

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 3rd Cycle, 33rd Session

PORTUGAL

I. BACKGROUND INFORMATION

Portugal acceded to the *1951 Convention relating to the Status of Refugees* in 1960 and to its *1967 Protocol* (hereinafter referred to as the *1951 Convention*) in 1976. In addition, Portugal acceded to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) and to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*) in 2012.

Asylum claims in 2017 were at their highest level since before 2000. Portugal actively participated in the intra-European relocation scheme of asylum-seekers in 2016 and 2017. In 2016, Portugal received 1,447 asylum-seekers, including 690 spontaneous asylum-seekers and 757 relocated asylum-seekers from Italy and Greece. In 2017, Portugal received 1,750 asylum-seekers, including 1,009 spontaneous asylum-seekers and 741 relocated asylum-seekers. As of 31 July, Portugal had received 509 spontaneous asylum-seekers in 2018.¹

In 2017, spontaneous asylum applicants originated from 59 different countries primarily from the Democratic Republic of Congo, Ukraine, and Angola. Some 60 per cent of the asylum applicants were men and 40 per cent women, while at least 28 asylum claims were presented by unaccompanied and separated children (UASC).² Relocated asylum-seekers mainly originated from Syria, Iraq, and Eritrea. During the same period, 167 resettled refugees arrived in Portugal. The Government is expanding its resettlement programme to 1,010 places for 2018/2019, with arrivals planned to start in December 2018.

Government estimates listed 1,500 beneficiaries of international protection living in Portugal at the end of 2016 (550 recognized refugees and 950 beneficiaries of subsidiary protection).

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendation no. 126.16: "Continue to improve integration and fight racial discrimination against less-favoured communities, including by taking further

¹ Source: Serviço de Estrangeiros e Fronteiras (SEF).

² According to SEF statistics, 28 asylum-seekers were UASC in 2017, while the Portuguese Refugee Council (CPR), UNHCR's partner in Portugal, recorded 41 self-identified UASC. The identification criteria and age assessment procedures used by SEF may explain the difference between the number of UASC identified by SEF and by CPR. See: CPR, *AIDA Country Report: Portugal*, 2017, March 2018, p. 49, available at: <http://www.asylumineurope.org/reports/country/portugal>.

measures to improve the access of immigrants, foreigners and ethnic minorities to adequate housing, education, public services and employment". (State of Palestine)

The Portuguese legal framework promotes the integration of beneficiaries of international protection, by prescribing equal access to employment, health care, education, social assistance, and other services. Refugees and beneficiaries of subsidiary protection also benefit from innovative national projects, such as the *'one-stop shops'* facilitating integration in Lisbon, Porto, and Faro.

The Government of Portugal has established partnerships with NGOs, community organizations, and municipalities across the country in order to host relocated asylum-seekers who arrived in 2016 and 2017.³ Although this model has not come without challenges (as outlined below), assigning each relocated asylum-seeker to a specific hosting entity has allowed for individualized support. This approach has also made it possible to broaden the range of actors involved in actions supporting refugees and diversify services for them, which reflects the generally positive public attitudes toward refugee protection in Portugal.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Protection of asylum-seeking children and detention at the border

Linked to 2nd cycle UPR recommendation no. 127.75: "Strengthen efforts for the protection of the rights of unaccompanied and separated children seeking asylum". (Ecuador)

Systematic detention of asylum-seekers at the border remains a concern in Portugal. While in previous years, certain categories of persons with specific needs, such as unaccompanied children, families with children, pregnant women, and seriously ill persons were generally released without conditions, this practice has recently changed. In 2017, unaccompanied and separated children and vulnerable persons had to undergo long waiting times between the moment of the submission of the asylum applications at border points and their entry onto national territory. The resulting detention of children at the airport is particularly concerning.

