

**Submission of the Portuguese Refugee Council**  
**to the Committee on Economic, Social and Cultural Rights**  
**regarding the 5<sup>th</sup> periodic review of Portugal**  
**for consideration at the 73<sup>rd</sup> session**

## **1. Introduction**

1. The Portuguese Refugee Council (Conselho Português para os Refugiados, hereinafter, CPR) is a non-governmental organisation that upholds the rights of applicants and beneficiaries of international protection and the quality of the asylum system in Portugal.
2. Within its mandate, CPR provides direct, free and independent legal, social and integration assistance to applicants and beneficiaries of international protection in Portugal.
3. Moreover, the Portuguese Asylum Act recognises CPR as an integral part of the national asylum system through mechanisms such as mandatory communications from the authorities and the right to intervene in procedures, as well a specific supervisory role in line with article 35 of the Convention relating to the Status of Refugees.
4. Within the reception system, CPR manages three reception centres for applicants and beneficiaries of international protection devoted to spontaneous applicants, resettled refugees and a specialised centre for unaccompanied children.
5. This submission focuses on the situation of applicants and beneficiaries of international protection and their access to and enjoyment of social, economic and cultural rights, as well as on statelessness in Portugal, considering the Committee's mandate.
6. Unless otherwise stated, the information and analysis contained herein draw on the experience of CPR in the provision of assistance to applicants and beneficiaries of international protection, as well as on other actions developed by the organisation, namely within the context of its supervisory role in the national asylum system and its statelessness-related activities.<sup>1</sup>

---

<sup>1</sup> Please note that complete data and analysis for 2022 was not available at the time of writing.

## 2. The situation of refugees and asylum seekers in Portugal

### A. Legislative and operational framework

7. The Portuguese Asylum Act entered into force in 2008 and was recast in 2014<sup>2</sup>. The recast transposed the second generation of the European Union (EU) asylum *acquis* to the domestic legal order. It was also amended in 2022, introducing changes to the right to work of asylum seekers (see *infra*).

8. While Portugal has traditionally received a low number of spontaneous applications for international protection, consecutive significant increases occurred in recent years, with the exception of 2020: 2014 - 442 applications, 2015 - 872 applications, 2016 - 691 applications, 2017 - 1004 applications, 2018 - 1190 applications, 2019 - 1711, 2020 - 1002, 2021 - 1537<sup>3</sup>.

9. Portugal has a national resettlement program since 2006, and has consistently expressed its support for solidarity mechanisms within this field at EU level. Such positive stance is echoed, for instance, in its active participation in the EU relocation mechanism, as well as in ad-hoc solutions for the disembarkation of persons rescued in the Mediterranean Sea, in the conclusion of bilateral agreements with Greece concerning relocation, and in the participation in the evacuation of Afghan citizens. Portugal has also been welcoming to resettle refugees under the EU resettlement scheme.

- **Supervision of the asylum procedure**

10. It is commendable that the Portuguese Asylum Act recognises a supervisory role not only to UNHCR but also to an NGO, as its representative.

11. The provision of mandatory communications from the authorities to CPR (depending, in some cases, of the consent of the applicant) and of rights to intervene in procedures, is critical for the ability to effectively monitor the functioning of the asylum system.

- **Duration of the asylum procedure**

12. As previously reported by CPR,<sup>4</sup> two main concerns regarding the duration of the asylum procedure may have a detrimental impact in the integration and full enjoyment of human rights by seekers and beneficiaries of international protection<sup>5</sup>: (i) the excessive use of accelerated procedures to refuse applications for international protection,<sup>6</sup> and (ii) the duration of regular procedures.<sup>7</sup>

---

<sup>2</sup> Act no.27/2008 of 30 June 2008, last amended by Act no.18/2022 of 25 August, available at <https://bit.ly/3CzkM2O> (in Portuguese).

<sup>3</sup> A figure surpassed in 2022.

<sup>4</sup> See, for instance, *Submission of the Portuguese Refugee Council to the Human Rights Committee regarding the 5<sup>th</sup> periodic review of Portugal for consideration at the 128<sup>th</sup> session*, February 2020, available at: <https://bit.ly/3k2lwqE>.

<sup>5</sup> These concerns have been echoed by the Human Rights Committee in its latest review of Portugal: Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5. 28 April 2020, pars.34(a),(b) and 35(a),(b), available at: <https://bit.ly/2Q1ftn8>.

<sup>6</sup> For additional information on the legal framework and practice regarding accelerated asylum procedures in the country, see CPR, *AIDA Country Report: Portugal – 2021 Update*, pp.78 *et seq*, available at: <https://bit.ly/3CXmIlV>.

<sup>7</sup> For additional information on the duration of the regular procedure see CPR, *AIDA Country Report: Portugal – 2021 Update*, pp.38-39, available at: <https://bit.ly/3CXmIlV>.

