

## Portugal Immigration Detention Profile

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### INTRODUCTION<sup>1</sup>

Although for much of its history Portugal has been an emigration country, during the first decade of the 2000s it became a net immigration one as economic growth spurred increasing labour migration from Brazil, Eastern Europe, and former Portuguese colonies in Africa. However, during the period 2010-2015, Portugal joined a handful of other European Union countries—including [Ireland](#) and [Spain](#)—that transitioned back to net emigration.<sup>2</sup> According to [Eurostat](#), Portugal's population has shrunk every year since 2010.<sup>3</sup>

These demographic trends have impacted Portugal's response to the refugee "crisis" in Europe, which has contrasted sharply with that of many other EU members. While countries like [Hungary](#) and [Slovakia](#) have sought to limit their quotas of refugees established by the European Commission (EC) in 2015, Portugal offered to accept 10,000 people, more than three times the amount set by the EC.<sup>4</sup> This decision was motivated in part by the country's shrinking population.<sup>5</sup> Some 20 percent of its citizens

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<sup>2</sup> UN Population Division, *International Migration Report 2015*, p. 13, 2015, <http://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2015.pdf>.

<sup>3</sup> Eurostat database, "database," <http://ec.europa.eu/eurostat/data/database>.

<sup>4</sup> P. M. Costa and L. Sousa, "Portugal's Openness to Refugees Makes Demographic and Economic Sense," *News Deeply/Refugees Deeply*, February 2017, <https://www.newsdeeply.com/refugees/community/2017/02/10/portugals-openness-to-refugees-makes-demographic-and-economic-sense>.

<sup>5</sup> P. M. Costa and L. Sousa, "Portugal's Openness to Refugees Makes Demographic and Economic Sense," *News Deeply/Refugees Deeply*, February 2017,

live abroad, the largest proportion of any EU country.<sup>6</sup> As a result, the percentage of Portugal's foreign-born population has risen slightly in recent years, to 8 percent by 2015 (roughly 850,000 people), according to the UN Population Division.<sup>7</sup> Portugal ranks second, just after [Sweden](#), in the [MIPEX ranking](#), which assesses integration measures of 38 countries.

Nevertheless, Portugal continues to implement a number of strict immigration control measures. For instance, it detains asylum seekers lodging an application at ports of entry. The number of non-EU citizens ordered to leave the country has also steadily increased recently, reaching 6,200 in 2016, which was the highest total since 2012.<sup>8</sup> According to the national Ombudsman, Portugal detained 2,444 people in 2016, up from 2,071 in 2015.<sup>9</sup>

## LAWS, POLICIES, PRACTICES

**Key norms.** Provisions related to immigration-related detention in Portugal are provided in the following laws:

- Act 23/2007<sup>10</sup>, hereinafter the “Immigration Act,” provides “the legal framework for entry, permanence, exit, and removal of foreigners into and out of national territory” (*Regulamenta a lei 23/2007, de 4 de Julho, que aprova o regime jurídico de entrada, permanência, saída e afastamento de cidadãos estrangeiros do território nacional*). This law has been amended five times, most recently in 2017 by [Law 102/2017](#).
- Act 27/2008<sup>11</sup> of June 30 amended by Act 26/2014 of 5 May, hereinafter the “Asylum Law,” which provides for the detention of asylum seekers under certain circumstances.

**Grounds for immigration detention.** Article 146 of the Immigration Act establishes that a foreign citizen who unlawfully enters or stays in national territory is to be arrested by the police and placed in the custody of the SEF (*Servicio De Estrangeiros e Fronteiras*). Detention beyond 48 hours must be authorised by a judge. There are two main grounds justifying immigration detention, notably the risk of absconding (Article 142) and failure

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<https://www.newsdeeply.com/refugees/community/2017/02/10/portugals-openness-to-refugees-makes-demographic-and-economic-sense>.

<sup>6</sup> [Portuguese American Journal](#), “Report: Portuguese lost 20% of its active population to migration,” 24 March 2015, <http://portuguese-american-journal.com/report-portuguese-lost-20-of-active-population-to-migration-portugal/>.

