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The present bill is the response to new requirement that face Portugal as a European Community country facing immigration.

Furthermore, it also calls for the continued implementation of the international covenants of which Portugal is a signatory country.

The essential objectives of the law are: to improve the visa-granting procedure, clarify the procedure regarding the concession of residence permits and strengthen the control routines in order to prevent situations of illegal stay in the country, all with the full respect of the dignity of the citizen and the safeguarding of his/her rights.

In this law, changes are made to the visa-granting process, its formalities and duration in order to suit the particular needs and ultimate ends of the petitioning foreign citizens.

The decree allows for the concession and the renewal of the residence permit, even with no compliance with the requirements specified in the present document, but only in a few cases of recognized national interest.

The procedure of expulsion is changed in form, without any modification to the fundamental guarantees, in order to obtain a more rapid and less burdensome process.

The decree establishes a more capable and coherent law-enforcement regime that foresees sanctions for the infringement of the following norms.

In the deliberations preceding this law, the relevant authorities of the Governments of the Autonomous Regions of the Azores and Madeira were consulted.

It is hereby declared:

Given legislative authorization provided by Law n. 13/92 of July 23, and according to the terms laid out by line 1 of Article 201 of the Constitution, the Government decrees the following:

CHAPTER 1 - GENERAL PROVISIONS

Article 1 - Definition of "foreigner"

For the current document, a foreigner is he/she who lacks Portuguese nationality.

Article 2 - Definition of "resident"

A foreigner with a valid residence authorization in Portugal is considered a resident.

Article 3 - Border control posts

Foreigners wishing to enter or leave from national territory will have to do by using border control posts.

Article 4 - Special regimes

The items in this law do not infringe upon any of the regimes established by international treaties or covenants of which Portugal is a signatory country.

CHAPTER 2 - ENTRY INTO AND EXIT FROM NATIONAL TERRITORY

Article 5 - Travel documents and their substitutes

1 - For entry into or exit from national territory foreigners must be in possession of a passport valid for the entire length of stay.

2 - Foreigners without passport can enter or leave the Country provided they:

- a) Are covered by the conventions between the signatory countries of the North Atlantic Treaty;
- b) Are nationals of countries with which Portugal has accords, allowing them to enter or leave with an identity card or equivalent document;
- c) Possess a sailor identity card that refers to Convention n. 108 of the International Labor Organization, approved by the ratification of the Decree-Law n. 47/712 of May 19, 1967, when on active duty;
- d) Are national of countries with which Portugal has bilateral agreements, allowing them entry with a written document certifying that they are sailors, when on active duty;
- e) Possess the travel document that refers to the Geneva Convention of the 28 of July, 1951;
- f) Possess a collective certificate of identity and travel;
- g) Possess a laissez-passer issued by the United Nations, the European Community, or other international organizations recognized by Portugal;
- h) Possess a laissez-passer issued by the authorities of their national Government;
- i) Possess a flight license or a crew certificate which refer, respectively, to annexes 1 and 9 of the International Civil Aviation Convention, when on active duty.

3 - The laissez-passer mentioned in line 2-(h) is only valid for transit, and when issued on national territory

only allows the exit from the country.

4 - Foreigners with an expired passport can nonetheless enter and leave the country if Portugal has an agreement concerning expired passports with their respective governments.

5 - Foreigners equipped with a safe-conduct pass as established in Article 48 of the present document will be authorized to leave the country.

Article 6 - Entry visa

1 - For entry on national territory foreigners must be in possession of a valid visa, granted according to the provisions of this document, or a uniform visa issued by the relevant authorities of the member states of the European Community the validity of which must be recognized by Portugal.

2 - The visa placed in the passport or in the travel document allows a foreigner to present him/herself to a border post and request his/her entry in the Country.

3 - The following individuals can enter the country without a visa:

a) Foreigners in possession of the documents mentioned in lines a), b), c), and i) of item no.2 of Article 5, as well as those with a residence certificate or identity card as established by item no. 2 of Article 68.

b) Foreigners who benefit from the provisions of international instruments of which Portugal is a signatory State.

Article 7 - Conditions for entry and permanence

1 - Entry and stay in the Country are not permitted to foreigners who do not dispose of means of subsistence for all the period of stay, and for the trip into a country in which his/her admission is guaranteed, and if they are not in any condition to legally acquire such means.

2 - In order to be admitted and allowed to stay on national territory, foreigners must dispose of the equivalent of the following per capita amounts:

a) 20,000\$ [Escudos], for each entry onto national territory

b) 6,000\$, for each day of permanence

3 - The quantities mentioned in the previous item will be updated according to the percentage change of the highest national minimum salary, rounding off the increase to the nearest thousand.

4 - The money requirement specified in line b) of item 2 will be waived if an individual can prove that housing and living expenses are assured during the stay.

5 - The interested parties must present, if necessary, documents that explain the motive and conditions of requested stay or of transit.

Article 8 - Entry authorization in exceptional circumstances

1 - In situations where, for humanitarian reasons, motives of national interest, or international obligations, officially recognized by the Ministry of Internal Administration, entry into the country will be granted to those

foreigners who would otherwise be inadmissible.

2 - When the foreigners referred to in the preceding item are holders of diplomatic or service passport or of laissez-passer issued by the organizations mentioned in line g) of item no. 2 of Article 5, or are nationals of countries with which Portugal has no diplomatic or consular relations, the Ministry of Foreign Affairs will have to be consulted.

3 - The responsibility specified in item 1 is to be delegated to the Director of the Aliens and Border Service (Serviço de Estrangeiros e Fronteiras).

4 - If the person admitted under the conditions specified by the previous items is known to be in the common list as described in Article 10, the respective admission will be communicated to the relevant authorities of other European Union Countries.

