontinue the examination without taking a decision; or
- (b) reject the application for international protection.

(2) Where it proceeds under subregulation (1)(a), the Authority must enter a notice in the applicant's file.

(3) If there is reasonable cause to consider that the applicant for international protection has implicitly withdrawn or abandoned his application for international protection, the Authority must either—

- (a) decide to discontinue the examination; or
- (b) reject the application for international protection on the ground that the applicant has not established an entitlement to refugee status in accordance with the Asylum Regulations 2008.

(4) For the purposes of this regulation, the Authority may assume that the applicant has implicitly withdrawn or abandoned his application for international protection in particular when it is ascertained that—

- (a) the applicant—

- (i) has failed to respond to requests to provide information essential to his application for international protection in terms of regulations 25 and 26 of the Asylum Regulations 2008 or has not provided his biometric data, or
 - (ii) has not appeared for a personal interview as provided for in regulations 11, 12 and 13 unless the applicant demonstrates within a reasonable time that his failure was due to circumstances beyond his control; or
 - (iii) has not, without good cause, lodged his application in accordance with regulation 5, despite having had an effective opportunity to do so.
- (b) the applicant—
- (i) has absconded or left without authorisation the place where he lived or was held, without contacting the Authority within a reasonable time, or
 - (ii) has not within a reasonable time complied with reporting duties or other obligations to communicate.

(5) Where an applicant reports again to the Authority after a decision to discontinue as referred to in subregulation (3) is taken, he may request that his case be reopened, unless the request is examined in accordance with regulation 26.

(6) The Authority—

- (a) must not remove a person from Gibraltar contrary to the principle of non-refoulement; and
- (b) may take up the examination at the stage where it was discontinued if the Authority re-opens the case under subregulation (5).

(7) For the purpose of implementing this regulation, the Authority may prescribe time-limits for different actions by the applicants or issue guidelines to be followed by the applicants.

(8) The Authority shall, at the time of the withdrawal of the application under this regulation, inform the applicant in accordance with regulation 9, of all the procedural consequences of such a withdrawal in a language he understands or is reasonably supposed to understand.

The role of the UNHCR.

18.(1) The UNHCR shall be permitted to—

- (a) have access to applicants for international protection, including those in detention and in airport or port transit zones;
- (b) have access to information on individual applications for international protection, on the course of the procedure and on the decisions taken, provided that the applicant for international protection agrees thereto;
- (c) present its views, in the exercise of its supervisory responsibilities under Article 35 of the Geneva Convention, to the Authority regarding individual applications for international protection at any stage of the procedure.

(2) Subregulation (1) shall also apply to an organisation which is working in Gibraltar on behalf of the UNHCR pursuant to an agreement with the Government.

Collection of information on individual cases.

19. For the purposes of examining individual cases, the Authority must not—

- (a) directly disclose information regarding individual applications for international protection, or the fact that an application has been made, to the alleged actor of persecution of the applicant; and
- (b) obtain any information from the alleged actor of persecution in a manner that would result in such actor being directly informed of the fact that an application for asylum has been made by the applicant in question, and would jeopardise the physical integrity of the applicant and his dependants, or the liberty and security of his family members still living in the country of origin.

PART IV

Procedures at first instance

Examination procedure.

20.(1) The Authority must process applications for international protection in an examination procedure in accordance with the basic principles and guarantees set out in Part III.

(2) The Authority must ensure that—

- (a) the procedure referred to in subregulation (1) is concluded as soon as possible, without prejudice to an adequate and complete examination; and
- (b) where a decision cannot be taken within six months, the applicant must either—

- (i) be informed of the delay; or
- (ii) receive, upon his request, information on the time-frame within which the decision on the application for international protection is to be expected.

(3) Where the Authority provides a time-frame for the decision on the application for international protection under subregulation (2)(b)(ii), it shall not constitute an obligation for the Authority to take a decision within that time-frame.

(4) The Authority may, in dealing with the application for international protection, prioritise or accelerate any examination in accordance with the basic principles and guarantees set out in Part III, including where the application for international protection is likely to be well-founded or where the applicant has special needs.

(5) The Authority may also provide that an examination procedure in accordance with the basic principles and guarantees set out in Part III be prioritised or accelerated if—

- (a) the applicant, in submitting the application for international protection and presenting the facts, has only raised issues that are not relevant or of minimal relevance to the examination of whether he qualifies as a refugee under the Asylum Regulations 2008;
- (b) the applicant clearly does not qualify as a refugee or for refugee status under the Asylum Regulations 2008;
- (c) the application for international protection is considered to be unfounded because—
 - (i) the applicant is from a safe country of origin, or
 - (ii) the country, which is not a Member State, is considered to be a safe third country for the applicant, without prejudice to regulation 24(1),
- (d) the applicant has misled the Authority by presenting false information or documents or by withholding relevant information or documents with respect to his identity or nationality or both that could have had a negative impact on the decision;
- (e) the applicant has filed another application for international protection stating other personal data;
- (f) the applicant has not produced information establishing with a reasonable degree of certainty his identity or nationality, or it is likely that, in bad faith, he has

destroyed or disposed of an identity or travel document that would have helped establish his identity or nationality;

- (g) the applicant has made inconsistent, contradictory, improbable or insufficient representations which make his claim clearly unconvincing in relation to his having been the object of persecution referred to in the Asylum Regulations 2008;
- (h) the applicant has submitted a subsequent application for international protection which does not raise any relevant new elements with respect to his particular circumstances or to the situation in his country of origin;
- (i) the applicant has failed without reasonable cause to make his application for international protection earlier, having had opportunity to do so;
- (j) the applicant is making an application for international protection merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in his removal;
- (k) the applicant has failed without good reason to comply with obligations referred to in regulation 25 of the Asylum Regulations 2008 or in regulations 10(1)(a) and (b) and 17(3) and (4);
- (l) the applicant entered into Gibraltar unlawfully or prolonged his stay unlawfully and, without good reason, has either not presented himself to the Authority or filed an application for international protection as soon as possible, given the circumstances of his entry;
- (m) the applicant is a danger to the security or public order of Gibraltar, or the applicant has been forcibly expelled for serious reasons of public security and public order under the law of Gibraltar;
- (n) the applicant refuses to comply with an obligation to have his fingerprints taken;
- (o) the application for international protection was made by an unmarried minor after the application for international protection of the parents or parent responsible for the minor has been rejected and no relevant new elements were raised with respect to his particular circumstances or to the situation in his country of origin; or
- (p) the applicant entered Gibraltar lawfully and, without good reason, has not made an application for international protection as soon as possible, given the grounds of his application; this point is without prejudice to the need of international protection arising sur place.

