

ECRE COUNTRY REPORT 2002: PORTUGAL

ARRIVALS

1. Total number of individual asylum seekers who arrived, with monthly breakdown and percentage variation between years:

Table 1:

Month	2001	2002	Variation +/- (%)
January	19	28	+47.4
February	17	10	-41.2
March	13	16	+23.1
April	17	19	+11.8
May	12	26	+116.7
June	15	7	-53.3
July	24	6	-75.0
August	24	22	-8.3
September	5	13	+160.0
October	18	14	-22.2
November	13	12	-7.7
December	16	7	-56.3
TOTAL	193	180	-6.7

Source: Aliens and Borders Service.

Comments: Despite an increase in applications during the first part of 2002 compared to the previous year, there was an overall decrease of almost 7%. Within the EU, Portugal is the country with the lowest number of asylum applications. Several factors might contribute to this situation:

- The country's geographical position.
- A lower level of development within the EU.
- A perceived inferior set of reception conditions when compared with those of countries such as the Netherlands, Sweden or the United Kingdom.

However, Portugal is considered a relatively tolerant country concerning irregular immigration. The number of regularisation opportunities that have been granted during the past few years, together with legislation offering other alternative legalisation mechanisms, might have an impact on the number of asylum claims.

2. Breakdown according to the country of origin/nationality, with percentage variation:

Table 2:

Country of origin	2001	2002	Variation +/- (%)
Sierra Leone	39	34	-12.8
Angola	29	33	+13.8
Poland	-	14	-
Cuba	8	9	+12.5
Russian Federation	6	9	+50.0
Sri Lanka	6	8	+33.3
Afghanistan	16	7	-56.3
<i>Others</i>	89	66	-25.9
TOTAL	193	180	-6.7

Source: Aliens and Borders Service.

Comments: In the year 2002, 180 asylum applications from thirty-seven nationalities were lodged in Portugal, representing a rate of fifteen requests per month. The most significant country of origin is still Sierra Leone, followed by Angola. However, as revealed in table 2, there has been a 13% decrease in asylum claims by nationals of Sierra Leone compared with 2001, which is explained by the progress toward peace in that country. In contrast, there was an increase of almost 14% in requests presented by nationals of Angola.

3. Persons arriving under family reunification procedure: 4 (2001: 3).

These persons are not accounted for in paragraphs 1 and 2 above.

It is not usual that family members of refugees arrive in Portugal under the family reunification procedure. Most of the family members arrive in Portugal, either regularly (with a tourist visa) or irregularly, only initiating a family reunification procedure upon reaching national territory. This is because the issue of a visa for family reunification purposes in the country of origin, or in the country where the family member is living, is overly bureaucratic and difficult to achieve.

4. Refugees arriving as part of a resettlement programme:

Portugal does not receive refugees as part of a resettlement programme.

5. Unaccompanied minors: 8 (2001: 9).

These figures include six persons from Sierra Leone and two from Angola, representing a mere 4% of total asylum requests (see paragraph 16 below).

RECOGNITION RATES

6. The statuses accorded as an absolute number and as a percentage of total decisions:

Table 3:

Status	2001		2002	
	First instance Number	%	First instance Number	%
No status awarded	152	78.8	148	82.2
Convention status	7	3.6	14	7.8
Complementary Protection (humanitarian)	34	17.6	18	10.0
TOTAL	193	100	180	100

Source: Aliens and Borders Service.

Comments: According to asylum procedure in Portugal, statuses are not accorded at appeal stages. Only the Ministry for Internal Affairs has the competence to decide on the granting or refusal of asylum, under the guidance of the National Commissioner for Refugees. As seen in table 3, no status was awarded in 148 individual cases (representing 82% of total decisions), while in only thirty-two cases was protection granted, either in the form of Convention status or humanitarian protection. These values follow the trend of previous years.

There were no temporary protection statuses awarded, however in May 2002 Portugal was one of the EU countries (alongside Belgium, Greece, Spain, Ireland and Italy) that received under 'temporary protection on humanitarian grounds' one of the thirteen Palestinians evacuated from the Church of the Nativity in Bethlehem, following a decision adopted in a written procedure by the EU Council.