Article 9 - Entry of minors

Without any prejudice towards certain forms of tourism or juvenile exchange programs, the inspection and control authorities must deny the entrance to foreigners below 18 years of age when unaccompanied by an individual lawfully exercising parental rights or when on national territory there is no one willing to take responsibility for their stay.

Article 10 -Prohibition of entry

1 - Entry on national territory will be prohibited to foreigners whose names appear on the European Union common list, or on the national list, compiled by the Alien and Border Service, comprising individuals who are not admissible given that

- a) They have been expelled from the Country;
- b) They have been convicted to incarceration for not less than a year;
- c) There is strong evidence that they have committed a serious crime;
- d) There is strong evidence that they intend to commit a serious crime or that they constitute a menace for public order, national security or the international relations of a member State of the European Community.

2 - No nationals of a State of the European Community can appear in the common list.

3 - The inclusion of a foreigner in the common list depends on the decision taken by the relevant authorities of a member State of the European Community.

4 - It is the responsibility of the Alien and Border Service to include a foreigner on the common list or on the national list of inadmissible individuals.

Article 11 - Entry declaration

1 - The foreigners who, not being European Union nationals, enter the country from a border post shared with another European Union member country must declare their entrance to the authorities within three days from their entry.

2 - The entry declaration must be submitted to the Alien and Border Service, the Public Security Police

(Policia de Segurança Pública), the Republican National Guard (Guarda Nacional Republicana) or the Fiscal Guard (Guarda Fiscal), in terms to be defined by regulatory decree. [nos termos a definir por decreto regulamentar]

Article 12 - Responsibilities of carriers

The maritime or air transportation company that carries onto national territory a crew member or a passenger whose entrance is refused is obligated to transport the refused back to the point where he/she began using the means of transportation or, if not possible, to the State where the travel document in his/her possession was issued or a State where he/she can be admitted.

Article 13 - Travel documents control

The Alien and Border Service can, in case of doubts over the authenticity of documents presented, access information on the issuing by Portuguese authorities of the passport, identity card or any other document utilized to cross the border.[?]

CHAPTER III - VISAS

SECTION I - VISAS ISSUED ABROAD

Article 14 - Visa classification

The following types of visas can be issued abroad:

- a) Diplomatic;
- b) Service;
- c) Consular.

Article 15 - Diplomatic and service visas

1 - Diplomatic and Service visas can be issued by Portuguese [carreira] embassies and consulates, authorized by the Ministry of External Affairs, to holders of diplomatic or service passports or of laissez-passer issued by the organization listed in line g) of item 2 of Article 5.

2 - The visas referred to by the previous item have to be utilized within 60 days of their issuing, allowing at most two entries into Portuguese territory and a permanence not greater than 60 days, after which the document will be considered void.

3 - In exceptional circumstances, diplomatic or service visas that allow for multiple entries, have a duration of 1 year, and allow for a permanence of up to 180 days can be issued. For such documents to be issued, the Ministry of Foreign affairs needs to officially recognize humanitarian reasons or national interest priorities or international obligations.

Article 16 - Consular visas

1 - Consular visas are issued by Portuguese Consulates, Consulates-General, and Consular sections of

Embassies.

2 - Consular visas can be for

- a) Transit;
- b) Employment;
- c) Residence;
- d) Short duration;
- e) Uniform;
- f) Study;
- g) Intermediate landing.

Article 17 - Transit visas

1 - Transit visas will be issued to permit entry into Portuguese territory to individuals who have to reach another State where their entry is guaranteed.

2 - The transit visa has a maximum duration of five days.

Article 18 - Employment visas

1 - Employment visas will be issued to permit entry into Portuguese territory to individuals who have to work, on a temporary basis, on a professional activity while self-employed or employed by someone else.

2 - The employment visa only allows its holder to be involved in the activity which justified its concession.

3 - An Employment visa is not required neither for residents nor for foreigners covered by the framework of relevant agreements of which Portugal is a signatory country.

4 - The Employment visa is only valid for two entries into national territory, and can be issued for as much as 90 days.

Article 19 - Residence visas

1 - The residence visa will be issued to allow entry into Portuguese territory to individuals who wish to obtain Portuguese residence.

2 - The residence visa is only valid for two entries into national territory and allows its holder to stay for a maximum of 90 days.

3- The duration of the residence visa is extendible (by the Alien and Border Service) up until the final decision on the request for residence authorization.

Article 20 - Visas of short duration

1 - Short duration visas will be issued to permit entry into Portuguese territory to individual for purposes that, while deemed acceptable by the relevant authorities, do not warrant the issuing of any other type of visa.

2 - Short duration visas are valid for one or more entries; each duration of an interrupted stay or the total length of successive stays cannot be greater than three months every six months, from the first entry into national territory.

Article 21 - Uniform visa

1 - The uniform visa can consist of a transit visa or a short duration visa.

2 - The uniform transit visa allows its holder to transit through the territory of member States of the European Community in order to reach a third country; the transit can last for a maximum of five days.

3 - The uniform short duration visa allows its holder one or more entries into the territory of member States of the European Community; each interrupted stay or the total duration of successive stays cannot exceed three months every six months, from the first entry.

4 - The uniform visa must mention the authorized maximum length of permanence; the first useful date is the date for entry into the territory of a member State of the European Community, and the last useful date is the last date for exit.

Article 22 - Study visa

1 - A Study visa allows its holder entry into Portuguese territory to pursue studies at a recognized academic institution.

2 - The visa mentioned in the item above does not allow its holder to perform any professional activity.

3 - Study visas are valid for two entries into national territory, and allow their holders to remain in Portugal for up to a year.

Article 23 - Intermediate landing visa

1 - The intermediate landing visa allows its holder, traveling from one foreign country to another, to have an intermediate landing in a Portuguese airport.

2 - The holder of an intermediate landing visa only has access to the international area of the airport, since he/she needs to continue the trip, on the same or different airplane, according to his/her travel arrangements.