- **Identification of particularly vulnerable asylum seekers**

13. While the Asylum Act provides for the need to identify persons with special needs (and the nature thereof)<sup>8</sup>, no specific mechanisms or procedures are in place to undertake such assessment.<sup>9</sup>

14. Both the Committee Against Torture and the Human Rights Committee have issued recommendations in this regard in their latest reviews of Portugal.<sup>10</sup>

15. Since then, a specific sub-group on vulnerabilities has been created within the Single Operative Group.<sup>11</sup>

16. Being this a critical element to ensure the fairness of asylum procedures and the full enjoyment of human rights, the national authorities should create an identification and referral mechanism that, inter alia, (i) ensures an individualised analysis of vulnerability and needs; (ii) considers both the procedural and reception needs; (iii) is rooted on clear and flexible criteria and mechanisms; (iv) enables the effective participation of applicants; (v) is multidisciplinary, and (vi) is operationalised by adequately trained actors.

- **Other relevant issues**

17. CPR considers that it is critical to ensure the systematic and continuous training of staff (from first instance adjudicators, to lawyers of the legal aid system and judges). In order to be effective, such training must cover, not only technical contents of Asylum and Refugee Law and Human Rights Law, but also training on specific skills such as interviewing techniques to particularly vulnerable persons (e.g. children, victims of torture or serious violence).

18. Moreover, assessing the quality of the decision-making is critical to ensure respect for the applicable legal frameworks and to identify challenges and needs.

19. In this regard, CPR underlines the importance of mainstreaming the Convention and its implications for asylum seekers and refugees through all asylum actors and procedures, namely through the provision of adequate and continuous training. This is of particular importance given the expansion of institutional actors involved in the national asylum system and considering that a new asylum authority is being created.<sup>12</sup>

20. The authorities must also be conscious that asylum seekers and refugees face specific obstacles in accessing and fully enjoying economic, social and cultural rights, and develop monitoring mechanisms to

---

<sup>8</sup> Article 17-A Asylum Act.

<sup>9</sup> For additional information, please refer to CPR, *AIDA Country Report: Portugal – 2021 Update*, pp.84 *et seq.*, available at: <https://bit.ly/3CXmIIV>.

<sup>10</sup> Committee Against Torture, *Concluding observations on the seventh periodic report of Portugal*, CAT/C/PRT/CO/7, 18 December 2019, par.38(a), available at: <https://bit.ly/3GOHFSg>; Human Rights Committee in its latest review of Portugal: Human Rights Committee, *Concluding Observations on the fifth periodic report of Portugal*, CCPR/C/PRT/CO/5, 28 April 2020, pars.34(c) and 35(c), available at: <https://bit.ly/2Q1ftn8>.

<sup>11</sup> The Single Operative Group (SOG) is the structure responsible for the functioning of the single system of reception and integration of applicants for and beneficiaries of international protection in Portugal. For more, see: CPR, *AIDA Country Report: Portugal – 2021 Update*, pp.108-109, available at: <https://bit.ly/3CXmIIV>.

<sup>12</sup> For more on the creation of a new asylum authority see, for instance: CPR, *AIDA Country Report: Portugal – 2021 Update*, p.23, available at: <https://bit.ly/3CXmIIV>; CPR, *Reforma da Autoridade Nacional de Asilo: Enquadramento e Recomendações*, June 2022, available at: <https://bit.ly/3ihJaPy> (in Portuguese).

assess effective access to rights by asylum seekers and refugees and the legal and policy measures put in place to overcome specific barriers.

### **B. Right to work (art.6)**

21. The Asylum Act provides for the right to work of asylum seekers<sup>13</sup> and refugees.<sup>14</sup> An amendment introduced to the Asylum Act in 2022 determined that asylum seekers are entitled to work from the moment their asylum application is registered.<sup>15</sup>

22. While this amendment is commendable and conveys an important integration message, in CPR's experience, asylum seekers and refugees face many challenges in effectively accessing the labour market that are both general and specific (e.g. bureaucratic hurdles, lack of knowledge/reluctance from employers, language barriers, lack of proof of prior qualification, difficulties in the recognition of diplomas).

23. Notably, a study focusing on the situation of asylum-seeking unaccompanied children and ageing out in Portugal published in 2021 concluded that, out of those consulted, 34.3% were working, mostly in civil construction. Only 65.2% of those questioned deemed the salaries received as fair compensation for the work performed.<sup>16</sup> Furthermore, it concluded that the participants are mostly engaged in unspecialised and likely precarious jobs.<sup>17</sup>

24. The national authorities must develop efforts to assess and monitor such obstacles in order to adopt measures and policies giving full effect to the right to work of asylum seekers and refugees. Furthermore, while the right to work is critical, it must be ensured that asylum seekers and refugees that are unable to access the labour market are entitled to adequate support.