(6) The prioritised or accelerated examination procedure referred to in subregulation (5) may be applied to unaccompanied minors only where—

- (a) the applicant comes from a third country that may be considered to be a safe country of origin within the meaning of these Regulations;
- (b) there are reasonable grounds to consider the applicant as a danger to the national security or public order of Gibraltar or the applicant had been forcibly expelled from Gibraltar for serious reasons of national security or public order;
- (c) the application is a subsequent application which is not inadmissible;
- (d) the applicant, after having been provided with the full opportunity to show good cause, is considered to have intentionally misled the Authority by presenting false information or documents or by withholding relevant information or documents, particularly with respect to his identity or nationality, that could have had a negative impact on the decision or there are clear grounds to consider that the applicant has, in bad faith, destroyed or disposed of an identity or travel document in order to prevent the establishment of his identity or nationality.

Inadmissible applications for international protection.

21.(1) The Authority shall not be required to examine whether the applicant qualifies as a refugee or for subsidiary protection under the Asylum Regulations 2008 where an application for international protection is considered inadmissible under this regulation.

(2) The Authority may consider an application for international protection as inadmissible under this regulation if—

- (a) the applicant has been granted international protection by a Member State;
- (b) a country which is not a Member State is considered as a first country of asylum for the applicant, pursuant to regulation 22;
- (c) a country which is not a Member State is considered as a safe third country for the applicant, pursuant to regulation 23;
- (d) the applicant is allowed to remain in Gibraltar on some other grounds—
 - (i) and as a result of this he has been granted a status equivalent to the rights and benefits of the refugee or subsidiary protection status by the Asylum Regulations 2008, or

- (ii) which protect him against refoulement pending the outcome of a procedure for the determination of status pursuant to subparagraph (i),
- (e) the applicant has lodged an identical application for international protection after a final decision;
- (f) a dependant of the applicant lodges an application for international protection, after he has, in accordance with regulation 5(3), consented to have his case be part of an application for asylum made on his behalf, and there are no facts relating to the dependant's situation which justify a separate application for international protection;
- (g) an international criminal court or tribunal has provided safe relocation for the applicant to a third country, or is unequivocally undertaking actions to that extent, unless new relevant circumstances have arisen which have not been taken into account by the court or tribunal or where there was no legal possibility to raise circumstances relevant to internationally recognised human rights standards before that international criminal court or tribunal; or
- (h) the applicant concerned was issued with a return decision in accordance with Part VA and made his application only after seven working days from the date on which the applicant received that return decision, provided that he had been informed of the consequences of not making an application within that time limit and that no new relevant elements have arisen since the end of that period.

(3) The Authority shall reject an application as inadmissible where the application is a subsequent application where no new relevant elements as referred to in regulation 26(2) relating to the examination of whether the applicant qualifies as a beneficiary of international protection in accordance with the Asylum Regulations 2008 or relating to the inadmissibility ground previously applied, have arisen or have been presented by the applicant.

The notion of effective protection.

21A.(1) A third country that has ratified and respects the Geneva Convention within the limits of the derogations or limitations made by that third country, as permitted under that Convention, shall be considered to ensure effective protection and in the case of geographical limitations made by the third country, the existence of protection for persons who fall outside of the scope of the Geneva Convention shall be assessed in accordance with the criteria set out in subregulation (2).

(2) In cases other than that referred to in subregulation (1), the third country shall be considered to ensure effective protection only where the following criteria are met as a minimum—

- (a) the persons referred to in subregulation (1) are allowed to remain on the territory of the third country in question;
- (b) the persons referred to in subregulation (1) have access to means of subsistence sufficient to maintain an adequate standard of living with regard to the overall situation of that hosting third country;
- (c) the persons referred to in subregulation (1) have access to healthcare and essential treatment for illnesses under the conditions generally provided for in that third country;
- (d) the persons referred to in subregulation (1) have access to education under the conditions generally provided for in that third country; and
- (e) effective protection remains available until a durable solution can be found.

The concept of first country of international protection.

22.(1) A country can be considered to be a first country of asylum for a particular applicant for international protection if –

- (a) that applicant enjoyed effective protection in accordance with the Geneva Convention or enjoyed effective protection as referred to in regulation 21A(2) before travelling to Gibraltar and he can still avail himself of that protection;
- (b) that applicant is protected by the principle of non-refoulement and against removal in violation of the right to protection from torture and cruel, inhuman or degrading treatment or punishment as laid down in international law;
- (c) the applicant's life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;
- (d) the applicant faces no real risk of serious harm as defined in regulation 37 of the Asylum Regulations 2008.

(2) In applying the concept of first country of asylum to the particular circumstances of an applicant for international protection the Authority may take into account regulation 23(1).

(3) The concept of first country of asylum may only be applied provided that the applicant cannot provide elements justifying why the concept of first country of asylum is not applicable to him, in the framework of an individual assessment.

(4) A third country may only be considered to be a first country of asylum for an unaccompanied minor where it is not contrary to his best interests and where the Authority has first received from the authorities of the country in question the assurance that the unaccompanied minor will be taken in charge by those authorities and that he will immediately benefit from effective protection as defined in regulation 21A.