3 - The nationals of countries jointly identified by official communication by the Ministry of Internal Administration and the Ministry of Foreign Affairs are exempted from the intermediate landing visa requirement.

Article 24 - Utilization period for consular visas

With the exception of the uniform visa, consular visas must be utilized within 120 days after their issuing.

Article 25 - Visas subjected to previous consultation

1 - The granting of visas will take place without prior consultation with the Alien and Border Service in the following circumstances:

- a) When the individuals in question are nationals of countries with which Portugal has no diplomatic or consular relations;
- b) When the individuals in question carry travel documents issued by authorities of a country which is not their home country, or are war refugees or displaced persons, with the exception of holders of laissez passer issued by the organizations mentioned in line g) of item 2 of Article 5, provided that the travel document reports the nationality of the individual.
- c) When the individuals in question wish to establish residence in Portugal.
- d) When dictated by national interest concerns

2 - In the circumstances mentioned by lines a), b), and d) it is assumed that there is no objection to the concession of a visa when the Alien and Border Service does not reply within 14 days.

3 - In exceptional cases, of recognized urgency or of national interest as recognized by official communication by the Ministry for Foreign Affairs, which in turn will inform the Ministry of Internal Administration, the consultation with the Alien and Border Service is not required for the granting of visas in the circumstances mentioned in lines a), b), and d) of item 1.

Article 26 - Granting of employment visa

1 - The employment visa can only be granted with the approval of the Inspectorate-General for Employment (Inspeção-Geral do Trabalho).

2 - The ruling by the Inspectorate-General for Employment can be given for an individual case or for an entire professional sector, keeping in mind regional or local employment contingencies.

3 - The relevant authority will not grant a visa in the following situations:

- a) The declared offer of employment by a prospective employer is false;
- b) The professional activity has not been licensed by the State, or if there have been late payments or if occupational security, health and hygiene regulations have not been respected;***
- c) Failure by the employer to respect fiscal and social security obligations;
- d) Existence of unemployment in the given sector;
- e) The petitioning individual proposes to follow a profession for which he/she does not meet the existing legal requirements.

Article 27 - Repatriation guarantee

1 - The granting of employment or short duration visas will be contingent upon a guarantee of repatriation. The decision to require a guarantee of repatriation can be taken by the person responsible at the Consular office or by the Alien and Border service when consulted according to the terms specified by Article 25.

2 - The guarantee of repatriation consists of a deposit large enough to cover the cost of a trip to the country of nationality or residence of the petitioner.

3 - The guarantee of repatriation is deposited in the General Deposit Bank (Caixa Geral de Depositos) at the orders of the Alien and Border Service.

4 - The guarantee of repatriation will be returned to the foreign citizen when one of the following situations occurs:

a)The foreign citizens abandons the country voluntarily or he/she is granted the right asylum;

b)The visa is annulled by the relevant consular authority by request of the petitioning individual, for not being admitted in the Country (a coberto) of such visa or for his/her inability to use it.

5 - The return of the guarantee of repatriation will only be authorized if requested within the limit of one year, starting from the occurrence of some of the facts indicated by item 4.

Article 28 - Granting of the residence visa

1 - In the evaluation process for the issuing of a residence visa, the following criteria will be taken into account:

a)Purpose of request, (length of stay/abode/residence), and practicability of request;

b)Means for subsistence that the petitioner disposes to live in the Country;

c)Lodging conditions;

d)Family grouping concerns;

2 - With regard to line d) of the previous item, the following are considered as family members of the resident:

a)Consort and sons/daughters or adopted minors or legally incapable;

b)Ancestors of the resident or of his/her consort, provided that they (se encontrem) at his/her expense.

SECTION II - VISAS ISSUED ON NATIONAL TERRITORY

Article 29 - Passport requirement

Foreigners entering the country in accordance to the guidelines indicated in lines b), c), d), and i) of item 2 of Article 5 will need to possess a passport for the renewal of the visa if they wish stay more time that was initially granted at the border.

Article 30 - Permanence visas

Foreigners wishing to prolong their stay to a time greater than what was initially granted at their entry into the Country can be issued two types of visas:

a)Permanence visas up to 60 days, extendable for periods of 60 days, if they have been admitted onto national territory without a visa or with diplomatic, service or short duration visas;

b) Permanence visas up to one year, extendable for periods of one year, for holders of study visas or in cases of justifiable exception.

Article 31 - Visa-Issuing jurisdiction

The issuing and extending of visas discussed in the present section are under the jurisdiction of the Alien and Border Service.

Article 31 - Extension of employment visas

Consular employment visas can be extended only once for a maximum of 60 days.

Article 33 - Visas granted at border control posts

1 - Border control posts may only issue transit and short duration visas.

2 - A transit visa will be granted to the foreigner if he/she holds a ticket for his/her ultimate destination, where he/she has assured entry. The visa allows its holder to transit once on national territory for a maximum of five days.

3 - The length of stay mentioned in the previous item is extendible for another five days. The decision rests with the Alien and Border Service. If the petitioner is a holder of a diplomatic or service passport, or of a laissez-passer issued by the organizations mentioned in line g) of item 2 of Article 5, then the concession of the extension must be preceded by consultation with the Ministry for Foreign Affairs.

4 - The short duration visa can be issued to the foreigner who, given unforeseen circumstances, was not able to petition the relevant Portuguese authority for a visa, provided that the foreigner:

a) Is a holder of a valid travel document, allowing entry into the country;

b) Satisfies the requirements laid out in Article 7 of the present document;

c) Is not present in the common and/or national list of inadmissible persons;

d) Does not constitute a threat for public order, national security or international relations of a member State of the European Community;

e) Can show that his/her travel and admission to the country of destination are guaranteed.