In 2017, according to the information available to the Portuguese Refugee Council (CPR), 17 unaccompanied children were detained at the border for periods ranging from four to 50 days, with an average detention period of 14 days. In addition, 40 families with children were detained at the border for periods ranging from three to 60 days, with an average detention period of 28 days.⁴

In line with the UN Committee on the Rights of the Child,⁵ UNHCR's position is that children (whether accompanied or unaccompanied) "should not be detained for immigration related

³ Twenty hosting entities participated in relocation (some of which were umbrella organizations working with a number of additional associations), across 98 Portuguese municipalities.

⁴ See: CPR, *AIDA Country Report: Portugal*, 2017, March 2018, p. 91, available at: <http://www.asylumineurope.org/reports/country/portugal>.

⁵ *Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return*, 16 November 2017, CMW/C/GC/4-CRC/C/GC/23, available at: <http://www.refworld.org/docid/5a12942a2b.html>.

purposes, irrespective of their legal/migratory status or that of their parents, and detention is never in their best interests. Appropriate care arrangements and community-based programmes need to be in place to ensure adequate reception of children and their families.”⁶ In a recent report, the Portuguese Ombudsman raised concern about the detention of families with children at the border.⁷

The Ministry of Internal Administration initiated in 2018 a review of the situation at the airport and took steps to strengthen cooperation with anti-trafficking and child protection institutions in Portugal. UNHCR welcomes this initiative and stands ready to support these efforts.

Recommendation:

UNHCR recommends that the Government of Portugal:

- (a) End immigration-related detention of children, particularly for unaccompanied and separated children, and instead provide appropriate care arrangements and community-based programmes for adequate reception of both children and their families.

Issue 2: Identification and protection of victims of trafficking in the asylum procedure

Linked to 2nd cycle UPR recommendation no. 126.29: “Continue applying measures to combat trafficking in human beings, covering areas such as prevention, investigation, prosecution and punishment of perpetrators.” (Spain)

Despite continued efforts, including under the third National Plan against Trafficking in Human Beings (2014 – 2017),⁸ identification and protection of victims of trafficking in the asylum procedure remain a challenge, including for children. According to CPR, the organization is unaware of the identification of trafficking victims in asylum procedures, particularly regarding UASC, although some were referred to CPR for accommodation with an informal indication of possible trafficking risks. Furthermore, CPR is unaware of instances where asylum applicants were granted access to the asylum procedure or granted international protection based on a well-founded fear of persecution for reasons of trafficking in human beings.

However, in 2017, CPR made 11 referrals of UASC to the National Anti-Trafficking Observatory, with one child being granted victim status by the authorities and placed in a specialized reception centre for victims of trafficking. Furthermore, eight UASC absconded from the CPR UASC reception centre in 2017.⁹ In 2017, the Social Security Institute in Portugal started drafting standard operating procedures on UASC asylum-seekers that also included guidance on victims of trafficking, but this process has not yet been completed.

Recommendations:

UNHCR recommends that the Government of Portugal:

⁶ UNHCR, *UNHCR's position regarding the detention of refugee and migrant children in the migration context*, January 2017, available at: <http://www.refworld.org/docid/5885c2434.html>.

⁷ Ombudsman, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, September 2017, available at: http://www.asylumineurope.org/sites/default/files/resources/cidadaos_estrangeiros_e_o_direito_a_um_tratament_o_digno.pdf.

⁸ This National Plan provided for the expansion of multidisciplinary teams, enhancement of the capacity of the reception and protection centre for victims of trafficking, implementation of information materials for trafficking victims on their rights, and the development of adequate protocols for the prevention, detection, and protection of children trafficking victims.

⁹ CPR, *AIDA Country Report: Portugal, 2017*, March 2018, p. 50, available at: <http://www.asylumineurope.org/reports/country/portugal>.

- (a) Implement a consistent national identification and protection system for victims of trafficking in the asylum procedure, especially for UASC, and ensure that victims of trafficking have access to asylum procedures in which their potential need for international protection can be determined.¹⁰

Additional protection challenges

Issue 3: Strengthening asylum procedures, reception, and integration

The recent increase in the number of asylum-seekers has affected the national asylum system and strained reception capacity. Both relocated and spontaneous asylum-seekers go through the refugee status determination (RSD) system upon arrival, and this has put pressure on the procedure.