(5) Where an application is rejected as inadmissible as a result of the application of the concept of first country of asylum, the Authority shall—

- (a) inform the applicant in accordance with regulation 8; and
- (b) provide him with a document informing the authorities of the country in question, in the language of that country, that the application has not been examined in substance as a consequence of the application of the concept of first country of asylum.

(6) Where the country in question does not readmit the applicant to its territory or does not reply within a time limit set by the Authority, the applicant shall have access to the procedure in accordance with the basic principles and guarantees provided for in Part III.

The safe third country concept.

23.(1) The Authority may apply the safe third country concept only where it is satisfied that a person seeking international protection will be treated in accordance with the following principles in the third country concerned—

- (a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;
- (b) the principle of non-refoulement in accordance with the Geneva Convention is respected;
- (c) the prohibition of removal to another State that does not respect the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law;
- (d) the possibility exists to request and, where conditions are fulfilled, receive effective protection as defined in regulation 21A; and”;
- (e) the person faces no real risk of serious harm as defined in regulation 37 of the Asylum Regulations 2008.

(1A) The designation of a third country as a safe third country may be made with exceptions for specific parts of its territory or clearly identifiable categories of persons and an assessment made under this regulation shall be based on a range of relevant and available international sources, including the UNHCR.

(1B) The concept of safe third country may be applied –

- (a) where a third country has been designated under this regulation;
- (b) in relation to a specific applicant where the country has not been designated, provided that the conditions in subregulation (1) are met.

(1C) A third country may only be considered to be a safe third country for an unaccompanied minor where it is not contrary to his best interests and where the Authority has first received from the authorities of the third country in question the assurance that the unaccompanied minor will be taken in charge by those authorities and that he will immediately have access to effective protection as defined in regulation 21A.

(2) For the purposes of the application of the safe third country concept the Authority shall adopt procedures which shall include–

- (a) the requirement of a connection between the person seeking international protection and the third country concerned on the basis of which it would be reasonable for that person to go to that country and the applicant cannot provide elements justifying why the concept of safe third country is not applicable to him;
- (b) the methodology by which the Authority will satisfy itself that the safe third country concept may be applied to a particular country or to a particular applicant, and such methodology shall include case-by-case consideration of the safety of the country for a particular applicant, the designation of countries considered to be generally safe or both;
- (c) in accordance with international law, procedures allowing an individual examination of whether the third country concerned is safe for a particular applicant which, as a minimum, shall permit the applicant to challenge the application of the safe third country concept on the grounds that he would be subjected to torture, cruel, inhuman or degrading treatment or punishment.

(2A) Where an application is rejected as inadmissible as a result of the application of the concept of safe third country, the Authority shall–

- (a) inform the applicant in accordance with regulation 8; and

- (b) provide him with a document informing the authorities of the third country in question, in the language of that country, that the application has not been examined in substance as a consequence of the application of the concept of safe third country.
- (3) When implementing a decision solely based on this regulation, the Authority must—
 - (a) inform the applicant accordingly; and
 - (b) provide him with a document informing the authorities of the third country, in the language of that country, that the application for international protection has not been examined in substance.
- (4) Where the third country does not permit the applicant for international protection to enter its territory, the Authority must ensure that access to a procedure is given in accordance with the basic principles and guarantees described in Part III.
- (5) *Deleted*
- (6) Third countries may only be designated as safe countries of origin in accordance with this regulation where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is no persecution as defined in regulation 29 of the Asylum Regulations 2008 and no real risk of serious harm as defined in regulation 37 of those Regulations.

Unfounded applications for international protection.

24.(1) The Authority may only consider an application for asylum as unfounded if the Authority has established that the applicant does not qualify for refugee or subsidiary protection status under the Asylum Regulations 2008.

(2) In the cases mentioned in regulation 20(5)(b) and in cases of unfounded applications for international protection in which any of the circumstances listed in regulation 20(5)(a) and (c) to (p) and subregulation (6) apply, the Authority may also consider an application for international protection as manifestly unfounded.

The safe country of origin concept.

25.(1) Where a third country is designated as a safe country of origin by the Authority, the Authority may, after an examination of the application for international protection, consider it a safe country of origin only if the applicant—

- (a) has the nationality of that country;

- (b) is a stateless person and was formerly habitually resident in that country; or
- (c) does not belong to a category of persons for which an exception was made when designating the third country as a safe country of origin,

and has not submitted any serious grounds for considering the country not to be a safe country of origin in his particular circumstances and in terms of his qualification as a refugee under the Asylum Regulations 2008.

(2) The Authority must, in accordance with subregulation (1), consider the application for international protection as unfounded where the third country has been designated as safe.

(3) The Authority shall develop procedures for the application of the safe country of origin concept.

(4) Third countries may only be designated as safe countries of origin in accordance with this regulation where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is no persecution as defined in regulation 29 of the Asylum Regulations 2008 and no real risk of serious harm as defined in regulation 37 of those Regulations.

(5) The designation of a third country as a safe country of origin may be made with exceptions for specific parts of its territory or clearly identifiable categories of persons.

(6) The assessment of whether a third country is a safe country of origin in accordance with this regulation shall be based on a range of relevant and available international sources of information, including information from the UNHCR.

(7) In making the assessment referred to in subregulation (6), account shall be taken, inter alia, of the extent to which protection is provided against persecution or serious harm by–

- (a) the relevant laws and regulations of the country and the manner in which they are applied;
- (b) observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms or the International Covenant for Civil and Political Rights or the United Nations Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention;
- (c) the absence of expulsion, removal or extradition of own citizens to third countries where, inter alia, there is a serious risk that they would be subjected to the death

penalty, torture, persecution or other inhuman or degrading treatment or punishment, or where their lives or freedom would be threatened on account of their race, religion, nationality, sexual orientation, membership of a particular social group or political opinion, or from which there is a serious risk of expulsion, removal or extradition to another third country;

- (d) the provision for a system of effective remedies against violations of those rights and freedoms.