Article 34 - General guidelines for the issuing of visas

1 - The issuing process for a uniform visa respects the following guidelines:

a) The travel document presented for the visa request has to be verified to be regular and authentic;

b) The travel document must be valid for at least three months longer than the expiration date of the visa, taking into consideration the time span of destination (travel document?/visa?);

c) The travel document must be recognized by all member States of the European Community;

d) The travel document must be valid for all member States of the European Community;

f) If the country of origin requires an authorization document or a visa for the return of the foreigner onto its national territory, then the existence and authenticity of such documents needs to be verified. The same procedure applies relative to the entry authorization requirements of a third country.

2 - The granting of transit and short duration visas conform to the requirements specified by item 1, in order to ensure their recognition by other member States of the European Community.

3 - For the issuing of other visas referred to in the present chapter the requirements specified by item 1 need to be followed; in these circumstances, recognition by Portugal is sufficient.

4 - The procedural regulations for the petitioning of the visas discussed in the present chapter are determined by regulatory decree.

CHAPTER IV - TRAVEL DOCUMENTS

SECTION I - TRAVEL DOCUMENTS ISSUED BY PORTUGUESE AUTHORITIES

Article 35 - Travel documents granted to foreigners

Portuguese authorities can grant to foreigners the following travel documents:

- a) Passport for foreigners;
- b) Travel certificate for refugees;
- c) Safe-conduct passes;
- d) Emergency certificate for European Community citizens;

Article 36 - Passport for foreigners

The granting of passports to foreigners conforms to the norms detailed in Decree-Law no. 438/88, of November 29, modified by Decree-Law no. 267/89, of August 18.

Article 37 - Travel certificate for refugees

Foreigners residing in Portugal with the status of refugees, covered by Law no. 38/80, of August 1, as well as the refugees covered by §11 of the annex to the 1951 Geneva Convention, will be able to obtain a travel certificate to be approved by governmental order by the Minister of Internal Administration.

Article 38 - Validity of the travel certificate

The travel certificate for refugees is valid for one year, is extendible, and can be used for an unlimited number of times. It allows the return onto national territory of its holder within its period of validity.

Article 39 - Individuals covered by the travel certificate

The travel certificate for refugees can include the holder and his/her sons/daughters or adopted children who

are less than ten years old.

Article 40 - Legal registration, legalization

1 - Legal registration (changes) is not permitted on the travel certificate after issuing it.

2 - Exceptions to what is required in the previous item are made for the extensions in the certificate's validity, as specified in Article 38.

Article 41 - Jurisdiction for the granting of the travel certificate

The following entities are responsible for the granting of travel certificates for refugees:

a) The director of the Alien and Border Service if within national territory;

b) Portuguese consular or diplomatic authorities if abroad, pending the approval of the Alien and Border Service.

Article 42 - Issuing and control of the travel certificate

1 - The issuing of the travel certificate for refugees is issued by the authorities who have jurisdiction over this matter.

2 - The Aliens and Border Service will centralize the national register and the control of the travel certificates issued.

Article 43 - Conditions for validity

1 - The travel certificate is only valid when filled out in a legible fashion, with all the relevant items filled and all irrelevant items left blank.

2 - No amendments or erasures are allowed on the documents.

3 - The photographs used must be recent, in color, with a contrasting and flat background and good conditions for identification.

4 - The photograph of the holder and the signature of the issuer of the travel certificate have to be certified by the stamping of the white seal of the Service.

5 - The travel certificate must be signed by the holder, save if in the space reserved for this item the issuer specifies that the holder knows not how to or cannot sign it.

Article 44 - Inappropriate use

1 - Travel certificates used in an unlawful fashion will be confiscated and handed back to the Alien and Border Service.

2 - Travel certificates which present irregularities in the individual identification sections can be refused.

Article 45 - Travel certificate request

1 - The request for a travel certificate is promoted by the petitioner.

2 - The request for travel certificate for minors is formulated:

a)By either parent, in case of marriage;

b)By the relative who exercises parental authority, in terms of the judicial decision;

c)By the individual who, due to the lack of parents and relatives, in terms of the law, exercises parental authority;

d)For the individual who exercises tutelage or curatel for those individuals declared unqualified or proscribed (restricted).

3 - If the petitioners are declared unqualified or restricted (proscribed), the request will be formulated by the individual who exercises tutelage and curatel on the behalf of the petitioners.

Article 46 - Assistance for obligations

The director of the Alien and Border Service can, for justifiable reasons, substitute by official communication the obligations specified by item 2 of the previous Article.

Article 47 - Limitations to the use of the travel certificate

The refugee who, using the travel certificate issued under the terms specified by the present document, travels in a country in which he/she faces the contingencies specified by §§ 1 to 4 of Section C of Article 1 of the Geneva Convention of July 28, 1951, will have to apply for a travel certificate issued by that country.

Article 48 - Granting safe-conduct passes

Safe-conduct passes can be granted to foreigners who do not reside in the Country and who demonstrate impossibility or difficulty of exit from national territory.

Article 49 - Jurisdiction for the granting of safe-conduct passes

It is the responsibility of the director of the Alien and Border Service to grant safe-conduct passes; he/she can delegate authority to the respective regional directors.

Article 50 - Issuing of safe-conduct passes

1 - A safe-conduct pass is issued with the only purpose of allowing exit from the country.

2 - The model document for the safe-conduct pass is approved by governmental decision by the Minister of Internal Administration.

Article 51 - Emergency certificate for citizens of member States of the European Community

1 - The emergency certificate is issued to nationals of member States of the European Community who find themselves without documents due to conditions of imminent danger or grave emergency.

2 - The certificate mentioned above is issued with a validity strictly necessary to allow the return its holder to his/her country of origin or to any other country where he/she is admitted.

3 - It is the responsibility of Portuguese diplomatic or consular authorities to grant and issue this document.

4 - The model document for the emergency certificate for citizens of member States of the European Community is approved by governmental decision by the Minister of Internal Administration.