Overcrowding is an ongoing concern at reception centres for spontaneous asylum-seekers on the territory, notably the one for adults and families undergoing admissibility and accelerated procedures. While the centre was built to accommodate 42 persons, it regularly hosts up to 100 individuals. A new reception centre will open by the end of 2018, helping to ease the reception shortage. However, the number of places may still not be sufficient in the context of increased arrivals and adequate ongoing funding to run the centres will also need to be ensured.

Despite innovative integration projects in Portugal, a number of challenges remain. These include difficulties in finding employment, affordable housing, and adequate mental health care. Since asylum-seekers are eventually dispersed throughout Portugal, they are also affected by disparities between regions, including in the labour market and in access to refugee communities, cultural mediators, and language classes in more remote areas. The phase-out period for relocated asylum-seekers following their 18-month specific support programme is particularly difficult. Addressing these integration challenges, particularly those identified through Portugal's experience with relocation, may have a significant impact on improving outcomes for all beneficiaries of international protection, including the 1,010 incoming resettled refugees.

Up to now, three mainly parallel approaches have been used for reception and integration of resettled refugees, spontaneous asylum-seekers, and relocated asylum-seekers, with two separate coordination mechanisms. The Government is now undertaking efforts to strengthen reception and integration measures, and to develop a more comprehensive protection system that includes all refugees and asylum-seekers under a merged coordination mechanism. Discussions to establish this mechanism are still ongoing.

Recommendations:

UNHCR recommends that the Government of Portugal:

- (a) Continue efforts to maintain and strengthen RSD quality, including by engaging in regular training, capacity-building, and quality assurance initiatives, with the support of UNHCR as needed;
- (b) Ensure adequate capacity and funding for reception of spontaneous asylum-seekers, including in the context of an expanded resettlement programme and to prepare effectively for possible future arrivals;
- (c) Strengthen efforts to provide intensive pre-departure counselling to refugees being resettled to Portugal and organize tailored reception matching for them upon arrival,

¹⁰ See: UNHCR, *Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked*, 7 April 2006, HCR/GIP/06/07, available at: <http://www.refworld.org/docid/443679fa4.html>.

- as well as case management services by hosting entities, in order to promote the best possible integration outcomes;
- (d) Finalize arrangements for a merged coordination mechanism to lead a comprehensive refugee protection approach; and
 - (e) Enhance regular monitoring and evaluation of reception and integration, with the active participation of refugees, asylum-seekers, and NGOs.

Issue 4: Establishment of a statelessness determination procedure

While Portuguese legislation and implementing administrative procedures comply with international standards on statelessness in many aspects, room for improvement remains, particularly in the identification of stateless persons. A recent mapping conducted by UNHCR in Portugal identified potential risk of statelessness for the following categories of persons: individuals from former Portuguese African colonies who may have fallen through the cracks in the relevant nationality regimes; children born in Portugal to foreign parents with an irregular presence in the country; children born to Portuguese citizens abroad whose parents failed to register them; and stateless asylum-seekers.

Although it is difficult to estimate the number of stateless persons in Portugal, the lack of a dedicated statelessness determination procedure (SDP) hampers identification. Therefore, UNHCR will promote establishment of a SDP, accompanied by an efficient referral mechanism whereby authorities who may be in contact with stateless persons can identify potential applicants for statelessness status and refer them to appropriate channels. During the procedure, applicants should be granted identity documents and temporary residence permits. Persons determined to be stateless through the SDP should be provided with residence permits on grounds of their stateless status.¹¹ Furthermore, there is a general need for capacity building and awareness raising among both Government entities and civil society organizations who may come into contact with stateless persons or those at risk of statelessness. Strengthening capacity would facilitate the provision of accurate guidance to individuals on how to resolve their situation and with referral to the SDP, once established.

