

KNOW RESET – BUILDING KNOWLEDGE FOR A CONCERTED AND SUSTAINABLE APPROACH TO REFUGEE RESETTLEMENT IN THE EU AND ITS MEMBER STATES

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KNOW RESET – Country Profile

Portugal

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Country Profile: Portugal

The concerns of the migration policies in Portugal have been mainly twofold: respond to new migratory flows and the need to comply with EU legislation¹. The influx of immigrants in Portugal has changed over the years: in the mid-1980s, it was mostly constituted of citizens from former African Portuguese colonies; from the 1990s onwards, influxes from Eastern European countries, as well as Brazil, were observed. The growing number of immigrants in irregular situations in Portugal around the same period led to the implementation of special legalisation programmes in 1992, 1996 and then again in 1998².

Law 23/2007, of 4 July, establishes the legal framework for the entry, stay, exit and removal of foreign citizens from the national territory. Since 2008, the annual quota of visas to be issued for reason of a subordinated professional activity has significantly decreased, which has been justified by the scenario of economic crisis³. In 2010 the foreigners living in Portugal were in number of 445 262, representing a decrease when compared to the previous year. The prevailing countries of nationality were, in this period, Brazil, Ukraine, Cape Vert, Romania (the EU Member State with more citizens living in Portugal), Angola and Guinea-Bissau⁴.

The responsible body in Portugal for implementing the immigration and asylum policies⁵ is the Ministry of Internal Affairs. The Aliens and Borders Service⁶ (Serviço de Estrangeiros e Fronteiras - SEF), under the tutelage of this Ministry, has the responsibility of controlling persons movements across the borders (entry and stay), of preventing and restraining any criminal activities related with illegal immigration and human trafficking and of issuing assessments regarding applications for granting visas.

Portugal has signed and ratified the 1951 Geneva Convention relating to the Status of Refugees in 1951 and in 1976 accessed to the 1967 Protocol. The 1976 Constitution of the Portuguese Republic was the first Portuguese Constitutional text mentioning the right of asylum⁷. Although not being one of the European countries receiving more asylum applications, Portugal has been aware of the importance of having measures that ensure a degree of care to asylum seekers in conditions of human dignity⁸. The conditions and procedures for granting asylum, as well as subsidiary protection and the statuses of asylum applicant, refugee and of subsidiary protection are nowadays established in the new Asylum Law, which has also transposed EU directives into the Portuguese internal legal order⁹. One of the main changes introduced by this Law was the clear and direct reference to the principle of *non-refoulement* (in art. 47).

The role of the Portuguese Refugee Council (Conselho Português para os Refugiados - CPR), a non-governmental development organization, which is also representing the United Nations High Commission for Refugees (UNHCR) in Portugal¹⁰, is certainly to highlight when it comes to asylum related-matters, having as a main purpose that of promoting a more human and liberal asylum policy, both at national and international levels.

¹ SEF/European Migration Network, "The Organisation of Asylum and Immigration Policies in Portugal", 2008, p. 3, available at <http://www.sef.pt/documentos/56/PTHowpolicieareorganized.pdf> [accessed 13 May 2012].

² Ibid.

³ Ibid.

⁴ Ibid, pp. 7 and 17.

⁵ Decree-Law No. 126-B/2011, of 29 December (Organic Law of the Ministry of Internal Affairs), article 2, available at http://www.portugal.gov.pt/media/381580/lo_mai.pdf.

⁶ It is also common to see the translation of "Serviço de Estrangeiros e Fronteiras" to "Portuguese Immigration Service".

⁷ OLIVEIRA, Andreia Sofia Pinto, "O Direito de Asilo na Constituição Portuguesa: Âmbito de Protecção de um Direito Fundamental", Coimbra Editora, 2009, p. 74.

⁸ Commission Decision C(2008) 6432 final, Annex I, p. 3.

⁹ Law 27/2008 of 30 June 2008, Establishes the conditions and procedures for granting asylum and subsidiary protection and the statuses of asylum applicant, refugee and of subsidiary protection, transposing into internal juridical order Council Directives ns 2004/83/CE, of 29th April and 2005/85/CE, of 1st December [Portugal], 27/2008, 30 June 2008.

¹⁰ This organization is a UNHCR partner since July 1993 and in December 1998 it began also to represent the latter in Portugal (due to the fact that UNHCR ceased to have its own representation in Portugal), by means of a cooperation agreement. - CPR, "Apresentação", <http://www.refugiados.net/novosite/apresentacao.html> [accessed 13 May 2012]; Commission Decision C (2008) 6432 final, Annex I p. 19.