Article 52 - Nationality of holder

A travel documents issued by Portuguese authorities to foreign citizens do not constitute proof of the nationality of its holder. [fazer prova]

SECTION II - TRAVEL DOCUMENTS ISSUED BY FOREIGN AUTHORITIES

Article 53 - Control of travel documents

Non-resident aliens who are equipped with travel documents issued on national territory by diplomatic missions and consular offices have to present such documents, within three days of being issued, to the Alien and Border Service.

CHAPTER V - RESIDENCE AUTHORIZATION

Article 54 - Request for residence authorization

1 - The residence authorization request can be formulated by the petitioner or by his/her legal counsel. The request has to be submitted to [apresentado junto do] Alien and Border Service.

2 - The request can cover the minors under the responsibility of the petitioner.

Article 55 - Granting of the residence authorization

For the granting of the residence authorization the interested party mentioned in item 1 of the previous article must satisfy the following requirements:

a) Possession of a valid residence visa;

b) (104) ensuing

c) Presence on national territory.

Article 56 - Certificate of residence

1 - A certificate of residence will be issued to all foreign national who will be granted the authorization to reside in Portugal.

2 - The certificate of residence is required for minors, starting from the age of 14, and has to be requested by the respective legal representative.

3 - The certificate described in the previous item will be issued taking into account the planned period of stay of its holder.

Article 57 - Types of residence certificates

The types of residence certificates considered in the previous article are of three kinds, and their respective model formats will be approved by governmental decision by the Minister of Internal Administration:

- a) Annual residence certificate, valid for one year starting from the date of it is issued, and renewable for periods of one year;
- b) Temporary residence certificate, valid for five years and renewable for periods of five years, which will grant foreigners to reside in Portugal for five consecutive years;
- c) Lifelong certificate, for foreigners who have resided in Portugal for twenty consecutive years.

Article 58 - Renewal of the residence authorization

1 - The renewal of the residence permit must be petitioned by the interested parties at least 45 days before its end of validity.

2 - In the assessment of such request the Alien and Border Service will take into account the following criteria:

- a) Means of subsistence at the disposal of the petitioner;
- b) Accommodation conditions;
- c) Compliance of the petitioner with all Portuguese laws concerning foreigners.

Article 59 - Expiration of residence authorization

1 - If a foreigner fails to renew the authorization within the given time limit, renewal will only be conceded, in terms of the present chapter, with a penalty of 24,000\$.

2 - The penalty indicated in the previous item will be updated according to the percentage increase of the minimum national salary, rounded off to the nearest thousand.

Article 60 - Procedural instructions (not lawsuit)

The rules concerning the process for the granting and renewal of the authorization are approved by regulatory decree.

Article 61 - Duties of the resident

Residents have to communicate to the Alien and Border Service any change to nationality, civil status, profession, domicile or any absence of the country that exceeds 90 days. If a foreign resident leaves the Country for more than 90 days, he/she will have to contact the Service before leaving the country; if the foreign resident makes any other changes mentioned above, he/she will have 8 days to report them.

Article 62 - Termination of the residence authorization

1 - The residence permit will be terminated if foreigners who have been granted such authorization spend more than six months abroad, whether consecutively or in any other order, for each year of stay; those who do not comply with the requirements regulating their residence permit; those who can compromise public order, national security or international relation of other member States of the European Community.

2 - The termination of residence has to be communicated to the foreigner subjected to this decision; the communication must indicate the bases for the decision and implies the seizure of the corresponding certificate.

Article 63 - Foreigners exempted from the residence permit procedure

1 - A residence permit is not required for accredited diplomatic and consular agents and personnel who come to Portugal to work in diplomatic missions and consular offices of their Country; their families are also exempted.

2 - The individuals mentioned in the previous item will be given an identity card issued by the Ministry of Foreign Affairs and examined by the director Alien and Border Service; the identity card certifies the status mentioned in item 1.

Article 64 - Exceptional regimes

1 - In exceptional cases of recognized national interests, declared officially by the Minister of Internal Administration, the residence permit can be granted or renewed without fully complying with the requirements laid out by the present document.

2 - The director of the Alien and Border Service will be responsible for the renewal of such permits.

3 - The residence certificate to be issued in terms of the current article is valid for a maximum of five years, and can be renewed for periods of five years.

4 - The model document for the certificate mentioned in the previous item will be approved by governmental decision by the Minister of Internal Administration.

CHAPTER VI - NOTE OF PERSONAL ACCOMMODATION

Article 65 - Note of personal accommodation

1 - The note of personal accommodation allows the control of foreigners on national territory.

2 - A note of personal accommodation will be filled for each foreign citizen; the model document for such note will be approved by governmental decision by the Minister of internal administration.

Article 66 - Dwelling notification

1 - The management of hotels, tourist lodgings, tourist complexes, and those who host foreigners, rent or sublet a house, or hand over a house, in any condition, to foreign occupants are obligated to notify the Alien and Border Service within three days, using the note of personal accommodation. In the localities where the

Service has no office, the note must be submitted to the Public Security Police or the Republican National Guard.

2 - Nonresident aliens who own their own dwelling are obligated to submit a note of personal accommodation using the procedures indicated previous item.

3 - After the departure of the foreigner from the referred lodging, the stub of the note of personal accommodation must be submitted, within three days, to the authorities mentioned in item 1.

4 - The note of personal accommodation can be substituted by magnetic media if the lodging establishments dispose of such means; this solution still requires for items 1 and 3 to be respected fully.

5 - The submitted magnetic media must include all the items mentioned in the note of personal accommodation.