Recommendations:

UNHCR recommends that the Government of Portugal:

- (a) Establish a statelessness determination procedure in order to effectively meet obligations under the *1954 Convention*; and
- (b) Conduct capacity-building and awareness-raising on statelessness for all relevant Government and civil society entities.

UNHCR
October 2018

¹¹ For guidance on establishment of SDPs, see: UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>.

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

PORTUGAL

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations and UN Treaty Monitoring Bodies' Concluding Observations relating to issues of interest and persons of concern to UNHCR with regards to PORTUGAL.

I. Universal Periodic Review (Second Cycle – 2018)

Recommendation ¹²	Recommending State/s	Position ¹³
Ratification of international instruments		
128.1 Consider positively the ratification of the <i>Migrant Workers Convention</i> ;	Mexico	Noted
Equality and non-discrimination		
127.10 Remain steadfast in pursuing its preventive and repressive programme to combat discrimination against migrants and asylum seekers;	Democratic Republic of the Congo	Supported
Racism and xenophobia		
126.26 Condemn more vigorously racist and xenophobic speeches made by political leaders and further promote tolerance and diversity;	Tunisia	Supported
126.27 Penalize the use of xenophobic and racist rhetoric and prohibit organizations which promote or incite to racial discrimination;	Uzbekistan	Supported
126.28 Reinforce the mechanisms for combating racism, racial discrimination, xenophobia and other forms of intolerance which affect migrants, foreigners and ethnic minorities;	Bolivarian Republic of Venezuela	Supported
Trafficking and exploitation		
126.29 Continue applying measures to combat trafficking in human beings, covering areas such as prevention, investigation, prosecution and punishment of perpetrators;	Spain	Supported
127.34 Redouble its efforts with a focus on trafficking for the purpose of labour exploitation and special focus on trafficking in children;	India	Supported
Sexual and gender-based violence		
126.30 Continue to collect specific data and maintain efforts to standardize reporting and data collection concerning victims of domestic violence, including through the creation of a website and a database;	Bulgaria	Supported
126.31 Continue to apply measures to combat gender-based violence, including programmes of prevention which promote the elimination of	Chile	Supported

¹² All recommendations made to Portugal during its 2nd cycle UPR as well as a number of its views and replies can be found in: "Report of the Working Group on the Universal Periodic Review of Portugal" (7 July 2014), A/HRC/27/7, available at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/076/03/PDF/G1407603.pdf?OpenElement>.

¹³ Portugal's remaining views and replies, in English, can be found in: *Addendum* (21 July 2014), A/HRC/27/7Add.1, available at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/089/33/PDF/G1408933.pdf?OpenElement>.

gender stereotypes and the empowerment of women;		
126.38 Ensure full implementation of its national plans against domestic and gender-based violence to effectively reduce social acceptance of violence against women, including domestic violence, promote equality between women and men, eliminate stereotypes and take measures to raise awareness of existing mechanisms to prevent and combat domestic violence, including by ensuring thorough investigation and prosecution of all acts of violence against women;	Canada	Supported
126.40 Continue to take steps, in particular within the Action Plan, to combat and prevent violence and to ensure that victims have access to means of protection, that acts of domestic violence are effectively investigated and that perpetrators are brought to justice;	Poland	Supported
Detention		
127.23 Strengthen efforts to ensure that investigations into allegations of ill-treatment of detainees are timely and effective;	United States of America	Supported
127.26 Continue strengthening the mechanisms to supervise the observance of human rights of the inmates, with the aim of preventing ill-treatment, and handle all complaints of torture and other ill-treatment in a timely manner;	Italy	Supported
127.42 Incorporate the <i>United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders</i> (the Bangkok Rules) into its programme on adequate treatment for women detainees, especially young pregnant women;	Thailand	Supported
Economic, social and cultural rights		
127.56 Conduct an analysis of the effects of the crisis on human rights, especially on socioeconomic rights, with particular focus on the situation of vulnerable groups such as refugees, migrants, Roma, children, women and elderly people;	Turkey	Supported
Protection of unaccompanied and separated children		
127.75 Strengthen efforts for the protection of the rights of unaccompanied and separated children seeking asylum;	Ecuador	Supported