Subsequent application for international protection.

26.(1) Where the applicant has made further representations or lodged a subsequent application for international protection, the Authority may—

- (a) examine the further representations or the elements of the subsequent application in the framework of the examination of the previous application for international protection or in the framework of the examination of the decision under appeal, insofar as it can take into account and consider all the elements underlying the further representations or subsequent application within this framework; and
- (b) apply the specific procedure set out subregulation (2)—
 - (i) after that person's previous application for international protection has been withdrawn or abandoned by virtue of regulation 17, or
 - (ii) after a decision has been taken on the previous application but only after a final decision has been taken.

(2) A subsequent application for international protection shall be subject to a preliminary examination as to whether after the—

- (a) withdrawal of the previous application; or
- (b) decision referred to in subregulation (1)(b)(ii) on the application has been taken,

new elements or findings relating to the examination as to whether the applicant qualifies as a refugee under the Asylum Regulations 2008 have arisen or have been presented by the applicant.

(3) If, following the preliminary examination referred to in subregulation (2), new elements or findings arise or are presented by the applicant that significantly add to the likelihood of the applicant qualifying as a refugee under the Asylum Regulations 2008, the application must be further examined in conformity with Part III.

(4) The Authority may further examine a subsequent application if, in the previous application, the applicant was, through no fault of his own, incapable of asserting the situations set forth in subregulations (2) and (3) in the previous procedure, in particular by exercising his right to an effective remedy pursuant to regulation 31.

(5) An applicant under this regulation is entitled to the guarantees set out in regulation 9(1).

(6) This regulation also applies in the case of a dependant who lodges an application after he has, in accordance with regulation 5(3), consented to have his case be part of an application made on his behalf.

(7) In a case referred to in subregulation (6), the preliminary examination referred to in subregulation (2) must consist of examining whether there are facts relating to the dependant's situation which justify a separate application.

(8) The procedure set out in this regulation may be applied in the case of an application filed at a later date by an applicant who, either intentionally or owing to gross negligence, fails to—

- (a) go to a reception centre; or
- (b) appear before the Authority at a specified time.

(9) Where a preliminary examination is to be made pursuant to this regulation, the applicant must—

- (a) indicate facts and substantiate evidence which justify a new procedure; and
- (b) submit new information within 7 days after he obtained the information,

and that preliminary examination shall be conducted on the sole basis of written submissions without a personal interview.

(10) Subregulation (9) shall not apply if it would otherwise render impossible the access of applicants to a new procedure or result in the effective annulment or severe curtailment of such access.

(11) The Authority must—

- (a) inform the applicant in writing of the outcome of the preliminary examination and, in case the application will not be further examined, of the reasons for this and the possibilities for seeking an appeal or review of the decision; and

- (b) if one of the situations referred to in subregulation (1)(b) applies, further examine the subsequent application in conformity with the provisions of Part III as soon as possible.

Border procedures.

27.(1) Subject to subregulation (2), where a person has lodged an application for international protection at a border or transit zone of Gibraltar, he must be—

- (a) allowed to remain in Gibraltar pursuant to regulation 6;
- (b) immediately informed of his rights and obligations set out in regulation 9(1);
- (c) given access, if necessary, to the services of an interpreter under regulation 9(2)(a);
- (d) interviewed, before any decision is taken by the Authority, in relation to his application by persons with appropriate knowledge of the relevant standards applicable in the field of asylum and refugee law under regulations 11, 12 and 13;
- (e) permitted to consult counsel under regulation 14(1); and
- (f) permitted to have a representative appointed in the case of unaccompanied minor pursuant to regulation 15(1), unless subregulation (3) of that regulation applies.

(2) The recipient of an application for international protection may refuse entry into Gibraltar to a person referred to in subregulation (1) if his application for international protection is considered as unfounded or as inadmissible and in such a case the reasons in fact and in law for such refusal must be stated.

(3) A decision on the matters set out in subregulations (1) and (2) must be taken within a reasonable time but where 4 weeks have elapsed and a decision has not been taken the applicant shall be granted entry into Gibraltar in order for the application for international protection to be processed in the normal course under these Regulations.

(4) In the event of particular types of arrivals, or arrivals involving a large number of third country nationals or stateless persons lodging applications for international protection at the border or in a transit zone, which makes it practically impossible to apply there the specific procedure set out in subregulations (1) and (2), those procedures may also be applied where and for as long as these third country nationals or stateless persons are accommodated normally at locations in proximity to the border or transit zone.

The European safe third countries concept.

28.(1) No examination of an application for international protection and of the safety of the applicant in his particular circumstances as described in Part III shall take place if the Authority has established that the applicant for international protection is seeking to enter or has entered illegally into Gibraltar from a safe third country according to subregulation (2).

(2) A third country can only be considered as a safe third country for the purposes of subregulation (1) where—

- (a) it has ratified and observes the provisions of the Geneva Convention without any geographical limitations;
- (b) it has in place an international protection procedure prescribed by law;
- (c) it has ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and observes its provisions, including the standards relating to effective remedies; and
- (d) it has been so designated by the Council in accordance with Article 36(3) of the Directive.

(3) Where a decision is taken solely based on this regulation, the Authority must—

- (a) inform the applicant accordingly; and
- (b) provide him with a document informing the authorities of the third country, in the language of that country, that the application for international protection has not been examined in substance.

(4) Where the safe third country does not re-admit the applicant for international protection, the Authority must ensure that access to a procedure is given in accordance with the basic principles and guarantees under Part III.

(5) In the application of subregulation (1) the Authority shall ensure that the consequences are in accordance with the principle of non-refoulement under the Geneva Convention, including providing for exceptions to the application of this regulation for humanitarian or political reasons or for reasons of public international law.

PART V

Procedures for the withdrawal of international protection

Withdrawal of international protection.

29. The Authority must ensure that an examination to withdraw the international protection of a particular person may commence when new elements or findings arise indicating that there are reasons to reconsider the validity of that person's international protection.

