

PARLIAMENT OF THE REPUBLIC

Law No. 18/2022

of 25 August

Summary: Amends the legal framework for the entry, stay, exit and expulsion of foreigners from national territory.

Amends the legal framework for the entry, stay, exit and expulsion of foreigners from national territory.

Under the terms of Article 161 c) of the Constitution, the Assembly of the Republic decrees the following:

Article 1

Object

1 - The present law creates the conditions for the implementation of the Agreement on Mobility between the Member States of the Community of Portuguese Speaking Countries, signed in Luanda on 17 July 2021.

2 - The present law also proceeds to

(a) the ninth amendment to Law No. 23/2007, of 4 July, as amended by Laws Nos. 29/2012, of 9 August, 56/2015, of 23 June, 63/2015, of 30 June, 59/2017, of 31 July, 102/2017, of 28 August, 26/2018, of 5th July, and 28/2019, of 29th March, and by Decree-Law No. 14/2021, of 12 February, which approves the legal regime for the entry, stay, exit and removal of foreigners from the national territory;

b) The second amendment to Law no. 27/2008, of 30th June, as amended by Law no. 26/2014, of 5 May, establishing the conditions and procedures for granting asylum or subsidiary protection and the statuses of asylum seeker, refugee and subsidiary protection;

(c) the implementation in national law of Regulations (EU) Nos 2018/1860, 2018/1861 and 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS).

Article 2

Amendment to Law no. 23/2007, of 4 July

ARTICLES 66, 70, 71, 72, 73, 75, 77, 78, 81, 83, 88, 90A, 91, 91B, 93, 97, 106, 107, 121, 121D, 122, 123, 124, 125, 126, 127, 129, 130, 131A, 132, 132B, 132B, 132C, 132D, 132D, 132D AND 126D.-E, 122, 124, 134, 138, 139, 142, 144, 145, 147, 149, 157, 160, 161, 165, 167, 169, 181, 192, 211, 212 and 215 of Law no. 23/2007, of 4 July, as amended, are replaced by the following:

Article 5

[...]

1 -

a)

b)

(c) mobility agreements between Portugal and third countries; (d) [Previous point (c)].

2 -

Article 10

[...]

1 -

2 -

3 -

a)

b) Foreign citizens who benefit from this faculty under the terms of the special regimes contained in the instruments provided for in article 5, no. 1

4 - The visa may be annulled by the issuing entity, in foreign territory, or by SEF, in national territory or at border posts, when the holder is the subject of an alert for the purposes of return or an alert for the purposes of refusing entry and stay in the Schengen Information System (SIS), in the SEF's Integrated Information System, or makes false statements in the visa application.

5 -

6 - The decision of annulment is notified electronically to the High Commission for Migrations, I. P. (ACM, I. P.), and to the Migration Council, hereinafter referred to as the Advisory Council, with an indication of the respective grounds.

Article 19

[...]

1 -

2 - The refugee travel document is valid for a period of five years, subject to renewal in connection with the possible renewal of the residence permit.

3 - The refugee travel document allows its holder to enter and leave the national territory, as well as the territory of other States that recognise it for that purpose.

4 - (Repealed.)

5 - (Former paragraph 3.)

Article 22

[...]

1 - The rules established for the Portuguese electronic passport shall apply to the conditions of validity, characteristics and authenticity control of the travel document for refugees.

2 - (Repealed.)

3 - (Repealed.)

4 - (Repealed.)

5 - (Repealed.)

Article 31

Entry and exit of minors and vulnerable adults refused entry or refused exit

1 -

2 - Save in exceptional cases, duly justified, the entry into Portuguese territory of a foreign minor will not be authorised when the person exercising parental responsibilities or the person to whom they have been formally entrusted is not admitted into the Country.

3 -

4 - National or foreign minors who are travelling unaccompanied by the person exercising parental responsibility and who do not have a legally certified authorisation from that person are refused exit from Portuguese territory.

5 -

6 -

Article 32

[...]

1 -

a)

(b) are persons for whom an alert has been issued for the purposes of refusing entry into and stay in the SIS; or

(c) are persons for whom an alert has been issued for the purposes of return or refusal of entry and stay in the SEF's Integrated Information System; or

d)

2 -

3 -

4 - Entry shall also be refused if an alert for return purposes existing in the SIS is discovered, accompanied by an entry ban, and may be authorised, after supplementary information has been exchanged with the Member State issuing the alert and the alert has been deleted, when the third-country national demonstrates that he/she has left the territories of the Member States of the European Union and of the States where the Convention Implementing the Schengen Agreement is in force, in compliance with the respective return decision and that the period of the entry and stay ban has been served.

Article 33

Indication for the purposes of refusal of entry and stay

1 - Foreign nationals are reported for the purposes of refusing entry and stay in the SEF Integrated Information System:

- a)
- b)
- c)
- d)
- e)

2 - Beneficiaries of support for voluntary return in accordance with the terms of Article 139 shall also be reported in the SEF's Integrated Information System for the purposes of refusing entry and stay, and the alert shall be deleted in the case provided for in paragraph 3 of that provision.

3 - Foreign citizens who have been sentenced by a final sentence to a penalty involving deprivation of liberty of at least one year, even if the sentence has not been served, or who have suffered more than one conviction for the same penalty, even if the sentence has been suspended, may be entered for the purposes of refusing entry and stay.

4 - (Repealed.)

5 - (Repealed.)

6 - (Repealed.)

7 - (Repealed.)

Article 43

[...]

1 -

2 -

3 - After passengers have checked in, the authority referred to in the previous paragraph shall erase the data within 24 hours of their transmission, unless the data are required for the performance of the statutory tasks of the authorities responsible for carrying out checks on persons at external borders pursuant to the law and in compliance with the law on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

4 —

5 - Without prejudice to the provisions of the law on the protection of natural persons with regard to the processing of personal data and the free movement of such data, the data referred to in the previous Article may be used for the purposes of implementing legal provisions relating to public security and public order.

Article 45

[...]

.....

a)

b)

- c)
- d)
- e)
- f) Visa for seeking work.

Article 46

[...]

- 1 -
- 2 - Temporary stay, residence and work search visas are valid only for Portuguese territory.

Article 52

[...]

1 - Without prejudice to the special conditions for granting visas provided for by law or by convention, international instrument or any other special regime contained in the instruments provided for in Article 5, paragraph 1, and the provisions of the following article, residence, temporary stay, short-term stay or work-seeking visas shall only be granted to third-country nationals who fulfil the following conditions:

- a) Has not been subject to a removal order and is in the subsequent period of prohibition of entry and stay in national territory;
- b) is not a person for whom an alert has been issued for the purposes of return accompanied by a prohibition of entry and stay in the SIS by any Member State of the European Union or of the Schengen Convention;
- c) Is not the subject of an alert for the purposes of refusing entry and stay, under the terms of Article 33 in the SEF integrated information system, or for the purpose of return;
- d)
- e)
- f)
- g) has parental consent or an equivalent document when the applicant is a minor and of age and during the period of stay is not accompanied by the person who exercises parental responsibilities or responsibilities within the scope of the accompanied minor.

2 - For temporary stay visas, work-station visa and short-stay visas to be issued, a transport ticket assuring their return is also required.

- 3 -
- 4 -
- 5 -

6 - Where the applicant is the subject of an alert for the purpose of return or for the purpose of refusing entry and stay created by a State Party or an associated State to the Convention Implementing the Convention, he/she shall be consulted in advance and his/her interests shall

be taken into account in accordance with Article 27 of Regulation (EU) 2018/1861 or Article 9 of Regulation (EU) 2018/1860, both of the European Parliament and of the Council of 28 November 2018.

9 - The decision to grant visas for residence or temporary stay to third-country nationals who are the subject of return alerts or for the purpose of refusing entry and stay is the responsibility of the Director-General of Consular Affairs and the Portuguese Communities.

Article 53

[...]

1 -

2 -

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4 -

5 -

6 -

7 - In the cases provided for in the previous number, the competent services shall immediately communicate the grant of the visa to SEF.

8 - Without prejudice to the provisions of paragraph 1 b), the grant of a residence visa to attend a higher education study programme, does not require the prior opinion of SEF, provided that the applicant is admitted in a higher education institution in national territory.

9 - In the cases provided for in no. 2 above, the competent authority for a decision refusing a visa is the consular authority.

Article 54

[...]

1 -

a)

b)

c)

d)

e)

f)

g)

h) Accompanying a family member holding a temporary stay visa, except if the purpose of the visa is to carry out seasonal work, without prejudice to the family reunion regime provided for in this law;

i) Exercise of a subordinate or independent professional activity, rendered, remotely

to a natural or legal person with domicile or head office outside national territory; j) [Former paragraph h).

k) [Previously paragraph i).

2 -

3 -

Article 56D

Rights, equal treatment and accommodation

1 - The holder of a short-stay visa or of a temporary stay visa for seasonal work has the right to enter and remain in the entire national territory and to carry out the work specified in the respective visa or others, at one or successive employers.

2 -

3 -

4 -

Article 58

[...]

1 -

2 -

3 -

4 -

5 - The residence visa also has the purpose of accompanying family members of the applicant of a residence visa, within the meaning of no. 1 of article 99, and the applications may be raised simultaneously.

6 - When the residence visa is granted, a residence pre-authorisation is issued, containing information regarding the obtaining of the residence permit and the provisional attribution of the tax identification number, social security number and national health service number.

Article 59

[...]

1 - (Repealed.)

2 - (Repealed.)

3 - (Repealed.)

4 - The Institute of Employment and Vocational Training, I. P., as well as the respective competent services of each autonomous region, maintains an information system that is permanently updated and accessible to the public, through the Internet, on job vacancies, publishing them at its own initiative or at the request of employers or immigrant associations

recognised as representative of immigrant communities by the ACM, I. P., under the terms of the law.

5 - A residence visa for the exercise of subordinate professional activities may be issued to third-country nationals who fulfil the conditions laid down in Article 52 and who:

- a)
- b)

6 - (Repealed.)

7 - (Repealed.)

8 - (Repealed.)

9 - (Repealed.)

Article 64

[...]

Whenever, in the context of the instruction of an application for family reunion requested under the provisions of number 1 of article 98, SEF grants the request under the terms of this law, the applicant's family member shall be provided with a residence visa for reunion, in order to enable their entry into national territory.

Article 65

Communication and notification of the granting of the request for reunion and family reunion

1 - For the purposes of the provisions of the previous article, SEF communicates the decision, accompanied by the procedural documents already delivered to SEF, to the Directorate-General of Consular Affairs and Portuguese Communities immediately and electronically, informing the interested party of the competent consular post of the deadlines and the manner in which the beneficiary of the reunion is to obtain a visa.

2 - The competent consular post, upon reception of the communication of the aforementioned decision, does not request documentation that is already contained in the file transmitted by SEF, and must only verify the regular identification of the family members to be regrouped.

3 - The residence visa is issued following the communication foreseen in no. 1 and under the terms arising therefrom, within 10 days after the application is submitted to the competent consular post.

4 - The issue of the residence visa envisaged in the previous number is accompanied by the automatic attribution of tax identification numbers, social security numbers and National Health Service numbers.

5 - The communication foreseen in no. 1 is valid as the obligatory prior opinion of SEF when applicable, under the terms of article 53.

6 - Residence visas requested at consular posts to accompany residence visa applicants under the terms of no. 5 of article 58 are granted through the prior and simultaneous opinion of SEF, when applicable, under the terms of article 53.

Article 70

[...]

1 -

a)

b)

(c) when the holder has been subject of a removal order, an alert for refusal of entry and stay has been issued in the SEF Information System or an alert for return or an alert for refusal of entry and stay has been issued in the SIS;

d)

2 -

3 -

4 -

5 -

6 -

7 -

Article 71

[...]

1 -

2 -

3 -

4 -

5 -

6 -

7 - An extension of stay may be refused if the applicant is the subject of an alert for the purposes of return or for the purposes of refusal of entry and stay in the SEF's Integrated Information System or in the SIS.

8 - Within the framework of the provisions of the previous paragraph, whenever the applicant is the subject of an alert for return or a refusal of entry and stay issued by a Member State of the European Union or by a State where the Convention Implementing the Agreement is in force, he/she shall be consulted in advance and his/her interests shall be taken into consideration, in accordance with Article 27 of Regulation (EU) 2018/1861 or with Article 9 of Regulation (EU) 2018/1860, both of the European Parliament and of the Council, of 28 November 2018.

Article 72

[...]

- 1 -
- a)
- (b) for up to 60 days, if the person concerned holds a special visa or a visa for seeking work;
- c)
- d)
- e)
- c)
- d)
- e)

2 - Extension of stay may be granted, beyond the limits provided for in the preceding paragraph, pending an application for a residence permit, as well as in duly justified cases, namely in the case of holders of temporary stay for medical treatment and the person accompanying them.

- 3 -
- 4 -
- 5 -
- 6 -

Article 73

[...]

The decision on requests for extension of stay falls under the competence of the National Director of SEF and may be delegated except for requests concerning applicants subject to return alerts or refusal of entry and stay.

Article 75

[...]

1 - Without prejudice to the special legal provisions applicable, the temporary residence permit is valid for a period of two years counted from the date of issue of the respective title and is renewable for successive periods of three years.

2 - When the applicant is covered by the CPLP Agreement and is the holder of a short-stay visa or has legal entry in national territory, he/she may request a temporary residence permit for more than 90 days and less than 1 year, renewable for an equal period of time.

3 - In the cases provided for in the previous number, for the purposes of issuing the temporary residence permit, the competent services shall of their own motion consult the Portuguese criminal record of the applicant.

4 - (Former no. 2.)

Article 77

[...]

1 -

a)

b)

(c) Presence in Portuguese territory, without prejudice to Article 58(6);

d)

e)

f)

g)

(h) Is not within the period of prohibition on entering or remaining in the national territory following a removal order;

i)

j) No alert in the SEF integrated information system for the purpose of refusing entry and stay or return in accordance with Articles 33 and 33(a).

2 -

3 -

4 -

5 - Where the applicant is the subject of an alert for return or a refusal of entry and stay issued by a Member State of the European Union or where the Implementing Convention is in force, the applicant shall first be consulted in accordance with Article 27 of Regulation (EU) 2018/1861 or Article 9 of Regulation (EU) 2018/1860, both of the European Parliament and of the Council of 28 November 2018.

6 - For the purposes of the provisions set forth in the previous number, with the exception of cases in which the alert only refers to illegal stay for the period of stay authorised, the exceptional regime foreseen in article 123 shall apply, and the final decision shall be instructed with a substantiated proposal that explains the interest of the Portuguese State in granting or maintaining the right of residence.

Article 78

[...]

1 -

2 -

3 -

4 -

5 -

6 - If the request is rejected, a copy of the decision and the respective grounds shall be sent to the ACM, I. P. and the Council for Migrations.

7 -

8 -

Article 81

[...]

1 - The application for a residence permit may be formulated by the interested party or by the legal representative and must be presented to SEF, without prejudice to what is included in the special regimes contained in the instruments provided in Article 5, paragraph 1.

2 -

3 - Pending the application for a residence permit, for reasons beyond the control of the applicant, the holder of the residence permit may engage in a professional activity in accordance with the law.

4 -

5 - When the simultaneous application referred to in the previous number occurs within the scope of the submission of an expression of interest for the granting of a residence permit for the exercise of a professional activity, under the terms of the provisions of paragraphs 2 of articles 88 and 89, the applicant may identify the family members who are in national territory, who will benefit from the presumption of legal entry of the applicant, if applicable, under the terms of paragraph 6 of article 88 and paragraph 5 of article 89.

6 - For the purposes of the provisions in the previous number, applicants whose family household includes minors of school age or adult dependent children, in both cases attending an educational establishment in national territory, shall have preference in the presentation of applications for residence permits.

Article 83

[...]

1 -

(a) Education, teaching and vocational training, including study grants and scholarships in accordance with the applicable legislation;

b)

c)

d)

e)

f)

.2 -

Article 88

[...]

1 -

2 -

3 -

4 -

5 -

6 -

7 - After the establishment and formalisation of the employment relationship within the 180 days referred to in paragraph c) of No. 1 of Article 57-A, a residence permit may be requested from the competent body, provided that he/she meets the general conditions for the granting of a residence permit under the terms of Article 77.

Article 90-A

[...]

1 -

2 - A residence permit is renewed for two-year periods, in accordance with the provisions of this law, provided that the applicant proves that he maintains any of the requirements of Article 3(1)(d).

3 -

1 -

Article 91

[...]

2 - The residence permit granted under the present article to higher education students is valid for three years, renewable for equal periods and, in cases where the duration of the study programme is less than three years, it is issued for the duration of its duration.

3 -

4 -

5 -

6 -

7 -

8 -

Article 91- B

[...]

- 1 -
- 2 -
- 3 -
- 4 -
- 5 -

6 - The residence permit granted to researchers is valid for two years, renewable for equal periods or for the duration of the hosting agreement if this is less than two years.

7 - The residence permit granted to researchers covered by European Union or multilateral programmes that include mobility measures shall be for two years or for the duration of the hosting agreement if this is shorter than two years, except in cases where the researchers do not meet the conditions of Article 62 at the time of granting, in which case it shall be for one year.

- 8 -
- 9 -
- 10 -

Article 93

[...]

- 1 -

2 - The residence permit issued to trainees is valid for six months, for the duration of the traineeship programme plus three months if the programme is shorter than six months, or for two years in the case of a long-term traineeship, in which case it may be renewed once for the remainder of the traineeship programme.

- 3 -

Article 97

[...]

1 - Holders of a residence permit granted under this subsection may exercise a professional, subordinate or independent activity, complementarily to the activity that originated the visa.

2 - (Revoked.)

3 - (Revoked.)

Article 106

[...]

a)

(b) where the family member is banned from entering or remaining on national territory or in respect of whom an alert has been issued in the SIS for the purposes of return or refusal of entry and residence;

c)

2 -

3 -

4 -

5 -

6 -

7 -

8 -

Article 107

Scope of application

1 -

2 - A residence permit valid for two years, renewable for successive periods of three years, shall be issued to the family member of the holder of a permanent residence permit.

3 - After two years have elapsed since the first residence permit referred to in the previous numbers and as long as the family relationship subsists or, irrespective of the said period, whenever the holder of the right to family reunion has minor children residing in Portugal, the family members are entitled to an autonomous permit, of identical duration to that of the holder of the right.

4 - In exceptional cases, namely judicial separation of persons and goods, divorce, widowhood, death of an ascendant or descendant, accusation by the Public Prosecution Service for the practice of the crime of domestic violence and when the person has reached the age of majority, and even if the facts occur during the examination of the application for family reunion, an autonomous residence permit may be granted before the deadline referred to in the previous number, valid for two years and renewable for periods of three years.

5 - The first residence permit granted to the spouse under the terms of family reunion is autonomous whenever he/she has been married or in a de facto union for more than five years with the resident, and will be issued with a residence permit of identical duration to that of the resident.

Article 121- E

[...]

1 - The initial validity of an "EU Blue Card" shall be of two years and shall be renewable for successive periods of three years.

2 -

3 - The "EU Blue Card" issued shall be marked "EU Blue Card" under the heading "type of permit".

4 -

Article 122

[...]

a)

b)

c)

d)

e)

(f) who have ceased to enjoy the right to international protection in Portugal as a result of the grounds on which they were granted such protection have ceased to exist;

g)

h)

i)

j)

k)

l)

m)

n)

o)

p)

q)

r)

2 -

3 -

4 -

5 -

6 -

7 -

8 - Without prejudice to the rules regarding family reunion, the granting of a residence permit under the terms of paragraph g) of no. 1 is extended to a foreign citizen accompanying

the applicant as an accompanying person or informal carer, and may be requested simultaneously.

Article 124

[...]

- 1 -
- 2 -
- 3 -
- 4 -

5 - Foreign minors who are not born in Portuguese territory, but are present there, shall benefit from the same resident status as that granted to those who effectively exercise parental responsibilities over them, namely for the purpose of being granted family allowance and a social security identification number.

Article 134

[...]

- 1 -
- a)
- b)
- c)
- d)
- e)
- f)
- g)

h) Has circumvented or tried to circumvent the applicable rules on entry and stay, in the national territory or in those of the Member States of the European Union or of the States where the Convention is in force, namely by using or resorting to forged or falsified identity or travel documents, residence permits, visas or documents proving fulfilment of the entry conditions.

- 2 -
- 3 -

Article 138

[...]

- 1 -
- 2 -
- 3 -

4 - In the event of a decision to cancel a residence permit under the terms of article 85, where there is danger of absconding in accordance with the provisions of paragraph 3 of article 142, or where a request for an extension of stay has been rejected as manifestly unfounded or fraudulent, the foreign citizen shall be notified to leave national territory immediately, under penalty of incurring the crime of qualified disobedience.

5 -

6 - If, in addition to an illegal stay because the authorised duration of stay has expired, any of the circumstances referred to in Article 33(1)(c) and (d) or Article 33(3) apply and there is doubt as to the identity of the person concerned. If, in addition to the conditions referred to in Article 33(1)(c) and (d) or in Article 33(3), there is doubt as to identity or the foreign national has circumvented or attempted to circumvent the rules applicable to entry and stay in accordance with the provisions of Article 134(1)(h), a forced removal procedure will be initiated in accordance with the provisions of Article 146, whereby paragraph 1 of this Article shall not apply.

7 - Notification of voluntary departure is registered in the SEF Integrated Information System specifying the duration of the illegal stay and is introduced in the SIS with an entry of the deadline for leaving, as an indication of return, for a period of one year.

8 - Within the scope of the provisions of the previous number, the alert is immediately erased if the foreign national terminates the illegal stay, namely when he/she confirms that he/she has left the national territory and that of the States where the Convention is in force, or when SEF becomes aware of it by any means or by virtue of its communication by another Member State of the European Union or State where the Convention is in force.

Article 139

[...]

1 -

2 -

3 - For a period of three years following abandonment, beneficiaries of support for voluntary return may be admitted to the national territory and that of the Member States of the European Union or States party or associated to the Convention only if they repay the amounts received together with interest at the statutory rate.

4 -

5 -

Article 142

[...]

1 -

2 -

3 - For the purposes of the provisions of paragraph 1, the risk of absconding shall be assessed with regard to the foreign national's personal, family, social, economic or professional

situation, with a view to determining the probability of his or her absconding to an unknown place with the intention of avoiding the enforcement of the decision to expel or the duty to leave, namely in situations where the foreign national's personal or professional domicile in national territory is unknown, where there are no family ties in the country, where there are doubts as to his or her identity, or where preparatory acts of absconding are known.

Article 144

Duration and territorial scope of the abandonment obligation and of the entry and stay ban

1 - Foreign citizens subject to an expulsion order shall be prohibited from entering national territory and remaining there for a period of up to five years; this period may be longer where there is a serious threat to public order, public security or national security.

2 - The measure of refusal of entry and stay shall be graduated from the mere illegal stay and may be aggravated, taking into account the length of the unauthorised stay, when the illegal stay results in

(a) the wilful violation of the applicable rules on entry and stay; or

(b) the commission of criminal offences or a serious breach of the obligations arising from the

(b) the commission of criminal offences or a serious breach of the obligations arising from the measures of constraint referred to in Article 142; or

c) that the alien has been subject to more than one return decision or has violated an alert refusing entry and stay; or

d) the existence of the threat referred to in the preceding paragraph.

3 - When the foreign national is not allowed, by any means, to remain within the territory of Member States of the European Union and the States where the Convention is in force, the duty to leave, removal or expulsion and the indication of refusal of entry and stay shall also cover the territory of those States, and the territorial scope of the prohibition measure must be expressly stated in the notifications legally provided for in the respective procedure.

Article 145

[...]

Without prejudice to the application of the readmission regime, the coercive removal may only be determined by an administrative authority on the grounds of illegal entry or stay in national territory, namely when it results from the provisions of point h) of no. 1 of article 134

Article 147

[...]

1 - Foreign citizens detained under the terms of Article 146(1) who, during judicial questioning and after having been informed of the provisions of paragraphs 2 and 3, state their intention to leave national territory, as well as the territory of Member States of the European Union and of States where the Convention on the Application of Laws is in force, may, by

determination of the competent judge and provided that this is duly documented, be delivered into the custody of SEF for the purposes of being taken to the border post and removed as soon as possible.

2 - Citizens who state their intention to be apprehended at the border post shall be banned from entering and remaining on the national territory and on the territory of the Member States of the European Union and of the States where the Implementing Convention is in force for a period of one year.

3 - Driving to the border implies the registration of the citizen in the SIS and in the SEF's Integrated Information System, in accordance with the provisions of articles 33 and following.

Article 149

[...]

1 -

2 -

3 -

a)

b)

c) The prohibition to enter and remain on national territory and the indication of refusal of entry and stay on the territory of Member States of the European Union and of the States where the Convention is in force, where applicable, with the indication of the respective deadlines;

d)

4 - The procedure shall be closed and the alerts resulting from the removal shall be cancelled when the decision is not enforced due to the impossibility of notification or the failure to confirm the fulfilment of the duty to return, as long as twice the period of time concretely determined for the prohibition of entry and stay has elapsed from the date of its pronouncement.

Article 157

[...]

1 -

a)

b)

(c) a prohibition on entering or remaining in the national territory and a refusal of entry or residence in the territory of the Member States of the European Union and of the States where the Convention is in force, where applicable, with an indication of the relevant time limits;

d)

2 - The execution of the decision implies the registration of the deportee in the SIS and in the SEF's Integrated Information System for the duration of the prohibition of entry and stay, in accordance with the provisions of Article 33-A.

3 -

Article 160

[...]

1 -

2 - In duly substantiated situations, in particular where there are concrete and objective reasons to believe that the person intends to abscond, namely under the terms of Article 142(3) of the Schengen Borders Code, where the national of a Member State of which he or she is a national is not a refugee. Where a third-country national uses false or falsified documents, or has been detected in situations which suggest the commission of a crime, or there are serious grounds for believing that he or she has committed serious criminal acts or strong indications that he or she intends to commit such acts, the citizen shall be placed in the custody of the SEF with a view to enforcing a decision of forced removal or judicial deportation.

3 -

4 -

5 - 6 -

.....

Article 161

[...]

Any alien who does not leave the national territory within the prescribed period shall be apprehended and taken to the border post for removal.

2 -

Article 165

[...]

1 -

2 -

3 -

4 -

5 -

6 - Sending back the alien to the requested State implies an entry, in accordance with Article 33-A, on the national list of non-admissible persons in the SEF Integrated Information System and, if the requested State is a third State, in the SIS.

Article 167

Interdiction to Enter and Stay

Foreign citizens who have been returned to another State under the terms of an international convention shall be prohibited from entering and remaining in the country for a period of three years, and shall be refused entry and stay in the SIS for the same period of time when readmitted to a third State.

Article 169

[...]

1 -

2 -

3 -

4 - For the purposes of Article 28 of Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018, where the person who is the subject of an expulsion decision referred to in paragraphs 1 and 2 holds a residence permit issued by a Member State of the European Union or by a State party to the Convention Implementing the Schengen Agreement, SEF shall consult the competent authorities of that State, with a view to the possible cancellation of the residence permit in accordance with the legal provisions in force there, as well as the State which issued the expulsion decision.

5 -

6 -

Article 181

[...]

1 - The entry of foreign citizens into Portuguese territory or into the territory of the Member States of the European Union and into the States where the Convention is in force in violation of the provisions of Articles 6, 9 and 10 and of paragraphs 1 and 2 of article 32, as well as of the provisions of the Schengen Borders Code, shall be considered illegal.

2 - The stay of foreign citizens in Portuguese territory shall be considered illegal when:

(a) the stay has not been authorised in accordance with the provisions of this law or

a) A stay has not been authorised in accordance with the provisions of this law or the law regulating the right to asylum;

b) The foreign citizens have ceased to fulfil the conditions for entry or have exceeded the duration of the duration of the stay authorized in the Portuguese territory or in the territories of the Member States of the Union and in the States where the Convention is in force;

c) The residence permits of the foreign citizens have expired or been cancelled;

d) Illegal entry has taken place in accordance with the previous number.

3 -

Article 192

[...]

1 - The stay of a foreign citizen in Portuguese territory or in the territory of Member States of the European Union and of States where the Convention is in force for a period longer than that authorised constitutes an administrative offence punishable by the fines specified below:

- a)
 - b)
 - c)
 - d)
- 2 -

Article 211

[...]

- 1 -
- 2 -

3 - If the communication and consultation of the relevant databases reveals the existence of an alert or alerts for return or refusal of entry and stay in the SIS, SEF will report the acquisition of nationality to the issuing Member State or States with a view to removing it.

Article 212

[...]

- 1 -
- 2 -
- a)
- b)
- c)

(i) aliens, nationals of Member States of the European Union, stateless persons and national citizens, in connection with the control of their transit across land, sea and air borders, their stay and activities on national territory, including for the purpose of consultation, entering, storing and processing data in connection with alerts for the purpose of return or refusal of entry and stay of third-country nationals or others, in accordance with this law and the rules applicable to the use of the SIS; (ii)

- d)

i) Name, lineal name, nationality or nationalities, country of birth, place of birth, marital status, gender, date of birth, date of death, employment status, diseases which constitute a danger or serious threat to public health under the terms of this law, the names of persons

constituting the household and the possible status of family member of a national or European Union citizen or holder of the right of free movement, the addresses, signature, references of individuals and legal entities in national territory, as well as the number, place and date of issue and validity of the identification and travel documents, copies of the same, photographs and facial images and fingerprint data;

(ii)

iii) Participation or indications of participation in illegal activities, as well as data regarding specific objective and unalterable physical characteristics, names and surnames at birth, nicknames, indication that the person concerned is armed, violent, the reason for which the person concerned has been reported, including where the person has fled or escaped, presents a suicide risk, constitutes a threat to public health or has been involved in one of the activities referred to in Law No. No. 52/2003, of 22 August, in its current wording, together with references to the conduct or conducts to be adopted; iv)

3 - With a view to preventing the consultation, modification, deletion, addition, destruction or communication of data from the IIS/SEF in a manner not consented to by this law and in accordance with Article 31 of Law No. 59/2019 of 8 August on the processing of personal data for the purpose of prevention, detection, investigation or prosecution of criminal offences or the enforcement of criminal sanctions, the necessary technical measures to ensure security are adopted and periodically updated:

- a)
- b)
- c)
- d)
- e)
- f)

- 4-
- 5 -
- 6 -
- 7 -
- 8 -
- 9 -

Article 215

[...]

1 - The request for a visa that authorises a foreign citizen to work in national territory, as well as a title that regularises, under the terms of this law, the situation of a foreign citizen who is in national territory, shall be communicated by the competent services to social security, to the Tax and Customs Authority and to the Shared Services of the Ministry of Health, E. P. E., for the purpose of automatic attribution of the social security identification number, the tax identification number and the national user number.

2 - In the situations provided for in the previous number, the competent authorities shall also communicate to the Institute of Employment and Vocational Training, I. P., for the purposes of registration".

Article 3

Amendment to Law no. 27/2008, of 30th June

Article 54 of Law no. 27/2008, of 30th June, as amended, is hereby amended to read as follows

"Article 54

[...]

1 - Applicants for asylum or subsidiary protection shall be ensured access to the labour market, under the terms of general law, and the application of the social support regime provided for in article 56 shall cease when it is demonstrated that the applicant and respective family members have sufficient means to enable their subsistence.

2 -

3 -

4 - "

Article 4

Addition to Law No. 23/2007, of 4 July

Articles 31-A, 33-A, 33-B, 52-A, 57-A, 61-B and 87-A are hereby added to Law No. 23/2007, of 4th July, as amended:

Article 31-A

Alerts regarding departure from the territory or prevention of travel

1 - Those who have been forbidden to leave the national territory to travel or to leave the country are refused exit from the national territory when such a restriction has been judicially decreed. The judicial decisions and other legally required information should be sent to SEF as a matter of urgency, for the purposes of creating an alert for a travel ban in the SEF Integrated Information System and, whenever the Court so orders, to the National SIRENE Bureau for the purposes of entering an alert for a travel ban in the SIS, which is applicable to the territory of the other Member States of the European Union and of the States where the Convention for the Implementation of the Schengen Convention is in force pursuant to and for the purposes of Article 32 of Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018.

2 - The alerts on travel prohibitions to be entered in the SIS cover, in particular:

a) Missing adults, accompanied minors, convicted or compulsorily interned persons and particularly vulnerable victims of crime who are prevented from travelling for their own protection owing to a clear and concrete risk of being removed from or of leaving the national territory or that of the Member States of the European Union or of the signatories to the implementing Convention;

b) Runaway or missing minors who are beneficiaries of a promotion and protection procedure, with or without an applied measure or with a tutelary educational measure of internment applied;

c) Minors who are at clear and concrete risk of imminent abduction by a parent, relative or guardian and must be prevented from travelling, without prejudice to the provisions for cases of non-parental abduction in the Protocol of the Child Abduction Alert System established under the Resolution of the Assembly of the Republic no. 39/2008, of 11 July;

(d) minors who are at real and manifest risk of being removed from or leaving the national territory or the territory of the Member States of the European Union or of signatories to the Convention and become victims of trafficking in human beings, forced marriage, female genital mutilation or other forms of gender violence, terrorist offences or being involved in such offences, or recruited or enlisted by armed groups or led to take an active part in hostilities.

3 - In the case of persons who are to be placed under protection or prevented from travelling for their own protection, when the alerts are issued by another Member State, the entity executing the alert shall immediately contact the judicial authority with territorial competence for the purpose of determining the measures to be adopted in conjunction with the National SIRENE Bureau and the authorities of the issuing Member State, in accordance with the provisions of Article 33 (2) and (3) of Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018.

4 - In exceptional situations, of manifest and well-founded urgency and impossibility of recourse in due time to the competent judicial authority, the alerts referred to in paragraphs 1 and 2 may also be issued by criminal police authorities or health authorities competent in the field, which shall immediately communicate them to the territorially competent judicial authority, for purposes of judicial validation within a maximum of 48 hours for the alerts provided for in points (c), (d) and (e) of paragraph 1 of Article 32 of Regulation (EU) 2018/1862. They shall immediately transmit them to the territorially competent judicial authority for judicial validation within 48 hours for the alerts provided for in Article 32(1)(c), (d) and (e) of Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 and within 15 days for the alerts provided for in Article 32(1)(a) of that Regulation.

5 - The interdiction to leave the national territory concerning a minor enacted within the scope of a parental responsibilities regulation process or of promotion of his/her protection is in force until the modification of that judicial decision or as soon as he/she reaches the age of majority.

6 - When it is not possible to ensure timely jurisdictional protection of minors with regard to their departure from national territory, opposition to departure may take place, exceptionally and as an alert, by means of a statement communicated to SEF, by those who invoke and prove, under the terms foreseen in the Civil Code, legitimacy in safeguarding the integrity and interests of the minor.

7 - The indication of opposition to the exit referred to in the previous number shall be entered in the SEF Integrated Information System for a maximum period of 90 days if the interested parties obtain and send to SEF, within the first 30 days, a copy of the request for confirmation of the opposition in the scope of judicial proceedings, namely in civil tutelage or promotion and protection proceedings, so that it may assess the need for it in view of the interests of the minor, which is a condition for communicating the indication to the National SIRENE Bureau and for its entry in the SIS.

8 - The retention periods and the assessment of the need for the maintenance, extension or deletion of the indications referred to in this article shall be in accordance with the specific provisions laid down by the respective judicial authority, considered in accordance with the applicable legislation and with the limits provided for in Article 32 (5) to (7) and in Articles 53 and 55 of Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018.

