

PORTUGAL

Portugal is a state party to the United Nations Convention Relating to the Status of Refugees and its Protocol, as well as to the International Covenant on Civil and Political Rights and its First and Second Optional Protocols. Asylum seekers filed some 224 applications for asylum during 2000, and 11 applications had not yet been decided at the end of the year.¹ In 2001, some 234 (including 41 family members) asylum applications were lodged.² In the first quarter of 2002, 54 applications were filed.³ No information was available on the number of asylum seekers detained.

According to the Portuguese Refugee Council (PRC), the only detention-like situation arises under the special regime of asylum requests made at the borders.⁴ The Aliens and Border Service, under the Ministry of Home Affairs, has the authority to detain asylum seekers arriving at ports of entry. Asylum seekers arriving at the Lisbon airport are detained in the transit zone for 48 hours to five days while an initial decision is made on admissibility. If a decision on admissibility is not made within five days, asylum seekers held at the airport must be released and allowed to enter the territory.⁵ According to a

¹ U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2001 at 245, *available at* <http://preview.refuges.org/world/worldmain.htm> (Immigration and Refugee Services of America 2001) [hereinafter USCR WORLD REFUGEE SURVEY 2001].

² E-mail from Monica Farinha, Portuguese Refugee Council, to Emily O'Connor, Debevoise & Plimpton (Feb. 13, 2002) (on file with Debevoise & Plimpton) [hereinafter Portuguese Refugee Council Correspondence (Feb. 13, 2002)]; *also* USCR WORLD REFUGEE SURVEY 2002, *supra* note **Error! Bookmark not defined.**, at 187.

³ UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, ASYLUM TRENDS IN 28 INDUSTRIAL COUNTRIES: JANUARY TO MARCH 2001—JANUARY TO MARCH 2002, *available at* <http://www.unhcr.ch/cgi-bin/texis/vtx/home/+2wwBmelFXx8wwwwwwwwwwhFqAIRERfIRfgItFqA5BwBo5Boq5AFqAIRERfIRfgIcFqF+8afDm15BGowcoSnmagd1DBGon5Dzmxwwwwww/opendoc.pdf> (June 13, 2002) (last accessed Aug. 29, 2002) [hereinafter *Asylum Trends in 28 Industrialized Countries*].

⁴ Portuguese Refugee Council Correspondence (Feb. 13, 2002), *supra* note 2.

⁵ E-mail from Monica Farinha, Portuguese Refugee Council Correspondence, to Emily O'Connor, Debevoise & Plimpton (Nov. 15, 2001) (on file with Debevoise & Plimpton) [hereinafter Portuguese Refugee Council Correspondence (Nov. 15, 2001)]; EUROPEAN COUNCIL ON REFUGEES AND EXILES, STUDY ON THE AVAILABILITY OF FREE AND LOW-COST LEGAL ASSISTANCE FOR ASYLUM SEEKERS IN EUROPEAN STATES at 244, *available at* <http://www.ecre.org/research/legalassistance/index.shtml> (November 2001) [hereinafter ECRE EUR. STUDY 2001]; DANISH REFUGEE COUNCIL,

2001 report, some asylum seekers arriving at the border are not allowed immediately to file asylum applications, which delay may extend the length of their detention.⁶ Arrangements made to accommodate asylum seekers at the airport have been improved with the opening in July 2000 of a Lodging Centre for Asylum Seekers: among other improvements, there is now the availability of legal advice provided by the PRC. Asylum seekers are not typically detained during the asylum determination process.⁷ The Asylum Act, as of 2001, provides for suspension of criminal or administrative procedures based on illegal entry when the person subject to such proceedings files an application for asylum.⁸

Asylum seekers may be housed at a single reception center run by the PRC, at which they may stay for a maximum of two months.⁹ Priority is given to members of vulnerable groups. After leaving the reception center, asylum seekers find their own accommodations, often in hostels. Financial assistance is generally provided by the state only to asylum seekers admitted to the normal determination procedure, and only for four months.¹⁰ The PRC also provides emergency social assistance, including clothing, bus tickets and a stipend for food, usually until a first instance decision is given. Asylum seekers receive medical care through the national health service, funded partly by the PRC and partly by the state.