Procedural rules for withdrawal of international protection.

30.(1) Where the Authority is considering withdrawing the international protection of a third country national or stateless person in accordance with regulation 44 of the Asylum Regulations 2008, that person shall be entitled to the following guarantees–

- (a) the person must be informed in writing that the Authority is reconsidering his qualification for international protection and the reasons for such a reconsideration; and
- (b) the person must be given the opportunity to submit–
 - (i) in a personal interview in accordance with regulations 9(2)(a), (3) and (4), 11, 12 and 13 or
 - (ii) in a written statement,

reasons as to why his international protection should not be withdrawn,

- (c) he shall be informed of the consequences of not cooperating with the Authority and other competent authorities and that failure to submit the written statement and to attend the personal interview without due justification shall not prevent the Authority from taking a decision to withdraw international protection; and
- (d) he shall be given the opportunity to submit reasons as to why his international protection should not be withdrawn by means of a written statement within reasonable time from the date on which he receives the information referred to in paragraph (a) and in a personal interview a date set by the Authority.

(2) The Government must ensure that within the framework of the procedure provided for by these Regulations–

- (a) the Authority is able to obtain precise and up-to-date information from various sources, such as, where appropriate, from the UNHCR, as to the general situation prevailing in the countries of origin of the persons concerned; and
- (b) where information on an individual case is collected for the purposes of reconsidering the international protection status, it is not obtained from the actor of persecution in a manner that would result in such actor being directly informed

of the fact that the person concerned is a beneficiary of international protection whose status is under reconsideration, nor jeopardise the physical integrity of the person and his dependants, or the liberty and security of his family members still living in the country of origin.

(3) The decision of the Authority to withdraw the refugee status of a person must—

- (a) be given in writing;
- (b) state the reasons in fact and in law on which it is based; and
- (c) explain the procedure which is available in order to challenge the decision.

(4) Once the Authority has taken the decision to withdraw the international protection status of a particular person, the provisions of regulations 14(2) and (5) and 18 must equally apply.

(5) Notwithstanding the provisions of subregulations (1) to (4), the international protection status of a particular person shall lapse by law in case of cessation in accordance with regulation 34(1)(a) to (d) of the Asylum Regulations 2008 or if the beneficiary of international protection has unequivocally renounced his recognition as such a beneficiary or has become a national of a Member State or has been granted international protection by a Member State, and a decision under this subregulation shall be recorded in the applicant's file.

(6) Where the third-country national or stateless person does not cooperate by not submitting a written statement, by not attending the personal interview, or by not answering questions without due justification, the absence of the written statement or the personal interview shall not prevent the Authority from taking a decision to withdraw international protection and such a refusal to cooperate may only be considered to be a rebuttable presumption that the third-country national or stateless person no longer wishes to benefit from international protection.

PART VA

Return decisions

Non-refoulement, best interests of the child, family life and state of health.

30A. When making a decision under this Part, the Authority shall take into account—

- (a) the best interests of the child;
- (b) family life;
- (c) the state of health of the third-country national concerned,

and respect the principle of non-refoulement.

Return decision.

30B.(1) The Authority shall issue a return decision to any third country national staying illegally in Gibraltar, without prejudice to the exceptions referred to in subregulations (2) to (5).

(2) Third-country nationals staying illegally in Gibraltar and holding a valid residence permit or other authorisation offering a right to stay issued by a Member State shall be required to go to the territory of that Member State immediately and in the event of non-compliance by the third-country national concerned with this requirement, or where the third-country national's immediate departure is required for reasons of public policy or national security, subregulation (1) shall apply.

(3) The Authority may refrain from issuing a return decision to a third-country national staying illegally in Gibraltar if the third-country national concerned is taken back by a Member State under bilateral agreements or arrangements.

(4) The Authority may at any moment decide to grant an autonomous residence permit or other authorisation offering a right to stay for compassionate, humanitarian or other reasons to a third-country national staying illegally in Gibraltar and in that event no return decision shall be issued and where a return decision has already been issued, it shall be withdrawn or suspended for the duration of validity of the residence permit or other authorisation offering a right to stay.

(5) If a third-country national staying illegally in Gibraltar is the subject of a pending procedure for renewing his residence permit or other authorisation offering a right to stay, the Authority shall consider refraining from issuing a return decision, until the pending procedure is finished, without prejudice to subregulation (6).

(6) This Part shall not prevent the Authority from adopting a decision on the ending of a legal stay together with a return decision and/or a decision on a removal and/or entry ban in a single administrative act, without prejudice to the procedural safeguards available under these Regulations and under other relevant provisions of Gibraltar law.

Voluntary departure.

30C.(1) A return decision shall allow for a period for voluntary departure of up to 7 days, without prejudice to the exceptions referred to in subregulations (2) and (4) and such a period shall be granted only following an application by the third-country national concerned and in

such a case, the Authority shall inform the third-country national concerned of the possibility of submitting such an application.

(2) The Authority shall, where necessary, extend the period for voluntary departure by an appropriate period, taking into account the specific circumstances of the individual case, such as the length of stay, the existence of children attending school and the existence of other family and social links.

(3) Certain obligations aimed at avoiding the risk of absconding, such as regular reporting to the authorities, deposit of an adequate financial guarantee, submission of documents or the obligation to stay at a certain place may be imposed for the duration of the period for voluntary departure.

(4) If there is a risk of absconding, or if an application for a legal stay has been dismissed as manifestly unfounded or fraudulent, or if the person concerned poses a risk to public policy, public security or national security, the Authority may refrain from granting a period for voluntary departure, or may grant a period shorter than 7 days.

Removal.

30D.(1) The Principal Immigration Officer shall take all necessary measures to enforce the return decision in accordance with the Immigration, Asylum and Refugee Act, if no period for voluntary departure has been granted in accordance with regulation 30C(4) or if the obligation to return has not been complied with within the period for voluntary departure granted in accordance with regulation 30C.

