

## COUNTRY REPORT

### **Aspiring (re)migrants' behaviour in mobility policies: the case of Portugal**

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**AspirE** – Asian prospects in (re)migration to/within the EU – is a three-year research project (2023-2025) that examines the decision making of aspiring (re)migrants from selected Southeast and East Asian countries (China, Japan, Philippines, Thailand and Vietnam) to and within selected EU member countries (Belgium, the Czech Republic, Finland, Germany, Italy and Portugal).

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## **Executive summary**

This report analyses the extent to which the complex realities of human behaviour are considered and captured in the migration policies of Portugal, as part of the AspirE project *Decision making of aspiring (re)migrants to and within the EU: the case of labour market-leading migrations from Asia*. More precisely, the specific research question we address is “How and to what extent does the mobility regime in Portugal consider aspiring (re)migrants’ behaviour in its policies”? The introduction presents the immigration context of Portugal, with a focus on migrant populations from Asian countries. The second part introduces the legal framework and provides a socio-historical background of the evolution of the key mobility policies regime in Portugal. The third part examines and discusses the findings of a policy content analysis in respect of six policies of interest to the AspirE project — namely, labour migration, family reunification, tourism, investment-based/privileged migration, student mobility, and the Schengen policy. On the whole, we show that the mobility regime in Portugal is not particularly selective or restrictive (except for its investment-based policies), and it is elastic enough to allow for legal flexibility with regularisation options and for alternative pathways. As such, the legal framework here has been revised successively to respond to the country’s demographic, economic, and social interests and, at the same time, to include the needs and aspirations of migrants.

## **Keywords**

Portugal, migration policies, aspirations, migrants’ behaviour, AspirE project, Golden Visa, labour migration policy.

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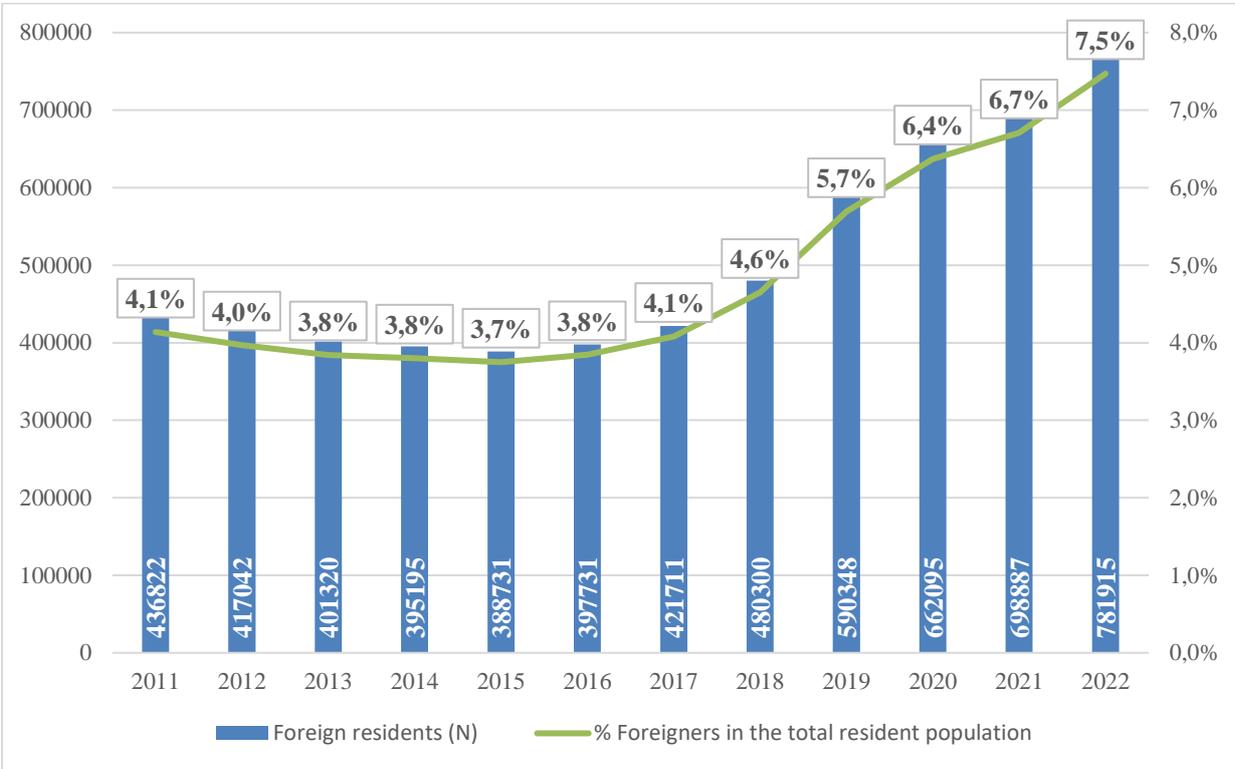
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# Introduction

This introductory section outlines the immigration context of Portugal, before briefly examining its immigration flows from non-EU countries in general, and from Asian countries in particular.

As of 2022, the population of foreign origin legally residing in Portugal totals 781,915 people, which represents 7.5% of its total population of 10,467,366 (INE, 2022). 77.1% of these resident foreign citizens are part of Portugal’s potentially active population, with the largest age group for such migrants being 25–44 years old (371,613). The geographical distribution of the foreign population is concentrated mainly on the coast, with 65.5% registered in the districts of Lisbon, Faro, and Setúbal (SEF, 2022).<sup>1</sup>

Figure 1: Foreign population resident in Portugal (stock; absolute numbers), and percentage of foreigners in the total resident population (2011–2022)



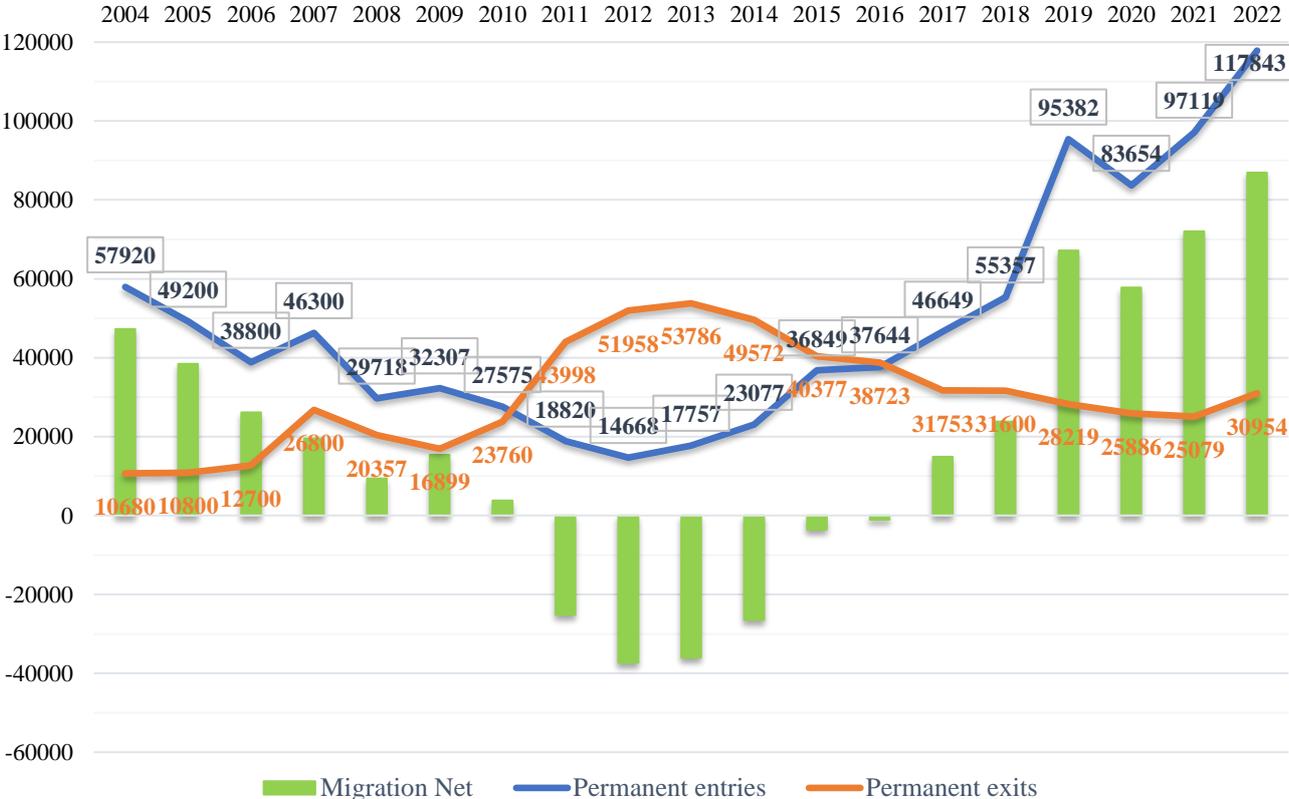
Source: Authors’ elaboration based on SEF and INE (2022a)

Within the immigrant stock in Portugal, residents from Brazil represent the overwhelming majority (239,744), followed by the UK and Cape Verde, totalling, respectively, 45,218 and 36,748 individuals. Regarding Asian countries, the Indian community entered the top ten most represented foreign nationalities in 2020, taking fourth position in 2022 (reaching 35,416 residents). In the same year, the Nepalese community was in the ninth position (23,839 residents). In 2021, the Chinese community was in tenth position (with 22,782 residents) and in the following year left the list, giving place to other nationalities (SEF, 2021, 2022).

In general, we can note that more than one out of four immigrants in Portugal are from Brazil, and the rest of the immigrant stock includes European immigrants (UK, Italy, and France), Portuguese-speaking African immigrants (Cape Verde and Angola), and Eastern Europeans (Ukraine and Romania), as well as Asian migrants (China and India) (Oliveira, 2021; MFP, 2022). Alongside this, it is worth noting that Portugal is also a popular destination for tourists, retirees, and remote workers, which has led, in recent years, to a more diversified socio-demographic profile of the country.

From a comparative perspective, Portugal has been recurrently classified as part of the Southern European migration model, alongside Greece, Italy, and Spain (King, 2019; Peixoto *et al.*, 2012). However, the Portuguese case is distinctive because its emigration has never ceased, unlike its Southern European counterparts (Lafleur and Stanek, 2017).<sup>2</sup> We ought to mention that Portugal is growing into an immigration country, with a significant decrease in emigration numbers in the past few years. From 2017 onwards, Portugal has managed to break the trend of negative migration balance that was observed between 2011 and 2016, when it recorded high emigration due to the economic and financial crisis. Presently, more people enter the country than those who exit it. In 2021 and 2022, the migration net recovers its pre-pandemic trend, reflecting the increase in permanent immigrant entries (117,843 in 2022) and the stabilisation of the number of permanent emigrant exits (Oliveira, 2023: 31).

Figure 2: Movements into (immigration) and permanent outflow (emigration) from Portugal, and net migration (2004–2022)



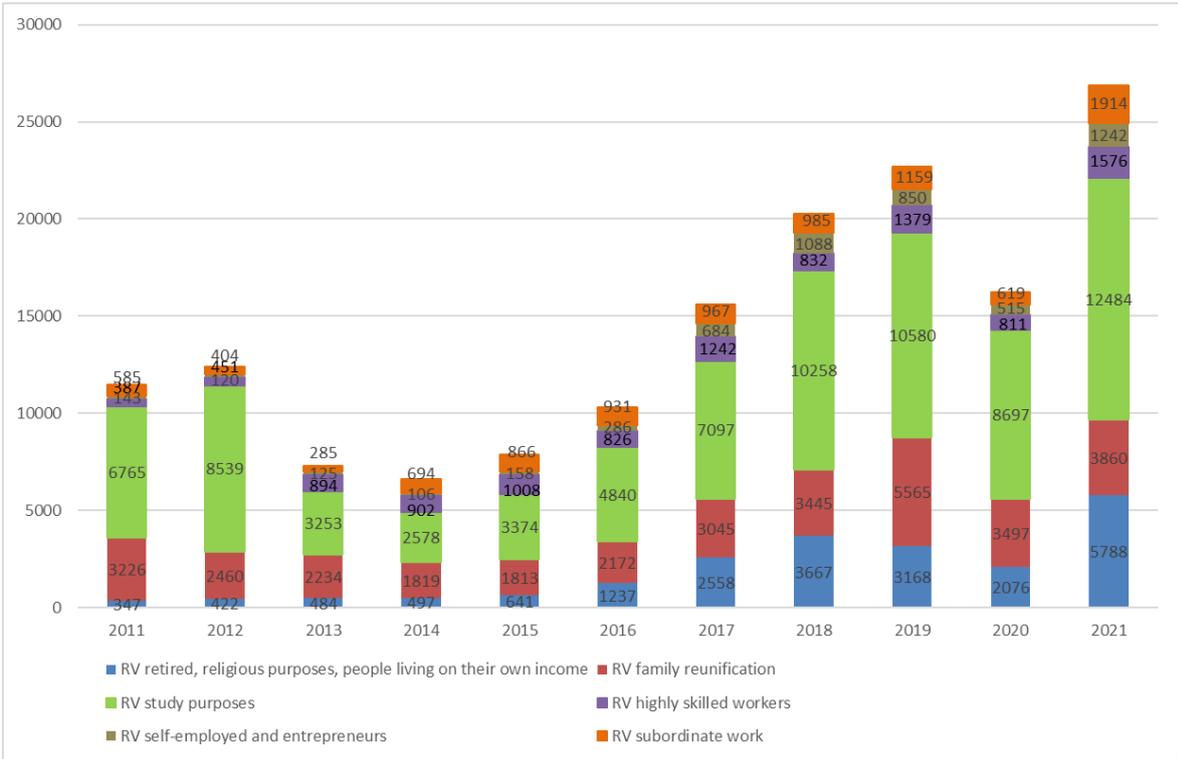
Source: Authors' elaboration based on Oliveira (2023: 30); INE data.

Despite the reported openness of Portuguese society to hosting refugees and living alongside foreigners, Portugal's asylum-seeking population is low compared to, for example, its neighbour, Spain. It has not ranked higher than 20th out of 27 EU countries for the number of asylum applicants in the past decade and was not visibly impacted by the relatively large 2015–2016 influx from Syria and other countries (Mazilli and Lowe, 2023; Carvalho and Duarte, 2020). More recently, however, Portugal — like many other European countries — has seen a sharp increase in refugee arrivals following Russia's full-scale invasion of Ukraine on 24 February 2022. As of February 2023, 58,242 Ukrainian refugees reside in Portugal under the provisions of the EU-wide Temporary Protection Directive (Mazilli and Lowe, 2023; UNHCR, 2023).<sup>3</sup>

If we consider the main entry channels for third-country nationals (TCNs), one aspect stands out. Comparing the number of new residence permits issued by SEF (Serviço de Estrangeiros e Fronteiras — the Portuguese Immigration and Borders Service) (29,993) with the number of residence visas<sup>4</sup> (1,159) issued by DGACCP (Direção-Geral dos Assuntos Consulares e das Comunidades Portuguesas — the Portuguese Embassy and Consular network worldwide, subordinated to Ministro dos Negócios Estrangeiros — the Ministry of Foreign Affairs (MNE)) abroad in 2019, one can clearly notice that the preferred pathway for labour immigrants (subordinate professional activity) from third countries is to enter the country as a tourist and later apply for a residence through AIMA (Agency for Integration, Migration and Asylum) based on (the promise of) an employment contract (MFP, 2022; Pires *et al.*, 2023).<sup>5</sup> The data on subordinate work is not reflected in terms of entries (residence visas issued at consular posts), i.e., residence visas (hereafter RVs) do not appear in large proportions to the same extent as they do in the data on new residence permits (hereafter RPs) for subordinate work. The main reasons for entering the country are associated with study (from 6,765 visas at the beginning of the decade, to 12,484 issued visas in 2021), family reunification (albeit going down from 5,565 in 2019 to 3,860 in 2021), and, more recently, retirees (5,788 in 2021).

There has also been a slight increase in the number of RVs issued both for subordinate work and for self-employment and entrepreneurs (1,914 and 1,242 respectively in 2021), partly due to changes in the Aliens Act (which will be discussed in the section of this report on mobility policies) (Oliveira, 2022: 38). It is important to note that, even so, these numbers are quite different from the new RPs issued for the same purposes, in the case of subordinate work (as already mentioned). Finally, the number of highly qualified workers has risen, from 387 RVs in 2011 to 1,576 in 2021 (Figure 3)

Figure 3: Residence visas issued at consular posts for reasons of entry (2011–2021)



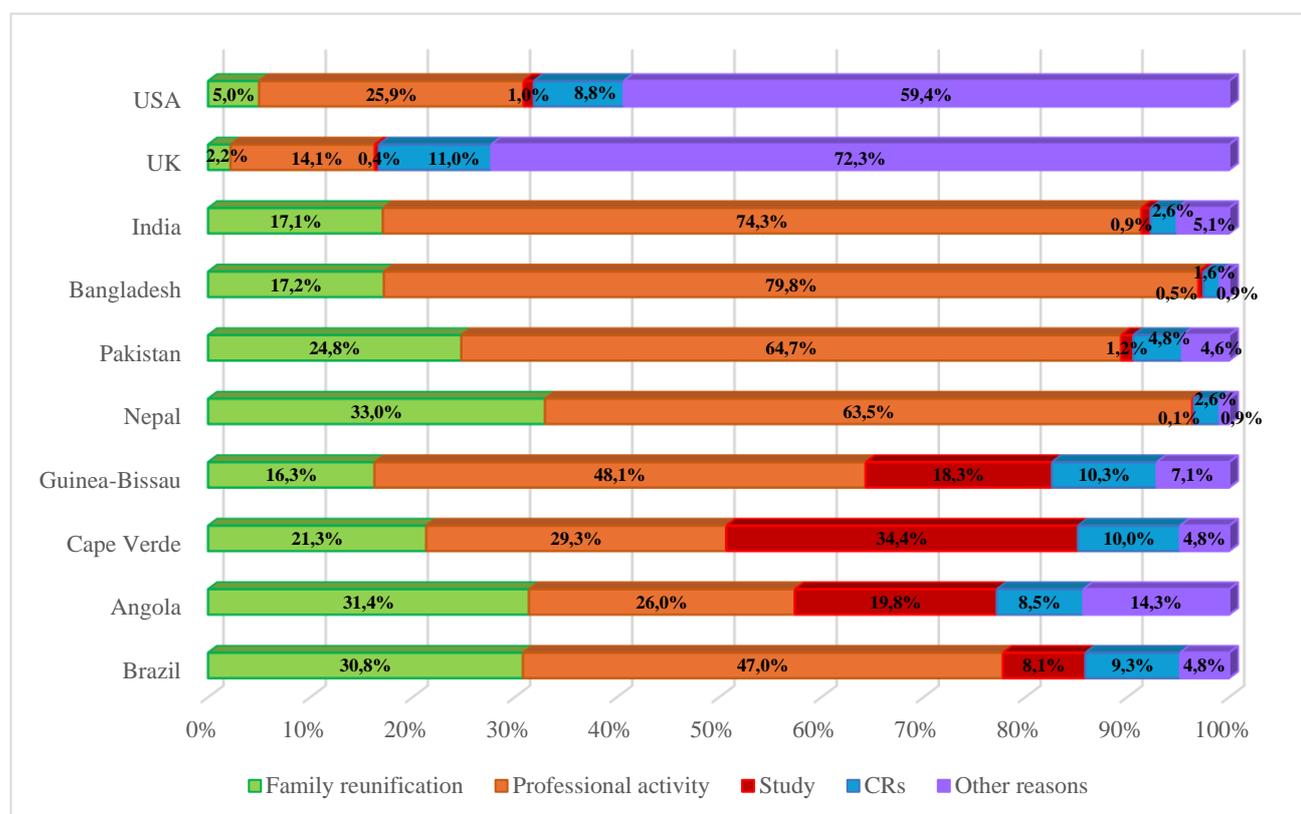
Source: Authors’ elaboration based on Oliveira (2022: 37), MNE data.

**New residence permits**

According to the latest data from SEF, the most relevant reasons for granting new RPs in 2022 were professional activity (51,525) and family reunification (27,054). Regarding TCNs, one can notice a strong preponderance of professional activity among nationalities from Asia (SEF, 2022).

While European Union (EU) nationals can obtain residence permits thanks to specific mobility agreements (the EU common market in the case of France, Spain, and Italy; the Brexit Withdrawal Agreement<sup>6</sup> in the case of the UK), the situation is more complex when it comes to TCNs. The distribution of the most relevant reasons for granting new residence permits in 2022 shows a preponderance of professional activity in the cases of India (74.3%), Nepal (63.5%), Guinea-Bissau (48.1%), and Brazil (47%). In the case of Angola, the predominant reason is family reunification (31.4%), and for Cape Verde the main reason is studies (34.4%). In the case of the United Kingdom and the United States, the main motive is other (unspecified) reasons (SEF, 2022).

Figure 4: Most relevant reasons for granting new residence permits in the case of the more representative nationalities resident in Portugal (2022)



Source: Authors' elaboration based on SEF (2022: 16)

A broader examination of the annual issuance of new residence permits (2012–2021) shows that these are mainly focused on work and family reunification, with study purposes having increased more recently. At the same time, the other categories (highly skilled, self-employed workers, and investment) are less represented in the Portuguese migratory landscape.

Table 1: New residence permits issued annually by reason (2012–2021)

Category	Years						
	2015	2016	2017	2018	2019	2020	2021
RP subordinate work	4,609	3,005	4,169	16,424	29,993	28,976	33,976
RP family reunification	3,669	3,770	5,225	12,716	21,734	20,796	15,921
RP study purposes	2,690	3,483	3,958	8,527	13,628	12,402	11,027
RP highly skilled workers	821	766	838	833	1,278	883	1,051
RP self-employed and entrepreneurs	111	184	377	719	900	362	668
RP investment (Golden Visa)	2,069	3,023	3,584	3,548	1,310	1,132	814

Source: Authors' elaboration based on SEF data available on Annual Statistical Reports/Migration Observatory

In the last two years, the Portuguese Government has signed mobility bilateral agreements with India (September 2021) and Morocco (January 2022). While the agreement with India

implies mobility in both directions, the agreement with Morocco is only focused on the entry, regularisation, and integration of Moroccans in Portugal. These two agreements are mainly expected to enable the immigration of low-skilled workers for the agricultural sector.

### Asian immigrant flows into Portugal

Immigration from Asian countries to Portugal has been on the rise in the last decade. The country has seen an increase in immigration from countries of South Asia such as India, Nepal, and Bangladesh, mainly for low-skilled jobs in agriculture and construction. As of 2022, data indicates 35,416 residents from India (a sharp increase from 1,296 in 2000), 23,839 from Nepal (from only two in 2000), and 16,468 from Bangladesh (from 171 in 2000).

Apart from China, the presence of countries of East Asia is relatively low in Portugal (counting 1,977 residents from Thailand, 1,208 from the Philippines, 568 from Japan, and 473 from Vietnam). Meanwhile, the number of Chinese nationals steadily evolved from only 244 in 1980 to a peak of 27,839 in 2019 but has since slightly decreased over the past few years, falling out of the top ten most represented nationalities in Portugal. According to the latest data from SEF, there were 22 thousand Chinese nationals legally residing in Portugal in 2022.

*Table 2: Evolution of the population from Asian countries (nationality) residing in Portugal (2000–2022); stock.*

Nationality	Year																						
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Vietnam	8	8	9	9	11	11	14	12	18	56	79	67	108	65	78	77	124	194	324	515	686	640	473
Japan	788	800	816	837	853	864	960	938	383	377	368	385	392	393	386	397	440	450	460	455	441	483	568
Philippines	292	309	333	352	373	384	463	470	475	491	540	586	623	638	668	756	750	763	852	997	1072	1107	1208
Thailand	61	67	71	82	100	104	123	134	278	455	722	922	1009	1021	1169	1428	1475	1691	1593	1726	1723	1795	1977
Bangladesh	171	246	423	519	575	617	1030	1180	1577	1346	1007	1149	1351	1733	2074	2571	2799	3450	5325	7964	9916	10936	16468
China	3278	3891	4468	4814	5309	5530	9695	10448	13331	14396	15699	16785	17447	18637	21402	21329	22503	23197	25357	27839	26074	22782	22000
Nepal	2	3	11	13	25	42	240	302	560	685	797	1145	1702	2588	3544	4798	5835	7437	11489	16849	24550	21545	23839
India	1296	1361	1503	1614	1699	1770	3614	4104	5519	5782	5271	5384	5657	6022	6421	6935	7244	7990	11393	17619	24550	30251	35416

Source: Authors' elaboration based on SEF data

In terms of the gender distribution of Asian residents, the groups from China, Vietnam, and Japan are relatively balanced. In contrast, a male prevalence is noted in the case of Bangladesh (82%), India (81%), and Thailand (60%), while a rather feminised pattern can be identified in the case of the Philippines (74% women).