9 - In the context of border control, the discovery of an alert issued by another Member State of the European Union concerning a travel ban shall result in the immediate execution of the consultation procedures and measures referred to in Article 33 of Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018, with reception and return being assisted, where relevant, by the appropriate bodies taking into account the best interests of the child and the well-being of the persons concerned by the alert.

Artigo 33-A

Indicações para efeitos de regresso e para efeitos de recusa de entrada e de permanência

1 - Expulsion or judicially enforced expulsion decisions, including, in the former case, those resulting from active readmission to third states, from conduct at the border under the terms of article 147, or from support for voluntary return under the terms of article 139, shall immediately give rise to the entry of an alert for the purposes of refusal of entry and stay in the SEF Integrated Information System and in the SIS.

2 - For the purposes of the provisions of the preceding paragraph, the period of prohibition of entry and stay determined in the decision to deport or expel shall be counted from the effective date of execution of the return, with the departure of the person concerned.

3 - In removal procedures in which a deadline for voluntary departure is set in accordance with Article 160(1), the decision to remove the person concerned shall result in an alert being entered in the SIS for the purpose of return, any extensions or suspension of the procedure, namely due to the interposition of a judicial appeal, which obstructs its execution under the terms of this law, must be registered.

4 - In the situations foreseen in the previous number, when the removal is proven by the returnee, when SEF knows of it by any means or as a result of its communication by another Member State of the European Union or a State where the Convention is in force, the alert for the purposes of return is suppressed and, if the removal decision is accompanied by a prohibition of entry, it is replaced by an alert for the purposes of refusal of entry and stay in the SIS and SEF's Integrated Information System.

5 - Where entry into national territory is refused pursuant to Article 32(1)(d) and, following an assessment of the personal circumstances of the third-country national, it is concluded that his or her presence constitutes a threat to public policy, public security or national security in accordance with the provisions of Article 24(2) of Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018, an alert for the purposes of refusing entry and stay in the System shall be issued. Article 24(2) of Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018, an alert for the purpose of refusing entry and stay in the SEF Information System and SIS shall be issued, valid for a maximum period of 5 years.

6 - For the purposes of the provisions of the previous number, the specific period of time for interdiction of alerts for refusal of entry and stay and the situations that may constitute a threat to public order, public security or national security, in particular those involving foreign citizens who have circumvented or tried to circumvent the applicable rules on entry and stay, in national territory or in Member States of the European Union or in States where the Convention is in force, are determined by an Order of the National Director of SEF taking into account, namely, the provisions of paragraph h) of no. 1 of article 134 of the Code of Criminal Procedure. No. 1 of article 134.

Article 33- B

Provisions common to alerts

1 - It is the competence of the SEF national director to indicate a foreign citizen in the SEF Integrated Information System or in the SIS for the purposes of return and refusal of entry and stay, with the power of delegation.

2 - Measures underlying alerts for the purposes of return and refusal of entry and stay, which are not dependent on time limits, defined under the terms of this law shall be periodically reviewed with a view to their maintenance or elimination.

3 - Measures that have not been judicially decreed and are subject to the time limits defined under the terms of this law may be reviewed at any time, at the initiative of the National Director of SEF and taking into account humanitarian reasons or reasons of national interest, with a view to their elimination.

4 - The introduction or maintenance of alerts on third-country nationals who have the right of free movement within the European Union or who are legally established in another State where the Convention is in force, as well as the procedures concerning consultations prior to the creation of an alert for the purpose of return, refusal of entry and stay for a third-country national who holds a valid residence permit or long-stay visa in another Member State of the European Union, shall comply with the provisions of Articles 26 and following and 40 of Regulation (EU) 2018/1861 and 10 et seq. The provisions of Articles 26 and following and 40 of Regulation (EU) 2018/1861 and 10 and following of Regulation (EU) 2018/1860, both of the European Parliament and of the Council, 28 November 2018, safeguarding the limits and guarantees provided for in Law 37/2006, of 9 August, shall apply.

5 - In cases where the prior consultation procedure foreseen in the previous number results in the Member State maintaining the residence permit or long-stay visa, an alert may be

created for the purpose of return or refusal of entry and stay in the SEF Integrated Information System.

Article 52 - A

Special conditions for issuing visas to nationals of member states of the Community of Portuguese-Speaking Countries

- When the visa applicant, regardless of his/her nature, is a national of a State where the Agreement on Mobility between Member States of the Community of Portuguese-Speaking Countries celebrated in Luanda on 17 July 2021 (CPLP Agreement) is in force:

a) The prior opinion of the SEF is waived;

(b) The services responsible for issuing the visa will consult directly and immediately the SIS databases;

(c) The competent services may only refuse to issue a visa if there is an indication that entry into or stay in the SIS is forbidden or, if applicable, the applicant does not have the authorisation provided for in paragraph 1(g) of the previous article.

2 - The issuance of the visa is automatically communicated to the SEF, for the purposes of the exercise of its competences in matters of internal security.

3 - The procedure provided for in this article may be extended to nationals of other States by means of international agreement.

Article 57- A

Visa for seeking work

- The visa for job seeking

a) Enables its holder to enter and remain in national territory for the purpose of work, through the fulfilment of the requirements foreseen in article 52;

b) authorises its holder to exercise dependent labour activity, until the end of the duration of the visa or until the residence permit is granted;

c) It is granted for a period of 120 days, extendable for another 60 days and allows one entry into Portugal.

2 - The work search visa integrates a date of scheduling in the services competent for the concession of residence permits, within the 120 days referred to in the previous number, confers the applicant, after the establishment and formalization of the labour relation within that period, the right to request a residence permit, as long as he/she meets the general conditions for the concession of a temporary residence permit, under the terms of article 77.

3 - At the end of the maximum limit of validity of a visa for seeking work without a labour relation having been established and the subsequent process of documentary regularisation having begun, the holder of the visa must leave the country and can only reapply for a new visa for this purpose one year after the expiry of the previous visa.

4 - The rules applicable to temporary stay visas, provided for in subparagraph b) of no. 1 and no. 2 of article 56-A, in paragraphs 1 and 2 of article 56-B and in articles 56-C to 56-G, shall apply, with the necessary adaptations, to the holders of visas for work search that constitute an employment relationship within the validity period of the visa.

Article 61-B

Residence Visa for the exercise of professional activity remotely provided outside national territory

A residence visa is granted to employees and independent professionals for the exercise of professional activities remotely provided to individuals or legal persons with their domicile or head office outside national territory, and the employment relationship or provision of services must be demonstrated, as the case may be.

Article 87 - A

Residence Permit for citizens from the Community of Portuguese Language Countries

1 - Nationals of States in which the CPLP Agreement is in force who are holders of a short-stay visa or a temporary stay visa or who have entered national territory legally may apply for a CPLP residence permit in national territory, at SEF.

2 - The granting of the residence permit provided for in the previous number depends, with the necessary adaptations, on the observance of the conditions for granting a CPLP residence visa and residence permit.

3 - In the cases provided for in the previous number, for the purposes of issuing the residence permit, the competent services shall of their own motion consult the applicant's Portuguese criminal record.

Article 5

Systematic amendments to Law No. 23/2007, of 4 July

The following systematic amendments are made to Law No. 23/2007, of 4 July, in its current wording:

(a) Section VI of Chapter II is renamed "Entry and exit of minors and vulnerable adults prevented from travelling or subject to an alert banning them from leaving the territory";

(b) the title of Section VII of Chapter II shall be replaced by "Refusal of entry and stay";

(c) Subsection II of Section I of Chapter IV shall be renamed "job-seeker's visa" and shall contain Article 57a;

(d) Subsection III is added to Section I of Chapter IV under the heading "residence visa", comprising Articles 58 to 65;

e) Chapter XII is renamed "Supplementary, transitional and final provisions" and comprises Articles 211 to 220;

Article 6

Closure of pending removal procedures

The provisions of paragraph 4 of Article 149 of Law 23/2007, of 4 July, as amended by this law, shall apply to enforcement proceedings that have not been enforced and are pending at the date of entry into force of this law, when the assumptions for maintaining or eliminating the respective alerts are re-assessed, in accordance with paragraph 2 of Article 33-B of the same law.

Article 7

Residence permit for British citizens who are beneficiaries of the Agreement on the Exit of the United Kingdom from the European Union

1 - In addition to the Foreigners and Borders Service (SEF), the public entities that collect biometric data for civil identification purposes, namely the Institute of Registration and Notary Affairs, I. P., and the Citizen Spaces, are competent for issuing and renewing residence permits for British citizens who are beneficiaries of the Agreement on the Exit of the United Kingdom from the European Union.

2 - For the purposes of the provisions of the previous number, the competent public entities shall be given access to the SEF's "Brexit Portal" information system.

3 - If necessary, the public entities referred in number 1 may request technical assistance from SEF.

Article 8

Repealing rule

Article 19(4), Article 22(2) to (5), Article 33(4) to (7), Article 59(1) to (3) and (6) to (9) and Article 97(2) and (3) of Law 23/2007 of 4 July, as amended, are hereby repealed.

Article 9

Republishing

1 - Law No. 23/2007 of 4 July, as amended by this law, is hereby republished in an annex to this law, of which it is an integral part.

2 - For republishing purposes, the words "European Community", "Schengen Information System" and "ACIDI, I. P." should read, respectively, "European Union", "SIS" and "ACM, I. P.".

Article 10

Entry into force

This law shall enter into force on the day following its publication.

ANNEX

(Referred to in Article 9)

Republication of Law No. 23/2007, of 4 July

CHAPTER I

General Provisions

Article 1

Object

This law defines the conditions and procedures for the entry, stay, exit and expulsion of foreign citizens from Portuguese territory, as well as the status of long-term residents.

Article 2

Transposition of directives

1 - The present law transposes into the internal legal order the following European Union directives:

- (a) Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification;
- b) Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air;
- (c) Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents;
- d) Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;
- (e) Council Directive 2004/82/EC of 29 April 2004 on the obligation for carriers to communicate passenger data by carriers;
- f) Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service;
- (g) Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for the admission of third-country nationals to carry out scientific research;
- h) Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals;
- (i) Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third residence of third-country nationals for the purposes of highly qualified employment;
- (j) Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals;

(k) Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection;

(l) Directive 2011/98/EU of the European Parliament and of the Council of 13 December on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a set of rights for third-country workers legally residing in a Member State;

(m) Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of seasonal employment;

(n) Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer;

(o) Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, volunteering, pupil exchange schemes, educational projects and au pair placements.

At the same time, the transposition of the following Community acts into national law is being consolidated:

(a) Council Framework Decision of 28 November 2002 on the strengthening of the penal framework the prevention of the facilitation of unauthorised entry, transit and residence;

(b) Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third-country nationals;

(c) Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985

(d) Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence.

Article 3

Definitions

- For the purposes of this law, it is considered:

a) "Highly qualified activity" means an activity requiring specialised technical skills of an exceptional nature or an adequate qualification for the pursuit of such activity;

b) "Independent professional activity" means any activity exercised personally, under a contract for the provision of services, relating to the exercise of a liberal profession or in the form of a company;

c) "Temporary professional activity" is that which is of a seasonal or non-lasting nature, not exceeding six months, except where such activity is performed under an investment contract;

d) "Investment activity" means any activity conducted personally or through a company, which, as a rule, leads to the achievement of at least one of the following situations within the national territory and for a minimum period of five years:

Capital transfers in the amount equal or superior to Euro 1, 5 million;

ii) Creation of at least 10 jobs;

iii) Acquisition of immovable property with a value equal to or higher than EUR 500,000;

iv) Acquisition of real estate, whose construction has been concluded at least 30 years ago or located in an area of urban rehabilitation and carrying out rehabilitation works on the acquired real estate, for a total amount equal to or higher than EUR 350, 000;

v) Capital transfers in an amount equal to or higher than (Euro) 500, 000, which are applied in research activities developed by public or private scientific research institutions, integrated in the national scientific and technological system;

vi) Capital transfers in an amount equal to or exceeding (Euro) 250, 000, which are applied in investment or support of artistic production, recovery or maintenance of national cultural heritage, through central and peripheral direct administration services, public institutes, entities that integrate the public business sector, public foundations, private foundations with public utility status, intercommunal entities, entities that integrate the local business sector, municipal associative entities and public cultural associations, which carry out attributions in the area of artistic production, recovery or maintenance of national cultural heritage;

vii) Capital transfers in the amount equal to or greater than (Euro) 500, 000, aimed at the acquisition of investment units in investment funds or venture capital funds focused on the capitalization of companies, which are incorporated under the Portuguese legislation, whose maturity, at the time of the investment, is of at least five years and at least 60% of the value of the investments is made in commercial companies based in national territory;

viii) Capital transfers in an amount equal to or higher than (Euro) 500, 000, aimed at incorporation of a commercial company with registered office in national territory, combined with the creation of five permanent jobs, or to increase the share capital of a commercial company with registered office in national territory, already existing, with the creation or maintenance of jobs, with a minimum of five permanent jobs, and for a minimum period of three years;

(e) 'EU Blue Card' means the residence permit entitling a third-country national to reside and to exercise, on national territory, a highly qualified subordinate professional activity;

(f) "Research Centre" means any type of public or private organisation or public or private research and development unit that carries out research and is officially recognised;

(g) "particularly exploitative working conditions" means working conditions, including those resulting from gender-based or other discrimination, which are manifestly disproportionate to those applicable to legally employed workers and which, for example, are likely to affect workers' health and safety or to be contrary to human dignity;

(h) "Implementing Convention" means the Convention implementing the Schengen Agreement of 14 June 1985, signed at Schengen on 19 June 1990;

(i) "forced expulsion decision" means an administrative act recording the illegal situation of (i) "forced expulsion decision" means an administrative act recording the illegal situation of a third-country national and ordering his or her departure from national territory;

(j) "educational establishment" means an officially recognised educational establishment whose courses of study are recognised and which participates in a pupil exchange scheme or educational project for the purposes set out in Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016;

(k) "third State" means any State which is neither a member of the European Union nor a party to the Implementing Convention or where the Convention is not in force;

l) "Trainee" means a third-country national holding a higher education diploma or studying in a third country leading to a higher education diploma who has been admitted to the national territory to follow an unremunerated training programme in a professional context in accordance with the applicable legislation;

(m) "student" means a third-country national accepted by a higher education institution to follow as his/her main activity a full-time course of study leading to a recognised degree or diploma, certificate or doctorate, which may include a preparatory course for such studies or compulsory training as part of the study programme;

n) "school pupil" means a third-country national admitted to the national territory to follow a recognised education programme at levels 2 and 3 of the International Standard Classification of Education, in the context of a pupil exchange scheme or by means of individual admission to an educational project carried out by a recognised educational establishment;

o) "external borders" means borders with third countries, airports for flights from or to the territories of the States not bound by the Convention and seaports, except for connections within Portugal and regular ferry connections between States parties to the Implementing Convention;

(p) "internal borders" means common land borders with the States Parties to the Convention, airports for flights exclusively from or directly to the territories of the States Parties to the Convention and seaports for regular ferry connections exclusively from or to other ports in the territories of the States Parties to the Convention, without calling at any ports outside those territories;

q) "Researcher" means a third-country national holding a doctoral degree or an appropriate higher education qualification giving access to doctoral programmes, who is admitted by a research centre or higher education institution to carry out a research project which normally requires the said qualification;

(r) "Voluntary service scheme" means a programme of activities of practical solidarity based on a scheme recognised by the competent authorities or by the European Union, pursuing objectives of general interest, in a non-profit-making cause and whose activities are unpaid, except for the reimbursement of expenses and/or pocket money, including voluntary activities within the framework of the European Voluntary Service;

(s) "International protection" means the recognition by a Member State of a third country national or a stateless person having refugee or subsidiary protection status;

(t) "Higher professional qualifications" means qualifications attested by a diploma of higher education or a minimum of five years' professional experience of a level comparable to higher education qualifications which is relevant in the profession or sector specified in the work contract or promise of work contract;

u) "Return" is the return of a third country national to the country of origin or provenance, because of an expulsion decision or under community or bilateral readmission agreements or other Conventions, or even to another third country of the foreign citizen's choice and in which he/she is accepted;

v) "Legal resident" is a foreign citizen holding a residence permit in Portugal valid for one year or more;

w) "Company" means companies under civil or commercial law; including cooperative societies, and other legal persons governed by public or private law, save for those, which are non-profit-making;

(x) "Residence permit" means the document issued in accordance with the rules and uniform model (x) "Residence permit" means the document issued according to the uniform rules and format in force in the European Union to a third-country national holding a residence permit;

(y) "Airport transit" means the passage, for the purposes of removal by air of the third-country national and, if necessary, his escort through the airport;

(z) "Carrier" means any natural or legal person whose occupation it is to provide passenger transport services aa) "International zone of the port or airport" is the zone between the embarkation and disembarkation points and the place where the documentary control points of persons are installed; bb) "Space equivalent to a temporary installation centre" is the specific space created in the international zone of a Portuguese airport for the installation of passengers not admitted in national territory and awaiting reembarkation; cc) "Seasonal worker" is a third-country national who resides mainly outside Portugal and stays legally and temporarily in national territory to do seasonal work, under a fixed-term employment contract concluded directly with an employer established in Portugal; dd) "seasonal work" means a seasonally dependent activity, namely an activity that is linked to a certain period of the year by a recurring event or a pattern of events associated with seasonal conditions, during which there is a significant increase in the manpower needed for the usual tasks; ee) "short-stay visa for seasonal work" means a visa issued pursuant to Article 51a in accordance with Article 2(2)(a) of the Community Code on Visas authorizing its holder to stay on national territory for the purpose of carrying out a seasonally dependent activity. (ee) "seasonal short-stay visa" means the visa issued under Article 51a, in accordance with Article 2(2)(a) of the Community Code on Visas, authorizing its holder to stay in national territory for activities linked to the seasons of the year for a period of 90 days or less; ff) "Long-stay visa for seasonal work" the temporary stay visa issued under the terms of article 56-A, which authorizes its holder to stay in national territory to exercise an activity dependent on the seasons for a period exceeding 90 days gg) "intra-corporate transfer" means the temporary secondment of a third-country national, who is bound by an employment contract to a company established outside Portugal and resides there, to exercise a professional or training activity in a host company established in Portugal and belonging to the same company or group of companies, as well as the mobility of workers transferred from a host company established in another Member State to a host company established in Portugal; hh) "Intra-corporate transferee" means a third-country national residing

outside national territory who requests an intra-corporate transfer under the terms of the previous sub-paragraph in one of the following capacities:

i) "Manager" means a worker with senior management status whose main function is the management of the host entity for intra-corporate transfer, under the supervision or general guidance of the board of directors, its shareholders or equivalent body, and who exercises the direction of the entity itself or of its departments or divisions, the supervision and control of the work of other workers with supervisory, technical or managerial functions and administers staff;

ii) "Specialist" means a highly qualified worker, who may be registered as a member of a regulated profession, with specialised knowledge and appropriate professional experience essential to the specific fields of activity, techniques or management of the host entity (ii) "Specialist" means a highly qualified worker, possibly registered as a member of a regulated profession, with specialist knowledge and appropriate professional experience essential to the specific areas of activity, techniques or management of the host entity (iii) "trainee employee" is the holder of a higher education degree transferred to the host entity, in order to advance in his/her career or to acquire training in techniques or business methods, remunerated during the period of transfer;

(ii) "host undertaking" means an entity established in national territory, in accordance with national law, to which the worker is transferred in the framework of an intra-corporate transfer;

(jj) "Intra-corporate transferee residence permit" means the residence permit entitling its holder to reside and work in national territory, also referred to as an "ICT residence permit";

kk) "Long-term mobility residence permit" the residence permit entitling the intra-corporate transferee by mobility conferred by another member state, to reside and work in national territory for a period exceeding 90 days, also called "mobile ICT residence permit";

(ll) "Group of undertakings" means two or more undertakings that are recognised under national law as interconnected because of the existence of a corporate relationship of reciprocal holdings, control or group relationship between them, in accordance with Article 3(l) of Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 Council of 15 May 2014;

mm) "Volunteer" means a third-country national admitted to the national territory in order to participate in a voluntary service scheme;

(nn) "Education project" means a set of educational activities undertaken by an educational establishment in cooperation with similar authorities in a third State with a view to sharing knowledge and cultures;

(oo) "Research" means creative work undertaken on a systematic basis in order to increase knowledge, including knowledge of man, culture and society, and the use of such knowledge for new applications;

(qq) "Hosting entity" means a research centre, higher education institution, teaching institution, organisation responsible for a voluntary service scheme or entity hosting volunteers, located on national territory, to which the third-country national is assigned under the terms of this law, irrespective of its legal form or designation;

rr) "Higher education institution" means an officially recognized higher education institution which offers recognised tertiary education degrees or diplomas, from the first to the third cycle

of higher education, whatever such institution may be called, or an officially recognized institution providing vocational education or training at tertiary level;

ss) "Employer" means a natural or legal person for whom or under whose direction or supervision of which the work is carried out;

tt) "Hosting agreement" the contract or other document signed by the research centre or higher education institution and the researcher, in which the title, object or area of the research, the starting and ending date or expected duration and, if foreseeable, information about the possible mobility in other Member States of the European Union and, if the researcher stays illegally in the national territory, the obligation of the centre or institution to reimburse the State for his/her stay and removal costs;

(uu) 'vocational training establishment' means a public or private establishment which is officially recognised and whose training programmes are open to the public or private sector;

2 - The amount or minimum quantitative requirement of the investment activities set out in subparagraphs (d) (ii) to (vi) of the preceding number may be lower by 20% when the activities are carried out in low density territories.

3 - For the purposes of the preceding paragraph, territories of low density are considered those at level III of the Nomenclature of Territorial Units for Statistics (NUTS III) with fewer than 100 inhabitants per km² or a per capita Gross Domestic Product (GDP) of less than 75% of the national average.

4 - Properties acquired under the terms set forth in sub-paragraphs iii) and iv) of paragraph d) of no. 1 that are intended for residential purposes only allow access to this regime if they are located in the Autonomous Regions of the Azores and Madeira or in the inland territories identified in the annex to Ministerial Order no. 208/2017, of 13 July.

Article 4

Scope

1 - The provisions of this law shall apply to foreign citizens and stateless persons.

2 - Without prejudice to its subsidiary application and express reference to the contrary, the present law shall not be applicable to:

(a) Nationals of a member State of the European Union, a State party to the European Economic Area or a third State with which the European Union has concluded a free movement of persons agreement;

b) third-country nationals residing in the national territory as refugees, beneficiaries of subsidiary protection under asylum regulations or beneficiaries of temporary protection;

c) Third country nationals who are members of the family of a Portuguese citizen or of a foreign citizen covered by the previous sub-paragraphs.

Article 5

Special schemes

1 - The provisions of this law do not prejudice the special regimes contained in:

- a) Bilateral or multilateral agreements concluded between the European Union or the European Union and its Member States, on the one hand, and one or more third States, on the other hand;
- b) International conventions to which Portugal is a party or to which it is bound, especially those signed or to be signed bilaterally with Portuguese-speaking countries or within the framework of the Community of Portuguese-Speaking Countries;
- c) Mobility agreements signed between Portugal and third countries;
- d) Protocols and Memoranda of Understanding concluded between Portugal and third States.

2 - The provisions of this law shall not affect the obligations arising from the Convention Relating to the Status of Refugees, adopted in Geneva on 28 July 1951, as amended by the Additional Protocol to the Convention Relating to the Status of Refugees, adopted in New York on 31 January 1967, from international conventions on human rights and from international conventions on the extradition of persons to which Portugal is a party or to which it is bound.

CHAPTER II

Entry into and exit from the national territory

SECTION I

Crossing at the border

Article 6

Border checks

1 - Entry into and exit from Portuguese territory shall take place at border crossing points qualified for the purpose and during their opening hours, without prejudice to the provisions of the Convention.

2 - Individuals entering or leaving the national territory shall be subject to checks at border posts whenever they are coming from or going to States that are not party to the Convention.

3 - The provisions of the preceding paragraph also apply to individuals using an internal section of a flight with origin or destination in States that are not Party to the Convention.

4 - Border control may be carried out on board ships in navigation, upon request by the ship's captain or the shipping agent and payment of a fee.

5 - Once the exit control of a ship or vessel has been carried out, the Foreigners and Border Service, hereinafter referred to as SEF, shall issue the respective exit document, the lack of which shall constitute an impediment to the vessel leaving the port.

6 - For reasons of public policy and national security, documentary checks at internal borders may be reinstated exceptionally, for a limited period, after consultation with the other States party to the Schengen Agreement.

Article 7

International port area

1 - The international zone of ports coincides in the area of jurisdiction of the port administration with the areas of fenced quay and in the areas of free quay with the embarkation and disembarkation points.

2 - The international zone of ports also comprises the facilities of SEF.

Article 8

Access to the international zone of ports and airports

1 - Access to the international zone of airports, during stopovers or transfers of international connections, by foreign citizens subject to the requirement of a stopover visa, under the terms of this law, shall be conditional upon their holding a visa.

2 - The international area of the port has restricted access and is conditional upon authorization from SEF.

3 - Access authorisations to the international area of the port may be granted by the person in charge of the maritime border post for certain purposes, namely for visiting or providing services on board.

4 - A fee shall be charged for the issuance of authorisations to access the international area of the port and to board vessels.

5 - At maritime border, crossings shore leave may be granted to ship crewmembers and ship passengers for the period they remain in the port.

6 - The license allows the beneficiary to circulate within the area contiguous to the port and is granted by SEF upon request by the shipping agents accompanied by a statement of responsibility.

7 - Short-stay visas may be granted at maritime border crossings, under the terms provided for in the present law.

SECTION II

General conditions of entry

Article 9

Travel documents and documents replacing them

1 - To enter or leave Portuguese territory, foreign citizens must carry a travel document recognised as valid.

2 - The validity of the travel document must be greater than the duration of the stay, except in the case of re-entry of a foreign citizen residing in the country.

3 - Foreign citizens may also enter or leave the country if:

a) Are nationals of States with which Portugal has international conventions allowing them to enter the country with their identity card or equivalent document;

b) Are covered by the relevant conventions between the States parties to the North Atlantic Treaty;

- c) Are in possession of a laissez-passer issued by the authorities of the State of which they are a national or the State representing them;
- d) Hold a pilot's licence or a crew member certificate as provided for in Annexes 1 and 9 to the Convention on International Civil Aviation, or other documents in lieu thereof, while on duty;
- e) Are holders of a seafarers' identity document as referred to in Convention No. 108 of the International Labour Organization, when on service;
- f) Are nationals of States with which Portugal has international conventions allowing them to enter only with their seaman's registration book, when on service;

4 - The laissez-passer provided for in subparagraph c) of the preceding number is only valid for transit and, when issued in Portuguese territory, only allows for exit from the Country.

5 - Nationals of States with which Portugal has international conventions to this effect may also enter or leave the country with expired passports.

6 - Foreign citizens holding a laissez-passer or travel document for the forced removal or judicial expulsion of a third-country national may also leave Portuguese territory.

Article 10

Entry visa

1 - To enter national territory, foreign citizens must also hold a valid visa appropriate to the purpose of the travel granted under the terms of this law or by the competent authorities of the States Parties to the Convention.

2 - The visa entitles its holder to present himself at a border post and request entry into the Country.

3 - However, they may enter the Country without a visa:

a) Foreign citizens holding a residence title, extension of stay or with the identity card provided for in no. 2 of article 87, when valid;

b) Foreign citizens who benefit from this faculty under the terms of the special regimes contained in the instruments referred to in Article 5(1);

4 - A visa may be annulled by the issuing entity, in foreign territory, or by SEF, in national territory or at border posts, when the holder is the subject of an alert for the purpose of return or an alert for the purpose of refusing entry and stay in the Schengen Information System (SIS), in the SEF's Integrated Information System, or makes false statements in the visa application.

5 - SEF's annulment of visas under the terms of the previous number must be immediately communicated to the issuing entity.

6 - The High Commissioner for Migrations, I. P. (ACM, I. P.) and the Council for Migrations, hereinafter referred to as the Advisory Council, shall be informed electronically of the annulment decision, indicating the respective grounds. (ACM, I. P.), and to the Migrations Council, hereinafter referred to as the Advisory Council, with an indication of the respective grounds.

Article 11

Means of subsistence

1 - The entry into the Country of foreign citizens, who do not either have sufficient means of subsistence, for the period of stay or for the journey to the country into which their admission is guaranteed, or who are not in conditions to legally acquire such means, shall not be allowed.

2 - For the purposes of entry and stay, foreigners shall have, in means of payment, per capita, the amounts fixed by order of the members of the Government responsible for the areas of internal administration, employment and social security, which may be waived for those who prove that their board and lodging are ensured during their stay.

3 - The amounts fixed under the terms of the preceding number shall be automatically updated according to the percentages of increase of the highest national minimum remuneration.

Article 12

Term of responsibility

1 - For the purposes provided for in the previous article, as an alternative, the third-country national may present a statement of responsibility signed by a national or foreign citizen who is authorised to stay legally in Portuguese territory.

2 - Acceptance of the term of responsibility referred to in the previous number depends on proof of the financial capacity of the respective subscriber and obligatorily includes the commitment to ensure:

- a) The conditions of stay on national territory;
- b) The reimbursement of the costs of removal, in case of illegal stay.

3 - The provisions of the previous point do not exclude the liability of the entities referred to in articles 198 and 198-A, provided that the respective assumptions have been verified.

4 - The statement of responsibility shall constitute an enforceable title for the obligation provided for in subparagraph b) of paragraph 2.

5 - The model of the statement of responsibility is approved by an order of the National Director of SEF.

6 - SEF shall ensure the implementation of a system of recording and archiving the terms of responsibility presented, without prejudice to the applicable norms concerning the protection of personal data.

Article 13

Purpose and conditions of stay

Whenever deemed necessary to prove the purpose and conditions of stay, the border authority may require the alien to provide adequate proof.

SECTION III

Entry declaration and accommodation form

Article 14

Declaration of entry

1 - Foreign citizens entering the country through a border not subject to control, coming from another Member State, shall be obliged to declare that fact within three working days from the date of entry.

2 - The declaration of entry must be provided to SEF, under the terms to be defined by an ordinance of the member of the Government responsible for the area of internal administration.

3 - The provisions of the preceding numbers shall not apply to foreign citizens:

a) Residents or authorized to stay in the country for more than six months;

b) That, immediately after entering the Country, settle in hotel establishments or other type of accommodation where the provisions of number 1 of article 16 are applicable;

(c) Benefiting from the European Union regime or similar.

Article 15

Accommodation Bulletin

1 - The purpose of the accommodation bulletin is to enable the control of foreign citizens in the national territory.

2 - For each foreign citizen, including nationals of other Member-States of the European Union, an accommodation card is filled in and signed personally, the model for which is approved by an ordinance of the member of the Government responsible for the area of internal administration.

3 - The completion and personal signature of the forms by both spouses and accompanying minors, as well as by all members of a travel group, is not compulsory; this obligation may be fulfilled by one of the spouses or by a member of the said group.

4 - With the aim of simplifying the sending of accommodation bulletins, hotels and similar establishments must register with SEF as users of the Accommodation Bulletin Information System in order to be able to send the respective electronic communication in secure conditions.

5 - The bulletins and respective duplicates, as well as the substitute media referred to in the previous number, shall be kept for a period of one year counting from the day following the communication of the withdrawal.

Article 16

Notification of accommodation

1 - Companies operating hotels, complementary means of tourist accommodation or tourist complexes, as well as all those that provide, for consideration, accommodation to foreign citizens, are obliged to communicate it, within three working days, through an accommodation bulletin, to the SEF or, in localities where there is no SEF, to the National Republican Guard or the Public Security Police.

2 - After the foreign citizen has left the accommodation, the fact must be communicated, within the same period, to the entities mentioned in the previous number.

3 - The accommodation bulletins produced under the terms of paragraph 4 of the previous article shall be transmitted in a secure manner under the terms to be defined by an ordinance of the Government member responsible for the area of internal administration.

SECTION IV

Travel Documents

SUBSECTION I

Travel Documents issued by the Portuguese Authorities to Foreign Citizens

Article 17

Travel documents

1 - As autoridades portuguesas podem emitir os seguintes documentos de viagem a favor de cidadãos estrangeiros:

- a) Passport for foreigners;
- (b) Travel document for refugees;
- (c) Laissez-passer;
- d) Travel document for the forced removal or judicial expulsion of nationals of third States;
- e) Student travel list.

2 - Travel documents issued by Portuguese authorities in favour of foreign citizens are not proof of the nationality of the holder.

Article 18

Passports for Foreigners

The granting of passports for foreigners is subject to the provisions of separate legislation.

Article 19

Travel document for refugees

1 - Foreign citizens residing in the country as refugees, under the terms of the law regulating the right to asylum, as well as the refugees covered by the provisions of § 11 of the Annex to the Convention Relating to the Status of Refugees, adopted in Geneva on 28 July 1951, may obtain a travel document of the model to be approved by statutory order of the Government member responsible for the area of internal administration.

2 - The travel document for refugees is valid for a period of five years, subject to renewal linked to the eventual renewal of the residence permit.

3 - The travel document for refugees allows its holder to enter and leave the national territory, as well as the territory of other States that recognise it for that purpose.

4 - (Repealed.)

5 - The travel document for refugees may include a single person or holder and children or adopted children under the age of 10.

Article 20

Competence for granting the travel document for refugees

São competentes para a concessão do título de viagem para refugiados e respetiva prorrogação:

- a) On national territory, the national director of SEF, who may delegate;
- b) Abroad, the Portuguese consular or diplomatic authorities, with a favourable opinion from SEF.

Article 21

Issue and control of the travel document for refugees

- 1 - The competent authorities shall be responsible for issuing the travel document for refugees.
- 2 - SEF is responsible for the control and national registration of the travel documents issued.

Article 22

Conditions of validity of the travel document for refugees

- 1 - The conditions of validity, characteristics and control of authenticity of the travel document for refugees shall be subject to the rules established for the Portuguese electronic passport.
- 2 - (Repealed.)
- 3 - (Repealed.)
- 4 - (Repealed.)
- 5 - (Repealed.)

Article 23

Application for a refugee travel document

- The application for a travel document is formulated by the applicant.
- 2 - The application for a travel document for minors is formulated:
 - a) By either parent during the course of the marriage;
 - b) The parent who exercises parental responsibilities, under the terms of a court decision;
 - c) By whoever, in the absence of the parents, exercises parental responsibilities under the terms of the law;
- 3 - In the case of individuals declared to be interdicted or incapacitated, the request shall be formulated by whoever exercises guardianship or curatorship over them.
- 4 - In justified cases, the SEF national director may suppress the interventions provided for in paragraphs 2 and 3 by means of an order.

Article 24

Limitations on the use of the Refugee Travel Permit

A refugee who, using the travel document granted under the present law, has been in a country in respect of which he or she acquires any of the situations provided for in paragraphs 1 to 4 of section C of Article 1 of the Convention Relating to the Status of Refugees, adopted in Geneva on 28 July 1951, shall carry a travel document for that country.

Article 25

Misuse of a travel document for refugees

1 - The authorities shall seize the travel documents, which the refugee presented and forwarded to SEF in breach of the law.

2 - The acceptance of travel tickets whose identification elements of the mentioned individuals are not in conformity may be refused.

Article 26

Laissez-passer

1 – Laissez-passer may be granted to foreign citizens who, not residing in the country, demonstrate impossibility or difficulty in leaving Portuguese territory.

2 - In exceptional cases, arising from reasons of national interest or compliance with international obligations, laissez-passer may be issued to foreign citizens who, not residing in the Country, prove the impossibility of obtaining another travel document.