<sup>7</sup> UN Population Division, International Migration Report 2015 Highlights, 2016, [http://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2015\\_Highlights.pdf](http://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2015_Highlights.pdf).

<sup>8</sup> Eurostat database, “database,” <http://ec.europa.eu/eurostat/data/database>.

<sup>9</sup> Provedor de Justiça, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, 2017, [https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos\\_estrangeiros\\_e\\_o\\_direito\\_a\\_um\\_tratamento\\_digno.pdf](https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos_estrangeiros_e_o_direito_a_um_tratamento_digno.pdf).

<sup>10</sup> SEF Immigration and Borders Service, “Legislation – Regime for Foreign Nationals,” [http://www.sef.pt/portal/V10/EN/asp/legislacao/index.aspx?id\\_linha=4191&menu\\_position=4133#0](http://www.sef.pt/portal/V10/EN/asp/legislacao/index.aspx?id_linha=4191&menu_position=4133#0).

<sup>11</sup> SEF Immigration and Borders Service, “Legislation – Asylum Regime,” [http://www.sef.pt/portal/V10/EN/asp/legislacao/index.aspx?id\\_linha=4212&menu\\_position=4134#0](http://www.sef.pt/portal/V10/EN/asp/legislacao/index.aspx?id_linha=4212&menu_position=4134#0).

to comply with the voluntary removal order (Article 161). The risk of absconding is not defined in Portuguese law. The lack of definition of circumstances revealing the person's propensity to abscond is not in line with the ruling of the Court of Justice of the European Union in [Al Chodor](#), which found that objective criteria for finding a risk of absconding must be established in a binding legal provision.<sup>12</sup> Experts have reported that the concept of absconding is broadly interpreted in Portugal. It may suffice that a non-citizen does not have a habitual residence for him/her to be considered at risk of absconding.<sup>13</sup> According to the Portuguese Ombudsman (*Provedor de Justiça*), if a person hampers immigration procedures in a “non-normal way”—like changing his/her address frequently, avoiding receipt of notifications, failing to communicate important changes in circumstances—that can be understood by a judge “as enhancing the risk of that particular case, therefore allowing a more restrictive measure.”<sup>14</sup>

**Asylum seekers.** Like [Slovakia](#), Portugal expanded the instances in which asylum seekers may be detained when transposing the [EU Reception Conditions Directive](#), significantly increasing the instances in which an asylum seeker may be detained.<sup>15</sup> According to article 35A paragraph 1 of the asylum law, non-citizens applying for asylum cannot be kept in detention for the mere fact of having requested protection. Paragraphs 2 and paragraph 3 of the same article provide grounds for which asylum seekers may be detained in instances where less coercive measures cannot be applied. Paragraph 2 establishes that applicants can only be placed or held in detention facilities on grounds of national security, public order, public health or when there is a flight risk, based on an individual assessment. However, paragraph 3 states that asylum seekers may also be detained when asylum applications are lodged at border posts or submitted following a removal decision.

Applications submitted at border posts are subject to a “special system.” Article 26(1) states that applicants need to remain in the international zone of the port or airport pending the decision on their asylum application. According to article 24(4), the SEF is to issue a decision on the application made at border posts within a maximum of seven days. The detention of asylum seekers must be communicated to a competent magistrate to be assessed within a maximum period of 48 hours (Art 35A (6)).

**Children and other vulnerable people.** Article 146A(3) of the Immigration Act foresees the detention of children and other vulnerable people. Reflecting the [EU Returns Directive](#) this provision states that “The foreign citizen detained in a detention facility or equated facility has the right to emergency health care and essential treatment of illness. Special attention shall be paid to vulnerable persons, particularly minors,

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<sup>12</sup> The Al Chodor ruling concerned the risk of absconding in the context of detention within the Dublin transfer but the Court's reasoning applies by analogy to the risk of absconding as a ground warranting pre-removal detention.