Table 3: Population of Asian countries (nationality) residing in Portugal according to sex (2022)

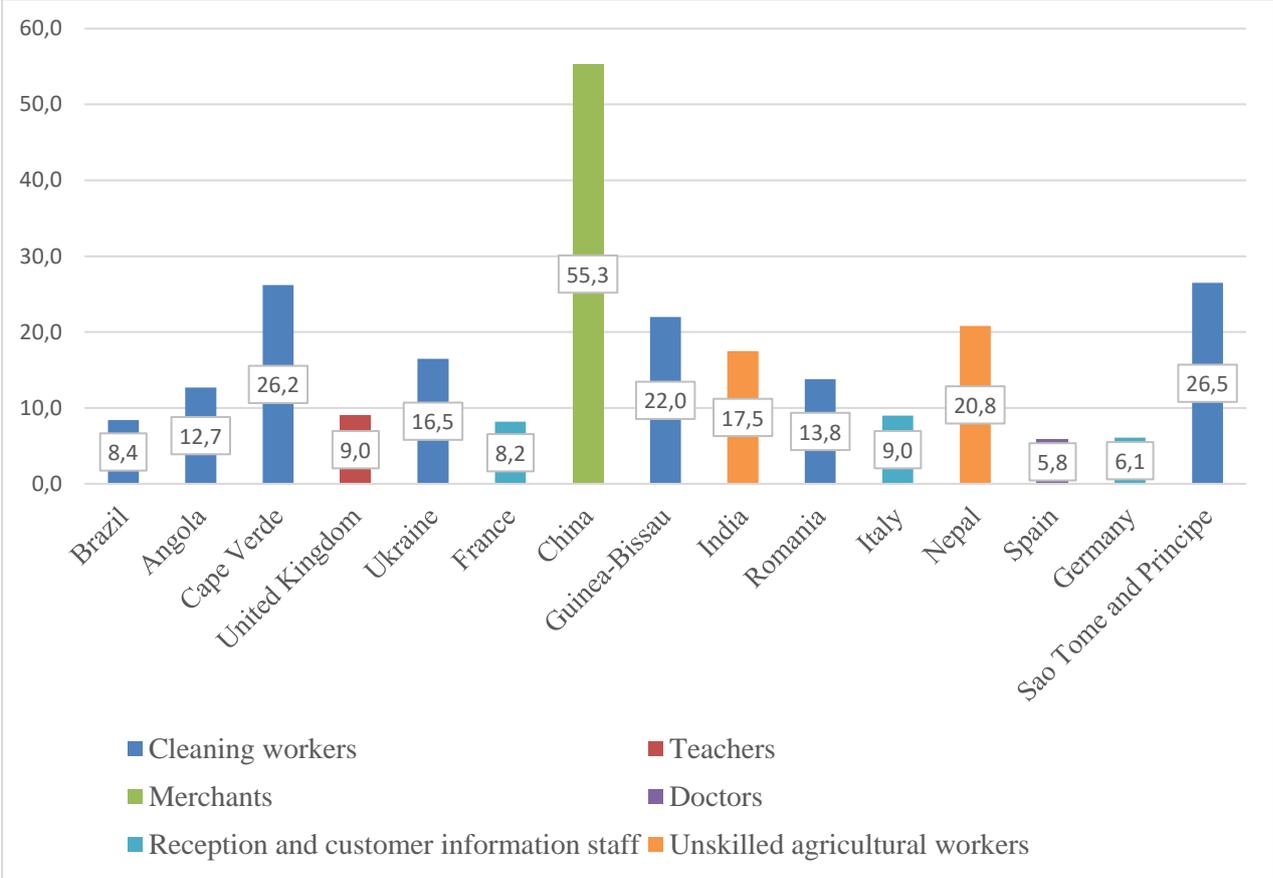
Nationality	Total (N)	Men (%)	Women (%)
Vietnam	473	52	48
Japan	568	42	58
Philippines	1,208	26	74
Thailand	1,977	60	40
Bangladesh	16,468	82	18
China	22,000	51	49
Nepal	23,839	63	37
India	35,416	81	19

Source: Authors' elaboration based on SEF data

Although Chinese immigration to Portugal is embedded in the Southern European mobility pattern, it can nonetheless be considered a distinctive case. Owing to colonial ties and particular economic and political factors, three historic Chinese groups can be identified. The first flow of Chinese migrants (1975–1999) mainly comprised individuals of Chinese Mozambican and Macanese background, who entered the country due to their political position in former Portuguese colonies (Mozambique and Macao). In the early 2000s, a new migration flow emerged, of Chinese economic migrants, part of the same trend of unskilled migration that characterised other Southern European countries. More recently, from 2012 onwards, Chinese business migrants and investors have started to arrive through investment programmes, such as the Golden Visa scheme (Gaspar and Ampudia de Haro, 2020; Gaspar, 2017). Most Chinese migrants in Portugal are concentrated in Lisbon and Porto areas, where they have established communities and entrepreneurial businesses. Many of them work in the restaurant and retail sectors, while others run their own businesses such as supermarkets, wholesale stores, and import-export companies.

The analysis of professions by nationality presented by the last Census (2021) shows that there is a different preponderance of occupations in each community. The study analysed the economically active foreign population resident in Portugal and some of the results presented in the report (INE, 2022) show that “cleaning workers” were the most represented profession, and commerce was the economic activity that employed the most foreigners. Among the Chinese community, more than half are in the category of merchants (55.3%), while in the case of other Asian communities, such as the Nepalese and Indians, migrants are more represented in the category of “unskilled agricultural workers” (20.8% and 17.5% respectively).

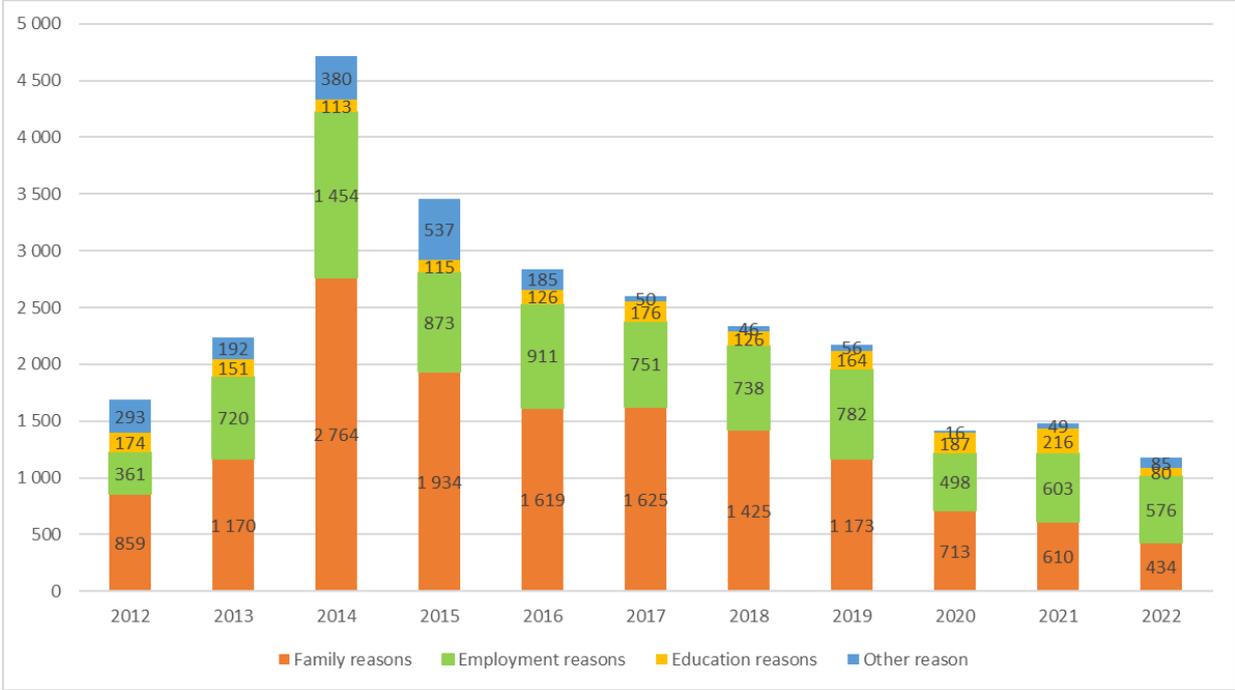
Figure 5: Most represented occupation in the foreign national population (%) — main nationalities, Portugal (2021)



Source: Authors' elaboration based on INE 2022 (Census 2021)

Chinese citizens seeking to migrate to Portugal would generally follow the same migration policies as citizens of other non-EU/EEA countries. Among the TCNs' main reasons for residence permits, we can observe a strong prevalence of professional activity, especially among nationalities originating from Asia. The main reasons to apply for a residence permit in Portugal invoked by Chinese nationals are employment, study, investment, or family reunification. Chinese citizens who have immediate family members (spouse, children, parents) who are Portuguese citizens or legal residents in Portugal may be eligible for family reunification visas. Furthermore, Chinese students who have been accepted into Portuguese educational institutions can apply for student visas to pursue their studies in Portugal. These visas typically allow for temporary residence during studies.

Figure 6: First residence permit released annually by reason (2012–2022) (for Chinese nationality including Hong Kong)



Source: Author’s elaboration based on Eurostat data

As mentioned before, a particular channel since 2012 has been the Golden Visa programme, available for citizens of non-EU/EEA countries, in which China is included. Until 2023, when the programme has been fundamentally amended (see more in the section on investment policies), TCNs could obtain residency permits and apply for a permanent residency or citizenship after five years in Portugal, by either making a substantial investment in the Portuguese real-estate market, transferring money to the amount of at least 1.5 million euros, or creating job opportunities. This programme has been particularly popular among Chinese nationals, who have been among the largest groups of investors in property purchases, allowing them to travel freely within the Schengen Area. Furthermore, this Chinese interest in the Golden Visa scheme has been evidenced by an immediate rise in the presence of Chinese nationals in Portugal after the programme was launched in 2012 (Gaspar and Ampudia de Haro, 2020; Gaspar, 2019).

**The (im)mobility regime in Portugal**

This section presents an overview of how Portugal regulates the entry and settlement/residency of third-country nationals within its territory. Before explaining the legal migration framework, though, we provide some socio-historical details regarding the evolution of the key mobility policies regime in Portugal.

Portugal has a long history of emigration, dating back to the 15<sup>th</sup> century to the colonial era, when Portuguese explorers established colonies and trade routes around the world. In the 20th century, Portugal experienced increased emigration, particularly during the Salazar

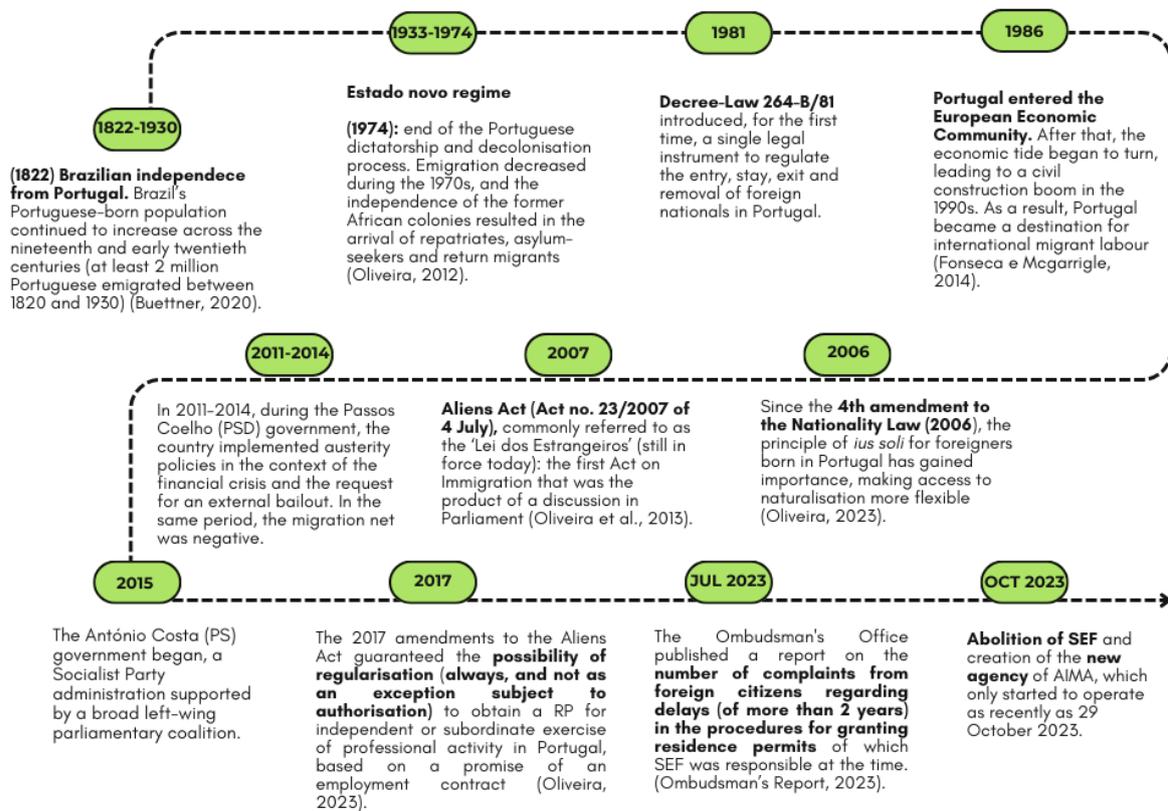
dictatorship (1932–1968) and the colonial wars in Africa (1961–1974). The ‘Carnation Revolution’ in 1974 marked the end of the dictatorship and led to the decolonisation of Portuguese territories in Africa, resulting in a significant return of Portuguese settlers. Therefore, Portugal only became a country of mass immigration in the 1980s, when half-a-million citizens from former colonies migrated to Portugal. The new arrivals substantially modified and diversified the immigrant population of only 30 thousand foreigners living in the country at the time (Mazilli and Lowe, 2023; Carvalho, 2022; Baganha *et al.*, 2009; MPF, 2022).

Immigration levels were further sustained by Portugal’s accession to the European Economic Community in 1986, which opened more funding opportunities to develop road and rail infrastructure, public buildings, and urban centres (Baganha *et al.*, 2009). Additionally, in the early 2000s, increased job opportunities in the construction sector triggered a considerable influx of migrants from Eastern Europe (Mazilli and Lowe, 2023; Baganha *et al.*, 2004; Carvalho, 2018). Although the 2008 economic crisis decreased the number of arrivals for a while, immigration to Portugal picked up again in 2016.

To sum up, according to Padilla and França (2016), the dynamics of immigration to Portugal can be divided into three phases: a) citizens from the former African colonies moving to the country after the colonial war/independence (mid-1970s–mid-1990s); b) the substantial arrival of Eastern Europeans and Brazilians driven by labour market's needs, including nationals from countries both with and without previous historical and cultural ties to Portugal (mid-1990s–first decade of the 2000s); and c) a steady increase of nationals from the Asian continent, such as the Chinese,<sup>7</sup> Indian, Pakistani, Bangladeshi and Nepalese (from the beginning of the 2000s onwards) (see also Sabino *et al* 2010).

Portugal’s successive changes in migration policy need to be analysed in connection to the critical events and historical conjunctures that triggered them (see Figure 7, below). The end of the Estado Novo dictatorship and the independence of Portugal’s former colonies resulted in extensive changes to Portugal’s citizenship and migration laws (Mazilli and Lowe, 2023). Thus, Portugal’s first legislation regulating the entrance, stay, and exit of foreign residents was introduced in 1981, amidst extensive immigration from newly independent former colonies and ahead of Portugal’s request to join the European Economic Community (EEC) (Padilla and França, 2016). After joining the EEC in 1986, further legislation was passed in 1992 and 1993, to conform to Schengen requirements and other EU directives, resulting in the establishment of separate immigration regimes for foreigners from within and outside the EU (SEF, 2010). Subsequent legislation, introduced between 1998 and 2003, incorporated further EU developments and experimented with different mechanisms for meeting labour market needs through migration, including changing the typology of entry visas; requiring EU citizens and residents to be considered for employment before non-EU citizens’ work visas could be authorised; putting in place family reunification rights; and the introduction of a new, more liberal asylum law in 1998 (SEF, 2010; Padilla and França, 2016).

Figure 7: Timeline



Source: Author's elaboration

Generally speaking, Portugal is reputed for its pragmatic migration policies and a pro-migrant approach across mainstream political parties, the media, the private sector, and civil society. Migration analysts note that the Portuguese approach to migration policies has largely been shaped by political agreement in terms of the social and economic benefits of immigration, regularisation, and integration (however, migrants face many challenges in their social integration and daily life) (Carvalho, 2022; Mazilli and Lowe, 2023; Iorio and Gaspar, 2024). As such, Portugal boasts a high ranking in integration indexes, a generous nationality scheme, and a collective consensus over non-politicisation of migration issues (Carvalho, 2022), although the recent growing prominence of the far-right-wing party CHEGA might alter this unanimous pro-migrant picture in the future.

## Integration

Portugal ranks in the top three in the Migrant Integration Policy Index (out of 56 countries), scoring 81 on the MIPEX 100-point scale, and is consistently advancing in terms of integration indicators. Portugal records a high score in antidiscrimination (100 out of 100), labour market mobility (94), family reunification (87), and access to nationality (86) (MIPEX, 2020). At the same time, it is important to highlight that MIPEX is criticised for its normative bias, since the index builds its indicators based on the legislative analysis of

each country's integration policies and not on their implementation (Gregurović and Župarić, 2018).

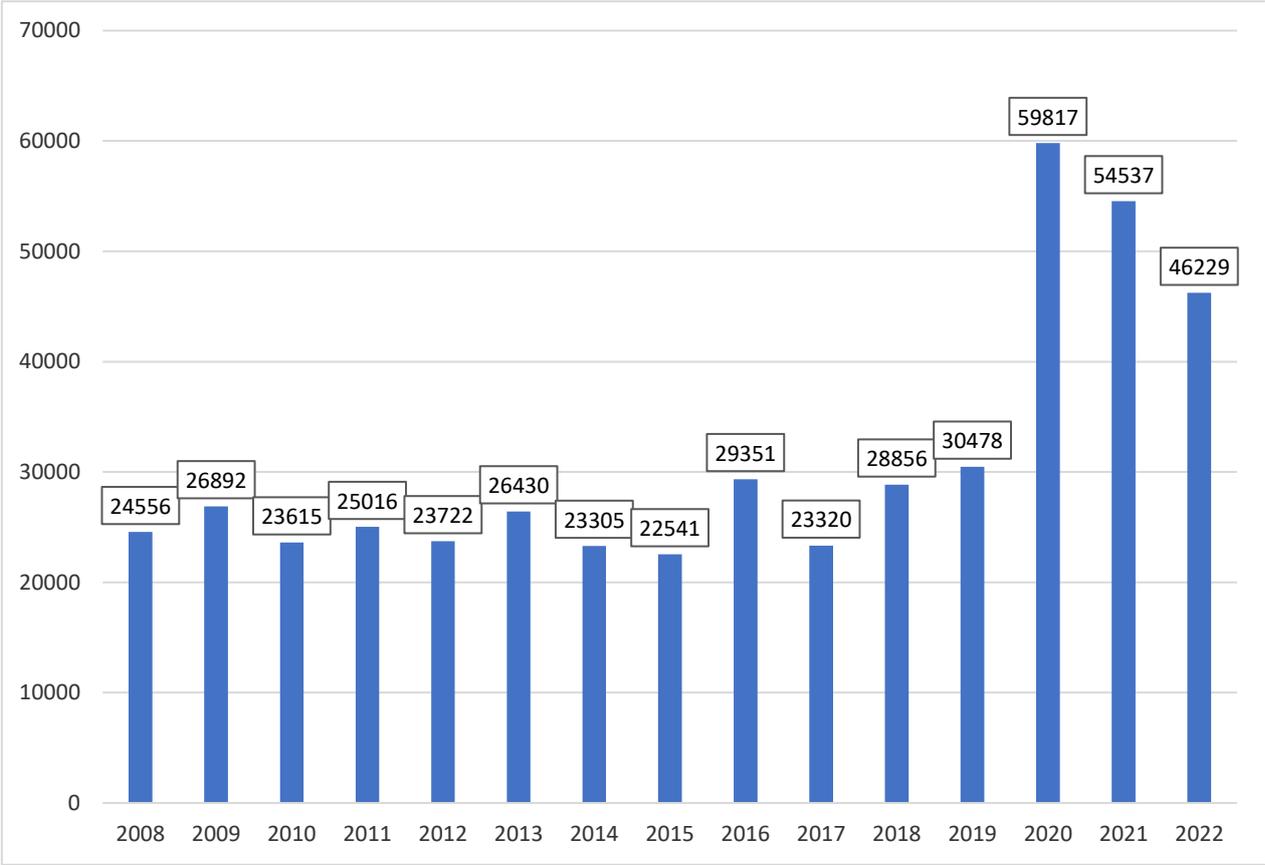
To foster the inclusion of migrants, Portugal published its first Plan for Immigrant Integration in 2007. This document covered three years and was organised around seven key principles and five transversal axes: legislation, service provision, research, public opinion, and empowerment of communities. The plan was updated in 2010 to remain applicable until 2013. Since 2015, integration priorities have been included in the general Strategic Plan for Migration, which covers a five-year period. It puts emphasis on strengthening the quality of services provided to foreigners, foresees responding to integration challenges in a transversal manner, and seeks to implement 106 measures, to be assessed through 201 indicators. Successive frameworks have promoted migrant integration, including the 2007 and 2010 Plans for the Integration of Immigrants, the Strategic Plan for Migration 2015–2020, and the recent National Implementation Plan of the Global Compact for Migration (which Portugal adopted in 2019, making it the first country to do so) (MPF, 2022).

In 2021, the first National Plan to Combat Racism and Discrimination 2021–2025 was approved, with the main objective of promoting equality and combatting racism and racial discrimination. The preamble to the Plan states that “the government recognises that, despite the existing legal framework, racism and discrimination continue to occur, violating fundamental rights established in the Constitution of the Portuguese Republic based on stereotypes, myths and theories grounded in the supposed superiority of a race or a group of people of a certain ethnic origin or nationality, which generate direct and indirect discrimination, including from an intersectional perspective, reflecting the historical processes that gave rise to them, such as slavery and colonialism, and which have perpetuated models of structural discrimination”. Some of the Plan’s measures include the need to develop actions aimed at producers of educational resources, including school manual publishers, and to include teaching on racism and discrimination issues in accordance with curriculum documents, as well as historical facts such as colonialism and slavery as content for interdisciplinary educational programmes.

## **Citizenship**

Portugal’s generous legislation concerning immigrants’ integration is based on liberal access to Portuguese nationality (Carvalho, 2022). More recently, Portugal has also implemented a series of policies to streamline the immigration process and offer pathways to citizenship for long-term residents, employing a progressive legal framework compared to other European countries (Oliveira, 2020). According to MIPEx data, Portugal has the second most-favourable citizenship regime in the EU in terms of naturalisation rates. Between 2008 and 2022, 468,665 people have acquired Portuguese citizenship, according to INE 2022 (see Figure 8, below).

Figure 8: Foreign population who acquired Portuguese nationality (no.), resident in Portugal and abroad, annual (2008–2022)



Source: Authors’ elaboration based on INE data

**Regularisation mechanisms**

A systematic relaxed attitude towards migration control corresponds to the common migration regime of Southern European countries such as Spain, Greece, and Italy (Mazzilli and Lowe, 2023; King, 2019). The Portuguese Government adopted a laissez-faire approach in the early 2000s to attain endogenous political objectives (Carvalho, 2022), which involved strict border control at the discourse level, alongside a ‘backdoor approach’ that entailed the regularisation of non-EU workers according to domestic needs. This strategy was evident in the successive deployments of regularisation programmes, which helped to sustain a low-cost economy in periods of higher demand for unskilled workers (Carvalho, 2022). This approach enabled the large-scale provision of the workforce to the labour market, to prevent bottlenecks that would have decelerated economic growth (Carvalho, 2017).

However, in 2007, there was a change in the paradigm of regularisation processes: a reformed immigration law introduced new provisions, from extensive extraordinary regularisations to case-by-case ones. This largely put an end to ad-hoc mass regularisation programmes but has led to a large backlog of applications from migrants seeking to regularise their residence. Since the process of issuing work permits in Portuguese embassies abroad is cumbersome, most labour migrants opt to enter the country as tourists and then use in-country regularisation arrangements after being offered a work contract (Mazzilli and Lowe, 2023; MPF, 2022). Hence, currently, regularising migration in Portugal consists

mainly of processing applications, for regular work and residence status, from migrants who originally entered the country on tourist (or other) visas (Mazzilli and Lowe, 2023; MPF, 2022).

### **Preferential mobility policies: PALOP and CPLP**

Portuguese migration policies focus on a common language and former historical and socio-political ties, granting priority to Países Africanos de Língua Oficial Portuguesa (PALOP) and Brazilian citizens. This priority reflects the Portuguese state's geostrategic objective of sustaining a special relationship with its former colonies (Carvalho, 2017). As a result, Portuguese remains the predominant language among the foreign communities residing in Portugal (Mourão, 2016; Borrego, 2016).

In July 2022, the Portuguese Government proposed simplified visas and entry pathways to Portugal for citizens of the Community of Portuguese Language Countries (Comunidade dos Países de Língua Portuguesa, or CPLP).<sup>8</sup> The new legislative package introduced a work procurement visa, simplified the student visa, and allowed a special authorisation for remote work in Portugal (Nacionalidade Portuguesa, 2022). This new package tops previous mobility agreements with both CPLP generally and Brazil specifically and is designed to facilitate entry to Portugal for certain professions: businesspeople, liberal professionals, scientists/researchers, sports people, journalists, and, in the case of CPLP, cultural/artistic agents (MFP, 2022).<sup>9</sup>

### **Privileged migration channels**

Recently, the Portuguese Government has introduced various policies to attract foreign investment and skilled workers, such as the Golden Visa programme in 2012 (previously mentioned above), which offers residency to non-EU citizens who invest in Portuguese real estate, transfer money, or create jobs in the country, among other criteria. However, due to the recent social controversies concerning increasing house prices, and to relieve the pressure on real estate investment, the programme was amended in February 2020 and severely limited the qualifying investments in 2023 (of which more shall be said in the section on investment policies).

Following other EU Member States, Portugal has announced the introduction of a 'digital nomad' visa scheme, which took effect at the end of October 2022. The new visa and combined residence permit targets individuals who are employed outside of Portugal and want to come and live in Portugal to perform their work. They need to provide a contract of employment, tax residency documents, and proof of an average monthly income over the past three months that is equivalent to at least four times the minimum monthly wage in Portugal —thus, around 3,040 euros (gross).<sup>10</sup> Other privileged channels include the Tech Visa programme (introduced in 2019, aiming to attract a high-skilled workforce for the tech sector; MFP, 2022) and the StartUp Visa programme (of which more shall be said below).

### **The Aliens Act**

The main legislative reference used to analyse Portuguese mobility policies in this report is the Aliens Act, also known as Act no. 23/2007 of 4 July, commonly referred to as the 'Lei dos Estrangeiros', amended 15 times since its conception (see Annex 1). This law defines the conditions and procedures for the entry, stay, exit, and removal of foreign nationals from

Portuguese territory, as well as the status of long-term residents (Article 1). Article 4 explains that the Aliens Act does not apply to:

- a) Nationals of a Member State of the European Union, a State that is party to the European Economic Area, or a third country with which the European Community has concluded an agreement on the free movement of persons;
- b) Third-country nationals residing on national territory as refugees, beneficiaries of subsidiary protection under asylum regulations, or beneficiaries of temporary protection; or
- c) Third-country nationals who are members of the family of a Portuguese citizen or of a foreign national covered by the previous subparagraphs.