3 - The issuing of laissez-passer with the exclusive purpose of allowing the exit from the country falls under the competence of the SEF national director, with the faculty of delegation.

4 - The issue of laissez-passer with the exclusive purpose of allowing entry into the country is the responsibility of the Portuguese embassies and consular offices, subject to a favourable opinion from SEF.

5 - The model of the laissez-passer shall be approved by an ordinance of the Government member responsible for the area of internal administration.

Article 27

Travel document for the removal or expulsion of third-country nationals

1 - A third-country national who is the subject of a forced removal or judicial expulsion decision and who does not possess a travel document shall be issued a document for that purpose.

2 - The document provided for in the previous number is valid for a single journey.

3 - The model of the document shall be approved by an Executive Order of the member of the Government responsible for the area of internal administration.

SUBSECTION II

Travel documents issued by foreign authorities

Article 28

Control of travel documents

Non-resident foreign citizens holding travel documents issued in national territory by foreign diplomatic missions or consular posts must submit them, within three days of their date of issue, to SEF in order to be stamped.

SECTION V

Incoming and outgoing third-country national students

Article 29

Entry and stay of students residing in the European Union

1 - Students who are nationals of third countries residing in the territory of the other Member States of the European Union may enter and stay temporarily in national territory without a visa when travelling on a school trip organised by an officially recognised educational establishment.

2 - For the purposes of the previous number, students must:

- a) Be accompanied by a teacher from the educational establishment;
- b) Be included in the list of students participating in the trip issued by the respective institution, which contains their identification, as well as the purpose and circumstances of the trip;
- c) Have a valid travel document.

3 - The requirement set forth in subparagraph c) of the previous number shall be waived when the students are included in a list, duly authenticated by the competent authority of the Member State of provenance, containing the following elements:

- a) Recent photographs of the students;
- b) Confirmation of their resident status;
- c) Re-entry permit.

Article 30

Outgoing students resident in the Country

Students who are nationals of third countries residing in national territory may also go to other Member-States of the European Union, provided that the requirements of the previous article are met. SEF is responsible for the authentication of the list referred to in the same norm.

SECTION VI

Article 31

Entry and exit of minors and vulnerable adults prevented from travelling, or with an indication of prohibition to leave the territory.

1 - Without prejudice to forms of tourism or youth exchange, the competent authority shall refuse entry into the country to foreign citizens under the age of 18 when they are unaccompanied by the person exercising parental responsibilities or when in Portuguese territory there is no person who, duly authorized by the legal representative, is responsible for their stay.

2 - Save for exceptional and duly justified cases, foreign minors shall not be allowed to enter Portuguese territory when the person exercising parental responsibilities or the person to whom they have been formally entrusted are not admitted into the country.

3 - If the foreign minor is not admitted into Portuguese territory, the person to whom he/she has been entrusted shall also be refused entry.

4 - National minors or resident foreigners travelling unaccompanied by the person exercising parental responsibilities and not in possession of legally certified authorisation granted by that person shall be refused exit from Portuguese territory.

5 - Unaccompanied minors awaiting a decision on their admission into national territory or on their repatriation shall be granted all the material support and assistance necessary to satisfy their basic needs of food, hygiene, housing and medical assistance.

6 - Unaccompanied minors may only be returned to their country of origin or to a third country willing to receive them if it is guaranteed that adequate reception and assistance will be provided to them on arrival.

Article 31-A

Alerts regarding departure from the territory or prevention of travel

1 - Those who have been forbidden to leave national territory shall be refused exit from the country when such a restriction has been judicially decreed. The judicial decisions and other legally required information should be sent to SEF as a matter of urgency, for the purposes of creating an alert for a ban on leaving or leaving the country in the SEF's Integrated Information System and, whenever the Court so orders, to the National SIRENE Bureau for the purposes of entering an alert for a travel ban in the SIS, applicable to the territory of the other Member States of the European Union and of the States where the Implementing Convention is in force, in accordance with and for the purposes of Article 32 of Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018.

2 - The alerts on travel prohibitions to be entered in the SIS cover, in particular:

a) Missing adults, accompanied minors, convicted or compulsorily interned persons and particularly vulnerable victims of crime who are prevented from travelling for their own protection owing to a clear and concrete risk of being removed from or of leaving the national territory or that of the Member States of the European Union or of the signatories to the implementing Convention;

b) Runaway or missing minors who are beneficiaries of a promotion and protection process, with or without an applied measure or with a tutelary educational measure of internment applied;

c) Minors who are at concrete and manifest risk of imminent abduction by a parent, relative or guardian and must be prevented from travelling, without prejudice to the provisions for cases of non-parental abduction in the Protocol of the Child Abduction Alert System established under the Resolution of the Assembly of the Republic No. 39/2008 of 11 July;

(d) Minors who are at real and manifest risk of being removed from or leaving the national territory or the territory of the Member States of the European Union or;

of signatories to the Convention and become victims of trafficking in human beings, forced marriage, female genital mutilation or other forms of gender violence, terrorist offences or

being involved in such offences, or recruited or enlisted by armed groups or led to take an active part in hostilities.

3 - In the case of persons who are to be placed under protection or prevented from travelling for their own protection, when alerts are issued by another Member State, the body executing the alert shall immediately contact the judicial authority with territorial competence for the purpose of determining the measures to be adopted in conjunction with the National SIRENE Bureau and the authorities of the issuing Member State, in accordance with the provisions of Article 33 (2) and (3) of Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018.

4 - In exceptional situations, of manifest and well-founded urgency and impossibility of recourse in due time to the competent judicial authority, the alerts referred to in paragraphs 1 and 2 may also be issued by criminal police authorities or health authorities competent in the field, which shall immediately communicate them to the territorially competent judicial authority, for the purpose of judicial validation within a maximum of 48 hours for the alerts provided for in points (c), (d) and (e) of paragraph 1 of Article 32. They shall immediately transmit them to the territorially competent judicial authority for judicial validation within 48 hours for the alerts provided for in Article 32(1)(c), (d) and (e) of Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 and within 15 days for the alerts provided for in Article 32(1)(a) of that Regulation.

5 - The interdiction to leave the national territory concerning a minor enacted within the scope of a parental responsibilities regulation process or of promotion of his/her protection is in force until the modification of that judicial decision or as soon as he/she reaches the age of majority.

6 - When it is not possible to ensure timely jurisdictional protection of minors with regard to their departure from national territory, opposition to departure may take place, exceptionally and as an alert, by means of a statement communicated to SEF, by those who invoke and prove, under the terms foreseen in the Civil Code, legitimacy in safeguarding the integrity and interests of the minor.

7 - The indication of opposition to the exit referred to in the previous number shall be entered in the SEF Integrated Information System for a maximum period of 90 days if the interested parties obtain and send to SEF, within the first 30 days, a copy of the request for confirmation of the opposition in the scope of judicial proceedings, namely in civil tutelage or promotion and protection proceedings, so that it may assess the need for it in view of the interests of the minor, which is a condition for communicating the indication to the National SIRENE Bureau and for its entry in the SIS.

8 - The retention periods and the assessment of the need for the maintenance, extension or deletion of the indications referred to in this article shall be in accordance with the specific provisions laid down by the respective judicial authority, considered in accordance with the applicable legislation and with the limits provided for in Article 32 (5) to (7) and in Articles 53 and 55 of Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018.

9 - In the context of border control, the discovery of an alert issued by another Member State of the European Union concerning a travel ban shall result in the immediate execution of the

consultation procedures and measures referred to in Article 33 of Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018, with reception and return being assisted, where relevant, by the appropriate bodies taking into account the best interests of the minor and the well-being of the persons concerned by the alert.

SECTION VII

Refusal of entry and stay

Article 32

Refusal of entry

- Entry into Portuguese territory is refused to foreign citizens who:

- (a) Do not meet all the legal requirements for entry; or
- (b) Are persons for whom an alert has been issued for the purposes of refusing entry into and stay in the SIS; or
- c) They are indicated for the purposes of return or refusal of entry and stay in the SEF's Integrated Information System; or
- (d) Constitute a danger or serious threat to public policy, national security, public health or the international relations of Member States of the European Union, as well as of States where the Convention is in force.

2 - Refusal of entry on public health grounds may only be based on the diseases defined in the applicable instruments of the World Health Organisation or on other contagious infectious or parasitic diseases subject to protection measures in national territory.

3 - A third-country national may be required to undergo a medical examination in order to certify that he/she does not suffer from any of the diseases mentioned in the previous number, as well as to undergo the appropriate medical measures.

4 - Entry shall also be refused if an alert for return purposes existing in the SIS is discovered, accompanied by an entry ban, and may be authorised, after supplementary information has been exchanged with the Member State issuing the alert and the alert has been deleted, when the third-country national demonstrates that he/she left the territories of the Member States of the European Union and of the States where the Convention Implementing the Schengen Agreement is in force, in compliance with the respective return decision and that the period of the entry and stay ban has been served.

Article 33

Alert for refusing entry and stay

- Foreign nationals are indicated in the SEF's Integrated Information System for the purposes of refusing entry and stay:

- a) Those who have been the subject of a forced removal or judicial expulsion order from the country;
- b) Those who have returned to another country under a readmission agreement;

(c) In respect of whom there are strong indications that they have committed serious criminal offences.

(d) In respect of which there are strong indications that they intend to commit serious criminal offences or constitute a threat to public policy, national security or the international relations of a Member State of the European Union or of States where the Convention is applicable.

e) Who were driven to the border, pursuant to Article 147.

2 - Beneficiaries of support for voluntary return under the terms of article 139 are also indicated in the SEF Integrated Information System for the purposes of refusal of entry and stay, being the indication eliminated in the case foreseen in paragraph 3 of that provision.

3 - For the purposes of refusal of entry and stay, foreign citizens who have been convicted by a final sentence of a penalty involving deprivation of liberty of at least one year, even if the sentence has not been served, or who have suffered more than one conviction in the same penalty, even if its execution has been suspended, may be indicated.

4 - (Repealed.)

5 - (Repealed.)

6 - (Repealed.)

7 - (Repealed.)

Article 33 - A

Alerts for return and for refusal of entry and stay

1 - Expulsion or judicially enforced expulsion decisions, including, in the former case, those resulting from active readmission to third states, from conduct at the border under the terms of article 147 or from support for voluntary return under the terms of article 139, shall immediately give rise to an alert for the purposes of refusal of entry and stay in the SEF Integrated Information System and in the SIS. The registration of the date of its execution or of the fulfilment of the duty to return should always be ensured.

2 - For the purposes of the provisions of the preceding paragraph, the period of prohibition of entry and stay determined in the decision to deport or expel shall be counted from the effective date of execution of the return, with the departure of the person concerned.

3 - In removal procedures, in which a period for voluntary departure is determined according to Article 160(1), the removal decision shall result in an alert being entered in the SIS for the purpose of return. Any extensions or suspension of the procedure, namely due to the interposition of a judicial appeal, which obstructs its execution under the terms of this law, must be registered.

4 - In the situations foreseen in the previous number, when the exit is proven by the returnee, when SEF has knowledge of it by any means or by virtue of its communication by another Member State of the European Union or a State where the Convention is in force, the alert for the purpose of return is suppressed. In addition, if the expulsion decision is accompanied by a ban on entry, this is replaced by an alert for the purposes of refusing entry and stay in the SIS and SEF's Integrated Information System.

5 - Where entry into national territory is refused pursuant to Article 32(1)(d) and, after an assessment of the personal circumstances of the third-country national concerned, it is established that his or her presence constitutes a threat to public policy, public security or national security in accordance with the provisions of Article 24(2) of Regulation (EU) No Article 24(2) of Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018, an alert for the purpose of refusing entry and stay in the SEF Information System and SIS shall be issued, valid for a maximum period of 5 years.

6 - For the purposes of the provisions of the previous number, the specific period of time for interdiction of alerts for refusal of entry and stay and the situations that may constitute a threat to public order, public security or national security, in particular those involving foreign citizens who have circumvented or tried to circumvent the applicable rules on entry and stay, in national territory or in Member States of the European Union or in States where the Convention is in force, are determined by an Order of the National Director of SEF taking into account, namely, the provisions of paragraph h) of no. 1 of article 134 of the Code of Criminal Procedure. No. 1 of article 134.

Article 33 - B

Provisions common to alerts

1 - It is the competence of the SEF national director to indicate a foreign citizen in the SEF Integrated Information System or in the SIS for the purposes of return and refusal of entry and stay, with the power of delegation.

2 - Measures underlying alerts for the purposes of return and refusal of entry and stay, which are not dependent on time limits, defined under the terms of this law shall be periodically reviewed with a view to their maintenance or elimination.

3 - Measures that have not been judicially decreed and are subject to the time limits defined under the terms of this law may be reviewed at any time, at the initiative of the National Director of SEF and taking into account humanitarian reasons or reasons of national interest, with a view to their elimination.

4 - The introduction or maintenance of alerts on third-country nationals who have the right of free movement within the European Union or who are legally established in another State where the Convention is in force, as well as the procedures concerning consultations prior to the creation of an alert for return, refusal of entry and stay for a third-country national who holds a valid residence permit or long-stay visa in another Member State of the European Union, are subject to the following:

To the provisions of Articles 26 et seq. and 40 of Regulation (EU) 2018/1861 and 10 et seq. of Regulation (EU) 2018/1860, both of the European Parliament and of the Council, 28 November 2018, safeguarding the limits and guarantees provided for in Law 37/2006 of 9 August.

5 - In cases where the prior consultation procedure foreseen in the previous number results in the Member State maintaining the residence permit or long-stay visa, an alert may be created for the purpose of return or refusal of entry and stay in the SEF Integrated Information System.

Article 34

Seizure of travel documents

When the refusal of entry is based on the presentation of a false, falsified, alien or fraudulently obtained travel document, it shall be seized and forwarded to the competent national or foreign entity, in accordance with the applicable provisions.

Article 35

Verification of validity of documents

SEF may, in cases of doubt as to the authenticity of documents issued by the Portuguese authorities, access the information contained in the file, which enabled to issue the passport, identity card or other document used for crossing borders.

Article 36

Limits on refusal of entry

With the exception of the cases referred to in Article 33(1)(a), (c) and (d) and (3), entry may not be refused to foreign nationals who:

- a) They were born in Portuguese territory and habitually reside here;
- b) They have dependent minor children of Portuguese or foreign nationality, in the latter case with legal residence in Portugal, over whom they effectively exercise parental responsibilities and for whom they ensure the maintenance and education.

Article 37

Power to refuse entry

Refusal of entry into national territory is the responsibility of the SEF National Director, with the power to delegate.

Article 38

Decision and notification

1 - The decision to refuse entry is taken after hearing the foreign citizen, which for all purposes is equivalent to hearing the interested party, and is immediately communicated to the diplomatic or consular representation of his or her country of origin.

2 - The decision to refuse entry shall be notified to the interested party in a language he/she is presumably able to understand, stating the reasons for the decision and indicating the right to judicially appeal and the respective time limit.

3 - The carrier shall also be notified for the purposes of Article 41.

4 - Whenever it is not possible to effect the repatriation of the foreign citizen within 48 hours after the decision to refuse entry, the judge of the small criminal court in the respective area of jurisdiction, or the district court in the remaining areas of the country, shall be informed thereof,

in order to determine the maintenance of the foreign citizen in a temporary installation centre or similar space.

Article 39

Judicial review

The decision to refuse entry may be challenged in court, with returning effect only, before the administrative courts.

Article 40

Rights of Foreign Citizens not admitted

1 - During the stay in the international zone of the port or airport or in a temporary installation centre or similar space, foreign citizens who have been refused entry into Portuguese territory may communicate with the diplomatic or consular representation of their country or with any person of their choice;

They will also benefit from interpreter assistance and health care, including the presence of a doctor when needed and all the material support required to meet their basic needs.

2 - Foreign citizens who have been refused entry into national territory shall be guaranteed timely access to legal assistance by a lawyer at their own expense or, upon request, to legal protection, and Law 34/2004, of 29 July, in its current wording, shall apply, with the necessary adaptations, to the regime provided for the appointment of the defendant's legal counsel for urgent proceedings.

3 - For the purposes of the provisions of the preceding paragraph, the guarantee of legal assistance to foreign citizens who are not admitted may be the object of a protocol to be signed between the Ministry of Internal Administration, the Ministry of Justice and the Bar Association.

4 - Without prejudice to the protection granted by the asylum law, a citizen who is the object of a decision to refuse entry is also guaranteed observance, with the necessary adaptations, of the regime provided for in article 143.

CHAPTER III

Obligations of Carriers

Article 41

Carriers' liability

1 - A carrier who transports into Portuguese territory, by air, sea or land, a foreign citizen who does not meet the entry conditions, is obliged to promote his return, as soon as possible, to the point where he began to use the means of transport, or, in case of impossibility, to the country where the respective travel document was issued, or to any other place where his admission is guaranteed.

2 - Until re-boarding takes place, the passenger remains at the carrier's expense and is responsible for the payment of the fee corresponding to the passenger's stay at the temporary installation centre or similar space.

3 - Whenever justified, foreign citizens who do not fulfil the conditions for entry shall be removed from Portuguese territory under escort, which shall be provided by SEF.

4 - The carrier shall be responsible for any expenses arising from the use of the escort, including the payment of the respective fee.

5 - The provisions of the previous numbers are also applicable in the case of refusal of entry of a foreign citizen in transit when:

a) The carrier who was supposed to take you to the country of destination refuses to take you on board;

b) The authorities of the State of destination have refused him/her entry and have sent him/her back to Portuguese territory.

Article 42

Transmission of data

1 - Carriers providing passenger air transport services are obliged to transmit, until the end of boarding check-in and at the request of SEF, information concerning the passengers they carry to a border post through which they enter national territory.

2 - The information referred to in the previous paragraph includes:

a) The number, type, date of issue and validity of the travel document used;

b) The nationality;

c) Full name;

d) Date of birth;

e) The border crossing point of entry into the national territory;

f) The transport code;

g) The departure and arrival time of the transportation;;

(h) The total number of passengers carried on this transport;

(i) The initial point of embarkation.

3 - The transmission of data referred to in this article does not exempt carriers from the obligations and responsibilities set out in the previous article.

4 - Ship-owners or the shipping agents that represent them, as well as the captains of fishing vessels navigating in international waters, submit to SEF the list of crew members and passengers, without erasures, amendments or alterations to the elements registered therein, and report the presence of stowaway on board, forty-eight hours before arrival and up to two hours before the vessel leaves a national port.

Article 43

Data processing

1 - The data referred to in the previous article are collected by the carriers and transmitted electronically or, in case of failure, by any other appropriate means, to SEF, in order to facilitate the execution of controls at the authorised border crossing point of the passenger's entry into the national territory.

2 - SEF keeps the data in a temporary file.

3 - After the passengers have entered, the authority referred to in the previous number shall delete the data within 24 hours of its transmission, unless it is necessary for the exercise of the legal functions of the authorities responsible for passenger control at external borders under the terms of the law and in accordance with the law on the protection of natural persons with regard to the processing of personal data and the free movement of such data.

4 - Within 24 hours after the arrival of the means of transport, the carriers shall eliminate the personal data collected by them and transmitted to SEF.

5 - Without prejudice to the provisions of the law on the protection of individuals with regard to the processing of personal data and the free movement of such data, the data referred to in the preceding article may be used for the purposes of implementing legal provisions on public security and public order.

Article 44

Passenger information

1 - For the purpose of applying Article 42, carriers at the time of collecting the data shall provide the following information to the passengers concerned:

a) Identity of the controller;

b) The purposes of the processing for which the data is intended;

c) any further information, having regard to the specific circumstances in which the data are collected, necessary to guarantee fair processing in respect of the data subject, such as the recipients or categories of recipients of the data, the obligation to reply as well as the possible consequences of failure to reply and the existence of the right of access to and the right to rectify the data concerning him or her.

2 - Where the data have not been obtained from the data subject, the controller or his representative shall provide the data subject at the time when the data are recorded or at the latest when the data are first communicated, the information referred to in the previous paragraph.

CHAPTER IV

Visas

SECTION I

Visas issued abroad

Article 45

Types of visas issued abroad

The following types of visas may be issued abroad:

- a) Airport transit visa;
- b) (Repealed.)
- c) Short-stay visa;
- d) Temporary stay visa;
- e) Visa to obtain a residence permit, hereinafter referred to as a residence visa;
- f) Visa for seeking work;

Article 46

Territorial validity of visas

1 - Airport transit visas and short-stay visas may be valid for one or more States Parties to the Implementing Convention.

2 - Temporary stay, residence and work search visas are valid only for Portuguese territory.

Article 47

Individual visa

1 - Individual visas shall be affixed to individual or family passports.

2 - (Repealed.)

3 - Visas granted abroad shall be granted on an individual basis.

4 - (Repealed.)

5 - (Repealed.)

Article 48

Competence to issue visas

1 - Are competent to grant visas:

a) Portuguese embassies and consular offices, in the case of airport transit visas or short-stay visas requested by holders of diplomatic, service, official and special passports or travel documents issued by international organisations;

b) The consular posts and consular sections, in the other cases.

2 - It is the responsibility of the entities referred to in the previous number to request opinions, information and other elements necessary for the instruction of the requests.

Article 49

Airport transit visas

1 - The purpose of the airport transit visa is to enable its holder, when using an international connection, to pass through an airport of a State party to the Convention.

2 - The holder of an airport transit visa only has access to the international zone of the airport and must continue the journey in the same or another aircraft, in accordance with the title of transport.

3 - Nationals of States identified in an order of the members of the Government responsible for the areas of internal administration and foreign affairs or holders of travel documents issued by those States shall be subject to an airport transit visa.

4 - The order under the preceding number shall establish the exceptions to the requirement of this type of visa.

Article 50

Transit visa

(Repealed.)

Article 51

Short-stay visas

1 - The purpose of the short stay visa is to enable its holder to enter Portuguese territory for purposes that, being accepted by the competent authorities, do not justify the granting of another type of visa, namely for transit, tourism and for visiting or accompanying family members who hold a temporary stay visa.

2 - Visas may be issued with a period of validity of one year and for one or more entries, whereby the duration of an uninterrupted stay or the total duration of successive stays shall not exceed 90 days in every 180 days counted from the date of the first crossing of an external border.

3 - (Repealed.)

Article 51-A

Short-stay visa for seasonal work for a period of 90 days or less

1 - A short-stay visa for seasonal work for a period of 90 days or less shall be issued to a third-country national who, without prejudice to Article 52, fulfils the following conditions:

a) Is the holder of an employment contract or promise of employment contract valid for seasonal work, concluded with a temporary work company or employer established in national territory, which identifies the place, time and type of work, as well as its duration, the remuneration to be received and the duration of paid leave to which he is entitled;

b) Has adequate protection in the event of illness, in the same way as nationals, or health insurance, when there are periods in which they do not benefit from this type of coverage, or from benefits corresponding to the professional exercise or as a result of the work to be carried out, as well as occupational accident insurance provided by the employer;

c) Has decent accommodation, through a rental contract or equivalent, which may also be provided by the employer under the terms of paragraphs 3 and 4 of article 56-D;

d) In the case of a regulated profession, fulfils the conditions laid down in national legislation for the exercise of that profession;

e) Is the holder of a valid ticket ensuring his return to the country of origin;

2 - In the comments field of the visa sticker it must be stated that the visa is issued for the purpose of seasonal work.

3 - The short term visa for seasonal work authorises its holder to carry out seasonal work for a period of less than 90 days, and is valid as a work permit whenever its holder is exempt from having to obtain a visa to enter national territory.

4 - The refusal of a short stay visa for seasonal work is in accordance with the provisions of the Community Code on Visas.

5 - The member of the Government responsible for the employment area shall, after consultation with the social partners, establish the list of employment sectors where there is seasonal work as defined in subparagraph cc) of article 3, which shall be communicated to the European Commission.

Article 52

General conditions for issuing residence visas, temporary stay visas and short-stay visas

1 — Notwithstanding the special conditions for issuing visas provided for in this law or by international instruments or conventions to which Portugal is a party, residence visas, temporary stay visas and short-stay visas may only be issued to third-country nationals meeting the following conditions:

a) They are not subject to a removal order with an ensuing period of prohibition from entering Portuguese territory;

b) They are not classified as non-admissible in the Schengen Information System by any European Union Member State;

c) They are not classified as non-admissible in SEF Integrated Information System, pursuant to article 33;

d) They have adequate means of subsistence, as defined by order of the government members in charge of internal administration, welfare and social security;

e) They are in possession of a valid travel document;

f) They are in possession of travel insurance;

g) They have parental authorisation or an equivalent document, when the applicant is a minor, and is not accompanied by the individual exercising parental power or custody during the period of stay.

2 — The issuing of temporary stay and short-stay visas shall also require a valid return ticket.

3 — Residence visas and temporary stay visas shall be refused to third-country nationals convicted of a crime which, in Portugal, is punishable by deprivation of liberty of more than one year, even when the sentence has not been served or its enforcement has been suspended.

4 — Visas shall be refused to third-country nationals that may present a serious threat to public order, national security or defence, or public health.

5 — Whenever a visa is refused on the grounds provided for in (1) (b) and (1) (c), the applicant shall be notified of the option to request correction of any erroneous data.

6 — Applicants subject to an entry ban, issued by a state which is a party to or associated with the Implementing Convention of the Schengen Agreement, must be consulted in advance to take their interests into account, pursuant to article 25 of this Convention.

7 — For the purposes of (1) (d), for those applying for residence visas for the purpose of study, students exchange, research, professional traineeships or volunteer work, the financial means originating from a grant, scholarship, employment agreement, promissory employment agreement or liability form signed by the organisation in charge of the pupil exchange/volunteer programme or trainee host entity should be taken into account and assessed on an individual basis.

8 — Residence visas issued for study, pupil exchange, research or volunteer work shall contain a reference to "researcher", "higher education student", "secondary education student", "trainee" or "volunteer" in the comments area of the vignette.

9 - The decision to grant visas for residence or temporary stay to third-country nationals who are the subject of return alerts or for the purpose of refusing entry and stay is the responsibility of the Director-General of Consular Affairs and the Portuguese Communities.

Article 52 - A

Special conditions for issuing visas to nationals of member states of the Community of Portuguese-Speaking Countries

1 - When the visa applicant, regardless of his/her nature, is a national of a State, where the Agreement on Mobility between Member States of the Community of Portuguese-Speaking Countries celebrated in Luanda on 17 July 2021 (CPLP Agreement) is in force:

a) The prior opinion of the SEF is exempted;

(b) The services responsible for issuing the visa will consult directly and immediately the SIS databases;

c) The competent services may only refuse to issue a visa if there is an indication that the applicant is forbidden to enter and stay in the SIS and does not possess the authorisation provided for in paragraph 1(g) of the previous article.

2 - The issuance of the visa is automatically communicated to the SEF, for the purposes of the exercise of its competences in matters of internal security.

3 - The procedure provided for in this article may be extended to nationals of other States by means of international agreement.

Article 53

Formalities prior to issuing of visas

1 — A mandatory opinion from SEF shall be required prior to issuing a visa under the following circumstances:

- a) When residence and temporary stay visas are requested;
- b) When dictated by reasons of national interest, domestic security or preventing illegal immigration and associated crime.

2 — When the visa requests referred to in the above paragraph are given a negative opinion, whenever the applicant has been sentenced by a final ruling in Portugal to a prison sentence of more than one year, even when it has not been served, or has been sentenced more than once to the same penalty, even when its enforcement has been suspended.

3 — On duly justified urgent grounds, the prior consultation may be waived for residence visa requests for carrying out independent professional activity and temporary stay.

4 — The issuance of a visa shall require prior consultation of the Security Information Service when dictated by reasons of national security or compliance with agreed mechanisms under the EU Common Security and Defence Policy.

5 — SEF shall be responsible for requesting and obtaining opinions, information and other items needed from other entities to fulfil the provisions of this law regarding the issuance of residence and temporary stay visas.

6 — Opinions required to issue visas, when negative, shall be binding, and shall be issued within seven days for short-stay visas and 20 days for all other visas, after which time the lack of an opinion shall correspond to approval.

7 - In the cases provided for in the previous number, the competent services shall immediately communicate the grant of the visa to SEF.

8 - Without prejudice to the provisions of paragraph 1(b), the grant of a residence visa to attend a higher education study programme, does not require the prior opinion of SEF, if the applicant is admitted in a higher education institution in national territory.

9 - In the cases provided for in no. 2 above, the competent authority for the decision to refuse the visa is the consular authority.

SUB-SECTION I

Temporary stay visa

Article 54

Temporary stay visa

1 — The purpose of temporary stay visas is to allow entry and stay in Portuguese territory for less than one year for the following purposes:

- a) Medical treatment at official or officially recognised health establishments;

- b) Transfer of nationals from states belonging to the World Trade Organisation for the provision of services or for vocational training in Portuguese territory;
- c) Practice of independent professional activity in Portuguese territory;
- d) Carrying out scientific research at research centres, teaching at a higher education establishment or highly qualified activities for a period of less than one year in Portuguese territory;
- e) Participating in amateur athletic activity in Portuguese territory, certified by the respective federation, provided that the athletic team or association assumes responsibility for health care and accommodation;
- f) Stays in Portuguese territory for periods of more than three months, under duly justified exceptional circumstances, namely to attend an academic programme at an educational establishment, pupil exchange, non-remunerated professional traineeship or volunteer work, for one year or less, or for the purpose of fulfilling international commitments for the World Trade Organisation or commitments arising from international agreements and conventions to which Portugal is a party, within the scope of the freedom to provide services;
- g) Accompanying a family member undergoing medical treatment pursuant to (a);
- h) Accompanying a family member holding a temporary stay visa, except if the purpose of the visa is to carry out seasonal work, without prejudice to the family reunion regime provided for in this law;
- i) Exercise of a subordinate or independent professional activity, rendered, remotely to a natural or legal person with residence or head office outside national territory;
- j) Seasonal work for more than 90 days;
- k) Attendance of courses at an educational or vocational training establishment.

2 — Notwithstanding any special provision, temporary stay visas shall be granted for the duration of the stay, and shall be valid for multiple entries in Portuguese territory.

3 — The maximum time period for deciding on a temporary stay visa request shall be 30 days from its filing.

4 - The issuance of the temporary stay visa provided for in subparagraph i) of paragraph 1 requires proof of employment or service provision, as the case may be.

Article 55

Temporary stay visa for the transfer of workers

The granting of temporary stay visas to nationals from states belonging to the World Trade Organisation, transferred for the provision of services or for vocational training in Portuguese territory, shall depend on the following conditions:

- a) The transfer must be carried out between establishments of the same company or company group, with the establishment located in Portuguese territory providing the same services as those of the establishment from which the foreign citizen is being transferred;

b) The transfer must entail partners or workers subordinated, for at least one year, in the establishment located in another state belonging to the World Trade Organisation, included in one of the following categories:

i) Those who, having management powers, work in senior management positions at the company, effectively managing an establishment or department following general guidelines from the Board of Directors;

Article 56

Temporary stay visa for seasonal work exceeding 90 days

1 — Temporary stay visas for seasonal work exceeding 90 days shall be granted to third-country nationals who, notwithstanding article 52, meet the conditions laid out in article 51-A (1)(a) to (1)(d) and possess a valid travel document for the visa's validity period.

2 — The provisions of Article 51-A (5) shall apply to a temporary stay visa granted pursuant to this article.

3 — Temporary stay visas granted pursuant to this article shall be valid for the duration of the employment agreement, up to a maximum of 9 months per 12-month period;

4 — Temporary stay visas valid for less than 9 months may be extended to up to 9 months per 12-month period, pursuant to article 71-A.

5 — In the "comments" field of the visa's vignette, it should be noted that the visa is being issued for purposes of seasonal work.

Article 56-A

Refusal of request for temporary stay visa for seasonal work

1 — Requests for temporary stay visas for seasonal work shall be denied if:

a) The conditions for their issuance pursuant to (1) of the above article are not met;

b) The documents submitted have been obtained fraudulently, or are falsified or forged;

c) The employer is applied a penalty pursuant to articles 56-F, 185-A or 198-A;

d) The third-country national has not fulfilled his/her obligations from prior admission as a seasonal worker;

e) The employer has eliminated a permanent job position to create an opening for seasonal work in the 12 months immediately preceding the request.

f) The employer carries out no economic activities, or the employer's company has been wound up or is undergoing insolvency proceedings.

2 — Notwithstanding the provisions of the above paragraph, decisions to deny a request shall take the case's specific circumstances into account, namely the seasonal worker's interests, in accordance with the proportionality rule.

Article 56-B

Cancellation of short-stay or temporary stay visa for seasonal work

1 — Notwithstanding the provisions of article 70 and of the Visa Code regarding grounds for the cancellation or revocation of short-stay visas, short-stay or temporary stay visas for seasonal work may be cancelled if the third-country national remains in Portuguese territory for purposes other than those for which the stay was authorised, or under the circumstances provided for in article 56-A (1)(b) and (1)(c).

2 — Visa cancellation decisions shall be subject to article 56-A (2).

3 — In the event of cancellation pursuant to article 56-A (1)(c), the employer shall be responsible for the payment of any compensation resulting from the employment relationship with the seasonal worker, including the payment of remuneration and other entitlements pursuant to labour legislation.

Article 56-C

Procedural guarantees and processes

1 — Short-stay visa applications shall be governed by the Community Code on Visas.

2 — Applications for temporary stay visas for seasonal work must be submitted by third-country nationals at Portuguese consular posts and offices, in accordance with article 48 (1)(b), to be governed procedurally by the provisions of this article.

3 — Applications for short-stay and temporary stay visas for seasonal work must be accompanied by documents supporting the applicant's compliance with the conditions laid out in articles 51-A or 56.

4 — At the time of the application, information shall be provided to the applicant on entering and staying in Portuguese territory, together with the documentation legally required for this purpose and the associated rights, obligations and guarantees.

5 — If the information or documentation submitted by the applicant are incomplete or insufficient, the applicant's assessment shall be suspended, with a request for the necessary supplementary information or documents, which must be submitted within 10 days.

6 — Notwithstanding the provisions of the above paragraph, a decision shall be made within 30 days of the application's submission date.

7 — Third-country nationals admitted for the purposes of seasonal work in Portuguese territory, at least once in the past five years, who have complied with the provisions of this law with regard to entering and staying in Portuguese territory, shall benefit from a simplified procedure for the issuance of a new short-stay or temporary stay visa for seasonal work, namely exemption from submitting the documents referred to in article 51-A (1)(c) to (1)(e) and priority treatment of the application, with a decision made within 15 days.

8 — Decisions to refuse the issuance of a short-stay or temporary stay visa for seasonal work, together with extensions to stays, shall be notified to applicants in writing, specifying the justifying grounds, the right to judicial review, the competent court and the respective term.

9 — Decisions to cancel visas pursuant to article 56-B shall be notified to applicants in writing, specifying the justifying grounds, the right to judicial review and the respective term.

Article 56-D

Rights, equal treatment and accommodation

1 - The holder of a short-stay visa or of a visa for temporary stay for seasonal work has the right to enter and remain in the entire national territory and to exercise the labour activity specified in the respective visa or others, in one or successive employers.

2 - The holder of a short-stay visa or a temporary stay visa for seasonal work is ensured equal treatment with national workers in accordance with Article 83(2), as well as with regard to labour rights arising from the law or collective bargaining, including payment of outstanding remuneration, advisory services on seasonal work and vocational education and training.