<sup>13</sup> Jorge Manuel Alves de Almeida Esteves, *REDIAL PROJECT National Synthesis Report – Portugal (Draft)*, Odysseus Network, 2017, [http://euredial.eu/docs/publications/national-synthesis-reports/Portugal\\_III.PDF](http://euredial.eu/docs/publications/national-synthesis-reports/Portugal_III.PDF).

<sup>14</sup> Joao Portugal (Provedor de Justicia Portugal), Letter to Michael Flynn (Global Detention Project), 6 October 2017.

<sup>15</sup> Portuguese Refugee Council (CPR) / ECRE, “Portugal adopts new asylum legislation transposing EU asylum directives,” 10 July 2014, <https://www.ecre.org/portugal-adopts-new-asylum-legislation-transposing-eu-asylum-directives/>.

unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.”

Detained families are to be provided with separate accommodation (Art. 146A(6)). However, according to the Portuguese Ombudsman, in practice this law cannot be applied in most detention facilities because they lack adequate space and conditions for families and children. Acting in its capacity as Portugal’s National Preventive Mechanism, the Ombudsman reported in 2017: “The installations are inept to accommodate families either due to the absence of rooms for families that ensure privacy and allow family members to stay together or due to the lack of equipment for children.”<sup>16</sup>

The detention of asylum seeking unaccompanied and accompanied minors is also implicitly provided for in articles 26(2) and 35 B(6)(7) and (8) of the Asylum Law, which stipulate special conditions in facilities for unaccompanied minors, separate accommodation for families, and monitoring and support for vulnerable persons.

In 2014, the [UN Committee on the Rights of the Child](#) welcomed provisions exempting asylum seekers who are minors and their family members from detention at border crossing points during the admissibility stage of the proceedings.<sup>17</sup>

According to the country’s Ombudsman, although the law provides for the detention of children, in fact very few child detention cases have been reported. In 2015, only two accompanied children were detained, according to statistics provided by the SEF, and no unaccompanied children were detained. One reason for this, according to the Ombudsman, is that children whose age is in doubt are likely not included in statistics. In a message to the Global Detention Project, the Ombudsman wrote that “in most of the cases the age of border line cases is probably registered as undetermined.”<sup>18</sup> In its 2017 report on immigration detention, the Ombudsman highlighted the lack of statistics concerning children as a barrier preventing better assessment of the country’s detention practices.<sup>19</sup>

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<sup>16</sup> Provedor de Justiça, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equipados*, 2017, [https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos\\_estrangeiros\\_e\\_o\\_direito\\_a\\_um\\_tratamento\\_digno.pdf](https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos_estrangeiros_e_o_direito_a_um_tratamento_digno.pdf).

<sup>17</sup> Committee on the Rights of the Child, *Concluding observations on the combined third and fourth periodic report of Portugal*, CRC/C/PRT/CO/3-4, 25 February 2014, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/PRT/CO/3-4&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/PRT/CO/3-4&Lang=En).

<sup>18</sup> Joao Portugal (Provedor de Justiça), Email Correspondence with Michael Flynn (Global Detention Project), 25-26 October, 2017.

<sup>19</sup> Provedor de Justiça, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equipados*, 2017, [https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos\\_estrangeiros\\_e\\_o\\_direito\\_a\\_um\\_tratamento\\_digno.pdf](https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos_estrangeiros_e_o_direito_a_um_tratamento_digno.pdf). Original quote: “Os dados fornecidos são úteis para uma compreensão geral da situação das pessoas detidas, dos funcionários e dos locais de detenção visitados; revelaram-se, contudo, insuficientes para um tratamento unitário e transversal, uma vez que se verificou que os serviços não recolhem, organizam e tratam os elementos estatísticos que seriam importantes para o conhecimento efetivo da particular realidade dos CIT. Por exemplo, excetuando o caso da UHSA, não existem (ou são insuficientes) registos sobre agregados

**Length of detention.** The maximum period of detention established in law is 60 days. This limit is valid for both pre-removal detention (Art 146 (3) of the Immigration Act) and for the detention of asylum seekers (Art 35B (1) of the Asylum Law). For asylum seekers detained at the border, the maximum detention period is seven days (Art 24(4) of the Asylum Law). If the seven-day period expires before a decision on the asylum application has been taken the applicant is to be allowed to enter national territory (Art 26(4)).