### **C. Right to an adequate standard of living (art. 11)**

- **Housing**

25. According to the Asylum Act, the responsibility for providing material reception conditions to applicants for international protection lies with the Ministry of Home Affairs within admissibility procedures (including Dublin), accelerated procedures, border procedures, subsequent applications and applications following a removal decision. The provision of material reception conditions to applicants who pass the admissibility stage and whose process is then analysed under the regular procedure lies with the Ministry of Employment, Solidarity and Social Security.<sup>18</sup>

---

<sup>13</sup> Article 54 Asylum Act.

<sup>14</sup> Article 71 Asylum Act.

<sup>15</sup> For information on the rules governing access until then and additional information on access to the labour market in general, see *AIDA Country Report: Portugal – 2021 Update*, pp.124 *et seq*, available at: <https://bit.ly/3CXmllV>;

<sup>16</sup> Sandra Roberto, Carla Moleiro, ed. Observatório das Migrações, *De menor a maior: acolhimento e autonomia de vida em menores não acompanhados*, April 2021, p.46, available at: <https://bit.ly/3fqMKBK>.

<sup>17</sup> *Ibid*, p.64.

<sup>18</sup> Article 61 Asylum Act.

26. The Law allows the authorities to cooperate with other entities, namely non-profit organisations, to ensure the provision of such conditions.<sup>19</sup>

27. In practice, in the current reception system for spontaneous applicants, adults and families are accommodated in CPR's Refugee Reception Centre (CAR) or in private accommodation provided by the organisation (mostly in hostels) during admissibility and accelerated procedures. The official capacity of CAR stands at 60 places.<sup>20</sup>

28. CPR also manages the Refugee Children Reception Centre (CACR), a facility dedicated exclusively to unaccompanied children within the asylum system. The official capacity of CACR stands at 14 places but it often accommodates a higher number of children.

29. CAR2, the newest reception centre, is specifically devoted to the reception of resettled refugees. It has been also used to accommodate unaccompanied children, beneficiaries of temporary protection, and evacuated Afghan citizens that applied for asylum in Portugal. CAR2 has a maximum capacity of 90 places, reduced to 66 places within the context of the COVID-19 pandemic.

30. All the centres managed by CPR are open.

31. CPR ensures accommodation of applicants after the end of admissibility and accelerated procedures until the competent entity takes over in order to ensure that alternative accommodation is secured and there are no gaps in service provision.

32. While instances of persistent overcrowding were largely addressed during the COVID-19 pandemic through a constructive dialogue between CPR and the Government, since 2021, factors such as the number of referrals for accommodation, the need to keep the occupation of facilities under prior limits due to COVID-19, and delays in the transition into accommodation provided by other stakeholders, as well as the need to preserve family unity, continued to determine the need to resort to external accommodation solutions such as hostels. Overcrowding of facilities is also an imminent concern.

33. The lack of accessible and systematic responses to special reception needs of asylum seekers (e.g. transgender persons, persons suffering from certain mental health illnesses, persons with severe mobility constraints, persons needing constant health support) is also a relevant issue.

34. As such, the national authorities should ensure that the provision of accommodation to asylum seekers is adequately and timely funded, and that responses to asylum seekers with special needs are available and easily accessible.

- **Financial allowances**

35. As mentioned in the AIDA report:<sup>21</sup>

---

<sup>19</sup> Article 61(1) and (2) Asylum Act.

<sup>20</sup> For further details on the reception system, see CPR, *AIDA Country Report: Portugal– 2021 Update*, pp.107 *et seq.* available at: <https://bit.ly/3CXmIIV>.

<sup>21</sup> CPR, *AIDA Country Report: Portugal– 2021 Update*, pp.111-114, available at: <https://bit.ly/3CXmIIV>.

*While the Asylum Act enshrines the right of asylum seekers to the satisfaction of their basic needs to a level that guarantees their human dignity, it does not provide for specific criteria to determine what is an adequate standard of living which guarantees their subsistence and protects their physical and mental health as per Article 17(2) of the recast Reception Conditions Directive.*

*The specific criteria for establishing the value of the financial allowances consists of a percentage of the “social support allowance”, which, to date, has been interpreted by the ISS as referring to the social pension (pensão social). These percentages represent the upper limit of the allowances.*

*In 2021, the following amounts applied:*

<b>Level of financial allowances per expense: 2021</b>			
<i>Type of monthly allowance</i>	<i>Percentage</i>	<i>Amount</i>	
		<i>ISS</i>	<i>SCML</i>
<i>Social support allowance for food, clothing, transport and hygiene items</i>	<i>70%</i>	<i>€ 148.25</i>	<i>€ 147.22</i>
<i>Complementary allowance for housing</i>	<i>30%</i>	<i>€ 63.54</i>	<i>€ 63.10</i>
<i>Complementary allowance for personal expenses and transport</i>	<i>30%</i>	<i>€ 63.54</i>	<i>€ 63.10</i>