3 - Whenever the employer or user of the work or activity provides seasonal workers with accommodation, whether in exchange for payment or free of charge, he must ensure that it complies with the health and safety standards in force and such accommodation must be the subject of a written contract or clauses in the employment contract stating the accommodation conditions.

4 - If the accommodation is provided for consideration by the employer or user of the work or activity, a rent proportional to the remuneration and conditions of the accommodation may be required, which may under no circumstances be deducted automatically from the remuneration received by the seasonal worker or exceed 20 % thereof.

Article 56-E

Inspections and protection of seasonal workers

1 — Notwithstanding the provisions of article 198-C, within the scope of its powers, SEF shall carry out assessments and inspections to gauge compliance with the scheme for the entry and stay of seasonal workers.

2 — The inspection department of the ministry in charge of labour shall, in cooperation with the SEF, carry out inspections aimed at preventing and penalising infringements with regard to the employment of seasonal workers, have access to the workplace for this purpose and, if authorised by the employee, access to the employee's accommodation.

3 — Seasonal workers shall benefit from the complaint procedure, support and representation pursuant to article 198-B.

Article 56-G

Statistics

1 — SEF shall be responsible for preparing statistics on the issuing, extension and cancellation of visas for seasonal workers, broken down by nationality, validity period and economic sector.

2 — The statistics referred to in the above paragraph shall correspond to the calendar year, and shall be provided to the Commission within six months of the end of each calendar year, pursuant to Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007.

Article 57

Temporary stay visa for research or highly qualified activities

Temporary stay visas may be granted to third-country nationals intending to carry out research activities, teaching activities at a higher education establishment or highly qualified activities for less than one year, provided that:

- a) They have been admitted to work at a research centre, recognised by the Ministry of Education and Science, namely through a promissory agreement or employment agreement, a proposal or agreement for the provision of services or a scientific research grant; or
- b) They have a promissory agreement or employment agreement, written proposal or agreement for the provision of services to carry out teaching activities at a higher education establishment or a highly qualified activity in Portuguese territory.

SUBSECTION II

Visa for work Seekers

Article 57-A

Work-seeker's visa

1 - The work search visa:

- a) Enables its holder to enter and remain in national territory for seeking work, subject to compliance with the requirements set out in Article 52;
- b) Authorises its holder to exercise dependent labour activity, until the expiration of the visa or until the granting of the residence permit;
- c) It is granted for a period of 120 days, extendable for another 60 days and allows an entry into Portugal.

2 - The work search visa integrates an appointment date in the services competent for the granting of residence permits, within the 120 days referred to in the previous number, grants the applicant, after the establishment and formalization of the employment relationship within that period, the right to apply for a residence permit, as long as he/she meets the general conditions for the granting of a temporary residence permit, under the terms of Article 77.

3 - At the end of the maximum limit of validity of a visa for seeking work without a labour relation having been established and the subsequent process of documentary regularisation having begun, the holder of the visa must leave the country and can only reapply for a new visa for this purpose one year after the expiry of the previous visa.

4 - The rules applicable to temporary stay visas, provided for in paragraphs b) of no. 1 and no. 2 of article 56-A, in paragraphs 1 and 2 of article 56-B and in articles 56-C to 56-G, shall apply, with the necessary adaptations, to holders of visas for seeking work who establish a labour relation within the validity period of the visa.

SUB-SECTION III

Residence visa

Article 58

Residence visa

1 — The purpose of the residence visa is to allow its holder to enter Portuguese territory to request residence authorisation.

2 — Residence visas shall be valid for two entries into Portuguese territory, allowing their holder to remain there for four months.

3 — Notwithstanding applicable specific conditions, the intended purpose for establishing residence shall be considered when assessing residence visa requests.

4 — Notwithstanding shorter time periods provided for by this law, decisions on residence visa requests shall be made within 60 days.

5 - The residence visa also has the purpose of accompanying family members of the applicant of a residence visa, within the meaning of no. 1 of article 99, and the applications may be made simultaneously.

6 - With the granting of the residence visa, a residence pre-authorisation is issued, containing information regarding the obtaining of the residence permit and the provisional attribution of the tax identification number, social security number and National Health Service number.

Article 59

Residence visa for carrying out employed professional activities

1 – (Repealed.)

2 - (Repealed.)

3 - (Repealed.)

4 — The Employment and Vocational Training Institute (Instituto do Emprego e da Formação Profissional, I. P.) and respective departments of each autonomous region shall maintain a constantly updated information system available to the public, via Internet, of the job opportunities referred to in (1), disclosing them on its own initiative or at the request of employers or immigrant associations recognised as representatives of immigrant communities by ACIDI, I. P., pursuant to the law.

5 — Residence visas for carrying out employed professional activities may be issued, up to the overall quota established pursuant to (2), for job offers not filled by the workers referred to in (1), to third-country nationals who meet the conditions of article 52, and who:

a) have an employment agreement or promissory employment agreement; or

b) have recognised skills, expertise or qualifications suited to one of the activities referred to in the above paragraph, and have an individualised expression of interest from an employer.

6 - (Repealed.)

7 - (Repealed.)

8 - (Repealed.)

9 - (Repealed.)

Article 60

Residence visa for carrying out independent professional activities or for immigrant entrepreneurs

1 — Visas to obtain residence authorisation to carry out independent professional activities may be issued to third-country nationals who:

- a) have an agreement or written proposal for a service provision agreement within the scope of liberal professions; and
- b) are qualified to carry out independent activities, whenever applicable.

2 — Residence visas shall be issued to immigrant entrepreneurs wishing to invest in Portugal, provided that:

- a) they have carried out investment transactions;
- b) they can prove their possession of available financial means in Portugal, including those from financing obtained from a Portuguese financial institution, and can demonstrate, by any means, their intent to carry out an investment transaction in Portuguese territory; or
- c) they develop an entrepreneurial undertaking, including the creation of an innovation-based company, belonging to an incubator certified pursuant to terms defined by order of the government members in charge of internal administration and the economy.

Article 61

Residence visa for teaching, highly qualified or cultural activities

1 — Notwithstanding the applicable "EU Blue Card" scheme provided for in article 121-A and following, residence visas shall be granted to third-country nationals to carry out teaching activities at an academic or vocational training institution, or highly qualified or cultural activities, provided that they meet the conditions of article 52 and possess:

- a) an employment agreement, promissory employment agreement or service provision agreement; or
- b) an invitation letter from an academic or vocational training institution; or
- c) a liability form from a company certified pursuant to the terms defined by order of the government members in charge of internal administration and the economy; or
- d) an invitation letter from a company or entity which carries out, in Portuguese territory, a cultural activity recognised by the government member in charge of culture as being of interest to the country, or defined as such by law; or
- e) an invitation letter issued by a research centre.

2 — (Repealed.)

3 — Decisions on applications for the visas referred to in this article shall be taken within 30 days.

4 — The provisions of article 59 shall not apply to the third-country nationals subject to this article.

Article 61-A

Residence visa for highly qualified activities carried out by employed workers

1 — Residence visas for carrying out highly qualified activities by employed workers shall be granted to third-country nationals who:

a) possess an employment agreement or promissory employment agreement valid for at least one year, with annual remuneration of at least 1.5 times the nation's average gross annual salary or three times the social support index (Indexante de Apoios Sociais/IAS);

b) in the case of regulated professions, hold higher professional qualifications, duly proven pursuant to the provisions of Law no. 9/2009 of 04 March, or a specific law concerning the recognition of professional qualifications, as needed to access and practice the profession specified in the employment agreement or promissory employment agreement;

c) in the case of unregulated professions, hold higher professional qualifications suited to the activity or sector specified in the employment agreement or promissory employment agreement.

2 — For the purposes of employment in professions belonging to major groups 1 and 2 of the International Standard Classification of Occupations (ISCO), indicated by Resolution of the Council of Ministers, with a prior opinion from the Standing Commission for Social Dialogue, as professions in particular need of third-country nationals, the salary threshold referred to in (1)(a) shall correspond to 1.2 times the nation's average gross salary, or twice the social support index.

3 — In the event of doubts with regard to the activity's applicability, and to verify the suitability of the third-country national's professional experience, the ministries in charge of employment, education and science shall issue an opinion prior to granting the visa.

Artigo 61-B

Residence Visa for the exercise of professional activity remotely provided outside the national territory

A residence visa is granted to employees and independent professionals for the exercise of professional activities remotely provided to individuals or legal persons with their domicile or head office outside national territory, and the employment relationship or provision of services must be demonstrated, as the case may be.

Article 62

Residence visa for research, study, secondary education student

Exchange, traineeships and volunteer work

1 — Researchers, higher education students, secondary education students, trainees and volunteers shall be issued residence visas to obtain a residence permit to carry out scientific research activities, attend a higher education academic programme, be part of a secondary education pupil exchange programme or a traineeship in Portuguese territory, provided that:

a) they meet the general conditions of article 52;

b) they have health insurance or the equivalent covering the duration of their stay.

c) they meet the special conditions laid out in this article.

2 — Researchers applying for a visa for research in Portuguese territory must have an employment or host agreement with the research centre or higher education institution, or have been admitted to a research centre or higher education institution, and have a research scholarship or grant, or submit a liability form signed by the research centre or higher education institution to guarantee their admission and cover the expenses of their stay.

3 — Researchers admitted to research centres or higher education institutions officially recognised pursuant to article 91-B shall be exempt from submitting the support documentation for the provisions of (1)(b) and (2), and the provisions of article 52 (1)(d) and (f) and (3).

4 — Higher education students meeting the conditions in article 3 (m) must prove that they meet the conditions for admission or have been accepted to a higher education institution to attend an academic programme, and have sufficient resources to do so.

5 — Higher education students admitted to a higher education institution approved pursuant to article 91 (5) and following shall be exempt from submitting the support documentation for the provisions of (1)(b) and the above paragraph, and the provisions of article 52 (1)(d) and (f).

6 — Secondary education students meeting the conditions of article 3 n) must prove that:

a) they are above the minimum age and below the maximum age established for this purpose by order of the government members in charge of internal administration and education;

b) they have been accepted at an educational establishment, with the option of being admitted under a pupil exchange programme, through an organisation recognised by the government member in charge of education, for this purpose or within the scope of an educational project;

c) during the time of their stay, they are hosted by a family or have accommodation at adequate facilities, within the educational establishment or otherwise, provided that they meet the conditions of the pupil exchange programme or educational project.

7 — Trainees meeting the conditions of article 3 (l) must prove they have been accepted as a trainee by a certified host entity, and submit an agreement for theoretical and practical training, in the field of the higher education diploma in their possession or study cycle which they attend, which must contain:

a) A description of the training programme, namely its academic goals or learning components;

b) Training duration and schedule;

c) Location and supervision of the traineeship;

d) Description of the legal relationship between the trainee and host entity;

e) Statement that the traineeship does not substitute a job position, and that the host organisation is responsible for reimbursing the State for the expenses of the stay and removal if the trainee stays illegally in Portuguese territory.

8 — In addition to the general conditions referred to in article 52, volunteers applying for visas to obtain residence permit to participate in a volunteer programme pursuant to (3)(r) must prove that:

a) They have an agreement with the host entity in charge of the volunteer programme, including a description of the volunteer programme's content, duration, schedule, conditions of supervision and guaranteed coverage of food and accommodation expenses, including a minimum sum for subsistence allowances or pocket money;

b) The host organisation has civil liability insurance, except for volunteers participating in the European Voluntary Service.

9 — For the purposes of issuing a residence visa pursuant to this article, the minimum means of subsistence in the order referred to in article 52 (1) may be waived in view of the circumstances of the specific case.

10 — The procedure for granting residence visas to the third-country nationals referred to in (1) participating in Community programmes promoting mobility to the European Union or Community of Portuguese Language Countries, or in their interest, shall be simplified, pursuant to terms to be defined in an order of the government members in charge of foreign affairs and internal administration.

11 — Residence visas shall also be granted to third-country nationals admitted to attend qualification level 4 or 5 courses in the National Qualifications Framework (NQF), or training courses taught by educational or vocational training establishments, provided that they meet the requirements in (1)(a) and (b).

Article 63

Higher education student mobility

1 — The mobility of higher education students residing in the territory of a European Union Member State wishing to attend part of an academic programme in Portugal, or supplement it with an academic programme taught by a higher education institution in Portuguese territory, shall be governed by the provisions of article 91-A, with no requirement for a residence visa for the purpose of entry and stay.

2 — (Repealed.)

Article 64

Residence visa for family reunification

Whenever, in the context of the instruction of an application for family reunion requested under the terms of paragraph 1 of article 98, SEF grants the request under the terms of this law, the applicant's family member shall be provided with a residence visa for reunion, in order to allow them to enter national territory.

Article 65

Communication and notification of approval of the application for reunification and family reunification

1 - For the purposes of the provisions of the previous article, SEF communicates the decision, together with the procedural documents already delivered to SEF, to the Directorate-General of

Consular Affairs and Portuguese Communities immediately and electronically, informing the interested party of the competent consular post of the deadlines and the manner in which the beneficiary of the reunion must obtain a visa.

2 - The competent consular post, upon receipt of the communication of the said decision, does not request documentation that is already contained in the file transmitted by SEF, and must only verify the regular identification of the family members to be regrouped.

3 - The residence visa shall be issued following the communication set forth in no. 1 and under the terms thereof, within 10 days after the application is submitted at the competent consular post.

4 - The issue of the residence visa provided for in the preceding number shall be accompanied by the automatic attribution of tax, social security, and National Health Service identification numbers.

5 - The communication referred to in paragraph 1 shall be valid as a compulsory prior opinion of SEF, when applicable, under the terms of article 53.

6 - Residence visas applied for at consular posts to accompany residence visa applicants under the terms of Article 58 (5) shall be granted after SEF's prior and simultaneous opinion, when applicable, under the terms of Article 53.

SECTION II

Visas granted at border posts

Article 66

Types of visas

The following types of visas may be granted at border posts:

- a) (Repealed.)
- b) Short-stay visa;
- c) Special visa.

Article 67

Short-stay visa

1 — At border posts subject to control, short-stay visas may be granted on an exceptional basis to foreign citizens who, for unforeseen reasons, are unable to request a visa from the competent authority, provided that the interested party:

- a) is the bearer of a valid travel document allowing passage across the border;
- b) meets the general conditions of article 11;
- c) is not included in the Schengen Information System or national list of non-admissible persons;
- d) does not represent a threat to public order, national security or the international relations of a European Union Member State;

e) is guaranteed travel to and admission from the country of origin or travel to the destination country.

2 — Short-stay visas issued pursuant to the above paragraph may only be granted for one entry, with a maximum validity of 15 days.

3 — The visas referred to in this article may be valid for one or more states who are parties to the Implementing Convention.

Article 68

Special visa

1 — For humanitarian reasons or reasons of national interest, recognised by order of the government member in charge of internal administration, special visas may be granted for entry and temporary stay in the country to foreign citizens not meeting the legal requirements for this purpose.

2 — The visa referred to in the above paragraph shall only be valid for Portuguese territory.

3 — The power referred to in (1) may be delegated to SEF National Director, with the power to sub-delegate.

4 — If a person admitted under the conditions referred to in the above paragraphs is included in the Schengen Information System, the admission shall be notified to the competent authorities of the other states which are parties to the Implementing Convention.

5 — The Ministry of Foreign Affairs shall be consulted, whenever possible, in the case of foreign citizens who are holders of a diplomatic, service, official or special passport or a travel document issued by an international organisation.

Article 69

Authority to issue visas at border posts

SEF National Director shall be responsible for issuing the visas referred to in this section, with the power to delegate.

SECTION III

Cancellation of visas

Article 70

Cancellation of visas

1 — Visas may be cancelled under the following circumstances:

- a) When the holder fails to meet the conditions for its issuance;
- b) When the visa has been issued based on the provision of false statements, the use of fraudulent means or the citing of reasons differing from those allowing its holder to enter the country;
- c) When its holder is subject to a removal order from Portuguese territory;

d) When its holder represents a hazard or serious threat to public order, national security or defence due to his/her involvement in activities related to terrorism, pursuant to the law.

2 — Residence and temporary stay visas may also be cancelled when their holder, without justifiable grounds, is absent from the country for 60 days during the visa's validity.

3 — The provisions of the above paragraphs shall also apply during the validity of extended stays granted pursuant to this law.

4 — Residence visas shall also be cancelled if the residence permit is refused.

5 — After the visa holder's entry into Portuguese territory, the government member in charge of internal administration shall be responsible for the visa cancellations referred to in the above paragraphs, with the option to delegate this power to SEF National Director, with the power to sub-delegate.

6 — The cancellation of visas pursuant to the above paragraph shall be notified electronically to the Directorate-General of Consular Affairs and Portuguese Communities.

7 — Diplomatic missions and consular posts shall be responsible for cancelling visas prior to the holder's arrival in Portuguese territory, with communication electronically to SEF.

CHAPTER V

Extension of stay

Article 71

Extension of stay

1 — Foreign citizens admitted to Portuguese territory pursuant to this law wishing to remain in the country beyond the initially authorised time period may be allowed an extension of stay.

2 — Extensions of stay granted to holders of transit and short-stay visas may be valid for one or more states which are parties to the Implementing Convention.

3 — Except on duly justified grounds, the extension referred to in (1) may be granted provided that the conditions allowing the foreign citizen's admission are upheld.

4 — Temporary stay visas for carrying out employed professional activities may only be extended if the applicant has an employment agreement pursuant to the law, and is covered by the National Health Service or has health insurance.

5 — Temporary stay visas for research or highly qualified activities may only be extended if the applicant has an employment agreement, service provision agreement or scientific research grant, and is covered by the National Health Service or has health insurance.

6 — Except on duly justified grounds, extensions of stay for holders of residence permit for carrying out employed professional activities, independent activities and research or highly qualified activities shall depend on upholding the conditions allowing the foreign citizen's initial admission.

7 - An extension of stay may be refused if the applicant is the subject of an alert for the purposes of return or for the purposes of refusal of entry and stay in the SEF's Integrated Information System or in the SIS.

8 - Within the scope of the provisions of the previous paragraph, whenever the applicant is the subject of an alert for return or a refusal of entry and stay issued by a Member State of the European Union or by a State where the Convention Implementing the Agreement is in force, he/she shall be consulted in advance and his/her interests shall be taken into consideration, in accordance with Article 27 of Regulation (EU) 2018/1861 or with Article 9 of Regulation (EU) 2018/1860, both of the European Parliament and of the Council, of 28 November 2018.

Article 71-A

Extension of stay for seasonal work

1 — Notwithstanding the relevant provisions of the Community Code on Visas, extensions of stay of up to nine months may be given to third-country nationals admitted in Portuguese territory pursuant to article 51-A wishing to remain in Portugal beyond the initially authorised time period.

2 — Extensions shall be granted provided that the conditions allowing the seasonal worker's admission are upheld, regardless of any change of employer, with a decision handed down within 30 days.

3 — Decisions on extensions of stay shall take the case's specific circumstances into account, namely the seasonal worker's interests, in accordance with the proportionality rule.

4 — While the extension request remains pending, the applicant may remain in Portuguese territory to carry out his/her seasonal work, benefiting from all associated rights until the final decision, provided that they are exercised in a timely manner.

Article 72

Limits to extension of stay

1 — Extensions of stay may be granted for:

a) up to five days, for holders of transit visas;

b) up to 60 days, for holders of special visas;

c) up to 90 days, for holders of residence visas;

d) up to 90 days, extendable for an additional time period, for holders of short-stay visas or those admitted to the country with no visa requirement;

e) up one year, for holders of temporary stay visas.

2 — In addition to the limits provided for in the above paragraph, extensions of stay may be granted while residence permit applications remain pending, and on duly justified grounds.

3 — Under exceptional circumstances occurring after legal entry in Portuguese territory, extensions of stay may be granted to the family members of temporary stay visa holders; in such cases, the extension of stay's validity and duration may not exceed those of the visa issued to the family member.

4 — Extensions of stay granted to citizens admitted to the country under visa waiver and to the holders of short-stay visas shall be limited to Portugal whenever the stay exceeds 90 days per six-month period, calculated from the date of initial passage from foreign borders.

5 — Notwithstanding the penalties provided for by this law, and except under exceptional circumstances, extension of stay requests will not be approved when submitted 30 days after the end of the authorised period of stay.

6 — Extensions of stay shall be granted in the form of an adhesive vignette using a template to be approved by order of the government member in charge of internal administration.

The decision on requests for extension of stay falls under the competence of the National Director of SEF with power to delegate except for requests concerning applicants subject to return alerts or refusal of entry and stay.

Article 73

Responsibility

SEF National Director shall be responsible for deciding on extension of stay applications, with the power to delegate except for requests concerning applicants subject to return alerts or refusal of entry and stay.

CHAPTER VI

Residence in Portuguese territory

SECTION I

General provisions

Article 74

Types of residence permits

1 — Residence permit falls under two types:

- a) Temporary residence permit;
- b) Permanent residence permit.

2 — Foreign citizens authorised to reside in Portuguese territory shall be issued a residence title.

Article 75

Temporary residence permit

1 - Notwithstanding applicable special legal provisions, temporary residence permit shall be valid for two years from the residence permit's issue date, renewable for consecutive three-year periods.

2 - When the applicant is under the CPLP Agreement and is the holder of a short-stay visa or has legal entry in national territory, he/she may request a temporary residence permit for more than 90 days and less than 1 year, renewable for an equal period.

3 - In the cases referred to in the previous number, for the purposes of issuing the temporary residence permit, the responsible services shall of their own motion consult the applicant's Portuguese criminal record.

4 - The residence permit, however, must be renewed whenever changes occur to its identification information.

Article 76

Permanent residence permit

1 — Permanent residence permit has no limit to its validity.

2 — The residence permit, however, must be renewed every five years, or whenever changes occur to its identification information.

3 — In the permit renewal request, holders shall be exempt from delivering any documents already found in the electronic workflow used by SEF.

Article 77

General terms for granting temporary residence permit

1 — Notwithstanding applicable special conditions, applicants must meet all of the following requirements to receive residence permit:

a) Possession of a valid residence visa, issued for one of the purposes provided for in this law for the granting of residence permit;

b) Non-existence of any facts which, if known by the competent authorities, would preclude the granting of a visa;

c) Presence in Portuguese territory;

d) Possession of means of subsistence, as defined in the order referred to in article 52 (1)(d);

e) Accommodation;

f) Enrolment in social security, whenever applicable;

g) Absence of any conviction for a crime which in Portugal would be punishable with the deprivation of liberty for more than one year;

h) Not being subject to prohibition from entering Portuguese territory, following a removal order from the country;

i) Absence of inclusion in the Schengen Information System;

j) Absence of inclusion in the SEF Integrated Information System for the purpose of non-admission, pursuant to article 33.

2 — Notwithstanding applicable special provisions, residence authorisation may be refused for reasons involving public order, public safety or public health.

3 — The refusal of residence permit based on reasons of public health may only be based on illnesses referred to in the applicable instruments of the World Health Organisation, or on other contagious parasitic or infectious diseases subject to protective measures in Portuguese territory.

4 — Residence permit applicants may be subject to a mandatory medical examination to verify that they do not suffer from any of the illnesses referred to in the above paragraph, together with the appropriate medical measures.

5 - Where the applicant is the subject of an alert for return or a refusal of entry and stay issued by a Member State of the European Union or where the Implementing Convention is in force, the applicant shall first be consulted in accordance with Article 27 of Regulation (EU) 2018/1861 or Article 9 of Regulation (EU) 2018/1860, both of the European Parliament and of the Council of 28 November 2018.

6 - For the purposes of the provisions set forth in the previous number, with the exception of cases in which the alert only refers to illegal stay for the period of stay authorised, the exceptional regime foreseen in article 123 shall apply. The final decision shall be instructed with a substantiated proposal that explains the interest of the Portuguese State in granting or maintaining the right of residence.

Article 78

Renewal of temporary residence permit

1 — Interested parties must request the renewal of temporary residence permit at least 30 days prior to its expiry.

2 — Residence permit shall only be renewed for third-country nationals who:

a) Have the means of subsistence as defined in the order referred to in article 52 (1)(d);

b) Have accommodation;

c) Have met their tax and social security obligations;

d) Have not been subject to any conviction or convictions, which, individually or cumulatively, surpass one year of prison, even when the sentence's enforcement has been suspended in the case of felonious crimes referred to in or related to this law, or crimes of terrorism, violent crimes or particularly violent or highly organised crimes.

3 — The renewal of residence permit may be refused for reasons of public order or public safety.

4 — The emergence of illness after the issuing of the first residence permit shall not constitute sufficient grounds for refusing renewal of the residence permit.

5 — Residence permit shall not be renewed for any foreign citizen declared contumacious, provided the citizen is unable to prove that this status has expired.

6 — In the event of an application rejection, a copy of the decision with the justifying grounds must be sent to ACIDI, I. P. and to the Migration Council.

7 — A receipt for the residence permit renewal request shall have the same effectiveness as a residence permit for a period of 60 days, subject to renewal.

8 —SEF may enter into agreements with local municipalities, and with agencies and departments of the autonomous regions, to facilitate and simplify the procedures for receiving and routing residence permit renewal requests and their respective titles.

Article 79

Renewal of residence permit in special cases

1 — Residence permits for foreign citizens serving a prison sentence may only be renewed provided that the respective holders have not been the subject of an expulsion measure.

2 — A residence permit renewal application which has expired shall not be subject to administrative proceedings if submitted within 30 days of the interested party's release.

Article 80

Permanent residence permit

1 — Notwithstanding the provisions of this law regarding the long-term resident status of third-country nationals, foreign citizens meeting all of the following conditions shall enjoy permanent residence permit:

a) Possession of a temporary residence permit for at least five years;

b) Absence, in the past five years of residence in Portuguese territory, of any conviction or convictions which, individually or cumulatively, surpass one year of prison, even when the sentence's enforcement has been suspended in the case of felonious crimes referred to in or related to this law, or crimes of terrorism, violent crimes or particularly violent or highly organised crimes;

c) Have the means of subsistence as defined in the order referred to in article 52 (1)(d);

d) Have accommodation;

e) Provide proof of basic knowledge of Portuguese.

2 — The period of residence prior to this law's entry into force shall apply for the purposes of the above paragraph.

Article 81

Application for a residence permit

1 — Residence permit may be applied by the interested party or by his/her legal representative, and must be submitted to SEF, notwithstanding to what is included in the special schemes in the instruments referred to in Article 5(1).

2 — The application may be extended to minors in the applicant's custody.

3 — While a residence permit application remains pending, for reasons not attributable to the applicant, the residence visa holder shall not be prohibited from practising a professional activity pursuant to the law.

4 — Residence permit applicants may simultaneously apply for family reunification.

5 - When the simultaneous application referred to in the previous number occurs within the scope of the submission of an expression of interest for the granting of a residence permit for the exercise of a professional activity, under the terms of the provisions of paragraphs 2 of articles 88 and 89, the applicant may identify the family members who are in national territory, who will benefit from the presumption of legal entry of the applicant, if applicable, under the terms of paragraph 6 of article 88 and paragraph 5 of article 89.

6 - For the purposes of the provisions in the previous number, applicants whose family household includes minors of school age or adult dependent children, in both cases attending an educational establishment in national territory, shall have preference in the presentation of applications for residence permits.

Article 82

Decision and notification

1 — Decisions on applications for a residence permit shall be made within 90 days.

2 — Decisions on applications to renew a residence permit shall be made within 60 days.

3 — If no decision is made within the time period referred to in the above paragraph, for reasons not attributable to the applicant, the request shall be considered approved, with immediate issuance of the residence permit.

4 — Decisions of rejection shall be notified to the interested party, specifying the justifying grounds, the right to judicial review and the respective term, with a copy sent to the Advisory Council.

Article 83

Rights of residence permit holders

1 — Notwithstanding applicable special provisions and other rights provided for by law or international conventions to which Portugal is a party, holders of residence permit shall be entitled, without need for special authorisation with regard to their foreigner status, to the following:

a) Education, teaching and vocational training, including subsidies and scholarships in accordance with applicable law;

b) Employment;

b) Self-employment;

d) Professional guidance, training, development and retraining;

e) Health care;

f) Access to law and the courts.

2 — Foreign citizens shall benefit from provisions ensuring equal treatment, namely with regard to social security, tax benefits, trade union memberships, recognition of diplomas, certificates and other professional titles and access to public goods and services, together with applicable provisions ensuring special rights.

Article 84

Identification document

The residence permit shall replace the identification document for all legal purposes, notwithstanding the scheme provided for in the Treaty of Friendship, Cooperation and Consultation between the Portuguese Republic and the Federative Republic of Brazil, signed in Porto Seguro on April 22nd 2000.

Artigo 85.º

Cancelamento da autorização de residência

1 — A autorização de residência é cancelada sempre que:

a) O seu titular tenha sido objeto de uma decisão de afastamento coercivo ou de uma decisão

de expulsão judicial do território nacional; ou

b) A autorização de residência tenha sido concedida com base em declarações falsas ou enganosas, documentos falsos ou falsificados, ou através da utilização de meios fraudulentos; ou

c) Em relação ao seu titular existam razões sérias para crer que cometeu atos criminosos graves ou existam indícios reais de que tenciona cometer atos dessa natureza, designadamente no território da União Europeia; ou

d) Por razões de ordem ou segurança públicas.

2 — Sem prejuízo da aplicação de disposições especiais, a autorização de residência pode igualmente ser cancelada quando o interessado, sem razões atendíveis, se ausente do País:

a) Sendo titular de uma autorização de residência temporária, seis meses consecutivos ou oito meses interpolados, no período total de validade da autorização;

b) Sendo titular de uma autorização de residência permanente, 24 meses seguidos ou, num período de 3 anos, 30 meses interpolados.

3 — A ausência para além dos limites previstos no número anterior deve ser justificada mediante pedido apresentado no SEF antes da saída do residente do território nacional ou, em casos excecionais, após a sua saída.

4 — Não é cancelada a autorização de residência aos cidadãos que estejam ausentes por períodos superiores aos previstos no n.º 2, quando comprovem que durante a sua ausência de território nacional desenvolveram atividade profissional ou empresarial ou de natureza cultural ou social.

5 — O cancelamento da autorização de residência deve ser notificado ao interessado e comunicado, por via eletrónica, ao ACM, I. P., e ao Conselho Consultivo com indicação dos fundamentos da decisão e implica a apreensão do correspondente título.

6 — É competente para o cancelamento o membro do Governo responsável pela área da administração interna, com a faculdade de delegação no diretor nacional do SEF.

7 — A decisão de cancelamento é suscetível de impugnação judicial, com efeito meramente devolutivo, perante os tribunais administrativos.

Article 85

Residence permit cancellation

1 — Residence permit shall be cancelled whenever:

- a) Its holder has been subject to a removal order or expulsion from Portuguese territory;
or
- b) The residence permit has been granted based on false or misleading statements, counterfeit or falsified documents, or through the use of fraudulent means; or
- c) There are reasons to believe that its holder has committed serious criminal acts, or there is actual evidence of the holder's intent to commit such acts, namely in the European Union territory; or
- d) For reasons of public order or security.

2 — Notwithstanding applicable special provisions, residence permit may also be cancelled if the interested party, without justifiable grounds, is absent from the country:

- a) six consecutive months or eight non-consecutive months, during the entire period of the authorisation's validity, in the case of temporary residence permit;
- b) 24 consecutive months, or 30 non-consecutive months in a three-year period, in the case of permanent residence permits.

3 — Absences preceding the limits in the above paragraph must be notified by means of a request to the SEF prior to the resident's exit from Portuguese territory or, in exceptional cases, after his/her exit.

4 — Residence permits shall not be cancelled for citizens who are absent beyond the limits referred to in (2) when they can prove that they were carrying out a professional or corporate activity, or an activity of a cultural or social nature, during their absence from Portuguese territory.

5 — Residence permit cancellations shall be notified to the interested party and electronically to ACIDI and to the Advisory Council, specifying the grounds for the decision, with corresponding seizure of the corresponding permit.

6 — The government member in charge of internal administration shall be responsible for cancellation, with the ability to delegate to SEF National Director.

7 — The cancellation decision shall be subject to judicial review, with merely non-staying effects, before the administrative courts.

Article 85

Residence permit cancellation

1 — Residence permit shall be cancelled whenever:

- a) Its holder has been subject to a removal order or expulsion from Portuguese territory;
or

b) The residence permit has been granted based on false or misleading statements, counterfeit or falsified documents, or through the use of fraudulent means; or

c) There are reasons to believe that its holder has committed serious criminal acts, or there is actual evidence of the holder's intent to commit such acts, namely in the European Union territory; or

d) For reasons of public order or security.

2 — Notwithstanding applicable special provisions, residence permit may also be cancelled if the interested party, without justifiable grounds, is absent from the country:

a) Six consecutive months or eight non-consecutive months, during the entire period of the authorisation's validity, in the case of temporary residence permit;

b) 24 consecutive months, or 30 non-consecutive months in a three-year period, in the case of permanent residence permits.

3 — Absences preceding the limits in the above paragraph must be notified by means of a request to the SEF prior to the resident's exit from Portuguese territory or, in exceptional cases, after his/her exit.

4 — Residence permits shall not be cancelled for citizens who are absent beyond the limits referred to in (2) when they can prove that they were carrying out a professional or corporate activity, or an activity of a cultural or social nature, during their absence from Portuguese territory.

5 — Residence permit cancellations shall be notified to the interested party and electronically to ACIDI and to the Advisory Council, specifying the grounds for the decision, with corresponding seizure of the corresponding permit.

6 — The government member in charge of internal administration shall be responsible for cancellation, with the ability to delegate to SEF National Director.

7 — The cancellation decision shall be subject to judicial review, with merely non-staying effects, before the administrative courts.

Article 86

Registry of residents

Residents shall notify SEF any changes to marital status or address within 60 days of their occurrence.

Article 87

Foreigners exempt from residence permit

1 — Residence permit shall not be required for diplomatic and consular agents accredited in Portugal, administrative/domestic or comparable staff serving at diplomatic missions or consular posts of their respective states, workers of international organisations based in Portugal, or any of their family members.

2 — The persons referred to in the above paragraph shall be given an identification document issued by the Ministry of Foreign Affairs, after consulting SEF.

Article 87-A

Residence Permit for citizens from the Community of Portuguese Language Countries

1 - Nationals of States in which the CPLP Agreement is in force who are holders of a short-stay visa or a temporary stay visa or who have entered national territory legally may apply for a CPLP residence permit in national territory, at SEF.

2 - The granting of the residence permit provided for in the previous number depends, with the necessary adaptations, on the observance of the conditions for granting a CPLP residence visa and residence permit.

3 - In the cases provided for in the previous number, for the purposes of issuing the residence permit, the competent services shall consult the applicant's Portuguese criminal record of their own motion.

6 - The legal entry provided for in paragraph b) of no. 2 shall be presumed whenever the applicant has been working in national territory and has had his or her social security situation in order for at least 12 months.

7 - After the establishment and formalisation of the employment relationship within the 180 days referred to in paragraph c) of no. 1 of Article 57-A, a residence permit may be requested from the competent body, provided that he/she meets the general conditions for the granting of a residence permit under the terms of Article 77.

SECTION II

Residence Permit

SUB-SECTION I

Residence permit for pursuing professional activities

Article 88

Residence permit for employment purposes

1 - In addition to the general requirements laid down in Article 77, a residence permit shall be granted only for employment purposes to third country nationals who have a legal employment contract and are registered in the social security system.