CHAPTER VII - EXPULSION FROM NATIONAL TERRITORY

SECTION I - GENERAL PROVISIONS

Article 67 - Bases for expulsion

1 - In accordance with the international treaty and convention obligations that Portugal has assumed by signing international agreements, the following foreign citizens will be expelled from national territory:

a) Those who penetrate into or live illegally on national territory;

b) Those who threaten national security, public order and decency.

c) Those whose presence or activities in the Country constitutes a threat to the interests and dignity of the Portuguese State and its nationals;

d) Those who interfere by illegally exercising the right of political participation reserved to Portuguese nationals;

e) Those who do not abide to Portuguese laws concerning foreigners;

f) Those who have practiced act that, if known by Portuguese authorities prior to the individuals' entry, would have prevented their admission onto national territory.

2 - The conditions mentioned in the previous item do not exclude the criminal responsibility that actions performed by a foreigner may assume.

3 - For refugees, the most beneficial and advantageous procedures will be enacted, as mandated by law or international agreements of which Portugal is a signatory country.

Article 68 - Complementary sentence of expulsion

1 - In accordance with the penal code, a prison sentence will be accompanied by expulsion in the following cases:

a) Foreigners not resident in Portugal sentenced for fraudulent crime to more than six months of prison;

b) Foreigners resident in Portugal for less than five years sentenced for fraudulent crime to more than one year in prison;

c) Foreigners resident in Portugal for more than five and less than 20 sentenced to more than three years in prison.

2- The complementary sentence of expulsion will be executed as soon as the expelled will be granted parole.

Article 69 - Relevant authority for expulsion

The expulsion can be determined, given the terms and condition of the present law, by judicial authority or the relevant administrative authority.

Article 70 - Competence

1 - The director of the Alien and Border Service can initiate an expulsion lawsuit and order the prosecution of individuals; he/she can direct the lawsuit to the relevant tribunal. The director of the Alien and Border Service can delegate this function to the regional directors of the Service.

2 - The Minister of Internal Administration makes the decision of filing the lawsuit.

Article 71 Time limits for the execution of the expulsion

1 - The delay between the decision of expulsion and the execution of the expulsion cannot exceed 40 days.

2 - The Alien and Border Service is the agency responsible for the execution of the decisions of expulsion.

Article 72 - Country of destination

1 - The expulsion process cannot send the foreigner to any country in which he/she may be prosecuted for motives that, as specified by the relevant laws, justify the granting of the right to asylum.

2 - The guarantees specified by the previous items can be enjoyed by an individual if he/she claims fear of persecution and presents proof within the time period that is granted.

3 - In cases that correspond to the one mentioned in the previous item, the expelled must be directed to another country willing to accept him/her.

Article 73 - Minimum time requirement for the prohibition of entry

An expelled foreigner will not be able to return on national territory for a period no shorter than three years.

Article 74 - Methods of enforcement

1 - The following methods of enforcement are available to the judge, as well as the ones listed by the Penal Process Code:

a) Personal appearance at given times at the Alien and Border Service

b) Placement of the expelled in his/her own accommodation [em centro proprio]

2 - Whenever the foreigner must be presented into Court for eventual application of restraining orders, are competent the Police Courts or if those cannot apply, the District Courts of the place of his/her residence, or failing this, the place where he/she is to be found.

Article 75 - Accommodation procedures

The following foreign individuals have to stay in centers of temporary accommodation until the sentence of expulsion is executed:

- a) Those sentenced to complementary expulsion;
- b) Those who do fail to regularly appear at the Alien and Border Service at given times;
- c) Those who cannot guarantee their subsistence while living in the country;
- d) Those who are considered likely to resist the process of expulsion or those who are deemed to constitute a threat to interests distinct from the one that has determined their expulsion.

SECTION II - EXPULSION DETERMINED BY JUDICIAL AUTHORITY

Article 76 - Judicial expulsion

The expulsion is determined by judicial authority when the sentence for complementary expulsion is revised (revista), or when the foreigner subjected to the decision

- a) Has entered into or lives on national territory on a regular basis;
- b) Has obtained authorization for residence;
- c) Has presented a petition for asylum which has not been refused.

Article 77 - Relevant tribunal

1 - The following institutions are able to autonomously apply the expulsion measures:

- a) Police tribunals/trials/judgments (juizos) in Lisbon, Porto, and Vila Nova de Gaia;
- b) District tribunals in the remainder of the country.

2 - Territorial jurisdiction is determined by the location of the residence of the foreign citizen in Portugal, or, if this cannot apply, of the location where he/she was found.

Article 78 - Expulsion lawsuit

1 - As long as there is knowledge of a fact that can justify expulsion, the Alien and Border Service will organize a lawsuit which should prove the need for such decision.

2 - The expulsion lawsuit commences with the official document that orders its constitution; it must contain, along with the identification of the suspected, all of the proofs that are intended to make a case for expulsion, his/her residence status, and if applicable the number of years spent as resident.

Article 79 - The trial

- 1 - Having received the lawsuit, the judge will establish a date for the trial, which will have to take place within five days upon receipt. He/she will have to notify the accused, the regional director of the Alien and Border Service, and the witnesses indicated in the lawsuit (auto e processo)
- 2- The presence of the accused in court is obligatory for a legal trial.
- 3 - The court summon must mention that the accused can contest the prosecution's case in the courtroom and can introduce in the court register favorable witnesses and elements of proof.
- 4 - The notification document to the regional director of the Alien and Border Service seeks the designation of a agency official(s) that can offer to the court substantive judgments and clarification during the trial.

Article 80 - Postponement of the trial

The trial can only be postponed once and up until the tenth day from the scheduled date:

- a)If the accused requests additional time to prepare his/her defense
- b)If the accused is missing
- c)If witnesses which to which the prosecution or the defense is unwilling to renounce are missing;
- d)If the court, officiously, considers it necessary to proceed to further examine the elements of proof crucial to the determination of the truth, when it is expected that the further examinations will take less than the allotted time for postponement.