This law, which is still in force today, was the first Act on Immigration that was the product of a discussion in Parliament, as opposed to the previous Decree-Laws issued by the Government (Oliveira *et al.*, 2013: 25–6).

Major changes in Portuguese migration governance that should be mentioned concern the abolition of SEF (Portuguese Immigration and Borders Service) to split its administrative and police bodies, transfer these responsibilities to other institutions, and create a new agency (AIMA — Agency for Integration, Migration and Asylum), in accordance with Law no. 73/2021 and Decree-Law no. 41/2023.

*Table 4: Main changes related to Law no. 73/2021 and Decree-Law no. 41/2023*

<b>Before</b>	<b>After</b>
Portuguese Immigration and Borders Service (SEF): responsible for <u>administrative</u> and <u>police</u> duties regarding admission, stay, criminal investigation, removal, visas, and residence permits, asylum, passports, and nationality.	SEF’s police/internal security duties were transferred to: National Republican Guard (GNR — Guarda Nacional Republicana); Public Security Police (PSP — Polícia de Segurança Pública); and Judicial Police (Polícia Judiciária — PJ).
High Commission for Migration (ACM): responsible for the integration of migrants and refugees, as well as for ethnic minorities, including the Roma communities.	SEF’s administrative duties were transferred to: Agency for Integration, Migration and Asylum (AIMA); Institute of Registries and Notary (IRN).  High Commission for Migration (ACM) duties: incorporated into AIMA.
	Borders and Aliens Coordination Unit (UCFE — Unidade de Coordenação de Fronteiras e Estrangeiros): responsible for coordinating the actions of the security forces and services among themselves and with other agencies responsible for SEF’s former administrative functions (AIMA and IRN). It also maintains a police information and international police cooperation system, namely the Integrated Information System of the Border and Aliens Coordination Unit.

Source: Authors’ elaboration

SEF was a security service within the Ministry of Internal Affairs (MAI) that, in the context of internal security policy, had the mission of controlling people at the borders, monitoring aliens on national territory, and preventing and fighting against organised crime involving illegal immigration and trafficking in human beings. It was also involved in deciding asylum applications and issuing passports and identification documents to foreign citizens, therefore accumulating administrative and police functions. As it is a very recent transition, most of the statistical data cited in the report was produced by the former institution, and many of the previous discussions on the Portuguese migratory context still mention SEF.

AIMA, now in operation, is a public institution that is part of the state's indirect administration, with jurisdiction and decentralised services throughout the national territory, and subject to the superintendence and supervision of the government member responsible for the areas of equality and migration (<https://aima.gov.pt/pt>). Worth noting is that the mobility policy analysis presented in this report has considered the latest updates stipulated by the new law (Decree-Law no. 41/2023) that came into force on 29 October 2023.

Among the major amendments brought to the Aliens Act, we mention here the Laws no. 102/2017 and 59/2017, introducing the StartUp Visa and the digitalisation of some parts of visa application processes, as well as simplifications for higher education students, seasonal workers, and highly qualified workers. Particularly, citizens from CPLP countries who wish to study in Portugal benefit from these simplified visa application procedures.<sup>11</sup>

When the applicant is covered by the CPLP Agreement and holds a short-stay visa or has legally entered national territory, they can apply for a temporary residence permit of more than 90 days and less than one year, renewable for the same period.

## Methodology

This analysis of six key mobility policies concerning migration in Portugal has been conducted as part of AspirE's Work Package 2. In addition to mobilising the relevant literature for the Portuguese case, the research team followed a **common blueprint** and a **standardised project guide** for content analysis in the areas of labour migration, family reunification, tourism, investment-based migration, student migration, and the Schengen policy (see Annex 2). AspirE's common blueprint was constructed to address some specific questions outlined in the project: What is the place of aspiring (re)migrant behaviour in spatial mobility policies? Are there specific articles, rules, or clauses that deal with the change of mind of a labour migrant under contract, or of an investor or a tourist, or a student who decides to overstay his/her visa rather than return to his/her country of origin? If there are, how gendered, classed, or ethnicised are those (im)mobility laws? Who is exempted and who is not? What temporalities are reinforced or produced in the process?

AspirE's standardised guide for policy content analysis was designed by the project coordinator (ULB) after undertaking a pilot analysis of Belgium's family reunification policy, in collaboration with the Work Package 2 coordinator (University of Milan). The standardised guide for the policy content analysis identified five salient **themes** and three important **dimensions** of mobility policies, which guided the content analysis of the six policies in Portugal, as well as in other contexts.

The five themes are as follows: guarantees, benefits, penalties, forgiveness, and referrals. *Guarantees* refer to the requirements that a migrant-receiving state expects individuals to provide when applying to enter its territory. *Benefits* are the privileges and advantages that people obtain to enter their receiving country. *Penalties* are the punishments that a receiving state imposes on individuals who violate the law or who can no longer satisfy the requirements necessary for them to stay. And whereas *forgiveness* implies giving a chance to individuals who have violated the law to stay in the receiving state, *referrals* point to the links between different laws on mobilities.

The three dimensions, meanwhile, are the *actors* involved (i.e., individuals mentioned in the policy; actors/institutions involved in the corresponding mobility policy), their *characteristics* (i.e., features or qualities of the individuals mentioned in the policy), and aspects of *temporality* (i.e., the duration given to individuals to stay in a given country and move within the EU Schengen Area, as well as the number of years required before a certain legal status can be attained).

The above themes and dimensions are organised in a table in the standardised guide. To facilitate the analysis, the standardised guide also provided ten key questions for AspirE researchers: one per theme and dimension, as well as two concluding questions. These questions were aimed at identifying the state's suppositions behind specific information stated in each policy, and determining whether the state considers the changeable and unpredictable nature of human behaviour when it writes its mobility policies. Hence, following the standardised guide, we have carried out the following steps: identifying the themes and dimensions for each of the mobility policies analysed, filling in the corresponding table, and answering the ten key questions provided in the guide.

The main legislative reference used to discuss the upcoming sections and produce the information for the policy content analysis is based on Law no. 23/2007<sup>12</sup> (Aliens Act), as previously mentioned, together with Regulatory Decree no. 84/2007 (amended seven times). All the legislation mentioned in the report is listed in Annex 3. The Aliens Act currently contains 220 articles and is divided into 12 chapters. Among them, we highlight the five most frequently used chapters: Chapter 1 — 'General provisions'; Chapter 4 — 'Visas'; Chapter 6 — 'Residence on national territory'; Chapter 8 — 'Removal from national territory'; and Chapter 10 — 'Misdemeanours'.

## **Human behaviour in Portugal's mobility policies: key findings**

This part of the report provides the findings of the policy content analysis for the six policies of interest to the AspirE project. The first section is on labour migration policy; the second section is on family reunification policy; the third section is on tourism policy; the fourth section is on privileged migration policies (Golden Visa/investment, digital nomads, retirees, entrepreneurs, and individuals planning to live on their own revenues); the fifth section is on student migration policy; and the sixth section is on Schengen policy.

## Labour migration policy

As mentioned in the introduction, several approaches have been taken since the early 1990s regarding labour migration in Portugal, from classic mass regularisations to targeted regularisations and, since 2007, as a case-by-case mechanism (Malheiros and Peixoto, 2023: 126).<sup>13</sup>

More than a decade after its approval, the Aliens Act still contains the regularisation provisions that were present from the beginning. Some recent changes have prolonged or facilitated the regularisation process — for example, the transition from employed (subordinate work) to self-employed professional activity was allowed; the need to prove legal entry into the country was eliminated; and so on.

The progressive approach adopted in 2007 was maintained even during the financial turmoil of 2011–2014, when a centre-right government led the country. It then expanded even further after 2015, when a Socialist Party government, supported by a broad left-wing parliamentary coalition, was in charge (Malheiros and Peixoto, 2023: 116).

The Aliens Act was amended twice in 2017, and in addition to transposing Directives 2014/36/EU, 2014/66/EU, and 2016/801/EU, it transformed the exceptional regularisation process into a regular procedure (França and Padilla, 2020). However, until its fourth amendment (Law no. 63/2015), Article 88.2 stipulated that, under exceptional circumstances, foreign citizens who had a work contract or a proven employment status in Portugal can apply for a residence permit as long as they had entered the country legally and remain legally, are registered, and have their social security situation regularised. The 2017 amendments removed this exceptional character from the procedure for granting a RP, so that in practice it is possible (always and not at the discretion of the SEF national director or at the initiative of the government member) to obtain a RP to carry out an independent or subordinate professional activity in Portugal based on a promised employment contract (Oliveira, 2022). In this way, Article 88.2 (residence permit for subordinate work) of the Aliens Act was amended, determining the following conditions for ex-post regularisation: through an expression of interest submitted through SEF’s website or directly at one of its regional offices, having “an employment contract or a promise of an employment contract”, or having “an employment relationship proven by a trade union, by a representative of migrant communities with a seat on the Council for Migration or by the Authority for Working Conditions (ACT)”; having “legally entered national territory”; and being “registered with Social Security”, except in the case of a promise of employment.

Regarding legal entry into national territory, the seventh amendment (Law no. 28/2019) defined the presumption of legal entry into Portugal when granting a RP to carry out a professional activity (Article 88.6), provided that the applicant’s social security situation has been regularised for at least 12 months. In addition to the data already presented in the previous sections, the latest SEF report has provided information on the reasons for granting new RPs related to the articles of the Aliens Act.

In 2022, the most representative reason for granting a new residence permit was the exercise of subordinate professional activity, without the need for a valid residence visa (Article 88.2/Aliens Act). It is interesting to note how the predominant entry in the case of subordinate labour is ex-post regularisation based on the presentation of an expression of interest. The procedure, in this case, stipulates that once the document has been submitted

(which can be via the internet or in person), one must wait for its validation by the responsible body (until the transition provided by Decree-Law no. 41/2023, SEF).

However, this procedure has been subject to a high number of complaints to the Ombudsman, related to the extended waiting time — from eight months, in 2020,<sup>14</sup> to over two years in 2022. With regard to Article 88, only 26,738 and 26,065 cases were validated in 2021 and 2022 respectively, i.e., there were fewer validations in these two years as a combined total than in 2020 (with 72,720 validations), although, from 2021 to 2022, the number of people interested in a residence permit through an expression of interest increased more than threefold (Ombudsman’s Report, 2023).

*Table 5: Expressions of interest submitted, and document validations carried out in accordance with Article 88 (Aliens Act)*

<b>Year</b>	<b>Expressions of interest submitted</b>	<b>Document validations (acceptance)</b>
2020	64,727	72,720
2021	53,713	26,738
2022	184,837	26,065

Source: Ombudsman Report (2023) based on data presented by SEF

Faced with this situation, SEF’s National Directorate recognised its inability to cope with the high number of requests due to the lack of human resources and technological means — namely, to deal with the high number of expressions of interest registered monthly on its electronic portal. However, according to the Ombudsman Report, these problems cannot be solved by simply creating a new agency (AIMA) and will require structural measures to address them (Ombudsman Report, 2023).

In this context, the ninth amendment to the Aliens Act (Law no. 18/2022) defines the conditions for attracting regulated immigration, introducing a permit to legally enter Portugal to seek work (Article 57(a)) for a period of 120 days, with the possibility of an extension of 60 days, and its subsequent conversion into a residence permit for subordinate work (Article 88), in the event of establishment and formalisation of the employment relationship within the stipulated timeframe.

Another change introduced in 2022 was the implementation of the Agreement on Mobility between the Member States of the Community of Portuguese-Speaking Countries (or the CPLP Agreement), a union that includes Angola, Brazil, Cape Verde, Guinea-Bissau, Equatorial Guinea, Mozambique, Portugal, Sao Tome and Principe, and Timor-Leste (Resolution no. 313/2021). The regime establishes the legal basis for regulating the conditions of entry and stays of citizens of CPLP Member States in Portugal and determines the granting of residence and temporary stay visas to nationals of a state in which the CPLP Agreement is in force (Oliveira, 2022).

Article 87(a) (Aliens Act) allows applicants to apply to AIMA for a CPLP residence permit on national territory; the idea is that CPLP citizens who have already submitted their application for a residence permit to carry out a professional activity, could, following this

submission of an expression of interest, then submit their application for this new, more tailored residence permit if they wish to do so. As a large proportion of the citizens using Article 88.2 are nationals from these countries, the creation of the CPLP residence permit has become, in part, a strategy to solve the problems that have been exacerbated over the last few years (Ombudsman Report, 2023).

In summary, based on these recent legislative changes, the main indicators related to labour migration policy are presented below. This topic focuses mainly on the exercise of a subordinate professional activity (Articles 59 and 88) and the job-search visa (Article 59a).

### *Procedures, guarantees, and temporalities*

The Aliens Act stipulates that a third-country national willing to enter Portugal as a subordinate worker for longer periods needs to obtain a residence visa. The residence visa is a pre-permit, which means that it does not automatically grant a right of residence but, instead, allows two entries and is valid for four months (Article 58). During that time, the applicant is required to request a residence permit with AIMA (Article 81).

A residence visa may be issued for the exercise of subordinate work to third-country nationals through (Articles 52 and 59/Aliens Act):

- a) a work contract, a work promise, or an individualised expression of interest from the employer;
- b) a professional certificate, when such a profession is regulated in Portugal, if applicable; and
- c) proof of means of subsistence.

Third-country nationals wishing to fill a job vacancy can submit their application, preferably electronically, to the employer's specific contact details. Employers send the foreign national, if selected, an employment contract or a promise of an employment contract and, in this case, the employer must inform the IEFP (Instituto do Emprego e Formação Profissional — National Public Employment Service). Job vacancies can be published by employers on the IEFP website, while embassies and consular posts also have access to the information and can make it available, via diplomatic channels, to the relevant services in third countries (Articles 27 and 28/Regulatory Decree no. 84/2007).

The funds arising from a contract or promise of an employment contract must be considered as proof of means of subsistence. It can be provided through a term of responsibility, with a recognised signature issued by the entity hosting workers (Article 12-A/Regulatory Decree no. 84/2007).

To obtain a residence permit for subordinate work, one must have an employment contract in accordance with the law and be registered with the social security system (Article 88). Another possibility, already mentioned, is to obtain a residence permit without a residence visa for subordinate work, subject to subsequent regularisation. Legal entry into the country can be presumed (i.e., no proof is required) when the applicant has been working in the country and their social security situation regularised for at least 12 months.

The job-search visa is a new type of visa that allows foreign citizens to travel to Portugal to look for work. This visa entitles its holder to enter and remain in Portugal solely to seek

employment; it authorises the applicant to carry out a subordinate work activity, until the visa expires, or the residence permit is granted. This visa is granted for 120 days, renewable for an additional 60 days, and allows only one entry into Portugal.

The specific documentation required includes (Article 52.2 and 57(a)/Aliens Act; Article 12-A/Regulatory Decree no. 84/2007):

- a) Copy of return transport title;
- b) Proof of financial resources equivalent to at least the sum of three guaranteed monthly minimum salaries;
- c) Declaration with an indication of the conditions for the estimated stay;
- d) Proof of presentation of a declaration of expression of interest for enrolment in the National Public Employment Service (IEFP).

Proof of financial resources may be waived upon presentation of a term of responsibility with recognised signature made by a Portuguese citizen (or a foreign citizen with a legal residence authorisation in Portugal), which guarantees food and accommodation for the visa applicant, as well as the repatriation costs, in the case of irregular stay. The signatory of the responsibility term must also prove to have financial capacity to the amount of, at least, three times the value of the guaranteed minimum monthly salary.

To extend for another 60 days, it is necessary to be able to present proof of registration with the IEFP, alongside a declaration by the applicant indicating that the conditions of the planned stay are maintained, which will be assessed considering the reasons that justified its issuance.

Moreover, it is possible to convert the job-search visa into a residence permit for subordinate work. When the employment relationship has been established and formalised within 180 days, the maximum period established by law, it must fulfil the general conditions for granting a temporary residence permit, under the terms of Article 77 of the Aliens Act (Article 88.7). After this period, if the labour relationship has not been established and the process of applying for a residence permit initiated, the visa holder must leave the country. In these situations, the potential migrant can only reapply for a new visa for the same purpose one year after the previous visa expires.

Regarding the residence permit for nationals of CPLP countries, where the Agreement is in force, it is possible to request with AIMA a permit in the national territory for citizens who are holders of a short-stay visa or a temporary stay visa or who have entered national territory legally (Article 87(a)/Aliens Act). In such cases, for the purposes of issuing the residence permit, the competent services will verify the applicant's Portuguese criminal record at their own initiative.

Some questions have been raised by the European Union about this exceptional regime, who argue that the CPLP Agreement provides for a residence permit that is not compliant with the uniform format as laid down in Regulation (EC) no. 1030/2002. In addition, neither of the residence permits, nor the long-stay visas issued for job-seeking purposes to nationals of the CPLP States, allow their holders to travel within the Schengen Area.<sup>15</sup>

Regarding means of subsistence, the calculation method is based on the guaranteed minimum monthly wage, which, in 2023, is 760 euros for mainland Portugal, 785 euros for the Autonomous Region of Madeira, and 798 euros for the Autonomous Region of the

Azores.<sup>16</sup>

On the question of temporalities, the time limit for deciding on an application for a temporary stay visa (like a job-search visa) is 30 days, and is 60 days for a residence visa, except in the circumstances provided for by law (Articles 56(c) and 58/Aliens Act). The application for a residence permit must be decided within 90 days and the renewal within 60 days (Article 82/Aliens Act).

The renewal of the temporary residence permit must be requested by the interested parties 30 days before the expiration of its validity (Article 78.1/Aliens Act), and the applicant must prove that they are still able to legally acquire the means of subsistence, considering the aim of the residence permit. Proof of sufficient means of subsistence can be measured by the number of social benefits the applicant receives under any of the social security systems (Article 7/Ordinance no. 1563/2007).

The residence permit is valid for two years from the date of issue of the respective permit and is renewable for successive periods of three years. When the applicant is covered by the CPLP Agreement and holds a short-stay visa or has legally entered national territory, they can apply for a temporary residence permit of more than 90 days and less than one year, subsequently renewable for the same period (Article 75.1 and 2/Aliens Act).

### ***Benefits***

The holder of a residence permit for the exercise of a subordinate professional activity may be authorised to perform a self-employed activity if they obtain the necessary permission from the relevant Portuguese authorities (Article 88.5/Aliens Act). Other benefits already mentioned are: ex-post regularisation; the conversion of the job-search visa into a residence permit for subordinate work; and the exceptional regime between CPLP countries, where the Agreement is in force. In addition, access to the welfare state's rights is guaranteed to holders of a residence permit (Article 83/Aliens Act), and the right to family reunification (Article 98).

When the simultaneous application for a residence permit and family reunification occurs within the scope of submitting an expression of interest for the granting of a residence permit to carry out a professional activity (Article 88.2 and 6/Aliens Act), the applicant may identify family members who are in the national territory, who benefit from the applicant's presumption of legal entry. In addition, applicants whose household includes minors of school age or adult dependent children — in both cases attending an educational establishment in the national territory — have preference in submitting applications for residence permits (Article 81.5 and 6/Aliens Act).

Permanent residence permit and long-term resident status can be granted to third-country nationals in accordance with Articles 76, 80, 125, and 126 of the Aliens Act.

### ***Penalties, forgiveness, and referrals***

Some notable penalties are as follows (Articles 198 and 198(a)/Aliens Act):

- The exercise of a self-employed professional activity by a foreign national who does not hold an appropriate residence permit, when required, constitutes an administrative offence punishable by a fine of between 300 and 1,200 euros; and

- Whoever uses the activity of a foreign national who does not have a residence permit or visa authorising the exercise of a subordinate professional activity will be subject to the application of fines (between two thousand and ninety thousand euros) and sanctions.

Regarding the residence permit, the document can be cancelled under the following conditions (Article 85/Aliens Act):

- If any documents submitted have been fraudulently obtained, falsified, or adulterated;
- Reasons of public order or security (this includes other more detailed reasons specified in the Article mentioned above);
- If the holder of the residence permit leaves the country for a longer period than permitted by law.

Regarding forgiving clauses, the residence permit shall not be cancelled for citizens who are absent for periods longer than those provided by law when they prove that, during their absence from national territory, they were engaged in a professional, business, cultural, or social activity (Article 85.4/Aliens Act).

Finally, regarding referrals, there is the possibility of acquiring Portuguese nationality based on legal residence in Portugal for at least five years, subject to fulfilling the other requirements established in the Nationality Act (Act no. 37/81).

#### ***Concluding remarks on human behaviour in labour migration policy***

The articles of the Aliens Act that deal with subordinate work offer a series of facilities for labour-related entry. They respond to the Portuguese labour market's need for a steady workforce and, from 2020, there is no longer a maximum number of positions (quotas) that can be filled in the country by foreign citizens with this visa.<sup>17</sup> In summary, the articles covered in this topic focus on three possibilities: i) entry through a (subordinate) work visa (Article 59) and request for a residence permit (Article 88); ii) entry for the purpose of seeking employment for a limited period (Article 57(a)); and iii) entry subject to subsequent regularisation (Article 88.2).

Admitting to its limited institutional capability to process the growing number of expressions of interest (for ex-post regularisations, based on Article 88.2) — an increasingly lengthy process that left migrants in a “state of waiting” for over two years (Ombudsman Report, 2023) — the ninth amendment to the Aliens Act, made in 2022 and introducing a legal channel for job-search visas, is a conscious attempt on the Portuguese state's part to streamline the regularisation process for labour immigrants.

From this perspective, Portugal's labour migration legislation does consider human behaviour to the extent that it recognises the reality of people entering the country as tourists or without a specific visa, allows for ex-post regularisation, and creates possibilities more suited to the country's migratory reality. However, the effects of these legal provisions in relation to the expected results need to be better examined and monitored. In general, Article 88.2 is considered an innovative article, but one with implementation problems that need to be considered, such as extensive delays in analysing and processing requests (Costa, 2020).

Attention is also drawn to the fact that the creation of a new organisation will not in itself resolve the main deficiencies detected in SEF's activity, such as the limited capacity of human resources in the face of administrative and bureaucratic demands. On the contrary, it is expected that, in the absence of structural measures, the number of pending issues will continue to increase during the transition period (Ombudsman Report, 2023: 15). In a recent media article, the Minister of State and Parliamentary Affairs Ana Catarina Mendes committed to hiring more staff in the new agency (AIMA) and resolving all pending requests (of about 600 thousand) by March 2024 (Almeida, 2023).

Regarding human behaviour considered 'acceptable' or 'unacceptable,' it is important to highlight the requirement of social security contributions as a key factor in regularisation. Working and contributing to social security for 12 months prior to the RP application ensures premises for legalisation (Article 88.6). The waiver of proof of legal entry (by presumption) for these applicants suggests that the Portuguese state conceives of legalisation on the premises of social participation rather than meeting certain requirements: one earns their legal status when contributing to the host society. Given the great pressure faced by the Portuguese social security system because of an ageing population, the contributions of foreign residents are particularly important. Some studies indicate, in fact, that the Portuguese social security system has benefited more from the ratio between social benefits and contributions from foreigners than from contributions from nationals (Oliveira, 2022: 210).

## **Family reunification policy**

The Portuguese approach to family reunification has been marked not only by the need to adapt to its own evolving migratory dynamics but also by the imperative of conforming to a broader European context. Directive 2003/86/EC, on family reunification of TCNs, was transposed into the Aliens Act in 2007 (Article 2.1(a)). Concerning TCNs, all the recommended aspects of the directive have been transposed, including those that were not mandatory for Member States, and none of the possible limitations (option clauses) were adopted because they are contrary to the Portuguese Constitution and the European Convention on Human Rights (Oliveira *et al.*, 2013: 74). In some cases, Portugal has gone further than recommended — for example, by including a more favourable regime for refugees and allowing family reunification not only for spouses/partners and minor children but also for ascendants and dependent descendants over the age of 18 (Article 99 of the Aliens Act).

Considering this background, below are the main indicators related to the articles dealing with family reunification in the Aliens Act.

### ***Procedures, guarantees, and temporalities***

A citizen with a valid residence permit is entitled to family reunification with family members who are outside the national territory, have lived with him/her in another country, depend on him/her, or cohabit with him/her, irrespective of whether the family ties precede or come after the resident's entry.

The right to family reunification is also recognised for family members who have legally entered the national territory and who depend on or cohabit with the holder of a valid

residence permit; and to refugees, recognised under the terms of the law regulating asylum, without prejudice to the legal provisions recognising the refugee status of family members (Article 98/Aliens Act).

The residence visa for family reunification with family members who are outside the national territory is a special type of visa in terms of the process for granting it. The decisive moment in this process is the assessment of the conditions on which the right to reunification depends, which takes place at AIMA (Article 64/Aliens Act). Once this right has been verified and there is no impediment to the family member's entry into national territory, the decision is communicated to the Directorate-General for Consular Affairs and Portuguese Communities, which must organise the immediate issue of the visa with the respective consular office.

The residence visa shall be issued following the previous communication, within 10 days after the application is submitted at the competent consular post (Article 65/Aliens Act). The application for family reunification must be accompanied by the following documents (Articles 101 and 103/Aliens Act; Article 67/Regulatory Decree no. 84/2007):<sup>18</sup>

- a) Documents attesting the existence of relevant family or civil partnership ties (de facto union);
- b) Documents concerning accommodation;
- c) Documents attesting to means of subsistence;
- d) Certified copies of travel documents of family members or civil partners; and
- e) Criminal record certificate.

The previous conditions do not apply to family reunification of refugees. Where a refugee cannot produce official documents proving the family relationship, other elements proving the existence of such a relationship will be taken into consideration. AIMA may, if necessary, carry out interviews with the applicant and his/her family members and conduct other investigations if deemed necessary. (The decision on applications for family reunification is the responsibility of AIMA, which has the power to delegate the decision (Article 102/Aliens Act).)

When examining an application concerning the unmarried partner of the applicant, AIMA will consider factors such as the existence of a common child, previous cohabitation, registration of the partnership, or any other reliable means of proof (Article 104/Aliens Act).

In terms of means of subsistence, the calculation method is based on the guaranteed minimum monthly wage, which, in 2023, is 760 euros for mainland Portugal, 785 euros for the Autonomous Region of Madeira, and 798 euros for the Autonomous Region of the Azores, but with a per capita increase for each family unit as follows (Article 2/ Ordinance no. 1563/2007):

- First adult: 100%;
- Second adult and additional adults: 50%; and
- Children and young people under 18 years of age and non-minor dependent children: 30%.