II. Treaty Bodies

Committee on the Rights of Persons with Disabilities

Concluding Observations, (20 May 2016), [CRPD/C/PRT/CO/1](#)

Situations of risk and humanitarian emergencies (art. 11)

24. The Committee is concerned that the State party's civil protection and humanitarian assistance policies do not adequately take the needs of persons with disabilities into consideration in situations of risk and in humanitarian emergencies.

25. The Committee recommends that all aspects of the State party's policies and programmes on disaster risk reduction be inclusive of and accessible to all persons with disabilities.

26. The Committee notes the consideration of some aspects of disability in the State party's policies and programmes on migration, refuge and asylum. However, the Committee is

deeply concerned that migrants, refugees or asylum seekers with disabilities often live in poverty or extreme poverty.

27. The Committee recommends that the State party make greater efforts to provide assistance to migrants, refugees or asylum seekers with disabilities in poverty or extreme poverty in its policies and programmes on migration, refuge and asylum.

Committee on the Elimination of Discrimination against Women

Concluding Observations, (24 November 2015), [CEDAW/C/PRT/CO/8-9](#)

4. The Committee notes the progress achieved since the consideration in 2008 of the State party's seventh periodic report (CEDAW/C/PRT/7) in undertaking legislative reforms, in particular the adoption of the following legislation: (a) Law No. 26/2014 on asylum, introducing a gender-sensitive framework for the protection of refugees and asylum seekers, in 2014;

Trafficking and exploitation of prostitution

28. The Committee welcomes the updated national referral system established in 2014 and the third national plan to prevent and combat trafficking in human beings (2014-2017), but is concerned:

- a) That poverty among and the social exclusion of women, in particular disadvantaged and marginalized groups of women such as migrant, asylum-seeking and Roma women, increase their risk of becoming victims of trafficking and exploitation in prostitution;
- b) That there is a lack of adequate victim identification mechanisms;
- c) That a lenient sentencing policy is applied for traffickers, who reportedly are often charged with the crime of pimping, which carries a lighter punishment;
- d) That there is a lack of information on the protection and assistance in place for victims of trafficking, including the issuance of temporary resident permits.

29. **The Committee urges the State party:**

- a) **To intensify its efforts to combat trafficking in women and children and prevent the trafficking of women who live in poverty and are at high risk of trafficking, as well as establish mechanisms for the identification of victims;**
- b) **To ensure the prompt and effective prosecution and conviction of traffickers under the relevant article of the Penal Code;**
- c) **To strengthen the protection and rehabilitation of women who are victims of trafficking by providing them with access to alternative income opportunities and providing undocumented women with temporary resident permits, irrespective of their ability or willingness to cooperate with the prosecutorial authorities.**

Committee on the Rights of the Child

Concluding Observations, (25 February 2014), [CRC/C/PRT/CO/3-4](#)

Legislation

9. The Committee notes the adoption of various child-related legislative measures during the period under review to ensure further conformity of domestic legislation with the principles and provisions of the Convention relating to, inter alia, the prohibition of all forms of corporal punishment of children; civil sponsorship; social protection of maternity, paternity and

adoption; special education needs for children with disabilities; and procedures for granting asylum, subsidiary protection or refugee status, including for unaccompanied children.

10. The Committee encourages the State party to continue to take steps to ensure that domestic legislation is fully compatible with the principles and provisions of the Convention and ensure the effective implementation of child-related laws at the national, provincial and municipal levels.

