



The Organisation of Asylum and Migration Policies

Factsheet: Portugal

1. Introduction

This factsheet provides an overview of how asylum and migration policies are organised in *Portugal*, including the organisation of the institutional and regulatory context and framework for dealing with third-country nationals coming for the purpose of legal immigration or for international protection. It is based on information provided in the Portugal National Report of the EMN Study *The Organisation of Asylum and Migration Policies in EU Member States*¹, as at *February 2009*. The Report was based on desk research: key sources were the legal texts that constitute the framework for immigration and asylum as well as relevant statistics.

2. Overview of organisation of political, legislative and institutional framework

2.1 The political system and institutional context

The Government is responsible for defining policies pertaining to immigration, asylum, stay and integration. Within the framework of policies to manage immigration, the Ministry for Internal Administration (MAI) is responsible for monitoring the movements of individuals across national borders, i.e. the entry, stay, departure and removal of foreigners. MAI is also responsible for assessing asylum cases and for deciding whether or not to grant the status of refugee to asylum seekers. The Immigration and Border Service (SEF) is responsible for implementing immigration and asylum policies. The National Republican Guard (GNR) and the Public Security Police (PSP) also participate in the process of verifying and monitoring immigrants. The Maritime Police likewise has jurisdiction in terms of patrolling. The most important governmental institution for implementing policies of integration is the High Commission for Immigration and Intercultural Dialogue, A Public Institute (ACIDI, IP). The Authority for Labour Conditions (ACT) is responsible for inspecting working conditions in Portugal. With regard to asylum, the Portuguese Council for Refugees (CPR) is a strategic partner in hosting asylum seekers and assisting with the integration of refugees. The CPR is an NGO and is an operational partner of the UN High Commissioner for Refugees (UNHCR). Immigrant Solidarity and SOS Racism are noteworthy NGOs in the field.

2.2 The legal framework

The prevailing regime for the entry, stay, departure and removal of foreigners from the national territory of Portugal has been defined in Law No. 23/2007, amended by Law No. 29/2012. The Asylum Law was approved in 2008, i.e. Law No. 27/2008, and establishes the necessary conditions and procedures for applicants to acquire the status of refugee and associated protection. In terms of integration, Cabinet Resolution No. 74/2010 approved the Second National Plan for Integrating Immigrants (II PII). For prevention of trafficking of human beings, Cabinet Resolution No. 79/2010 approved the Second National Plan Against Trafficking of Human Beings (II PNTSH).

3. Development of migration and international protection systems

Immigration Act (Law No. 23/2007) was amended by Law No. 29/2012, of 9 of August. As major changes the new Act transposed into the national legal framework the EU Directives on “sanctions”, “return”, “single application procedure”, “scope of beneficiaries of international protection” and “blue card”, and adopted a new residence permit for investors. This amendment will come into force on 9th of October of 2012.

¹ Available on the EMN website

4. Organisation of policy

4.1 Overview of migration and international protection policy

Apart from the role played by consular posts in the process of granting visas, the SEF is directly responsible for the procedures of entry. Consular visas include stopover visas, short-term visas, temporary stay visas and residence visas. Foreign citizens must hold a recognised travel document which is valid for longer than the intended duration of their stay, except in the case of re-entry. It is a condition for entry that the foreign citizen possesses sufficient means of subsistence for the period of stay and for return. Asylum applicants must submit their application to the SEF or any other police authority. In such cases, the police authority sends the asylum request to the SEF within a period of forty-eight hours, and the application for asylum must be processed within a period of 60 days, extendable for up to 180 days. Experts can be consulted, and CPR can add reports or information to the case file, and obtain information about the case during this time.

For admission, a temporary stay visa allows the holder to enter for various purposes: a) medical treatment; b) the transfer of citizens of states party to the World Trade Organisation (WTO), for the purpose of providing services or professional training; c) to engage in a temporary professional activity; d) scientific activities, e.g. to teach higher education or engage in a highly skilled activity; e) to engage in a sporting activity; f) to remain for periods exceeding three months in order to fulfil international commitments made within the scope of the WTO; and g) accompanying family members undergoing medical treatment.

A residence visa allows the holder to enter in order to apply for a residence permit. This visa is valid for two entries and allows the holder to remain for four months. There are six different residence visas, according to the intended purpose: a) engaging in a subordinate professional activity; b) engaging in freelance professional activities or for entrepreneur immigrants; c) research or highly qualified activities; d) studies, student exchanges, professional internships or voluntary activities; e) for mobility of students enrolled in higher education; f) family reunions. A residence visa does not in itself confer the status of resident. A temporary residence permit is valid for a period of one year, renewable for successive periods of two years and must be renewed when there is a change in conditions. A permanent residence permit has an unlimited validity. Recognised refugees are granted a residence permit which is valid for five years and renewable.

Access to the labour market is permitted by a single document which simultaneously legitimises stay. This document can comprise a residence permit or a temporary stay visa, the latter intended for stays of limited duration. A foreign national must have a work contract and be enrolled in the social security system. Asylum applicants who have been issued a provisional residence permit can access the labour market after the period between the submission of the application and a decision as to whether the application is admissible.

Coercive removal can occur in two forms: administrative expulsion, in the case of foreign citizens who have entered and/or stayed illegally, and judicial expulsion, in the case of foreign nationals who reside legally, or applied as an additional sentence in cases of conviction for a premeditated crime with an effective prison sentence exceeding six months (for non-residents) or one year (for residents). Detention may be applied.

4.2 Links with other policies

Within the framework of integration policy, the participation of immigrants is encouraged in the conception, development and evaluation of immigration policies, systematising the sectoral objectives and commitments in the context of hosting and integration. To this end, the Second National Plan for Integrating Immigrants (2010-2013) included a total of 90 measures. The aim is for increased levels of integration, from a sectoral perspective, namely in the areas of culture and language, labour, education, social security, health, housing, justice, racism and discrimination, citizenship, gender and age equality, relations with origin countries, trafficking of human beings. The Second National Plan Against Trafficking of Human Beings (2011-2013) included 45 measures in four strategic areas: prevention; education; protection and assistance; criminal investigation and cooperation.

5. Analysis of asylum and migration systems

The evolution of immigration policies have been influenced by the EU *acquis* and have moved towards managed migration with an emphasis on attracting skilled labour and entrepreneurs, through measures to streamline bureaucratic aspects and facilitate conditions for admission. Efforts have been made in order to consolidate a broad-based policy for immigration and asylum, both at the level of adopting a suitable legal framework as well as at the level of reinforcing the role of all the entities and interlocutors involved.