It is up to the holder of the right to family reunification to apply to AIMA for the entry and residence of his/her family members whenever they are outside the national territory.

However, in situations where family members are on national territory, family reunification can be requested by them or by the right holder (Article 103/Aliens Act). The applicant must attach all the documents needed to support the application, as already mentioned. Once the application has been submitted, AIMA or someone delegated by it examines whether all the requirements have been met and, in the case of a de facto union, considers factors that confirm the actual relationship (Article 104/Aliens Act).

On the question of temporalities, AIMA's time limit for these procedures is 90 days, which may be extended for another 90 days if justified by the complexity of the request, and the applicant must be informed of this extension (Article 105). If the application is approved, the family member who holds a visa (Article 64) or who is in the national territory will be granted a residence permit of the same duration as the resident. In the case of the family member of a permanent residence permit holder, she/he receives a residence permit valid for two years, renewable for successive periods of three years.

In the absence of a decision within six months, the application is tacitly accepted, in which case AIMA will certify it at the request of the interested party and notify the Directorate-General for Consular Affairs and Portuguese Communities within 48 hours, to issue the residence visa (Article 105/Aliens Act).

Article 99 (Aliens Act) defines more specifically who can be considered a family member:

- a) The spouse;
- b) Children who are minors or incapacitated and are dependants of the couple or one of the spouses;
- c) Minors adopted by the applicant when he/she is not married, by the applicant or his/her spouse, as a result of a decision of the competent authority of the country of origin, provided that the law of that country grants to the adopted children identical rights and duties to those of natural filiation and that the decision is recognised by Portugal;
- d) Adult children who are dependents of the couple or one of the spouses, who are single, and who are studying in an educational establishment in Portugal;
- e) Adult dependent children of the couple or one of the spouses, who are unmarried and studying, where the holder of the right to reunification has a residence permit granted under Article 90-A;
- f) Ascendants in the direct line and to the first degree of the resident or his/her spouse, provided they are dependent on him/her; and
- g) Minor siblings, if they are under the resident's guardianship, in accordance with a decision issued by the competent authority in the country of origin and provided that this decision is recognised by Portugal.

It is important to note that family reunification with a minor or incapacitated child of one of the spouses depends on the authorisation of the other parent or a decision by a competent authority under which the child has been entrusted to them. Family members for family reunification of the holder of a residence permit for study, unremunerated professional traineeship, or voluntary service are only those mentioned in a), b) and c).

For the purposes of family reunification of unaccompanied minor refugees, the following are considered:

- a) Direct ascendants in the first degree; or

b) His/her legal guardian or any other relative if the refugee has no direct ascendants or it is not possible to trace them.

In this context, an unaccompanied minor is a TCN or stateless person below the age of 18 who: a) entered the country unaccompanied and not in the care of a responsible adult by law or custom; or b) is abandoned after his/her entry into the national territory.

Through a *de facto* union (civil partnership), it is also possible for the spouse or partner to be reunited with the immigrant residing in the Portuguese territory (Article 100/Aliens Act). A *de facto* union is the legal situation of two people who, regardless of sex, have lived in conditions like those of spouses for more than two years (Article 1.2/Act no.7/2001). In such cases, family reunification can be authorised with:

- a) The partner that maintains, in the national territory or outside of it, with the foreign resident citizen, a civil partnership, duly proved under the terms of the law; and
- b) Unmarried minors or incapacitated children, including adopted children of the civil partner, as long as they are legally entrusted to him/her.

There is the possibility of an autonomous residence permit after a certain time limit or in exceptional cases (Article 107/Aliens Act). To clarify:

- The first residence permit granted to the spouse under family reunification is autonomous when he/she has been married or in a non-marital partnership (*de facto* union) for more than five years with the resident, and will be issued with a residence permit of the same duration as the resident; and
- After two years under the initial residence authorisation if the family ties persist or whenever the holder of the right to family reunification 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;
- Meanwhile, the aforementioned exceptional cases include judicial separation, divorce, widowhood, death of an ascendant or descendant, prosecution by the Public Prosecutor's Office for a crime of domestic violence, and the person reaching legal age, and even if the facts occur during the examination of the application for family reunification.

### ***Benefits***

A TCN in Portugal under family reunification enjoys the same rights and obligations as remaining immigrants in a regular situation (Oliveira *et al.*, 2013: 15). Article 83 gives the holder of a residence permit the right to: education, work (the exercise of a subordinate or a self-employed professional activity), training or access to other qualifications, health, social security, and justice. Lastly, permanent residence permits and long-term resident status can be granted to TCNs in accordance with Articles 76, 80, 125, and 126 of the Aliens Act.

### ***Penalties, forgiveness, and referrals***

Regarding penalties, Article 106 (Aliens Act) establishes the cases in which applications for reunification may not be granted by the competent authority; Article 108 (Aliens Act) addresses the conditions for the cancellation of a residence permit; and Article 186 stipulates sanctions for marriages or partnerships (*de facto* unions) of convenience, which are explained below.

Regarding Article 106, the cases are: when the necessary conditions for exercising the right to family reunification are not met; when the family member is prohibited from entering and staying in the national territory, or is the subject of an alert in the Schengen Information System (SIS) for the purposes of return or refusal of entry and residence; or when entry represents a threat to public order, public security, or public health.

Before a decision is taken to reject an application, the nature and solidity of the person's family ties, the length of time they have been resident in Portugal, and the existence of family, cultural, and social links with their country of origin are taken into consideration. However, in the case of refugees, the rejection of the application cannot be based solely on a lack of evidence of family ties. If the application is rejected the applicant will be notified, with an indication of the grounds on which this decision was made, including the right to judicial appeal and notification of the respective time limit.

Regarding cancellation, a residence permit issued under the right to family reunification shall be cancelled when the marriage, partnership (de facto union), or adoption is deemed to have had the sole purpose of enabling the interested person to enter or reside in Portugal. For a fuller investigation, specific checks and inspections may be carried out when there is reason to suspect fraud or a marriage, civil partnership (de facto union), or adoption of convenience.<sup>19</sup>

The decision of cancellation shall be taken after hearing the foreign national, which shall, for all purposes, be equivalent to hearing the interested party. In addition, the person concerned must be notified of the cancellation decision, with an indication of its grounds, which include the right to judicial appeal and the respective time limit (as in the previous Article).

The identification of “marriages or partnerships of convenience” can result in a criminal offence, as provided in Article 186 of the Aliens Act. Those who marry or live in a de facto union for the sole purpose of obtaining a visa, a residence permit, or an ‘EU Blue Card’, or who defraud the legislation in force concerning the acquisition of nationality shall be punished with a term of imprisonment of one to five years. It also includes those who, in a repeated or organised manner, encourage or create the conditions for the practise of such acts, who shall be subject to a prison sentence of two to six years. Meanwhile, acting in a repeated or organised manner, or encouraging or creating the conditions for the commission of such acts, shall be punished with a term of imprisonment of two to six years. Finally, attempts are also punishable.

Some clauses regarding forgiveness can be found in Article 135 (Aliens Act), which limits removal of foreign parents from the national territory, as long as they are not a threat to national security and public order, under the following conditions:

- they have dependent, underage children of Portuguese nationality residing in Portugal; or
- they have minor children who are TCNs residing in Portuguese territory, for whom they effectively assume parental responsibilities and for whom they provide maintenance and education.

Lastly, regarding referrals, there is the possibility of acquiring Portuguese nationality based on legal residence in Portugal for at least five years, subject to fulfilling the other requirements established in the Nationality Act (Act no. 37/81).

### ***Concluding remarks on human behaviour in family reunification policy***

The articles of the Aliens Act that deal with family reunification are partly in line with the history of immigration in Portugal, allowing family members who are already in the country to be reunited. As mentioned previously, in Portugal there is a high proportion of immigrants who enter the country with a valid tourist visa (or visa exemption), but who end up staying beyond the expiry date (Marques *et al.*, 2014: 46). In this sense, allowing reunification on national territory is aligned with the realities of human behaviour for migrants in Portugal.

The widening scope of family members eligible for reunification, introduced in 2007, should also be mentioned, for its effects on migrants' decision-making. It should be considered that this extension can favour the behaviour of those whose family relationship is the basis of their economic subsistence (for example, those Chinese kins who work within endogenous and family networks; and the possibility of grandparents being able to look after grandchildren, for example).

Family reunification, as in other mobility policies, is dependent on proving the necessary means of subsistence, which can be a challenge in situations where there is no regular income or salary as some TCNs may be integrated into the informal economy and living in precarious conditions (Oliveira *et al.*, 2013; Marques *et al.*, 2014).

Finally, it is important to highlight the possibility of an autonomous residence permit in certain exceptional situations — namely, for the protection of domestic violence victims, which does not depend on a criminal conviction, but, rather, on prosecution by the Public Prosecutor's Office (Marques *et al.*, 2014: 50). This measure takes human behaviour into account, ensuring that the victim of violence does not depend on their potential aggressor's residence permit for their right to stay in the country.

## **Policy on tourism**

Policy on tourism is framed within the context of the European Union's freedom of movement agreement, the Schengen Agreement, which Portugal joined in the 1990s. Currently, the Schengen Area is composed of the following countries: Austria, Belgium, Czechia, Croatia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Liechtenstein, Luxemburg, Malta, Norway, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland. Bulgaria and Romania are currently in the joining process and are already largely applying the Schengen *acquis*.

Based on this Agreement, a borderless travel zone has been created between the signatory countries, allowing EU citizens and many TCNs to travel without border controls, which does not, however, prevent national authorities from carrying out police checks at the borders between these countries and in frontier zones (Regulation (EU) no. 399/2016/ Schengen Borders Code).

As a measure to compensate for freedom of movement, an information system (SIS — Schengen Information System) has been set up so that all border posts, customs authorities, police authorities, and consular officers in the Member States party to the Schengen Convention have data on security and border management in Europe, in order to safeguard public security within their territories (Regulation (EU) no. 1861/2018). In this context, Regulation (EC) no. 810/2009, amended by Regulation (EU) no. 1155/2019 (Visa Code), establishes the procedures and conditions for issuing visas for intended stays in the territory of the Member States that do not exceed 90 days in any 180 days and that include certain travelling purposes, among them tourism.

Based on this initial context, the indicators relating to policy on tourism are presented below.

### *Procedures, guarantees, and temporalities*

The category of short-stay visas provided by the Aliens Act includes the possibility of travelling for tourist purposes for a maximum of 90 days in any 180-day period, and Article 51 (short-stay visa) is applicable to these cases in Portugal.

This visa allows its holder to enter Portuguese territory for purposes that, if accepted by the competent authorities, do not justify the granting of another type of visa — namely, for transit, tourism, and to visit or accompany family members who hold a temporary stay visa. To apply for a short-stay visa (tourism reasons), the following documents must be presented (Regulation (EC) no. 810/2009 (Visa Code); Article 2/Ordinance no. 1563/2007):

- Travel reservation (return ticket);
- Hotel reservation (if applicable) or statement of responsibility. If staying with a family member, proof of family relationship is required, and proof of housing conditions may be requested. If the person signing the term of responsibility is not a Portuguese national, proof of being legally in Portugal is required;
- Economic and work conditions: work certificate and salary, as well as the applicant's three last bank transcripts (proof of means of subsistence), covering the entire stay and return to the country of origin. To enter and stay in Portugal, a foreign national holding a Schengen/short-stay visa must have or be able to legally obtain 75 euros for each entry and 40 euros for each day. Alternatively, a statement of responsibility signed by a national citizen or legal resident may be presented;
- Medical travel insurance and health insurance (should cover medical expenses including those of medical repatriation, medical emergency, and/or hospital emergency, and the minimum required coverage is 30 thousand euros). It must be valid throughout the territory of the Member States and cover the entire duration of the person's intended stay or transit within the validity of the visa.

If the application is submitted in a country where there is a harmonised table with general and specific documentation requirements, it should be consulted to avoid any missing documents when submitting the application.<sup>20</sup>

Regarding territorial validity, transit by air visas and short-stay visas may be valid for one or more States party to the Schengen Convention (Article 46.1/Aliens Act). However, it is important to clarify that the Member State competent for examining and deciding on an application for a uniform short-stay visa shall be (Article 5/Regulation (EC) no. 810/2009 (Visa Code)):

- The Member State whose territory constitutes the sole destination of the visit(s);
- If the visit includes more than one destination, or if several separate visits are to be carried out within a period of two months, the Member State whose territory constitutes the main destination of the visit(s) in terms of the length of stay, counted in days, or the purpose of stay; or
- If no main destination can be determined, the Member State whose external border the applicant intends to cross to enter the territory of the Member States.

In terms of border controls, people entering or leaving the national territory are subject to checks at border posts if they are coming from or going to States that are not party to the Schengen Agreement. This shall also apply to individuals using an internal section of a flight to or from States that are not party to the Convention (Article 6/Aliens Act).

Career consular posts and consular sections are responsible for visa procedures, and it is the responsibility of these entities to request opinions, information, and other elements necessary for analysing applications (Article 48/Aliens Act). Additionally, Portugal has delegated the possibility of submitting Schengen visa applications to certified service providers.

On the question of temporality, applications should be lodged no more than six months before the start of the intended visit, and, as a rule, no later than 15 calendar days before it begins. In justified individual cases of urgency, the consulate or the central authorities may allow the lodging of applications later than 15 calendar days before the start of the intended visit (Article 9/Regulation (EC) no. 810/2009). The decision shall be taken within 15 calendar days from the date of submission. This deadline may be extended to a maximum of 45 calendar days in individual cases, in particular where further examination of the application is required (Articles 9 and 23/Regulation (EC) no. 810/2009).

The short-stay visa (tourism reasons) may be issued with a validity of one year and for one or more entries, provided that neither the length of a continuous stay nor the total length of successive stays exceeds 90 days in every 180 days from the date of the first crossing of an external border (Article 51/Aliens Act).

### ***Benefits, penalties, and referrals***

In order to enter national territory, foreign nationals must hold a valid visa appropriate to the purpose of the visit granted under the terms of the Aliens Act or by the competent authorities of the States party to the Schengen Convention (Article 10/Aliens Act).

Regarding benefits, there are, in the first instance, differences between those third countries whose nationals must be in possession of visas when crossing the external borders; those whose nationals are exempt from that requirement; and those countries that have signed visa facilitation agreements with the EU. This list can be consulted on the Ministry of Foreign Affairs website (<https://vistos.mne.gov.pt/en/short-stay-visas-schengen/general-information/who-needs-a-visa>) and is set out in Regulation (EU) no. 1806/2018, amended by Regulation (EU) no. 850/2023.

Concerning Asian countries, it is important to note that China, the Philippines, Thailand, and Vietnam are on the list of nationalities that must be in possession of a visa, and nationals of Japan are exempt from the visa requirement. The visa exemption also applies to passport holders from the Special Administrative Regions of Macau and Hong Kong.

Regarding the extension of stay (Articles 71 and 72/Aliens Act), it is possible to extend a stay in Portuguese territory for a longer period than initially authorised and this may be valid for one or more States party to the Convention, requiring proof that the conditions that allowed the foreign national to be admitted into the national territory are maintained. The decision is the responsibility of AIMA and can be delegated, except for applications concerning citizens subject to return alerts or refusal of entry and stay. The extension can be granted for up to 90 days, extendable for an equal period if the interested party holds a short-stay visa (this includes tourism) or has been admitted to the country without a visa requirement. An extension of stay may be granted, beyond the limits set out above, for exceptional reasons. However, the extension granted to citizens admitted into the country without requiring a visa and to holders of a short-stay visa is limited to Portugal whenever their stay exceeds 90 days per semester, counted from the date of the first crossing of the external borders. If the applicant is refused entry or stay by the SIS UCFE (Sistema Integrado de Informação/Unidade de Coordenação de Fronteiras e Estrangeiros — Borders and Aliens Coordination Unit/Integrated Information System) or by the SIS (Schengen Information System), the extension may be refused. In addition, apart from exceptional circumstances, requests for extensions will not be granted if they are submitted more than 30 days after the end of the authorised period of stay.

Regarding penalties, the stay of a foreign national in Portuguese territory, or in the territory of Member States of the European Union and of States where the Schengen Agreement is in force, for a period exceeding that authorised constitutes an administrative offence punishable by the fines specified below (Article 192/Aliens Act):

- From 80 to 160 euros, if the period of stay does not exceed 30 days;
- From 160 to 320 euros, if the period of stay is longer than 30 days but not more than 90 days;
- From 320 to 500 euros, if the period of stay is longer than 90 days but not more than 180 days; and
- From 500 to 700 euros, if the period of stay exceeds 180 days.

Regarding referrals, although there is no rule for converting tourist visas into other types of mobility policies, the (presumption) of legal entry is a possibility provided in various articles of the Aliens Act as a facilitating criterion for obtaining a residence permit when already in the national territory and in the case of expressions of interest (see, for example, Article 88/Aliens Act). For this reason, the tourist visa is considered a gateway to other mobility policies (Malheiros and Peixoto, 2023; Pires *et al.*, 2023).

### ***Concluding remarks on human behaviour in tourism policy***

Policy on tourism in Portugal is regulated by the Aliens Act and by the Schengen Agreement provisions. The Agreement provides more freedom of movement for people of certain nationalities between the signatory countries, but there is also a division between exempt and non-exempt countries, which results in greater or lesser freedom depending on national origin.<sup>21</sup>

Regarding human behaviour considered to be unacceptable, remaining in the country beyond the authorised period constitutes an infraction and there is then no possibility provided by the law of converting the tourist visa into other mobility policies. However, migrants'

aspirations seem to be taken into account to the extent that some articles consider the (presumption of) legal entry as one of the facilitating requirements for obtaining certain residence permits already available in the national territory (for example Articles 75.2, 88, 89, 91, and 98/Aliens Act), and, in this regard, the tourist visa can be one of these pathways.

## **Privileged migration policies**

### *Golden Visa*

The Golden Visa (GV) programme represents one of the main policies conceived to attract foreign investment into Portugal. Residency-by-investment programmes, more commonly known as golden visa programmes, were implemented in several European countries in the aftermath of the 2008 economic crisis, seeking to bring in foreign investment (Surak and Tsuzuki, 2021; Amante and Rodrigues, 2021; Gaspar and Ampudia de Haro, 2020; Shachar, 2017). In Portugal, the Residence Permit for Investment Activities (Autorização de Residência para Atividade de Investimento, abbreviated as ARI) was introduced in 2012 (Ministerial Order 305-A/2012 of 4 October) after the financial crisis of 2008.

In short, golden visa residence permits represent a mobility policy addressed to TCNs, in which residence can be granted in exchange for an investment in the host country. Since its conception, the law included the following types of “investment activity” (as defined by Articles 3.1(d), 2, 3, and 4), such as substantial capital transfers (of at least 1.5 million euros), creation of jobs, and acquisitions of property or real estate (cut off since October 2023), as well as ample capital transfers to research bodies, cultural projects or institutions, investment funds, or commercial companies.

Chinese nationals have been the largest group of applicants for these programmes, both in Portugal and around the world (Gaspar and Ampudia de Haro, 2020; Liu-Farrer, 2016). In Portugal, they comprise about 50% of the residency permits issued up until 2022. The acquisition of real estate is by far the most popular option of the Portuguese scheme, as it is considered by wealthy Chinese as a safe and stable investment (Van der Baaren and Li, 2018). Between 2012 and 2022, 91% of the golden visas that were granted were done so based on real estate purchase (10,957 out of the total of 12,037 visas), whereas less than one tenth of the visas (8.8%) was justified through capital transfer. In the past few years, due to law amendments, renovation of property and investment fund/venture capital gained prevalence in the choice of investment by GV applicants (SEF, 2022), possibly due to the fact that, firstly, the house prices in Lisbon and Porto central areas had suffered a significant increase and, secondly, investment funds were considered a safer guarantee after Portugal had exited, in 2014, the bailout of 2011.

Even if the GV programme has been motivated by and justified with reference to economic reasons, recent studies indicate that its most relevant implications are not exclusively economic, but also social, political, and lifestyle-related (Beck and Gaspar, 2023). Most notably, the programme has allowed for the creation of a new socio-legal category of “investor-migrant” (Amante and Rodrigues, 2021) and the emergence of Chinese wealthy migrants, constituting a specific type of business migration that is particularly distinct from previous economic and labour forms of Chinese mobilities into Portugal (Gaspar and Ampudia de Haro, 2020). Moreover, the sizable numbers of incoming Chinese investors have altered the socio-demographic profile of Chinese migrants in Portugal (Santos *et al.*, 2023; Amante and Rodrigues, 2021; Gaspar and Ampudia de Haro, 2020).

## *Guarantees*

One crucial and qualifying requirement of the GV programme is that the investments must have been made at the time of submission of the application for a residence permit (Article 65-A of the Regulatory Decree no. 84/2007, as amended). The documents required for the visa application include proof of legal entry, health insurance, certificate of criminal record, and tax records, as well as payment of the ARI fee.

Golden visas are granted mainly in return for one of the following types of investment:

- Capital transfer in an amount equal to or greater than 1 million euros [1.5 million euros, since January 2022, repealed by Law no. 56/2023, in effect from 7 October 2023];
- Creation of at least 10 jobs;
- Acquisition of real estate with a value equal to or greater than 500 thousand euros [investment limited, since 1 January 2022, by Decree-Law no. 14/2021, of 12 February. Investment revoked by Law no. 56/2023, in effect from 7 October 2023];
- Acquisition of real estate, the construction of which was completed at least 30 years ago or located in an urban rehabilitation area and carrying out rehabilitation works on the acquired real estate, to a total amount equal to or greater than 350 thousand euros [investment limited, since 1 January 2022, by Decree-Law no. 14/2021, of 12 February. Investment revoked by Law no. 56/2023, in effect from 7 October 2023];
- Transfer of capital of at least 350 thousand euros [500 thousand since 1 January 2022], which is applied to research activities carried out by public or private scientific research institutions, integrated into the national scientific and technological system;
- Transfer of capital of at least 250 thousand euros, which is applied in investment or support for artistic production, recovery, or maintenance of national cultural heritage, through central and peripheral direct administration services, public institutes, entities that comprise the public business sector, public foundations, private foundations with public utility status, intermunicipal entities, entities that are part of the local business sector, municipal associative entities, and public cultural associations, which carry out tasks in the area of artistic production, recovery, or maintenance of cultural heritage; or
- Transfer of capital for at least 350 thousand euros [500 thousand since 1 January 2022], intended for the acquisition of units in investment funds or venture capital funds geared to the capitalisation of companies (cut off by Law no. 56/2023), or parts of non-real-estate collective investment undertakings, which are set up under Portuguese law, whose maturity, at the time of the investment, is at least five years, and at least 60% of the value of the investments is made in commercial companies based in Portugal.

The granting of a residence permit for investment activity and its renewal, for example, have different values compared to other types of permits (7730.11 and 3865.79 respectively), according to Ordinance no. 307/2023.

As for the procedure involved, there are two points that should be noted. First of all, the investor does not need to apply for a residence visa to gain a GV permit. Instead, they can travel to Portugal on a regular Schengen ('tourist') visa with a (non-extendable) validity of

90 days. Secondly, the programme also implies minimal residence requirements once a GV permit has been granted: at least seven days per year in the first year and fourteen days per period of two years, in subsequent years.

### ***Benefits***

Several stipulations make this programme attractive to potential migrant investors, particularly the Chinese. TCNs who provide evidence of investment activity are exempted from the residence visa requirement (Article 122(r)/Aliens Act). The beneficiaries of ARI/Golden Visa are entitled to the right to live and work in Portugal, on condition that they stay in the country for a period of seven or more days, in the first year, and fourteen or more days, in subsequent years. Furthermore, as Portugal is an EU Member State and part of the Schengen Area, the holder of the permit is allowed to stay in other Schengen States for up to 90 days in a 180-day period. Benefits also include the right to family reunification, which, for investor migrants, is also extended to dependent adults and children. Furthermore, one key advantage of the Golden Visa programme is that it provides a fast track to obtaining citizenship. After holding residency for five years, investors can apply for permanent residency or even citizenship if they meet certain requirements (Act no. 37/81 of 3 October, as amended).

To summarise, a golden visa residence permit allows a TCN to obtain a temporary residence permit to develop their business or working activities, which comes with the following benefits: a) a residence visa waiver for entering Portugal; b) visa exemption for travelling within the Schengen Area; and c) family reunification (if applicable), as well as a pathway to permanent residence and even citizenship (Gaspar and Ampudia de Haro, 2020).

Some authors (Sumi and Alam, 2023) contend that Golden Visa investors and business migrants are attracted by this mobility policy for the following reasons: for legal and administrative security; a favourable environment for investment; tax benefits; simplified administrative procedures; clear regulations that eliminate legal arbitrariness; free movement within the Schengen Area; and, not least, an aspirational lifestyle (pleasant climate, quality education for children, safety, and rich cultural experiences) (Beck and Gaspar, 2023).

### ***Penalties***

Regarding the residence permit, the document can be cancelled under the following conditions (Articles 85/Aliens Act):

- If any documents submitted have been fraudulently obtained, falsified, or adulterated.
- Reasons of public order or security (includes other more detailed reasons specified in the Article mentioned above); or
- If the holder of the residence permit leaves the country for a longer period than permitted by law.

### ***Referrals***

A golden visa includes referrals to both the citizenship pathway and family reunification policies. The golden visa entitles the holder to:

- Apply for Portuguese citizenship, by naturalisation, provided all other requirements set out by the Nationality Act are fulfilled (Act no. 37/81); and (if applicable)
- Ask for family reunification (it also allows the reunification of any adult dependent children of the couple or one of the spouses, who are unmarried and studying) (Article 99(e)/Aliens Act).

### *Amendments and temporalities*

In response to criticism and public debate generated within Portuguese society, the Portuguese Government has periodically adjusted the Golden Visa programme to address some of these concerns and improve its effectiveness. These adjustments have included changes to investment requirements and the geographic focus of the programme. As a first step, the Government has limited the geographical area where the investors are able to buy properties, away from the urban centres like Lisbon or Porto (highly gentrified in the last few years), and keeping solely the option to buy buildings in urban areas only for commercial purposes (this possibility was, however, revoked in October 2023, due to the increased gentrification of even non-central areas and the soaring price of commercial real estate).