The number of asylum applications increased significantly and suddenly from 2010 (160 applications¹¹) to 2011 (275 applications¹²). This increase on the number of applications caused a serious humanitarian situation of refugees in Portugal, since the capacity of the Reception Centre for Refugees (Centro de Acolhimento para Refugiados - CAR)¹³ was exceeded. Resettled refugees are, in like manner, accommodated in reception centers.

In 2006, in a strong link with the UNHCR, and following its appeals on these matters¹⁴, Portugal started resettling on an *ad hoc* basis. In 2007, the resettlement of at least 30 people per year had proved to be essential, giving origin to the Resolution of the Council of Ministers No. 110/2007, of 12 July 2007, which defined a quota of at least 30 refugees per year, “namely to face refugee resettlement requests” (recital 7).

¹¹ The Aliens and Borders Service. Available at <http://www.cpr.pt/> under Estatísticas.

¹² Ibid.

¹³ Information on this Centre can be found at <http://www.cpr.pt/>.

¹⁴ “The Organisation of Asylum and Immigration Policies in Portugal”, op.cit., pp. 8 and 18; and Cabinet of the Secretary of State for Internal Affairs, e-mail interview for Know Reset, 24 February 2012.

Asylum Profile	
<u>Number of protection status granted</u> ¹⁵	50 (2011) 57 (2010)
Number of asylum seekers ¹⁶	275 (2011) 160 (2010)
Resettlement Scheme	Programme-Based (since 2007)
Resettlement Quota	30 persons/year (since 2007)
<i>I. Legal and Administrative Framework</i>	
Asylum law / Aliens Act <u>Asylum Law 27/2008</u> , 30 th June 2008.	Establishes the conditions and procedures for granting asylum and subsidiary protection and the statuses of asylum applicant, refugee and of subsidiary protection, transposing into internal juridical order Council Directives numbers 2004/83 EC, of 29 th April and 2005/85 EC, of 1 st December – hereafter Asylum Law. <i>Specific provision on Resettlement:</i> in Chapter III (“Procedure”), Section V (“Resettlement of Refugees”) of the Asylum Law.
Other basis of resettlement: <u>Resolution of the Council of Ministers No. 110/2007</u> , 12 July 2007 – hereafter Resolution 110/2007; European Commission Decision C(2008) 6432final, from 06/11/2008, approving, for Portugal, the multi-annual programme for the period 2008-2013, the 2008 annual programme for the European Refugee Fund and the co-financing for 2008 from that Fund.	Defines a quota of at least 30 refugees per year. Launches a multi-annual programme <ul style="list-style-type: none"> • Continuity in resettlement (following the ad hoc resettlement in 2006 and 2007); • Privilege to citizens coming from the African continent and from Eastern Europe, but not excluding other situations of citizens coming from other places, if these justify their priority selection, mainly for serious humanitarian reasons; Reference to a minimum quota of 30 resettled refugees per year (as defined in the Resolution 110/2007).
On-going or foreseeable project/reform	There is no on-going specific project/reform. Notwithstanding, Portugal is committed to develop, in an annual basis, “a pro-active planning of activities in particular as regards the reception and integration of resettled refugees” ¹⁷ .

¹⁵ The Aliens and Borders Service. Available at <http://www.cpr.pt/> under Estatísticas.

¹⁶ Ibid.

¹⁷ Cabinet of the Secretary of State for Internal Affairs, e-mail interview for Know Reset, 24 February 2012.

II. Resettlement Policy and Related Involvements	
<p>a) <u>On an ad hoc basis</u> 2006¹⁸</p>	<p>17</p> <p><u>Country of Origin</u>: 4 DR of Congo, 1 Congo, 5 Ivory Coast, 2 Liberia, 4 Eritrea, 1 Ethiopia.</p> <p><u>Country of First Asylum</u>: 17 Morocco.</p>
<p>b) On a programme basis Since 2007</p>	<p>A minimum quota of 30 refugees/year.</p>
<p>c) “Temporary Resettlement”: Humanitarian Evacuation</p>	<p>n/a</p>
<p>d) Through other Projects Governmental Level Non-Governmental Level</p>	<p>n/a n/a</p>
<p>e) “Resettlement-like” experience From Guantanamo Intra-EU “Relocation”</p>	<p>n/a</p> <p>In 2010, Portugal received 6 persons coming from Malta, where they had previously been recognised with the international protection status.</p> <p>In 2007 Portugal had already received persons coming from Malta. If these people had been granted international protection in Malta, they would have fell under the category of relocation. Since they had not been granted the mentioned protection status, they could not be eligible for relocation in Portugal. Only the UNHCR had recognised them as refugees. Therefore, they were considered resettled refugees.¹⁹</p>

¹⁸ Sources: The Aliens and Borders Service, “Reinstalação em Portugal, 2006-2009”, table available at <http://www.cpr.pt/reinstalacao/> [accessed 13 May 2012].