(2) If the Authority has granted a period for voluntary departure in accordance with regulation 30C, the return decision may be enforced only after the period has expired, unless a risk as referred to in regulation 30C(4) arises during that period.

(3) Where the Principal Immigration Officer uses, as a last resort, coercive measures to carry out the removal of a third-country national who resists removal, such measures shall be proportionate and shall not exceed reasonable force, in accordance with Gibraltar law and with due respect for the dignity and physical integrity of the third-country national concerned.

(4) The Government shall provide for an effective forced-return monitoring system.

Postponement of removal.

30E.(1) The Principal Immigration Officer shall postpone removal—

(a) when it would violate the principal of non-refoulement; or

(b) for as long as a suspensory effect is granted under these Regulations.

(2) The Principal Immigration Officer may postpone removal for an appropriate period taking into account the specific circumstances of the individual case and shall in particular take into account—

(a) the third-country national's physical state or mental capacity;

(b) technical reasons, such as lack of transport capacity, or failure of the removal due to lack of identification.

(3) If a removal is postponed as provided for in subregulations (1) and (2), the obligations set out in regulation 30C(3) may be imposed on the third-country national concerned.

Return and removal of unaccompanied minors.

30F.(1) Before deciding to issue a return decision in respect of an unaccompanied minor, assistance by appropriate authorities other than the Authority shall be granted with due consideration being given to the best interests of the child.

(2) Before removing an unaccompanied minor from Gibraltar, the authorities referred to in subregulation (1) shall be satisfied that he will be returned to a member of his family, a nominated guardian or adequate reception facilities in the State of return.

Entry ban.

30G.(1) Return decisions shall be accompanied by an entry ban—

(a) if no period for voluntary departure has been granted; or

(b) if the obligation to return has not been complied with.

(2) Return decisions may be accompanied by an entry ban in other cases not referred to in subregulation (1).

(3) The length of the entry ban shall be determined with due regard to all relevant circumstances of the individual case and shall not in principle exceed five years unless the third-country national represents a serious threat to public policy, public security or national security.

(4) The Authority shall consider withdrawing or suspending an entry ban where a third-country national who is the subject of an entry ban issued in accordance with subregulation (2) can demonstrate that he has left Gibraltar in full compliance with a return decision.

(5) The Authority may refrain from issuing, withdraw or suspend an entry ban in individual cases for humanitarian reasons and may withdraw or suspend an entry ban in individual cases or certain categories of cases for other reasons.

Procedural safeguards – form.

30H.(1) Return decisions and, if issued, entry-ban decisions and decisions on removal shall be issued in writing and give reasons in fact and in law as well as information about available legal remedies.

(2) The information on reasons in fact may be limited where information must be restricted, in particular in order to safeguard national security, defence, public security and for the prevention, investigation, detection and prosecution of criminal offences.

(3) The Authority shall provide, upon request, a written or oral translation of the main elements of decisions related to return, including information on the available legal remedies in a language the third-country national understands or may reasonably be presumed to understand.

(4) The Authority may decide not to apply subregulation (3) to third country nationals who have illegally entered Gibraltar and who have not subsequently obtained an authorisation or a right to stay in Gibraltar.

(5) In the cases referred to in subregulation (4) decisions related to return shall be given by means of a prescribed form and generalised information sheets explaining the main elements of the standard form in at least five of those languages which are most frequently used or understood by illegal migrants entering Gibraltar shall be provided.

Safeguards pending return.

30I.(1) The Authority shall, with the exception of the situation covered in regulations 30K and 30L, ensure that the following principles are taken into account as far as possible in relation to third-country nationals during the period for voluntary departure granted in accordance with regulation 30C and during periods for which removal has been postponed in accordance with regulation 30E–

- (a) family unity with family members present in Gibraltar is maintained;
- (b) emergency health care and essential treatment of illness are provided;
- (c) minors are granted access to the basic education system subject to the length of their stay;

(d) special needs of vulnerable persons are taken into account.

(2) The Authority shall provide the persons referred to in subregulation (1) with a written confirmation in accordance that the period for voluntary departure has been extended in accordance with regulation 30C(2) or that the return decision will temporarily not be enforced.

Detention for the purpose of removal.

30J.(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, a third-country national who is the subject of return procedures may only be kept in detention in order to prepare the return and/or carry out the removal process, in particular when—

- (a) there is a risk of absconding; or
- (b) the third-country national concerned avoids or hampers the preparation of return or the removal process,

and any detention shall be for as short a period as possible and only maintained as long as removal arrangements are in progress and executed with due diligence.

(2) Detention shall be ordered by the Magistrates' Court in writing with reasons being given in fact and in law.

(3) In every case, detention shall be reviewed at reasonable intervals of time either on application by the third-country national concerned or ex officio and in the case of prolonged detention periods, reviews shall be subject to the supervision of the Magistrates' Court.

(4) When it appears that a reasonable prospect of removal no longer exists for legal or other considerations or the conditions laid down in subregulation (1) no longer exist, detention ceases to be justified and the person concerned shall be released immediately.

(5) Detention shall be maintained for as long a period as the conditions laid down in subregulation (1) are fulfilled and it is necessary to ensure successful removal and a period of detention under this regulation shall not exceed six months.

(6) The period referred to in subregulation (5) may not be extended except for a limited period not exceeding a further twelve months in cases where regardless of all their reasonable efforts the removal operation is likely to last longer owing to—

- (a) a lack of cooperation by the third-country national concerned; or

- (b) delays in obtaining the necessary documentation from third countries.

Conditions for detention.

30K.(1) Detention shall take place as a rule in specialised detention facilities and where such accommodation cannot be provided and prison accommodation is used, the third-country nationals in detention shall be kept separated from ordinary prisoners.

(2) Third-country nationals in detention shall be allowed, on request, to establish in due time contact with legal representatives, family members and competent consular authorities.