As such, in 2023 alone, the Aliens Act has been amended four times:

- 15th version — the most recent (Law no. 56/2023, of 6 October)
- 14th version (Law no. 53/2023, of 31 August)
- 13th version (Law no. 41/2023, of 10 August)
- 12th version (Decree-Law no. 41/2023, of 2 June)

The 15th version of the law (no. 56/2023, of 6 October), and the most recent one, brings a series of major revisions of the eligibility criteria (guarantees) for the GV application. It excludes several formerly key categories, namely: 1. Capital transfer of at least 1.5 million euros; 2. Purchase of real estate property valued at 500 thousand euros or more; and 3. Purchase of real estate property for refurbishment, with a total value equal to or above 350 thousand euros.

However, some conditions are maintained, such as the criteria of creation of at least 10 jobs or transfer of capital in various fields. As of now, the Golden Visa programme requires applicants to make a substantial investment in research, culture, non-real estate collective investment organisations, or in a commercial company with its head office in Portugal. The threshold is set at a minimum of 250 thousand euros for investment in culture and at least 500 thousand euros for the rest.

Previous amendments introduced restrictions limiting real estate investments to specific regions within Portugal, such as municipalities or autonomous regions (Madeira and Azores islands). These restrictions aimed to reduce pressure on the real estate market in Lisbon and Porto, promote investments in areas with lower population density, create jobs, and preserve culturally significant cities. Low-density territories are considered those with less than 100 inhabitants per km<sup>2</sup> or a gross domestic product (GDP) per capita lower than 75% of the national average (level III of the Nomenclature of Territorial Units for Statistical Purposes (NUTS III)).

In terms of temporalities, the programme imposes a minimal requirement to stay in Portugal for only seven days in the first year of holding the permit, and for fourteen days in each

subsequent year (this was fully used by the advertisers from the recruitment agencies in China and across the world to promote the programme as a type of “migration without settlement”; Liu-Farrer, 2016). More crucially though, a golden visa residence permit offers a TCN a temporary residence permit to develop their business activities and as a pathway to permanent residence and even citizenship. These provisions may be particularly useful given that a sizeable number of these residence permits are related to family reunifications, which is a telling signal that investors also have longer-term plans in mind, such as family and lifestyle projects, and that investment is not their only, or even the main, motivation.

Class and income aspects are prevalent in the conception of this mobility policy. This type of migration is highly selective, based on a significant capital transfer and therefore unattainable for low and middle-income households.

### *Critique*

The Golden Visa programme has triggered a significant debate both in the public and political spheres, as well as in academia, reflecting a mix of economic benefits, debates about wealth inequality, housing market impacts, and discussions on integration and transparency.

Most crucially, the programme raises important ethical questions. Recent studies have noted that the policy challenges the idea of citizenship as a project of equal rights within a nation-state and reinforces systems of privilege related to class and economic wealth (Amante and Rodrigues, 2021; Ampudia de Haro and Gaspar, 2020); it also advocates the notion of economic citizenship that justifies the preferential treatment of citizens based on capital (Gaspar and Ampudia de Haro, 2020), as well as containing unethical implications of distinguishing immigrant populations by financial capability in acquiring citizenship/residency (Utku and Sirkeci, 2020). Some have noted that this mechanism of selection creates distinct groups of non-nationals with different rights in the same nation (Amante and Rodrigues, 2021) and leads to increased social inequality.

The Golden Visa programme has been criticised mainly for being a short-term strategy on the part of states, seeking to plug economic gaps, rather than a longer-term orientation. The capital injections are one-off, and the new residents are not expected to continue to contribute to economic growth in the same way that migrant workers might, beyond their original investment (Surak and Tsuzuki, 2021). Several analysts have warned that investor migrants may price locals out of real estate, which is a pivotal question at the level of Portuguese public opinion, particularly among inhabitants of Lisbon and Porto. However, Surak and Tsuzuki’s (2021) analysis suggests such concern is unwarranted: the proportion of RBI real estate transactions in the national market is miniscule in nearly all cases of the European countries that the authors analysed (including Portugal), even if this type of programme might reinforce, by mimesis, the financialisation of real estate markets.

### *‘Digital nomad’*

The so-called digital nomad visa scheme is designed to attract remote workers, also known as digital nomads, allowing them to live and work in Portugal while maintaining a tax residency in another country. This flexibility is attractive for those who want to enjoy the lifestyle in Portugal without becoming a full tax resident.<sup>22</sup>

The legal framework regulating the entry requirements for the digital nomad residence visa (DNRV) is presented in Article 61(b) (Aliens Act), combined with Article 31-A (Regulatory Decree no. 84/2007).<sup>23</sup>

The guarantees required for entry include general documentation such as identity papers, proof of regular status, travel and medical insurance, and a criminal record certificate, as well as proof of financial resources and fiscal residence. The income required is four times the minimum monthly salary in Portugal — that is, 760 euros (as of 2023) x4 = 3,040 euros.<sup>24</sup> In addition to that, a work agreement (in case of subordinate work) or a contract attesting independent professional activity is necessary (Regulatory Decree no. 84/2007).

Holders of the DNRV enjoy a range of benefits. They are entitled to the right to family reunification (Article 98) and access to the welfare state (Article 83). They can also apply for a permanent residence permit (Articles 76 and 80), as well as for long-term resident status (Articles 125 and 126). In addition to that, holders of the DNRV are eligible for direct financial support as per Ordinance no. 63/2023, which extends its scope of application to cases of professional activity provided remotely to holders of the DNRV (Article 3(b)).

#### *Penalties, forgiveness, temporalities, and referrals*

The DNRV can be contested and withdrawn in several possible situations listed by Article 85. In general, the residence permit is cancelled when documents submitted have been fraudulently obtained, falsified, or adulterated; and for reasons of public order or security (this includes other more detailed reasons specified in the Article mentioned above).

Penalties apply also for situations of unjustified absence from the country: for six consecutive months or eight interspersed months (for holders of temporary residence permits) and for twenty-four consecutive months or, within a period of three years, thirty months interpolated (for holders of a permanent residence permit) (Article 85/Aliens Act).

However, there is a clause for forgiveness, should the periods of absence be justified. The RP is not cancelled if holders prove that during their absence from national territory, they were engaged in a professional, business, cultural, or social activity (Article 85.4/Aliens Act).

In terms of temporalities, the residence permit is valid for a period of two years and is renewable for successive periods of three years (Article 75). Therefore, digital nomads with long-term plans in Portugal need to renew their permits periodically.

Concerning referrals, digital nomads have the right to apply for Portuguese citizenship, by naturalisation, provided all other requirements set out by the Nationality Act are fulfilled (Act no. 37/81).

#### *Self-employed professionals or entrepreneurs*

The residence visa for entrepreneurs and self-employed professionals is regulated by Article 60 (visa) and Article 89 (residence permit) of the Aliens Act.<sup>25</sup>

For entry, in addition to the general application papers, each entrepreneurship category requires additional guarantees. Applicants for independent professional activity need to

present a certificate of professional competence for the referred activity. These aspiring entrepreneurs need to provide proof of investment and of financial means, as well as of investment intentions in Portugal. The applicants in the Startup Visa programme need to present a declaration issued by the Agency for Competition and Innovation (Instituto de Apoio Às Pequenas e Médias Empresas e ao Investimento, or IAPMEI), certifying the signing of an incubation contract in accordance with Article 60 of Normative Order no. 4/2018 of the Minister of Economy. ‘Startupers’ need to also demonstrate proof of means of subsistence from a contract or a promise of an employment contract.

It is important to note that it is possible to obtain a residence permit for self-employed professionals or entrepreneurial immigrants *ex-post*, provided that the foreign national has entered the national territory legally (Article 89.2/Aliens Act).

Regarding benefits, holders of the entrepreneurial residence permit are entitled to the right to family reunification (Article 98) and can access the services of the welfare state (Article 83). In addition to these, they may apply for a permanent residence permit (Articles 76 and 80) and obtain long-term resident status (Articles 125 and 126).

In terms of temporality, the entrepreneurship residence permit is valid for two years and is renewable for successive periods of three years (Article 75).

The residence permit is regulated by the same clauses of penalties and forgiveness as in the case of the DNRV. In general, it is cancelled when documents submitted have been fraudulently obtained, falsified, or adulterated; and for reasons of public order or security (this includes other more detailed reasons specified in the Article mentioned above).

Penalties apply also for situations of unjustified absence from the country: for six consecutive months or eight interspersed months (for holders of temporary residence permits) and for twenty-four consecutive months or, within a period of three years, thirty months interpolated for holders of a permanent residence permit (Article 85/Aliens Act).

Nevertheless, as in the case of the DNRV, a forgiveness clause is also included and the penalties do not apply if the periods of absence are justified through engagement in a professional, business, cultural, or social activity (Article 85.4/Aliens Act).

Similar terms to the DNRV apply for referrals as well: entrepreneurs are entitled to apply for Portuguese citizenship, by naturalisation, provided all other requirements set out by the Nationality Act are fulfilled (Act no. 37/81).

#### ***Retirement or religious purposes or for people living out of individual revenues***

The legal framework regulating residence for retirement or religious purposes or for people living out from individual revenues is contained by Article 58 (visa) and by Article 75 (residence permit) of the Aliens Act.<sup>26</sup>

Concerning guarantees, the required documentation includes visa application, identity papers, proof of regular status, travel and medical insurance, and a criminal record certificate, as well as proof of financial resources. Depending on the specifics of the application, further documents are necessary. For example, for those applying for a religious

purpose, a statement of responsibility and a document certifying membership in a religious community that is duly recognised under the Portuguese system are required.

A key requirement for the residence visa application is providing proof that the applicant has sufficient means of subsistence to live in Portugal (Ordinance no. 1563/2007). Retirees must present a document proving the amount of their pension and the guarantee of its payment or the availability of other income in Portugal. People living on their own income must also submit documents, proving both the amount of that income and its availability in Portugal. In both cases, these amounts must correspond to the minimum monthly wage and be guaranteed for not less than 12 months (760 euros for mainland Portugal).

A foreign citizen who is a minister of worship, a member of an institute of consecrated life, or who professionally exercises religious activity and who, as such, is certified by the Church or religious community to which he/she belongs, through a declaration by the competent bodies of the respective Church or religious community duly recognised under the terms of the Portuguese legal order, must have means of subsistence determined under the terms of Article 2 (paragraphs 1 and 2); their means of subsistence may be reduced by half if they can prove that they have been provided with accommodation in any form, or by up to 90% if they can prove that they have also been provided with food.

Holders of the religious, retirement, or individual revenue visa are entitled to family reunification (Article 98), and access to the welfare state (Article 83). Furthermore, in the long run they may apply for a permanent residence permit (Articles 76 and 80) and obtain long-term resident status (Articles 125 and 126).

Temporally, the residence permit for religious and retirement purposes and for people with individual incomes is valid for a period of two years and is renewable for successive periods of three years (Article 75).

#### ***Final remarks on privileged migration policies***

Golden Visa is a privileged migration policy with highly selective requirements in exchange for significant benefits. It was conceived as an instrumental law to stimulate foreign investment in the aftermath of the financial crisis of 2008. As the Portuguese economy recovered, the law became controversial and no longer particularly advantageous for the state. This policy was contested by public opinion, which considered that this programme caused gentrification of urban centres and soaring housing prices. To respond to this criticism, the Government has revised and ultimately partially cancelled the law.

This programme has been particularly attractive to Chinese investors, especially because it offers freedom of mobility in the Schengen zone, a privileged pathway to permanent residence and citizenship, and a generous regime of family reunification. Investors also appreciate the lenient regulations and the smooth administrative procedure (even if with significant bureaucratic delays in the administration), as well as the minimal residence requirements. The implied benefits for the potential investors have been so large, that some studies have concluded that the main winners of this scheme are such migrants, and not the Portuguese state (Van der Baaren and Li, 2018).

Before the very recent major alterations, the programme was designed to meet the needs and aspirations of potential migrant investors. However, due to aforementioned increasing

pressure from the public, the law has been revised repeatedly to better suit the interests of the Portuguese state and residents of Portugal, and to address some of the internal issues that the programme has revealed (such as the housing crisis, gentrification, little profitability from the scheme). This allows us to note that an awareness of the realities of human behaviour has always been present throughout the different stages of this law, from conception to revision and eventually partial cancellation: initially, this programme was suited to meet the needs of potential investors and their possible aspirations (family reunification, children's education, the right to work, and/or a path to permanent residence or citizenship), and afterwards, it was altered to address the demands of the public and of Portuguese society.

As for the legal framework, these different policies share some similarities in terms of benefits (an exception to note is the case of the DNRV; Ordinance no. 63/2023), temporalities, clauses of penalties, and forgiveness, as well as referrals. Differences, however, lie in entry requirements and the necessary documentation for each category.

'Digital nomads', entrepreneurs, religious members, retirees, and individuals living on private incomes asking for a residence permit in Portugal are entitled to the same benefits — such as family reunification, access to welfare, and renewable residence permits in the Schengen Area. In the long run, the holders of these visas are also offered the prospect to apply for permanent residence and obtain long-term resident status. Therefore, a key implication of these residence permits is that they do not impose restrictions on the maximum duration of stay. Even if the permit needs to be renewed periodically, it offers the potential for citizenship acquisition, should the holders aspire to make long-term plans.

## **Student mobility policy**

The Aliens Act transposed the Directive 2004/114/EC and Directive EU 2016/801, which, in common, cover the conditions of entry and stay of third-country nationals for study purposes, among other related issues (Article 2/Aliens Act). From this context, this topic is developed predominantly based on the Aliens Act articles concerning higher education students, whose indicators are presented below.

### *Procedures, guarantees, and temporalities*

According to the Aliens Act, a “student in higher education” refers to a TCN accepted by a higher education institution in order to follow his/her main activity in a full-time study programme, 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 (Article 3.1(m)).

Regarding entry of higher education students, the corresponding article is 62, which also includes other categories (residence visa for the purposes of research, study, secondary education students exchange, internships, and voluntary service), and in relation to the residence permit, there is a specific article for higher education students (Article 91/Aliens Act).

To obtain this residence permit, it is necessary to fulfil the following conditions (Article 91/Aliens Act and Article 57/Regulatory Decree no. 84/2007):

- a) To have enrolled in a higher education institution;
- b) To have made payment of tuition fees, if applicable;
- c) To have secured health insurance (or coverage by the National Health Service — SNS);
- d) To have secured accommodation; and
- e) To have secured means of subsistence.<sup>27</sup>

The students admitted in institutions approved under the terms of an ordinance issued by the government members responsible for the areas of migration, higher education, and administrative modernisation shall be exempt from presenting documents proving payment of tuition fees and means of subsistence. Universities included in this ordinance (preceded by a favourable assessment by AIMA) may cease to be included in it if they cease to operate in Portugal, have obtained their approval fraudulently, or admit students to higher education fraudulently or negligently (Article 91/Aliens Act). In addition, applicants for residence visas who are nationals of the Community of Portuguese-Speaking Countries are exempt from having to prove their means of subsistence when they are admitted to a higher education institution.

Regarding temporalities, the decision on an application to grant or renew a residence permit may not exceed 90 days from the submission of the application or 60 days in the case of higher education students or researchers admitted to an officially recognised host organisation under the terms of Articles 91 and 91(b). The residence permit 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 can be issued for the duration of the programme (Articles 91.2 and 96/Aliens Act).

#### ***Mobility of higher education students***

The mobility of higher education students is covered by Article 91(a) (Aliens Act). Higher education students who hold a residence permit granted by a Member State of the European Union and covered by a European Union or multilateral programme with mobility measures, or by an agreement between two or more higher education institutions, are allowed to enter and stay in national territory to carry out part of their studies, including to exercise a professional activity under the terms of Article 97, for a maximum period of 360 days, provided that they communicate it to AIMA up to 30 days before the beginning of the mobility period. In such cases, the residence permit is valid for two years or for the duration of the study programme and may last for one year if certain conditions are not met at the time it is granted (Article 90.3/Aliens Act).

#### ***The Statute of the International Student***

The Statute of the International Student (Decree-Law no. 36/2014, amended by Decree-Law no. 62/2018) was issued in the context of attracting foreign students and creating incentives for their enrolment in Portuguese public institutions. It has also allowed public institutions to charge higher tuition fees to international (non-EU) students, to reflect the actual cost of provision. Part of the Decree’s justification argues that “attracting foreign students makes it possible to increase the utilisation of the institutions’ installed capacity, to boost their own income, which can be used to improve the quality and diversification of the education provided and has a positive impact on the economy” (Decree-Law no. 36/2014: 1818). A website, operated by the Government, in order to disseminate more information as an ‘entry point’ to Portuguese higher education can be accessed at: <https://www.study-research.pt>.

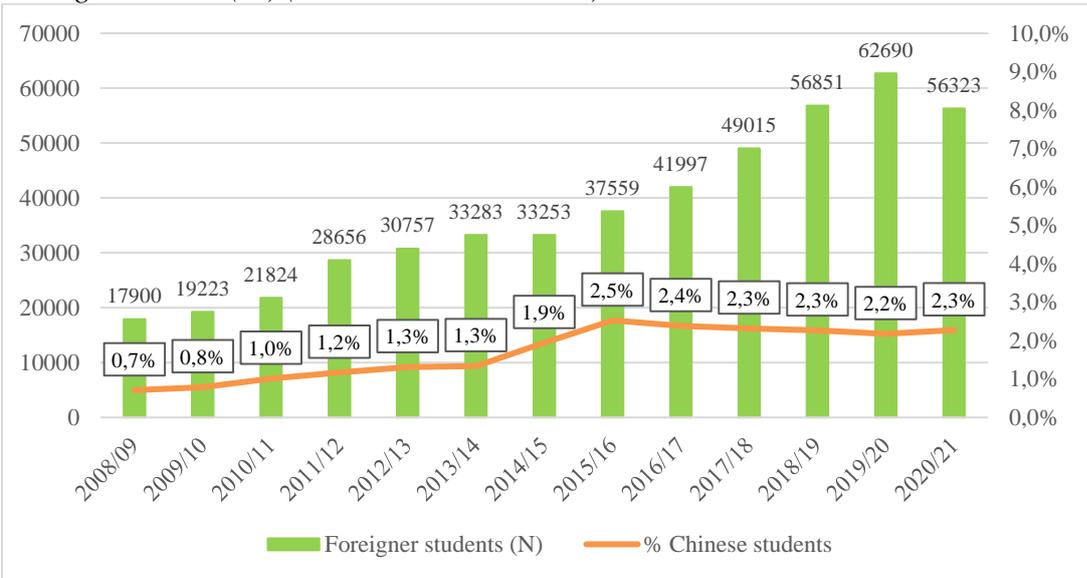
International students are categorised by the absence of Portuguese nationality. However, there is a list of exceptions within this category that are not then considered international students, for example: nationals of European Union Member States; and TCN nationals who have already resided in Portugal for at least two years (Article 3/Decree-Law no. 36/2014 and 62/2018). In the 2018 amendment, the Decree safeguards full access to social action and support for students in humanitarian emergencies, including the granting of scholarships, and their exceptional equivalence to national students to pay tuition, fees, and emoluments (Article 8(a)/Decree-Law no. 62/2018).

Each year, various higher education institutions (HEIs) in Portugal will invite applications for those courses that have been opened to the competition of (prospective) TCN students. Applications can be submitted to either public or private HEIs, for studies leading to a bachelor’s degree or integrated studies leading to a master’s degree, except for Open University (Universidade Aberta) and military or police higher education institutions.

Within the scope of the special competition, the institutions have the authority to prepare and develop the actions relating to access and entry to their courses, under the terms set by legislation, establishing, in particular, the vacancies for each institution/course and the respective criteria for selection and tie breaking. The deadline for submitting applications is set annually by the institutions and publicised on their websites. More information on the limits for setting places for access and admission in the 2023/2024 academic year can be found in Order no. 3580/2023.

In the 2020/2021 academic year, 56,323 foreign students were enrolled in Portuguese higher education, which represents 14.3% of the total number of students enrolled in the country. Within this group, the three most represented nationalities in the 2020/2021 academic year were Brazilian (33.8%), Cape Verdean (8.3%), and Angolan (7.2%). Among Asians, Chinese students stood out, accounting for 2.3% of foreign students (Oliveira, 2022: 119) and increasing from 127 in the academic year 2008/2009 to 1,280 in 2020/2021.

Figure 9: Chinese students enrolled in relation to the total number of foreign students at Portuguese HEIs (%) (2008/2009–2020/2021)



Source: Authors’ elaboration based on Directorate-General of Education and Science Statistics, Ministry of Education and Science (DGEEC-MEC).

### ***Benefits***

Benefits can be summarised as follows: a) the possibility of obtaining a residence permit in national territory without a visa; b) the ability to work alongside studying; c) access to the welfare state and to family reunification; d) the possibility of working after completing studies; and e) access to a permanent residence permit, as described below. A residence permit may be granted to a higher education student who does not hold a residence visa (for the purposes of research, study, secondary-education-students exchange, internships, and voluntary service), provided that he/she has legally entered the national territory and meets the other conditions established in Article 91 (Aliens Act).

The holders of a residence permit for higher education can carry out a professional, subordinate, or independent activity, in addition to the one that gave rise to the visa and can register with the IEFP/National Public Employment Service (Article 97/Aliens Act and Article 58/Regulatory Decree no. 84/2007).

Access to welfare state rights is guaranteed (Articles 83 and 97(a) of the Aliens Act), as is the right to family reunification, with some limitations on the family members eligible to be reunited (Articles 98 and 99/Aliens Act). The following members are allowed (as explained in the earlier section on family reunification):

- a) Spouses;
- b) Children who are minors or incapacitated and are dependents of the couple or one of the spouses;
- c) Minors adopted by the applicant when he/she is not married, by the applicant or his/her spouse, because of a decision of the competent authority of the country of origin, provided that the law of that country grants to the adopted children identical rights and duties to those of natural filiation and that the decision is recognised by Portugal.

Regarding access to the labour market after studies, holders of a residence permit for higher education or research, once they have completed their main objectives, can benefit from a maximum period of one year to seek work or create a company in the national territory that is compatible with their qualifications (Article 122(p)/Aliens Act). A permanent residence permit can be granted (Articles 76 and 80/Aliens Act), but conferral of long-term resident status is not available (Article 125.2(a)). In the case of conversion (for types of residence that benefit from this right), the amount of time the applicant has already resided in the national territory for reasons of study can be counted towards the five years required (although only 50% of this total time will be counted) (Article 126.3/Aliens Act).

### ***Penalties, forgiveness, and referrals***

Regarding the residence permit, the document can be cancelled, or its application rejected under the following conditions (Articles 85 and 95/Aliens Act):

- the TCN is found to be residing in the national territory for reasons other than those for which residence was authorised;
- documents submitted have been fraudulently obtained, falsified, or adulterated;
- the host entity is established or functions primarily to facilitate the entry of TCNs or has been sanctioned by national law for undeclared work and/or illegal employment;
- the host entity has not fulfilled its legal obligations concerning social security, taxation, employment rights, or working conditions, is being or has been dissolved or

- declared bankrupt in accordance with national law, or is not registering any economic activity;
- the applicant carries out professional activity with a reverse purpose, i.e., the study becomes a complementary activity;
  - the applicant does not progress successfully in his/her studies;
  - reasons of public order or security (includes other more detailed reasons specified in the Articles mentioned above); or
  - if the holder of the residence permit leaves the country for a longer period than permitted by law.

Additionally, if AIMA becomes aware that the researcher or higher education student in question is residing on the territory of another Member State under mobility arrangements, it shall notify the authorities of that Member State of the cancellation of the residence permit.

Some forgiveness clauses relate to cases of absence beyond the limits laid down by law. Absences longer than those stipulated must be justified by an application submitted to AIMA before the resident leaves the national territory or, in exceptional cases, after they have left. The residence permit will not be cancelled, if citizens can prove that during their absence from the national territory, they were engaged in a professional, business, cultural, or social activity (Article 85/Aliens Act).

Regarding referrals, there is the possibility of acquiring Portuguese nationality based on legal residence in Portugal for at least five years, subject to fulfilment of the other requirements laid down in the Nationality Law (Act no. 37/81).

#### *Concluding remarks on human behaviour in student migration policy*

The articles of the Aliens Act that refer to higher education students take the realities of human behaviour into account in the following respects: a) simplifying the procedures for obtaining a residence permit; b) the possibility of applying for a residence permit in the national territory even without the respective visa (as long as the applicant has entered legally); c) the possibility of working alongside studying, and also after studies have been finally completed.

At the same time, there are concerns about the misuse of the residence permit, especially if used as an easy shortcut for labour migration, but also regarding other related forms of fraud, such as the involvement of an HEI in admitting higher education students fraudulently or negligently.

It is important to mention that visa and admission procedures have been constantly delayed, extending well beyond the start of the academic year, with high costs for both the students and the institutions involved (Matias and Pinto, 2020: 196). Secondly, the economic difficulties of some foreign students, and delays in the payment of scholarships and financial transfers, have made income from labour, even if precarious, essential for young people to be able to maintain themselves while at university (Alves and Iorio, 2021).

Finally, it is necessary to monitor whether the possibility of obtaining a residence permit for higher education in Portugal (without a residence visa) will become the main channel for students looking to enter/stay, and the possible effects of this on the current installed capacity to receive immigrants in Portugal.

## Schengen policy

The Schengen mobility policy includes provisions related to:

- the EU short-term visa (please see more in the tourism section);
- the EU long-term residence permit; and
- EU long-term residence obtained in other Schengen States.

### *Long-term (Schengen) residence permits*

Long-term resident status can be granted to a TCN after five years of continuous and legal residence in Portugal, upon the guarantees of sufficient and stable financial resources to support themselves and family members without recourse to the social assistance system; adequate accommodation; health insurance coverage; and fluent knowledge of the Portuguese language. Long-term residents enjoy the same rights as EU nationals, including the right of residence in any country within the Schengen Area.

The status of long-term residents has its legal basis in Council Directive 2003/109/EC of 25 November 2003, which was transposed into national law by the present legislation (the Aliens Act). The purpose of the Directive is — in the spirit of the progressive creation of an area of freedom, security, and justice, while respecting the principle of non-discrimination — to grant long-term residents a regime like that enjoyed by European Union citizens and their family members. Chapter VII (Articles 125–133) of the Aliens Act details the conditions for obtaining a long-term residence permit, who are the beneficiaries, the conditions of acquiring long-term resident status, as well as of loss of status (penalties), and the procedural guarantees.