Is there independent review of the detention decision? Yes, for detention of rejected asylum seekers.

LEGAL AND SOCIAL CONDITIONS FOR ASYLUM SEEKERS AND REFUGEES IN WESTERN EUROPEAN COUNTRIES at 241, *available at* <http://www.english.drc.dk/publications/> (May 2000) [hereinafter DRC W. EUR. REPORT 2000].

⁶ ECRE EUR. STUDY 2001, *supra* note 5, at 244.

⁷ DRC W. EUR. REPORT 2000, *supra* note 5, at 244; Portuguese Refugee Council Correspondence (Feb. 13, 2002), *supra* note 2.

⁸ ECRE EUR. STUDY 2001, *supra* note 5, at 244; EUROPEAN COUNCIL ON REFUGEES AND EXILES, COUNTRY REPORTS 2001 at 195, *available at* <http://www.ecre.org/publications/countryrpt01.shtml> [hereinafter ECRE REPORT 2001].

⁹ USCR WORLD REFUGEE SURVEY 2002, *supra* note **Error! Bookmark not defined.**, at 188.

¹⁰ UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, RECEPTION STANDARDS FOR ASYLUM SEEKERS IN THE EUROPEAN UNION at 136-137 (July 2000) [hereinafter UNHCR EU REPORT 2000]; DRC W. EUR. REPORT 2000, *supra* note 5, at 248.

If detention is due to rejected asylum seekers' failure to depart, then there is criminal court judicial review of detention within 48 hours of initial detention, according to a 2000 report.¹¹

Asylum seekers detained at the airport do not have independent review of their detention, which is subject to time limits (see below).¹²

Are there limits on the period of detention? Yes; 5-60 days.

If a decision on admissibility is not made within five days, asylum seekers held at the airport must be released and allowed to enter the territory, according to the PRC in late 2001.¹³ Detention of rejected asylum seekers awaiting deportation is limited to 60 days, according to a 2000 report.¹⁴

Is there periodic review of detention? No.

Is there access to government-funded legal aid? Limited.

During the initial application for asylum, applicants are provided with legal counseling by the PRC, which is funded by UNHCR, by the Ministry of Home Affairs and by the Ministry of Labour and Social Security.¹⁵ As of 2001, only during the appeals process are asylum seekers entitled to state-appointed counsel.¹⁶

Vulnerable groups: The law provides for no special procedures for female asylum seekers or the processing of applications by unaccompanied minors. In practice, they are given financial aid and accommodation by the PRC, and additional social assistance by the Santa Casa da Misericórdia de Lisboa, a social welfare entity. In 2001, the law requiring that minors be represented (in practice, by the PRC) in asylum proceedings was fully implemented).¹⁷

¹¹ DRC W. EUR. REPORT 2000, *supra* note 5, at 245.

¹² Portuguese Refugee Council Correspondence (Feb. 13, 2002), *supra* note 2.

¹³ Portuguese Refugee Council Correspondence (Nov. 15, 2001), *supra* note 5.

¹⁴ DRC W. EUR. REPORT 2000, *supra* note 5, at 245.

¹⁵ *Id.* at 243; UNHRC EU REPORT 2000, *supra* note **Error! Bookmark not defined.**, at 136; Portuguese Refugee Council Correspondence (Feb. 13, 2002), *supra* note 2.

¹⁶ DRC W. EUR. REPORT 2000, *supra* note 5, at 244; Portuguese Refugee Council Correspondence (Nov. 15, 2001), *supra* note 5.

¹⁷ UNHCR EU REPORT 2000, *supra* note **Error! Bookmark not defined.**, at 137-138; Portuguese Refugee Council Correspondence (Nov. 15, 2001), *supra* note 5; ECRE REPORT 2001, *supra* note 8, at 198.