2 - By an expression of interest submitted via the SEF website or directly at one of its regional offices, the requirement referred to in article 77 (1)(a) shall be waived, provided that the foreign citizen meets, in addition to the general conditions of that provision, the following conditions:

a) Possession of an employment agreement or promissory employment agreement, or an employment relationship proven by a trade union, by a representative of migrant communities with a seat on the Migration Board or by the Labour Conditions Authority;

b) Legal entry into Portuguese territory;

c) Enrolment in social security, except when the document submitted pursuant to (a) is a promissory employment agreement.

3 - (Repealed.)

4 - The granting of residence permit pursuant to the above paragraphs shall be notified electronically by SEF to the Labour Conditions Authority or, in the autonomous regions, to the regional secretary, so that these entities may oversee the employer's compliance with all legal obligations to the residence permit holder, and to the tax and social security authorities.

5 - Holders of a residence permit for taking up employment may also practice independent professional activity, through replacement of the residence permit, subject, with the necessary adaptations, to the provisions of the following article.

6 - The legal entry provided for in paragraph b) of no. 2 shall be presumed whenever the applicant has been working in national territory and has had his or her social security situation in order for at least 12 months.

7 - After the establishment and formalisation of the employment relationship within the 180 days referred to in subparagraph c) of no. 1 of article 57-A, a residence permit may be requested from the competent body, provided that he/she meets the general conditions for granting a residence permit under the terms of article 77.

Article 89

Residence permit for self-employment purposes or for immigrant entrepreneurs

1 — In addition to the general requirements of article 77, residence permit for self-employment shall only be granted to third-country nationals who meet the following requirements:

a) Incorporation of a company pursuant to the law, declaring the start of business with the tax authorities and social security as a natural person, or the signing of a service provision agreement to practice a liberal profession;

b) A qualification to carry out independent professional activity, when applicable;

c) Have the means of subsistence as defined in the order referred to in article 52 (1)(d);

d) Submission of a statement from the respective professional association that they meet the requirements of enrolment, when required.

2 - By an expression of interest submitted via SEF website or directly at one of its regional offices, the requirement referred to in article 77 (1)(a) shall be waived, provided that the foreign citizen has entered Portuguese territory legally.

3 - Holders of residence permit for purposes of carrying out a self-employment activity may also practice a professional employed activity, subject to the provisions of the above article, with the necessary adaptations, by replacement of the residence permit.

4 - Residence permit shall be granted to third-country nationals developing an entrepreneurial undertaking, including the creation of an innovation-based company, belonging to an incubator certified pursuant to terms defined by order of the government members in charge of internal administration and the economy, provided that they meet the general requirements of article 77, except for the provisions of article 77 (1)(a).

5 - Is presumed the legal entry referred to in no. 2 whenever the applicant has a contract in force for the provision of services or independent professional activity in national territory and has been in good standing with social security, in either case for at least 12 months.

Article 90

Residence permit for teaching, highly qualified or cultural activities

1 — Residence permit shall be granted to third-country nationals to carry out teaching activities at a higher education institution, educational establishment or vocational training establishment, or highly qualified or cultural activities who, in addition to the conditions of article 77, meet the following conditions:

- a) Possession of an employment agreement or service provision agreement compatible with the teaching or highly qualified activity;
- b) Invitation letter from an academic or vocational training institution; or
- c) Submission of a liability form from a company certified pursuant to terms defined by order of the government members in charge of internal administration and the economy;
- d) Involvement in a cultural activity in Portuguese territory within the scope of a project recognised, by the government member in charge of culture, as being of interest to the country.

2 — Applicants who have entered and remained legally in Portuguese territory shall be exempt from a residence visa.

3 — (Repealed.)

SUB-SECTION II

Residence permit for investment activities

Article 90-A

Residence permit for investment activities

1 — Residence permit shall be granted, for the purposes of carrying out investment activities, to third-country nationals who meet all of the following conditions:

- a) Fulfilment of the general requirements of article 77, with the exception of (1)(a);
- b) Possession of valid Schengen visas;
- c) Legal registry of their stay in Portugal within 90 days of their first entry into Portuguese territory;
- d) Fulfilment of the requirements of (1) article 3(d).

2 — Residence permit shall be renewed for periods of two years, pursuant to this law, for applicants with proof of upholding any of the requirements of (1) article 3(d).

3 — (Repealed.)

SUB-SECTION III

Residence permit for research, study, professional traineeship or volunteer work

Article 91

Residence permit for higher education students

1 — Higher education students with a residence visa issued pursuant to article 62, and meeting the general conditions of article 77, shall be granted residence permit, provided that they provide proof of the following:

- a) Enrolment in a higher education institution;
- b) Payment of tuition, if applicable;
- c) Means of subsistence as defined in the order referred to in article 52 (1)(d);
- d) Coverage by the National Health Service or health insurance.

2 - The residence permit granted under this article to students is valid for three years, renewable for equal periods and, in cases where the duration of the study programme is less than three years, it is issued for the duration of the programme.

3 - Residence permit shall be granted to higher education students subject to European Union or multilateral programmes with mobility measures, or an agreement between two or more higher education institutions, for two years, or for the duration of the academic programme (when shorter), or for one year if the conditions of article 62 (4) are not met as of the date of its granting.

4 - Residence permit may be granted to higher education students without a residence visa issued pursuant to article 62, provided that they have entered Portuguese territory legally and meet the other conditions of this article.

5 - Higher education students admitted to a higher education institution approved, for the purposes of this law, pursuant to the terms of the order of the government members in charge of internal administration and higher education, shall be exempt from submitting documents proving payment of tuition and means of subsistence.

6 - For the purposes of the above paragraph, the higher education institution's approval shall be decided via submission of the request, preceded by a favourable opinion from SEF, with a validity of five years.

7 - Approval shall be cancelled, or not renewed, whenever the higher education institution ceases its activities in Portuguese territory, has obtained approval in a fraudulent manner or admits higher education students in a fraudulent or negligent manner.

8 - The government member in charge of science and higher education shall keep, at SEF, an updated list of higher education institutions approved for the purposes of this law.

Article 91-A

Higher education student mobility

1 — Higher education students who are holders of residence permit from a European Union Member State subject to a European Union or multilateral programme with mobility measures, or to an agreement between two or more higher education institutions, shall be authorised to enter and remain in Portuguese territory to complete part of their studies, including the

undertaking of a professional activity pursuant to article 97, for a maximum of 360 days, provided that they notify SEF at least 30 days prior to starting the mobility period.

2 — The notice referred to in the above paragraph must be accompanied by proof of status, in accordance with the following conditions:

- a) Possession of a valid passport and residence permit issued by another European Union Member State, valid for the entire period referred to in (1);
- b) Possession of health insurance, together with sufficient means of subsistence not obtained through the social security system's Social Citizenship Protection System;
- c) Payment of tuition, if applicable;

3 — SEF may refuse entry or stay when the interested party represents a threat to public order, public safety or public health.

4 — The entry and stay of third-country nationals not subject to the programmes or agreements referred to in (1) shall comply with the provisions of articles 52, 62 and 91.

5 — SEF shall refuse mobility under the following circumstances:

- a) When the conditions referred to in (1) have not been met;
- b) When the conditions referred to in (2) have not been met;
- c) When the conditions referred to in article 95 have been met;
- d) When the maximum period of 360 days referred to in (1) has been exceeded.

6 — The refusal referred to in the above paragraph shall be conveyed in writing to the interested party, and to the authorities of the Member State which granted residence permit, within 30 days of receiving the notice referred to in (1), stating that the interested party is not authorised to remain in Portuguese territory for the purposes of higher education studies.

7 — If SEF does not deny mobility pursuant to the above paragraphs, it shall issue a statement attesting that the higher education student is authorised to remain in Portuguese territory and enjoy the rights provided for by law.

8 — Students with residence permit issue pursuant to article 91 may enter and remain in Portuguese territory, if no longer meeting the mobility conditions in a European Union Member State, at its request, and when their residence authorisation in Portuguese territory has expired or been cancelled during the mobility period in this Member State.

Article 91-B

Residence permit for researchers

1 — Researchers with a residence visa granted pursuant to article 62 shall be granted residence permit provided that, in addition to the conditions of article 77, they are admitted to work at an officially recognised research centre through an employment agreement, service provision agreement, scientific research grant or host agreement.

2 - Researchers admitted in officially recognised research centres are exempt from presenting the supporting documents referred to in subparagraphs d), e) and f) of no. 1 of article 77.

3 — The recognition of research centres pursuant to the above paragraph shall be granted upon request, preceded by a favourable opinion from SEF, with a validity of five years.

4 — Recognition shall be withdrawn, or not renewed, whenever the research centre ceases its activities in Portuguese territory, has obtained approval in a fraudulent manner or admits researchers or higher education students in a fraudulent or negligent manner.

5 — The government member in charge of science and higher education shall keep, at SEF, an updated list of research centres and institutions approved for the purposes of this law.

6 — Residence permit granted to researchers shall be valid for two years, renewable for equal periods or for the duration of the hosting agreement if this is less than two years.

7 — Residence permit granted to researchers subject to European Union or multilateral programmes including mobility measures shall be for two years, or equivalent to the duration of the host agreement (if shorter), except for researchers failing to meet the conditions of article 62 on the date of granting, in which case its duration shall be one year.

8 — The host agreement shall expire if the researcher is not admitted in Portuguese territory, or if the legal relationship between the centre/institution and the researcher is terminated.

9 — Researchers who have legally entered Portuguese territory shall be exempt from the residence visa issued pursuant to article 62.

10 — Researchers with residence permit issued pursuant to this article shall be entitled to family reunification pursuant to sub-section IV.

Article 91-C

Researcher mobility

1 — Third-country nationals with a "researcher" or "researcher mobility" residence permit granted by a European Union Member State shall be authorised to enter and remain in Portuguese territory to conduct part of their research at a recognised host entity in Portuguese territory, and to teach, for a maximum of 180 days per 360-day period in each Member State, with their family members entitled to accompany them, based on the residence permit granted by this Member State, when in possession of a valid passport, with no other required formalities, and when not included in the Schengen Information System for the purposes of refusal of entry and stay.

2 — Notwithstanding the provisions of the above paragraph, third-country nationals with "researcher" or "researcher mobility" residence permit granted by a European Union Member State who wish to remain in Portuguese territory to conduct research at a recognised host entity in Portuguese territory, including teaching activities, for more than 180 days, must submit an application for residence permit for long-term mobility to the SEF pursuant to the provisions of this article.

3 — The application referred to in the above paragraph and, when applicable, the residence permit application for family reunification must be submitted within 30 days following entry into Portuguese territory or, if the researcher benefits from the provisions of (1), 30 days before the end of the 180-day time period provided for therein, accompanied by documentation proving

possession of valid residence authorisation issued by another Member State and fulfilment of the conditions provided for in articles 77 and 91-B.

4 — For the purposes of submitting the application and while proceedings are pending, the applicant shall be authorised to:

- a) remain in Portuguese territory, with exemption from the visa obligation;
- b) conduct part of his/her research until a final decision is made on the long-term mobility request, provided that the 180-day limit for short-term mobility or the expiry date of the residence permit issued by another Member State is not exceeded;

5 — In the case of renewal, the residence permit for long-term mobility shall be effective even if the residence permit issued by another Member State has expired.

6 — Decisions handed down on applications submitted pursuant to (3) shall be notified to the applicant, in writing, within 90 days of their submission date, and to the authorities of the other Member State which issued the residence permit, preferably by electronic means.

7 — Renewals of residence permits for long-term mobility shall comply with the provisions of article 78 and this sub-section.

8 — Requests to grant or renew long-term mobility permit may be rejected:

- a) if the provisions of article 91-A (3) are not fulfilled, or if the provisions of article 95 apply;
- b) if the holder is considered a threat to public order, public safety or public health, or if the residence permit issued by the other Member State has expired or been cancelled while the application is being analysed;

9 — Decisions to cancel or not renew residence permits for long-term mobility shall be subject to the provisions of article 85 (1) and article 95 (2).

10 — Decisions to reject the granting or renewal of, or to cancel, residence permits for long-term mobility for researchers shall be subject to the provisions of article 96 (4) and (6).

11 — Researchers whose residence permit for long-term mobility applications are approved pursuant to this article shall be issued a residence permit using the uniform format provided for in Council Regulation (EC) No 1030/2002 of 13 June 2002, with "researcher mobility" written in the item "type of permit".

12 — Family members of researchers whose long-term mobility applications have been approved shall be granted residence permit for family reunification, pursuant to this law, with the ability to submit both applications simultaneously under the same process.

13 — For the purposes of the provisions of (1), and whenever a residence permit has been issued by a Member State which does not apply the Schengen acquis in full, SEF may require the researcher to provide a statement from the host organisation specifying the mobility conditions, and may require family members to possess valid residence permits and proof that they are accompanying the researcher.

14 — Researchers with residence permit issue pursuant to article 91-B, and their family members with residence permit, may enter and remain in Portuguese territory, if no longer meeting the mobility conditions in a European Union Member State, at its application, and when

their residence permit in Portuguese territory has expired or been cancelled during the mobility period in this Member State.

Article 92

Residence permit for students

1 — Secondary education students with a residence visa issued pursuant to article 62 who meet the general conditions of article 77 shall be granted residence permit, provided that they are enrolled in an educational establishment, comply with the provisions of article 62 (6) and are covered by the National Health Service or health insurance.

2 — The validity of the residence may not exceed one year, subject to renewal for equal time periods, if the initial conditions for its granting continue to be met.

3 — Residence permit may be granted to secondary education students without a residence visa issued pursuant to article 62, provided that they have entered and remained in Portuguese territory legally and comply with the provisions of this article.

4 — The provisions of the above paragraphs shall apply to third-country nationals admitted to attend qualification level 4 or 5 courses in the National Qualifications Framework (NQF), or training courses taught by educational or vocational training establishments, provided that they meet the requirements in article 62 (1)(a) and (b).

Article 93

Residence authorisation for trainees

1 — Trainees with a residence visa issued pursuant to article 62, who meet the general conditions of article 77, shall be granted residence permit, provided that they are covered by the National Health Service or health insurance and comply with the provisions of article 62 (7).

2 — Residence permit granted to trainees shall be valid for six months, or for the duration of the traineeship programme, plus a period of three months if it is less than six months, or for two years in the case of a long-term traineeship programme, in which case it may be renewed once for the remainder of the traineeship programme.

3 — Residence permit may be granted to trainees without a residence visa issued pursuant to article 62, provided that they have entered and remained in Portuguese territory legally and comply with the provisions of this article.

Article 94

Residence permit for volunteers

1 — Volunteers with a residence visa issued pursuant to article 62, who meet the general conditions of article 77, shall be granted residence permit, provided that they are covered by the National Health Service or health insurance and comply with the provisions of article 62 (8).

2 — Residence permit granted pursuant to the above paragraph shall be valid for one year, or for the duration of the volunteer programme, and is not subject to renewal.

3 — (Repealed.)

4 — (Repealed.)

5 — (Repealed.)

Article 95

Rejection and cancellation

1 — Notwithstanding the provisions of article 77, residence permit applications based on the provisions of this section shall be rejected if:

- a) the applicant does not meet the conditions of article 62, together with those of 90 to 94, based on the applicant's applicable category;
- b) the documents submitted have been obtained fraudulently, or are falsified or forged;
- c) the host organisation has been established or operates for the main purpose of facilitating the entry of third-country nationals, or has been penalised, pursuant to national legislation, for undeclared work and/or illegal employment; or
- d) the host organization has not complied with its legal obligations concerning social security, taxation, labour rights or working conditions, is being or has been wound up or declared insolvent pursuant to national legislation, or has no recorded economic activity.

2 - Notwithstanding the provisions of article 78, residence permit renewal applications based on the provisions of this section shall be rejected, as applicable, if:

- a) The applicant no longer meets the conditions of article 62, together with those of 90 to 94, based on the applicant's applicable category;
- b) The applicant is residing in Portuguese territory for reasons other than those for which the residence was authorised;
- c) The applicant is carrying out a professional activity in breach of the provisions of article 97;
- d) The applicant is failing in his/her academic studies;
- e) The documents submitted have been obtained fraudulently, or are falsified or forged;
- f) Any of the situations referred to in (c) and (d) of the above paragraph have occurred.

3 - Notwithstanding the provisions of article 85 (1), residence permit shall be cancelled under any of the circumstances in the above paragraph.

4 - Decisions to reject the granting or renewal of permit, or to cancel permit, shall take the case's specific circumstances into account, and shall follow the proportionality rule.

5 - Whenever a researcher or higher education student is residing in the territory of another Member State under the provisions of mobility, and SEF is aware of this, it shall notify the authorities of this Member State of the residence permit's cancellation pursuant to (3).

Article 96

Procedure, access to information and procedural guarantees

1 — Applications to grant or renew residence permit pursuant to this sub-section must be submitted by the third-country national to SEF main office or regional office of in his/her area of residence.

2 — Applications must be accompanied by documents proving that the applicant meets the conditions of this sub-section.

3 — Applicants shall be provided information on legally required documentation for the procedures in this sub-section, the rules for entry and stay in Portuguese territory, associated rights, obligations and procedural guarantees, contentious or non-contentious, including, if applicable, with regard to family members, together with information on the resources needed to cover study or training costs and applicable fees.

4 — If the information or documentation submitted by the applicant are insufficient, the application assessment shall be suspended, with a request for the necessary supplementary information or documents, which must be submitted within 10 days.

5 — Decisions on applications to grant or renew residence permits shall be made and notified to applicants within a time period not impeding the undertaking of the activity in question, and within a maximum of 90 days from the application submission, or 60 days in the case of higher education students or researchers admitted to a host entity officially recognised pursuant to articles 91 and 91-B.

6 — Decisions to reject the granting or renewal of residence permit under this sub-section, together with decisions on their cancellation, shall be notified to applicants in writing, specifying the justifying grounds, the right to judicial review, the respective term and court of jurisdiction.

7 — Holders of a residence permit granted pursuant to this sub-section shall be issued a residence permit using the uniform residence permit format for third-country nationals in Council Regulation (EC) No 1030/2002 of 13 June 2002, with "researcher", "higher education student", "secondary education student", "trainee" or "volunteer", as applicable, written in the item "type of permit".

8 — When a researcher has been given residence permit under a specific European Union or multilateral programme which includes mobility measures, the residence permit must include the note "mobility-researcher".

Article 97

Professional activity

1 - Holders of a residence permit granted under this subsection may exercise a professional, subordinate or independent activity, complementarily to the activity that originated the visa.

2 - (Repealed.)

3 - ((Repealed.)

Article 97-A

Equal treatment

1 — Notwithstanding the provisions of article 97, holders of residence permit for the purposes of higher education study and research shall enjoy equal treatment in relation to Portuguese citizens pursuant to article 83 (2), including in labour-related matters, when applicable.

2 — Holders of residence permit for secondary education studies, traineeships or volunteer work shall enjoy equal treatment to that of Portuguese citizens, namely with regard to the following:

- a) Recognition of diplomas, certificates and other professional qualifications;
- b) Access to public goods and services under the same conditions as those of Portuguese citizens.

Article 97-B

National Point of Contact

For the purposes of cooperation provided for in article 37 of Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016, SEF is hereby established as the Portuguese point of contact.

Article 97-C

Statistics

1 - SEF shall be responsible for preparing statistics on the issuing, renewal and cancellation of residence permits pursuant to this section, broken down by nationality and validity period, including residence permits for the family members of researchers under the right of family reunification.

2 - The statistics referred to in the above paragraph shall correspond to the calendar year, and shall be provided to the Commission within six months of the end of each calendar year, pursuant to Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007.

SUB-SECTION IV

Residence permit for family reunification

Article 98

Right to family reunification

1 — Citizens with valid residence permit shall be entitled to be reunified with family members outside of Portuguese territory, who have lived with them in another country, are dependent on them or cohabit with them, regardless of whether the family ties come before or after the resident's entry.

2 — Under the circumstances referred to in the above paragraph, the right to family reunification shall also be recognised with family members who have legally entered Portuguese territory and who depend on or cohabit with the holder of a valid residence permit.

3 — Refugees, recognised pursuant to the law governing asylum, shall be entitled to family reunification with family members in or outside of Portuguese territory, notwithstanding the legal provisions acknowledging the status of refugee for family members.

Article 99

Family members

1 — For the purposes of the above article, the following shall be considered family members of the resident:

- a) The Spouse;
- b) Minors or incapable children under guardianship of one or both spouses;
- c) Minors adopted by applicants when not married, by the applicant or by the spouse, for the purpose of a decision by the competent authority from the country of origin, provided that this country's law affords adopted children with identical rights and obligations as those of biological kinship, and the decision is recognised by Portugal;
- d) Adult children in the custody of one or both spouses, who are unmarried and studying at an educational establishment in Portugal;
- e) Adult children in the custody of one or both spouses, who are unmarried and studying, whenever the holder of the family reunification right has residence permit granted pursuant to article 90-A;
- f) First degree next of kin ancestors of the resident or resident's spouse, when in their custody;
- g) Minor siblings, when in the resident's custody, in accordance with a decision handed down by a competent authority from the country of origin, and provided that this decision is recognised by Portugal.

2 - The following are also considered family members of unaccompanied minor refugees for the purposes of family reunification:

- a) First degree direct ancestors;
- b) His/her legal guardian, or any other family member, if the refugee has no direct ancestors, or if they cannot be located.

3 - Only those referred to in (1)(a) to (c) shall be considered family members for the purposes of family reunification for holders of residence permit for study, non-remunerated professional traineeships or volunteer work.

4 - Family reunification with a minor or incapacitated child of one of the spouses shall require authorisation from the other parent, or a decision from a competent authority, in accordance with which the child has been entrusted to them.

5 - For the purposes of (2), “unaccompanied minor” shall mean a third-country national or stateless person under 18 years of age who:

- a) Has entered Portuguese territory unaccompanied, and is not in the custody of a responsible adult, whether by law or by custom; or
- b) Has been abandoned after entering Portuguese territory.

Article 100

Registered partnership

1 — Family reunification may be authorised with:

- a) A partner who maintains, in or outside Portuguese territory, a de facto union with a resident foreign citizen, duly proven pursuant to the law;
- b) Minor or incapacitated unmarried children, including the adopted children of a de facto partner, with the existence of legal guardianship.

2 — Family reunification pursuant to the above paragraph shall be subject, with the necessary adaptations, to provisions concerning the exercising of the family reunification right.

Article 101

Conditions for exercising the family reunification right

1 — To exercise the family reunification right, the applicant must have:

- a) Accommodation;
- b) Means of subsistence as defined in the order referred to in article 52 (1)(d).

2 — The provisions of the above paragraph shall not apply to the family reunification of refugees.

Article 102

Competent authority

SEF National Director shall be responsible for deciding on family reunification applications, with the power to delegate.

Article 103

Application for family reunification

1 - The holder of the family reunification right shall be responsible for applying for entry and residence for his/her family members from SEF whenever they are outside of Portuguese territory.

2 - Whenever family members are in Portuguese territory, application for family reunification may be delivered by them or by the holder of the right.

3 - The application must include the following:

- a) Documents proving the existence of relevant family ties or of a registered partnership;
- b) Documents proving compliance with the conditions for exercising the family reunification right;
- c) Certified copies of the family members or the de facto partner's travel documents.

4 - When a refugee is unable to submit official documents proving kinship, other types of proof of kinship must be taken into consideration.

Article 104

Examination of the application

1 - SEF may, if necessary, conduct interviews with the family reunification applicant and his/her family members, and carry out other research deemed necessary.

2 - In analysing the application for a person in a de facto union with a family reunification applicant, SEF must take factors into account such as the existence of a common child, prior cohabitation of the partnership or any other reliable means of proof.

Article 105

Term

1 - SEF shall notify the applicant in writing of its decision as soon as possible, and always within a maximum of three months.

2 - Under exceptional circumstances associated with analysing complex applications, the term referred to in the above paragraph may be extended by three months, with notice of the extension to the applicant.

3 - The absence of a decision within six months shall correspond to tacit granting.

4 - SEF shall certify tacit granting, at the interested party's request, with notification, within 48 hours, to the Directorate-General of Consular Affairs and Portuguese Communities, for the purposes of issuing a residence visa pursuant to article 64.

Article 106

Application rejection

1 - Family reunification applications may be rejected under the following circumstances:

- a) When the conditions for exercising the family reunification right have not been met;
- b) When the family member is banned from entering and staying on national territory or is the subject of an alert in the SIS for the purposes of return or refusal of entry and residence;
- c) When a family member's presence in Portuguese territory represents a threat to public order, public safety or public health.

2 - When the decision to approve a family reunification application is hindered by reasons of public order or public safety, the seriousness or type of offence to public order or to public safety committed by the family member, or the hazards, which may arise from the person's stay in Portuguese territory, should be taken into consideration.

3 - Prior to handing down a decision to reject a family reunification application, the nature and soundness of the person's family ties, his/her length of residency in Portugal and the existence of family, cultural or social ties with the country of origin shall be taken into consideration.

4 - The rejection of an application submitted by a refugee cannot be based solely on the lack of documents proving kinship.

5 - A copy of the rejection of the application shall be sent, with the justifying grounds, to ACIDI, I. P. and to the Advisory Council, notwithstanding applicable norms concerning personal data protection.

6 - Decisions of rejection shall be notified to the applicant, specifying the justifying grounds, and including the right to judicial review and the respective term.

7 - The decision to reject the application for family reunion shall be subject to judicial review, with non-staying effects, before the administrative courts.

8 - When family members are already in Portuguese territory and the decision of rejection is based solely on the failure to meet the conditions in (1)(a), the judicial review shall have a suspensory effect.

Article 107

Residence of family members

1 - Family members in possession of a visa issued pursuant to article 64, or who are in Portuguese territory, whose family reunification application has been approved shall be issued a residence permit with a duration identical to that of a resident.

2 - Family members of a holder of a permanent residence permit shall be issued a renewable residence permit, valid for two years, renewable for successive periods of three years.

3 - Two years after the issuing of the first residence permit referred to in the above paragraphs, and insofar as the family ties persist or, regardless of this time period, whenever the holder of the family reunification right has minor children residing in Portugal, the family members shall be entitled to autonomous authorisation, of identical duration to that of the right holder.

4 - Under exceptional circumstances, namely the legal separation of persons and assets, divorce, widowhood, death of an ancestor or descendent, accusation by the Public Prosecutor of the crime of domestic violence, upon reaching legal adult age, an autonomous residence permit may be granted prior to the time period referred to in the above paragraph, valid for two years, renewable for periods of three years.

5 - The first residence permit granted to a spouse under family reunification shall be autonomous whenever the spouse has been married to the resident or in a non-marital partnership of more than five years with the resident, and will be issued with a residence permit of the same duration as the resident.

Article 108

Residence permit cancellation

1 - Notwithstanding the provisions of article 85, residence permit issued under the right to family reunification shall be cancelled when the sole purpose of the marriage, registered partnership or adoption was to allow the interested party to enter or reside in the country.

2 - Inquiries and specific controls may be carried out when justified signs exist of fraud or of a marriage, registered partnership or adoption of convenience, as defined in the above paragraph.

3 - Prior to handing down a decision to cancel a residence permit under family reunification, the nature and soundness of the person's family ties, his/her length of residency in Portugal and the existence of family, cultural or social ties with the country of origin shall be taken into consideration.

4 - The cancellation decision shall be handed down after hearing the foreign citizen, which shall be considered a hearing of the interested party for all purposes.

5 - The cancellation decision shall be notified to the interested party, specifying the justifying grounds, and including the right to judicial review and the respective term.

6 - The cancellation decision shall be notified electronically to ACIDI, I. P. and to the Advisory Council, notwithstanding applicable norms concerning personal data protection.

7 - Decisions to cancel the permit of family members on the grounds referred to in (1) shall be subject to judicial review, with suspensory effect, before the administrative courts.

SUB-SECTION V

Residence permit issued to for victims of trafficking in human beings or who have been subject of an action to felicitate illegal immigration

Article 109

Residence permit

1 - Foreign citizens who are or have been victims of criminal infractions related to trafficking in human beings or subject of an action to facilitate illegal immigration, even when having entered the country illegally, or when failing to meet the necessary requirements shall be granted residence permit.

2 - The residence permit referred to in the above paragraph shall be granted after the end of the reflection period referred to in article 111, provided that:

a) The interested party stay in Portuguese territory must be extended, bearing in mind the interest that his/her presence represents for legal proceedings and investigations;

b) The interested party shows a clear desire to cooperate with authorities in investigating and repressing human trafficking or the assisting of unlawful immigration;

c) The interested party has broken off with his/her past relationships with the presumed offenders referred to in the above paragraph.

3 - Residence permit may be granted before the end of the reflection period referred to in article 111 if it is deemed that the interested party unequivocally meets the criteria of (b) above.

4 - Residence permit may also be granted after the end of the reflection period referred to in article 111 to foreign citizens identified as victims of human trafficking, pursuant to special legislation, with exemption from the conditions referred to in (2)(a) and (b).

5 - Residence permit granted pursuant to the above paragraphs shall be valid for one year, subject to renewal for equal time periods, if the conditions in (2) continue to be met, or if

continued protection is required for the person identified as a victim of trafficking in human beings, pursuant to special legislation.

Article 110

Information to victims

Whenever public authorities or associations involved in the protection of victims of crime believe that a foreign citizen may be subject to the provisions of the above article, they shall inform the person involved of the possibility of benefiting from the provisions of this section.

Article 111

Reflection period

1 - Prior to issuing the residence permit referred to in article 109, SEF shall give the interested party a reflection period to recover and escape from the influence of the perpetrators of the offences.

2 - The reflection period referred to in the above paragraph shall have a duration of at least 30 days and at most 60 days from the time that the competent authorities request cooperation, from the time that the interested party expresses a desire to cooperate with the authorities in charge of the investigation, or from the time that the person in question is identified as a victim of human trafficking pursuant to applicable special legislation.

3 - During the reflection period, the interested party shall be entitled to the treatment referred to in article 112, and shall be exempt from the enforcement of any expulsion order.

4 - The reflection period shall not entitle the interested party to residence under the provisions of this section.

Article 112

Rights of victims prior to granting residence permit

1 - Prior to the granting of residence permit, persons identified as victims of trafficking in human beings or subject to an action to facilitate illegal immigration, and lacking sufficient resources, shall be provided with subsistence and access to appropriate and urgent medical treatment.

2 - For the purposes of the above paragraph, the specific needs of more vulnerable persons shall be taken into consideration, including the use of psychological care if necessary.

3 - The persons referred to in (1) shall also be afforded security and protection.

4 — Whenever necessary, the persons referred to in (1) shall be provided translation and interpretation assistance, together with legal protection pursuant to Law no. 34/2004 of 29 July, with exemption from the provisions of article 7 (2) of this law.

Article 113

Rights of residence permit holders

1 - The provisions of the above article, with the necessary adaptations, shall apply to holders of residence permit granted pursuant to article 109 who lack sufficient resources.

2 - Holders of residence permit granted pursuant to article 109 who lacks sufficient resources and have specific needs, such as pregnant women or minors, disabled persons and victims of sexual or other forms of violence, shall be afforded the necessary medical and social assistance.

3 - Holders of residence permit granted pursuant to article 109 shall be given access to existing official programmes aimed at the resumption of a normal social life, including courses to enhance professional skills or to prepare for assisted return to their country of origin.

Article 114

Minors

1 - The application of articles 109 to 112 shall consider the child's higher interest, using procedures suited to the child's age and maturity.

2 — The reflection period referred to in article 111 (2) may be extended if so dictated by the child's interests.

3 - Minors who are victims of trafficking in human beings or who have been subject of an action to facilitate illegal immigration shall have access to the educational system under the same conditions as those of Portuguese citizens.

4 - All measures shall be taken to determine the identity and nationality of an unaccompanied minor, as defined in article 99 (5), to locate his/her family as quickly as possible and to ensure his/her legal representation, including, if necessary, within the scope of criminal proceedings, pursuant to the law.

Article 115

Residence permit cancellation

1 - Notwithstanding the provisions of article 85, residence permit granted under this section may be cancelled at any time if:

- a) The holder has proactively and voluntarily resumed contact, on his/her own initiative, with the alleged offenders in trafficking in human beings or action to facilitate illegal immigration; or
- b) The competent authority believes that his/her cooperation is fraudulent, or that the victim's claim is unfounded or fraudulent; or
- c) The victim ceases to cooperate.

2 - (1)(c) above shall not apply to the holders of residence permit granted pursuant to article 109 (4).

SUB-SECTION VI

Residence permit to holders of long-term resident status

in another European Union Member State

Article 116

Residence right of holders of long-term resident status

in another European Union Member State

1 - Third-country nationals with long-term resident status in another European Union Member State who remain in Portuguese territory for more than three months shall be entitled to residence, provided that:

- a) They carry out employed professional activity; or
- b) They carry out independent professional activity; or
- c) They attend an academic or vocational training programme; or
- d) They have a justified reason to establish residence in Portuguese territory.

2 — The provisions of the above paragraph shall not apply to long-term residents remaining in Portuguese territory as:

- a) employees posted by a service provider for the provision of cross-border services;
- b) cross-border service providers.

3 - The provisions of the precedent article shall not prejudice the application of pertinent community legislation on social security in relation to third-country nationals.

4 - Third-country nationals subject to (1) shall be provided residence permit, provided that they have:

- a) Means of subsistence;
- b) Accommodation.

5 - For the purposes of assessing compliance with the requirement in (a) of the above paragraph, the nature and regularity of resources should be evaluated, bearing in mind the level of minimum wages and pensions.

6 - The provisions of article 88 (1) shall apply to the granting of residence permit to third-country nationals subject to (1)(a).

7 - The provisions of article 89 (1) shall apply to the granting of residence permit to third-country nationals subject to (1)(b).

8 - The granting of residence permit to third-country nationals subject to (1)(c) shall depend on the interested party's submission of proof of enrolment at an officially recognised higher educational establishment, or admission to an establishment or company providing officially recognised vocational training.

Article 117

Residence permit application request

1 - The long-term residents referred to in the above article must submit a residence permit application to SEF within three months of their entry into Portuguese territory.

2 - The application referred to in the above paragraph must be accompanied by documents proving that the applicant meets the conditions for exercising his/her right of residence referred to in the above article.

3 - The application must also be accompanied by a long-term residence permit and valid travel document, or certified copies of these.

4 - Decisions on residence permit applications submitted pursuant to the above article shall be made within three months.

5 - The time period referred to in the above paragraph may be extended for up to three months, with notice of the extension to the applicant, if the application is not accompanied by the documents referred to in (2) and (3), or under exceptional circumstances associated with analysing complex applications.

6 - The competent authority for the decision on granting a residence permit under the present Section is the National Director of SEF, with the power to delegate.

7 - Any lack of a decision within six months shall be considered approval of the residence permit application.

8 - The granting of residence permit to long-term residents and their family members shall be notified by SEF to the competent authorities of the Member State, which granted long-term resident status.

Article 118

Family reunification

1 - Residence permit in Portuguese territory shall be granted to family members of a holder of residence permit granted pursuant to article 116 residing with the holder in the Member State, which initially granted long-term resident status.

2 - For the purposes of the above paragraph, family members shall mean those referred to in article 99 (1), together with the persons referred to in article 100 (1).

3 - The submission of residence permit applications shall be governed by the provisions of the above article.

4 - The interested party must attach the following to the residence permit application:

a) Long-term EU residence permit or residence permit and a valid travel document, or certified copies of these;

b) Proof of prior residence in the Member State, which initially granted long-term resident status as a family member or registered partner of a long-term resident;

c) Proof of means of subsistence and coverage by the National Health Service or health insurance.