7. Refugee recognitions (1951 Convention: as an absolute number) according to country of origin:

Table 4:

Country of origin	2001	2002
Kazakhstan	-	4
Cuba	5	2
DR Congo	-	2
Colombia	-	1
Liberia	-	1
Romania	-	1
Sierra Leone	-	1
Guinea-Bissau	1	-
Algeria	1	-
<i>Others</i>	-	2
TOTAL	7	14

Source: Aliens and Borders Service.

Comments: Despite a notable increase in the absolute number of refugee recognitions, four of the decisions to grant refugee status (two from Cuba, one from Kazakhstan and one from Liberia) were a result of extending the entitlement to family members (spouses and children) of recognised refugees already living in Portugal.

Absolute numbers of those granted 'Complementary Protection', according to country of origin

Table 5:

Country of origin	2001	2002
Mongolia	-	6
Belarus	-	4
Sierra Leone	13	3
Colombia	2	1
Congo	-	1
Gambia	-	1
Iraq	-	1
Western Sahara	-	1
Zimbabwe	4	-
Afghanistan	3	-
Angola	3	-
Cuba	2	-
DR Congo	2	-
Egypt	1	-
Guinea-Conakry	1	-
Iran	1	-
Rwanda	1	-
Sudan	1	-
TOTAL	34	18

Source: Aliens and Borders Service.

Comments: There was a significant decrease compared to 2001, explained by a decrease in the issue of Residence Permits for Humanitarian Reasons granted to nationals from Sierra Leone, in turn justified through reference to the changed internal situation in the country.

RETURNS, REMOVALS, DETENTION AND DISMISSED CLAIMS

8. Persons returned on safe third country grounds: Figures unavailable.

See paragraph 9 below.

9. Persons returned on safe country of origin grounds: Figures unavailable.

Portuguese Asylum Law makes provisions for the submission of claims at entry points. During the admissibility phase of this special, shortened procedure, the asylum seekers must remain in the international area of the port of entry or international airport. This is the only detention-like situation during the asylum determination procedure, since in Portugal asylum seekers are not detained. If the request is considered inadmissible, the asylum seeker has twenty-four hours to solicit a review, with suspensive effect, to the National Commissioner for Refugees (NCR). The NCR has to reach a final decision within forty-eight hours. Rejection of the claim entails the return of the asylum seeker to the country where she or he began their journey or, if this is not possible, to the State where the travel document by which she or he travelled was issued. Many of the asylum claims presented at border points are rejected on the grounds of 'safe third country' or 'safe country of origin', and since the asylum seekers are confined at border points they are easily returned. While there exists an opportunity to appeal against the non-admissibility decision, this has no suspensive effect, allowing the return of a rejected asylum seeker while the appeal is pending.

10. Number of applications determined inadmissible: 149 (2001: 133).

Only twenty asylum claims were considered to be admissible by the Portuguese authorities at first instance, and eleven applications were admitted by the NCR at the second administrative instance. The 149 rejected from the total of 180 applications represents an admissibility rate of 12%.

11. Number of asylum seekers denied entry to the territory: Figures unavailable.

12. Number of asylum seekers detained, the maximum length of and grounds for detention:

In Portugal asylum seekers are not detained; the only detention-like situation during the asylum determination procedure having been referred to in paragraph 9 above.

13. Deportations of rejected asylum seekers: Figures unavailable.

The current practice of the Portuguese authorities is rather tolerant towards failed asylum seekers. Those who have not been granted Convention status or humanitarian protection are not deported unless they constitute a problem in terms of public order. The exception to this rule relates to requests presented at border points by those who are not admitted but rather sent back to their country of origin, as seen in paragraphs 9 and 10 above.

The Portuguese Refugee Council (PRC), after having exhausted all the possibilities within the Asylum Law (namely the appeal phase), tries to find a solution for rejected asylum seekers who wish to stay in Portugal under the national 'Aliens' Law' (Decree Law 244/98 of 8 August 2002). However, this is not easy to accomplish as there are few solutions available, and neither do most rejected asylum seekers fulfil the necessary requirements (namely identification and nationality documents). Many are consequently kept in limbo, lacking a clearly defined legal status.