### *Guarantees and benefits*

Long-term resident status is granted to TCNs who are legally residing in Portugal and who provide the following guarantees (126):

- a) they have had legal and uninterrupted residence in the national territory for five years;
- b) they have stable and regular resources, which are sufficient for their own subsistence and that of their family members, without recourse to the solidarity subsystem;
- c) they have health insurance;
- d) they have accommodation;
- e) they can demonstrate fluency in basic Portuguese.

Long-term resident status is not available to TCNs who a) have a residence permit for study, unpaid work placement, or volunteering; b) are authorised to reside on national territory under temporary protection or have applied for a residence permit on that basis and are awaiting a decision on their status; c) are staying in Portugal exclusively for temporary reasons, such as seasonal workers and cross-border service providers; or d) enjoy legal status under the Vienna Convention on Diplomatic Relations adopted on 18 April 1961 or the Vienna Convention on Consular Relations adopted on 24 April 1963 (Article 125/Aliens Act).

In the spirit of equal treatment, holders of long-term status are given the same rights and benefits as Portuguese nationals, namely:

- a) access to professional work;
- b) access to the employment and work conditions established by law;
- c) access to education and vocational training;
- d) recognition of diplomas, certificates, and qualifications;
- e) access to social security, social welfare, and social protection services;
- f) tax exemptions or reductions;
- g) access to health care; and
- h) free access to all the Portuguese territory (133).

*Penalties, forgiveness, and temporalities*

Long-term resident status may be refused on grounds of public order or public security, and the refusal must not be based on economic reasons (Articles 127.1 and 2/Aliens Act). Special consideration is given to situations leading to the loss of long-term status (Article 131/Aliens Act). Long-term residents lose their long-term resident status in the following cases:

- a) Fraudulent acquisition of long-term resident status;
- b) Adoption of a removal measure under Article 136;
- c) Absence from the territory of the European Union for a period of 12 consecutive months;
- d) Acquisition in another Member State of long-term resident status; or
- e) Absence from the national territory for a period of six consecutive years.

However, absences from the territory of the European Union for more than 12 consecutive months for specific or exceptional reasons do not entail the loss of status, particularly where the long-term resident has remained in the country of origin to pursue a professional or business activity or a cultural or social activity. And absence from the national territory for more than six consecutive years justified on specific or exceptional grounds does not entail loss of status, where, again, the long-term resident has remained in the country of origin to pursue a professional or business activity or a cultural or social activity.

The expiry of a long-term resident's EC residence permit does not entail the loss of long-term resident status.

Moreover, alongside the above concessions, a special clause of forgiveness is also included. Where the loss of status is due to absence from the territory of the European Union for a period of 12 consecutive months and absence from national territory for six consecutive years, the interested party may reacquire long-term resident status by applying, provided that the conditions laid down in Article 126.1(b) to (d) are met.

Temporally, long-term resident status is permanent based on a renewable permit. The long-term EU residence permit is valid for at least five years and is automatically renewable on application at the end of its period of validity. Other temporal mentions are related to the procedural guarantees. Within six months, the applicant shall be notified in writing of the decision taken. In exceptional circumstances linked to the complexity of the examination of the application, the time limit may be extended for a further three months, and the applicant shall be informed of such extension (Article 129/Aliens Act). The absence of a decision within nine months is equivalent to a granting of the application.

### ***Foreigners holding a long-stay permit issued by another EU State***

The Portuguese legal framework that regulates mobility in the Schengen Area is found in subsection VI of chapter VI of the current Aliens Act, where Articles 115–121 (Aliens Act) describe the conditions of the EU long-term residence permit holders in another Member State, entry requirements, the application process, family reunification, and penalties, as well as procedural guarantees.

A TCN who has acquired long-term resident status in another Member State of the European Union, living in Portugal for more than three months, may request a residence permit upon the guarantees of:

1. a) a subordinate professional activity, or b) self-employment, c) attending a study programme or vocational training course, or d) a compelling reason to take up residence in Portugal; 2. means of subsistence; 3. accommodation (Article 116.1/Aliens Act).

In terms of benefits, family members of the holder of a residence permit granted under Article 116, who reside with them in the Member State that first granted them long-term resident status, are also entitled to a residence permit in Portugal (Article 118.1/Aliens Act).

As for penalties, an application for a residence permit may be rejected if the interested party constitutes a threat to public policy or public security (Article 119) or when the eligibility requirements are no longer met (Article 120(b)). A rejection decision should not be based on economic grounds (Article 119). However, the types of offences or threats to public security under which a residence permit may be refused, cancelled, or not renewed are not exemplified.

In terms of temporalities, a residence permit is necessary for stays in Portugal longer than three months (Article 116), and the applicant must submit an application for a residence permit within three months of entering the national territory. The decision on an application for a residence permit submitted is taken within three months (Article 117).

### ***Concluding remarks on human behaviour in Schengen policy***

In this section, we have referred mostly to long-term visas, issued either in Portugal or another EU Member State of the Schengen zone. Short-term stays, meanwhile, were presented in more detail in our section on tourism policy.

Portugal, like other EU countries, follows the EU Directive on the status of third-country nationals aspiring to obtain long-term residency. Regarding procedure and guarantees, as part of the application process, in addition to the general requirements (stable and regular income, health insurance, and suitable accommodation), Portugal also requires a certain degree of integration, such as language proficiency.

Special consideration is given to possible situations leading to the loss of long-term status. Long-term residence is contingent on maintaining continuous legal residence in the country. Gaps or interruptions in legal residence or prolonged absence from the Portuguese territory might affect eligibility; therefore, the law explains in a detailed manner the calculus formula for the five-year required period of legal residence.

A central conclusion that can be taken from long-term residence is that it is akin to citizenship in terms of rights and benefits, as long-term status holders enjoy the same rights on similar terms as Portuguese citizens. Moreover, long-term residents in Portugal are recognised as long-term residents throughout the EU and enjoy many of the rights and privileges granted to EU citizens, including the rights of free travel and residence within the Schengen zone. Long-term residents also have the option to bring family members to Portugal through family reunification processes, allowing spouses, children, and (sometimes) other dependents to join them.

## **Discussion of research findings**

At the legal level, Portugal has relatively progressive and permissive migration policies. The legal framework that regulates the entry and stay in the country of foreign nationals has been revised successively over the years in order to facilitate entry, improve access to rights, and, altogether, to enable the integration of foreign nationals and their families. As a result, as mentioned in the introduction, Portugal boasts a high ranking in integration indexes according to MIPEX.

The in-depth analysis of the selected six policies in this report allows us to conclude that the Portuguese migration regime is response-driven, flexible, and continuously adjusted to changing circumstances, rather than the result of a consistent and coherent long-term strategy. Largely, the Aliens Act — due to the successive amendments — admits the possibility of various scenarios that migrants can fall into and leaves enough room for flexibility and alternative avenues for legalisation. Thus, the law is elastic enough to accommodate unpredictable paths, conversion of permits, changes of purpose and in duration of stay, and even offer the prospect of long-term settlement, if migrants wish to remain.

In terms of *guarantees*, migration policies in Portugal are not, generally speaking, excessively restrictive or marked by high requirements. Apart from investment policies (e.g., Golden Visa), which require high financial guarantees, migration policies in Portugal are not characterised by high levels of restriction.

To respond to the growing need of the labour market's needs, a series of legal facilities are offered for labour-related entries. The recent amendments of October 2022, introducing a legal channel for job seekers, are a deliberate attempt by the Portuguese state to streamline the regularisation process for labour immigrants, especially now that it is possible to convert the job-seeker visa into a residence permit for subordinate work. Regarding the required means of subsistence, the calculation method is based on the guaranteed minimum monthly wage, which, in 2023, is 760 euros for mainland Portugal. Proving the necessary means of subsistence can be a challenge, however, in situations where there is no regular income or salary from a labour contract, as some TCNs may be integrated into the informal economy and living in precarious conditions.

For entry, in addition to basic documentation, each category may require additional guarantees, which are more selective only in the case of entrepreneurship, 'digital

nomadism,' and investment. For instance, aspiring digital nomads are required to prove financial means four times higher than the minimum monthly salary in Portugal (over 3,040 euros, in 2023). Among the privileged migration channels, the Golden Visa programme is particularly selective in terms of the required types of capital transfer (albeit in exchange for significant benefits) and is, therefore, unattainable for low and middle-income families.

The migration regime in Portugal can be characterised as generous in terms of the *benefits* it offers to its regularised foreign residents. Labour visa holders are entitled to the right to work, to search for work, to apply for ex-post regularisation, to apply to convert the job-seeker visa into a residence permit for subordinate work, to have access to welfare, and to family reunification. The widening scope of family members eligible for reunification, introduced in 2007, may benefit families who rely on extended kin for support (e.g., grandparents helping with childcare). Students benefit from a simplified procedure to obtain the residence permit; they are allowed to apply for one even if they do not have a visa as long as they have entered the country legally, and, crucially, they are allowed to work both during and after completing their studies. Moreover, they are entitled to access the welfare state, to family reunification, and to permanent residence in the long run.

Digital nomads, entrepreneurs, religious members, retirees, and individuals living on private incomes asking for a residence permit in Portugal are, meanwhile, entitled to many of the same benefits, such as family reunification, access to welfare, and renewable residence permits in the Schengen Area. In the long run, the holders of these visas are also offered the prospect of applying for permanent residence and of obtaining long-term resident status. Therefore, a key implication of these residence permits is that they do not pose restrictions on the maximum duration of stay. Even if they need to be renewed periodically, they offer the perspective of citizenship acquisition, should the holders aspire to make long-term plans. In addition, a golden visa residence permit offers a TCN a temporary residence permit to develop their business activities and as a pathway to permanent residence and even citizenship. These provisions may be particularly useful because many residence permits here involve family reunification, which suggests that investors also have longer-term plans in mind that extend beyond their initial investment.

Regarding human behaviour considered to be 'acceptable' or 'unacceptable,' it is important to highlight the requirement of social security contributions as a key factor in regularisation for labour visa holders. Working and contributing to social security for 12 months before the permit application ensures premises for legalisation. Working without an appropriate residence permit constitutes an administrative offence punishable by a fine of between 300 and 1,200 euros. A harsher punishment is envisioned for tourists remaining in the country beyond the authorised period, which constitutes an infraction and there is no possibility provided by law of converting the tourist visa into other mobility policies. However, since the Portuguese state does forgive overstaying on the (presumption of) legal entry, tourist entries are often invoked as the proof of legal entry when applying for other types of residence permits. It is possible to apply for a residence permit without a prior visa on national territory for reasons of family reunification, for self-employed professionals or entrepreneurs, and for students. In the case of higher education students' residence permits, however, there are concerns they may be used as an easy shortcut for labour migration.

The rules on refusal and cancellation apply transversally to diverse types of residence permits, for reasons of public order or security, or when the integrity of the holder is called into question. While residence permits may be withdrawn for periods of unjustified absence

from the country, in most cases, there is a clause for forgiveness if the periods of absence are explained. Labour migrants seem particularly favoured by forgiving clauses. Hence, the Portuguese state seems aware that migrants may fall into irregularity for various reasons and creates conditions to legalise, as well as offering time and support to find a job (e.g., one year for students, 180 days for job seekers). Individuals can apply for other residence permits, even if they have overstayed, if they entered legally.

As for *referrals*, most of the policies are interlinked and allow for the conversion of permits. Tourism migration presents itself as the springboard for other types of migration, as most of the overstayers can apply for regularisation and other types of residence permits. However, the state is aware that it is through tourism that people mainly enter the country, and it offers legal avenues for them to stay if they wish to do so. Thus, migrants can decide which policy or legal channel fits them better after entry.

In terms of *temporalities*, the Portuguese state does consider long-term intentions/aspirations and does not bind visa duration to actual legal stay, and it offers alternative paths and conversion tools. Most policies offer the opportunity to apply for citizenship after five years of legal residence. The Golden Visa scheme is characterised by minimal temporal requirements (seven days per year) but, in practice, it enables its holders to fully settle in Portugal if they wish (they can work, children can study). Thus, the Portuguese Government has created not only conditions for TCNs to invest (and then go away) but also the conditions to move in and stay, live, and work or study, should long-term aspiring migrants wish for that.

All things considered, the migration regime in Portugal is fairly migrant-oriented, not restrictive in general, and generous in terms of citizenship policies. The law anticipates various scenarios and includes legal provisions to allow for the development of various trajectories and offer the most suitable channel by which to enable legal stay in the country.

Nevertheless, this relaxed approach to legalisation might also reflect the limited capacity of the state to monitor the implementation of the law (due to a lack of human resources, excessive bureaucracy, long waiting times, and so forth). One thing can be noted though: that the Portuguese state seems aware of the situation on the ground, leaves room for flexibility in the law, and continuously adjusts. By making various amendments to the law to prevent or forgive irregularity, the Portuguese state admits that migration paths are not always linear, and migrants may change their minds or their aspirations.

## **Conclusion**

As mentioned in the introduction, Portugal has managed to break the trend of negative migration net observed between 2011 and 2016; and, even given the context of the pandemic, the most recent data shows that there is more immigration (people entering) than emigration (people leaving).

Labour migration is the prevalent type of mobility into the country. Regarding the profile of foreigners in the Portuguese labour market, maintaining the trend of the last few decades, Oliveira (2022: 154–5) observes that they continue to be overrepresented in the bottom professional groups, with lower or no qualifications, and subject to harsher working

conditions and high levels of precariousness. At the same time, although the Aliens Act has created special gateways over the years to attract privileged immigrants (highly qualified workers, investors, entrepreneurs, ‘digital nomads’), the presence of these groups is still marginal in the Portuguese migratory landscape.

It is important to mention that ex-post regularisation through subordinate labour is the main channel for TCNs to enter the country. According to Malheiros and Peixoto (2023: 126), the regularisation offered by Article 88.2 of the Aliens Act (see introduction and the section on labour migration policy) is probably the most generous among EU Member States and, whether it may be a way to satisfy employers, enable economic growth, or grant rights (after a possible period of irregularity with consequences for migrant integration), it is a political choice whose context and motives deserve to be scrutinised. On the economic front, it should be added that the positive effect of immigration on public finances, recognising immigrants as contributors to the social protection system, is part of the political discourse (Portuguese Strategic Plan for Migration, 2015–2020). In the context of demographic ageing, the arrival of labour immigrants of working age and their active contributions helps to mitigate and sustain expenditure levels in the country’s social protection system (Oliveira, 2022).

Portuguese migration governance is currently going through major reforms, which saw the abolition of SEF and creation of the new agency of AIMA, which only started to operate as recently as 29 October 2023. Some of the first measures to be taken concern the growing stock of irregular immigration and the pending applications for residence permits, which the new agency commits to resolve by March 2024. In anticipation of these difficulties, the Government has decreed that residence permits that expired in November (2023) will be valid until June 2024, referring to the need to “take care of the transition of competences in administrative matters in the context of the restructuring” (Pereira, 2023).

An ‘implementation gap,’ as defined by Czaika and de Haas (2013: 496), is the disparity between policies on paper and their actual implementation. From this point of view and considering some of the challenges of migration governance in Portugal (lack of human resources, excessive bureaucracy, long waiting times), and its recent major administrative restructuring, future qualitative investigations on migration policy implementation could be an interesting contribution to this research area.

## Notes

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<sup>1</sup> It is important to note that Portugal has undergone a series of recent changes, which will be explained further in the next section, related to the restructuring of the migration system’s governance (Law no. 73/2021 and Decree-Law no. 41/2023). A new agency was created (AIMA — Agency for Integration, Migration and Asylum) and several duties previously carried out by SEF (Serviço de Estrangeiros e Fronteiras — the Portuguese Immigration and Borders Service) were redistributed between AIMA and other institutions. Despite the abolition of SEF, most of the statistics mentioned in this report were produced by the institution. Since this is a very recent transition (October 2023), the data we refer to on migratory flows (stock) and residence permits has been obtained from SEF and from the annual reports of the Migration Observatory authored by Catarina Oliveira (cited in the bibliography). Source: <https://sefstat.sef.pt/forms/distritos.aspx> and <https://www.om.acm.gov.pt/publicacoes-om/colecao-imigracao-em-numeros/relatorios-anuais>

<sup>2</sup> The Southern European migration model posits that the Southern European states (especially those which are EU members) share similarities, such as being traditionally emigration countries confronted with increasing immigration, predominantly labour-led flows, and poor regulation of the labour market, as well as high numbers of undocumented migrants and recurrent regularisation programmes (Peixoto *et al.*, 2012; King, 2019).

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<sup>3</sup> We are yet to witness whether and how the 2023 war between Israel and Palestine will affect the refugee population in Portugal or whether it will trigger pronounced mobility of Jewish nationals who have recently acquired Portuguese citizenship based on the Sephardic Law (Decree-Law no. 30-A/2015). Since 2015, Portugal grants citizenship to those who can prove they are descendants of the Sephardic Jews whose families were expelled from Portugal in 1496 by King Manuel I. Decree-Law no. 30-A/2015 followed a similar Spanish initiative, but with significantly fewer requirements for the applicants, and a simplified application process (proving one's Sephardic lineage is sufficient; there are no language requirements, no tests on the constitution and society, no limitations on the application period, and no need to travel in person to complete the process, like in the Spanish application) (Kerem, 2021).

<sup>4</sup> The residence visas allow two entries and is valid for a period of four months. During that time, its holder is required to request a residency permit with AIMA (Article 58/Aliens Act).

<sup>5</sup> Entering Portugal as a tourist and requesting a work or longer-term residence permit has been the most common entry pathway. From a legal point of view, this immigration pathway is not considered irregular migration, as long as the immigrant finds a job and applies for a residence permit before the tourist visa expires. In practice, immigrants resorting to this pathway are prone to end up in irregular situations and grey zones. In this context, the employer is aware of the vulnerable status of the immigrant and may abuse it in several ways (for instance, withholding or reducing wages, and/or imposing longer working hours.). These phenomena are more common in the agricultural sector. It is important to note that immigrants who enter as tourists do not have full access to social security, to the legal housing market, to Portuguese language courses, and to healthcare. From the point of view of the labour market, there are several advantages to this entry pathway. It is less bureaucratic, and it is comparatively efficient for employers in the fluctuating agricultural and tourism sectors to directly hire a workforce who are already in the country (MFP, 2022).

<sup>6</sup> The Withdrawal Agreement protects those EU citizens residing in the United Kingdom, and UK nationals residing in one of the 27 EU Member States at the end of the transition period, where such residence is in accordance with EU law on free movement. In accordance with the residence status in force for the post-transition period (1 January 2021 onwards), all UK nationals who are officially residents in Portugal need to exchange their current EU residence documents for new ones that explicitly state that they are under the Withdrawal Agreement. The Withdrawal Agreement also protects those family members that are granted rights under EU law (current spouses and registered partners, dependent parents/parents-in-law, and children/stepchildren up to the age of 21 or beyond this age if dependent and a person in an existing durable relationship), but who do not yet live in the same host state as the Union citizen or the UK national, in joining them in the future (SEF Portal, 2023).

<sup>7</sup> However, as noted earlier, migrants of Chinese ancestry from Mozambique and Macao, as well as labour migrants from China, started to arrive in Portugal as early as the 1980s and 1990s, respectively.

<sup>8</sup> This comprises nine Portuguese-language countries: Angola, Brazil, Cape Verde, Equatorial Guinea, Mozambique, Portugal, Timor-Leste, Sao Tome and Principe, and Guinea-Bissau.

<sup>9</sup> “The main purpose of the set of bilateral and multilateral agreements with member countries of the CPLP is to facilitate the movement of citizens from the member countries of this community. Decree no. 34/2003, of 30 July 2003 allows a specific group of citizens (e.g., businessmen [sic.], liberal professionals, scientists/researchers, sportsmen [sic.], journalists and cultural/artistic agents) of the CPLP member countries to obtain multiple entry visa with a minimum duration of one year. In its Article 1, this Agreement enables citizens of one of the CPLP Member States holding a valid common passport who are businessmen and women, liberal professionals, scientists, researchers/researchers, sportspeople, journalists and cultural/artistic agents to have access to multiple-entry visas entry visas to any of the other Member States of the Community, for a minimum duration of one year.” (Góis and Carlos Marques, 2014: 56).

<sup>10</sup> According to data from InvestPorto, requested by the newspaper *Expresso*, “in the second quarter of this year 10,800 digital nomads arrived in Porto, a new high, which corresponds to an average of 3,600 arrivals per month”. Citizens of the United States, United Kingdom, and Brazil lead the list of nationalities with temporary stay visas and residence permits for remote workers (Público, Jan 2023).

<sup>11</sup> From the 2022 amendments, it became possible for citizens covered by the CPLP Agreement and holding a short-stay visa or having legally entered national territory, to apply for a temporary residence permit of more than 90 days and less than one year, renewable for an equal period (Article 75.2/Aliens Act).

<sup>12</sup> Sources: [https://files.dre.pt/StaticContent/Lei\\_23\\_2007\\_EN.pdf](https://files.dre.pt/StaticContent/Lei_23_2007_EN.pdf) (consolidated English version of the Aliens Act as of 25 August 2022) and [https://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=920&tabela=leis](https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=920&tabela=leis) (Portuguese version of the Aliens Act with 15 amendments as of 6 October 2023); [https://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=940&tabela=leis&nversao=&so\\_miolo=](https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=940&tabela=leis&nversao=&so_miolo=) (Regulatory Decree no. 84/2007, Portuguese version with seven amendments). The SEF website on legislation was consulted (<https://sites.google.com/site/leximigratoria/legisp%C3%A9dia-sef>) and information on visas was also obtained on the website of the Ministry of Foreign Affairs (<https://vistos.mne.gov.pt/en/>). On every

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occasion when the term ‘Aliens Act’ is mentioned next to the respective articles, it means that the latest version of the law from 6 October 2023 is being used.

<sup>13</sup> The authors argue that the procedure had in fact existed before, since it was created in 1998 when a new immigration law was approved (Baganha, 2005; Malheiros and Peixoto, 2023: 115). However, its application on a large scale only began in 2007.

<sup>14</sup> The report does not offer detailed explanations for 2020, but the context of the COVID-19 pandemic should be considered.

<sup>15</sup> A third-country national holding a long-stay visa issued by a Member State should therefore be authorised to travel to other Member States for three months in any six-month period under the same conditions as the holder of a residence permit. This Regulation does not affect the rules on the conditions for issuing long-stay visas. Source: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32010R0265>

<sup>16</sup> Article 53 of the 2023 Budget of the Autonomous Region of the Azores states that the regional pension and remuneration supplement will be increased by 5%. Therefore, the minimum monthly salary for 2023 is 798.00 euros. Source: <https://diariodarepublica.pt/dr/detalhe/decreto-legislativo-regional/1-2023-205758501>

<sup>17</sup> This information can be found in Article 185 of Law no. 2/2020 (<https://diariodarepublica.pt/dr/detalhe/lei/2-2020-130893436>), Article 193 of Law no. 75-B/2020 (<https://diariodarepublica.pt/dr/detalhe/lei/75-b-2020-152639825>), and Article 154 of Law no. 12/2022 (<https://diariodarepublica.pt/dr/detalhe/lei/12-2022-185224662>).

<sup>18</sup> Other more specific documents are detailed in Article 67 of Regulatory Decree no. 84/2007.

<sup>19</sup> The SEF report (2022) presented a section entitled ‘Criminality associated with migratory phenomena’ and among the 918 offences recorded that year, 19 referred to marriages of convenience (2%).

<sup>20</sup> A selection of more specific documents related to tourism were prioritised in this list. Source: <https://vistos.mne.gov.pt/en/short-stay-visas-schengen/required-documentation/short-stay-visa>

<sup>21</sup> The admission of tourists to Portuguese territory as part of the Schengen Area will change in the coming years because of the new travel rules. From mid-2025, it will be necessary to apply for an ETIAS travel authorisation to enter most European countries, and around 1.4 billion people from more than 60 visa-exempt countries will be required to hold it. Source: [https://travel-europe.europa.eu/etias\\_en](https://travel-europe.europa.eu/etias_en)

<sup>22</sup> On the other hand, digital nomad visas have faced criticisms from both the public and from scholars, related to the impact on the local labour market of foreigners being allowed to work remotely from a country without contributing to the local job market or paying local taxes, as well as the risk of increasing the economic disparities by rising prices for goods, services, or housing.

<sup>23</sup> Legal documents consulted: MNE, Ordinance no. 63/2023, Aliens Act, Regulatory Decree no. 84/2007, and Ordinance no. 1563/2007.

<sup>24</sup> 760 euros for mainland Portugal, 785 euros for the Autonomous Region of Madeira, and 798 euros for the Autonomous Region of the Azores.

<sup>25</sup> Legal documents consulted: MNE, Aliens Act, Regulatory Decree no. 84/2007; Start up visa: Order no. 4/2018, Ordinance no. 344/2017, and Ordinance no. 1563/2007.

<sup>26</sup> Legal documents consulted: MNE, Aliens Act, Regulatory Decree no. 84/2007, and Ordinance no. 1563/2007.

<sup>27</sup> As already mentioned in previous sections, the calculation method is based on the guaranteed minimum monthly wage, which, in 2023, is 760 euros for mainland Portugal, 785 euros for the Autonomous Region of Madeira, and 798 euros for the Autonomous Region of the Azores.

## References

ACM (2015) Plano Estratégico para as Migrações (2015-2020), Resolução do Conselho de Ministros N.º 12-B/2015, Lisboa: Alto Comissariado para as Migrações. <https://bit.ly/2M17qUe>

Almeida, S. J. (2023) Agência que substitui SEF quer regularizar situação de 600 mil imigrantes até finais de Março. *Jornal Público*. <https://www.publico.pt/2023/10/29/politica/noticia/aima-arranca-promessa-legalizar-quase-600-mil-migrantes-ate-fim-marco-2068334>

---

Alves, E. P. Iorio, J. C. (2021). Da mobilidade estudantil à mobilidade social: os estudantes angolanos, brasileiros e cabo-verdianos em Portugal. *Finisterra*, 56, 221–239. <https://doi.org/10.18055/Finis21394>

Amante, M. F. & Rodrigues, I. (2021). Mobility regimes and the crisis: the changing face of Chinese migration due to the Portuguese golden visa policy, *Journal of Ethnic and Migration Studies*, 47:17, 4081-4099, DOI: 10.1080/1369183X.2020.1752640

Baganha, M., Marques, J.C. and Góis, P. (2004) The unforeseen wave: migration from Eastern Europe to Portugal. In: M.Baganha and M.L. Fonseca (eds) *New waves: migration from Eastern to Southern Europe*. Luso-American Foundation.