Article 81 - Content of the decision

- 1 - The decision of expulsion will contain the following:
 - a)The bases for the decision;
 - b)The legal obligations of the expelled;
 - c)The prohibition of re-entry for the expelled, with the minimum duration of the prohibition;
 - d)The indication of the country where the expelled will not be returned, if the expelled benefits from the guarantee mentioned in Article 72.
- 2 - The prohibition of entry implies the addition of the expelled's name in the common list or national list of inadmissible persons.

Article 82 - Subsidiary application of summary jurisdiction

The procedures set forth by the Penal Process Code relative to trial in summary jurisdiction are applicable, with the necessary adaptations, to the judicial process described above.

Article 83 - Appeal

1- Decisions handed down under the terms of article 76 and following ones, shall permit an appeal within the Court of Appeals.

2- This appeal has purely devolutionary effect.

3- The procedures set forth by the Penal Process Code relative to appeals are applicable, with the necessary adaptations, to the judicial process described above.

SECTION III - EXPULSION DETERMINED BY ADMINISTRATIVE AUTHORITY

Article 84 - Illegal entry and exit

1- Foreigners who illegally enter into or live on national territory will be detained by any authority and responsibility for them will be transferred to the Alien and Border Service accompanied by their respective auto (records of lawsuit). The accused has to appear before a judge within 48 hours after being detained. The judge will then have to decide whether to validate the detention measure and what enforcement measures to adopt.

2 - If the judge rules in favor of preventive detention, he/she will have to notify the Alien and Border Service in order to proceed with the expulsion lawsuit.

3 - The preventive detention measure specified in the previous item will not be longer than the length required to permit the execution of the decision of expulsion, without exceeding the forty-day limit.

4 - If preventive detention is deemed unnecessary, the judge will nonetheless proceed with the notification of the Alien and Border Service, as specified in item 2. The judge will also have to inform the accused that he/she will have to make regular appearances to the Service.

5 - Expulsion lawsuits will not be pursued in the case of a foreigner who, within 48 hours of his/her illegal entry into the country, presents him/herself to the authorities seeking political asylum.

6 - The foreigner described in the previous item will wait for the response to his/her request without being subjected to any restriction in mobility/freedom. He/she will have to be at the disposal of the Alien and Border Service, which will indicate his/her obligations.

Article 85 - The lawsuit

1 - During the program of proceedings in a lawsuit the audition of the accused is ensured - he/she will enjoy all the guarantees of the defense.

2 - The judge [instrutor] will promote the examinations considered essential for the finding of the truth, having the possibility to refuse, in an official ruling, those requested by the accused, when he/she judges sufficiently proven the fact alleged by this person.

3 - When the proceedings are brought to a conclusion, the judge will prepare a written report indicating the verified facts, proposing the resolution he/she deems appropriate, even though it will be the lawsuit itself the relevant instrument to pass judgment.

Article 86 - The expulsion decision

1 - The decision to expel must be notified to the accused; its content must attain to the guidelines specified in Article 81.

2 - The notification described in the previous item will mention the right to appeal, as well as the time limit for its submission [interposicao].

Article 87 - Appeal

1- From the expulsion order reached out by the Director of the Alien and Border service it can be lodged an appeal to the Minister of Internal Administration.

2 - The Law of Lawsuits in Administrative Tribunals covers whatever procedure or regulation not explicitly mentioned in the present document.

SECTION IV - EXECUTION OF THE EXPULSION DECISION

Article 88 - Execution of the decision

1 - The condemned must leave national territory within the time limit that was assigned as part of the sentence.

2 - It can be requested to the judge on the case that, between the sentencing date and the execution date, the condemned be subjected to the following:

a) Forced accommodation in a designated center;

b) Periodic reporting by the condemned to offices of the Alien and Border Service or Police authorities.

Article 89 - Centers of temporary accommodation

1 - The centers for temporary accommodation are designated to temporarily accept foreigners that conform to the conditions specified by Article 75. Foreigners whose entry into the country was refused given the lack of assurance of being able to return home may also be relocated to such centers.

2 - The centers for temporary accommodation have to provide dwellings - their functioning conforms to the regulations approved by the director of the Alien and Border Service.

3 - The building and location of the centers of accommodation depends by joint governmental decree on the Ministers of Finance, Internal Administration, Justice, Labor, and Social Security, given proposals of the director of the Alien and Border Service.

Article 90 - Violation of the expulsion order

1 - Entry into national territory by an expelled during the period of interdiction is a criminal offense punishable with up to 2 years of prison or a fine of 100 days.

2 - If the tribunal finds the expelled guilty, it will sentence him/her to complementary expulsion.

Article 91 - Transmittal of judgment (certidao das sentencas)

The tribunals will send to the Alien and Border Service, in the shortest amount of time possible, judgments pronounced in criminal lawsuits against foreign citizens.

Article 92 - Communication of expulsion

The expulsion decision has to be communicated, by diplomatic channels, to the relevant authorities of the country of destination of the expelled.

CHAPTER VIII - AIDING ILLEGAL IMMIGRATION

Article 93 - Aiding illegal immigration

1- Whoever favors or facilitates the illegal entry of a foreign citizen into national territory will be punished with prison up to two years.

2- If an agent is engaged in the practice described in the previous item as a for-profit activity, then the prison sentence will be of at most three years.

3- The attempt to engage in the practice described in item 1 is itself punishable.

Article 94 - Associations aiding illegal immigration

1 - Whoever founds a group, organization or association whose activity is the practice of the crime described in the previous article will be punished with a prison sentence of at most five years.

2 - The same sentence will be passed to whoever is a member to such groups, organizations or associations.

3 - The leaders of the groups, organizations or associations mentioned in the previous items will be punished with a prison sentence of at most five years.

4 - The attempt to engage in the practice described in the previous items is itself punishable.

Article 95 - Illegal entry

Entry into national territory is considered illegal if it violated the provisions laid out in Articles 3, 5, 6, 10, and 11.