(3) Particular attention shall be paid to the situation of vulnerable persons and emergency health care and essential treatment of illness shall be provided.

(4) Relevant and competent national, international and nongovernmental organisations and bodies shall have the possibility to visit detention facilities to the extent that they are being used for detaining third-country nationals and such visits may be subject to authorisation.

(5) Third-country nationals kept in detention shall be systematically provided with information which explains the rules applied in the facility and sets out their rights and obligations and such information shall include information on their entitlement to contact the organisations and bodies referred to in subregulation (4).

(6) In situations where an exceptionally large number of third-country nationals to be returned places an unforeseen heavy burden on the capacity of detention facilities, the requirement in subregulation (1) may be derogated from.

Detention of minors and families.

30L.(1) Unaccompanied minors and families with minors shall only be detained as a measure of last resort and for the shortest appropriate period of time.

(2) Families detained pending removal shall be provided with separate accommodation guaranteeing adequate privacy.

(3) Minors in detention shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age, and shall have, depending on the length of their stay, access to education.

(4) Unaccompanied minors shall as far as possible be provided with accommodation in institutions provided with personnel and facilities which take into account the needs of persons of their age.

(5) The best interests of the child shall be a primary consideration in the context of the detention of minors pending removal.

PART VI

Appeals procedures

Appeal to the Supreme Court.

31.(1) A person may lodge an appeal to the Supreme Court against—

- (a) a decision taken on his application for international protection, including a decision—
 - (i) to consider an application for international protection inadmissible pursuant to regulation 21(2),
 - (ii) taken at the border or in transit zone of Gibraltar under regulation 27,
 - (iii) not to conduct an examination pursuant to regulation 28,
 - (iv) a decision rejecting an application as unfounded, manifestly unfounded or implicitly withdrawn pursuant to regulation 8;
- (b) a refusal to re-open the examination of an application for international protection after its discontinuance pursuant to regulation 17;
- (c) a decision not to further examine the subsequent application for international protection pursuant to regulation 26; and
- (d) a decision to withdraw international protection pursuant to regulation 30, with the exception of subregulation (5).
- (e) a return decision pursuant to regulation 30B or an entry ban decision pursuant to regulation 30G.

(1A) Where a return decision is taken as a part of a related decision as referred to in points (a), (b), (c) or (d) of subregulation (1), the return decision shall be appealed jointly with that related decision, before the Supreme Court and where a return decision is issued as a separate act pursuant to regulation 8A, it may be appealed in separate proceedings.

(2) An appeal under this regulation must be brought no more than 10 working days from the date on which the applicant has been informed of the decision or the refusal referred to in subregulation (1).

- (3) The Authority must file with the Supreme Court the copies of–
- (a) the notice of the decision against which the applicant is appealing, and any other document which was served on the applicant giving reasons for that decision;
 - (b) any record of an interview with the applicant or other unpublished document, which is referred to in the document mentioned in paragraph (a).
- (4) The appellant must be entitled to appear and be represented at the hearing of an appeal or application for leave to appeal except that the person who appeals against a refusal to allow him to enter Gibraltar shall not be entitled to enter Gibraltar for the purpose of the appeal.
- (5) The Supreme Court, in determining an appeal referred to in subregulation (1), may–
- (a) dismiss the appeal; or
 - (b) quash the decision referred to in subregulation (1) and remit it to the Authority with a direction to reconsider the decision.
- (6) A decision of the Supreme Court under this regulation shall be final as to any question of fact, but an appeal shall lie to the Court of Appeal on any question of law.
- (7) If by reason of any default on the part of the person who has instituted an appeal in accordance with this regulation, the appeal has not been determined by the Supreme Court within three months of the date of the notice of appeal or application by which the appeal was instituted–
- (a) the Authority may apply to the Supreme Court, by a summons served on the person who has instituted the appeal in accordance with this regulation, to show cause why the appeal should not be dismissed for want of prosecution; and
 - (b) upon the making of an application under paragraph (a) the Supreme Court may dismiss the appeal or make such other order as it considers just.
- (8) Where an applicant has been granted a status which offers the same rights and benefits under the Asylum Regulations 2008, the applicant may be considered as having an effective remedy where the Court decides that the remedy pursuant to subregulation (1) is inadmissible or unlikely to succeed on the basis of insufficient interest on the part of the applicant in maintaining the proceedings.
- (9) The guarantees set out in regulation 9(2)(a) to (c), (3) and (4) shall be made available to an applicant under this regulation.

(10) Where the Supreme Court considers it necessary, it shall ensure the translation of relevant documents that have not already been translated in accordance with regulation 7(3A) and alternatively, translations of those relevant documents may be provided by other entities and paid for from public funds.

(11) An applicant, a person subject to withdrawal of international protection and a person recognised as eligible for subsidiary protection may, at his own cost, ensure the translation of other documents.

(12) Where the documents are not submitted in due time, as determined by the Supreme Court, in the event that the translation is to be provided by the applicant, or where documents are not submitted in time for the court to ensure that they are translated in the event that the translation is ensured by the court, the court may refuse to take those documents into account.

(13) The following time limits shall apply in respect of applicants, persons subject to withdrawal of international protection and persons recognised as eligible for subsidiary protection to lodge appeals against the decisions referred to in subregulation (1)–

- (a) 5 days in the case of a decision rejecting an application as inadmissible, as implicitly withdrawn, as unfounded or as manifestly unfounded if at the time of the decision any of the circumstances referred to in regulation 20(5) or (6) apply;
- (b) two weeks in all other cases.

(14) The time limits referred to in subparagraph (13) shall start to run from the date on which the decision of the Authority or, in the case of withdrawal of international protection the Supreme Court, is notified to the applicant, the person subject to withdrawal of international protection, the person recognised as eligible for subsidiary protection or to his representative or legal adviser legally representing the applicant.

Suspensive effect of appeal.