*In practice, asylum seekers referred by SEF to CPR in the framework of admissibility procedures (including Dublin) and accelerated procedures on the territory benefit from housing at CAR or in other facilities (e.g. hostels, apartments or rooms in private accommodation) provided by CPR [...], along with a monthly allowance of € 150 per adult, € 50 per child below the age of four, and € 75 per child over the age of four to cover food and transport expenses.*

*CPR’s Social Department provides asylum seekers with second-hand clothes as well as food items as needed and/or weekly with the support of the charities/projects that support social institutions by providing food items to be distributed to final beneficiaries, such as the Food Bank (Banco Alimentar), Refood and Missão Continente, as well as sporadic private donations.*

*Depending on the individual circumstances, CPR also pays for: (i) medication due to problems related to access to State funded medication through the National Health Service (Serviço Nacional de Saúde, SNS) or non-funded medication; (ii) school supplies for children; (iii) differentiated health care, e.g., dentists; and (iv) taxi transportation, e.g., in case of a medical emergency or for particularly vulnerable individuals.*

*In the case of unaccompanied children in the regular procedure and at appeal stage, CPR provides material reception conditions in kind such as housing, food, clothing, transportation, school supplies, sports, social and cultural activities, capacity-building and personal development activities, haircuts, as well as a monthly allowance for personal needs that varies according to age: € 10 for children up to the age of 10; € 12 for children between the age of 11 and 14; and €16 for children aged 15 and*



over. Unaccompanied young people in pre-autonomy stage are responsible for managing their own monthly allowance of €150.

In the regular procedure or pending an appeal against a rejection decision during the admissibility stage or in an accelerated procedure, the financial allowance provided by ISS and by SCML is expected to cover all expenses. SCML provides an additional monthly support in cases of severe economic vulnerability (which are often linked to the extremely high costs of accommodation). In 2021, 37 applicants were covered by this measure. ISS has also confirmed that in 2021 it has continued to provide further support for housing expenses (first two months of rent upon presentation of a lease proposal) and that, when deemed justified following assessment, additional support for housing and other expenses can be granted.

The monthly allowance for all expenses is calculated in accordance with the percentages of the social pension set out in the Asylum Act, as mentioned above, albeit with a regressive percentage per additional member of the household.

While in previous years, the amount of the allowances granted by ISS and SCML was the same, according to the information provided by the organisations, this has not been the case since 2020. According to ISS, an audit carried out in 2020 concluded that the “social support allowance for food, clothing, transport and hygiene items” could not, according to Article 57(3) of the Asylum Act, be combined with the “complementary allowance for personal expenses and transport”. According to the information provided by SCML, the organisation continued to follow the previous model to determine the amount of the financial allowances it granted. Consequently, in 2021, the amounts applied were as follows:

<b>Level of ISS / SCML financial allowance for all expenses: 2021</b>		
<i>Category of applicant</i>	<i>Amount</i>	
	<i>ISS</i>	<i>SCML</i>
<i>Head of household</i>	<i>€ 211.79</i>	<i>€ 273.42</i>
<i>Other adult(s) in household</i>	<i>€ 148.25</i>	<i>€ 191.39</i>
<i>Child</i>	<i>€ 105.90</i>	<i>€ 136.71</i>

36. The monthly financial allowances granted to asylum seekers in Portugal are manifestly low, particularly in light of the growing cost of living in the country (namely regarding accommodation). Through the years, CPR has received reports from asylum seekers noting the insufficiency of such stipends to ensure an adequate standard of living.

37. As such, CPR considers that the national authorities should revise the applicable amounts in order to ensure that the right of asylum seekers to an adequate standard of living is adequately.



#### **D. Right to health (art.12)**

38. Overall, asylum seekers in Portugal have effective access to free health care within the national system, in line with the relevant legal framework.

39. Nevertheless, it must be taken into account that factors such as language and cultural barriers, general access difficulties and limited responses to special needs have an impact in the quality of health care provided to asylum seekers.

### **3. Statelessness**

40. While much more limited information is available on statelessness and its impacts in Portugal, CPR underlines that the absence of a statelessness determination procedure presents a significant obstacle to the identification and protection of stateless persons.

41. While the legal framework on Nationality is overall positive and in line with international standards, effective and efficient implementation is crucial for the prevention and reduction of statelessness.

42. CPR considers that it is also critical to increase awareness and capacity of all relevant public actors in the field of statelessness, in order to ensure proper identification and referral of cases and adequate application of relevant safeguards.

**January 2023**