**Procedural guarantees.** The right to liberty is constitutionally guaranteed to everyone under Portuguese law (Art 27(1)). Consequently a detention order needs to be validated by a judge of the lower criminal court (*juízo de pequena instância criminal*) within 48 hours of detention (art 146 and 171 of Immigration Act). According to article 171(6), the order that validates detention may be appealed to the court of appeals (*tribunal da relação*). Other guarantees for foreign citizens in immigration detention include the right to contact legal representatives, family members and consular authorities (art. 40(1) and 146A (1)) and the right to be informed of such rights (146A(6)).

With respect to asylum seekers, in addition to the above-mentioned guarantees (also found in art. 35B of the Asylum Law), applicants for international protection have the right to contact representatives of UNHCR, the [Portuguese Refugee Council](#), and NGOs working on UNHCR's behalf (art. 35B(3)).

**Alternatives to detention.** Portuguese immigration law provides for three non-custodial measures: home confinement using electronic surveillance (which many migrant rights activists argue should not be considered an "alternative"); obligation to report to immigration or police authorities; and payment of a bail (art. 142 and 160(3)). Although Portuguese law does not stipulate that less coercive measures to detention must be considered before a detention order is issued, in practice detention is generally used as a measure of last resort and there are very few detention orders annually.

By contrast, the Asylum Law states that applicants for international protection may be placed in detention "if it is not possible to effectively implement less serious alternatives." However the only alternatives that are listed are reporting to SEF or home confinement using electronic surveillance (art. 35A (4)).

According to the European Migration Network report on detention, "In Portugal, it is used alongside the prohibition against leaving the house. In this case, as third- country nationals are not allowed to leave the house, this represents an alternative form of detention and not an alternative to detention."<sup>20</sup>

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familiares, menores não acompanhados e pessoas em situação de vulnerabilidade, designadamente com deficiência, transexuais ou mulheres grávidas ou lactantes."

<sup>20</sup> SEF, *The use of detention and Alternatives to Detention in the context of Immigration Policies, Synthesis Report for the EMN Focussed Study 2014*, 2014, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/emn\\_study\\_detention\\_alternatives\\_to\\_detention\\_synthesis\\_report\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf).

**Criminalisation.** Portugal does not penalise irregular entry or stay with a fine or imprisonment.<sup>21</sup>

**Detention management, costs, and carrier sanctions.** The SEF (*Servicio de Estrangeiros e Fronteiras*) is the authority responsible for the management of Portugal's sole detention facility (*centro de instalacao temporaria*), located in Porto and called the Unidade Habitacional de Santo António. The SEF collaborates with several non-state actors in delivering services at the facility, including the International Organisation for Migration (IOM), Jesuit Refugee Services (JRS), and Doctors of the World (Medicos du Mundo). The Ombudsman told the Global Detention Project, "JRS provides help to internees and identifies vulnerabilities, with the help of a psychological and social care team (it also provides legal aid) and the IOM is responsible for adequate training of staff. JRS participates in the centre management, but the ultimate responsibility lies always with the SEF (state)."<sup>22</sup>

Short-term holding facilities located at airports of Faro, Porto, Lisbon, Funchal, and Ponta Delgada, as well as border control stations, are under the management of SEF, ANA (Areopostos de Portugal), and air operators.

Similar to the laws in other EU countries, Portuguese law stipulates that carriers are responsible for returning foreign nationals who do not meet requirements for entry. They also must pay expenses related to the period of stay of passengers in detention facilities (art. 41(2)).