5 - For the purposes of assessing the means of subsistence referred to in (c) of the above paragraph, their nature and regularity should be taken into consideration, together with the level of minimum wages and pensions.

6 - The provisions of Chapter VI, Section IV shall apply if the family is not already established in the Member State, which initially granted long-term resident status.

7 - Family members subject to the above paragraphs shall be granted residence permit with a validity identical to that granted to long-term residents, subject to the provisions of (8) of the above article.

Article 119

Public order, public security and public health

1 - Residence permit applications submitted pursuant to this section may be refused when the person concerned represents a threat to public order or public security.

2 - Decisions of rejection pursuant to the above paragraph should consider the seriousness or type of offence to public order or public security committed by the long-term resident or by his/her family member, or the hazards which may arise from the person's stay in Portuguese territory.

3 - The decision referred to in (1) should not be based on economic reasons.

4 - Residence permit applications from long-term residents or their family members may also be rejected when the person concerned represents a threat to public health, pursuant to article 77 (3).

5 — The provisions of article 77 (4) and (5) shall apply to the situations of the above paragraph.

Article 120

Cancellation and non-renewal of a residence permit

1 — Notwithstanding the provisions of article 85, provided a holder of residence permit granted under this section has not obtained long-term resident status in Portuguese territory, he/she may be subject to a decision on cancellation or non-renewal of the residence permit in the following cases:

a) For reasons of public order or public security, taking into account the seriousness or type of offence committed against public order or public security, or the hazards which may arise from the person's stay in Portuguese territory, together with the duration of residence and existence of connections to the country;

b) When the conditions in articles 116 and 118 are no longer met.

2 — The cancellation or non-renewal of residence permit to long-term residents and their family members shall be notified by SEF to the competent authorities of the Member State which granted long-term resident status.

Article 121

Procedural guarantees

1 — The decision on the rejection of an application for a residence permit, a decision of non-renewal or a decision to cancel residence permit granted under this section shall be notified to the interested party, specifying the justifying grounds, the right to judicial review and the respective term.

2 — The decisions referred to in the above paragraph shall be notified electronically to ACIDI, I. P. and to the Advisory Council.

SUB-SECTION VII

"EU Blue Card" residence permit

Article 121-A

"EU Blue Card" holders

1 - An "EU Blue Card" is a residence permit allowing its holder to reside and carry out a highly qualified activity in Portuguese territory, pursuant to and in accordance with the provisions of this section.

2 - "EU Blue Card" holders shall be entitled to family reunification pursuant to section IV.

3 - "EU Blue Cards" shall not be provided to third-country nationals who:

a) Are authorised to reside in a Member State under temporary protection, or have applied for residence permit for this reason and are awaiting a decision on their status, together with the beneficiaries of the protection granted under Law no. 27/2008 of 30 June, or who have requested this protection and are awaiting a final decision on their status;

b) Are family members of European Union citizens, pursuant to Law no. 37/2006 of 09 August;

c) Have applied or are holders of residence permit for research activities, pursuant to article 90 (1);

d) Benefit from long-term resident status in another EU Member State, pursuant to article 116 (1)(a) and (b);

e) Remain in Portugal for reasons of a temporary nature to carry out commercial activities, related to investment, as seasonal workers or posted within the scope of service provision;

f) Benefit from free movement rights equivalent to those of European Union citizens under an agreement between the European Union the third country of nationality;

g) Have their expulsion suspended for reasons of fact or law.

Article 121-B

Conditions for granting an "EU Blue Card"

1 — "EU Blue Cards" shall be granted for the purposes of carrying out highly qualified activities to third-country nationals who, in addition to the conditions of article 77, with the exception of article 77 (1)(e), meet all of the following requirements:

a) Submit an employment agreement compatible with carrying out a highly qualified activity with a duration of at least one year, corresponding to annual remuneration of at least 1.5 times the nation's average gross annual salary or, under the circumstances of article 61-A (2), at least 1.2 times the nation's average gross annual salary;

b) Possession of health insurance or proof of coverage under the National Health Service;

c) Enrolment in Social Security;

d) In the case of unregulated professions, documentary proof of higher professional qualifications for the activity or sector specified in the employment agreement or promissory employment agreement;

e) In the case of a regulated profession indicated in the employment agreement or promissory employment agreement, documentary proof of professional certification, if applicable.

2 — Applicants with a valid residence title in Portuguese territory may be exempt from the requirement referred to in article 77 (1)(a).

3 — The provisions of article 61-A (3) and (4) shall apply for the purposes of (1)(d).

4 — Applications for an "EU Blue Card" shall be rejected under the following circumstances:

a) When the employer has been sanctioned for illegally employing foreign workers in the past five years;

b) For reasons of public order, public security or public health.

Article 121-C

Authority

The following shall be in charge of the decisions provided for in this section:

a) The government member in charge of internal administration shall be responsible for cancellation, with the ability to delegate to SEF National Director;

b) In other cases, SEF National Director, with the power to delegate.

Article 121-D

Procedure

1 — The "EU Blue Card" application must be submitted by the third-country national, or by his/her employer, to SEF main office or regional office in his/her area of residence.

2 — Applications must be accompanied by documents proving that the applicant meets the conditions of article 121-B.

3 — If the information or documentation submitted by the applicant are insufficient, the examination of the application shall be suspended, with a request for the necessary supplementary information or documents, which must be submitted within a deadline of no less than 20 days, as determined by SEF.

4 — The decision on the application shall be notified to the applicant in writing within 60 days.

5 — Decisions rejecting granting or renewal of "EU Blue Card", together with decisions on their cancellation, shall be notified in writing to applicants or to their employers, specifying the justifying grounds, the right to appeal and the respective time limits.

Article 121-E

"EU Blue Card" duration, renewal and issuing

- 1 - "EU Blue Card" shall have an initial duration of two years, subject to renewal for consecutive three-year periods.
- 2 - Interested parties must apply for the renewal of "EU Blue Cards" at least 30 days prior to their expiry.
- 3 - The "EU Blue Card" issued shall be named "EU Blue Card" under the heading "type of permit".
- 4 - The provisions of article 212 shall apply to the issuing of "EU Blue Card".

Article 121-F

"EU Blue Card "cancellation or refusal of the renewal

- 1 — "EU Blue Card" shall be cancelled whenever:
 - a) They have been granted based on false or misleading statements, counterfeit, falsified or modified documents, or through the use of fraudulent means;
 - b) It is proven that its holder has committed serious punishable acts or when there are strong indications of such acts or that the holder intends to commit acts of this nature, namely within the territory of the European Union;
 - c) Reasons exist involving public order, public safety or public health.
- 2 — The renewal of the "EU Blue Card" shall be only be approved when all of the following conditions have been met:
 - a) The holder meets, or continues to meet, the conditions for entry and residence provided for in this section, or when the conditions allowing the document's issuance have been upheld;
 - b) The holder has sufficient means of subsistence, pursuant to terms defined by order of the government members in charge of internal administration and social security, namely without the use of social security support, with the exception of unemployment benefits;
 - c) The holder has not been convicted of a felonious crime with an individual or combined prison sentence exceeding one year;
 - d) No issues exist involving public order, public security or public health.

Article 121-G

Access to labour market

- 1 - During the first two years of legal employment in Portuguese territory, "EU Blue Card" holders' access to labour market shall be limited to remunerated activities meeting the conditions of article 121-B.

2 — During the first two years of legal employment in Portuguese territory, "EU Blue Card" holders shall communicate any changes affecting the conditions for its granting, in writing, if possible in advance, to SEF.

Article 121-H

Equal treatment

1 — Holders of an "EU Blue Card" shall enjoy treatment equivalent to that of nationals with regard to the following:

- a) Working conditions, including remuneration, dismissal, health, and occupational safety requirements;
- b) Freedom of association, affiliation and membership to an organisation representing employees or workers, or any organisation whose members are dedicated to a given occupation, including the advantages provided by these types of organisations, notwithstanding national provisions concerning public safety and order;
- c) Vocational training and education, pursuant to the requirements of applicable legislation;
- d) Recognition of diplomas, certificates and other professional qualifications, in accordance with applicable legislation;
- e) Applicable provisions related to social security;
- f) Payments to old age pensions, acquired based on income, at the applicable rate;
- g) Access to goods, services and the supply of goods and services to the public, including the formalities of obtaining housing, together with information and advice provided by employment services;
- h) Free access to the entire Portuguese territory.

2 — The right to equal treatment pursuant to (1) shall not prejudice the right to cancel or deny an "EU Blue Card" pursuant to article 121-F.

3 — Equal treatment may be limited in the situations provided for in (1), with the exception of sub-paragraphs (b) and (d), when the holder of an "EU Blue Card" from another Member State travels to Portuguese territory, pursuant to article 121-L, without a positive decision having been made on the granting of an "EU Blue Card" in Portugal.

4 — When the decision referred to in the above paragraph has not yet been made, and the applicant has been authorised to work, equal treatment shall apply in full.

Article 121-I

Long-term resident status for "EU Blue Card" holders

1 — The provisions of articles 125 to 133, with the adaptations provided for in the following paragraphs, shall apply to holders of "EU Blue Card" wishing to benefit from long-term resident status.

2 — Long-term resident status may be granted to the holder of an "EU Blue Card" acquired in Portugal, pursuant to article 121-B, provided that all of the following conditions have been met:

a) Five years of uninterrupted legal residence in the European Union territory as an "EU Blue Card" holder;

b) Uninterrupted legal residence in Portuguese territory as an "EU Blue Card" in the two years immediately preceding the submission of the respective request in Portugal.

3 — For the purposes of calculating the period of uninterrupted legal residence in this article, times of absence from the European Union territory shall not interrupt the period referred to in (2)(a), provided that they are less than 12 consecutive months and do not exceed 18 months in total.

4 — The provisions of the above paragraph shall also apply to cases where third-country nationals have only resided in Portuguese territory as "EU Blue Card" holders.

5 — The provisions of article 131, with the necessary adaptations with regard to the term referred to in article 131 (1)(c), which shall be extended to 24 consecutive months, shall apply to the loss of long-term resident status for former "EU Blue Card" holders.

Article 121-J

Long-term residence permit

1 — "EU Blue Card" holders who meet the conditions of the above article to obtain long-term resident status shall be issued a long-term EU residence permit.

2 — "Former 'EU Blue Card' holder" shall be written in the "comments" item of the residence permit referred to in the above paragraph.

Article 121-K

Residence permit for "EU Blue Cards" holders

in another Member State

1 - "EU Blue Card" holders who have resided at least 18 months as an "EU Blue Card" holder in the Member State which initially granted it may travel to Portugal for the purposes of carrying out a highly qualified activity, and be accompanied by his/her family members.

2 - Applications for an "EU Blue Card" in Portuguese territory and, when applicable, for residence permit for the purposes of family reunification, must be submitted within 30 days of the entry into Portuguese territory of the holder of an "EU Blue Card" from another Member State.

3 - The application referred to in the above paragraph must be accompanied by documents proving the status referred to in (1) and fulfilment of the conditions in article 121-B (1), following the other procedures for filing and deciding on the request.

4 - The application may be refused pursuant to article 121-B (4), or if the "EU Blue Card" issued by another Member State has expired or been cancelled while the application is being examined.

5 - If the application is rejected, and notwithstanding the provisions of the following paragraph, the third-country national and his/her employer shall be jointly liable for expenses involving the return and readmission of the "EU Blue Card" holder and his/her family members.

6 - The employer shall be solely responsible for the expenses referred to in the above paragraph when the request is refused pursuant to article 121-B (4)(a).

7 - Decisions handed down on applications submitted pursuant to this article shall be communicated, in writing, by SEF to the authorities of the Member State of origin of the "EU Blue Card" holder, preferably by electronic means.

SUB-SECTION VIII

Residence permit in special situations

Article 122

Residence permit with residence visa exemption

1 - The following third-country nationals shall not require a visa to obtain temporary residence permit:

- a) Minors, children of foreign citizens holding residence permit, born in Portuguese territory;
- b) Minors, born in Portuguese territory, who have remained here and are attending preschool or primary, secondary or vocational education;
- c) Children of holders of residence permit who have reached legal adult age and have habitually remained in Portuguese territory since 10 years of age;
- d) Persons of legal adult age, born in Portuguese territory, who have not been absent from the country or have remained here since before 10 years of age;
- e) Minors subject to mandatory custody pursuant to the Civil Code;
- f) Persons who no longer benefit from the right to asylum in Portugal due to the cessation of the reasons providing the initial basis for this protection;
- g) Persons suffering from an illness requiring prolonged medical assistance precluding their return to the country, for the purpose of avoiding risks to their health;
- h) Persons who served in the Portuguese Armed Forces;
- i) Persons who, after losing Portuguese nationality, have remained in Portuguese territory in the past 15 years;
- j) Persons who have not been absent from Portuguese territory and whose right of residence has expired;
- k) Persons who have minor children residing in Portugal or with Portuguese nationality over whom they effectively exercise parental responsibilities and for whom they ensure the maintenance and education;
- l) Diplomatic and consular agents or their respective spouses, dependent ancestors and descendants who have been accredited in Portugal for no less than three years;
- m) Persons who are, or have been, victims of a serious or very serious criminal or administrative infraction with regard to labour relationships, pursuant to (2) of this article, for which evidence exists from the inspection department of the ministry in charge of labour, provided that the infraction has been reported to the competent authorities, and that they cooperate with these authorities;

- n) Persons who have benefited from residence permit granted pursuant to article 109;
- o) Persons who, having benefited from residence permit for secondary education students granted pursuant to article 92, or residence permit for first-cycle higher education students granted pursuant to article 91, have completed their studies and wish to carry out employed or independent professional activity in Portuguese territory, except when such permit has been issued within the scope of cooperation agreements with no justifying reasons of national interest;
- p) Persons who, having benefited from residence permit to study at a higher education institution pursuant to article 91, or residence permit for research pursuant to article 91-B, have completed the studies or research in question and wish to benefit from the maximum period of one year to seek employment or create a company compatible with their qualifications in Portuguese territory;
- q) Persons who, having benefited from a temporary stay visa to carry out research or highly qualified activities, wish to carry out research activities, teaching activities at a higher education establishment or highly qualified, employed or independent activities in Portuguese territory;
- r) Persons who provide proof of investment activities, pursuant to article 3 (d).

2 - For the purposes of (m) of the above paragraph, only infractions entailing social abandonment, salary or schedule exploitation under particularly exploitative working conditions or involving the use of illegal child labour shall be considered.

3 - The provisions of articles 88, 89 or 90 shall apply, as applicable, with the necessary adaptations, to the situations in (1)(n), (o) and (p).

4 - Residence permit with visa exemption shall also be granted to the first degree direct ancestors of a foreign citizen subject to (1)(b), over whom they have parental responsibilities, with the ability to make simultaneous applications.

5 - Temporary residence permit granted pursuant to (1)(b) and (4) shall be cancelled or not renewed when a minor, without justifiable grounds, no longer attends preschool or primary education.

6 — Temporary residence permit granted pursuant to (1)(b) and (4) shall be cancelled or not renewed when a minor, without justifiable grounds, no longer attends secondary or vocational education.

7 - The holders of residence permit with visa exemption granted pursuant to the above paragraphs shall enjoy the rights provided for by article 83.

8 - Notwithstanding the rules on family reunion, the granting of a residence permit under the terms pursuant to (1) (g) is extended to a foreign citizen accompanying the applicant as an accompanying person or informal carer, and may be requested simultaneously.

Article 123

Exceptional scheme

1 - Under extraordinary circumstances not subject to the provisions of article 122, and in the case of residence permit for humanitarian reasons under the law governing the right to asylum, by proposal of SEF National Director or at the initiative of the government member in charge of internal administration, temporary residence permit may be granted, on an exceptional basis, to foreign citizens not meeting the requirements provided for in this law:

a) For reasons of national interest;

b) For humanitarian reasons;

c) For reasons of public interest arising from the undertaking of a relevant scientific, cultural, athletic, economic or social activity.

2 - The following are considered included in the provision of (b) of the preceding number the situations of children and young people of foreign nationality hosted in a public, cooperative, social or private institution with cooperation agreement with the State, following a process of promotion and protection, are included in the provision pursuant to article 58 (1) (k) of the Law on the Protection of Children and Young People in Danger, approved in an annex to Law no. 147/99 of 1 September.

3 - Decisions by the government member in charge of internal administration on residence permit applications under the exceptional scheme provided for in this article shall be made on duly justified grounds.

Article 123-A

Special scheme for company relocation

1 - Residence permit shall be granted to the owners, managers or workers of companies that have their registered office, or principal or secondary establishment, in a state of the European Economic Area or in a state defined by order of the government members in charge of foreign affairs and internal administration, which establish their registered office or principal or secondary establishment in Portuguese territory, provided that they meet the following conditions:

a) Possession of residence permit or a valid residence permit in the state of the European Economic Area where the company's registered office or principal or secondary establishment was located;

b) They do not represent a threat to public order or public safety;

c) They fulfil the conditions of article 77 (g) to (j).

2 - Provided that the conditions of the above paragraph have been met, the foreign residence permit shall be recognised, with the issuance of a similar residence permit valid in Portuguese territory.

3 - The same scheme shall apply to the family members of the worker or employee benefiting from the provisions of this article.

4 - Children and young people of foreign nationality who are hosted by a public, cooperative, social or private institution with a cooperation agreement with the State, following a process of

promotion and protection, shall benefit from the resident status pursuant to article 123 (1) (b) and Article 123 (2).

5 - Foreign minors not born in Portuguese territory, but who are in Portugal, benefit from the same resident status granted to those who effectively exercise parental responsibilities over them, namely for the purposes of family allowance and social security identification number.

Article 124

Foreign minors

1 — Foreign minors born in Portuguese territory shall benefit from the same resident status as that granted to either of their parents.

2 — For the purposes of issuing a residence title, either of the parents must submit an application within six months of registering the minor's birth.

3 — At the end of the time period referred to in the above paragraph, any citizen may still request that the Children's Public Defender replace the parents for the purpose of requesting the granting of this status for the minors.

4 — Children and young people of foreign nationality who are hosted by a public, cooperative, social or private institution with a cooperation agreement with the State, following a process of promotion and protection, shall benefit from the resident status pursuant to article 123 (1) (b) and Article 123 (2).

5 - Foreign minors not born in Portuguese territory, but who are in Portugal, benefit from the same resident status granted to those who effectively exercise parental responsibilities over them, namely for the purposes of family allowance and social security identification number.

IX

SUB-SECTION IX

Residence permit for "ICT" workers transferred

within the company

and for long-term "ICT mobile" mobility

Article 124-A

Residence permit for workers transferred within the company — "ICT Residence permit"

1 - Residence permit for intra-corporate transferees enables its holders to reside and work in Portuguese territory within the scope of an intra-corporate transfer (ICT) in a company or company group.

2 - The provisions of this sub-section shall not apply to third-country nationals who:

a) Have applied or are holders of residence permit for research, pursuant to article 91-B;

b) Benefit from free movement rights equivalent to those of European Union citizens under agreements signed between the European Union and its Member States with the person's third country of origin or in whose territory the person's company of employment is established;

- c) Are posted pursuant to Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996;
- d) Are independent workers;
- e) Are parties to an agreement signed with temporary employment agencies or any other agencies providing professional workers under third-party supervision and direction;
- f) Have residence authorisation for the purposes of short-term traineeships or studies integrated into curricular programmes.

3 —SEF National Director shall be responsible for the decisions provided for in this sub-section, with the power to delegate.

Article 124-B

Granting of residence permit for intra-corporate transferees

1 — Notwithstanding the provisions of article 77, residence permit shall be granted to intra-corporate transferees pursuant to article 3 (ii) to carry out the professional activity of manager, specialist or trainee, provided that:

- a) They prove that the host company and the company established in the third country belong to the same company or company group;
- b) They prove that they have worked at the same company or same company group for at least 3 to 12 consecutive months as a manager or specialist, or 3 to 6 consecutive months as a trainee, immediately prior to the date of transfer;
- c) They have an employment agreement with the company or company group to which the host company belongs, specifying their position as a manager, specialist or trainee;
- d) They submit a document issued by the employer specifying the host company, remuneration and other conditions of employment during the transfer period;
- e) They prove that they have professional experience and qualifications compatible with the duties of manager or specialist to be performed at the host company, or the appropriate higher education diploma in the case of trainees;
- f) They prove, in the case of a regulated profession, that they meet the conditions for practising the profession under national legislation;
- g) They have a valid travel document, whose validity covers the planned duration of the intra-corporate transfer;
- h) They prove that they have requested health insurance, under conditions applicable to Portuguese citizens, for periods in which they do not benefit from this type of coverage, or have corresponding payments related to or resulting from the work to be carried out;
- i) They provide a guarantee, by the host company, of compliance with legislation, during the transfer, concerning work conditions and the payment of remuneration not less than that paid to Portuguese workers with identical employment duties.

2 — The residence visa pursuant to article 77 (1)(a) shall not be required of applicants, provided that they have entered Portuguese territory legally.

3 — Workers transferred within a company to a host company belonging to the same company or company group, certified by order of the government members in charge of internal administration and the economy for the purposes of this law's application, shall be exempt from submitting documents proving the conditions referred to in (1)(b), (c), (e), (h) and (i), with the issuance of a visa allowing their entry into Portuguese territory.

4 — The certification referred to in the above paragraph shall be valid for 5 years, subject to cancellation under any of the circumstances referred to in (1), or if the host company is in breach of legislation concerning work conditions and the payment of lower remuneration compared to that paid to Portuguese workers with identical employment duties.

5 — The host company shall notify the ministry in charge of the economy, within 30 days, of any changes to the conditions of certification, under penalty of its revocation.

6 — The ministry in charge of the economy shall keep an updated list of the companies certified pursuant to (3) with SEF and Directorate-General of Consular Affairs and Portuguese Communities.

7 — Residence authorisation for intra-corporate transferees shall be valid for one year, or for the duration of the transfer to Portuguese territory, subject to renewal for equal time periods, up to a maximum of three years for managers and specialists and one year for trainees, provided that the conditions for its granting are upheld.

8 — Holders of residence permit for intra-corporate transferees shall be issued a residence permit using the uniform residence permit format for third-country nationals in Council Regulation (EC) No 1030/2002 of 13 June 2002 and national legislation, with "ICT" written in the item "permit".

Article 124-C

Refusal and cancellation

1 - Notwithstanding the provisions of article 77 and 78, requests to grant or renew residence permit for intra-corporate transferees shall be refused if:

- a) The applicant does not meet, or no longer meets, the conditions of article 124-B (1);
- b) The documents submitted have been obtained fraudulently, or are falsified or forged;
- c) The host company has been created for the main purpose of facilitating the entry of intra-corporate transferees;
- d) The host company has been penalised for undeclared work or illegal employment;
- e) The host company does not comply with legislation in force concerning social security, taxation, labour rights or working conditions, or is wound up, declared bankrupt or has no business activities;
- f) The maximum limit of stay of three years for managers and specialists or one year for trainees is reached;
- g) The host company becomes insolvent or has no recorded business activities;
- h) The host company's recognition has been cancelled pursuant to 124-B (4);

i) For reasons of public order, public safety or public health.

2 - Notwithstanding the provisions of article 85 (1), residence permit granted under this sub-section may be cancelled whenever:

a) Any of the circumstances provided for in (1) occur;

b) The intra-corporate transferee is residing in Portuguese territory for reasons other than those for which the residence was granted.

3 - Decisions of denial or cancellation shall consider the case's specific circumstances, and shall follow the proportionality rule.

4 - Decisions to cancel residence permit for intra-corporate transferees shall be notified to the Member State where the mobility is being exercised.

Article 124-D

Procedures, procedural guarantees and access to information

1 - Requests to grant or renew residence authorisation for an intra-corporate transfer pursuant to this sub-section must be submitted by the third-country national, or by the host company, to the main SEF office or regional office in his/her area of residence.

2 - At the time of the request, information shall be provided to the applicant on entering and staying in Portuguese territory, together with the documentation legally required for the procedures in this sub-section and the associated rights, obligations and guarantees of the holder and, if applicable, his/her family members.

3 - Residence authorisation renewals for intra-corporate transferees must be requested by the interested party within 30 days prior to their expiry, subject to the provisions of article 78 (7).

4 - Requests must be filed with documents proving that the applicant meets the conditions of this sub-section for the purposes of granting or renewing residence authorisation.

5 - If the information or documentation submitted by the applicant are insufficient, the request's assessment shall be suspended, with a request for the necessary supplementary information or documents, which must be submitted within 10 days.

6 - Decisions to grant or renew residence authorisations shall be made within 90 and 30 days, respectively, or within half of these time limits whenever the host company is certified pursuant to article 124-B (3).

7 - Approvals of residence permit applications pursuant to this sub-section shall be notified to the competent consulate, for the purposes of immediately issuing a visa, if the holder is outside of the European Union territory and needs a visa to enter Portuguese territory.

8 - The decision to refuse a residence permit request, a decision of non-renewal or a decision to cancel residence permit pursuant to this sub-section shall be notified to the applicant, in writing, specifying the justifying grounds, the right to judicial review, the respective term and court of jurisdiction.

9 - The decision to cancel residence permit issued pursuant to this sub-section shall also be notified in writing to the host company, specifying the justifying grounds.

10 - Holders of a residence permit for intra-corporate transfer shall notify SEF, within 15 days, of any changes to the conditions of granting pursuant to article 124-B.

Article 124-E

Mobility of intra-corporate transferees

1 - Third-country nationals holding an ICT residence permit granted by another European Union Member State shall be authorised to carry out professional activities in Portuguese territory, for up to 90 days in any 180-day period, with authorisation for his/her entry and stay, together with the members of his/her family, based on the residence permit granted by this Member State, with no other required formalities, when in possession of a valid passport and not included in the Schengen Information System for the purposes of refusal of entry and stay.

2 - Third-country nationals holding an ICT residence permit granted by another European Union Member State wishing to reside and carry out a professional activity at a host company based in Portuguese territory, for a period exceeding 90 days, shall be granted residence permit for long-term mobility pursuant to the following paragraphs.

3 - Applications for residence permit for long-term mobility in Portuguese territory and, when applicable, for residence permit for the purposes of family reunification, must be submitted within 30 days of entering Portuguese territory, or 20 days before the end of the short-term mobility referred to in (1).

4 - The application referred to in the above paragraph must be accompanied by documents proving possession of ICT residence permit granted by another Member State, and fulfilment of the conditions of article 124-B.

5 - For the purposes of submitting the application and while proceedings are pending, the applicant shall be authorised to:

- a) Remain in Portuguese territory, with exemption from the visa obligation;
- b) Work in Portuguese territory until a decision is made on the application, provided that the time period referred to in (1) is not surpassed, and the ICT residence permit issued by another Member State does not expire.

6 - Holders of residence permit for long-term mobility shall be issued a residence permit using the uniform format provided for in Council Regulation (EC) No 1030/2002 of 13 June 2002, with "ICT mobile" written in the item "type of permit".

7 - Residence permits shall be valid for one year, or for the duration of the transfer to Portuguese territory, subject to renewal for equal time periods, up to a maximum of three years for managers and specialists and one year for trainees, provided that the conditions for their granting are upheld.

8 - The host company shall notify SEF of any changes affecting the initial conditions for granting permit for long-term mobility.

9 - The granting of residence permit for long-term mobility shall be notified to the authorities of the Member State which issued the ICT residence permit.

10 - Notwithstanding the provisions of (5), the refusal of the applications to grant or renew residence permit for long-term mobility, or to cancel it, shall be subject to the provisions of article 124-C.

11 - The provisions of article 124-D shall apply to residence permit for long-term mobility.

Article 124-F

Rights of intra-corporate transferees and equal treatment

1 - Holders of residence permit granted pursuant to articles 124-B or 124-E shall be entitled to enter and remain in the entire Portuguese territory, and to carry out professional activities as a manager, specialist or trainee at any host company belonging to the company or company group.

2 - Holders of the residence permit referred to in the above paragraph shall be guaranteed the right of family reunification, pursuant to sub-section IV, with family members benefiting from the provisions of article 83.

3 - Holders of residence permit granted pursuant to article 124-B and their family members shall be entitled to enter Portuguese territory whenever a European Union Member State has refused a long-term mobility application or cancelled an "ICT mobile" residence permit granted and requested from SEF.

4 - Intra-corporate transferees under articles 124-B or 124-E shall be ensured equal treatment in relation to domestic workers pursuant to article 83 (2), including with regard to the working conditions and remuneration of other workers with comparable duties, professional categories, seniority and qualifications at the company.

Article 124-G

Penalties

1 - Notwithstanding the provisions of article 198-C, SEF, within the scope of its powers, shall carry out assessments and inspections to gauge compliance with the scheme for the entry and stay of intra-corporate transferees.

2 - Notwithstanding applicable penalties for failure to comply with labour, tax and social security legislation, the provisions of articles 185-A and 198-A shall apply to the employers of third-country national intra-corporate transferees without residence permit pursuant to this sub-section.

3 — The host company shall be responsible for the expenses of the stay and removal of employed foreign citizens in breach of this sub-section, in the following situations:

a) If the conditions providing the basis for the mobility's authorisation have changed, without notification from the host company of this change, pursuant to this sub-section;

b) If the authorisations granted under this sub-section have been used for purposes other than those for which they were issued;

c) If the host company has been penalised for the breach of its legal obligations in relation to labour, social security or taxes;

d) If the host company has been declared insolvent, or has no business activity.

4 —SEF shall provide host companies with information on the provisions of this article.

Article 124-H

National Contact Point

1 —SEF is designated the Portuguese contact point for the purposes of cooperation and exchanging information on the mobility scheme for intra-corporate transferees, together with notifications on the mobility of intra-corporate transferees.

2 —SEF shall notify other Member States' national contact points of the competent authority for receiving and issuing residence permits for intra-corporate transferees and the procedure applicable to the mobility of workers with residence permit as intra-corporate transferees to Portuguese territory.

Article 124-I

Statistics

1 —SEF shall be responsible for preparing statistics on the issuing, renewal and cancellation of residence permits for intra-corporate transferees and long-term mobility permits issued pursuant to this sub-section, broken down by nationality and validity period, including by economic sector and category of transferred worker.

2 — The provisions of article 56-G (2) shall apply to the statistics referred to in the above paragraph.

CHAPTER VII

Long-term resident status

Article 125

Beneficiaries

1 - Third-country nationals legally residing in Portuguese territory and meeting the requirements for the granting of long-term resident status may benefit from this status.

2 - Long-term resident status shall not be afforded to third-country nationals who:

a) Have residence permit for studies, non-remunerated professional traineeships or volunteer work;

b) Are authorised to reside in Portuguese territory under temporary protection, or have applied for a residence permit for this purpose and are awaiting a decision on their status;

c) (Repealed.)

d) (Repealed.)

e) Are staying in Portugal exclusively for reasons of a temporary nature as seasonal workers, workers posted by a service provider to provide cross-border services, or providers of cross-border services;

f) Benefit from a legal status under the Vienna Convention on Diplomatic Relations of 18 April 1961, or the Vienna Convention on Consular Relations of 24 April 1963.

Article 126

Conditions for acquiring long-term resident status

1 - Long-term resident status shall be granted to third-country nationals who:

a) Have resided legally and on an uninterrupted basis in Portuguese territory during the five years immediately preceding the application submission or, in the case of beneficiaries of international protection, since the submission date of the application resulting in international protection;

b) Have steady, regular means of subsistence for themselves and their family members, without use of the welfare sub-system;

c) Have health insurance;

d) Have accommodation;

e) Demonstrate fluency in basic Portuguese.

2 — The periods of residence for the reasons referred to in (2)(e) and (f) of the above article shall not be taken into account in calculating the period referred to in (a) of the above paragraph.

3 — In the cases subject to (2)(a) of the above article, whenever the third-country national has obtained residence permit allowing him/her to benefit from long-term resident status, the period in which he/she had residence for the purpose of studies, non-remunerated vocational training or volunteer work shall be taken into account, by half, in calculating the period referred to in (1)(a).

4 — Periods of absence from Portuguese territory shall not interrupt the period referred to in (1)(a), and shall be included in its calculation, provided that they are less than 6 consecutive months and do not exceed, in total, 10 months within the time period referred to in (1)(a).

5 — Periods of absence due to posting for work-related purposes, namely the provision of cross-border services, shall be taken into consideration in calculating the period referred to in (1)(a).

6 — For the purposes of (1)(b), means of subsistence shall be assessed by their nature and regularity, bearing in mind the level of minimum wages and pensions prior to the long-term resident status request.

7 — The uninterrupted periods of stay in Portuguese territory under a work visa or permit of stay, issued pursuant to the above legislation, shall be included in calculating the time period referred to in (1)(a).

Article 127

Public order and public security

1 — Long-term resident status may be refused for reasons of public order or public safety, taking into account the seriousness or type of offence committed against public order or public security, or the hazards which may arise from the person's stay in Portuguese territory, together with the duration of residence and existence of connections to the country.

2 — The refusal referred to in the above paragraph should not be based on economic reasons.

3 — Notwithstanding the provisions of the above paragraphs, long-term resident status based on international protection shall be refused whenever the protection is revoked, withdrawn or refused pursuant to article 41 (1)(a) and (b) of Law no. 27/2008 of 30 June, which establishes the conditions and procedures for granting asylum or subsidiary protection and the statuses of asylum seeker, refugee and subsidiary protection.

Article 128

Authority

SEF National Director shall be responsible for granting or refusal of long-term resident status, with the power to delegate.

Article 129

Procedure for acquiring long-term resident status

1 - The regional office of SEF in the applicant's area of residence shall be in charge of receiving applications for long-term resident status.

2 - The application must be accompanied by documents proving that the third-country national meets the conditions of article 126, together with a valid travel document or certified copy of it.

3 - Notwithstanding the above paragraph, applications for long-term resident status from third-country nationals also in possession of a long-term EU residence permit issued by another Member State shall be preceded by a consultation of this permit to determine whether the applicant continues to benefit from international protection.

4 - The applicant shall be notified in writing of the decision as soon as possible, and always within a maximum of six months.

5 - Under exceptional circumstances associated with analysing complex requests, the term referred to in the above paragraph may be extended by an additional three months, with notice of this extension to the applicant.

6 - Any lack of a decision within nine months shall be considered approval of the application.

7 - If the conditions of article 126 have been met, and the applicant represents no threat as defined in article 127, the status of long-term resident shall be granted.

8 — All applicants to long-term resident status shall be informed of their associated rights and obligations.

9 — Long-term resident status shall be permanent in nature, based on a renewable permit.

10 - The granting of long-term resident status to third-country nationals with residence permit granted pursuant to article 116 shall be notified by the SEF to the Member State which initially granted long-term resident status.

Article 130

Long-term EU residence permit

1 — Long-term residents shall be issued a long-term EU residence permit.

2 — Long-term EU residence permits shall be valid for a minimum of five years, subject to automatic renewal, upon request, at the time of expiry.

3 — Long-term EU residence permits shall be issued following the rules and uniform format of the residence permit for third-country nationals in force in the European Union, with "long-term EU resident" written in the item "type of permit".

4 — When a long-term EU residence permit is issued to a third-country national who has benefited from international protection in another Member State, the following note must be written on the permit in question: "International protection granted by ... (identification of Member State) on ... (date)".

5 — If the international protection is transferred, this note must be modified via request from the Member State where the third-country national has benefited from protection.

6 — Long-term residence permits should be modified with the note in question as soon as possible, and always within a maximum of three months.