14. Details of assisted return programmes, and numbers of those returned:

The International Organisation for Migration (IOM) is responsible for the Portuguese Voluntary Repatriation Programme. Whenever an asylum seeker displays a willingness to return to his or her country of origin, the PRC directs him or her to the IOM in Lisbon, assuring that the return is

voluntary and made with safety and dignity. The PRC also informs the asylum seekers of the limitation stated in the voluntary repatriation contract: he or she will not be able to enter Schengen territory in the following five years. Fourteen asylum seekers decided to return voluntarily to their country of origin throughout 2002 (five from Angola, three from Kazakhstan and one each from Afghanistan, Ghana, Liberia, Romania, Sierra Leone and Sudan).

15. Dublin Convention practice comments:

15.1 Dublin Convention practice:

Table 6:

	Total number of requests presented by Portugal to other Dublin States	Total number of requests addressed to Portugal by other Dublin States
Requests presented	21	188
% of requests in total number of applications	-	104.4
Requests accepted	-	30
% of requests accepted in requests presented	-	16.0
Requests refused	-	158
% of requests refused in requests presented	-	84.0
Requests under Article 9	-	-

Source: Aliens and Borders Service.

Comments: The Aliens and Borders Service is the entity entrusted with carrying out the Dublin procedure. If the requested State agrees to take responsibility for the application, the Director of the Aliens and Borders Service must decide on the applicant's transfer within five days. This decision must be notified to the individual concerned as well as the PRC. The asylum seeker can appeal the transfer decision to the NCR, who must render his decision within forty-eight hours, although PRC has no knowledge of any positive decision by the NCR concerning a transfer appeal. If the requested State denies its responsibility, the application is processed under the Portuguese asylum procedure, starting with the admissibility phase and, if admitted, the claim will follow the status determination procedure.

15.2 Requests by country:

Table 7:

Country	Number of requests presented by Portugal to other Dublin States	Number of requests addressed to Portugal by other Dublin States
Austria	-	2
Belgium	-	15
Denmark	-	2
Finland	-	1
France	9	31
Germany	5	45
Greece	2	-
Ireland	-	3
Italy	1	3
Luxembourg	-	-
Netherlands	-	20
Spain	-	10

Sweden	4	4
United Kingdom	-	40

Source: Aliens and Borders Service.

SPECIFIC REFUGEE GROUPS

16. Developments regarding refugee groups of particular concern:

Non-renewal of residence permits of nationals from Angola, Sierra Leone and Afghanistan

Residence permits issued to nationals of Angola, Sierra Leone and Afghanistan on humanitarian grounds, according to Article 8 of the Asylum Law, are not being renewed by the Portuguese authorities (Aliens and Borders Service) due to internal changes within those countries. It may be said that the prevailing peaceful situation in Sierra Leone is acceptable in this regard, yet the situation in Angola and Afghanistan during 2002 gave little justification for such a general agreement. Therefore the PRC is appealing to the Administrative Supreme Court against non-renewal decisions made by the NCR, and organising requests for residence permits under Article 87 of the Aliens Law for individuals who are eligible and intend to stay in Portugal. The PRC's objective is to assure that this population stay legally in Portugal throughout the whole process of transition from possessing a residence permit for humanitarian reasons to obtaining one under the Aliens Law. This is of utmost importance, since most of these former asylum seekers are well integrated into society, often maintaining steady jobs.

Unaccompanied minors

Although unaccompanied minors do not constitute a large group of asylum seekers in Portugal (1999: 18 requests; 2000: 10 requests; 2001: 9 requests; 2002: 8 requests – figures that consistently represent less than 10% of total asylum demands), due to their vulnerable situation they raise specific concerns. These are mostly regarding reception conditions and lack of effective supervision. In 2002 the PRC prepared a cooperation protocol proposal with the objective of establishing a sharing of responsibilities between the PRC and *Santa Casa da Misericórdia de Lisboa* (a public entity).

Victims of torture, violence or ill-treatment

Each year the number of asylum seekers that present symptoms of torture or having been subjected to violence or ill-treatment in their country of origin increases. The PRC has been raising this issue periodically, since the lack of psychological support to such persons endangers their integration. Therefore, PRC welcomes the creation of CAVITOP (*Centro de Apoio a Vítimas de Tortura em Portugal* - Centre of Support for Victims of Torture in Portugal), which intends to provide free systematic and continuous psychological and psychiatric support to asylum seekers and refugees who suffered from torture, violence or ill-treatment.