**Trends and statistics.** In a 2017 report on immigration detention practices in Portugal, the Ombudsman reported that 2,444 people were placed in detention in 2016 compared to 2,071 in 2015.<sup>23</sup> Among the 2,444 detained in 2016, 2,194 were detained at Lisbon airport; 184 at the Unidade Habitacional de Santo António (UHSA), the country's sole long-term dedicated immigration detention centre; 148 at Porto airport; and 102 at Faro airport.<sup>24</sup> According to an Ombudsman report from 2011, 2,896 non-citizens were detained in 2009 (2,438 at Lisbon airport; 253 at UHSA; 113 at Porto airport; and 92 at Faro airport). The vast majority of detainees are from Brazil.<sup>25</sup>

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<sup>21</sup> European Union Agency for Fundamental Rights (FRA), *Criminalisation of migrants in an irregular situation and of persons engaging with them*, March 2014, <http://fra.europa.eu/en/publication/2014/criminalisation-migrants-irregular-situation-and-persons-engaging-them>.

<sup>22</sup> Joao Portugal (Provedor de Justica Portugal), Letter to Michael Flynn (Global Detention Project), 6 October 2017.

<sup>23</sup> Provedor de Justica, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, 2017, [https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos\\_estrangeiros\\_e\\_o\\_direito\\_a\\_um\\_tratamento\\_digno.pdf](https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos_estrangeiros_e_o_direito_a_um_tratamento_digno.pdf).

<sup>24</sup> Provedor de Justica, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, 2017, [https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos\\_estrangeiros\\_e\\_o\\_direito\\_a\\_um\\_tratamento\\_digno.pdf](https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos_estrangeiros_e_o_direito_a_um_tratamento_digno.pdf).

<sup>25</sup> Provedor de Justica, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, 2017, [https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos\\_estrangeiros\\_e\\_o\\_direito\\_a\\_um\\_tratamento\\_digno.pdf](https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos_estrangeiros_e_o_direito_a_um_tratamento_digno.pdf).

Statistics provided in the 2014 European Migration Network (EMN) study on detention, drafted by the SEF (*Servicio De Estrangeiros e Fronteiras*, the EMN National Contact Point for Portugal), indicate much lower detention rates, which contrast sharply with detention levels reported by the Ombudsman. The report claims that 248 people were detained in 2010, 235 in 2011, and 196 in 2012.<sup>26</sup> The EMN report also states that there are no detention statistics available for 2009 despite the availability of statistics in the 2011 Ombudsman's report.<sup>27</sup>

The Ombudsman told the Global Detention Project that one reason for the discrepancies between its statistics and those reported by the EMN is that the SEF appears to have only reported detention statistics for the UHSA facility for the EMN study, even though most detention cases occur at the airport transit facilities.<sup>28</sup>

According to UNHCR, in 2016 Portugal accommodated 1,129 recognised refugees and 805 asylum seekers. The number of refugees in Portugal increased by 61 percent from 2014, when the number of refugees was only 699. Most refugees residing in Portugal are from Ukraine (29 percent), Colombia (8 percent) and Syria (7 percent). However, more than 37 percent of pending asylum cases in 2016 were lodged by Syrian nationals.<sup>29</sup>

**Access to information.** It is challenging to get up to date and comprehensive information about immigration detention in Portugal. During the period 2013-2015, the GDP and its partner [Access Info Europe](#) sent several requests to the SEF seeking basic information about where people are detained for immigration-related reasons and how many children and asylum seekers had been detained in recent years. The requests, which were framed as freedom of information requests allowed under Portuguese law, were part of a larger study of 33 countries in Europe and North America whose findings were published in the 2015 report [THE UNCOUNTED: The Detention of Migrants and Asylum Seekers in Europe](#). Portugal was one of a small handful of countries—including [Cyprus](#), [Iceland](#), [Italy](#), [Malta](#), and [Norway](#)—that did not respond to any requests for information.<sup>30</sup>

More recently, in its 2017 report on the treatment of undocumented migrants and asylum seekers in detention centres, Portugal's National Preventive Mechanism reported that it was unable to get adequate detention statistics. Highlighting gaps in available records

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<sup>26</sup> SEF, *The use of detention and Alternatives to Detention in the context of Immigration Policies, Synthesis Report for the EMN Focussed Study 2014*, 2014, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/emn\\_study\\_detention\\_alternatives\\_to\\_detention\\_synthesis\\_report\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf).