¹⁹ Cabinet of the Secretary of State for Internal Affairs, op.cit.

III. Resettlement Implementation	
<u>Refugees resettled</u>	
2011 ²⁰	<p>30</p> <p><u>Country of Origin</u>: 23 Eritrea, 5 Iraq, 2 Mauritania</p> <p><u>Country of First Asylum</u>: 2 Senegal, 4 Syria, 23 Tunisia, 1 Ukraine</p> <p><u>Gender</u>:13 Male, 17 Female</p> <p><u>Age</u>:12 in 0-15, 2 in 16-20, 9 in 21-40, 6 in over 40 age brackets.</p> <p><u>Religion</u>:15 Christian, 14 Muslim, 1 Orthodox</p>
2010 ²¹	<p>33</p> <p><u>Country of Origin</u>: 6 Afghanistan, 7 DR of Congo, 1 Ethiopia, 1 Iran, 13 Iraq, 3 Somalia, 2 Uganda</p> <p><u>Country of First Asylum</u>: 1 Belarus, 1 Libya, 9 Mozambique, 13 Syria, 9 Ukraine</p> <p><u>Gender</u>:11 Male, 22 Female</p> <p><u>Age</u>:10 in 0-15, 5 in 16-20, 9 in 21-40, 9 in over 40 age brackets</p> <p><u>Religion</u>:14 Christian, 19 Muslim</p>
2009 ²²	<p>30</p> <p><u>Country of Origin</u>: 10 Afghanistan, 12 DR of Congo, 3 Ethiopia, 4 Iraq, 1 Somalia</p> <p><u>Country of First Asylum</u>: 4 Syria, 12 Tanzania, 14 Ukraine</p> <p><u>Gender</u>:13 Male, 17 Female</p> <p><u>Age</u>:15 in 0-15, 5 in 16-20, 3 in 21-40, 7 in over 40 age brackets.</p> <p><u>Religion</u>: 12 Christian, 15 Muslim, 3 Orthodox</p>
2008 ²³	<p>11</p> <p><u>Country of Origin</u>: 6 Eritrea, 5 Iraq</p> <p><u>Country of First Asylum</u>: 6 Angola, 5 Syria</p>

²⁰ Sources: The Aliens and Borders Service /Departamento de Planeamento e Formação (Núcleo de Planeamento), Coordenação João Ataíde e Pedro Dias, “Relatório de Imigração, Fronteiras e Asilo – 2011”, Oeiras, Portugal, p. 52; SEF.

²¹ Sources: The Aliens and Borders Service /Departamento de Planeamento e Formação (Núcleo de Planeamento), Coordenação João Ataíde e Pedro Dias, “Relatório de Imigração, Fronteiras e Asilo – 2010”, Oeiras, Portugal, p. 54; SEF.

²² Sources: The Aliens and Borders Service /Departamento de Planeamento e Formação (Núcleo de Planeamento), Coordenação João Ataíde e Pedro Dias, “Relatório de Imigração, Fronteiras e Asilo – 2009”, Oeiras, Portugal, p. 79; SEF.

²³ Source: The Aliens and Borders Service, “Reinstalação em Portugal, 2006-2009”, table available at <http://www.cpr.pt/reinstalacao/> [accessed 13 May 2012].