31A.(1) The effects of a return decision shall be automatically suspended for as long as an applicant or a person subject to withdrawal of international protection has a right to remain or is allowed to remain in accordance with this regulation.

(2) Applicants and persons subject to withdrawal of international protection shall have the right to remain in Gibraltar until the time limit within which they can exercise their right to an appeal under regulation 31 has expired and, where such a right has been exercised within the time limit, pending the outcome of the remedy.

(3) Without prejudice to the principle of non-refoulement, the applicant and the person subject to withdrawal of international protection shall not have the right to remain pursuant to subregulation (2) where the Authority has taken one of the following decisions—

- (a) a decision which rejects an application as unfounded or manifestly unfounded if at the time of the decision—
 - (i) the applicant is subject to a prioritised or accelerated examination pursuant to regulation 20(5) or (6);
 - (ii) the applicant is subject to the border procedure, except where the applicant is an unaccompanied minor.
- (b) a decision which rejects an application as inadmissible, except where the applicant is an unaccompanied minor subject to the border procedure;
- (c) a decision which rejects an application as implicitly withdrawn;
- (d) a decision which rejects a subsequent application as unfounded or manifestly unfounded; or
- (e) a decision to withdraw international protection.

(4) In the cases referred to in subregulation (3), the Supreme Court shall have the power to decide, following an examination of both facts and points of law, whether or not the applicant or the person subject to withdrawal of international protection should be allowed to remain in Gibraltar pending the outcome of the remedy, upon the request of the applicant or of the person subject to withdrawal of international protection and the court shall have the power to decide on this matter ex officio.

(5) For the purposes of subregulation (4), the following conditions shall apply where relevant in the light of any ex officio decisions—

- (a) the applicant or the person subject to withdrawal of international protection shall have a time limit of at least five days from the date on which the decision is notified to him to request to be allowed to remain in Gibraltar pending the outcome of the remedy;
- (b) the applicant or the person subject to withdrawal of international protection shall be provided with interpretation in the event of a hearing before the Supreme Court, where appropriate communication cannot otherwise be ensured;

- (c) the applicant or the person subject to withdrawal of international protection shall be provided, upon request, with free legal assistance and representation in accordance with regulation 14;
- (d) the applicant or the person subject to withdrawal of international protection shall not be removed from Gibraltar—
 - (i) until the time limit for requesting the Supreme Court to be allowed to remain has expired;
 - (ii) where the applicant or the person subject to withdrawal of international protection has requested to be allowed to remain within the set time limit, pending the decision of the court on whether or not the applicant or the person subject to withdrawal of international protection shall be allowed to remain in Gibraltar;
- (e) the applicant or the person subject to withdrawal of international protection shall be duly informed in a timely manner of her or his rights under this subregulation.

(6) In cases of subsequent applications, by way of derogation from subregulation (5)(d), the applicant shall not have a right to remain, without prejudice to the respect of the principle of non-refoulement, if the appeal is considered to have been lodged merely in order to delay or frustrate the enforcement of a return decision which would result in the applicant's imminent removal from Gibraltar.

(7) An applicant or a person subject to withdrawal of international protection who lodges a further appeal against a first or subsequent appeal decision shall not have a right to remain in Gibraltar, without prejudice to the possibility for the Supreme Court to allow the applicant or the person subject to withdrawal of international protection to remain upon the request of the applicant or of the person subject to withdrawal of international protection or acting ex officio in cases where the principle of non-refoulement is invoked.

PART VII

Miscellaneous

The security of Gibraltar.

32.(1) The Minister may give the Authority and a person appointed for any of the purposes set out in regulation 4(3) such directions of a general character as to the performance of the Authority's or person's functions under these Regulations as the Minister, in consultation with the Chief Minister, thinks it appropriate to give in the interests of the security of Gibraltar and the Minister shall give any such directions as may be specified by the Governor in the interests of the security of Gibraltar.

(2) The Minister may give the Authority and a person appointed for any of the purposes set out in regulation 4(3) directions to do or refrain from doing a particular thing which the Authority or that person has power to do or refrain from doing if the Minister, in consultation with the Chief Minister, considers it appropriate to give such directions and the Minister shall give any such directions as may be specified by the Governor in the interests of the security of Gibraltar.

Confidentiality.

33.(1) The Authority shall be bound by the principle of confidentiality in relation to any personal information they acquire in the performance of their duties and must not disclose any information that it obtains in the course of those duties in relation to an application for international protection except as provided for in these Regulations.

(2) Throughout the procedure for international protection and after a final decision on the application has been taken, the Authority shall not–

- (a) disclose information regarding the individual application for international protection or the fact that an application has been made, to alleged actors of persecution or serious harm;
- (b) obtain any information from the alleged actors of persecution or serious harm in a manner that would result in such actors being informed of the fact that an application has been made by the applicant in question.”.

Data storage.

34.(1) The Authority shall store the data referred to in regulations 5, 10(1)(e) and 13 for ten years from the date of a final decision on the application for international protection and such data shall be erased upon expiry of that period or where they are related to a person who has acquired citizenship before expiry of that period.

(2) All data shall be stored in compliance with the Data Protection Act 2004, including the principle of purpose and storage limitation.

Calculation of time limits.

35. Unless otherwise provided, any period of time prescribed in these Regulations shall be calculated as follows–

(a) a period expressed in days, weeks or months shall be calculated from the time an event occurs or an action takes place; the day on which that event occurs or that action takes place shall not itself be counted as falling within the period in question;

(b) a period expressed in weeks or months shall end with the expiry of whichever day in the last week or month is the same day of the week, or falls on the same date of the month, respectively as the day on which the event or action from which the period is to be calculated occurred or took place; where, in a period expressed in months, the day on which it should expire does not occur in the last month of the period, the period shall end at midnight of the last day of that last month;

(c) time limits shall include Saturdays, Sundays and official holidays; where a time limit ends on a Saturday, Sunday or official holiday, the next working day shall be counted as the last day of the time limit.