<sup>27</sup> SEF, *The use of detention and Alternatives to Detention in the context of Immigration Policies, Synthesis Report for the EMN Focussed Study 2014*, 2014, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/emn\\_study\\_detention\\_alternatives\\_to\\_detention\\_synthesis\\_report\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_detention_alternatives_to_detention_synthesis_report_en.pdf).

<sup>28</sup> Joao Portugal (Provedor de Justica), Email Correspondence with Michael Flynn (Global Detention Project), 25-26 October, 2017.

<sup>29</sup> UNHCR, Population Statistics website, [http://popstats.unhcr.org/en/asylum\\_seekers](http://popstats.unhcr.org/en/asylum_seekers).

<sup>30</sup> Global Detention Project and Access Info Europe, *THE UNCOUNTED: The Detention of Migrants and Asylum Seekers in Europe*, December 2015, <https://www.globaldetentionproject.org/the-uncounted-the-detention-of-migrants-and-asylum-seekers-in-europe>.

concerning families and unaccompanied minors, the report stated that the government did not keep enough statistics to effectively assess realities at detention centres.<sup>31</sup>

## DETENTION INFRASTRUCTURE

The legal basis for operating immigration detention facilities in Portugal was first established in 1994.<sup>32</sup> To date, the country has opened only one dedicated long-term immigration detention centre, the Unidade Habitacional de Santo António (UHSA), which is located in Porto and began operations in 2006.<sup>33</sup> In addition, the country operates detention facilities at three airports—Lisbon, Porto, and Faro—where people can be detained for lengthy periods. The airport facilities, often referred to as CITs (*centros de instalação temporária*), are considered transit detention facilities because some people detained at them have been denied entry to the country and are considered not to be on Portuguese territory. The Global Detention Project also includes on its list of detention sites airport detention facilities located on the islands of Azores and Madeira. The Portuguese Ombudsman informed the GDP that although these facilities are intended for use for the shortest time possible before detainees are transferred to Lisbon, factors like weather can delay transfers, leaving detainees at these facilities for “a few days.”<sup>34</sup>

In its “Strategic Plan for Migration 2015-2020,” the government foresees the establishment of a new dedicated detention centre to during 2016-2018.<sup>35</sup> News outlets have reported that this centre is to be located in Caia, Elvas, near the border with

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<sup>31</sup> Provedor de Justiça, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, 2017, [https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos\\_estrangeiros\\_e\\_o\\_direito\\_a\\_um\\_tratamento\\_digno.pdf](https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos_estrangeiros_e_o_direito_a_um_tratamento_digno.pdf). Original quote: “Os dados fornecidos são úteis para uma compreensão geral da situação das pessoas detidas, dos funcionários e dos locais de detenção visitados; revelaram-se, contudo, insuficientes para um tratamento unitário e transversal, uma vez que se verificou que os serviços não recolhem, organizam e tratam os elementos estatísticos que seriam importantes para o conhecimento efetivo da particular realidade dos CIT. Por exemplo, excetuando o caso da UHSA, não existem (ou são insuficientes) registos sobre agregados familiares, menores não acompanhados e pessoas em situação de vulnerabilidade, designadamente com deficiência, transexuais ou mulheres grávidas ou lactantes.”

<sup>32</sup> Provedor de Justiça, *A instalação temporária de cidadãos estrangeiros não admitidos em Portugal ou em processo de afastamento do território nacional. Relatório*, 2011, [http://www.provedorjus.pt/archive/doc/Relatorio\\_CIT\\_Marco2011.pdf](http://www.provedorjus.pt/archive/doc/Relatorio_CIT_Marco2011.pdf).

<sup>33</sup> European Parliament. 2007. The conditions in centres for third country national (detention camps, open centres as well as transit centres and transit zones) with a particular focus on provisions and facilities for persons with special needs in the 25 EU member states. European Parliament, Directorate-General Internal Policies, Policy Department C, Citizens Rights and Constitutional Affairs. Contract Ref: IP/C/LIBE/IC/2006-181. December 2007.