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<p>Selection Process</p> <ul style="list-style-type: none"> • Deploying Staff • Actors involved in refugee status determination • Dossiers • Missions 	<p>n/a</p> <p>Processing of resettlement cases shall be carried out by the Immigration Service – in practice by its Refugee and Asylum Cabinet (<i>Serviço de Estrangeiros e Fronteiras/Gabinete de Asilo e Refugiados</i>).</p> <p>According to art. 35 of the Asylum Law, the stakeholders involved in the procedure are the Ministry of Internal Affairs, the Portuguese Aliens and Borders Service and the Portuguese Refugee Council. The Immigration Service/Refugee and Asylum Cabinet relies on UNHCR’s prior refugee status determination when considering an individual application for resettlement. The requests for the resettlement of refugees under the mandate of the UNHCR shall be presented to the Government member responsible for the internal affairs area.</p> <p>The selection process on a dossier or mission basis is not specifically provided for in Portuguese legislation. Portugal has been carrying out the resettlement decisions only on a dossier review basis³⁰.</p> <p>To underline is the position of the CPR on this issue, which has already alerted for the difficulties inherent to this selection method, supporting an eventual choice of the selection on a mission basis³¹.</p>
<p>Pre-Departure Activities</p> <ul style="list-style-type: none"> • Cultural Orientation • Assistance with travel documents • Medical screening 	<p>(Non systematic) distribution of a “Cultural Orientation Leaflet for Resettled Refugees in Portugal”, prepared in 2008 by the CPR and the Immigration Service with the support of the ERF³².</p> <p>The CPR has already considered of great importance to have specific programmes of “awareness before the departure”, in order to better inform refugees on what is expecting them in Portugal³³.</p> <p>No cooperation agreement with the IOM to date on travel arrangements, hence all travel arrangements are organised by the Immigration Services in cooperation with the Ministry of Foreign Affairs/Directorate-General for Consular Affairs and UNHCR.</p> <p>No agreement with IOM.</p>
<p>Procedure Timing</p>	<p>The time frame for the procedure is legally defined in Article 35 of the Asylum Law:</p> <p>2. The Portuguese Immigration Service shall ensure the necessary proceedings for the course and the decision on applications within a period of ten days.</p>

³⁰ Cabinet of the Secretary of State for Internal Affairs, interview, op.cit; UNHCR, op.cit.

³¹ CPR, “Programa Nacional de Reinstalação: reflexões sobre a sua operacionalização”, August 2008, p. 4.

³² UNHCR, op.cit.

³³ CPR, “Programa Nacional de Reinstalação: reflexões sobre a sua operacionalização”, August 2008, p. 4, p. 5.

	<p>3. The Portuguese Refugee Council shall be informed on the lodged applications and may render an opinion upon said applications within five days.</p> <p>4. The Government member responsible for the internal affairs area shall decide on the acceptance of the resettlement request within 15 days.</p> <p>However, the average period for processing the requests is 4 months³⁴.</p>
<p>Comments</p>	<p>Another issue herewith related is the timing of arrival of resettled refugees (and whether they arrive in groups or alone). The President of the CPR, Dr.^a Maria Teresa Tito Morais, has shared the desire to see the minimum quota being filled gradually along the year, instead of receiving many people simultaneously³⁵.</p>
<p>b) Status and Rights – Post-Arrival phase</p>	
<p>Status granted</p> <p>Asylum Law, article 35, pars. 1, 4 and 5, the latter referring to Chapter VII of the same Law (“Refugee and subsidiary protection status”)</p>	<p>Refugee or subsidiary protection - It is the Minister of Internal Affairs who determines (based on legal provisions) which of the two statuses to grant³⁶.</p> <p>The respective status is granted with the acceptance of the resettlement request (Asylum Law, art. 35, par. 5) and is therefore not dependant on a specific and separate application for that purpose.</p>
<p>Rights granted</p> <p>Article 65 of the Asylum Law</p> <p>Articles 66 to 76 of the Asylum Law</p>	<p>“Beneficiaries of the refugee status and subsidiary protection are entitled to the rights and must comply with the obligations of aliens living in Portugal.”</p> <p>Specific provisions on rights of the refugee status and subsidiary protection beneficiaries:</p> <p>Information, residence permits, maintain family unit, travel documents, access to education, access to employment, social welfare, healthcare, access to housing, freedom of movement within Portuguese territory, Integration programmes.</p> <p>The CPR is the NGO responsible for providing independent legal counselling to asylum seekers and refugees at all stages of the asylum procedure (article 49 (4) of Asylum Law 27/2008)</p>

³⁴ UNHCR, op.cit.

³⁵ “Portugal recebeu apenas três refugiados ao abrigo do Programa de Reinstalação” [Portugal has only received three refugees under the Resettlement Programme], article in the newspaper *Público*, 20.06.2010, <http://www.publico.pt/Sociedade/portugal-recebeu-apanas-tres-refugiados-ao-abrigo-do-programa-de-reinstalacao-1442781>.

³⁶ Cabinet of the Secretary of State for Internal Affairs, op.cit.