Baganha, M. (2005) Política de Imigração: A Regulação dos Fluxos. *Revista Crítica de Ciências Sociais* 73: 29–44.

Baganha, M., Marques, J.C. and Góis, P. (2009) Imigrantes em Portugal: uma síntese histórica. *Ler História* 56, <https://journals.openedition.org/lerhistoria/1979>

Beck, F. & Gaspar, S. (2023). In pursuit of a ‘good enough life’: Chinese ‘educational exiles’ in Lisbon and Budapest. *Journal of Ethnic and Migration Studies*, DOI: 10.1080/1369183X.2023.2245156

Borrego, B. (2016). Demographics of immigration in Portugal (report). Source: [https://ec.europa.eu/migrant-integration/sites/default/files/2018-06/demographic-of-immigration-portugal\\_en.pdf](https://ec.europa.eu/migrant-integration/sites/default/files/2018-06/demographic-of-immigration-portugal_en.pdf)

Buettner E. (2020) Europeanising Migration in Multicultural Spain and Portugal During and After the Decolonisation Era. *Itinerario*, 44:159-177.

Carvalho, J. (2018). ‘Bringing the state back in’: a political economy analysis of Portuguese immigration policy’. *Mediterranean Politics* 23(4):501–521, <https://doi.org/10.1080/13629395.2017.1352569>

Carvalho, J. & Duarte, M.C. (2020). ‘The politicisation of immigration in Portugal between 1995 and 2014: a European exception?’ *JCMS: Journal of Common Market Studies* 58(6): 1469–1487.

Carvalho, J. (2022) Emigration and immigration in Portugal. In: Jorge M. Fernandes; Pedro C. Magalhães; António Costa Pinto (org.), *The Oxford Handbook of Portuguese Politics*, online edn. Oxford Academic, <https://doi.org/10.1093/oxfordhb/9780192855404.013.28>

Costa, A. P. (2020). Os Burocratas de Nível de Rua e a Implementação da Lei de Estrangeiros em Portugal. FCSH/Universidade Nova de Lisboa. <http://hdl.handle.net/10362/93125>

Czaika, M; Haas, H. (2013). The effectiveness of Immigration Policies. *Population and Development Review*, 39, 487-508.

Fonseca, M. L.; & McGarrigle, J. (2014) Immigration and policy: new challenges after the economic crisis in Portugal, in Levine E. & Vereza M. (Eds.), *Impacts of the Recent*

---

Economic Crisis (2008-2009) on International Migration, pp. 51-75. Cidade de México, Universidad Nacional Autónoma de México.

Gaspar, S. (2017) Chinese Migration to Portugal: Trends and Perspectives. *Journal of Chinese Overseas*, 13(1), 48-69. <https://doi.org/10.1163/17932548-12341343>

Gaspar, S. (2019) Chinese descendants' professional pathways: moving to new businesses?". *Portuguese Journal of Social Science* 18 1 (291-108)

Gaspar, S. & F. Ampudia de Haro. (2020). Buying Citizenship? Chinese golden visa migrants in Portugal. *International Migration*. 58(3), 58-72. <https://doi.org/10.1111/imig.12621>

Góis, P. & Marques, J. C. (2014). *Admission and integration processes for highly qualified immigrants in Portugal and their relationship with circular migration*. Lisbon: Migration Observatory. Study Series N° 54.

Gregurović, S. and Župarić-Iljić, D. (2018), Comparing the Incomparable? Migrant Integration Policies and Perplexities of Comparison. *Int Migr*, 56, pp. 105-122. <https://doi.org/10.1111/imig.12435>

INE (2022a). Estimativas Provisórias de População Residente.

INE (2022b). Censos 2021. O que nos dizem os Censos sobre a população de nacionalidade estrangeira residente em Portugal. Lisboa: INE, 1-31. [www.ine.pt/xurl/pub/66196836](http://www.ine.pt/xurl/pub/66196836)

Iorio, J., & Gaspar, S. (2024). The language that unites us is the one that also separates us: Portuguese language use by Brazilian and African youth in Portugal. *Journal of Language and Discrimination*. <https://doi.org/10.1558/jld.24356>

Kerem, Y. (2021). Portugal's Citizenship for Sephardic Jewry: A Golden Fountainhead. *Contemporary Jewry*. <https://doi.org/10.1007/s12397-021-09364-4>

King, R. (2019). New Migration Dynamics on the South-Western Periphery of Europe: Theoretical Reflections on the Portuguese Case. In: Pereira, C., Azevedo, J. (eds) *New and Old Routes of Portuguese Emigration*. IMISCOE Research Series. Springer, Cham. [https://doi.org/10.1007/978-3-030-15134-8\\_14](https://doi.org/10.1007/978-3-030-15134-8_14)

Lafleur, J. M. & Stanek, M. (Eds.). (2017). *South–north migration of EU citizens in times of crisis*. Springer Open.

Liu-Farrer, G. (2016). Migration as Class-Based Consumption: The Emigration of the Rich in Contemporary China. *The China Quarterly* 226 (June), 499–518. <https://doi.org/10.1017/S0305741016000333>

Malheiros, J. & Peixoto, J. (2023). Challenges and Ambiguities of the Policies for Immigrants' Regularisation: The Portuguese Case in Context. In: Finotelli, C., Ponzo, I. (eds) *Migration Control Logics and Strategies in Europe*. IMISCOE Research Series. Springer, Cham. [https://doi.org/10.1007/978-3-031-26002-5\\_6](https://doi.org/10.1007/978-3-031-26002-5_6)

---

Marques, J.; Góis, P.; Castro, J. (2014). *O impacto das Políticas de Reagrupamento Familiar em Portugal*. Lisboa: Alto Comissariado para as Migrações.

Matias, A. R. & Pinto, P. F (2020). Overcoming linguistic barriers in Portuguese higher education: The case of international African students. *Portuguese Journal of Social Science*, 19, 189: 214. [http://dx.doi.org/10.1386/pjss\\_00026\\_1](http://dx.doi.org/10.1386/pjss_00026_1)

Mazzilli, C. & Lowe, C. (2023) *Public narratives and attitudes towards refugees and other migrants: Portugal country profile*. London: ODI ([www.odi.org/en/publications/public-narratives-and-attitudes-towards-refugees-and-other-migrants-portugal-country-profile](http://www.odi.org/en/publications/public-narratives-and-attitudes-towards-refugees-and-other-migrants-portugal-country-profile))

MIPEX (2022). ‘Migrant Integration Policy Index 2020’ ([www.mipex.eu/key-findings](http://www.mipex.eu/key-findings))

Mourao, P. R. (2016) Socio-economic determinants for the Portuguese Immigration: An Empirical Discussion. *Soc Indic Res* 125, 955–975. <https://doi.org/10.1007/s11205-015-0860-6>

MPF (2022). Re-thinking approaches to labour migration. Potentials and gaps in four EU member states’ migration infrastructures. Case Study: Portugal, Brussels: ICMPD.

Oliveira, C. R. (2012), Monitoring immigrant integration in Portugal: Managing the gap between available data and implemented policy, in Rob Bijl & Arjen Verweij (eds.), *Measuring and monitoring immigrant integration in Europe*, The Hague: The Netherlands Institute for Social Research (SCP), 291-312.

Oliveira, C. R. (2020) Indicadores de integração de imigrantes: relatório estatístico anual 2020. 1ª ed. (Imigração em Números – Relatórios Anuais 5).

Oliveira, C.R. (2021) Indicadores de integração de imigrantes: relatório estatístico anual 2021. 1ª ed. (Imigração em Números – Relatórios Anuais 6).

Oliveira, C. R. (2022) Indicadores de integração de imigrantes: relatório estatístico anual 2022. First edition. (Imigração em Números – Relatórios Anuais 7).

Oliveira, C. R. (2023) Indicadores de integração de imigrantes: relatório estatístico anual 2022. First edition. (Imigração em Números – Relatórios Anuais 8).

Oliveira, C. R.; Cancela, J.; Fonseca, V. (2013). Family reunification in Portugal: the law in practice. Lisboa: ACIDI. <https://tinyurl.com/yta8496m>

Ombudsman Report (Provedor de Justiça) (2023). Monitorização da Atividade e do Processo de Extinção do Serviço de Estrangeiros e Fronteiras (SEF). Relatório I, 1-18. <https://www.provedor-jus.pt/documentos/Relat%C3%B3rio%20SEF072023.pdf>

Padilla, B. & França, T. (2016). Migration policies and institutional frameworks. Development and evolution in Portugal. *Comparative Cultural Studies: European and Latin America Perspectives* 1, 37–52.

---

Peixoto, J., Arango, J., Bonifazi, C. et al. (2012) Immigrants, markets and policies in Southern Europe. The making of an immigration model? In: M. Okólski (ed.) European immigrations. Trends, structures and policy implications. Amsterdam University Press

Pereira, A. C. (2023) Governo alarga validade de vistos relativos à permanência em território nacional. *Jornal Público*. <https://www.publico.pt/2023/11/24/sociedade/noticia/governo-alarga-validade-vistos-relativos-permanencia-territorio-nacional-2071425>

Pires, R. P. Pereira, C.; Ortiz, A. (2023). Imigração. In: O Estado da Nação e as Políticas Públicas. *Reformas Estruturais*, 54-59.

Sabino, C.; Abreu, A. ; Peixoto, J. (2010) The making of policies of immigration control in Portugal. Instituto Superior de Economia e Gestão (ISEG) – SOCIUS Working Papers, nº 2. [https://socius.rc.iseg.ulisboa.pt/publicacoes/wp/WP\\_2\\_2010.pdf](https://socius.rc.iseg.ulisboa.pt/publicacoes/wp/WP_2_2010.pdf)

Santos, T. R., Castro, P. & Andreouli, E. (2023). Golden Visas and everyday citizenship: views of the new Chinese migration in Portugal, *Ethnic and Racial Studies*, 46:10, 2067-2088. DOI: 10.1080/01419870.2023.2172352

SEF (2010) Relatório de Imigração, Fronteiras e Asilo – 2010. Oeiras: Serviço de Estrangeiros e Fronteiras. [https://sefstat.sef.pt/Docs/Rifa\\_2010.pdf](https://sefstat.sef.pt/Docs/Rifa_2010.pdf)

SEF (2021). Relatório de Imigração, Fronteiras e Asilo 2021. Oeiras: Serviço de Estrangeiros e Fronteiras. <https://sefstat.sef.pt/Docs/Rifa2021.pdf>

SEF (2022). Relatório de Imigração, Fronteiras e Asilo 2022. Oeiras: Serviço de Estrangeiros e Fronteiras. <https://www.sef.pt/pt/Documents/RIFA2022%20vF2a.pdf>

Shachar, A. (2017). Citizenship for Sale? In *The Oxford Handbook of Citizenship*, edited by A. Shachar, R. Bauboeck, and M. Vink, 789–816. Oxford: Oxford University Press.

Surak, K. & Tsuzuki, Y. (2021). Are golden visas a golden opportunity? Assessing the economic origins and outcomes of residence by investment programmes in the EU, *Journal of Ethnic and Migration Studies*, 47:15, 3367-3389, DOI: 10.1080/1369183X.2021.1915755

Sumi, E. J. & Alam, M. N. (2023). Comparative Analysis of Golden Visa and Work Visa Programs for Citizenship in Portugal: A Study on Eligibility Requirements, Benefits, and Differences. *International Research Journal of Engineering and Technology (IRJET)*, 10 (07), e-ISSN: 2395-0056

UNHCR – UN High Commissioner for Refugees (2023) ‘Ukraine refugee situation’ (<https://data.unhcr.org/en/situations/ukraine>).

Utku, E. & Sirkeci, İ. (2020). Ethics of commodified (golden) citizenship. *Journal of Economy Culture and Society*, 62, 365-380. <https://doi.org/10.26650/JECS2020-0065>

Van der Baaren, L. & Li, H. (2018). Wealth Influx, Wealth Exodus: Investment Migration from China to Portugal. *IMC Working Papers* IMC-RP 2018/1.

## ANNEXES

### Annex 1 — Mobility policies in Portugal

**Table 1. Description of Portugal's labour migration policy**

Dimensions Themes (indicators)	Actors	Characteristics	Temporality
<p><b>Guarantee(s)</b></p> <p>- <i>Residence visa* for subordinate work purposes (longer periods):</i> Article 59/Aliens Act.</p> <p>*Allows two entries and is valid for a period of four months. During that time, the applicant is required to request a residence permit (Article 58/Aliens Act).</p> <p>- <i>Job-search visa (for a period of 120 days, renewable for another 60 days):</i> Article 57(a)/Aliens Act.</p> <p>- <i>Specific documentation to apply for a residence visa for subordinate work (Articles 52 and 59/Aliens Act):</i> Work contract, work promise or individualised expression of interest from the employer. Professional certificate, when such profession is regulated in Portugal, if applicable. Proof of means of subsistence.*</p> <p>*The funds arising from a contract or promise of an employment contract must be considered as proof of means of subsistence. It can be provided through a term of responsibility with a recognised signature issued by the entity hosting workers (Article 12-A/Regulatory Decree no. 84/2007).</p> <p>- <i>Specific documentation to apply for a job-search visa (Articles 52.2; 57°/Aliens Act; Article 12-A/Regulatory Decree no. 84/2007):</i> Copy of return transport title; proof of financial resources equivalent to</p>	<p>- <i>Responsible for visa procedures (Article 48/Aliens Act):</i> Embassies, consulates, and/or VFS, TLS, or BLS.</p> <p>- <i>Responsible for residence permit and renewals (Articles 81 and 81(a)/Aliens Act):</i> AIMA and the Portuguese Institute of Registries and Notary (IRN).</p> <p>- <i>The National Public Employment Service (IEFP):</i> Maintains an information system that is permanently updated and accessible on the internet. It publishes job vacancies on its own initiative or at the request of employers or immigrant associations recognised as representative of immigrant communities, under the terms of the law (Articles 27 and 28/Regulatory Decree no. 84/2007).</p> <p><i>Regional Labor Inspection (Inspeção Geral do Trabalho):</i> The granting of a residence permit (related to subordinate work) shall be communicated by AIMA, electronically, to the Regional Labor Inspection or, in the</p>	<p><i>Nationality/Special regime (Articles 52(a), 75.2 and 87(a)/Aliens Act):</i> The procedure for granting a residence visa and a residence permit to nationals of third countries participating in the Community of Portuguese-Speaking Countries (in which the Agreement is in force) shall be simplified.</p>	<p><i>Time limit (Articles 58 and 82/Aliens Act):</i> For deciding on an application for a residence visa: 60 days; for a residence permit: 90 days; and the renewal: 60 days.</p> <p><i>Renewal:</i> The renewal of the residence permit must be requested 30 days before the expiration of its validity (Article 78.1/ Aliens Act) and the applicant must prove that they are still able to legally acquire the means of subsistence,* taking into account the aim of the residence permit.</p> <p>*It can be justified by the amount of social benefits the applicant receives under any of the social security systems (Article 7/Ordinance no. 1563/2007).</p> <p><i>Validity of the residence permit (Articles 75.1 and 2/Aliens Act):</i> Two years from the date of issue and is renewable for successive periods of three years.</p> <p>When the applicant is covered by the CPLP Agreement and holds a short-stay visa or has legally entered national territory, they can apply for a temporary residence permit of more than 90 days and less than one year, renewable for the same period.</p>

<p>at least the sum of three guaranteed monthly minimum salaries; declaration with indication of the conditions for the estimated stay; *Proof of presentation of a declaration of expression of interest for enrolment in the National Public Employment Service (IEFP).</p> <p>* The proof of the financial resources may be waived upon presentation of a term of responsibility with recognized signature made by a Portuguese citizen or a foreign citizen, with a legal residence authorization in Portugal, which guarantees food and accommodation for the visa applicant, as well as the repatriation costs, in case of irregular stay. The signatory of the responsibility term must also prove to have financial capacity in the amount of, at least, three times the value of the guaranteed minimum monthly salary.</p> <p>- <i>To extend for another 60 days (job search visa):</i> Must be accompanied by proof of registration with the National Public Employment Service (IEFP), and a declaration by the applicant indicating that the conditions of the planned stay are maintained, which will be assessed considering the reasons that justified its issuance.</p> <p>- <i>To obtain a residence permit for subordinate work (Article 88):</i> You must have an employment contract in accordance with the law and be registered with the social security system. Another possibility is to obtain a residence permit without a residence visa for the purpose of subordinate work, subject to subsequent regularisation. Legal entry into the country can be presumed (i.e. no proof is required) when the applicant has been working in the country and their social security situation regularised for at least 12 months.</p>	<p>Autonomous Regions, to the respective regional secretariat, so that these entities may supervise compliance with all legal obligations of the employer towards the holder of the residence permit, as well as to the tax authorities and the competent social security services (<i>Article 88-Aliens Act</i>).</p> <p>- <i>Employer:</i> Obligated to notify the Social Security Institute of the admission of a foreign worker, as well as the termination of the respective contract.</p> <p>- <i>Social Security:</i> The request for the allocation of a Social Security Identification Number (NISS) to a foreign citizen or a national citizen who is not required to have a citizen card is made through an online form available on the Social Security Portal. When the request is made by the employer, it must communicate the employee's labour relations<sup>27</sup>.</p>		
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## Themes

### Benefits

- *Having a residence permit without a residence visa (Article 88.2/Aliens Act):* It can be granted, provided that the following conditions are met : a) the applicant has an employment contract or a promise of an employment contract or has an employment relationship proven by a trade union or legally recognised representative of migrant communities ; b) they have legally entered national territory ;\* and c) they are registered with social security, except in cases where the document presented is a promise of an employment contract.

\* Legal entry is presumed whenever the applicant has worked in the national territory and has had a regular social security situation for at least 12 months.

- *Access to the welfare state's rights (Article 83/Aliens Act).*

*Right to convert subordinate labour to self-employed professional activity (Article 88. 5/Aliens Act):* The holder of a residence permit for the exercise of a subordinate professional activity may be authorised to perform a self-employed activity by replacing its document, provided they obtain the necessary permission from the relevant Portuguese authorities and under certain conditions (e.g., a regular social security situation for at least 12 months.)

*Right to convert a job-search visa to a residence permit for subordinate work (Article 88.7/Aliens Act):* Once the employment relationship has been established and formalised within 180 days, a residence permit (subordinate work) can be requested on the appointment date indicated on the visa, provided that the applicant meets the general conditions for granting a residence permit. After this period, if these

### Penalty/ties

- *Unauthorised exercise of professional activity and use of the activity of a foreign national in an illegal situation (Articles 198 and 198(a)/Aliens Act):* The exercise of a self-employed professional activity by a foreign national who does not hold an appropriate residence permit, when required, constitutes an administrative offence punishable by a fine of between 300 and 1,200 euros.

Whoever uses the activity of a foreign national who does not have a residence permit or visa authorising the exercise of a subordinate professional activity will be subject to the application of fines (between two thousand and ninety thousand euros) and sanctions.

- *Reasons for the cancellation of the residence permit application (Article 85/Aliens Act):* Documents submitted have been fraudulently obtained, falsified or adulterated; for reasons of public order or security (includes other more detailed reasons specified in the Article mentioned above); if the holder of the residence permit leaves the country for a longer period than permitted by law.

### Forgiveness

- *Absence beyond the limits (exemptions) (Article 85.4/ Aliens Act):* The residence permit shall not be cancelled for citizens who are absent for periods longer than those provided by law, when they prove that, during their absence from national territory, they were engaged in a professional, business, cultural, or social activity

### Referrals

- Portuguese nationality (legally residing in Portugal for at least five years, provided all other requirements set out by the Nationality Act are fulfilled (Act no. 37/81)).

- Family reunification.

<p>conditions are not met, the visa holder must leave the country. In these situations, it is only possible to re-apply for a new visa for this purpose one year after the expiry of the previous visa.</p> <p><i>Right to a permanent residence permit (Article 76, 80 – Aliens Act):</i> Long-term residents and holders of a temporary residence permit for at least five years. It must be renewed every 5 years or whenever there are changes in the registered data.</p> <p><i>Right to a long-term resident status (Articles 125, 126 – Aliens Act):</i> Long-term residents and holders of a temporary residence permit for at least five years. Beneficiaries of long-term status benefit from equal treatment with nationals.</p> <p>- <i>Right to family reunification (Article 98 – Aliens Act)</i></p>			
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**Table 2. Description of Portugal’s family reunification policy**

<b>Dimensions Themes (indicators)</b>	<b>Actors</b>	<b>Characteristics</b>	<b>Temporality</b>
<p><b>Guarantee(s)</b></p> <p>- <i>Residence visa for family reunification (Article 64/Aliens Act).</i></p> <p><i>Specific documents (Articles 101 and 103/Aliens Act; Article 67/Regulatory Decree no. 84/2007):</i> Documents attesting the existence of relevant family or civil partnership ties (de facto union);* accommodation; means of subsistence;** certified copies of travel documents of family members or civil partners; and criminal record certificate.</p> <p>* <i>Where a refugee cannot produce official documents proving the family relationship, other elements proving the existence of such relationship</i></p>	<p>- <i>Responsible for visa procedures (Article 48/Aliens Act):</i> Embassies, consulates, and/or VFS, TLS, or BLS.</p> <p>- <i>Responsible for residence permit and renewals (Articles 81 and 81(a)/Aliens Act):</i> AIMA and the Portuguese Institute of Registries and Notary (IRN).</p> <p>- <i>Article 103/Aliens Act:</i> It is up to the holder of the right to family reunification to apply to AIMA for the entry and residence of his/her family members</p>	<p>- <i>Family members eligible for reunification (Article 99/Aliens Act):</i> a) spouse; b) children who are minors or incapacitated and are dependants of the couple or one of the spouses; c) minors adopted by the applicant or his/her spouse; d) adult children who are dependants of the couple or one of the spouses, who are single and are studying in an educational establishment in Portugal; e) adult dependent children of the couple or one of the spouses, who are unmarried and studying, where the holder of the right to</p>	<p>- <i>Time limit for analysing the application (Article 105/Aliens Act):</i> 90 days, which may be extended for another 90 days if justified by the complexity of the request.</p> <p>- <i>Validity of the residence permit (Article 64/Aliens Act):</i> The family member who holds a visa or who is in the national territory will be granted a residence permit of the same duration as the resident. In the case of the family member of a permanent residence permit holder, she receives a residence permit valid for two years, renewable for successive periods of three years.</p>

<p><i>shall be taken into consideration (Article 103.4/Aliens Act).</i></p> <p><i>** The calculation method is based on the guaranteed minimum monthly wage, but with a per capita increase for each family unit as follows (Article 2/Ordinance no. 1563/2007): First adult, 100%; second adult and additional adults, 50%; children and young people under 18 years of age and non-minor dependent children, 30%.</i></p>	<p>whenever they are outside the national territory. In situations where family members are on national territory, family reunification can be requested by them or by the right holder.</p>	<p>reunification has a residence permit granted under Article 90-A; f) ascendants in the direct line and to the first degree of the resident or his/her spouse, provided they are dependent on him/her; and g) minor siblings, if they are under the resident's guardianship, in accordance with a decision issued by the competent authority in the country of origin and provided that this decision is recognised by Portugal.</p> <p>- For the purposes of family reunification of unaccompanied minor refugees, the following are considered:</p> <p>a) Direct ascendants in the first degree;</p> <p>b) His/her legal guardian or any other relative if the refugee has no direct ascendants or it is not possible to trace them. (Article 99/Aliens Act).</p> <p>Through a de facto union* (civil partnership), it is also possible for the spouse or partner to be reunited with the immigrant residing in the Portuguese territory (Article 100/Aliens Act).</p> <p>*A de facto union is the legal situation of two people who, regardless of sex, have lived in conditions like those of spouses for more than two years (Article 1, n°2 – Act n°7/2001).</p>	
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Themes			
<p><b>Benefits</b></p> <p><i>Article 98/Aliens Act:</i> The right to family reunification is also recognised with family members who have legally entered the national territory and who depend on or cohabit with the holder of a valid residence permit; and to refugees, recognised under the terms of the law regulating asylum, without prejudice to the legal provisions recognising the refugee status of family members.</p> <p><i>Autonomous residence permit after a certain time limit or in exceptional cases (Article 107/Aliens Act):</i> The first residence permit granted to the spouse under family reunification is autonomous when he/she has been married or in a non-marital partnership (de facto union) for more than five years with the resident and will be issued with a residence permit of the same duration as the resident; after two years under the initial residence authorisation if the family ties persist or whenever the holder of the right to family reunification 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; exceptional cases include judicial separation, divorce, widowhood, death of an ascendant or descendant, prosecution by the Public Prosecutor's Office for a crime of domestic violence, and when the person reaches legal age, and even if the facts occur during the examination of the application for family reunification.</p>	<p><b>Penalty/ties</b></p> <p><i>- Rejection of the application (Article 106/Aliens Act):</i> When the necessary conditions are not met; when the family member is prohibited from entering and staying on national territory or is the subject of an alert by SIS for the purposes of return or refusal of entry and residence; or when entry represents a threat to public order, public security, or public health.</p> <p><i>- Article 108/Aliens Act (Cancellation of the residence permit):</i> It shall be canceled when the marriage, partnership (de facto union), or adoption has the sole purpose of enabling the interested person to enter or reside in Portugal.</p> <p><i>- Article 186/Aliens Act:</i> The identification of "marriages or partnerships of convenience" can result in a criminal offence.</p>	<p><b>Forgiveness</b></p> <p><i>- Article 106.3 (Aliens Act):</i> Before a decision is taken to reject an application, the nature and solidity of the person's family ties, the length of time they have been resident in Portugal, and the existence of family, cultural, and social ties with their country of origin are taken into consideration.</p> <p><i>- Article 135/Aliens Act:</i> Limits removal from the national territory of foreign parents, as long as they are not a threat to national security and public order, under the following conditions: they have dependent underage children of Portuguese nationality residing in Portugal; or they have minor children who are TCNs residing in Portuguese territory, for whom they effectively assume parental responsibilities and for whom they provide maintenance and education.</p>	<p><b>Referrals</b></p> <p>- Portuguese nationality (legally residing in Portugal for at least five years, provided that all other requirements set out by the Nationality Act are fulfilled (Act no. 37/81)).</p>