<sup>34</sup> Joao Portugal (Provedor de Justiça Portugal), Emails to Michael Flynn (Global Detention Project), 6 October 2017 and 25 October 2017; Provedor de Justiça, *Tratamento dos cidadãos estrangeiros em situação irregular ou requerentes de asilo nos centros de instalação temporária ou espaços equiparados*, 2017, [https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos\\_estrangeiros\\_e\\_o\\_direito\\_a\\_um\\_tratamento\\_digno.pdf](https://www.provedor-jus.pt/site/public/archive/doc/Cidadaos_estrangeiros_e_o_direito_a_um_tratamento_digno.pdf).

<sup>35</sup> Governo de Portugal, “Plano Estratégico para as Migrações 2015-2020,” <http://www.pofc.qren.pt/ResourcesUser/2015/Noticias/PlanoEstrategicoMigracoes.pdf>.



Spain.<sup>36</sup> Earlier reports stated that the UHSA would be closed and replaced with a new centre allegedly located in Almoçageme, in the municipality of Sintra, which would have a larger capacity.<sup>37</sup> As of mid-2017, neither of these facilities had not yet opened and there was little public information available about their status.

**Unidad Habitacional de Santo António (UHSA).** The Unidade Habitacional de Santo António (UHSA) has a total capacity of 36 (30 adults and six children). It is managed by the SEF in coordination with other non-state entities, in particular the NGO Jesuit Refugees Service (JRS). Medicos do Mundo provides health care through volunteer doctors and nurses.<sup>38</sup> The International Organization for Migration (IOM) presence at the facilities is intended to inform detainees on current Portuguese immigration legislation, options for “safe migration,” and monitoring.<sup>39</sup> Jesuit Refugee Service is responsible for the DEVAS project (Detention of Vulnerable Asylum Seekers) aimed at identifying vulnerabilities of detainees and providing psychological support.<sup>40</sup>

The country’s Ombudsman has reported on this facility on various occasions. In its capacity as Portugal’s National Prevention Mechanism, the Ombudsman regularly inspects detention facilities, highlighting inadequacies where and when present. In its 2017 report, the Ombudsman gave UHSA high marks in terms of accommodations and services. It reported that the facility was the only centre adequately equipped to house families with a room for children to use during the day. In addition, detainees reported appropriate food in terms of “quality as well as quantity.”

Earlier, in a 2011 report, the Ombudsman described the facility as having an outdoor green space; a common area with tables, sofas and two televisions; and a child-friendly zone equipped with toys and cribs and a canteen.<sup>41</sup> On the same floor as the canteen, the common room and the infant space are also sanitary facilities, comprised of three toilets, the urinals and a lavatory. Rooms for males and females are located on separate floors. On each floor there are 14 single rooms, a solitary confinement, and sanitary facilities. The women’s floor also has a private room for family use.<sup>42</sup>

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<sup>36</sup> Rute Coelho (Diario de Noticias), “Aumento de detenções de ilegais deixa os centros do SEF no limite,” DN, 17 December 2015, <http://www.dn.pt/portugal/interior/aumento-de-detencoes-de-ilegais-deixa-os-centros-do-sef-no-limite-4940137.html>.

<sup>37</sup> Provedor de Justicia, *A instalação temporária de cidadãos estrangeiros não admitidos em Portugal ou em processo de afastamento do território nacional. Relatório*, 2011, [http://www.provedorjus.pt/archive/doc/Relatorio\\_CIT\\_Marco2011.pdf](http://www.provedorjus.pt/archive/doc/Relatorio_CIT_Marco2011.pdf).

<sup>38</sup> Medicos Do Mundo, “PROJECTOS NACIONAIS : Apoio à população excluída - Unidade Habitacional de Santo António,” <http://www.medicosdomundo.pt/pt/go/unidade-habitacional-santo-antonio>.