Article 131

Loss of status

1 — Long-term residents shall lose long-term resident status under the following circumstances:

- a) Fraudulent acquisition of long-term resident status;
- b) Adoption of an expulsion measure pursuant to article 136;
- c) Absence from the European Union territory for 12 consecutive months;
- d) Acquisition of long-term resident status in another Member State;
- e) Absence from Portuguese territory for 6 consecutive years.

2 — Absences from the European Union territory for more than 12 consecutive months which are justified by specific or exceptional reasons shall not imply the loss of status, namely when the long-term resident has remained in the country of origin to carry out a professional or business activity, or an activity of a cultural or social nature.

3 — Absences from Portuguese territory for more than 6 consecutive years which are justified by specific or exceptional reasons shall not imply the loss of status, namely when the long-term resident has remained in the country of origin to carry out a professional or business activity, or an activity of a cultural or social nature.

4 — Whenever the loss of status is due to any of the situations referred to in (1)(c) and (e), the interested party may reacquire long-term resident status upon request, provided that the conditions of article 126 (1)(b) to (d) have been met.

5 — Decisions on requests referred to in the above paragraph shall be handed down within three months.

6 — The expiry of a long-term EU residence permit shall not imply the loss of long-term resident status.

7 — The loss of long-term resident status shall result in cancellation of residence permit and seizure of the long-term EU residence permit.

8 — The government member in charge of internal administration shall be responsible for the cancellation of residence permit for long-term residents, with the ability to delegate to the SEF National Director.

9 — If the loss of long-term resident status results in the removal, from Portuguese territory, of a third-country national who has had a long-term EU residence permit pursuant to article 130 (4), such removal may only be carried out to the country referred to in the notes.

10 — Under the circumstances referred to in the above paragraph, if there are serious reasons to believe that the third-country national represents a hazard to national security or to public order, if the third-country national has been convicted by a final ruling of a felonious crime with a penalty of more than one year in prison, even if its enforcement has been suspended in the case of convictions for felonious crimes provided for in or in connection with this law or for crimes of terrorism, violent crimes or particularly violent or highly organised crimes, or if the third-country national's international protection granted by another Member State has been withdrawn, the removal may be carried out to a different country, in accordance with the principle of non-refoulement.

11 — If the loss of long-term resident status does not result in removal, the person concerned shall be granted residence permit with visa exemption.

Article 132

Procedural guarantees

1 — Decisions to reject long-term resident status applications, or the loss of this status, shall be notified to the interested party, specifying the justifying grounds, the right to judicial review and the respective term.

2 — Decisions to refuse long-term resident status applications, or the loss of this status, shall be notified electronically to ACIDI, I. P., specifying the justifying grounds.

3 — Decisions to rejecting long-term resident status applications, or the loss of this status, shall be subject to appeal, with suspensory effect, before the administrative courts.

Article 133

Equal treatment

Beneficiaries of long-term resident status shall enjoy equal treatment in relation to Portuguese citizens, pursuant to the Constitution and the law, namely with regard to the following:

- a) Access to independent or employed professional activities, provided that such activities do not entail the exercising of public authority, including on an exceptional basis, notwithstanding the special scheme applicable to nationals from Portuguese-speaking countries;
- b) Access to employment and working conditions, including conditions for dismissal and remuneration;
- c) Vocational training and education, including grants and scholarships in accordance with applicable legislation;
- d) Recognition of professional diplomas, certificates and other titles, in accordance with the law and pertinent national procedures;
- e) Social security, social assistance and social protection;
- f) Tax benefits;
- g) Health care;
- h) Access to goods, services, and the provision of goods and services available to the public, together with procedures for obtaining accommodation;
- i) Freedom of association, affiliation and membership to an organisation representing employees or workers, or any organisation whose members are dedicated to a given occupation, including the advantages provided by these types of organisations, notwithstanding national provisions concerning public security and public order;
- j) Free access to the entire national territory.

CHAPTER VIII

Removal from Portuguese territory

SECTION I

General provisions

Article 134

Grounds for the expulsion or forced removal decision

1 — Notwithstanding the provisions of international conventions to which Portugal is a party or is bound, the following foreign citizens shall be subject to forced removal or to an expulsion from Portuguese territory:

- a) Foreign citizens who enter or remain illegally in Portuguese territory;
- b) Foreign citizens who endanger national security or public order;

- c) Foreign citizens whose presence or activities in the country represent a threat to the interests or dignity of the Portuguese state or its citizens;
- d) Foreign citizens who interfere abusively in the exercising of political participation rights reserved to Portuguese citizens;
- e) Foreign citizens whose acts, if known by the Portuguese authorities, would have prohibited their entry into the country;
- f) Foreign citizens in relation to whom there are serious reasons to believe they have committed serious criminal acts, or intend to commit such acts, namely in the European Union territory;
- g) Foreign citizens with a valid residence permit or other permit entitling them to remain in another Member State, who fail to meet the obligation of going immediately to this Member State;
- h) Has circumvented or tried to circumvent the applicable rules on entry and stay, in the national territory or in those of the Member States of the European Union or of the States where the Convention is in force, namely by using or resorting to forged or falsified identity or travel documents, residence permits, visas or documents proving fulfilment of the entry conditions.

2 - The provisions of the above paragraph shall not prejudice any criminal liability to which the foreign citizen is subject;

2 — The provisions of the above paragraph shall not prejudice any criminal liability to which the foreign citizen is subject.

3 — Refugees shall be subject to the most beneficial scheme resulting from the law or international convention to which the Portuguese state is bound.

Article 135

Limits to expulsion

1 — The following foreign citizens may not be subject to removal or expulsion from the country:

- a) Foreign citizens who were born in Portuguese territory and habitually reside there;
- b) Foreign citizens who have minor children of Portuguese nationality residing in Portugal in their custody;
- c) Foreign citizens who have minor children who are third-country nationals, residing in Portuguese territory, who they support and raise with parental responsibilities;
- d) Foreign citizens who have been in Portugal since before 10 years of age and reside in Portugal.

2 — The provisions of the above paragraph shall not apply in the case of justified suspicion of crimes of terrorism, sabotage or attacks against national security, or convictions for such crimes.

Article 136

Protection of the long-term resident in Portugal

1 - Decisions of judicial expulsion for long-term residents may only be based on the fact that the resident represents a real and sufficiently serious threat to public order or public security, and shall not be based on economic reasons.

2 - Prior to a decision of expulsion for a long-term resident, the following shall be taken into account:

- a) The duration of residence in the territory;
- b) The age of the person in question;
- c) The consequences to the person and his/her family members;
- d) Ties to the country of residence, or lack of ties to the country of origin.

3 - Expulsion decisions shall be subject to appeal, with suspensory effect.

4 - Long-term residents without sufficient resources shall be given legal support, pursuant to the law.

Article 137

Forced removal of long-term residents in an European Union Member State

1 - Holders of long-term resident status granted by a European Union Member State may be subject to a forced removal measure if they remain illegally in Portuguese territory.

2 - Provided a third-country national with residence permit granted pursuant to article 116 has not obtained long-term resident status in Portuguese territory, forced removal measures may only be taken pursuant to article 136 (1) and (2), after consulting the European Union Member State who granted the status.

3 - In the case of forced removal to the territory of the European Union Member State which granted long-term resident status, the competent authorities of that state shall be notified of the decision by the SEF.

4 - SEF shall take all measures to effectively execute such decision, and to notify the competent authorities of the European Union Member State which granted long-term resident status to the person concerned of the measures adopted to implement the forced removal decision.

7 — A notificação de abandono voluntário é registada no Sistema Integrado de Informação do SEF com especificação da duração da permanência ilegal e é introduzida no SIS com averbamento do prazo para o abandono, enquanto indicação de regresso, por um período de um ano.

8 — No âmbito do disposto no número anterior, a indicação é imediatamente eliminada se o cidadão estrangeiro fizer cessar a permanência ilegal, nomeadamente quando o próprio confirmar que abandonou o território nacional e o dos Estados onde vigore a Convenção de aplicação, ou quando o SEF tenha conhecimento por qualquer meio ou em virtude da sua comunicação por outro Estado membro da União Europeia ou Estado onde vigore a Convenção de Aplicação.

Article 138

Voluntary departure from Portuguese territory

1 - Foreign citizens who enter or remain illegally in Portuguese territory shall be notified by SEF to voluntarily depart Portuguese territory within an established time period of 10 to 20 days.

2 - Foreign citizens whose residence permit has been cancelled shall be notified by SEF to voluntarily depart Portuguese territory within an established time period of 10 to 20 days.

3 - The time period referred to in the above paragraphs may be extended by SEF based on the duration of stay, the existence of children attending school and the existence of other family members and social ties, with notification of the extension to the foreign citizen.

4 - In the event of a decision to cancel residence permit pursuant to article 85, if there is a risk of absconding where there is a risk of absconding in accordance with Article 142(3), if an extension of stay application has been refused for being clearly unfounded or fraudulent, the citizen shall be notified to immediately depart Portuguese territory, under penalty of the crime of qualified disobedience.

5 - Compliance with the order to immediately depart Portuguese territory presumes the foreign citizen's use of the first means of available travel suited to the situation.

6 - If, in addition to the conditions referred to in Article 33(1)(c) and (d) or in Article 33(3), there is any doubt as to identity or the foreign national has circumvented or attempted to circumvent the applicable rules on entry and stay in accordance with the provisions of Article 134(1)(h), a forced removal procedure will be initiated in accordance with the provisions of Article 146, whereby paragraph 1 of this Article shall not apply.

7 - Notification of voluntary departure is registered in the SEF Integrated Information System specifying the duration of the illegal stay and is entered into the SIS with an entry of the deadline for leaving, as an indication of return, for a period of one year.

8 - Within the scope of the provisions of the previous number, the alert is immediately erased if the foreign national terminates the illegal stay, namely when he/she confirms that he/she has left the national territory and that of the States where the Convention is in force, or when SEF becomes aware of it by any means or by virtue of its communication by another Member State of the European Union or State where the Convention is in force.

Article 139

Assisted voluntary return

1 — The State may assist the voluntary return of foreign citizens meeting the conditions required from the countries of origin, within the scope of cooperation programmes in place with international organisations, namely the International Organisation for Migration, or non-governmental organisations.

2 — Foreign citizens benefiting from the support granted pursuant to the above paragraph, when holders of residence permit, shall submit it at the border post at the time of departure.

3 — For three years after departing the country, beneficiaries of assisted voluntary return may only be admitted into Portuguese territory and that of the Member States of the European Union or States party to or associated with the Convention with reimbursement of amounts received, plus interest at the legal rate in force.

4 — The provisions of the above paragraph shall not prejudice the ability to issue a short-stay visa on an exceptional basis, for humanitarian reasons, pursuant to article 68.

5 — Citizens who have benefited from a temporary protection scheme shall not be subject to the requirement in (3).

Article 140

Competent authorities

1 — Forced removal measures pursuant to this law may be taken by SEF National Director, with the power to delegate.

2 — SEF National Director shall be responsible for deciding on the closure of forced removal proceedings.

3 — Decisions of expulsion shall be made by the competent judicial authority.

4 — Expulsion orders shall take the form of an ancillary penalty, or may be made when the foreign citizen subject to the decision has entered or remained in Portugal on a regular basis.

Article 141

Procedural competence

1 — SEF National Director has the powers, personally or by delegation, to bring an action of forced removal and to order the pursuing of the procedure, as well as to determine its filing to the competent court.

2 — SEF National Director also has the powers to close the file.

Article 142

Coercive measures

1 - Within the scope of expulsion procedures in addition to the coercive measures laid out in the Penal Code, exception made to provisional detention, where there is a risk of absconding, the judge may also determine the following:

a) Regular reporting (in person) to SEF;

b) House confinement using electronic surveillance means, pursuant to the law;

c) Placing the person concerned in a detention facility or equivalent space in accordance to the provisions of the law.

2 - The lower criminal courts (juízos de pequena instância criminal) or the district courts of the place where the foreign national is found have the powers to enforce coercive measures.

3 - For the purposes of the provisions of no. 1, the risk of absconding shall be assessed with regard to the personal, family, social, economic or professional situation of the foreign national, with a view to determining the likelihood of him or her absconding to an unknown place with the intention of evading enforcement of the decision to remove him or her or the duty to leave the country, namely in situations where the foreign national's personal or professional domicile in national territory is unknown, where there are no family ties in the country, where there are doubts as to his or her identity, or where preparatory acts of absconding are known.

Article 143

Country of destination

1 — Forced removal and expulsion may not be carried out to any country where the foreign citizen may be persecuted on grounds which, pursuant to the law, justify his/her right to asylum, or where the foreign citizen may undergo torture, inhumane treatment or degradation as defined in article 3 of the European Convention on Human Rights.

2 — The interested party must invoke a well-founded fear of persecution, and submit corresponding proof within the time period granted to him/her, to benefit from the guarantee in the above paragraph.

3 — In the cases referred to in the above paragraph, the interested party shall be routed to another country which will accept him/her.

Article 144

Time limit and territorial scope of the abandonment obligation and entry and residence ban

1 - Foreign citizens subject to a removal decision shall be prohibited from entering Portuguese territory for up to five years, or for more than five years if they constitute a serious threat to public order, public safety or national security.

2 - The measure of refusal of entry and stay shall be graduated from the mere illegal stay and may be aggravated, taking into account the length of the unauthorised stay, when the illegal stay is associated with it:

(a) The intentional violation of entry and stay rules; or

(b) The commission of criminal offences or serious violation of obligations arising from the coercive measures listed in Article 142; or

c) That the foreign national has been subject to more than one return decision or has violated an alert refusing entry and stay; or

(d) The existence of the threat referred to in the preceding paragraph.

3 - Where the foreign national is not allowed, by any means, to remain within the territory of Member States of the European Union and the States in which the Convention is in force, the duty to leave, removal or expulsion and the indication of refusal of entry and stay shall also cover the

territory of those States; the territorial scope of the prohibition measure must be expressly stated in the notifications legally foreseen for the respective procedure.

SECTION II

Forced removal ordered by administrative authority

Article 145

Forced removal

Notwithstanding the application of the readmission scheme, forced removal may only be ordered by an administrative authority on the grounds of illegal entry or stay in Portuguese territory.

Article 146

Procedures for a forced removal decision

1 - Foreign citizens who enter or remain illegally in Portuguese territory shall be arrested by the police authorities and, whenever possible, handed over to SEF, accompanied by the respective police record, and must be presented, within 48 hours of arrest, before the judge of the local criminal court in the area of jurisdiction, or local district court in other areas of the country, for the validation and potential application of coercive measures.

2 - If detention in a detention centre or equated facility the SEF will be informed, so that it may pursue competent proceedings for the foreign citizen's removal from Portuguese territory.

3 - The detention referred to in the above paragraph may not be prolonged for more time than that needed to execute the removal decision, without exceeding 60 days.

4 - If the detention in a detention centre or equated facility is not ordered SEF shall likewise be notified for the purposes referred to in (2), with notice to the foreign citizen to appear at the respective department.

5 - A forced removal procedure shall not be brought against foreign citizens who:

a) Having entered Portuguese territory illegally, submit an application for asylum to any police authority within 48 hours of their entry;

b) Have a valid residence permit, or other permit entitling them to remain in another Member State, who meet their obligation of going immediately to this Member State;

c) Are readmitted or accepted upon request of another Member State, in accordance with international conventions or agreements signed in this regard, provided that they possess a permit allowing them to remain or legally reside in Portuguese territory;

d) Have a residence permit or other permit allowing them to legally remain on Portuguese territory, in accordance with legal provisions in force.

6 - Foreign citizens subject to a) of the above paragraph shall freely await a decision on their application, and shall be notified SEF of their rights and obligations, in accordance with the law governing the right to asylum.

7 - Authorities and SEF authorised officers, Guarda Nacional Republicana, Polícia de Segurança Pública, Polícia Judiciária and Polícia Marítima are competente to make arrests pursuant to (1).

Article 146-A

Conditions for detention arrest

1 — Foreign citizens detained in a temporary detention facility or equated facility shall be authorised, upon request, to contact their legal representatives, family members and competent consular authorities.

2 — Foreign citizens detained in a temporary detention facility or equated facility shall be entitled to communicate with their attorney or defender in private.

3 — Foreign citizens detained in a temporary detention facility or equated facility shall be entitled to receive urgent health care and basic treatment for illnesses, with special care for vulnerable persons, particularly minors, unaccompanied minors, disabled persons, the elderly, pregnant women, families with minor children and victims of torture, rape and other serious forms of psychological, physical or sexual violence.

4 — Within the scope of SEF management powers at detention facilities protocols may be signed with national or international organisations with recognised work in the area of immigration to define associated means of authorisation and visitation conditions.

5 — Detained foreign citizens shall be provided a document describing the rules of the waiting area or similar space, together with his/her rights and obligations, namely the right to contact the entities referred to in (1).

6 — Detained families shall be kept at separate locations guaranteeing their privacy.

7 — Accompanied minors detained shall have the ability to participate in leisure activities, namely games and recreation activities suited to their age, together with access to education in accordance with the duration of their stay.

Article 147

Escort to a border post

1 — Foreign citizens detained pursuant to article 146 (1) who, during the judicial examination and after being informed of the provisions of (2) and (3), state their intent to leave Portuguese territory, as well as the territory of the Member States of the European Union and of the States where the Convention Implementing the Schengen Agreement is in force may, by decision of the competent judge and when duly documented, be handed over to SEF custody so as to be escorted to a border in the shortest period of time.

2 — Foreign citizens stating their intent to be escorted to the border post shall be prohibited from entering and to stay in Portuguese territory for one year.

3 — Escort to the border implies the registration of the citizen in the SIS and in the SEF's Integrated Information System, in accordance with the provisions of Article 33 and following.

Article 148

Proceedings

1 - During the proceedings, the person against whom the proceedings have been brought shall be heard, and shall benefit from all guarantees of defence.

2 - The hearing referred to in the above paragraph shall be considered a hearing of the interested party for all purposes.

3 - The investigating officer shall take all essential measures to determine the truth, and may refuse, by reasoned order, those requested by the person against whom the proceedings have been brought, when the facts have been deemed sufficiently proven by that person.

4 - At the end of the filing, a report shall be drawn up in which the investigating officer shall describe and assess the facts determined, proposing a resolution deemed appropriate, with the proceedings then submitted to the competent authority for the handing down of a decision.

Article 149

Forced removal decision

1 - SEF National Director shall be responsible for forced removal decisions.

2 - Forced removal decisions shall be notified electronically to ACIDI, I. P. and to the Advisory Council, with notification to the person against whom the proceedings have been brought, specifying the justifying grounds, the right to appeal and the respective term, together with his/her inclusion in the Schengen Information System and in the national list of alerts on persons to be refused entry for the period of the entry ban notwithstanding applicable norms concerning personal data protection.

3 - The forced removal decision must indicate:

a) The justifying grounds;

b) The legal obligations of the third-country national subject to the forced removal decision;

c) The entry ban into Portuguese territory and its duration;

c) A prohibition on entering or remaining on national territory and an indication of refusal of entry into or stay in the territories of the Member States of the European Union and the States where the Convention is in force, where applicable, with an indication of the respective deadlines;

d) Specification of the country to which the foreign citizen benefiting from the guarantee in article 143 should not be sent to.

4 - The procedure shall be closed and the alerts resulting from the removal shall be suppressed when the decision is not enforced due to the impossibility of notification or due to the non-

confirmation of the duty to return, as long as twice the time concretely determined for the prohibition of entry and stay has elapsed from the date of its pronouncement.

Article 150

Appeal

1 - The forced removal decision rendered by SEF National Director shall be subject to devolutive appeal before the administrative courts.

2 - The provisions of the above paragraph shall not prejudice the foreign citizen's right to use urgent proceedings, or proceedings with suspensory effect, as provided for in the law of administrative procedure.

3 — Foreign citizens shall benefit from legal protection, upon request, subject to Law no. 34/2004 of 29 July, with the necessary adaptations, under the scheme for appointing a defendant for the interested party for urgent proceedings.

4 — Translation and interpretation services may be provided, at the interested party's request, for the purposes of judicial review referred to in (1) and (2).

SECTION III

Judicial expulsion

SUB-SECTION I

Ancillary penalty of expulsion

Article 151

Ancillary penalty of expulsion

1 - An ancillary penalty of expulsion may apply to non-resident foreign citizens in the country who are convicted of a felonious crime with an effective prison sentence exceeding six months, or a fine in substitute of a prison sentence exceeding six months.

2 - The same may apply to foreign citizens residing in the country who are convicted of a felonious crime with a prison sentence exceeding one year, bearing in mind, in such case, the seriousness of the offender's actions, his/her status, repeat offences, his/her degree of social integration, special prevention and length of residence in Portugal.

3 - Notwithstanding the provisions of the above paragraph, an ancillary penalty of expulsion may only be applied to a foreign citizen with permanent residence when his/her conduct represents a serious hazard or threat to public order, public safety or national defence.

4 - Once an ancillary penalty of expulsion has been decreed, the enforcement judge shall order its execution upon completion of the following:

- a) Half of the sentence, for convictions of five years of prison or less;
- b) Two thirds of the sentence, for convictions of more than five years of prison.

5 — The enforcement judge may, by justified proposal of the director of the prison establishment, and without opposition of the offender, decide to advance enforcement of the ancillary penalty of expulsion upon completion of one third of the penalty, for convictions of five years of prison or less, provided that the remainder of the penalty is completed in the destination country.

SUB-SECTION II

Autonomous judicial expulsion measure

Article 152

Competent court

1 — The following shall have jurisdiction to apply autonomous deportation measures:

- a) Local criminal courts, in their area of jurisdiction;
- b) Local district courts, in other areas of the country.

2 — Territorial jurisdiction shall be determined by the foreign citizen's place of residence in Portugal or, in the absence thereof, the place where he/she is found.

Article 153

Expulsion procedure

1 - Whenever becoming aware of any fact which may represent grounds for expulsion, SEF shall organize a procedure for gathering proof to enable a decision.

2 - The expulsion procedure shall begin with the order for their filing, and shall include, in addition to the identification of the foreign citizen against whom the proceedings have been brought, all other corresponding relevant pieces of evidence, namely the individual's resident or non-resident status in the country and, in the former case, the period of residence.

3 - In the event of an additional accusation of the crime of disobedience for failing to immediately depart Portuguese territory pursuant to article 138 (4), this shall be judged under attached proceedings.

Article 154

Trial

1 - Having received the proceedings, the judge shall schedule the trial within the following five days, ordering notification of the person against whom the proceedings have been brought, the witnesses specified in the record and SEF Regional Director.

2 - The individual against whom the proceedings have been brought must be present at the hearing.

3 - The notification to the individual against whom the proceedings have been brought must also state that the individual may, at his/her discretion, lodge an objection at the judgement hearing and include witnesses and other pieces of evidence at his/her disposal.

4 - The purpose of the notification to SEF Regional Director is to designate the departmental employee or employees who may provide the court with clarifications of interest to the decision.

5 - The provisions of article 382 (1) and (2), article 385 and article 389 of the Code of Criminal Procedure shall apply to the cases referred to in article 134 (1)(f).

Article 155

Postponement of hearing

1 - The judgement may only be postponed once, up to a maximum of 10 days of from its original scheduled date:

a) If the individual against whom the proceedings have been brought requests this time to prepare his/her defence;

b) If the individual against whom the proceedings have been brought is absent from the judgement;

c) if witnesses are absent from the judgement to discover the truth of the facts, which can foreseeably be made within this time period.

2 - The provisions of (a) to (c) of the above paragraph shall not apply to the cases referred to in article 134 (1)(f).

Article 156

Subsidiary application of summary procedure

With the exception of the circumstances referred to in article 134 (1)(f), the provisions of the Code of Criminal Procedure concerning subsidiary procedure judgements shall apply, with the necessary adaptations.

Article 157

Content of decision

1 - Judicial expulsion decisions must contain the following:

a) The justifying grounds;

b) The legal obligations of the individual to be expelled;

c) The prohibition to enter and remain on national territory and to refuse entry and stay on the territory of Member States of the European Union and of the States where the Convention is in force, where applicable, with the indication of the respective deadlines;

d) Specification of the country to which the foreign citizen benefiting from the guarantee in article 143 should not be routed.

2 - The execution of the decision implies the registration of the person expelled in the SIS and in the SEF's Integrated Information System for the duration of the prohibition of entry and stay, under the terms of the provisions of article 33-A.

3 - SEF shall notify the individual of his/her inclusion in the Schengen Information System.

Article 158

Appeal

1 - Judicial decisions of deportation shall be subject to recourse at the Court of Appeal, with devolutive effect.

2 - The provisions of the Criminal Procedure Code concerning ordinary appeals shall apply on a secondary basis.

SECTION IV

Enforcement of the decisions on forced removal and judicial expulsion

Article 159

Authority to enforce decision

SEF shall be responsible for enforcing forced removal and expulsion.

Article 160

Compliance with decision

1 — Foreign citizens to whom a forced removal decision or judicial expulsion has been handed down shall be granted a time period of 10 to 20 days to exit Portuguese territory.

2 — Under duly justified circumstances, namely specific and objective reasons to a belief there is any risk of absconding, in particular pursuant to Article 142(3), whenever a third-country national uses counterfeit or falsified documents, in situations showing evidence of a crime, or when there are serious reasons to believe he/she has committed serious criminal acts or strong evidence of an intent to commit such acts, the foreign citizen shall be handed over to the SEF custody for the purpose of enforcing the forced removal or judicial expulsion decision.

3 — Provided the forced removal or judicial expulsion decision has not been enforced and the time period referred to in (1) has not expired, a request may be made to the competent judge that the foreign citizen be subject to one of the following:

- a) Placement in a detention centre or equated facility for up to a maximum of 30 days;
- b) Obligation to remain at home using electronic surveillance means;
- c) Periodic reporting at SEF or police authorities;

d) Payment of bail.

4 — The special needs of vulnerable people shall be taken into consideration during the time period granted, particularly minors, disabled persons, the elderly, pregnant women, single-parent families with minor children and victims of torture, rape or other serious forms of psychological, physical or sexual violence.

5 — During the time period granted for voluntary departure, foreigners shall be entitled to maintain family unity with family members present in Portuguese territory, receive urgent health care and basic treatment for illnesses and, in the case of minors, access to public education.

6 — The time period referred to in (3)(a) may be longer, although never exceeding three months, in the case of foreign citizens with strong evidence of having committed or intending to commit serious punishable offences, convicted of a felonious crime, or constituting a threat to public order, national security or the international relations of a European Union Member State or states subject to the Implementing Convention.

Article 161

Non-compliance with decision

1 — Foreign citizens failing to depart Portuguese territory within their established time period shall be arrested and escorted to the border post for removal from Portuguese territory.

2 — If the forced removal or expulsion decision cannot be enforced within 48 hours of arrest, notification shall be given to the judge of the petty criminal court having jurisdiction, or circuit court in other areas of the country, to determine whether the foreign citizen will be kept in a detention centre or equated facility.

Article 162

Notification of decision

The enforcement of the decision on forced removal or expulsion shall be communicated through diplomatic channels to the competent authorities of the country of destination of the foreign national.

SECTION V

Readmission

Article 163

Concept of readmission

1 - Pursuant to international conventions, foreign citizens found illegally in the territory of a state, coming directly from another state, may be readmitted by the latter via request from the former.

2 - Readmission is considered active when Portugal is the requesting state and passive when Portugal is the requested state.

Article 164

Responsibility

SEF National Director, with the power to delegate, shall be responsible for approving applications for the readmission of persons on behalf of Portugal, as well as submitting readmission applications to other states.

Article 165

Active readmission

1 - Whenever a foreign citizen with an irregular status on Portuguese territory must be readmitted by another state, SEF shall create the respective application pursuant to article 153, with the necessary adaptations

2 - During the filing of the readmission proceedings, the foreign citizen to be sent back to the requested state shall be heard, which shall be considered a hearing of the interested party for all purposes.

3 - If the application submitted by Portugal is approved, the competent authority shall decide to send the foreign citizen back to the requested state.

4 - If the application is refused, expulsion proceedings shall be filed.

5 - The author of the readmission application shall have authority to decide on sending back the foreign citizen to the required state.

6 - The sending back of the foreign citizen to the required state shall result in his/her inclusion, pursuant to Article 33-A, on the national list of persons to be refused entry in the SEF Integrated Information System and in the Schengen Information System, if the requested state is a third country.

Article 166

Appeal

A decision to send a foreign citizen back to a required state shall be subject to appeal to the government member in charge of internal administration, to be lodged within 30 days, with non-staying effect.

Article 167

Entry and stay ban

Foreign citizens returned to another State under the terms of an international convention shall be refused to enter and stay in the country for a period of three years, and are subject to an alert refusing entry and stay in the SIS for the same period when readmitted to a third State.

Article 168

Passive readmission

1 - Foreign citizens readmitted to Portuguese territory who fail to meet the legal requirements to remain in the country shall be subject to a removal order from Portuguese territory pursuant to this chapter.

2 - The following third-country nationals shall be readmitted to Portuguese territory immediately and without formalities:

a) Third-country nationals who have acquired long-term resident status in Portugal, together with their family members, whenever they have been subject to a forced removal order from the Member State where they were exercising their right of residence;

b) Third-country nationals with a residence permit ("EU blue card"), issued pursuant to articles 121-A and following, together with their family members, even when the card has expired or been cancelled while analysing the request, whenever they have been subject to a forced removal order from the Member State to which they travelled for the purposes of highly qualified work;

c) Third-country nationals who are subject to a request for admission formulated by another Member State, under agreements or conventions in this regard, provided that they hold permits allowing them to legally reside or remain on Portuguese territory.

3 - The readmission obligation referred to in the above paragraph shall not prejudice the ability of a long-term resident and his/her family members to move to a third Member State.

SECTION VI

Mutual recognition of removal decisions

Article 169

Recognition of a removal decision taken against a third country national

1 — Decisions on removal made by a competent administrative authority of a European Union Member State or a state which is a party to the Implementing Convention against a third-country national in Portuguese territory shall be recognised and executed pursuant to the provisions of this section, provided that the removal decision is based on:

a) A serious current threat to the public order or national security of the state making the decision;

b) Breach, by the third-country national concerned, of regulations concerning the entry and stay of foreign citizens in the state making the removal decision.

2 — A removal decision based on the provisions of (a) of the above paragraph shall only be recognised when made under the following circumstances:

a) Conviction of the third-country national, by the issuing State, for an infraction subject to a prison sentence of at least one year;

b) Existence of serious reasons to believe that the third-country national has committed serious punishable acts, or the existence of actual evidence of an intent to commit such acts, in the territory of a European Union Member State or state which is a party to the Implementing Convention.

3 — If a person subject to the above paragraph has residence permit issued in Portuguese territory, the recognition and enforcement of the removal decision may only be decided by a judicial authority, pursuant to articles 152 to 158.

4 - For the purposes of Article 28 of Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018, where a person who is the subject of an expulsion decision referred to in paragraphs 1 and 2 holds a residence permit issued by a Member State of the European Union or by a State party to the Convention Implementing the Schengen Agreement, SEF shall consult the competent authorities of that State, with a view to the possible cancellation of the residence permit in accordance with the legal provisions in force there, as well as the State which issued the expulsion decision.

5 — The removal decisions pursuant to (1) and (2) shall only be recognised when not postponed or suspended by the state taking the removal decision.

6 — The provisions of this article shall apply, notwithstanding provisions on the determination of responsibility of European Union Member States for analysing an asylum application and readmission agreements signed with European Union Member States.

Article 170

Responsibility

1 -SEF shall be responsible for enforcing the removal measures referred to in the above article.

2 - Whenever a removal decision issued by a competent national authority is enforced by a European Union Member State or state, which is a party to the Implementing Convention, SEF shall provide the competent authority of the state of enforcement with all documents needed to prove that the enforceability of the removal decision is permanent in nature.

3 — SEF shall be authorised to create and maintain a file of personal data for the purposes provided for in this section, notwithstanding compliance with constitutional and legal rules concerning data protection.

4 —SEF shall also be responsible for cooperating and exchanging pertinent information with the competent authorities of other European Union Member States or states which are parties to the Implementing Convention to recognise and enforce removal decisions pursuant to the above article.

Article 171

Enforcement of removal

1 — A removal decision recognised pursuant to article 169 shall only be enforced in compliance with article 135, and following a prior analysis of the situation of the person in question, for the purpose of ensuring that neither the Constitution, pertinent international conventions nor the law prohibit its enforcement.

2 — Third-country nationals who remain illegally in Portuguese territory, and who are subject to a decision pursuant to article 169, shall be arrested by the police authorities and handed over to the SEF custody, accompanied by the respective record, and dispatched to the border.

3 — Decisions to enforce removal shall be subject to judicial review, with non-staying effects, before the administrative courts.

4 — Foreign citizens subject to a decision made pursuant to article 169 (3) shall be handed over to the SEF custody for the purposes of being escorted to the border and be removed as soon as possible.

5 — Whenever removal cannot be enforced within 48 hours of arrest, the third-country national shall be presented to the judge of the petty criminal court having jurisdiction, or of the competent circuit court, for validation of the arrest and the potential application of coercive measures.

6 — The order to validate the detention and handing over to the SEF custody shall be subject to appeal pursuant to article 158.

7 — After enforcing the removal measure, SEF shall notify the competent authority of the Member State taking the removal decision.

A compensação financeira dos custos suportados pela execução do afastamento de nacionais de Estados terceiros efetua-se de acordo com os critérios aprovados pelo Conselho da União Europeia.

Article 172

Financial compensation

Financial compensation for costs incurred for enforcing the removal of third-country nationals shall be made in accordance with criteria approved by the Council of the European Union.

SECTION VII

Assistance to removal by air during airport transit

Artigo 173.º

Preferência por voo direto

Sempre que se proceda ao afastamento de um nacional de Estado terceiro por via aérea devem ser analisadas as possibilidades de se utilizar um voo direto para o país de destino

Article 174

Airport transit request in the territory of a Member State

1 — If a direct flight cannot be used, an airport transit request may be made to the competent authorities of another Member State, provided that it does not entail a change of airport in the territory of the requested Member State.

2 — Airport transit requests, with or without an escort, and their associated assistance measures, namely those referred to in article 177 (2), shall be notified in writing to the requested Member State as quickly as possible, and always at least two days in advance of transit.

3 — SEF National Director shall be responsible for making airport transit requests, with the power to delegate.

4 — Airport transit may not begin without approval from the requested Member State, except in cases where there is no response to the request referred to in (1) within the time periods to which the requested Member State is bound, with the ability to initiate transit through simple notification.

5 — For the purposes of handling the request referred to in (1), the information in the airport transit authorisation and request form, contained in an annex to Council Directive 2003/110/EC of 25 November, shall be sent to the requested Member State.

6 — SEF shall take the appropriate measures to ensure that transit occurs as quickly as possible, and always within twenty-four hours.

7 — Third-country nationals shall be immediately readmitted to Portuguese territory under the following circumstances:

- a) If airport transit permit has been refused or revoked; or
- b) During transit, the third-country national has entered the requested Member State without permit; or
- c) The enforcement of a third-country national's removal to another transit country or destination country, or boarding of a connecting flight, has not been possible; or
- d) Airport transit is not possible for any other reason.

8 — SEF shall pay expenses needed for the readmission of third-country nationals.

9 — Charges for the airport transit support measures referred to in article 177 (2), taken by the requested Member State, shall be paid by SEF.

Article 175

Airport transit assistance in Portuguese territory

1 — Airport transit may be authorised by request of the competent authorities of a Member State in the process of removing a third-country national, whenever necessary.