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<p><i>Airport Arrival</i></p> <p><i>Info upon arrival</i></p> <p><i>Preparing local community</i></p> <p><i>Developing Integration Programme</i> <i>(Housing, health, education)</i></p> <p><i>Cultural orientation</i></p> <p><i>Counselling</i></p> <p><i>Language/Skills training</i></p> <p><i>Family Reunification</i></p> <p><i>Advice of Accessing Services</i></p>	<p>Resettled refugees are met by a member of the CPR staff accompanied by a translator. They receive basic information on transfer and reception arrangements. Transportation to the Reception Centre located in Bobadela, located circa 10 Km from the airport.</p> <p>At the Reception Centre, resettled refugees are provided with initial information on its functioning rules, staff composition, rights and duties during their stay, and service provision. The pre-departure information pamphlet prepared by the CPR and the Immigration Service is distributed.</p> <p>Provided by the CPR.</p> <p>Accommodation in the reception centre for up to 6 months, with all the services. The transition of resettled refugees into private housing is prepared by the CPR in cooperation with local social security services. Financial assistance granted to resettled refugees by social security services covers accommodation, food and other private expenses, transportation, education and health care.</p> <p>At the reception centre.</p> <p>Provided by NGO members of the “Rede Alargada”, notably the “<i>Associação Portuguesa de Apoio à Vítima –APAV</i>” and the “<i>Centro de Apoio à Vítima de Tortura em Portugal – CAVITOP</i>”.</p> <p>In the reception centre. Assistance provided by the CPR.</p> <p>In accordance to Article 68 of Asylum Law 27/2008 refugees are entitled to the extension of their status to family members residing either in Portugal or abroad.</p> <p>Provided by the CPR in the reception centre. Upon his accommodation in individual housing, a social worker of the Institute of Social Security (ISS) is designated to follow-up on the refugee’s integration.</p>
<p>Comments</p>	<p>The tripartite (State, UNHCR, NGO) nature of the resettlement programme from the onset – in particular NGO involvement in planning and implementation as core reception and integration service providers - is highlighted as a positive feature. Despite instances of insufficient coordination and duplications in service provision, role setting at operational level between relevant stakeholders seems quite well established. For post arrival this setting stems from the structure that was already in place for the reception and integration of spontaneous asylum seekers. It is rooted in both legal attributions, particularly in the case of international organisations (e.g. UNHCR) and public services (immigration service, social support services, health services, education, employment and training); partnership and funding agreements (e.g. European Refugee Fund) between the government and the main service provider (CPR); as well as on operational coordination among relevant stakeholders in the framework of existing coordination structures (e.g. <i>Rede Alargada</i>).</p>

c) Costs and Funding																					
<p>Funding</p> <ul style="list-style-type: none"> – <i>National Level</i> – <i>ERF</i> <p>Overall Resettlement Budget³⁷</p>	<p>25% of the national budget³⁸</p> <p>75% of the ERF contribution³⁹</p> <table border="1"> <thead> <tr> <th></th> <th>2008</th> <th>2009</th> <th>2010</th> <th>2011</th> </tr> </thead> <tbody> <tr> <td>ERF</td> <td>120,000.00</td> <td>120,000.00</td> <td>120,000.00</td> <td>120,000.00</td> </tr> <tr> <td>National Funding</td> <td>40,000.00</td> <td>40,000.00</td> <td>40,000.00</td> <td>40,000.00</td> </tr> <tr> <td>% ERF Contribution</td> <td>75%</td> <td>75%</td> <td>75%</td> <td>75%</td> </tr> </tbody> </table>		2008	2009	2010	2011	ERF	120,000.00	120,000.00	120,000.00	120,000.00	National Funding	40,000.00	40,000.00	40,000.00	40,000.00	% ERF Contribution	75%	75%	75%	75%
	2008	2009	2010	2011																	
ERF	120,000.00	120,000.00	120,000.00	120,000.00																	
National Funding	40,000.00	40,000.00	40,000.00	40,000.00																	
% ERF Contribution	75%	75%	75%	75%																	
Costs	n/a																				
Comments	<p>The institute of resettlement is, for the Portuguese State, “an essential element of the common asylum policy, which is based on solidarity among Member States”⁴⁰. Recognising this importance, Portugal is now⁴¹ “(...) promoting a wider debate, identifying all the institutions that could play a role in various stages of a resettlement program, including local authorities in order to articulate and frame all the activities concerning resettlement within a broader policy.” At this moment, it is not, however, desirable to increase the minimum quota of resettled refugees⁴².</p>																				

³⁷ Commission Decision C(2008) 6432 final, from 06/11/2008, Annex I, p. 24, table 7.2.1.

³⁸ Ibid, and Annex II, pp. 17 and 18, C(2009) 3330 final, from 05.05.2009, pp. 18 and 20, C(2010) 2656, of 27/04/2010, p. 19, and C(2011) 2745 final, of 18/04/2011, pp. 17 and 18.

³⁹ Ibid.

⁴⁰ Resolution 110/2007, preamble.

⁴¹ Cabinet of the Secretary of State for Internal Affairs, op.cit.

⁴² Ibid.