Asylum-seeking and refugee children

61. The Committee welcomes the establishment of procedures for granting asylum and refugee status to children in accordance with Decree Law No. 27/2008, provisions exempting asylum seekers who are minors and their family members from detention at border crossing points during the admissibility stage of the proceedings, and information in the report of the State party that psychological care of such children is guaranteed through the National Health System. The Committee is concerned, however, about reports of lengthy and inadequate procedures regarding unaccompanied children, poor interviewing techniques, notably in the case of children, and the insufficient training and capacity-building of all stakeholders involved in the asylum application process. The Committee is also concerned about the conditions in reception centres, such as overcrowding.

62. The Committee strongly recommends that the State party:

- a) **Ensure the timely processing of claims to reduce waiting times for asylum seekers;**
- b) **Improve asylum procedures regarding unaccompanied and separated children, in line with general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, in particular by communicating the case to the Commission for the Protection of Children and Young People;**
- c) **Increase the accommodation capacity of the reception system to respond to the higher number of asylum seekers arriving in Portugal, and ensure that reception centres are child friendly and conform to applicable United Nations standards;**
- d) **Ensure that training and capacity-building are regularly provided to personnel dealing with asylum-seeking children, including asylum officials, border police, civil servants, judges, lawyers, personnel of non-governmental organizations and translators with respect to asylum and refugee matters and the specific needs of unaccompanied and separated children, issues concerning human trafficking and the treatment of traumatized children.**

Committee on the Rights of the Child

Concluding Observations under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, (24 February 2014), [CRC/C/OPAC/PRT/CO/1](#)

Data

12. The Committee regrets the lack of data on the acts covered by the Optional Protocol, relating in particular to asylum-seeking, refugee, migrant and unaccompanied children under the State party's jurisdiction, who may have been recruited or used in hostilities abroad.

13. The Committee recommends that the State party establish a mechanism for the comprehensive collection of data, disaggregated by sex, age, nationality, ethnic origin and socioeconomic background, on all areas relevant to the implementation of the

Optional Protocol with a view, in particular, to identifying and registering all asylum-seeking, refugee, migrant and unaccompanied children under the State party's jurisdiction who may have been recruited or used in hostilities abroad.

Measures adopted to protect the rights of child victims

22. The Committee notes the information provided by the State party that there are no child victims of the offences prohibited by the Optional Protocol on its territory. However, according to the information received by the Committee, an increasing number of unaccompanied asylum-seeking and refugee children from conflict-affected countries are entering the State party and the Committee is concerned about the lack of mechanisms for early identification of children who might have been recruited or used in armed conflict abroad.

23. The Committee urges the State party, in accordance with its obligations under article 7 of the Optional Protocol, to take all the necessary measures to identify children who may have been involved in armed conflict and to establish a mechanism for identifying asylum-seeking, refugee or migrant children who may have been involved in armed conflict abroad, and ensure that the personnel responsible for identification are trained in children's rights, child protection and child-sensitive interviewing skills.

Assistance for physical and psychological recovery and social reintegration

24. The Committee notes as positive the fact that refugee and asylum-seeking children have the right to access the education system and health care, and that the Centre for Refugee Temporary Installation has a special centre for unaccompanied children in the Lisbon area. It also notes with appreciation that Act No. 27/2008 of 30 June 2008 stipulates that children affected by armed conflict, including child victims of torture and cruel, inhuman or degrading treatment, are entitled to have access to rehabilitation services. However, the Committee is concerned that the physical and psychological recovery measures available in the State party for children who may have been recruited or used in hostilities abroad are not adequate.

25. The Committee urges the State party to take all the necessary measures to ensure that all refugee and asylum-seeking children who may have been recruited or used in hostilities have the right to have access to adequate physical and psychological recovery and social reintegration measures. Such measures should include careful assessment of the situation of the children, the provision of immediate, child-sensitive and multidisciplinary assistance for their physical, psychological and emotional recovery and their social reintegration, in accordance with the Optional Protocol. The Committee also recommends that the State party expand the provision of special centres for unaccompanied, refugee and asylum-seeking children to other districts of the State party.