2 — Airport transit may be refused if:

- a) The third-country national has been accused of a criminal infraction, or his/her arrest has been ordered to serve a sentence, pursuant to applicable legislation; or
- b) Transit through other states or admission to the destination country are not enforceable; or
- c) The removal measure entails a change of airport in Portuguese territory; or
- d) The requested assistance cannot be provided, at any given moment, for practical reasons; or

e) The third-country national's presence in Portuguese territory represents a threat to public order, public security or public health, or to the international relations of the Portuguese state.

3 — In the case of (d) of the above paragraph, a date shall be indicated as quickly as possible to the requesting Member State, as close as possible to the initially requested date, on which airport transit support may be given if all other requirements have been met.

4 — Previously granted airport transit authorisations may be revoked if facts subsequently become known which justify the denial of transit pursuant to (2).

5 — SEF shall notify the competent authorities of the requesting Member State, without delay, of the refusal or revocation of airport transit authorisation, pursuant to (2) of the above paragraph, or the impossibility of airport transit for any other reason, with justification for the decision.

Article 176

Decision to grant airport transit support

1 — A decisão de autorização ou recusa de trânsito aeroportuário compete ao diretor nacional do SEF, com faculdade de delegação.

2 — Decisions to authorise or refuse airport transit shall be notified to the competent authorities of the requesting Member State within 48 hours, subject to extension for an equivalent time period on duly justified grounds.

3 — If no decision has been made within the time period referred to in the above paragraph, the requested transit may begin with simple notification from the requesting Member State.

Article 177

Airport transit assistance measures

1 — In accordance with mutual consultations with the requesting Member State, within available means and in line with applicable international norms, all necessary support measures shall be provided to ensure that the third-country national has departed.

2 — The assistance measures referred to in the above paragraph include:

a) Receiving the third-country national in the aircraft and escorting him/her within the area of the transit airport, namely to the connecting flight;

b) Providing emergency medical care to the third-country national and, if necessary, to his/her escort;

c) Providing food to the third-country national and, if necessary, to his/her escort;

d) Receiving, keeping and transmitting travel documents, namely in the case of removal measures without an escort;

e) In the case of transit without an escort, notifying the requesting Member State of the third-country national's location and time of departure from Portuguese territory;

f) Notifying the requesting Member State of any serious incidents occurring during the third-country national's transit.

3 — The mutual consultations pursuant to (1) to provide the support measures referred to in (b) of the above paragraph shall not be necessary.

4 — Notwithstanding the readmission of a third-country national, when transit operations cannot be carried out, despite the support provided in accordance with (1) and (2), all necessary support measures may be taken, at the request of and in consultation with the requesting Member State, to carry out the transit, which may be done within 48 hours.

5 — The requesting Member State shall be provided with information on the charges for the services in (2)(b) and (c), together with criteria for quantifying other charges actually paid, as referred to in (2).

6 — Support for requesting Member States' readmission of third-country nationals shall be provided whenever it occurs.

Article 178

International conventions

1 — The beginning of transit by simple notification may be subject to international conventions signed with one or more Member States.

2 — The international conventions referred to in the above paragraph shall be notified to the European Commission.

Article 179

Central authority

1 — SEF shall be the central authority for receiving requests for airport transit support.

2 — SEF National Director shall designate, for all pertinent transit airports, points of contact available during all transit operations.

Article 180

Escort

1 — For the purposes of applying this section, "escort" shall mean persons from the requesting Member State who accompany the third-country national during airport transit in Portuguese territory, including medical care providers and interpreters.

2 — During transit, the powers of escorts shall be limited to self-defence.

3 — When national police officers are unavailable to provide assistance, escorts may react in a reasonable manner proportional to an immediate and serious risk that the third-country national may flee, injure himself/herself, injure third parties or cause property damages.

4 — Escorts shall comply under all circumstances with national legislation.

5 — Escorts may not be armed, and must wear civilian attire, during airport transit.

6 — Escorts must exhibit suitable means of identification, including transit authorisation or, when applicable, the notification referred to in article 176 (3).

Article 180-A

Implementation of removal decisions

1 -SEF National Director shall be responsible for decisions on the Portuguese State organisation of, or participation in, shared flights of two or more Member States for the removal of third-country nationals subject to forced removal or judicial expulsion decisions.

2 - The decision in question shall be guided by principles of efficacy through the sharing of existing resources and, in particular, compliance with international agreements or conventions on human rights which are binding to Member States.

3 - The following must be ensured whenever the decision is made to organise a joint operation of removal by air, open to the participation of other Member States:

a) Ensure that third-country nationals are in possession of valid travel documents and entry visas, if required, for the country or countries of transit or destination of the joint flight;

b) Implementation of measures needed to properly carry out the joint operation, specifically bearing in mind the provisions of article 4 of Council Decision 2004/573/EC of 29 April, and its respective annex.

4 - For the purposes of the above paragraph, the organising national authority undertakes, in accordance with common guidelines on security provisions contained in the above-mentioned annex, to:

a) Take measures so that third-country nationals are in possession of valid travel documents, together with entry visas, if necessary, for the country or countries of transit or destination of the shared flight;

b) Provide adequate health care, medicinal and linguistic assistance, together with escort services, in compliance with the principles of need, proportionality and identification pursuant to article 180;

c) Monitor each operation of joint removal, using oversight by the appropriate entity, to be designated by order of the government member in charge of internal administration;

d) Prepare an internal confidential report on the operation of joint removal, preferentially including, when they exist, statements on incidents or the application of coercive or medical measures and partial reports from other participating Member States.

5 — Notwithstanding compliance with Council Decision 2004/573/EC and its respective annex, the Portuguese State participation in joint operations organised by other Member States shall be subject, with the necessary adaptations, to the scheme laid out in this article.

CHAPTER IX

Penal provisions

Article 181

Illegal entry, stay and transit

1 - The entry of foreign citizens into Portuguese territory or into the territory of the Member States of the European Union and into the States where the Convention is in force in violation of the provisions of Articles 6, 9 and 10 and of paragraphs 1 and 2 of article 32, as well as of the provisions of the Schengen Borders Code, shall be considered illegal.

2 - The stay of foreign citizens in Portuguese territory is considered illegal when:

- a) Residence has not been authorised in accordance with the provisions of this law or the law regulating the right to asylum;
- b) The foreign citizens have ceased to fulfil the conditions of entry or have exceeded the the duration of the stay authorised in the Portuguese territory or in the territories of the Member States of the European Union and of the States where the Convention is in force;
- c) Residence permits of foreign citizens have expired or been cancelled;
- d) Illegal entry under the terms of the previous number has taken place.

3 — The transit of foreign citizens in Portuguese territory without the guarantee of admission in the destination country shall be deemed illegal.

Article 182

Civil and criminal liability of legal persons and equivalent bodies

1 - Legal persons and equivalent bodies shall be held liable, pursuant to general legal terms, for the crimes provided for in this law.

2 - The bodies referred to in (1) shall be jointly liable, pursuant to civil law, for penalties, fines, compensation and other payments for which the perpetrators of the infractions provided for in this law have been convicted.

3 - In addition to criminal liability, the crimes referred to in articles 183 to 185-A shall also be subject to civil liability for all expenses involving the stay and removal of the foreign citizens involved, including the costs of sending amounts resulting from wages to the country of origin.

Article 183

Action to facilitate illegal immigration

1 — Those who encourage or facilitate, in any manner, the illegal entry or transit of foreign citizens in Portuguese territory shall be punished with a prison sentence of up to three years.

2 — Those who encourage or facilitate, in any manner, the illegal entry, stay or transit of foreign citizens in Portuguese territory, with the intent to profit, shall be punished with a prison sentence of one to five years.

3 — When these actions are carried out by transporting or keeping foreign citizens under inhumane or degrading conditions, jeopardising their lives, causing serious harm to their physical integrity or causing death, the offender shall be punished with a prison sentence of two to eight years.

4 — Attempts at such acts shall also be subject to punishment.

5 — The penalties applicable to the bodies referred to in article 182 (1) shall be a fine, whose minimum and maximum limits shall be doubled, or prohibition from exercising professional activity for one to five years.

Article 184

Association for facilitating illegal immigration

1 - The sponsors or founders of groups, organisations or associations whose purpose or activity is aimed at committing the crimes provided for in the above article shall be punished with a prison sentence of one to six years.

2 - Those who act on behalf for such groups, organisations or associations, or who support or assist them in recruiting new members, shall be subject to the same penalty.

3 - Those who lead or manage the groups, organisations or associations referred to in the above paragraphs shall be punished with a prison sentence of two to eight years.

4 — Attempts shall also be subject to punishment.

5 - The penalties applicable to the entities referred to in article 182 (1) shall be a fine, whose minimum and maximum limits shall be doubled, or prohibition from exercising professional activity for one to five years.

Article 185

Recruiting illegal labour

1 - Those who, with the intent to profit on their own behalf or on behalf of third parties, attract or recruit foreign citizens without residence permit or visa enabling them to carry out a

professional activity for the purpose of adding them to the labour market, shall be punished with a prison sentence of one to five years.

2 - Repeat offenders of the acts provided for in the above paragraph shall be punished with a prison sentence of two to six years.

3 — Attempts at such acts shall also be subject to punishment.

Article 185-A

Using the activity of illegally staying foreign citizens

1 - Those who regularly employ the labour of foreign citizens without residence permit or a visa allowing legal stay in Portugal shall be punished with a prison sentence of up to one year, or a fine of up to 240 days.

2 - Those who, in the cases provided for in the above paragraph, simultaneously employ the labour of a significant number of illegal foreign citizens shall be punished with a prison sentence of up to two years, or a fine of up to 480 days.

3 - Those who employ the labour of illegal foreign citizens who are minors, even when permitted to carry out work pursuant to the Labour Code, shall be punished with a prison sentence of up to two years, or a fine of up to 480 days.

4 - If the actions referred to in the above paragraphs occur under particularly exploitative or degrading working conditions, the offender shall be punished with a prison sentence of one to five years, if a more serious penalty does not apply pursuant to other legal provisions.

5 - Those who employ or use the labour or services of illegal foreign citizens, who are known to be victims of criminal infractions connected to trafficking in human beings, shall be punished with a prison sentence of two to six years, if a more serious penalty does not apply pursuant to other legal provisions.

6 - The limits of penalties shall be increased, pursuant to general legal terms, in the case of repeat offences.

7 - The penalties applicable to the entities referred to in article 182 (1) shall be a fine, whose minimum and maximum limits shall be doubled, together with the potential declaration of prohibition from exercising professional activity for three months to five years.

Article 186

Marriage or partnership of convenience

1 - Those who marry or are linked by registered partnership for the sole purpose of obtaining or allowing the attainment of a visa, residence permit or a "EU blue card", or defrauding legislation in force concerning the acquisition of nationality, shall be punished with a prison sentence of one to five years.

2 - Those who, on a repeated or organised basis, encourage or create conditions for committing the offences provided for in the above paragraph shall be punished with a prison sentence of two to six years.

3 - The attempt is punishable.

Article 187

Infringement of an entry ban measure

1 — Foreign citizens who enter Portuguese territory during the period in which their entry is banned shall be punished with a prison sentence of up to two years, or a fine of up to 100 days.

2 — In the event of conviction, the court may also rule, by duly justified judicial decision, that the foreign citizen be expelled, pursuant to article 135.

3 — Notwithstanding the provisions of (1), the foreign citizen may be removed from Portuguese territory to complete the remainder of the entry ban period, in accordance with the proceedings deciding upon his/her removal.

Article 188

Investigation

1 — In addition to the competent authorities, SEF shall be responsible for investigating the crimes referred to in this chapter, and other related crimes, namely human trafficking.

2 — The undercover actions carried out by SEF, within the scope of preventing and investigating crimes related to illegal immigration involving criminal associations, shall comply with the terms of Law no. 101/2001 of 25 August.

Article 189

Seized items

1 - Items seized by SEF and declared lost in favour of the State shall be allocated to it when:

a) Involving documents, weapons, ammunition, vehicles, telecommunications equipment, computer equipment or other items of interest to the institution;

b) Resulting from the fulfilment of international conventions, and related to illegal immigration.

2 - The utility of the items referred to in (a) of the above paragraph shall be proposed by the SEF in the final report of the respective criminal proceedings.

3 - The items referred to in (1)(a) may be used by SEF on a provisional basis, from the time of their seizure until their declaration of loss or recovery, upon order issued by SEF National Director, to be conveyed to the authority overseeing the proceedings.

Article 190

Ancillary penalties and coercive measures

The crimes referred to in this law may be subject to the ancillary penalties of prohibiting or suspending the performance of public duties provided for in the Penal Code, together with the coercive measures provided for in the Code of Criminal Procedure.

Article 191

Sentence transmission

Courts shall send to SEF, as soon as possible in electronic format, the following:

- a) Certificates of convictions handed down in criminal proceedings against foreign citizens;
- b) Certificates of decisions handed down in proceedings brought for crimes of assisting unlawful immigration and the solicitation of illegal labour;
- c) Certificates of decisions handed down in expulsion proceedings;
- d) Certificates of decisions handed down in extradition proceedings for foreign citizens.

CHAPTER X

Administrative offences

Article 192

Illegal stay

1 - The illegal stay of foreign citizens in Portuguese territory beyond their authorised periods shall constitute administrative offence punishable with the following fines:

- a) From €80 to €160, if the length of stay does not exceed 30 days;
- b) From €160 to €320, if the length of stay exceeds 30 days but does not exceed 90 days;
- c) From €320 to €500, if the length of stay exceeds 90 days but does not exceed 180 days;
- d) From €500 to €700, if the length of stay exceeds 180 days.

2 - The same fine shall apply when the infraction provided for in the above paragraph is detected when the citizen is leaving the country.

Article 193

Unauthorised access to international zone of ports

1 - Access to international zone of ports by individuals not authorised by SEF shall constitute an administrative offence punishable with a fine of €300 to €900.

2 — Access on board vessels by individuals not authorised by SEF shall constitute an administrative offence punishable with a fine of €500 to €1,000.

Article 194

Transport of person unauthorised to enter the country

The transport, into Portuguese territory, of a foreign citizen without a valid travel document or visa, by a carrier or any person in carrying out their professional activity, shall constitute an administrative offence punishable, per foreign citizen transported, with a fine of €4,000 to €6,000 (in the case of legal persons) or €3,000 to €5,000 (in the case of natural persons).

Article 195

Absence of airport transit visa

Carriers and all other persons who, in carrying out their professional activity, transport foreign citizens to a domestic airport without an airport transit visa when they are required to have one, shall be subject to a fine of €4,000 to €6,000 (in the case of legal persons) or €3,000 to €5,000 (in the case of natural persons) per foreign citizen transported.

Article 196

Failure to comply with the data-reporting requirement

Carriers who have not transmitted the mandatory information pursuant to articles 42 and 43, who have transmitted incorrect, incomplete or false information or have provided it after the deadline specified, shall be punished, per journey, with a fine of €4,000 to €6,000 (in the case of legal persons) or €3,000 to €5,000 (in the case of natural persons).

Article 197

Absence of declaration of entry

Infractions to the provisions of article 14 (1) shall constitute an administrative offence punishable with a fine of €60 to €160.

Article 198

Carrying out an unauthorised professional activity

1 - The exercising of independent professional activity by foreign citizens without proper residence permit, when required, shall constitute an administrative offence punishable with a fine of €300 to €1,200.

2 — The administrative offences referred to in the above paragraph may be subject to the ancillary penalties provided for in articles 21 and following of the General Administrative Offence Scheme.

3 — (Repealed.)

4 — (Repealed.)

- 5 — (Repealed.)
- 6 — (Repealed.)
- 7 — (Repealed.)
- 8 — (Repealed.)
- 9 — (Repealed.)
- 10 — (Repealed.)

Article 198-A

Employing illegal-staying foreign citizens

1 — Those who employ foreign citizens without residence permit or a visa authorising the undertaking of employed professional activity shall be subject to one of the following fines:

- a) From €2,000 to €10,000, when employing 1 to 4 citizens;
- b) From €4,000 to €15,000, when employing 5 to 10 citizens;
- c) From €6,000 to €30,000, when employing 11 to 50 citizens;
- d) From €10,000 to €90,000, when employing more than 50 citizens.

2 — The administrative offences referred to in this article may be subject to the following ancillary counties:

- a) Those provided for in articles 21 and following of the general framework of administrative offences (Regime Geral das Contraordenações);
- b) The obligation to reimburse some or all public subsidies, assistance or benefits, including European Union funding, granted to the employer up to 12 months prior to detecting the employment of foreign citizens with illegal status, when the administrative offence was committed during or as a result of the activity for which the subsidy was granted;
- c) Publication of the conviction decision.

3 — The penalties referred to in article 21 (1)(b) to (g) of the general framework of administrative offences (Regime Geral das Contraordenações), when applied pursuant to the above paragraph, shall have a maximum duration of five years.

4 — The ancillary penalty referred to in (2)(c) of this article shall entail:

- a) Publication, at the offender's expense, of a statement identifying the offender, infraction, breached regulation and applicable penalty on the SEF website, in a newspaper with national distribution and in a periodic regional or local publication from the area where the offender is located;
- b) Sending of the statement referred to in the above sub-paragraph to the competent administrative authority, whenever the practice of, or access to, the offender's activity requires administrative permissions such as permits, licences, authorisations, validations, authentications, certifications and acts issued following prior communications and registrations.

5 — Employers, users of labour under a service provision/sporadic assignment/temporary work agreement and general contractors shall be jointly liable:

- a) for paying the fines in the above paragraphs and wages from employment agreements, or amounts due for their breach or termination;
- b) for penalties arising from the breach of labour legislation;
- c) for penalties arising from the failure to declare income subject to tax and social security withholdings for illegal work done by foreign workers;
- d) for paying necessary expenses for the stay and removal of foreign citizens involved;

6 - Contractors who fail to obtain, from the other party, a statement of compliance with legal obligations with regard to foreign employed workers, shall also be held jointly liable pursuant to the above paragraph.

7 — When the contractor is the Public Administration, any breach of the above paragraph shall be subject to disciplinary liability.

8 - For the purpose of calculating wages and income subject to tax and social security withholdings, it shall be assumed that, notwithstanding the provisions of labour and tax legislation, the minimum level of remuneration corresponds to the monthly minimum wage guaranteed by law, in collective bargaining agreements or in accordance with common practices in the business sectors in question, and that the employment relationship has a duration of at least three months, unless proven otherwise by the employer, user of the labour or worker.

9 - Any breach of the obligations provided for in (5) and (6) shall constitute a serious administrative offence, pursuant to labour legislation.

10 - In the event of failure to pay amounts due for wages resulting from work actually provided, together with the necessary expenses for the stay and removal of foreign citizens involved, the notice of settlement produced in the case in question shall be considered enforceable, subject to the norms of common procedure for the enforcement of proper payments.

11 - If the offender is a legal person or comparable entity, its administrators, managers or directors shall be held jointly liable for payment of the fine.

Article 198-B

Providing assistance to third-country nationals whose professional activity has been illegally used

1 — Trade unions and immigrant associations whose representation is recognised, pursuant to the law, by ACIDI, I. P., and other bodies with immigrant integration duties or activities, may lodge complaints against employers or users of labour from illegal foreign citizens, at the inspection department of the ministry in charge of employment, under the following circumstances:

- a) Failure to pay wages;
- b) Existence of an employment relationship with conditions of social abandonment, salary exploitation, the exploitation of working hours or particularly exploitative working conditions;

c) Illegal use of child labour.

2 — Notwithstanding the provisions of the above paragraph, organisations whose purpose is the defence or promotion of immigrant rights and interests, namely against the use of labour from illegal foreign citizens, the use of child labour or discrimination involving access to employment, training or conditions for providing independent or employed work, shall have the ability to lawfully intervene by representing or assisting the interested party, provided that all of the following conditions are met:

a) The defence of the interests in question are expressly included in their duties or in the objectives of their by-laws;

b) There is express permission of the person concerned.

3 — The voluntary or forced return, to the country of origin, of a third-country national whose labour has been used illegally shall not prejudice the provisions of the above paragraphs.

4 — Third-country nationals whose labour has been illegally used, who are subject to a forced removal decision from Portuguese territory, shall be informed of the rights provided by this article at the time of notification of the forced removal, pursuant to article 149.

Article 198-C

Inspections

1 — SEF shall be responsible for carrying out regular inspections to control the use of labour from third-country nationals with irregular status on Portuguese territory, pursuant to article 181 (2).

2 — The inspections referred to in (1) shall be carried out taking into consideration the SEF's assessment of the existing risk on Portuguese territory of employing the labour of illegal third-country nationals, by business sector.

3 — Before the end of May each year, SEF shall report on the inspections carried out pursuant to the above paragraphs and in reference to the preceding year to the government member in charge of internal administration, who shall then notify the European Commission before 1 July.

Article 199

Failure to provide a travel document

Infractions to the provisions of article 28 shall constitute an administrative offence punishable with a fine of €60 to €120.

Article 200

Absence of an application for residence permit

Infractions to the provisions of article 124 (2) shall constitute an administrative offence punishable with a fine of €60 to €120.

Article 201

Failure to renew a residence permit in due time

Applications for renewing a temporary residence permit submitted after the deadline referred to in article 78 (1) shall constitute an administrative offence punishable with a fine of €75 to €300.

Article 202

Non-compliance with certain duties

1 — Infractions to the communication obligations provided for in article 86 shall constitute an administrative offence punishable with a fine of €45 to €90.

2 — Infractions to the obligation provided for in article 6 (1) shall constitute an administrative offence punishable with a fine of €200 to €400.

3 — Boarding and disembarkation of foreign citizens outside of border posts qualified for this purpose, and in breach of the provisions of article 6 (1), shall constitute an administrative offence punishable with a fine of €50,000 to €100,000.

4 — The carrier company and its representatives in Portuguese territory shall be jointly liable for paying the fines referred to in the above paragraph.

Article 203

Failure to provide information on accommodation

1 — Failure to electronically register the foreign citizens pursuant to article 15 (4), or any failure to submit the accommodation form pursuant to article 16 (1) or (2), shall constitute an administrative offence punishable with the following fines:

- a) From €100 to €500, for the omission of 1 to 10 accommodation forms or citizens;
- b) From €200 to €900, for the omission of 11 to 50 accommodation forms or citizens;
- c) From €400 to €2,000, for the omission of 51 or more accommodation forms or citizens.

2 — In the case of negligent breach of the deadline for notifying accommodation or the departure of a foreign citizen, the applicable fine's minimum and maximum limit shall be reduced to one quarter.

Article 204

Negligence and voluntary payment

1 — Negligence shall be punishable at all times with regard to the administrative offences provided for in the above articles.

2 — In the case of negligence, the fine's minimum and maximum amounts shall be reduced by one half.

3 — In the case of voluntary payment, the fine's minimum and maximum amounts shall be reduced by one half.

Article 205

Failure to pay fine

When an extension of stay is permitted by law, the extension shall not be granted without proof of payment of the applicable fine following administrative offence proceedings for the infractions referred to in articles 192, 197, 199, 198 (1) and 202 (2).

Article 206

Destination of fines

Revenues from applicable fines pursuant to this law shall be allocated as follows:

- a) 60 % to the State;
- b) 40% to SEF.

Article 207

Competence for imposing fines

1 —SEF National Director shall have authority to impose the fines and ancillary penalties provided for in this chapter, with the power to delegate, notwithstanding the specific powers attributed to other entities pursuant to article 198-A (9).

2 — For the purposes of the above paragraph, SEF shall organise an individual record, notwithstanding applicable legal norms concerning personal data protection.

Artigo 208.º

(Repealed.)

CHAPTER XI

Fees and other charges

Article 209

Applicable scheme

1 — The fees to be charged for the issuance of visas by consular posts shall be those shown on the Consular Fees Table.

2 — Fees and other charges for the administrative procedures provided for in this law shall be determined by order of the government member in charge of internal administration.

3 — Fees, to be determined by order of the government member in charge of internal administration, shall be charged for the escorting of foreign citizens whose removal from Portuguese territory is the responsibility of carriers, together with the placement of passengers not admitted to temporary detention facilities or similar spaces, pursuant to article 41.

4 — Revenues from fees and other charges pursuant to (2) and (3) shall be revenue assigned to SEF.

Article 210

Fee exemption or reduction

1 — Notwithstanding the provisions of the above article, SEF National Director may, on an exceptional basis, grant exemption from, or reductions to, the fees due for the procedures provided for in this law.

2 — The following shall be exempt from fees:

- a) Visas to be granted pursuant to articles 48 (1)(a), 57 and 61;
- b) Visas and extensions of stay granted to foreign citizens with diplomatic, service, official and special passports or travel documents issued by international organisations;
- c) Visas granted to the descendants of residence permit holders pursuant to provisions of family reunification;
- d) Visas and residence permits granted to foreign citizens benefiting from scholarships granted by the Portuguese State;
- e) Special visas.

3 — Third-country nationals shall benefit from fee reductions or exemptions when, in their countries of origin, Portuguese citizens are ensured equal treatment.

CHAPTER XII

Final provisions

Article 211

Change of nationality

1 - The Central Registry Office (Conservatória dos Registos Centrais) shall notify SEF, electronically whenever possible, of the changes of nationality it registers for individuals residing on Portuguese territory.

2 - The notice referred to in the above paragraph shall be given within 15 days of registration.

3 - If the communication and consultation of the relevant databases reveal the existence of an alert or alerts for the purpose of return or refusal of entry and stay in the SIS, SEF shall report the acquisition of nationality to the issuing Member State or States, with a view to its deletion.

Article 212

Identification of foreigners

1 — With a view to determining or confirming the identity of foreign citizens, SEF may use the civil means of identification provided for by law and by community regulations applicable to the issuance of identity cards and visas, namely by obtaining facial images and fingerprints, using biometrics and expert assessments whenever possible.

2 — Personal data shall be recorded in an integrated information system (hereinafter called "SII/SEF"), whose management and responsibility shall fall under SEF, in accordance with the following rules and characteristics:

a) Data collection for automated processing within the scope of SII/SEF shall be limited to that strictly needed for controlling the entry, stay and exit of foreign citizens, preventing specific hazards or repressing a criminal offence within the scope of its duties and powers;

b) The different categories of data collected shall be differentiated, to the extent possible, by their degree of accuracy or reliability, with a distinction between factual data and data requiring a qualitative assessment;

c) SII/SEF shall be comprised of personal data and data related to legal assets, including information within the scope of powers entrusted to it regarding:

i) Aliens, nationals of Member States of the European Union, stateless persons and national citizens, in relation to the control of their transit across land, sea and air borders, as well as their stay and activities on national territory, namely for the purposes of consultation, entry, storage and processing of data in connection with alerts for the purposes of return or refusal of entry and stay of third-country nationals or others, in accordance with this law and the rules applicable to the use of the SIS;

ii) The identification and whereabouts of foreign citizens or European Union Member State nationals regarding the suspected practice of an action to facilitate illegal immigration or criminal association for this purpose;

d) In addition to those referred to in the above paragraph, the personal data collected for processing within the scope of SII/SEF shall be as follows:

i) Name, parents, nationality, country of birth, place of birth, marital status, gender, date of birth, date of death, professional status, illnesses representing a hazard or serious threat to public health pursuant to this law, names of persons belonging to the household, addresses, signature, references from natural or legal persons on Portuguese territory, and the number, location and date of issuing and expiry date of identification and travel documents;

ii) Judicial decisions notified to SEF pursuant to the law;

iii) participation or indications of participation in illegal activities, as well as data regarding specific objective and unalterable physical characteristics, names and surnames at birth,

nicknames, indication that the person concerned is armed, violent, the reason why the person concerned is marked, namely when he/she has fled or escaped, presents a suicide risk, constitutes a threat to public health or has been involved in one of the activities referred to in Law no. No. 52/2003, of 22 August, in its current wording, along with references to the conduct or conducts to adopt;

iv) With regard to legal persons and comparable bodies, in addition to the above-mentioned data, the following data is also collected: name, company or trade name, domicile, address, legal entity identification number or taxpayer identification number, and the nature, start and end of business activities.

3 - With a view to preventing the consultation, modification, deletion, addition, destruction or communication of data from the IIS/SEF in a manner not consented to by this law and in accordance with Article 31 of Law No. 59/2019 of 8 August on the processing of personal data for the purpose of prevention, detection, investigation or prosecution of criminal offences or the enforcement of criminal sanctions, the necessary technical measures to ensure security are adopted and periodically updated:

a) Data media and respective transport, to prohibit them from being read, copied, modified or deleted by any person or unauthorised means;

b) Data entry, to avoid the unauthorised input, disclosure, modification or deletion of personal data;

c) Automated data processing systems, to avoid use by unauthorised persons, through data transmission facilities;

d) Data access, so that only authorised persons have access to data applicable to the exercising of their legal powers;

e) Data transmission, to ensure that its use is limited to authorised bodies;

f) Entry of personal data in automated processing systems, to verify that data has been entered, when and by whom.

4 - Data may be disclosed within the scope of international and European Community conventions to which Portugal is bound, and within the scope of domestic or international cooperation, to security forces and services and public services, within the scope of the legal powers of the requesting entity and only with regard to data pertinent to the purpose of their disclosure.

5 - Personal data shall be kept for the time period strictly necessary for the purpose which justified its recording in SII/SEF, and in accordance with this purpose, with records subject to verification of their need to be kept, 10 years after the last issuance of documents related to the data owner, after which the data may be kept in a historical file for 20 years after the document date.

6 — The provisions of the above paragraphs shall not prohibit the automated processing of information for statistical or analytical purposes, provided that the persons to whom the information refers cannot be identified.

7 — The number appearing on the identification card referred to in (1) shall also be used for identification purposes for Public Administration, namely in the domains of taxes, social security and health.

8 — Transmissions to the competent judicial authority, or other holders of the right to access any part of the SEF's electronic workflow to exercise its powers provided for by law, shall always be done in electronic format.

9 — With a view to facilitating procedures for issuing permits, citizens shall be exempt from submitting certificates or other documents providing proof of data found in Public Administration information systems, which shall be obtained by SEF from the tax, social security and labour departments and attached to the proceedings.

Article 213

Expenses

1 — Expenses resulting for removal from the country which cannot or should not be paid by a foreign citizen, pursuant to the special schemes provided for in international conventions, nor paid by the bodies referred to in article 41, shall be paid by the State.

2 — The State may also pay expenses resulting from the voluntary departure from the country for the following:

- a) Dependent members from the household of a foreign citizen subject to a forced removal or expulsion decision, provided that they cannot pay these charges;
- b) Foreign citizens lacking means of subsistence provided that they are unable to obtain the necessary support from the diplomatic offices of their countries.

3 — SEF shall have the necessary budgetary allocation to cover the charges resulting from the application of this law.

Article 214

Duty of cooperation

1 — All Public Administration departments and bodies shall be obliged to ensure that counterparties to their administrative agreements receive no labour provided by illegal foreign citizens.

2 — The above-mentioned departments and bodies may terminate, on justified grounds, any existing agreements if, on a date after their signing, the private entities have received labour provided by illegal foreign citizens.

3 — Public Administration bodies and the persons in charge of vessels shall have the special obligation of notification under the following circumstances:

- a) When the arrest or detention of a vessel has been decreed, and when such measures cease;
- b) When an evacuation occurs for reasons involving the health of the vessel's crew or passengers;
- c) In the event of disappearance of the vessel's passengers or crew members;

- d) When a vessel has been denied clearance to exit a port;
- e) When the vessel's passengers or crew members have been arrested;
- f) When emergency plans have been activated at national ports;
- g) When the competent authority, namely the Maritime Police (Policía Marítima), has removed passengers or crew members from the vessel at the request of the vessel's captain.

Article 215

Duty of communication

1 - The request for a visa that authorises a foreign citizen to work in national territory, as well as a title that regularises, under the terms of this law, the situation of a foreign citizen who is in national territory, shall be communicated by the competent services to social security, to the Tax and Customs Authority and to the Shared Services of the Ministry of Health, E. P. E., for the purpose of automatic attribution of the social security identification number, the tax identification number and the national user number.

2 - In the situations provided for in the previous number, the competent authorities shall also communicate to the Institute of Employment and Vocational Training, I. P., for the purposes of registration.

Article 216

Regulation

1 — The instrument governing this law and the orders provided for herein shall be approved within 90 days.

2 — The special legislation referred to in article 109 shall be approved within 120 days.

Article 217

Transitional provisions

1 — For all legal purposes, the holders of a working visa, permanence permit, temporary staying visa with authorisation to carry out employed professional activity, extension of stay to carry out employed professional activity and study visas granted pursuant to Decree Law no. 244/98 of 08 August, as amended by Law no. 97/99 of 26 July, Decree Law no. 4/2001 of 10 January and Decree Law no. 34/2003 of 25 February, shall be considered holders of a residence permit, whose permits shall be replaced with residence titles at the end of their validity, subject, as applicable, to the provisions of temporary residence permit renewal or the granting of permanent residence permit.

2 — For the purposes of article 80 (1)(a), the period of legal stay under the permits referred to in the above paragraph shall be used.

3 — Extension of stay applications for carrying out a professional activity pursuant to article 71 of Regulatory Decree no. 6/2004 of 26 April shall be converted into residence permit applications for carrying out employed or independent professional activity pursuant to this law, with visa exemption.

4 — The stay of foreign citizens subject to article 71 of Regulatory Decree no. 6/2004 of 26 April shall be extended for three months, for the purposes of obtaining the necessary employment agreement or proof of the existence of an employment relationship by a trade union, an association with a seat on the Advisory Board or the Labour Conditions Authority, for the purposes of granting residence permit pursuant to the above paragraph.

5 — Work visa applications pursuant to article 6 (2) of the Agreement between the Portuguese Republic and the Federative Republic of Brazil on the Reciprocal Employment of Nationals of 11 July 2003 shall be converted into residence permit applications, with visa exemption.

6 — Until the determination of the quota of employment opportunities provided for in article 59, the Employment and Vocational Training Institute (Instituto do Emprego e da Formação Profissional, I. P.) or, in the autonomous regions, the respective departments, shall publish all employment opportunities not filled within 30 days by Portuguese nationals, nationals from European Union Member States, the European Economic Area, third countries with which the European Union has signed an agreement for the free movement of people or third-country nationals with legal residence in Portugal.

7 — Residence visas to obtain residence permit for carrying out employed professional activity may be issued up to the limit of the employment opportunities referred to in the above paragraph, provided that other legal conditions have been met.

8 — Holders of a residence permit issued pursuant to legislation preceding this law shall replace the title in their possession with the card referred to in article 212 (1), per the terms and time periods to be established under regulatory legislation.

Article 218

Revocation

1 — The following are hereby repealed:

a) Article 6 of Law no. 34/94 of 14 September;

b) Law no. 53/2003 of 22 August;

c) Decree Law no. 244/98 of 08 August, as amended by Law no. 97/99 of 26 July, Decree Law no. 4/2001 of 10 January and Decree Law no. 34/2003 of 25 February.

2 — Pending express repeal, Regulatory Decree no. 6/2004 of 26 April, together with the orders approved under Decree Law no. 244/98 of 08 August, as amended by Law no. 97/99 of 26 July, Decree Law no. 4/2001 of 10 January and Decree Law no. 34/2003 of 25 February shall remain in force, to the extent compatible with the scheme laid out in this law.

Article 219

Autonomous regions

The provisions of the above articles shall not affect the powers entrusted to the regional departments and bodies of the Autonomous Regions of the Azores and Madeira, who shall remain duly coordinated with the departments of the Portuguese Republic and European Union involved in the procedures provided for in this law.

Article 220

Entry into force

This law shall enter into force 30 days after its date of publication.