<sup>39</sup> SGMAI, “FAMI aprova candidaturas no domínio da política de retorno,” 21 March 2017, <http://www.sg.mai.gov.pt/Noticias/Paginas/FAMI-aprova-candidaturas-no-dom%C3%ADnio-da-pol%C3%ADtica-de-retorno.aspx>.

<sup>40</sup> Servicio Jesuita aos Refugiados (JRS), “DEVAS (Detention of Vulnerable Asylum Seekers),” 2017, <http://www.jrsportugal.pt/devas-detention-of-vulnerable-asylum-seekers/>.

<sup>41</sup> Provedor de Justicia, *A instalação temporária de cidadãos estrangeiros não admitidos em Portugal ou em processo de afastamento do território nacional. Relatório*, 2011, [http://www.provedorjus.pt/archive/doc/Relatorio\\_CIT\\_Marco2011.pdf](http://www.provedorjus.pt/archive/doc/Relatorio_CIT_Marco2011.pdf).

<sup>42</sup> Provedor de Justicia, *A instalação temporária de cidadãos estrangeiros não admitidos em Portugal ou em processo de afastamento do território nacional. Relatório*, 2011, [http://www.provedorjus.pt/archive/doc/Relatorio\\_CIT\\_Marco2011.pdf](http://www.provedorjus.pt/archive/doc/Relatorio_CIT_Marco2011.pdf).

The more recent 2017 report on UHSA appears to largely confirm the earlier findings. Overall the conditions at the centre were considered adequate, with recent improvements made to allow for religious expression and no complaints about washing facilities, hygiene, or cleanliness. Nevertheless, the centre lacks adequate recreational facilities, including books in foreign languages and physical exercise equipment. Detainees also have access to the internet if they can pay for it and telephone cards. There are also times for when detainees can use personal phones.<sup>43</sup>

**Airport pre-removal and transit facilities.** In its 2017 report, the Ombudsman stated that the three holding facilities located at the international airports of Lisbon, Porto, and Faro are “equivalent” to detention centres (*centro de instalacao temporaria*). These facilities are jointly managed by SEF, ANA (Aeroportos de Portugal), and air operators. The Ombudsman also noted that the SEF has a contractual agreement with private security companies that provide services at these facilities.

During the Ombudsman’s 2016 visit to the Lisbon, Faro, and Porto airport detention sites, it found the conditions to be less adequate than previously and noted that “in infrastructural and organizational terms” these spaces “do not have adequate conditions for longer periods of detention.”<sup>44</sup> The Faro and Lisbon centres, compared to previous visits, did not separate sexes into different wings. Additionally, none of the temporary pre-removal facilities had structures and resources for accommodating families.

Compared to UHSA, detainees complained to the Ombudsperson about food provision in terms of insufficient variety, inadequate quantities, and in some instances the long duration between meals. Additionally, these sites failed to provide appropriate food for children. These facilities also had inadequate medical services with triage determined by untrained security workers.

According to the facilities internal regulations, and subject to approval, detainees are allowed to meet with their respective diplomatic or consular representations and have the right to access juridical assistance.

Further, the Ombudsman highlighted the continued lack of recreational opportunities, which in all three centres was limited to the possibility of watching television. In comparison to UHSA, these facilities also did not include involvement with civil society organizations.

At the time of its 2016 visit, the Ombudsman found that in practice people detained at the airport facilities was less than 10 days in Faro and an average of 17 days in Porto. In Lisbon, the average stay, based on 2015 data, was one day but 242 people stayed for more than 30 days.

Lastly, the Ombudsperson 2017 report noted that at all facilities, including UHSA, employees do not receive adequate training and lack necessary language skills. Many

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<sup>43</sup> Ombudsperson report 2017

<sup>44</sup> Ombudsperson report 2017 Page 24.

of the materials and pamphlets, including those outlining rights and obligations of detainees, are not available in sufficient variety of languages.

Global Detention Project  
3 rue de Varembe  
1202 Geneva, Switzerland  
[globaldetentionproject.org](http://globaldetentionproject.org)  
+41 (0) 22 733 08 97  
[admin@globaldetentionproject.org](mailto:admin@globaldetentionproject.org)