CHAPTER IX - TAXES

Article 97 - Taxes

1 - Diplomatic and service visas are issued free of charge.

2 - The taxes to be collected for the issuing of consular visas can be found on the Table of Consular Fees.

3 - The remaining taxes for the administrative procedures specified by the present document are set by joint decree by the Ministers of Internal Administration and Finance.

4 - The amount of the taxes collected, in terms of the previous item, constitute revenues for the Alien and Border Service.

Article 98 - Exemption or reduction of taxes

1 - In accordance to the prescriptions of the previous article, foreigners wishing to obtain authorization or renewal of the residence permit and showing impossibility to afford the respective tax may see the fee reduced by 50% or waived by decision of the Director of the Alien and Border Service.

2 - The benefits of fee reduction or exemption will apply to nationals of countries with which Portugal has accords of such nature.

CHAPTER X - ENFORCEMENT AND SANCTIONS

Article 99 - Illegal stay

1 - In cases of illegal stay of foreigners on national territory for a period greater than authorized, the following sanctions apply:

- a) From 12,000\$ to 24,000\$, if the illegal stay is shorter than 30 days;
- b) From 24,000\$ to 48,000\$ if the illegal stay is between 30 and 90 days;
- c) From 48,000\$ to 72,000\$ if the illegal stay is between 90 and 180 days;
- d) From 72,000\$ to 96,000\$ if the illegal stay is greater than 180 days.

2 - The same sanctions will be applied when the offense described in the previous item is detected at the exit from the country.

3 - In some cases the length of stay can be increased as long as the law warrants such stay without waiting for the payment of a fine.

Article 100 - Lack of entry declaration

The infringement of the requirements specified by Article 11 will result in sanctions ranging from 20,000\$ to 100,000\$.

Article 101 - Transport of a citizen whose entry is unauthorized

The transportation companies, as well as anyone who carries onto national territory a passenger or crew member whose entry is not authorized will be subjected to, for each unauthorized individual, to a sanction ranging from 200,000\$ to 250,000\$.

Article 102 - Lack of employment visa

Foreign citizens who are found to be engaging in professional activities while self-employed or employed by someone else while without an employment visa will face a penalty ranging from 20,000\$ to 140,000\$.

Article 103 - Misuse of the travel certificate (titulo)

The use of the travel certificate in an unlawful fashion will result in a penalty ranging from 10,000\$ to 24,000\$.

Article 104 - Lack of travel documents

Infringement of the requirements indicated in Article 53 will result in a penalty ranging from 16,000\$ to 32,000\$.

Article 105 - Lack of residence document

Infringement of the requirements indicated in item 2 of Article 56 will result in a penalty ranging from 8,000\$ to 24,000\$.

Article 106 - Disregard for given duties

Infringement of the duties of reporting specified in Article 61 will result in a penalty ranging from 6,000\$ to 24,000\$

Article 107 - Failure to report the location of domicile.

Infringement of what is specified in Article 66 will result in a penalty ranging from 6,000\$ to 30,000\$ for each domicile bulletin (boletim) not presented during the legal time limit or for each foreign citizen not registered on the list or on the magnetic media support.

Article 108 - Negligence

In the list of sanctions presented in the previous articles, negligence is always punishable.

Article 109 - Allocation of funds received from penalty payments

The revenue accrued from penalty payments mentioned in this law will be allocated in the following fashion:

a)60% for the State

b)40% for the Alien and Border Service

Article 110 - Jurisdiction for the enforcement of the penalties

The enforcement of the penalties mentioned in the present document fall under the jurisdiction of the Alien and Border Service.

Article 111 - Updating of penalty amounts

In accordance to the maximum limits established by the Decree-Law no. 433/82, of October 27, and with the alterations introduced by Decree-Law no. 356/89, of October 17, the amount of the penalties indicated in this law will be updated according to the percentages of increase of the highest national minimum salary, rounding off the increase to the nearest thousand.

CHAPTER XI - FINAL GUIDELINES

Article 112 - Changes of nationality

1 - The central record center (conservatoria) must inform the Alien and Border Service of any changes in nationality that are registered.

2 - Such information must be communicated within 15 days of its introduction in the record center.

Article 113 - Identification of foreigners

In order to determine the identity of foreigners, the Alien and Border Service will be able to avail itself of civil identification procedures, including photographs and fingerprints.

Article 114 - Expenditures (Despesas)

1 - The expenditures necessary for the trip to leave the country which cannot be supported by the foreigner or which, given international agreements and conventions, the foreigner is not required to support, and which are not supported by the entities referred to in Article 12, will be supported by the State.

2 - The State will also be able to support the expenses necessary for the voluntary exit from the Country:

a) For family members of the expelled who depend on the latter for support, and for which the expelled cannot afford the trip out of the Country;

b) For foreign citizens who have no means of subsistence and who cannot benefit from the support of their country's diplomatic service.

3 - In order to fulfill the obligations resulting from the enforcement of this document the necessary appropriations will be specified in the budget of the Ministry for Internal Administration. [check]

4 - In accordance to what indicated by item 4 of Article 27, the repatriation guarantee deposit which cannot be returned will be allocated to the Alien and Border Service, and will be used in order to cover the expenses specified by this Article.

Article 115 - Collaboration of the police forces and of city councils

If there are no offices of the Alien and Border Service in a given location, the jurisdiction over foreigner-related matters will pertain to the Public Security Police of the Republican National Guard; help from city councils is also encouraged.

Article 116 - Revocation

The following are revoked:

a) Decree-law no. 264-B/81, of September 3;

b) Decree-law no. 333/82, of August 19;

c) Decree-law no. 312/86, of September 2.

Article 117 - Transitory Guidelines

Until the implementation of the regulation specified in the current document, Decree-law no. 264-B/81 of

September 3 will be enforced in all its aspects compatible with the current document.

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