<p>- Access to the welfare state's rights (Article 83/Aliens Act).</p> <p>- Right to a permanent residence permit (Article 76, 80 – Aliens Act).</p> <p>- Right to a long-term resident status (Articles 125, 126 – Aliens Act).</p>			
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**Table 3. Description of Portugal's policy on tourism**

Dimensions themes (indicators)	Actors	Characteristics	Temporality
<p><b>Guarantee(s) (conditions of entry/stay)</b></p> <p>- Short-stay (Article 51/Aliens Act): Allows its holder to enter Portuguese territory for purposes that, if accepted by the competent authorities, do not justify the granting of another type of visa — namely, for transit, tourism, and to visit or accompany family members who hold a temporary stay visa.</p> <p>- Specific documents (Regulation (EC) no. 810/2009 (Visa Code); Article 2/Ordinance no. 1563/2007): Travel reservation (return ticket); accommodation; economic and work conditions ;* medical travel insurance and health insurance (should cover medical expenses including those of medical repatriation, medical emergency, and/or hospital emergency, and the minimum required coverage is 30 thousand euros).</p> <p>*Means of subsistence (Article 2/Ordinance no. 1563/2007): To enter and stay in Portugal, the holder should either have or be able to legally obtain: 75 euros for each entry; 40 euros for each day. Alternatively, a statement of responsibility signed by a national citizen or legal resident may be presented.</p>	<p>- Responsible for visa procedures (Article 48/Aliens Act): Embassies, consulates, and/or VFS, TLS, or BLS.</p> <p>- Responsible for deciding on extension of stay (Article 73/Aliens Act): AIMA (may be delegated except for applications concerning applicants subject to return alerts or refusal of entry and stay).</p>	<p>- Nationality (Regulation (EU) no. 1806/2018, amended by Regulation (EU) no. 850/2023): There are the TCNs who must have visas when crossing the external borders; those countries whose nationals are exempt from that requirement; and the countries that have signed visa facilitation agreements with the EU.</p> <p>- Nationality/Special regime (Articles 52(a), 75.2 and 87(a)/Aliens Act): The procedure for granting a residence visa and a residence permit to nationals of third countries participating in the Community of Portuguese-Speaking Countries (in which the Agreement is in force) shall be simplified.</p> <p>- The Schengen Area is composed of the following countries: Austria, Belgium, Czechia, Croatia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Liechtenstein, Luxemburg, Malta, Norway, the Netherlands,</p>	<p>- Time limit for deciding on an application for a Schengen visa (Articles 9 and 23/Regulation (EC) no. 810/2009): 15 days (may be extended up to 45 days, notably when further scrutiny of the application is needed).</p> <p>Article 9/Regulation (EC) no. 810/2009: Applications shall be lodged no more than six months before the start of the intended visit, and, as a rule, no later than 15 days before the start of the intended visit. In justified individual cases of urgency, the consulate or the central authorities may allow the lodging of applications later than 15 calendar days before the start of the intended visit.</p> <p>- Validity (Article 51/Aliens Act): It may be issued with a validity of one year, allowing one or more entries, provided that neither the length of a continuous stay nor the total length of successive stays exceeds 90 days in every 180 days from the date of the first crossing of an external border.</p>

<p>- <i>Border controls (Article 6/Aliens Act)</i>: People entering or leaving national territory are subject to checks at border posts if they are coming from or going to states that are not parties to the Schengen Agreement. This shall also apply to individuals using an internal section of a flight to or from States that are not parties to the Convention.</p>		<p>Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland. Bulgaria and Romania are currently in the joining process and already largely applying the Schengen acquis.</p>	
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**Themes**

<p><b>Benefits</b> (rights/privileges of entry/stay)</p> <p>- <i>Articles 46 and 51/Aliens Act; Regulation (EU) no. 399/2016</i>: Includes the possibility of travelling for tourist purposes for a maximum of 90 days in any 180-day period and may be valid for one or more States that are party to the Schengen Convention.</p> <p>- <i>Extension of stay</i>: Can be granted up to 90 days, extendable for an equal period if the interested party holds a short-stay visa (includes tourism) or has been admitted to the country without a visa requirement. An extension of stay may be granted, beyond the limits set out above, for exceptional reasons. However, the extension granted to citizens admitted into the country without requiring a visa and to holders of a short-stay visa (tourism purposes) is limited to Portugal whenever their stay exceeds 90 days per semester, counted from the date of the first crossing of the external borders.</p>	<p><b>Penalty/ties</b> (penalising clause/article for IFs)</p> <p>- <i>Refusal of extension requests (Articles 71 and 72/Aliens Act)</i>: If the applicant is the subject of an alert for the purposes of return or for the purposes of refusing entry and stay by SIS UCFE or by SIS, the extension may be refused. In addition, apart from exceptional circumstances, requests for extensions will not be granted if they are submitted more than 30 days after the end of the authorised period of stay.</p> <p>- <i>Illegal stay (Article 192/Aliens Act)</i>: The stay of a foreign national in Portuguese territory or in the territory of Member States of the European Union and of States where the Schengen Agreement is in force for a period of time exceeding that authorised constitutes an administrative offence.</p>	<p><b>Forgiveness</b> (forgiving clause/article)</p> <p>---</p>	<p><b>Referrals</b> (connecting with other mobility policies)</p> <p>- There is no explicit rule for converting tourist visas into other types of mobility policies; however, (presumption of) legal entry is a condition provided in several articles of the Aliens Act as a facilitating criterion for obtaining a residence permit when already in the national territory (for example Articles 88, 89, 91, and 98/Aliens Act).</p>
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**Table 4. Description of Portugal’s investment-based migration policy (Golden Visa)**

Dimensions themes (indicators)	Actors	Characteristics	Temporality
<p><b>Guarantee(s) (conditions of entry/stay)</b></p> <p>- <i>Definition (Article 3.1d, 2,3, and 4/Aliens Act):</i></p> <p>“Investment activity” is defined by any activity carried out personally or through a company that leads, as a rule, to the realisation of at least one of the following situations in the national territory and for a minimum period of five years:</p> <p>i) Capital transfer to an amount equal to or greater than 1 million euros [1.5 million euros, since January 2022, repealed by Law no. 56/2023, in effect from 7 October 2023];</p> <p>ii) Creation of at least 10 jobs;</p> <p>iii) Acquisition of real estate with a value equal to or greater than 500 thousand euros [investment limited, since 1 January 2022, by Decree-Law no. 14/2021, of 12 February. Investment revoked by Law no. 56/2023, in effect from 7 October 2023];</p> <p>iv) Acquisition of real estate, the construction of which was completed at least 30 years ago or located in an urban rehabilitation area and carrying out rehabilitation works on the acquired real estate, to a total amount equal to or greater than 350 thousand euros [investment limited, since 1 January 2022, by Decree-Law no. 14/2021, of 12 February. Investment revoked by Law no. 56/2023, in effect from 7 October 2023];</p> <p>v) Transfer of capital of at least 350 thousand euros [500,000 since January 1, 2022], which is applied to research activities carried out by public or private scientific research institutions, integrated into the national scientific and technological system;</p>	<p>- <i>Responsible for visa procedures (Article 48/Aliens Act):</i> Embassies, consulates, and/or VFS, TLS, or BLS.</p> <p>- <i>Ministry of Foreign Affairs and the Portuguese Foreign Trade and Investment Agency (Article 65-F/Regulatory Decree no. 84/2007):</i> Responsible for publicising the residence permit regime for investment activity and making the necessary information available to other entities; promote, outside the national territory, the dissemination of the residence permit regime for investment activity.</p>	<p>- Class and income aspects are prevalent in the conception of this mobility policy. This type of migration is highly selective, based on a significant capital transfer, and therefore unattainable for low and middle-income households.</p>	<p>- <i>Minimum time requirement for investment activity (Article 65-B/Regulatory Decree no. 84/2007):</i> The minimum time requirement of five years for maintaining the given investment activity is counted from the date of granting the residence permit.</p> <p>- <i>Renewal (Article 90-A/Aliens Act):</i> For periods of two years, provided that the applicant proves to maintain any of the requirements of subparagraph d) of paragraph 1 of Article 3.</p> <p>- <i>Minimum periods of stay (Article 65-C/Regulatory Decree no. 84/2007):</i> Seven days, consecutive or interpolated, in the first year; fourteen days, consecutive or interpolated, in subsequent two-year periods.</p>

<p>vi) Transfer of capital of at least 250 thousand euros, which is applied in investment or support for artistic production, recovery or maintenance of national cultural heritage, through central and peripheral direct administration services, public institutes, entities that comprise the public business sector, public foundations, private foundations with public utility status, inter-municipal entities, entities that are part of the local business sector, municipal associative entities and public cultural associations, which carry out tasks in the area of artistic production, recovery or maintenance of cultural heritage;</p> <p>vii) Transfer of capital in the amount of at least 350,000 euros [500,000 January 1, 2022], intended for the acquisition of units in investment funds or venture capital funds geared to the capitalization of companies (cut off by the Law no. 56/2023), parts of non-real estate collective investment undertakings, which are set up under Portuguese law, whose maturity, at the time of the investment, is at least five years and at least 60% of the value of the investments is made in commercial companies based in Portugal;</p> <p>- Article 65A/ <i>Regulatory Decree 84/2007</i>): Investment activity requirements.</p> <p>- Article 65-D/ <i>Regulatory Decree 84/2007</i>): <i>Proof of investment.</i></p> <p>- Article 90A: Residence permit for investment.</p>			
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<b>Themes</b>			
<p><b>Benefits</b> (rights/privileges of entry/stay)</p> <ul style="list-style-type: none"> <li>- <i>Having a residence permit without a residence visa (Article 122(r)/Aliens Act):</i> Those TCNs who provide evidence of investment activity do not need a visa to obtain a residence permit.</li> <li>- <i>Family reunification (Article 99/Aliens Act)</i> Includes the possibility of the older children attending an educational establishment, regardless of the country in which it is located.</li> <li>- <i>Article 65-K/Regulatory Decree no. 84/2007:</i> Granting of a permanent residence permit to holders of a residence permit for investment activity.</li> <li>- <i>Access to the welfare state's rights (Article 83/Aliens Act).</i></li> <li>- <i>Right to long-term resident status (Articles 125 and 126/Aliens Act).</i></li> </ul>	<p><b>Penalty/ties</b> (penalising clause/article for IFs)</p> <ul style="list-style-type: none"> <li>- <i>Reasons for the cancellation of the residence permit application (Article 85/Aliens Act):</i> Documents submitted have been fraudulently obtained, falsified or adulterated; for reasons of public order or security (includes other more detailed reasons specified in the Article mentioned above); or if the holder of the residence permit leaves the country for a longer period than permitted by law.</li> </ul>	<p><b>Forgiveness</b> (forgiving clause/article)</p> <ul style="list-style-type: none"> <li>- <i>Absence beyond the limits (exemptions) (Article 85.4/Aliens Act):</i> The residence permit shall not be cancelled for citizens who are absent for periods longer than those provided by law, when they prove that, during their absence from national territory, they were engaged in a professional, business, cultural, or social activity.</li> </ul>	<p><b>Referrals</b> (connecting with other mobility policies)</p> <ul style="list-style-type: none"> <li>- Portuguese nationality (legally residing in Portugal for at least five years, provided all other requirements set out by the Nationality Act are fulfilled (Act no. 37/81)).</li> <li>- Family reunification.</li> </ul>

**Table 5. Description of Portugal's student mobility policy**

Dimensions themes (indicators)	Actors	Characteristics	Temporality
<p><b>Guarantee(s) (conditions of entry/stay)</b></p> <p>- Residence visa for research, study, secondary education students exchange, internships, and voluntary service (longer periods): Article 62/Aliens Act.</p> <p>- Residence permit for higher education students: Article 91/Aliens Act.</p> <p>- Specific documentation/residence permit for higher education (Article 91/Aliens Act and Article 57/Regulatory Decree no. 84/2007): It is necessary to present proof of: a) enrolment in a higher education institute ; b) payment of tuition fees, if applicable (scholarship cases) ; c) means of subsistence; and d) how they are covered by the National Health Service or have health insurance and accommodation.</p> <p>- Students admitted in institutions approved under the terms of an ordinance issued by the government members responsible for the areas of migration, higher education, and administrative modernisation shall be exempt from presenting documents proving payment of tuition fees and means of subsistence (Article 91.5/Aliens Act).</p>	<p>- Responsible for visa procedure : Embassies, consulates, and/or VFS, TLS, or BLS.</p> <p>- Responsible for residence permit and renewals (Articles 81 and 81(a)/Aliens Act): AIMA and the Portuguese Institute of Registries and Notary (IRN).</p> <p><i>Directorate-General for Higher Education (DGES):</i> Public organism under direct state administration and subject to the direction of the Ministry of Science, Technology and Higher Education (MCTES); provides information on Portuguese higher education, recognition of diplomas, etc.</p> <p><i>HEI:</i> The application process must be submitted directly to the higher education institution (HEI) where study is to take place.</p>	<p><i>Nationality/Special regime (Articles 52(a), 75.2, and 87(a)/Aliens Act):</i> The procedure for granting a residence visa and a residence permit to nationals of third countries participating in the Community of Portuguese-Speaking Countries (in which the Agreement is in force) shall be simplified.</p>	<p>- Time limit (Article 96/Aliens Act): The decision on an application to grant or renew a residence permit may not exceed 90 days from the submission of the application or 60 days in the case of higher education students or researchers admitted to an officially recognised host organisation under the terms of Articles 91 and 91(b).</p> <p><i>Validity (Article 91.2/Aliens Act):</i> The residence permit is valid for three years, renewable for equal periods of time and, in cases where the duration of the study programme is less than three years, it can be issued for the duration of the programme.</p>

Themes			
<p><b>Benefits</b> (rights/privileges of entry/stay)</p> <ul style="list-style-type: none"> <li>- <i>Having a residence permit without a residence visa (Article 91/Aliens Act):</i> A residence permit may be granted to a higher education student who does not hold a residence visa, provided that the student has legally entered national territory and meets the other conditions established in the residence visa for that purpose.</li> <li>- <i>Exercise of a professional activity during studies (Article 97/Aliens Act and Article 58/Regulatory Decree no. 84/2007):</i> Either subordinate or independent, in addition to the activity which gave rise to the visa (as long as the main activity is study).</li> <li>- <i>Access to the labour market after studies (Article 122(p)/Aliens Act):</i> After completing studies, the individual can benefit from a maximum period of one year to seek work or create a company in the national territory compatible with their qualifications.</li> <li>- <i>Access to the welfare state's rights (Article 83/Aliens Act).</i></li> <li>- <i>Right to family reunification (Article 98/Aliens Act).</i></li> <li>- <i>Right to a permanent residence permit (Articles 76 and 80/Aliens Act).</i></li> <li>- <i>Right to long-term resident status (Articles 125, 126 – Aliens Act):</i> The concession is not available, however, in the case of conversion (for types of residence that benefit from this right) the residence time for reasons of study can be</li> </ul>	<p><b>Penalty/ties</b> (penalising clause/article for IFs)</p> <ul style="list-style-type: none"> <li>- <i>Reasons for rejection/cancellation of residence permit (Articles 85 and 95/Aliens Act):</i> Residing in the national territory for reasons other than those for which residence was authorised; documents submitted have been fraudulently obtained, falsified, or adulterated; not making successful progress in studies; the host entity was established or functions primarily for the purpose of facilitating the entry of TCNs or has been sanctioned in accordance with national law for undeclared work and/or illegal employment; the host entity has not fulfilled its legal obligations concerning social security, taxation, employment rights, or working conditions, is being or has been dissolved or declared bankrupt in accordance with national law, or is not registering any economic activity;</li> <li>for reasons of public order or public security ; if the holder of the residence permit leaves the country for a longer period than permitted by law.</li> <li>- Where the researcher or higher education student is residing on the territory of another Member State under mobility arrangements and AIMA becomes aware of the situation, it shall notify the authorities of that Member State of the cancellation of the residence permit (Article 95/Aliens Act)</li> </ul>	<p><b>Forgiveness</b> (forgiving clause/article)</p> <ul style="list-style-type: none"> <li>- <i>Absence beyond the limits (exemptions) (Article 85.4/Aliens Act):</i> The residence permit shall not be cancelled for citizens who are absent for periods longer than those provided by law, when they prove that, during their absence from national territory, they were engaged in a professional, business, cultural, or social activity.</li> </ul>	<p><b>Referrals</b></p> <ul style="list-style-type: none"> <li>- Portuguese nationality (legally residing in Portugal for at least five years, provided all other requirements set out by the Nationality Act are fulfilled (Act no. 37/81)).</li> <li>- Family reunification.</li> <li>- Labour.</li> </ul>

counted towards the 5 years required (only 50 per cent of the total time can be used for counting).			
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**Table 6. Description of Portugal’s Schengen policy (Long-term resident status; and long-term resident status in another Member State of the European Union)**

**Long-term resident status**

<b>Dimensions Themes (indicators)</b>	<b>Actors</b>	<b>Characteristics</b>	<b>Temporality</b>
<ul style="list-style-type: none"> <li>- Long-term resident status (<i>Articles 125-133/Aliens Act</i>).</li> <li>- It can be granted to a third-country national after five years of continuous and legal residence in Portugal upon the guarantees of sufficient and stable financial resources to support themselves and family members, without recourse to the social assistance system; adequate accommodation; health insurance coverage; and fluent knowledge of Portuguese (<i>Article 126/Aliens Act</i>).</li> <li>- The application shall be accompanied by documentary evidence that the TCN meets the conditions laid down in Article 126 and by a valid travel document or a certified copy thereof.</li> <li>- The application for long-term resident status made by a TCN who simultaneously holds a long-term EU residence permit issued by another Member State shall be preceded by consultations with the latter in order to ascertain whether the applicant still benefits from international protection.</li> <li>- The granting of long-term resident status to a TCN with a residence permit granted under Article 116 shall be communicated by AIMA to the</li> </ul>	<ul style="list-style-type: none"> <li>- <i>Granting or refusal of long-term status (Articles 128 and 129/Aliens Act):</i> It is the responsibility of the Director-General of AIMA, with the power to delegate. The AIMA office in the area of residence of the applicant is competent to receive the application for long-term resident status.</li> <li>- <i>Cancellation of the residence permit of the long-term resident (Article 131/Aliens Act):</i> It is the competence of the Minister of Internal Administration, with the possibility of delegation to the Director-General of AIMA.</li> </ul>	<ul style="list-style-type: none"> <li>- A TCN who has lived legally in Portugal for five years; and</li> <li>- A TCN who is financially subsistent, has accommodation, health insurance, and speaks Portuguese (<i>Article 116/Aliens Act</i>).</li> <li>- Long-term resident status is not available to TCNs who: a) have a residence permit for study, unpaid work placement, or volunteering; b) are authorised to reside on national territory under temporary protection or have applied for a residence permit on that basis and are awaiting a decision on their status; c) are staying in Portugal exclusively for temporary reasons, such as seasonal workers, workers posted by a service provider for the purpose of providing cross-border</li> </ul>	<ul style="list-style-type: none"> <li>- <i>Time limit (Article 129/Aliens Act):</i> Within six months, the applicant will be notified in writing of the decision taken.</li> <li>- In exceptional circumstances linked to the complexity of the examination of the application, it may be extended for a further three months, and the applicant shall be informed of such extension.</li> <li>- The absence of a decision within nine months is equivalent to a granting of the application.</li> <li>- Long-term resident status is permanent on the basis of a renewable permit.</li> <li>- The permit is valid for at least five years and is automatically renewable on application at the end of its period of validity.</li> </ul>

<p>Member State that first granted him/her long-term resident status (<i>Article 129/Aliens Act</i>).</p>		<p>services, or cross-border service providers; d) enjoy legal status under the Vienna Convention on Diplomatic Relations adopted on 18 April 1961 or the Vienna Convention on Consular Relations adopted on 24 April 1963 (<i>Article 125/Aliens Act</i>).</p>	
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**Themes**

<b>Benefits</b>	<b>Penalty/ties</b>	<b>Forgiveness</b>	<b>Referrals</b>
<p>- Holders of long-term status are given the same rights and benefits as Portuguese nationals, namely:</p> <ul style="list-style-type: none"> <li>a) access to professional work;</li> <li>b) access to the employment and work conditions established by law;</li> <li>c) access to education and vocational training;</li> <li>d) recognition of diplomas, certificates, and qualifications;</li> <li>e) access to social security, social welfare, and social protection services;</li> <li>f) tax exemptions or reductions;</li> <li>g) access to health care; and</li> <li>h) free access to all Portuguese territory (<i>Article 133/Aliens Act</i>).</li> </ul>	<p>- Long-term resident status may be refused on grounds of public order or public security. The refusal must not be based on economic reasons (<i>Article 127.1 and 2/Aliens Act</i>).</p> <p>- Long-term residents lose their long-term resident status in the following cases (<i>Article 131/Aliens Act</i>):</p> <ul style="list-style-type: none"> <li>a) Fraudulent acquisition of long-term resident status;</li> <li>b) Adoption of a removal measure under Article 136;</li> <li>c) Absence from the territory of the European Union for a period of 12 consecutive months;</li> <li>d) Acquisition in another Member State of long-term resident status; or</li> <li>e) Absence from the national territory for a period of six consecutive years.</li> </ul>	<p>- <i>Absence beyond the limits (exemptions)</i>: Absences from the territory of the EU for more than 12 consecutive months for specific or exceptional reasons do not entail loss of status, particularly where the long-term resident has remained in the country of origin to pursue a professional or business activity or a cultural or social activity.</p> <p>- Absence from the national territory for more than six consecutive years justified on specific or exceptional grounds does not entail loss of status, in particular where the long-term resident has remained in the country of origin in order to pursue a professional or business activity or an activity of a cultural or social</p>	<ul style="list-style-type: none"> <li>- Family reunification.</li> <li>- Nationality.</li> </ul>

		<p>nature.</p> <p>The expiry of a long-term resident's EC residence permit does not entail the loss of long-term resident status.</p> <p>Where the loss of status is due to absence from the territory of the European Union for a period of 12 consecutive months and absence from national territory for a period of six consecutive years, the interested party may reacquire long-term resident status by applying, provided that the conditions laid down in <i>Article 126(1)(b)</i> to (d) are met.</p>	
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**Table 7. Residence permit for holders of long-term resident status in another Member State of the European Union**

<b>Dimensions Themes (indicators)</b>	<b>Actors</b>	<b>Characteristics</b>	<b>Temporality</b>
<p>- A residence permit in Portugal for holders of long-term resident status in another Member State of the European Union (<i>Subsection VI, 116-121 of the Aliens Act</i>) may be obtained upon the guarantees of:</p> <p>1) a) a subordinate professional activity; or b) self-employment; c) attending a study programme or vocational training course; or d) a compelling reason to take up residence in the national territory (<i>Article 116.1/Aliens Act</i>).</p> <p>2) means of subsistence ;</p> <p>3) accommodation.</p> <p>- The application referred should be accompanied by documents proving that the</p>	<p>- A TCN who has acquired long-term resident status in another Member State of the European Union.</p> <p>- Responsible for residence permit, cancellations, and renewals): The Director-General of AIMA with the power to delegate (<i>Articles 117 and 120/Aliens Act</i>).</p> <p>- The granting of a residence permit to long-term residents and their family members is communicated by AIMA to the competent</p>	<p>- The granting of a residence permit for TCNs exercising a subordinate professional activity is applied under <i>Article 88</i> and for those exercising a self-employed professional activity is applied under <i>Article 89 (Article 116/Aliens Act)</i>.</p> <p>- Workers posted by a service provider for the purposes of cross-border provision of services or cross-border service providers are not eligible for this type of residence permit</p>	<p>- Time limit: The decision on an application for a residence permit submitted is taken within three months (<i>Article 117/Aliens Act</i>).</p> <p>- A residence permit is necessary for stays in Portugal longer than three months (<i>Article 116/Aliens Act</i>).</p> <p>- The applicant must submit an application for a residence permit within three months of entering national territory (<i>Article 117/Aliens Act</i>).</p>

<p>applicant fulfils the conditions for the exercise of residence (<i>Article 117/Aliens Act</i>).</p> <p>- The application should also be accompanied by the long-term resident's permit and a valid travel document, or certified copies thereof (<i>Article 117/Aliens Act</i>).</p>	<p>authorities of the Member State that granted long-term resident status.</p>	<p>(<i>Article 116.2/Aliens Act</i>).</p>	
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**Themes**

<b>Benefits</b>	<b>Penalty/ties</b>	<b>Forgiveness</b>	<b>Referrals</b>
<p>- Family members of the holder of a residence permit granted under Article 116 who reside with them in the Member State that first granted them long-term resident status are also entitled to a residence permit in Portugal (<i>Article 118, 1/Aliens Act</i>).</p> <p>- Family members shall be granted a residence permit of the same duration as that granted to long-term residents (<i>Article 118/Aliens Act</i>).</p> <p>- Documents needed for family reunification:  a) their long-term resident's EC residence permit or their residence permit and a valid travel document, or certified copies of these;  b) proof that they have resided in the Member State which for the first time granted them long-term resident status as family member or life partner of a long-term resident ; c) proof that they have means of subsistence and are covered by the national health service or have health insurance. (<i>Article 118/Aliens Act</i>).</p>	<p>- An application for a residence permit may be rejected if the interested party constitutes a threat to public policy or public security. A rejection decision should not be based on economic grounds (<i>Article 119/Aliens Act</i>).</p> <p>- Cancellation and non-renewal of a residence permit may occur for reasons of public order or public security, on the basis of the gravity or type of offence against public order or public security committed, or the dangers that may arise from the person's stay in national territory; or when the conditions provided for in Articles 116 and 118 are no longer met (<i>Article 120/Aliens Act</i>).</p>	<p>---</p>	<p>- Family reunification.</p> <p>- Nationality.</p>

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## Annex 2 - List of Main Legislative Documents

Category
Act n° 37/1981- 11 amendments
Act 7/2001
Law n. 23/2007 (Aliens Act) - 15 amendments
Regulatory Decree n°. 84/2007– 7 amendments
Ordinance n° 1563/2007
Ordinance n°. 344/2017
Normative Order n°. 4/2018
Decree Law 62/2018
Law 73/2021
Council of Ministers Resolution n°. 101/2021
Assembly of the Republic Resolution 313/2021
Ordinance n°. 59-A/2022
Decree-Law 41/2023
Ordinance n°. 324-A/2023
Ordinance n°. 307/2023
Ordinance 63/2023