LEGAL AND PROCEDURAL DEVELOPMENTS

17. New legislation passed:

No new related legislation was passed in 2002.

18. Changes in refugee determination procedure, appeal or deportation procedures:

There were no significant changes in these procedures in 2002.

19. Important case-law relating to the qualification for refugee status and other forms of protection:

The asylum jurisprudence in Portugal is still in its infancy. Two developments should be highlighted, then, namely two decisions by the Supreme Administrative Court (*Supremo Tribunal Administrativo*):

The first case refers to that of Rwandan citizen who applied for asylum in Portugal in 1999. The Portuguese authorities considered the most appropriate response to be provision of humanitarian protection (complementary protection). The applicant contested the administrative decision of the Ministry for Internal Affairs by appealing. The Supreme Administrative Court gave reason to the applicant by stating that the administrative decision was incongruously founded: the contradiction between the reasons and the facts presented by the authorities was manifest, which meant that it was not possible to reach 'logically' the conclusion taken by the Administration. The Supreme Administrative Court went even further by stating that the law had been interpreted in order to reach one determined solution.

The second case is related to the granting of humanitarian protection. The court rejected the notion of an administrative decision refusing this status on the grounds that there is manifest difficulty in proving the nationality of the applicant, and ruled that when his or her declarations are credible, the Administration should use the principle of inquiry.

20. Developments in the use of the exclusion clauses of the Refugee Convention in the context of the national security debate:

There were no significant developments in the use of the exclusion clauses in 2002.

21. Developments regarding readmission and cooperation agreements:

There were no significant developments regarding readmission and cooperation agreements in 2002.

THE SOCIAL DIMENSION

22. Changes in the reception system:

There were no significant changes in the reception system in 2002.

23. Changes in the social welfare policy relevant to refugees:

There were no significant developments in the social welfare policy relevant to refugees in 2002.

24. Changes in policy relating to refugee integration:

The Employment and Professional Training Institute (IEFP) is a public entity created in 1979 under the auspices of the Ministry of Social Security and Labour, with the main task of implementing employment and professional training policies defined and approved by the government. In July 2002 the IEFP implemented the *Portugal Acolhe* programme ('Portugal Receives'). This programme is addressed towards aliens living in Portugal, and it concerns learning the Portuguese language and acknowledging the basic rights of citizenship. Asylum seekers have access to this programme as soon as their asylum claim is made, although it is impossible to know how many refugees attend professional training courses as no distinction is made between refugees and other immigrants in the statistics of IEFP.

25. Changes in family reunion policy:

There were no significant changes in family reunion policy in 2002.

OTHER POLICY DEVELOPMENTS

26. Developments in resettlement policy:

There were no significant changes in resettlement policy in 2002.

27. Developments in return policy:

There were no significant changes in return policy in 2002.

28. Developments in border control measures:

The Portuguese Refugee Council calls attention to the fact that of the fifty-four interventions at Lisbon International Airport (concerning asylum requests presented at that border), forty-five were made during the first semester and only nine during the second semester. What was the reason for this rather unusual balance? The PRC fears that Portuguese authorities are now 'in place' controlling some of the points of exit in 'sensitive' countries, namely at Dakar Airport in Senegal. There is no official confirmation of this, however the PRC is concerned that these border controls limit the rightful access of asylum seekers to the territory, and consequently to protection.

29. Other developments in refugee policy:

There were no other significant developments in refugee policy.

POLITICAL CONTEXT

30. Government in power during 2002:

Following the elections of December 2001, a new government comprising a coalition of the Social Democratic Party and the Popular Party was formed.

31. Governmental policy vis-à-vis EU developments:

No information was provided.

32. Asylum in the national political agenda:

Asylum policy as an issue was completely left aside by the government in the programme presented at the beginning of the legislature. However, the same was not the case for immigration. A former labour exporting country, Portugal has become a country where immigration has taken on a considerable economic and social dimension. Further, fear of terrorism and the feelings of insecurity within civil society have called attention to this subject. Therefore, immigration is now part of the agenda of the Portuguese government as one of the most pressing issues, alongside education and health.